

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 7, 2022, at 1:00 p.m., Lane Auditorium, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Steven 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 1:02 p.m. by the Chair, Ms. Donna Price.

Ms. Price noted that Ms. LaPisto-Kirtley had requested to participate remotely in accordance with applicable Board Rules of Procedure, Rule 8(B)(1)(b), enacted pursuant to the Freedom of Information Act and stated that she was unable to attend the meeting in person due a medical condition.

Ms. Price asked Ms. LaPisto-Kirtley to state her location.

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

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, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.

NAYS: None.

ABSTENTIONS: Ms. LaPisto-Kirtley

Ms. Price introduced the County officers present and Albemarle County Police Officers Darrell Mikesh and Jordan DeLange.

Agenda Item No. 2. Pledge of Allegiance.

Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price stated that there had been a change to the Consent Agenda in regard to the start time of the September 21, 2022, Board meeting from 1:00 p.m. to 2:00 p.m. She said at Ms. Mallek's request, a discussion on buffer protection for Albemarle streams would be added after the adoption of the Consent Agenda. She stated that at Mr. Gallaway's request, a discussion on the County's participation in the Safe Streets for All grant program would be added after the adoption of the Consent Agenda.

Ms. Mallek said she would like to move her requested discussion to the end of the meeting.

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

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

NAYS: None.

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

Ms. McKeel said she requested a list of immunization requirements to enroll in Albemarle County Public Schools (ACPS). She said there were breakthrough diseases occurring, and she noted there was polio detected in the wastewaters of New York. She said she was curious about the requirements. She said it was important to public health for people to be vaccinated and up to date with their vaccinations. She said it was important for children to also receive vaccinations.

Ms. McKeel said the media was full of articles about the changing climate: droughts, flooding, heat waves, and more. She said droughts in Europe were disrupting river cruise industries. She said the industry brought in a lot of revenue for European countries. She said they should examine the businesses in the community that were economic drivers but were at risk of disruption from climate change. She said it was about sustainability and resiliency to protect the community from climate risk and climate migration.

Ms. LaPisto-Kirtley announced that the County was a finalist in the Destiny Awards for Discover Black C-Ville and the Road Less Traveled (following the Monticello Wine Trail). She said there were 300 applications in total. She stated that Virginia was the 10th largest producer of wines in the country.

Mr. Andrews announced his sympathies to the friends and families of Duane Snow who recently died. He said his reputation was of warmth, good humor, and service to others. He said Mr. Snow

served on the Board, representing the Samuel Miller district from 2010 to 2014.

Ms. Mallek said she had memories of earnest debate with Mr. Snow. She mentioned the loss of civility that had occurred with political exchanges and how it never happened with Mr. Snow.

Ms. Mallek announced the presence of the new local government reporter, Hawes Spencer, for the Daily Progress. She said she was listening to a webinar from the Georgetown Law School Climate Central. She recommended that others look at the website and databases. She said the webinar she listened to focused on sea level rise and the loss of tax base for local governments.

Ms. Mallek announced that September was Recovery Month and a time to focus on the needs of the 20 million people living with a substance use disorder in the United States. She said it was a time to acknowledge the millions of people who had taken steps to address the harmful impacts of substance use on their lives and to encourage others to do the same.

Ms. Mallek stated that research showed only about 1 in 10 people with a substance use disorder received any kind of specialty treatment. She said every community and individual was impacted by substance use and Albemarle had one of the highest rates of binge drinking in the state according to county health rankings. She said Albemarle saw an increase in opioid overdoses throughout the pandemic, and EMS responses to overdoses increase 87% from 2019 to 2021. She said the figures were from the Community Mental Health and Wellness Coalition.

Ms. Mallek said the County was working to develop a mobile crisis unit that would help connect individuals with mental health and substance use concerns to local crisis and treatment services. She said everyone had a role to play in preventing substance use, increasing access to treatment, and supporting people in recovery. She said the County was an active partner in the Community Mental Health and Wellness Coalition to help identify and implement strategies to address substance use in the community. She said there were several events throughout the month, and details could be found at www.helphappenshere.org/recoverymonth.

Mr. Gallaway echoed the remarks in regard to Mr. Duane Snow. He said he interacted with Mr. Snow when he was a member of the School Board. He recalled a discussion about equalizing the tax rate and how Mr. Snow helped to prevent further cuts to ACPS.

Mr. Gallaway announced that at the most recent Thomas Jefferson Planning District Commission (TJPDC) meeting, an update on the regional cigarette tax was received. He said there was an agent, and the compliance agent had been hired and was out in the field. He said he would share a PowerPoint presentation that was given to the Board.

Mr. Gallaway said a stamp was created for the region so that cigarette packages in the region were stamped. He said collections began in January 2022, and there was a 90-day sell-through period permitted which allowed business owners to sell the products without the stamp and tax. He said January collections totaled \$203,000, June totaled \$245,000, and the total between January and June was \$1.46 million for the region. He said 4.8 million packs of cigarettes were sold in that time frame. He said the reporting did not include the sell-through items. He said the data potentially showed the tax would not be a deterrent, and he would share more information as it became available. He said he would later provide the figures for how much tax revenue each individual county in the region received.

Mr. Gallaway announced that at the end of the meeting, he would bring up questions about the archive search on the website. He said the questions would focus on how the search should work to address a constituent question.

Ms. Price said she honored the memory of Mr. Duane Snow. She said she did not serve with him, but she respected the dedication and civic service of people who held his position.

She welcomed the County beat-reporter. She said print media remained the cornerstone and bedrock of journalism. She said broadcast media focused on seven-second sound bites while print media went in-depth. She said they looked to the press to hold them accountable as public officials and to ensure the community remained informed.

Ms. Price echoed Ms. McKeel's comments in regard to climate resilience. She said she had communicated with the Office of the County Executive on several areas of shared concern in terms of preparation. She noted the year seemed to have an abundance of precipitation, but it could quickly turn to drought. She said they had to build in the infrastructure now and evaluate ways to improve the capacity in the future.

Ms. Price said on August 19, the Department of Environmental Quality (DEQ) held a meeting in Charlottesville focused on industrial solar installations. She said she was pleased to see how active the state was in ensuring proper steps were taken. She said on August 25, the Secretary of the Department of Energy was at the University of Virginia Chemistry lab. She said he presented on the prospects for hydrogen-based fuel which was carbon neutral. She said sites were being considered for the location of 10 hydrogen fuel hubs around the country.

Ms. Price said on August 28, Seas the Day was held at Walnut Creek Park. She said the day recognized and honored those who served in or with, or who accompany the military. She thanked Mr. Henry for the work he and the Defense Advisory Committee had done to enhance the presence and

visibility of the military connection in the County.

Ms. Price said the Virginia Arts Festival was being hosted in the fall. She encouraged people to participate and attend.

Ms. Price announced there was a \$3 million grant for the benefit of the Three Notched Trail.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Proclamation Recognizing September 15 as International Day of Democracy.

Ms. Price **moved** to adopt the proclamation recognizing September 15 as International Day of Democracy and read the proclamation aloud. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Mr. Kirk Bowers accepted the proclamation on behalf of the following organizations which signed a request for a proclamation, he expressed appreciation for the Board for recognizing September 15, 2022 as International Day of Democracy: the National Organization for Women; Charlottesville Center for Peace and Justice; Indivisible Charlottesville, the Piedmont Group; the Sierra Club; Charlottesville Friends and Quaker Meeting House; League of Women Voters; United Nations Association; and the Charlottesville and the Albemarle Democratic Party.

Mr. Bowers said the International Day of Democracy was a U.N. day of observation. He said every year, the International Day of Democracy was commemorated on September 15. He said all governments were urged to uphold and promote the principles of democracy on the day. He said it provided an opportunity to review the state of democracy and renew support for democracy and strive for a more equitable, inclusive, and sustainable community.

Mr. Bowers said this year marked 400 years since his ancestors came to Virginia. He said they had a lot invested in democracy and it is truly something he is grateful for; to be able to enjoy democracy in this country because so many others did not have that opportunity. He said however, that it was bittersweet for him, after 400 years, that he was no longer able to take democracy for granted. He said that today equality and democracy were under assault and there were undemocratic forces at work who did not respect the constitution and didn't recognize the will of the people. He said the Sierra Club had a national campaign, and this initiative was part of it to promote democracy.

Ms. Price said the Board would make comments.

Ms. McKeel said it was important to remind people how important democracy was.

Ms. LaPisto-Kirtley said it was important. She said they were all Americans regardless of race, creed, color, or party. She said they should not let anything tear them apart.

Mr. Andrews said there had been partisan disagreements recently. He said people voting gave him hope. He announced that early voting in Virginia began September 23.

Ms. Mallek said election day was one of the most encouraging days for her. She said strengthening the civic education system was important so that the population understood its civil rights and civic duties.

Mr. Gallaway said elections were how the people expressed their will. He said there were actions being taken to limit who could vote and to challenge the integrity of the voting system. He said it was important for the local governing bodies to endorse democracy and to take action to show that election integrity mattered. He noted turnout during the past County elections had been strong. He said early voting was a contributing factor. He said lowering barriers to participation was the way to a healthy democracy.

Mr. Bowers said there would be a Zoom meeting on September 27 and they would discuss democracy and election reforms.

Ms. Price said as an attorney in several states, former election poll official, former chair of the Board of Governors of the Military Law Section of the State Bar, and among many more roles, she had the opportunity to make many oaths to swear or affirm to support the Constitution and the Constitution of Virginia. She said as an officer in the Navy, she took an oath when she was commissioned, each time she was promoted, and when she served as a military judge; to support and defend the Constitution against all enemies, foreign and domestic. She said she was still subject to the Uniform Code of Military Justice.

Ms. Price said an election was occurring in two months, and there would be another in two years. She noted politicians were being threatened and intimidated. She mentioned political candidates and former governors were airing political advertisements where they hunted their political opponents.

Ms. Price reflected on August 12, 2017, when Charlottesville was invaded by the Unite the Right rally. She mentioned when the President told the Proud Boys to stand back and standby. She reflected on the January 6, 2021 insurrection at the nation's capital. She said the population of Albemarle supported the rule of law but there needed to be similar enforcement around the country. She said democracy needed to allow all legitimate voters to vote, and they should not be improperly disenfranchised. She said electoral districts should be fairly drawn and intimidation to not be allowed.

Ms. Price said democracy demanded that those who lose an election admit and concede that the election represented the voice of the people. She said those who sought to overthrow the will of the people did not support democracy. She thanked the organizations which brought forth the proclamation.

**Proclamation Recognizing September 15, 2022
as International Day of Democracy**

WHEREAS, the United Nations observes the 15th of September as the International Day of Democracy with the purpose of promoting the principles of democracy and to commemorate the day in a manner that contributes to raising public awareness of Universal Human Rights; and

WHEREAS, the Universal Declaration of Human Rights emphasizes that the will of the people is the basis for the authority of government; and

WHEREAS, political and public participation rights are crucial to the advancement of all human rights and are essential for democratic governance, the rule of law, social inclusion, and economic development and the empowerment of individuals and groups to eliminate discrimination and marginalization, peaceful assembly and association, freedom of opinion and expression, and access to information and education; and

WHEREAS, the International Day of Democracy provides an opportunity to review the state of our democracy, promote its principles for the protection and effective realization of human rights, and create an environment for greater citizen participation, equality, security and sustainable development; and

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby recognize and celebrate the 15th day of September, 2022 as International Day of Democracy to remind us of, and exhort our continuing protection of, the governing principles by which the freely expressed will of the people is exercised and respected in this great country.

Signed this 7th day of September 2022.

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.

There were no speakers signed up.

Agenda Item No. 8. Consent Agenda.

Ms. Price noted the only change to the agenda was to change the time of the next Board meeting.

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

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

Item No. 8.1. FY22 Appropriations.

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

The total change to the Fiscal Year 2022 (FY 22) budget due to the appropriations itemized in Attachment A is \$11,200. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriations for local government projects and programs described in Attachment A.

Appropriation #2022055

Sources: Local Revenue \$11,200

Uses: Offender Aid Restoration (OAR) Criminal Justice Grant Fund \$11,200

Net Change to Appropriated Budget: \$11,200

Description:
This request is to appropriate \$11,200 in local revenue for supervisory fees related to pretrial/probationary expenses. As the fiscal agent for OAR, the County is required to pass these fees to OAR for the purposes of covering Department of Criminal Justice Services (DCJS) qualified expenditures.

Appropriation #2022056 \$4,500

Sources: Existing General Fund Police Department Budget

Uses: Victim Witness Grant Fund \$4,500

Net Change to Appropriated Budget: \$0

Description:
This request is to appropriate \$4,500 from the existing Police Department budget to the Victim Witness Grant Fund. Pursuant to the grant agreement, the County funds expenditures beyond the grant award, which will be provided from savings in the General Fund Police Department budget.

By the above-recorded vote, the Board adopted the resolution in Attachment B to approve for local government projects and programs described in Attachment A:

**RESOLUTION TO APPROVE
ADDITIONAL FY 2022 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2022055; and #2022056 are approved;
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2022.

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APP#	Account String	Description	Amount
2022055	3-5440-15001-319000-199900-9999	SA2022055 APP2022055 Supervisory Fees	\$11,200.00
2022055	4-5440-15001-431000-580300-9999	SA2022055 APP2022055 Supervisory Fees	\$11,200.00
2022056	3-5442-31100-351000-512004-9999	SA2022056 APP2022056 Victim Witness fund	\$4,500.00
2022056	4-1000-31100-431000-110000-9999	SA2022056 APP2022056 Victim Witness fund	-\$4,500.00
2022056	4-5442-31100-431000-120000-9999	SA2022056 APP2022056 Victim Witness fund	\$4,500.00
APP#	Account String	Description	Amount
2022056	4-1000-31100-493000-935102-9999	SA2022056 APP2022056 Gen Fund Transfer to Victim Witness fund	\$4,500.00

Item No. 8.2. Fiscal Year 2023 Appropriations.

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

The total change to the Fiscal Year 2023 (FY 23) budget due to the appropriations itemized in Attachment A is \$1,730,518. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached resolution (Attachment B) to approve the appropriations for local government projects and programs described in Attachment A.

Appropriation #2023012

Sources:	Water Resources Capital Fund – Fund Balance	\$675,000
Uses:	Capital Project: Mint Springs Dam Design	\$325,000
	Capital Project: Stream Restoration at Biscuit Run Park	\$300,000
	General Fund: Facilities and Environmental Services	\$50,000
Net Change to Appropriated Budget:		\$675,000

Description:

This request is to appropriate of \$675,000 from the Water Resource Capital Fund’s fund balance to support several initiatives related to the Water Resources capital and operations plans, which include engineering, design, and consulting services related to improvements to the dams at Mint Springs Valley Park; engineering consultant services to assist the County in becoming fully compliant with Virginia Dam Safety regulations; and design and engineering for a stream restoration project at Biscuit Run Park.

Appropriation #2023013

Sources:	Economic Development Fund's Fund Balance	\$465,000
Uses:	Economic Development Authority Fund	\$465,000
Net Change to Appropriated Budget:		\$465,000

Description:

This request is to appropriate \$465,000 from the Economic Development Fund’s Fund Balance to the Economic Development Authority Fund pursuant to the Board of Supervisors’ action at its August 17, 2022 meeting. This action supports a more streamlined approach to the appropriation process for the Economic Opportunities Fund that was reviewed with the Board of Supervisors at that meeting.

Appropriation #2023014

Sources:	Federal Revenue	
	Use of General Fund’s Fund Balance	\$21,663 \$(216)
Uses:	Albemarle-Charlottesville Regional Jail	\$21,447
Net Change to Appropriated Budget:		\$21,447

Description:

This request is to appropriate \$21,663 in federal revenue for the 2020 Bureau of Justice Assistance (BJA) FY 2020 State Criminal Alien Assistance Program, applied for on behalf of the Albemarle-Charlottesville Regional Jail (ACRJ). This grant is a reimbursement for costs associated with incarceration of undocumented criminal aliens and \$21,447 of this award will be passed through to ACRJ. The remaining \$216 or one percent of the award is retained by the County as an administrative fee, shown in this appropriation as of offset to the planned use of the General Fund’s fund balance.

Appropriation #2023015

Sources:	Local Revenue	\$35,093
Uses:	Department of Social Services	\$35,093
Net Change to Appropriated Budget:		\$35,093

Description:

This request is to appropriate \$35,093 in revenue from the National Opioid Settlement to the Department of Social Services. The funds will be used for additional training expenses related to the creation in FY 23 of the multi-disciplinary human services team to respond to emergent, non-criminal, community needs.

Appropriation #2023016

Sources:	Emergency Communications Center (ECC) Fund’s Fund Balance	\$453,978
Uses:	ECC Fund	\$453,978
Net Change to Appropriated Budget:		\$453,978

Description:

The Emergency Communications Center, an entity where the County serves as fiscal agent, requests to appropriate \$453,978 from the Emergency Communications Center Fund's fund balance to support multiple technology upgrade projects. Projects include phase two of the public safety software optimization, information technology security infrastructure upgrades, and upgrade of the uninterruptible power supply for the data center. The use of the fund balance for these purposes was previously authorized by the Charlottesville-UVA-Albemarle County Emergency Communications Center Management Board.

Appropriation #2023017

Sources:	Local – Grants Administrative Fee Revenue	\$60,500
	Use of General Fund's Fund Balance	\$19,500
Uses:	Department of Social Services	\$80,000
Net Change to Appropriated Budget:		\$80,000

Description:
This request is to appropriate a total of \$80,000 in Community Development Block Grant (CDBG) administrative fee revenue and the General Fund's fund balance to the Department of Social Services for a Construction Specialist consultant that will perform required site inspections on the CDBG Southwood Housing Grant. These expenses were initially anticipated in the CDBG grant fund and after subsequent review are more appropriate to be accounted for in the General Fund.

The use of General Fund's Fund Balance is due to administrative fees received from the grant during FY 22. The proposed use of the General Fund's Fund Balance will not reduce the County's 10% unassigned fund balance or 1% Budget Stabilization Reserve. However, it does reduce the amount undesignated funds that would be available for future uses.

By the above-recorded vote, the Board adopted the resolution as presented in Attachment B to approve the appropriations for local government projects and programs described in Attachment A:

**RESOLUTION TO APPROVE
ADDITIONAL FY 2023 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2023012; #2023013; #2023014; #2023015; #2023016; and #2023017; are approved;
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2023.

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APP#	Account String	Description	Amount
2023012	3-9100-99000-352000-510100-9278	Revenue - Water Resources Fund Balance	\$675,000.00
2023012	4-9100-99000-493000-931000-9999	Expenditure - Transfer to General Fund	\$50,000.00
2023012	3-1000-41200-351000-512050-9999	Revenue - Transfer from Water Resources	\$50,000.00
2023012	4-9100-41200-494800-342100-9279	Mint Springs Dam Design work	\$325,000.00
2023012	4-9100-41200-494800-342100-9280	Design - Stream Restoration at Biscuit Run	\$300,000.00
2023012	4-1000-41220-482000-342100-1314	Dam EAPs	\$50,000.00
2023014	3-1000-91000-333000-330085-0059	APP2023014 Scaap - Doj - Funds	\$21,663.00
2023014	4-1000-91000-433200-390004-0059	APP2023014 Administrative Services	\$216.00
2023014	4-1000-91000-433200-591300-0059	APP2023014 Assistance Payments	\$21,447.00
2023015	3-1000-51100-318000-189900-1573	Opioid Settlement Allocation	\$35,093.00
2023015	4-1000-51100-453000-551100-1573	HARTs Education-Registration & Fees	\$17,546.30
2023015	4-1000-51100-453000-551200-1573	HARTs Education-Meals & Lodging	\$8,773.15
2023015	4-1000-51100-453000-551300-1573	HARTs Education-Travel	\$8,773.15
2023016	3-4100-32100-352000-510100-9999	ECC Unassigned Fund Balance	\$453,978.00
2023016	4-4100-32110-435600-800712-9999	Public Safety Software Project Optimization	\$281,878.00
2023016	4-4100-32110-435600-800701-9999	IT Infrastructure Updates & UPS System Upgrade for Datacenter	\$150,000.00
2023016	4-4100-32110-435600-800700-9999	IT Client Workstation Upgrades	\$22,100.00
2023017	3-1000-99000-352000-510100-9999	Q4 FY22 Admin Fees	\$19,500.00

2023017	3-1000-51400-319000-190239-9999	FY23 Admin Fees	\$60,500.00
2023017	4-1000-51400-481000-344310-9999	Southwood Construction Specialist	\$80,000.00
2023013	4-5807-82100-493000-934001-9999	SA2023013 Transfer out of EDO Fund to EDA	\$465,000.00
2023013	3-5807-82100-352000-510100-9999	SA2023013 Use of FB for ED Transfer to EDA	\$465,000.00
2023013	3-4700-91095-351000-512000-9999	SA2023013 Transfer into EDA Fund from EDO	\$465,000.00
2023013	4-4700-91095-491095-560000-9999	SA2023013 EDA Use of Funds from EDO	\$152,500.00
2023013	4-4700-91095-491095-950029-9999	SA2023013 EDA Use of Funds from EDO	\$50,000.00
2023013	4-4700-91095-491095-950031-9999	SA2023013 EDA Use of Funds from EDO	\$262,500.00

Item No. 8.3. Sick Leave Supplement Program.

The Executive Summary forwarded to the Board states that Albemarle County Government's Leave Program, § P-86 provides all benefits-eligible employees with Sick Leave for personal health-related matters, health-related matters in their immediate families, and/or health-related appointments. Sick leave is earned on an accrual rate of 1 day per month worked. Sick Leave is not eligible for payout upon termination of employment.

During the course of the COVID-19 pandemic, Albemarle County Government provided to employees a bank of sick leave to use for COVID-19-related illness for personal use and for use to care for members of their immediate household who may need treatment or care. This program enabled employees that might have utilized substantial sick leave balances to take the time needed to satisfy isolation and quarantine requirements without needing to take Leave Without Pay. This program expired in April 2022. As COVID-19 case counts continue to sustain at elevated levels, and in recognition that during the academic year, households will have close contacts with more individuals indoors, staff recommends a pilot program to provide a Sick Leave Supplement for all benefits-eligible employees of 10 days of sick leave.

The pilot program will run upon approval through the end of Fiscal Year 2023, on June 30, 2023. The balance will not expire at the end of the pilot period. Existing employees and those hired during the pilot will receive the Sick Leave Supplement. The pilot program is expected to benefit new employees that begin their tenure with no accrued leave and others who have low leave balances for illness due to Family Medical Leave Act and other needs. The pilot is expected to provide additional benefit, as a workforce stabilization measure that provides additional flexibility to new employees. As such, the pilot will be evaluated for implementation impacts and challenges beginning in Spring 2023 and that analysis will be shared with the Board for future consideration.

There is no budget impact associated with this pilot program.

Staff recommends the Board approve the Sick Leave Supplement program.

By the above-recorded vote, the Board approved the Sick Leave Supplement program.

Item No. 8.4 Delegation of Authority to Sign Certain Insurance Documents.

The Executive Summary forwarded to the Board states that when a County vehicle is involved in an accident or is damaged by another party, the party's insurance carrier often requests the County to sign a release of liability as a condition of final payment for repairs/loss. This is standard practice in processing insurance claims. Currently, the authority to approve the release of liability resides with the Board and can take several weeks to obtain the authorizing signature.

The County's Department of Finance and Budget administers the insurance claims process on behalf of the County. When the liability release form is presented to the County, the Department of Finance & Budget, in consultation with the County Attorney's Office, reviews the claim and collaborates to make a recommendation of signing the release form. If the Chief Financial Officer or their designee were authorized to sign the liability release form, the insurance funds recovery process would be expedited and would allow the County to quickly fund the repair cost or replacement cost of damaged vehicles. The release of liability is only intended to be executed for physical damage to County vehicles. Bodily injury claims are exempt from this recommendation. The resolution also anticipates that other related claims documents, including transfer of title, may be necessary to execute and provides the authority for their execution.

There is no immediate budgetary impact.

Staff recommends that the Board of Supervisors adopt the Resolution (Attachment A) authorizing the Chief Financial Officer or their designee to execute a release of liability for auto physical damage claims to expedite the insurance recovery process.

By the above-recorded vote, the Board adopted a Resolution (Attachment A) authorizing the Chief Financial Officer or their designee to execute a release of liability for auto physical damage claims to expedite the insurance recovery process:

**RESOLUTION TO AUTHORIZE THE DIRECTOR OF FINANCE TO SIGN RELEASE OF
LIABILITY FORMS ON BEHALF OF THE COUNTY**

WHEREAS, the Board of Supervisors recognizes the County's need to authorize the release of liability and associated documents for auto physical damage claims only as a condition of payment by a third-party insurance carrier: and

WHEREAS, the Director of Finance of the County, in consultation with the County Attorney's Office, requests the Board to authorize the Director of Finance or their designee to sign a release of liability for auto physical damage claims as a condition of payment in the insurance recovery process.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors authorizes the Director of Finance or their designee to execute a release of liability and associated documents as a condition of payment by a third-party insurance carrier in the insurance recovery process.

Item No. 8.5 Amendment of the County's Purchasing Manual.

The Executive Summary forwarded to the Board states that under the COVID-19 declaration of emergency, the County began receiving procurement proposals electronically, which had already become the standard for the State. Although this was to support the Continuity of Operations during the COVID-19 pandemic, there are benefits to maintaining this process after the declaration of emergency is rescinded.

After the 6-month period following the end of the local emergency, the Finance & Budget Department's Office of Procurement is proposing to continue receiving proposals electronically. Staff recommends updating Chapters 5 and 11 of the Purchasing Manual (Attachment A and B) to reflect this as an additional, standard method to receive bids and proposals.

The Administrative Process Act (§ 2.2-4000 et seq.) (§2.2-4007.2) of the Code of Virginia requires agencies to (i) examine regulations to determine whether the submission of required documents may be accomplished by electronic means, and (ii) if so, consider amending the regulation that is being promulgated to offer the alternative of submitting the documents by electronic means.

Staff recommends that the Board approve the following amendments to the Purchasing Manual:
- Chapter 5: Competitive Sealed Bidding: Procedure; to include electronic receipt of bids (Attachment A) Chapter 11: Competitive Negotiation: Procedure; to include electronic receipt of proposals (Attachment B) There is no budgetary impact associated with this recommendation.

Staff recommends that the Board adopt the attached resolution (Attachment C) to amend and re-adopt the Albemarle County Purchasing Manual by revising Chapters 5 and 11 as set forth in Attachment A and B.

By the above-recorded vote, the Board adopted the attached resolution (Attachment C) to amend and re-adopt the Albemarle County Purchasing Manual by revising Chapters 5 and 11 as set forth in Attachment A and B:

**RESOLUTION TO AMEND AND RE-ADOPT
THE ALBEMARLE COUNTY PURCHASING MANUAL**

WHEREAS, the County of Albemarle Purchasing Manual ("Manual") delineates not only the requirements of the Virginia Public Procurement Act, but also the methods and procedures that best enable the County to procure the highest quality goods and services at a reasonable cost and in an efficient, fair, and competitive manner; and

WHEREAS, the Manual was last amended on August 4, 2021; and

WHEREAS, the Board finds it is in the best interests of the County to amend the Manual to reflect the County's ability to accept bids and proposals electronically and to make other minor changes to increase the efficiency of the procurement process.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby amends and re-adopts the Albemarle County Purchasing Manual by amending Chapter 05 and Chapter 11.

* * * * *

Chapter 5. Competitive Sealed Bidding: Procedure

Summary

This chapter provides an overview of the procedure for procuring goods and nonprofessional services using the competitive sealed bidding procedure. Where the cost of the goods or services to be procured is expected to exceed \$100,000, the competitive sealed bidding procedure is the applicable procedure, unless another procedure is expressly authorized.

Essential Information in this Chapter
<p>The five key procedural steps in the competitive sealed bidding procedure are:</p> <ul style="list-style-type: none">• <u>Preparation of the invitation for bids</u>: The preparation of an invitation for bids which contains or incorporates by reference the specifications and contractual terms and conditions applicable to the procurement and a statement of any requisite qualifications of potential contractors.• <u>Issuance and public notice of the invitation for bids</u>: The public notice of the invitation for bids is given at least ten days prior to the date set for the receipt of the bids by posting the notice in a public area, publishing the notice in a newspaper of general circulation, or both. The purchasing agent also may solicit bids directly using the County's "bidder list" which includes businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity.• <u>Public opening and announcement of all bids timely received</u>: All bids timely received are opened in public at the time, date, and place stated in the public notice, and the bid prices are read aloud.• <u>Evaluation of the bids</u>: The bids and the qualifications of the bidders are examined by the purchasing agent for compliance with the requirements set forth in the invitation for bids.• <u>Award to the lowest responsive and responsible bidder</u>: After the evaluation of all bids and the bidders, the award is made to the lowest responsive and responsible bidder who meets the requirements set forth in the invitation for bids.
Key References to the Code of Virginia Applicable to this Chapter
<p><u>Section 2.2-4301</u>: Definitions of competitive sealed bidding and other key terms</p> <p><u>Section 2.2-4303(A)</u>: When competitive sealed bidding required, generally</p>

5-1 General

The competitive sealed bidding procedure may apply if the cost of the goods, nonprofessional services, construction or insurance is expected to exceed \$100,000. See Chapter 4 for a discussion of when goods, nonprofessional services, construction, and insurance may be procured by the competitive sealed bidding procedure.

Table 5-1

The Eleven Steps in the Competitive Sealed Bidding Procedure	
1.	Identify the goods or services to be procured
2.	Prepare the invitation for bids
3.	Establish the procurement schedule
4.	Compile a list of vendors
5.	Issue the invitation for bids and provide public notice thereof
6.	Conduct pre-bid conferences or site visits, if warranted
7.	Submit bids
8.	Receive bids
9.	Open bids
10.	Evaluate bids
11.	Award the contract

The remaining sections of this chapter are a step-by-step outline of the competitive sealed bidding procedure. The procedure to be used for a particular procurement may need to be modified to fit that procurement.

5-2 Identify the Goods or Services to be Procured

The using department must identify the goods or services to be procured. It is important to develop a comprehensive definition of the goods or services. Goods should be defined using the procedure identified in Chapter 6. Services should be defined using the procedure identified in Chapter 12.

5-3 Prepare the Invitation for Bids

The invitation for bids shall be prepared by the using department and the purchasing agent. Before drafting a complex invitation for bids, particularly one for the procurement of services, it is recommended that the using department prepare a work statement. The work statement should identify the required goods or services (broken down by tasks) to be procured in a logical sequence, assist in establishing realistic milestones or delivery schedules, and help determine supplier cost realism. Each task of the work statement should be coordinated with the invitation for bids, and the numerical coding of tasks in the work statement and task descriptions should be identical or cross-referenced. Development of the work requirements should be closely coordinated between the using department and the purchasing agent to ensure complete definition of the requirements in written terms that are clear.

The invitation for bids should be as comprehensive as possible because the more complete it is, the better the chances are that the vendors will understand what the County desires to procure and what relevant experience and qualifications it should include in its bid. The invitation for bids must, at a minimum:

- Contain or incorporate by reference the specifications.

- Contain or incorporate by reference the contractual terms and conditions applicable to the procurement.
- Contain a statement of any requisite qualifications of the potential vendors.

A comprehensive description of the elements of an invitation for bids is set forth in Chapter 6.

5-4 Establish the Procurement Schedule

The purchasing agent and the using department should establish a schedule that will ensure that the procurement is completed on or before the date the goods or services are required. To do so, the purchasing agent and the using department should consult and determine the completion date and then identify the milestones and the dates by which each milestone should be achieved in order to ensure that the procurement is timely completed. The key milestones and the minimum amount of time that should be allowed for each milestone are:

- Preparation of the bid documents: Allow sufficient time for the preparation of bid documents—including a deliberative process during which desired requirements, evaluation criteria, and stakeholder review can all be thoughtfully considered --and the timely publication of a written invitation for bids.
- Public notice period and the date for receipt of bids: Allow at least ten calendar days for the public notice of the invitation for bids prior to the date set for the receipt of bids.
- Evaluation of bids and issuance of notice of intent to award: Allow sufficient time for evaluation of bids, determination of vendor responsibility, and, if necessary, in the event all bids received are above the project budget, negotiation with the lowest bidder prior to publication of the notice of intent to award. A notice of intent to award must be posted for 10 calendar days before a contract can be executed.
- Execution of contract: Allow sufficient time for any issues that may require resolution prior to signing a contract. At least 10 calendar days after notice of intent to award shall pass before execution of the contract. Factors that may affect timing include verification or resolution of vendor's status with the Virginia State Corporation Commission, amendment to a certificate of insurance, or similar considerations.

The purchasing agent and the using department should allow more time at each stage identified above for procurements of goods or services that are not ordinarily procured by the County, procurements that are complex, and procurements that require bidders to submit substantial amounts of information for evaluation.

5-5 Compile a List of Vendors

The purchasing agent and the using department should compile a list of vendors from staff knowledge of local vendors and through directories and lists of vendors. The purchasing agent should send invitations for bids directly to these vendors, in addition to the public notice of the invitations for bids that will otherwise be provided. Any additional solicitations shall include certified businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity.

5-6 Issue the Invitation for Bids and Provide Public Notice Thereof

Public notice of an invitation for bids shall be given as provided below:

- Manner of giving public notice: The purchasing agent shall provide public notice of an invitation for bids by posting on the Purchasing Office's current solicitation website and on the Virginia Department of General Services' central electronic procurement website. Posting may also be made in a newspaper of general circulation. In addition, the purchasing agent may solicit bids directly from potential vendors. Any additional solicitations shall include businesses selected from the list provided by the Virginia Department of Small Business and Supplier Diversity.
- Notice period: The public notice shall be given at least ten days prior to the date set for receipt of bids.
- Contents of the notice: The notice shall contain, at a minimum, the following information: (1) the name of the purchasing entity; (2) a brief description of the goods or services to be procured; (3) the date and time of the bid opening; (4) the requisite qualifications for bidders, if applicable; (5) the date and time of the pre-bid conference, if applicable; (6) sample contract or general contract terms and conditions that will be applicable to the eventual contract; and (7) where bid documents can be obtained.

These are minimum requirements, and the purchasing agent may provide any additional notice that he deems appropriate.

5-7 Conduct Pre-bid Conferences or Site Visits, if Warranted

A pre-bid conference is a meeting among the purchasing agent, the using department and prospective vendors during which the purchasing agent and the using department review the specifications in detail explain the scope and objectives of the procurement, emphasize critical elements of the invitation for bids, and encourage input from the vendors. A site visit allows the vendors to observe physical characteristics of the land or of structures that are relevant to the procurement. A pre-bid conference and site visit are hereafter collectively referred to as a "pre-bid conference."

A pre-bid conference may resolve ambiguities, unforeseen and nonessential restrictiveness in the specifications, or technical errors. For purposes here, a pre-bid conference may include a site visit, if necessary.

- When a pre-bid conference should be held: Pre-bid conferences may be particularly helpful when the County seeks to procure goods that are highly technical or complex.
- Notice of the pre-bid conference: If a pre-bid conference is conducted, the invitation for bids must provide the time, date and location of the conference. The conference should be held as soon as possible after the invitation for bids is issued.
- Attendance at a pre-bid conference: Attendance of vendors at pre-bid conferences should generally be discretionary, not mandatory, in order to ensure that qualified vendors who are unable to attend are not excluded from bidding. If attendance is mandatory, only those bids from vendors represented at the pre-bid conference shall be accepted. The purchasing agent, based on information from and discussions with the using department, shall determine whether attendance at the pre-bid conference is mandatory.
- Oral representations at the pre-bid conference: A written record of all inquiries and objections raised by prospective bidders should be kept by the purchasing agent to ensure an accurate response can be provided by addendum to the solicitation. Oral representations made at the pre-bid conference by the purchasing agent or the using department shall not be binding on the County. All material clarifications of any provision of the invitation for bids or the amendment of a specification or condition of the invitation for bids must be made in writing as an addendum, as provided herein.

These are minimum requirements. The purchasing agent may add any additional requirements to a pre-bid conference that he deems appropriate.

5-8 The Submittal of Bids

Bids submitted shall comply with the following:

- Use of bid form: All bidders shall use the bid form included in the invitations for bids when submitting their bid prices.
- Changes to the bid form: All erasures, interpolations, and other changes in the bid form shall be signed or initialed by the bidder.
- Oral, telephonic, or faxed bids not acceptable: The purchasing agent shall not accept oral bids nor bids received by telephone or fax.
- Deviations: Bids containing conditions, omissions, erasures, alterations, or

items not called for in the bid may be rejected by the County as being incomplete.

- Bid form must be signed: The bid form must be signed in order to be considered. If the bidder is a corporation, the bid must be submitted in the name of the corporation, not the corporation's trade name. The bidder must indicate the corporate title of the individual signing the bid.
- Bid must be submitted in sealed opaque envelope: If a paper bid is submitted, the bid form and all other documents are required to be submitted as part of the bid shall be enclosed in a sealed opaque envelope. The envelope containing the bid should be sealed and marked with the invitation for bids number, the hour and date upon which the bid must be received, and the bidder's Virginia contractor registration number (if required).

5-9 The Receipt of Bids

The purchasing agent shall receive bids only as provided as follows:

- Bids must be timely received: All sealed bids shall be received as required in the relevant solicitation, until, but no later than, the time and date set for the receipt of bids in the invitation for bids. The date and time automatically recorded by the Office's bid submission system, for bids submitted electronically, or the time stamp affixed to paper bids, will determine whether a bid is timely received.
- Timely receipt of bids sole responsibility of vendors: It shall be the sole responsibility of the vendor under all circumstances to ensure that its bid is timely received. The County assumes no responsibility in ensuring that bids and proposals will be timely received .
- Bids must be kept in secure location until opened: All bids received and time stamped will be kept in a secure location until the time and date set for the opening of bids.
- Identity of bidders confidential: Prior to the time and date of opening, the identity of the vendors submitting bids and the number of bids received is confidential, and may be disclosed only to County officials only when disclosure is considered necessary for the proper administration of the bidding process.
- Inadvertent opening of bid: If a bid envelope does not contain the proper identification, and it is inadvertently opened in advance of the prescribed bid opening, the purchasing agent should write an explanation of the inadvertent opening on the envelope, with the invitation number, time and date of opening. The envelope should be resealed and deposited with the other bids.

- Late bids: Late bids shall not be considered under any circumstances and may be returned unopened to the sender or retained unopened in the Office of Procurement.

5-10 The Opening of Bids

The purchasing agent shall open bids according to the following procedure:

- Bids opened and read aloud: Except for bids for construction contracts, all bids timely received in the Office of Procurement shall be opened and publicly read aloud at the time and date established for the opening in the invitation for bids. Bids for construction contracts may be opened one day following the date and time established for the receipt of bids, if provided for in the invitation for bids.
- Information recorded: The purchasing agent should, depending on the requirements of the solicitation, record the following information for each competitive sealed bid received and opened: (1) name of vendor; (2) bid prices, delivery, and payment terms; (3) acknowledgment of addenda, if any; (4) bid security received or not, if required; (5) contractor registration number, if required; (6) exceptions taken by the vendor, if allowed; and (7) any other information the purchasing agent deems pertinent.
- Transmittal of bids: The purchasing agent should promptly transmit to the using department the recorded information for each bid and at least one copy of each bid received for evaluation. The purchasing agent should allow sufficient time for the evaluation of the bids, which should be based upon the number of bids received, the complexity or number of items being evaluated, and any time constraints that have to be met.

5-11 The Evaluation of Bids

The bids timely received shall be examined by the purchasing agent for compliance with the requirements set forth in the invitation for bids. The purchasing agent should first review each bid to determine whether it has facial deficiencies that preclude it from being further considered.

Bids are evaluated to determine the lowest responsive and responsible bidder. The evaluation is based upon the requirements set forth in the invitation for bids, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

The procedure for evaluating bids is discussed in more detail in Chapter 9.

5-12 The Contract Award

After the bids have been evaluated, the contract is awarded to the lowest responsive and responsible bidder according to the following procedure:

- Notice of intent to award: The purchasing agent shall post in a public place, which may include the purchasing office's website, a written announcement of the decision to award, which may be identified as a notice of intent to award. The notice of intent to award shall also include a statement that the public records pertaining to the procurement have been and are available for inspection by those vendors participating in the procurement process. The purchasing agent is not required to provide individual notice of the intent to award to any participating vendor; it is each vendor's duty to ascertain when the notice of intent to award is issued and posted.
- Protest period: The posting of the notice of intent to award to a vendor shall commence a ten-day period in which a vendor who desires to protest the decision to award a contract may do so, as provided in Chapter 24.
- Contract award if no timely protest received: The purchasing agent shall not award a contract until the protest period has expired. After the protest period has expired, and, if no vendor has protested the decision to award, the purchasing agent shall award the contract to the vendor identified in the notice of intent to award.
- Contract award if timely protest received: If a written bid protest is timely received, the purchasing agent shall take no further action to award the contract unless, upon prior consultation with the county attorney, the purchasing agent determines in writing that proceeding without delay is necessary to protect the public interest or unless the bid would expire. The written determination shall be placed in the contract file.
- Contract award if legal action brought: If a legal action is brought by a vendor, actual or prospective, as provided in *Virginia Code* § 2.2-4364, the purchasing agent shall take no further action to award the contract unless, upon prior consultation with the county attorney, the purchasing agent determines in writing that proceeding without delay is necessary to protect the public interest or unless the bid would expire. The written determination shall be placed in the contract file.

If time is of the essence, the purchasing agent may award a contract without first posting a notice of intent to award. The purchasing agent may consult with the county attorney as to any matter pertaining to the decision to award a contract.

Chapter 11. Competitive Negotiation: Procedure

Summary

This chapter provides an overview of the procedure for procuring goods and services using the competitive negotiation procedure. The competitive negotiation procedure is permitted for the procurement of goods and services other than professional services (“nonprofessional services”) if the cost of the goods or services is expected to exceed \$100,000. The competitive negotiation procedure is required for the procurement of professional services if the cost of the services is expected to exceed \$80,000.

Essential Information in this Chapter
<p>The three key procedural steps in the competitive negotiation procedure are:</p> <ul style="list-style-type: none">• <u>Preparation of the request for proposals</u>: The preparation of a request for proposals (“RFP”), which states in general terms that which is sought to be procured, specifies the factors which will be used in evaluating any proposal, including any unique capabilities or qualifications which will be required of the vendor, and contains or incorporates by reference other applicable contractual terms and conditions.• <u>Issuance and public notice of the RFP</u>: The public notice of the RFP is given at least ten days prior to the date set for the receipt of the proposals by posting the notice in a public area, or publishing the notice in a newspaper of general circulation, or both.• <u>Negotiation and award</u>: The purchasing agent or the selection committee negotiates with vendors who are determined to be qualified, responsible, and suitable. The negotiation procedure for the procurement of goods and nonprofessional services is different from that for the procurement of professional services.
Key References to the Code of Virginia Applicable to this Chapter
<p>Section 2.2-4301: Definitions of competitive negotiation and other key terms Section 2.2-4303(A):When competitive negotiation required, generally Section 2.2-4303(C): Alternate procurement, insurance Section 2.2-4303(D): Availability in lieu of competitive sealed bidding, construction</p>

11-1 General

The competitive negotiation procedure for goods and nonprofessional services may be used if the cost of the goods or services is expected to exceed \$100,000.

The competitive negotiation procedure is required for the procurement of professional services if the cost of the services is expected to exceed \$80,000.

Table 11-1

The Thirteen Steps in the Competitive Negotiation Procedure
1. Identify the goods or services to be procured
2. Create the selection committee and prepare the request for proposals
3. Establish the procurement schedule
4. Compile a list of vendors
5. Issue the request for proposals and provide public notice thereof
6. Conduct pre-proposal conferences or site visits, if warranted
7. Proposals submitted
8. Proposals received
9. Proposals evaluated
10. Develop a list of vendors with whom to negotiate
11. Conduct negotiations
12. Rank vendors of professional services
13. Negotiate a contract

The remaining sections of this chapter are a step-by-step outline of the competitive negotiation procedure. The procedure to be used for a particular procurement may need to be modified to fit that procurement.

11-2 **Identify the Goods or Services to be Procured**

The using department must identify the goods or services to be procured. It is important to develop a comprehensive definition of the goods or services to be procured. Goods should be defined using the procedure identified in Chapter 6. Services should be defined using the procedure identified in Chapter 12.

Table 11-2

Comparison of Procedures for Negotiations and Contract Award	
Professional Services	Goods and Nonprofessional Services
Discussions emphasize professional competence to provide the required services	Discussions emphasize qualifications and suitability, based on the factors in the request for proposal
May discuss nonbinding estimates of total project costs	Price may be considered, but need not be the sole determining factor
Offerors ranked by qualifications and proposed services	Offerors not ranked
Negotiations begin with the offeror ranked first	Negotiations conducted with each offeror deemed fully qualified and best suited
Award to the offeror ranked first if a contract satisfactory and advantageous to the County can be negotiation at a fair and reasonable price; if not, begin negotiations with offeror ranked second, etc.	Award to offeror who, in County's opinion, has made the best proposal
County may determine only one offeror fully qualified or clearly more highly qualified, and may negotiate and award contract to that offeror	County may determine only one offeror fully qualified or clearly more highly qualified, and may negotiate and award contract to that offeror

11-3 Create the Selection Committee and Prepare the Request for Proposals

A selection committee should be established, composed of competent individuals who are able to make an intelligent selection decision based on factual information. The three key roles of the selection committee are to assist in developing the request for proposals ("RFP"), evaluate the proposals and conduct interviews, and negotiate with vendors.

The RFP shall be prepared by the using department and the purchasing agent, and then be reviewed by the selection committee. Before drafting a complex RFP, it is recommended that the using department prepare a work statement. The work statement should identify the required goods or services (broken down by tasks) to be procured in a logical sequence, assist in establishing realistic milestones or delivery schedules, and help determine supplier cost realism. Each task of the work statement should be coordinated with the RFP, and the numerical coding of tasks in the work statement and task descriptions should be identical or cross-referenced. The selection committee should critically review the description of the goods or services to be procured and the evaluation criteria and determine how, if at all, the evaluation criteria should be weighted.

The RFP should be as comprehensive as possible because the more complete it is, the better the chances are that the vendors will understand what the County desires to procure and what relevant experience and qualifications it should include in its response and highlight during discussions and negotiations.

The RFP must, at a minimum:

- State in general terms the goods or services that will be procured.
- Specify the criteria that will be used to evaluate the proposals, including any unique capabilities or qualifications that will be required of the vendor.
- Contain or incorporate by reference the contractual terms and conditions applicable to the procurement.

A comprehensive description of the elements of an RFP is set forth in Chapter 12.

11-4 Establish the Procurement Schedule

The purchasing agent and the using department should establish a schedule that will ensure that the procurement is completed on or before the date the goods or services are required. To do so, the purchasing agent and the using department should consult and determine the completion date and then identify the milestones and the dates by which each milestone should be achieved in order to ensure that the procurement is timely completed. Seven to ten weeks should be allowed for the entire procurement process in order to allow proper planning and administration at each step of the selection process.

The key milestones and the minimum amount of time that should be allowed for

each milestone are:

- Preparation of the RFP documents: Allow sufficient time to prepare the RFP documents—including a deliberative process during which desired requirements, evaluation criteria, and stakeholder review can all be thoughtfully considered-- and issue a written RFP.
- Public notice period and the date for receipt of proposals: Allow at least ten calendar days to provide public notice of the RFP prior to the date set for the receipt of proposals.
- Evaluation of proposals, negotiation and issuance of notice of award: Allow sufficient time to evaluate proposals, conduct interviews, engage in negotiations, and issue a notice of the award.
- Execution of contract: Allow sufficient time for any issues that may require resolution prior to signing a contract. At least ten calendar days after notice of intent to award shall pass before execution of the contract. Factors that may affect timing include verification or resolution of vendor's status with the Virginia State Corporation Commission, amendment to a certificate of insurance, or similar considerations.

The purchasing agent and the using department should allow more time at each stage identified above for procurements of goods or services that are not commonly procured by the County, procurements that are complex, and procurements that require the vendors to submit substantial amounts of information for evaluation.

11-5 Compile a List of Vendors

The purchasing agent and the using department should compile a list of vendors from staff knowledge of local vendors and through directories and lists of vendors. The purchasing agent should send RFPs directly to these vendors, in addition to the public notice of the RFP that will otherwise be provided. Any additional solicitations shall include certified businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity.

11-6 Issue the RFP and Provide Public Notice Thereof

Public notice of an RFP shall be given as provided below:

- Manner of giving public notice: The purchasing agent shall provide public notice of an RFP by posting on the Purchasing Office's current solicitation website and on the Virginia Department of General Services' central electronic procurement website. Posting shall also be made by publication in a newspaper of general circulation. In addition, the purchasing agent may solicit proposals directly from potential vendors. Any additional solicitations shall include businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity.

- Notice period: The public notice shall be given at least ten calendar days prior to the date set for receipt of proposals.
- Contents of the notice: The notice shall contain, at a minimum, the following information: (1) the name of the purchasing entity; (2) a brief description of the goods or services to be procured; (3) the date and time set for receipt of proposals; (4) the requisite qualifications for vendors, if applicable; (5) the factors that will be used in evaluating the proposal, including an indication of whether a numerical scoring system will be used and point values assigned to each criteria; (6) the location where RFP documents can be obtained; and (7) the sample contract or general contract terms and conditions that will be applicable to the eventual contract.

These are minimum requirements, and the purchasing agent may provide any additional notice that he deems appropriate.

11-7 Conduct Pre-proposal Conferences or Site Visits, if Warranted

A pre-proposal conference is a meeting among the purchasing agent, the selection committee, and prospective vendors during which the purchasing agent and the selection committee review the specifications or the work statement in detail, explain the scope, objectives, and techniques of the procurement, emphasize critical elements of the RFP, and encourage input from prospective vendors. A site visit allows prospective vendors to observe physical characteristics of the land or of structures that are relevant to the procurement. A pre-proposals conference and site visit are hereafter collectively referred to as a "pre-proposal conference."

A pre-proposal conference may resolve ambiguities, unforeseen and nonessential restrictiveness in the specifications or the work statement, or technical errors. The following are several principles that shall govern pre-proposal conferences and issues related thereto:

- When a pre-proposal conference should be held: Pre-proposal conferences may be particularly advisable when the County seeks to procure goods that are highly technical or complex or for consultant services contracts.
- Notice of the pre-proposal conference: If a pre-proposal conference is conducted, the public notice and the RFP must provide the time, date, and location of the conference. The conference should be held as soon as possible after the RFP is issued, but after sufficient time is allowed for offerors to have read the solicitation.
- Attendance at a pre-proposal conference: Attendance of prospective vendors at pre-proposal conferences should be discretionary as a general rule, not mandatory, in order to ensure that qualified vendors who are

unable to attend are not excluded from submitting a proposal. If attendance is mandatory, only those proposals from prospective vendors represented at the pre-proposal conference shall be accepted.

- Oral representations at the pre-proposal conference: The purchasing agent should make a written note of all inquiries and points of contention raised by the prospective vendors. Clarification may be provided at the pre-proposal conference so long as the specifications or conditions are not altered. Oral representations made at the pre-proposal conference by the purchasing agent or any member of the selection committee shall not be binding on the County. All material clarifications of any provision of the RFP, or the amendment of a specification or condition of the RFP, shall be made only be in writing and documented as an addendum, as provided herein.

These are minimum requirements. The purchasing agent may add any additional requirements to a pre-proposal conference that he deems appropriate.

11-8 The Submittal of Proposals

Proposals submitted shall comply with the following:

- Proposal in standard format: All proposals shall be in the format prescribed by this manual, as set forth in Chapter 12.
- Changes to the proposal: All erasures, interpolations, and other changes in a proposal shall be signed or initialed by an authorized representative of the vendor.
- Delivery of proposal: The purchasing agent shall not accept oral proposals nor proposals received by telephone or fax.
- Deviations: Proposals containing conditions, omissions, erasures, alterations, or items not called for in the RFP may be rejected by the County as being incomplete or may be clarified by the offeror upon request if, in the opinion of the purchasing agent, doing so will be in the best interests of the County.
- Proposal must be signed: A proposal must be signed by an authorized representative of the vendor in order to be considered. If the vendor is a corporation, the proposal must be submitted in the name of the corporation, not the corporation's trade name. The vendor must indicate the corporate title of the individual signing the proposal.
- Proposal must be submitted in sealed opaque envelope: A proposal and all other documents required to be submitted as part of the proposal shall be enclosed in a sealed opaque envelope.

- Identification of proposal: The envelope containing the proposal should be sealed and marked with the RFP number, the hour, and date upon which the bid must be received and the vendor's Virginia contractor registration number (if required). If an envelope does not contain the proper identification, and it is inadvertently opened in advance of the prescribed date and time for which the proposals are to be received, the purchasing agent should write an explanation of the inadvertent opening on the envelope, with the RFP number, time, and date of opening. The envelope should be resealed and deposited with the other proposals.

11-9 The Receipt of Proposals

The purchasing agent shall receive proposals according to the following procedure:

- Proposals must be timely received: All proposals shall be received as required in the corresponding solicitation, until, but no later than, the time and date set for the receipt of proposals in the RFP. The date and time automatically recorded by the Office's bid submission system, for proposals submitted electronically, or the time stamp affixed to paper proposals, will determine whether a proposal is timely received..
- Timely receipt of proposals sole responsibility of vendors: It shall be the sole responsibility of the vendor under all circumstances to ensure that its proposal is timely received. The County shall assume no responsibility in ensuring that proposals will be timely received and time-stamped in the Purchasing Office.
- Proposals kept in secure location until opened: All proposals received and time stamped will be kept in a secure location in the Purchasing Office until the time and date for their receipt has passed.
- Identity of vendors confidential: Prior to the time and date that proposals are to be received, the identity of the vendors and the number of proposals received is confidential, and may be disclosed only to County officials and only when disclosure is considered necessary for the proper conduct of the RFP process.
- Late proposals: Late proposals shall not be considered under any circumstances, and shall be returned unopened to the sender or retained unopened in the Office of Procurement.

The purchasing agent may impose additional requirements pertaining to the receipt of proposals if these requirements are set forth in the RFP and are consistent with this manual and the Virginia Public Procurement Act.

11-10 The Evaluation of Proposals; Development of a Negotiation List

The proposals that are timely received shall be examined by the purchasing agent to identify each vendor. The selection committee is then convened to review and score each proposal based on the evaluation criteria specified in the RFP. After the committee reviews the proposals, it chooses two or more vendors who are qualified, responsible, and suitable. The committee may choose a single vendor, but only if the purchasing agent documents in writing that the vendor is the only one qualified or is clearly the most qualified.

The evaluation process should consist of feature-by-feature comparisons of the proposals to the evaluation criteria set forth in the solicitation, and, if goods or nonprofessional services are being procured, cost comparisons. The selection committee should review and evaluate proposals as they affect committee members' areas of interest and expertise. All findings should be shared among the committee members. During this step the selection committee also should check references. The committee may check references other than those listed by the vendor.

The procedure for evaluating proposals is discussed in more detail in Chapter 15.

11-11 Conduct Negotiations

After proposals for goods or nonprofessional services are evaluated, the selection committee begins negotiations with all of those vendors deemed by the selection committee to be fully qualified and best suited among those submitting proposals.

After proposals for professional services are evaluated and before negotiations are conducted, the selection committee engages in individual discussions with all of those vendors deemed by the selection committee to be fully qualified and best suited among those submitting proposals.

After the discussion stage, the selection committee negotiates only with those vendors whose professional qualifications and proposed services are deemed most meritorious, based on not only the vendors' proposals, but also the information learned during the discussions. In the case of procurement of professional services, the vendors selected for negotiations are ranked, and the selection committee may negotiate only with the top-ranked vendor first, and, if a contract satisfactory and advantageous to the selection committee cannot be negotiated at a price considered fair and reasonable, the selection committee then moves to the second-ranked vendor and attempts to negotiate a contract with that vendor, and so on. A detailed discussion of the nature, scope and conduct of the negotiations is set forth in Chapter 16.

11-12 Contract Award

After the negotiations are completed with each vendor for the procurement of goods and nonprofessional services, the purchasing agent, upon the

recommendation of the selection committee, selects the vendor that has made the best proposal, and awards the contract to that vendor. For the procurement of professional services, if a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the contract award is made to that vendor. If a contract award cannot be made, the County then moves to the second-ranked vendor and attempts to negotiate a contract with that vendor, and so on.

The procedure to award a contract when the competitive negotiation procedure is used shall be as follows:

- Notice of intent to award: The purchasing agent shall post in a public place a written announcement of the decision to award, which may be identified as a notice of intent to award. The notice of intent to award shall also include a statement that the public records pertaining to the procurement have been and are available for inspection by those vendors participating in the procurement process. The purchasing agent is not required to provide individual notice of the intent to award to any participating vendors; rather, it is each vendor's duty to ascertain when the notice of intent to award is issued and posted.
- Protest period: The receipt of the notice of intent to award by a vendor shall commence a ten-day period in which any vendor who desires to protest the decision to award a contract may do so, as provided in Chapter 24.
- Contract award if no timely protest received: The purchasing agent shall not award a contract until the protest period has expired. After the protest period has expired, and if no vendor has protested the decision to award, the purchasing agent shall award the contract to the vendor identified in the notice of intent to award.
- Contract award if timely protest received: If a written protest is timely received, the purchasing agent shall take no further action to award the contract unless, upon prior consultation with the county attorney, the purchasing agent determines in writing that proceeding without delay is necessary to protect the public interest or unless the offer would expire. The written determination shall be placed in the contract file.
- Contract award if legal action brought: If a legal action is brought by a vendor, actual or prospective, as provided in *Virginia Code* § 2.2-4364, the purchasing agent shall take no further action to award the contract unless, upon prior consultation with the county attorney, the purchasing agent determines in writing that proceeding without delay is necessary to protect the public interest or unless the offer would expire. The written determination shall be placed in the contract file.

In their discretion, and if time is of the essence, the purchasing agent may award a contract without first posting a notice of intent to award. The purchasing agent may consult with the county attorney as to any matter pertaining to the decision to award a contract.

09/22

11-9

Item No. 8.6. Tax Refund Approval Request.

The Executive Summary forwarded to the Board states that Virginia Code 58.1-3981 requires that erroneous tax assessments shall be corrected and that a refund, with interest as applicable, be paid back to the taxpayer. Tax refunds resulting from erroneous assessment over \$10,000 must be approved by the Board of Supervisors before any payments are made.

The Department of Finance and Budget is requesting approval from the Board for a tax refund to conform with this requirement. The refund in the amount of \$14, 077.05 has been reviewed and certified by staff and the Chief Financial Officer with consent of the County Attorney's Office. If approved, \$14,077.05 will be refunded to Mr. John Hart, Jr., due to a change in law.

Staff does not anticipate any impact to the budget at this time.

Staff recommends that the Board approve the Resolution (Attachment A).

By the above-recorded vote, the Board adopted the resolution as presented in Attachment A to approve the refund:

RESOLUTION REQUESTING TAX REFUND

WHEREAS, Virginia Code § 58.1-3981 requires that erroneous tax assessments be corrected and that a refund, with interest as applicable, be paid back to the taxpayer;

WHEREAS, Tax refunds resulting from erroneous assessment over \$10,000 must be approved by the Board of Supervisors, after being certified by the Director of Finance and the County Attorney;

NOW, THEREFORE, BE IT RESOLVED that a refund in the amount of \$14,077.05 has been reviewed and certified by the Director of Finance, and consented to by the County Attorney;

BE IT FURTHER RESOLVED that this refund shall be remitted to Mr. John Hart, Jr. to conform with Virginia Code § 58.1-3981.

Item No. 8.7. Petty Cash Resolution.

The Executive Summary forwarded to the Board states that Virginia Code Section 15.2-1229 provides that the County may adopt a resolution to establish petty cash funds not exceeding \$5,000 each to be used to transact daily County business. Petty cash includes petty cash funds (a small amount of bills and coins to pay for minor expenditures) and change funds (a set amount of money used by a department to make change for customers). The most recent petty cash/change fund resolution was approved by the Board of Supervisors on November 1, 2017.

The Board of Supervisors last established petty cash funds by a Resolution adopted on November 1, 2017. Updates to the prior resolution are as follows:

The Department of Fire/Rescue no longer needs a change fund and has returned the \$150.

The Department of Community Development no longer needs a change fund and has returned the \$100.

The Department of Finance and Budget has reduced its change fund from \$4,350 to \$4,300, due to the elimination of a change fund from the Office of Real Estate.

The Department of Parks and Recreation change fund is increased from \$100 to \$700 to fund change boxes used by the three lakes during the summer.

The Office of Housing requests a \$3,000 petty cash fund to support the Moving Home Grant Program, to be used to secure housing in situations where funds are needed immediately, and P-Cards are not accepted.

There is no budgetary impact.

Staff recommends that the Board adopt the attached Resolution to amend the existing petty cash funds.

By the above-recorded vote, the Board adopted the resolution to amend the existing petty cash funds:

RESOLUTION TO AMEND THE EXISTING PETTY CASH FUNDS

WHEREAS, Virginia Code §15.2-1229, provides that the governing body of any county may establish by resolution one or more petty cash funds not exceeding \$5,000 each for the payment of claims arising from commitments made pursuant to law; and

WHEREAS, the Board of Supervisors adopted a Resolution on November 1, 2017 establishing petty cash funds; and

WHEREAS, the Board of Supervisors now desires to amend the November 1, 2017 Resolution by eliminating the \$150 fund for the Department of Fire Rescue, eliminating the \$100 fund for the Department of Community Development, reducing the fund for Department for Finance and Budget by \$50, increasing the fund for Department of Parks and Recreation from \$100 to \$700 to fund the summer activities, and adding a fund for the Office of Housing for the Moving Home Grant Program.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia re-establishes or establishes, as applicable, the following petty cash funds:

Finance & Budget	\$4,300
Office of Housing	3,000
Police Department	2,500
Parks & Recreation	<u>700</u>
Total	\$10,500

Item No. 8.8. Emergency Medical Services Cost Recovery Rates.

The Executive Summary forwarded to the Board states that on September 9, 2009, the Board adopted an ordinance authorizing the County to establish an Emergency Medical Service (EMS) cost recovery program, which would charge fees for EMS vehicle transports provided by the Department of Fire and Rescue and any volunteer rescue squad that applied for and was issued a permit to charge fees. The Board directed staff to establish a billing system to be operable by February 1, 2010.

On March 7, 2012, the Board adopted a Resolution to establish a new schedule of fees for EMS transports based on changes to the Medicare Allowable Rates and the updated "Usual and Customary Charges" paid by private insurance companies. The Board also approved the Albemarle County Resident Program, in which bona fide County residents are not responsible for any charges, including co-pays or deductibles, after all applicable insurance payments have been collected. Although this program was approved in March 2012, it was not implemented until July 1, 2014, due to the requirement that the County obtain an advisory opinion letter from the Department of Health & Human Services Office of Inspector General that the County's Revenue Recovery Program met specific federal requirements.

After Albemarle County Fire Rescue (ACFR) staff's annual review of the EMS Cost Recovery program and transport fees, ACFR staff believes it is appropriate to increase the fees, and is seeking Board approval of the fee increases as set forth below.

The Board of Supervisors adopted the current fees for EMS Transport in May 2016. Those fees, which were based on Medicare Allowable Rates and "Usual & Customary Charges" paid by private insurance companies, are as follows:

- \$500 - Basic Life Support
- \$600 - Advanced Life Support 1
- \$850 - Advanced Life Support 2
- \$15.00/mile

As part of staff's annual review of the EMS Cost Recovery Program, ACFR consulted with the third-party billing company to conduct an analysis of our current fees. Based on Medicare allowable rates and commercial insurance reimbursements, the billing company provided staff a recommendation. Based on this analysis, ACFR proposes the following rates, effective October 1, 2022:

- \$600 - Basic Life Support
- \$720 - Advanced Life Support 1
- \$1,020 - Advanced Life Support 2
- \$18.00/mile

Increasing the fees to this level will allow ACFR to recover higher reimbursements from private insurance companies. Most transports are for County residents, and the County provides transport services to them at no additional cost over their insurance payment, so this increase will not be a burden to County residents. Instead, it will decrease the burden on County taxpayers by recouping reasonable reimbursements from private insurance companies. The County has a compassionate billing policy to address any non-residents that are unable to pay the County's fees.

This analysis assumes the new rates will be in effect for transport services provided on or after October 1, 2022. It is estimated that these new rates will increase our EMS Cost Recovery revenue by approximately \$96,000.

ACFR staff recommends that the Board adopt the new schedule of fees for Emergency Medical Services vehicle transport services resolution (Attachment A).

By the above-recorded vote, the Board adopted the new schedule of fees for Emergency Medical Services vehicle transport services resolution (Attachment A):

**RESOLUTION TO ESTABLISH AN INCREASE OF FEES FOR
EMERGENCY MEDICAL SERVICES VEHICLE TRANSPORT SERVICES**

WHEREAS, on September 9, 2009, the Board enacted Chapter 6, Article V of the Albemarle County Code, which authorizes the Albemarle County Department of Fire and Rescue and any volunteer rescue squad that obtains a permit from the County to charge fees for EMS vehicle transports; and

WHEREAS, on December 2, 2009, the Board established a schedule of fees for EMS vehicle transport services; and

WHEREAS, on March 7, 2012, and May 4, 2016, the Board amended the schedule of fees based on the market review of those fees; and

WHEREAS, based on a market review of current fees for EMS vehicle transport services, the Board has determined that an increase in fees is reasonable.

NOW, THEREFORE, BE IT RESOLVED that the following EMS vehicle transport service fees are hereby increased, and a new schedule of fees is established, effective October 1, 2022, for all EMS vehicle transport services provided in accordance with Chapter 6, Article V of the County Code:

1. For Basic Life Support (BLS) transport services: \$600. BLS is defined as the emergency response and transport of a patient that requires assessment and treatment by a BLS Technician and no Advanced Life Support procedures.
2. For Advanced Life Support Level 1 (ALS1): \$720. ALS1 is defined as the emergency response and transport of a patient that requires assessment and treatment by an ALS Technician and one or more Advanced Life Support procedures.
3. For Advanced Life Support Level 2 (ALS2): \$1,020. ALS2 is defined as the transport of a patient that requires defibrillation, pacing, intubation, or the administration of 3 or more Schedule IV medications.
4. For Ground Transport Miles (GTM): \$18.00/mile. GTM is defined as the charge per patient transport mile.

BE IT FURTHER RESOLVED THAT no person shall be denied transport services due to his or her inability to pay.

Item No. 8.9. Resolution Supporting the Albemarle-Charlottesville Regional Jail (ACRJ) Request for State Funding for Jail Renovation Project.

The Executive Summary forwarded to the Board stated that at its meeting in March 2022, the Albemarle-Charlottesville Regional Jail Authority (ACRJA) Board approved a resolution seeking a State funding commitment of 25% of eligible costs for planned facility renovation work. The approved ACRJA resolution satisfies State requirements for seeking such support. In May, Supervisor Diantha McKeel (ACRJA Chair), Martin Kumer, Superintendent and other facility and project representatives presented the resolution to the Virginia Board of Local and Regional Jails (BLRJ) on behalf of the ACRJA, Albemarle County, Nelson County and the City of Charlottesville. The BLRJ was expected to consider and act on the request at its scheduled July meeting but did not do so due to lack of a quorum. It is now expected that the BLRJ will consider and act on the matter at its next meeting in September.

Virginia Code requires a formal request from either the regional jail authority board or member jurisdictions. Given that the ACRJA has already approved and submitted a formal resolution requesting State support, resolutions from the member jurisdictions are not required. However, such resolutions are being requested from the three member jurisdictions at this time to strengthen the position of the ACRJA as it seeks official action from the BLRJ later in September.

Later this fall, if and when the BLRJ indicates its support for State financial support of the planned project, it is anticipated that the ACRJA will ask formally for each of the three member jurisdictions to indicate support for the respective share of the local funding required to finance the project based on preliminary project design and cost assumptions.

The requested Resolution is seeking State support for 25% reimbursement of total eligible costs for the planned ACRJ renovation project. Such State funding support, if secured, will reduce significantly the overall financial burden to the three member jurisdictions including Albemarle County's proportionate share of local project costs.

Staff recommends that the Board adopt the resolution as set forth in Attachment A.

By the above-recorded vote, the Board adopted the resolution as set forth in Attachment A:

RESOLUTION

WHEREAS, the "Standards for Planning, Design, Construction, and Reimbursement of Local Correctional Facilities," 6VAC15-81-100 requires that a resolution be submitted to the Board of Local and Regional Jails requesting approval of the Community Based Corrections Plan Needs Assessment and Planning Study and reimbursement for eligible construction expenses; and

WHEREAS, the Albemarle-Charlottesville Regional Jail Authority adopted and submitted the required resolution to the Board of Local and Regional Jails; and

WHEREAS, Moseley Architects has submitted a Community Based Corrections Plan Needs Assessment and Planning Study on behalf of the Albemarle-Charlottesville Regional Jail Authority for a jail expansion and renovation project as required by the Standards; and

WHEREAS, the total project budget estimate for this project is approximately \$49 million; and

WHEREAS, the Albemarle-Charlottesville Regional Jail Authority is eligible for reimbursement of eligible construction costs pursuant to Section 53.1-81 of the Code of Virginia (1950), as amended; and

NOW THEREFORE, BE IT RESOLVED THAT THE ALBEMARLE COUNTY BOARD OF SUPERVISORS, supports the request of the Albemarle-Charlottesville Regional Jail Authority that the Board of Local and Regional Jails gives its approval for the Community Based Corrections Plan Needs

Assessment and Planning Study and funding for reimbursement of 25% of all eligible costs subsequent to Governor and General Assembly approval and funding relative to the expansion and renovation of existing space as identified in the Community Based Corrections Plan Planning Study submitted to the Board of Local and Regional Jails pursuant to Section 53.1-81 of the Code of Virginia (1950), as amended.

Item No. 8.10. SE202200039 Skyline Ridge Apartments Special Exception - Building Stepback Waiver.

The Executive Summary forwarded to the Board states that the applicant requests a special exception to waive the building stepback requirement in conjunction with SDP202200039 Skyline Ridge Initial Site Plan. The special exception request is permitted under County Code § 18-4.19.5, which allows a reduction to the stepback requirement of 15 feet for buildings in the residential district.

1) Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special exception on the condition that development of the use is in general accord (as determined by the Director of Planning and the Zoning Administrator) with the plan titled, "Skyline Ridge Apartments, Initial Site Plan" (SDP202200039) prepared by Collins Engineering, dated June 6, 2022.

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

**RESOLUTION TO APPROVE
SE 2022-00039 SKYLINE RIDGE**

BE IT RESOLVED, that upon consideration of the staff reports prepared for SE2022-00039 Skyline Ridge and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.19(5), 18-18.8, and 18-33.9, the Albemarle County Board of Supervisors hereby approves a special exception to waive the 15-foot stepback requirement of County Code § 18-4.19 and § 18-18.8 on Parcel ID 06000-00-00-040C8, on the condition that development of the use is in general accord (as determined by the Director of Planning and the Zoning Administrator) with the plan titled, "Skyline Ridge Apartments, Initial Site Plan" (SDP202200039) prepared by Collins Engineering, dated June 6, 2022.

Item No. 8.11. SE202200022 DS Tavern.

The Executive Summary forwarded to the Board states that the applicant requests a special exception to County Code § 18-21.7(c), which provides minimum yard requirements for commercially-zoned properties:

21.7(c) Use buffer adjacent to residential and rural areas districts.

...no construction activity including grading or clearing of vegetation shall occur closer than 20 feet to any residential or rural areas district.

The applicant has requested this special exception for the purpose of installing underground utilities near the property's western property line. Specifically, the special exception is to allow for three improvements: i) installation of a new septic line that would run through the buffer but to a new drainfield outside the buffer, ii) burial of an underground propane tank partially within the buffer, and iii) maintenance and improvements to the existing stormwater channel located within the buffer (Attachment A).

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special exception, subject to the condition below:

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the plan titled, "DS Tavern" major site plan amendment (SDP202200025) prepared by Woolley Engineering, dated August 9, 2022.

By the above-recorded vote, the Board adopt the attached Resolution (Attachment D) to approve the special exception, subject to the condition as presented:

**RESOLUTION TO APPROVE
SE 2022-00022 DS TAVERN**

WHEREAS, upon consideration of the staff reports prepared for SE2022-00022 DS Tavern and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-21.7(c) and 18-33.9, the Albemarle County Board of Supervisors hereby finds that:

- (i) grading or clearing is necessary or would result in an improved site design;
- (ii) minimum screening requirements would be satisfied; and
- (iii) existing landscaping in excess of minimum requirements would be substantially restored.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves a special exception to waive the use buffer requirement on Parcel ID 05900-00-00-015A0, subject to the condition attached hereto.

* * *

SE202200022 – DS Tavern Special Exception Condition

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the plan titled, “DS Tavern Major Site Plan Amendment” (SDP202200025), prepared by Woolley Engineering, last revised August 9, 2022.

Item No. 8.11b. Change Start Time for September 21, 2022, meeting to 2:00 p.m.

By the above-recorded vote, the Board approved changing the start time of their September 21, 2022 meeting to 2:00 p.m.

Item No. 8.12. Fiscal Year (FY 22) Preliminary Unaudited Year-End Financial Report., ***was received for information.***

Non-Agenda Item. Discussion on County Participation in the Safe Streets for All Grant Program.

Mr. Gallaway said the program was a federal grant program, and applicants could be local governments or MPOs (Metropolitan Planning Organization). He said the TJPDC decided not to participate in the program regionally. He said he was requesting information as to why the commission decided not to participate in the program. He said he shared information on the program with the Board. He asked Mr. McDermott to provide more information to the Board about the grant and process. He noted the deadline for the grant was September 15, so the Board would not meet before the deadline.

Ms. McKeel clarified that the other localities in the TJPDC had determined they would participate in the program.

Mr. Gallaway confirmed that he had been told the previous Thursday that the other localities intended to participate.

Mr. Kevin McDermott, Planning Manager, said there were several grant opportunities by way of the bipartisan infrastructure bill and other recently released funding structures put out by the federal government. He said the RAISE (Rebuilding American Infrastructure with Sustainability and Equity) grant was recently awarded to the County.

Mr. McDermott explained the Safe Streets for All grant was suggested to the County through the TJPDC at the end of July. He said the grant was set up to favor regional group applications. He said the County had expressed interest in the program, but in late August, it was determined the timing was not right. He explained the County was applying for another grant called Reconnecting Communities grant, and they planned to bring a proposal to the Board in October to receive feedback and request support. He said the grant would evaluate the safety of a corridor of Route 29. He mentioned the efforts with the RAISE grant and the Multi-Modal Transportation Plan. He noted timing concerns and said the County had not received many details about the grant regarding the cost and the scope, so they decided to back out of the program. He said the County supported the grant, and if the Board was interested, he could reach out to see if the County could participate. He said he had been in discussion with TJPDC, and they were moving forward with the program. He said the TJPDC believed other localities were participating, including the City.

Mr. McDermott said the plan was to create a Safety Action Plan for the entire region with the goal of reaching zero deaths on highway facilities in the region. He said the TJPDC did not have a scope of what they would do with the Safety Action Plan, but the idea was to evaluate safety issues and get commitments from participating jurisdictions to achieve the goal of zero highway deaths in the region. He said once the safety action was complete, they could apply for implementation grants for infrastructure improvements.

Mr. Gallaway said that the amount committed would depend on those who participated. He said the cost would not be equally distributed; the cost burden would be determined by population. He estimated the cost to the County would be \$20K to \$50K. He recommended that if the Board proceeds with the program, the funds be taken from the Board's strategic reserve. He noted he was mindful that it would add to the work for staff, but there was an abundance of transportation projects.

Mr. Gallaway said the Board should pursue the grant. He said he was told 5 of 6 localities chose to participate in the program. He said the types of improvements that the grant could be used for included turn lanes, crosswalks, and road-widening, but they had to be specific to safety. He noted the County was also applying for the Reconnecting Communities grant. He said there were traffic problems within the County that if solved would alleviate regional traffic issues.

Mr. McDermott said he had spoken with the TJPDC, and they informed him that if the County wanted to participate in the program, they ask that the County agree to not exceed an amount of \$60K. He said the final value would depend on which jurisdictions participated and the final scope, but it would not exceed \$60K.

Mr. Gallaway said if County had gone it alone and the amount was in the \$200K range, his position would not change, and he would still be making the same recommendation. He said that in this case it made more sense to do it from a regional approach because the regional items may score better.

Ms. McKeel said she had reviewed the information Mr. Gallaway had distributed to the Supervisors. She noted there were several projects that if completed would benefit the community. She noted there were limitations to staff's capacity for projects. She asked what work TJPDC would perform on the project.

Mr. McDermott explained the TJPDC would lead the process for the program, and the County staff's time commitment would involve sitting on the committees, assisting with public outreach, and reviewing documents. He said the time commitment would be less than if the County was an individual applicant for the program and had to lead the process.

Ms. McKeel said it made a big difference. She said she was interested in the program. She clarified that the County's participation in the Safe Streets and Roads program would not preclude the County from participating in any other grant or program.

Mr. McDermott said the County's participation would not preclude it from participation in other grants or programs. He said each federal grant was evaluated individually by the federal government.

Ms. McKeel noted the grant was competitive so there was no guarantee the County would receive the grant. She said she supported the County's participation.

Ms. LaPisto-Kirtley noted transportation was one of the biggest issues in the County. She noted sidewalks and right-turn lanes would make the streets safer. She asked if the grant could be used to fund traffic calming measures.

Mr. McDermott said traffic calming was one of the items that could be evaluated as a solution to then later be implemented with future grants.

Ms. LaPisto-Kirtley recognized the biggest issue in the County related to traffic was speeding. She said the issue would hopefully be addressed through state legislation related to speed-monitoring cameras. She said she was in support of participating in the program.

Mr. Andrews noted the decision to not participate was because staff did not have the capacity to take on the project. He asked if more attention would be given to other grants if the County did not participate in the program. He said he did not see why the County should not pursue the program.

Mr. McDermott said if the Board wanted to participate, he did not see a reason why the County should not. He said submitting the application was only one piece, and if they ended up receiving the grant, then they would find ways to prioritize the planning process. He noted that both programs were planning grants to identify projects, and once the projects were identified, other funding would have to be allocated to fund the projects. He said the County may be responsible for the planning, development, and implementation of the project after it had been identified. He said the County would not miss out on other opportunities if it applied for the Safe Streets for All grant.

Ms. Mallek said they should consider that if there were implementations that needed to be managed, then the County should consider hiring a consultant. She said the outcome of the grant should result in sufficient information to move projects along in the process. She said right now there is a long list in each District where there was not enough information to make decisions. She said the County had the highest death rate in the Commonwealth for three of the past 10 years.

Mr. Richardson said Mr. Gallaway presented a funding strategy for the matching grant to come from the Board's strategic reserve. He noted the match would not exceed \$60K. He said with the grant obligation being due September 15, the Board would have to approve giving staff direction to apply for the grant and authorize the commitment for the local match. He said the strategic reserve had an excess of the necessary funds.

Ms. Price said if the Board was inclined, there would have to be a vote on the matter. She said the motion would be for an expense not to exceed \$60K.

Ms. McKeel said she supported the proposal.

Ms. Mallek said she supported applying for the program. She said the upper limit of the grant was \$50M.

Mr. Gallaway said a regional safety implementation plan was worth the commitment of resources. He clarified that the Board action should include granting the County Attorney or the County Executive the authority to review and approve the final application submission.

Ms. Price said she supported the County participating in the program. She mentioned that the TJPDC was composed of the City, the County, and Fluvanna, Green, Louisa, and Nelson counties. She said the County was the largest and central in the region, so it would be detrimental for the County to not participate in the program. She said the floor was open for a motion to authorize the County to participate in the Safe Streets for All grant program at a cost not to exceed \$60K dollars and to authorize the County Executive or the Chair of the Board to sign any such documentation required after receiving approval from the County Attorney.

Mr. Gallaway **moved** to authorize the County to participate in the Safe Streets for All grant program at a cost not to exceed \$60K dollars and to authorize the County Executive or the Chair of the Board to sign any such documentation required after receiving approval from the County Attorney. Ms. Mallek **seconded** the motion.

Mr. Rosenberg suggested the source of funding be identified as suggested by Mr. Gallaway.

Mr. Gallaway **moved** to amend to identify the source of funding as the Board's strategic reserve 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, Ms. LaPisto-Kirtley, Mr. Andrews, and Ms. Price.
NAYS: None.

Mr. Richardson said the program did not present a workload capacity issue. He said Mr. McDermott provided to the Board on July 20 in the quarterly transportation report that two grants were being considered: the Reconnecting Communities grant and the Safe Streets for All Grant, as well as other bipartisan grant opportunities. He said Mr. McDermott did not have the detailed information from TJPDC to make a decision to go through the County process which included vetting the grant 30 days before the grant was due, so by August 15. He said they ensured the County's commitment was phrased accurately so the responsibilities could be executed properly. He said Mr. McDermott informed him that if the Board wanted to proceed with participation in the program, they would do what was necessary to participate. He said Mr. McDermott was unable to meet the County's internal deadlines to be able to appropriately scope the program proposal. He said in contrast, the Reconnecting Communities grant was vetted appropriately in July, and it would be returning before the Board during the first meeting of October. He said the two grants were not in competition and could operate in parallel. He noted that even without the workload added by the grant applications, there were still workload issues in the division.

Mr. Gallaway said he learned about the 30-day processing for grants. He said it was important for the Board to know such information so that the Board can aid in the process. He said it was important for an organization to be able to act quickly if needed. He said he should have given more attention to the item during the August meeting.

Ms. Mallek asked if regional partners were aware of the County's processes so that information was provided in a timely manner.

Mr. Richardson responded that there were conversations with Community Development regarding how to do a better job. He said it was up to the County Executive to be better at paying attention to grant opportunities and understanding internal deadlines.

Agenda Item No. 9. **Action Item:** SE2022-45 1699 Colle Lane Homestay.

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception for a homestay at 1699 Colle Lane. This special exception was originally scheduled for August 17, 2022, but was postponed to September 7, 2022.

Reduction of minimum yards. Pursuant to County Code § 18-5.1.48(d), the applicant is requesting to modify County Code 18-5.1.48(b)(2) to permit a resident manager to fulfill the residency requirements for a homestay use.

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

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

Mr. Bart Svoboda, Zoning Administrator and Director of Zoning, said there were two special exceptions, and both involved LLCs. He said the special exception was returning from the August 3 meeting where it was deferred. He explained the property was owned by WNG LLC, formed by the Woodard Family. He said the Woodards owned the property since the 1930s, and they created the LLC to facilitate and manage the parcel.

Mr. Svoboda said both special exceptions were RA-zoned parcels. He said other than the resident manager special exception, the structures met setback, parking, and other requirements, and there were no further particular requirements. He said the request was for a resident manager.

Mr. Svoboda added that special events and restaurants were specific uses not permitted for homestays. He said there was no indication that the applicant would perform such uses, but these were provided as a reminder.

Mr. Svoboda said the factors for the Board to consider under County Code §18-33.49 and §18-5.1.48(d)(3) and that staff considered during review of the application included adverse impacts to the neighborhood, public health, safety, and welfare, and consistency with the comprehensive plan.

Mr. Svoboda said the site was located on a 205-acre parcel on the corner of Milton Road and Jefferson by the Old Simeon Market. He said the parcel bordered two main roads, and the main house met the structure setback requirements. He reiterated that the request was for a resident manager on the property. He said staff's analysis did not show issues with parking or screening, and the property was located in an area that would not affect the health, safety, or welfare of the residents. He said the staff recommendation was to support the request for the special exception.

Ms. Price said she had spoken with the applicant regarding the homestay. She said the information was clearly provided in the application. She reiterated that the property had been under the family's ownership for close to 100 years. She said the use complied with one of the underlying homestay purposes in the County. She noted that the applicant was an LLC and that the Board was not allowed to consider that as a factor of approval. She questioned if special exceptions should go with the applicant rather than the land because the special exception would carry over through ownership changes.

Ms. Mallek asked if the Board had the authority to specify that the special exception only apply to one owner.

Ms. Price said she believed the Board could not add such a requirement. She said the law stipulated the special exception followed the land, not the ownership of the land.

Ms. Mallek noted the applicant was making an affirmation to that effect.

Ms. Price said it would not technically make a difference or create a binding restriction.

Ms. Price **moved** to adopt the resolution as presented in Attachment F to approve the special exception SE2022-00045, 1699 Colle Lane Homestay. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**RESOLUTION TO APPROVE
SE2022-00045 1699 COLLE LANE HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2022-00045 1699 Colle Lane Homestay Application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the applicable requirement, and that the requested special exception:

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

NOW, THEREFORE, BE IT RESOLVED, that in association with the 1699 Colle Lane Homestay, the Albemarle County Board of Supervisors hereby approves a special exception to permit a resident manager to fulfill the residency requirements for a homestay use.

Agenda Item No.10. **Action Item:** SE2022-36 5600 Turkey Sag Road Homestay.

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception for a homestay at 5600 Turkey Sag Road. This special exception was originally scheduled for August 3, 2022, but was postponed to September 7, 2022.

Pursuant to County Code § 18-5.1.48(d), the applicant is requesting to modify County Code 18-5.1.48(b)(2) to permit a resident manager to fulfill the residency requirements for a homestay use.

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

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception as submitted.

Mr. Svoboda said the request was for a resident manager on the property. He said the one owner, Bradford Manning, was the applicant, and he was going to be the resident manager. He said the beneficiary of the LLC would be the resident manager. He said the parcel was five acres. He said the parcel met setback requirements, and the impacts were minimal. He said there was no request for a restaurant or special event use.

Mr. Svoboda said the main house on the property was large, and the site was fairly isolated from the rest of the community as it sat in a valley. He said no impacts were identified that needed to be addressed. He said the adjacent properties were well buffered. He said staff recommended approval of the special exception.

Ms. LaPisto-Kirtley **moved** to adopt the resolution as presented in Attachment F to approve the special exception SE2022-00036, 5600 Turkey Sag Road Homestay. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**RESOLUTION TO APPROVE
SE2022-00036 5600 TURKEY SAG ROAD HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2022-00036 5600 Turkey Sag Road Homestay Application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§18-5.1.48(b)(2) , 18-5.1.48(d)(3) 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, and that the requested special exception:

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

NOW, THEREFORE, BE IT RESOLVED, that in association with the 5600 Turkey Sag Road Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to permit a resident manager to fulfill the residency requirements for a homestay use.

Agenda Item No. 11. **Action Item:** Financial Management Policies Update.

The Executive Summary forwarded to the Board states that according to the Government Financial Officers Association (GFOA) guidelines and the County's financial advisors, financial policies should be reviewed periodically to ensure they are current and effective. The County's Financial Policies were initially adopted by the Board of Supervisors on October 5, 1994, with the last update on January 6, 2021.

Staff has conducted a review of the County's Financial Management Policies and recommends several updates. These recommendations have been reviewed by the County's financial advisors, Davenport and Company, LLC. and are attached (Attachment A). In addition to the proposed changes, Attachment A provides explanations for each specific change. In general, these changes are due to the following:

1. The Budget Stabilization Reserve is recommended to increase from 1% to 2% to help ensure the organization's and community's financial foundation and resilience. The revision in Attachment A also updates language to clarify the intent that:

- a. It is intended to be among the strategies available in a difficult budget year or unanticipated situation.
- b. It is not meant to be an ongoing source of funding for the operating budget and balances utilized should be replenished as quickly as reasonably possible.
- c. It may be used for operating or capital expenses.

2. The current policy and related calculation for sharing revenues among County Government and Public Schools operations, debt service, and capital costs is complex and challenging to prepare, communicate, and understand. Staff recommends an alternative, which has been reviewed with Public Schools staff, which seeks to simplify the policy and related formula. This alternative does not decrease planned Public School operating funding and County Government operating funding. The minimal impact on the Capital Improvements Program can be mitigated. This recommendation is discussed in detail in Attachment B.

Modifying some statements to be written as policies, not procedures, and removing procedural statements. Policy statements are usually expressed in broad terms, changed less frequently, and focus on the "what" and/or "why." Procedure statements are usually more specific, prone to change as they are based on processes, and focus on the "how," "when," and/or "who." For example, procedures may be updated annually through the Board's budget calendar or resolution of appropriations.

Additions to include best practices and recognize Virginia Code requirements.

Changes for clarity, such as combining similar statements, reorganizing statements to other sections, and updating terminology.

The County's Financial Policies provide guidance to the County's budget development and fiscal management processes.

Staff recommends that the Board adopt the revised Financial Management Policies as set forth in Attachment A.

Ms. Nelsie Birch, Chief Financial Officer, said they were before the Board to update the financial management policies which served as the guiding document for all of the financial practices performed in the County.

Ms. Birch said the County was 1 of 47 counties in the U.S. with a Triple Triple-A bond rating. She said much of the performance of the County's financial management stemmed from the sound policies in place, and those were the policies to be updated. She said in January 2021, she recognized there needed to be a position dedicated to financial policy. She said Ms. Lori Allshouse, Assistant CFO of Policy and Partnerships, began to update the policies. She said since then, Ms. Allshouse had retired, and the position had been filled by Mr. Jacob Sumner.

Ms. Birch said she would address the fund balance changes, and Mr. Bowman, Chief of Budget, would discuss the changes to the funding formula as it related to how funding was allocated across the County and ACPS. She said with the upcoming economic uncertainty, AAA bond-rated counties were expected to perform differently. She said most of the changes were clarifying changes. She said language had been modified in the policies to clarify, condense, and consolidate them to make them easier to read and understand. She said they sought to incorporate and ensure the best practices were in place in the policy as they related to the financial advisor, Davenport and Company, how the financial rating agencies reported on the County's finances, and accounting and budgeting best practices that are put out by the Government Finance Officers Association and the Governmental Accounting Standard Board, and similar organizations.

Ms. Birch said the majority of the discussion would focus on the request to the Board to strengthen one of the two reserves available. She said there was an unassigned fund balance, typically referred to as a rainy-day fund. She said the discussion would also focus on ways to simplify sharing revenues among County government, public schools, debt service, and capital. She said the updates were not an attempt to change the policy and expectations for how schools and capital were funded but an attempt to simplify an overly complicated formula.

Ms. Birch said the financial management policies were dense. She said planning was important for the execution of the financial policy. She said the year began with a budget and ended with an audit; a review of all of the financial activity that had happened that year.

Ms. Birch clarified that the discussion was focused on the general fund. She explained that the general fund was the discretionary account of the local government; the fund where a majority of tax dollars went and where the Board had the most control over the use of the funds. She said the Board was requested to maintain the general fund balance at \$53M. She said the funding would come from the accumulation of activities in prior years that had built up over time. She said there was a 10% reserve, and a 1% budget stabilization reserve, which was the one that staff was asking for the recommended change.

Ms. Birch said the fund balance was accumulated overtime, and it was not a balance that the Board was anticipated to spend. She said the fund balance existed because the County had a Triple Triple-A bond rating, so the investment community wanted to ensure the County had financial fallback in the case of a financial event. She said it was a critical piece of the bond rating process.

Ms. Birch explained a fund balance was not used as an ongoing funding source. She said they were responsible for making decisions to keep the budget balanced and for preventing structural imbalances. She said the fund balance should not be used to avoid making sound financial decisions.

Ms. Birch said 10% of the operating revenues were held in a fund balance; they were not appropriated or used to support the annual budget process. She said the values were available on the balance sheet in the audit report. She said in addition to the 10% reserve, there was a 1% budget stabilization reserve established in 2017. She said the Board was being asked to modify the 1% budget stabilization reserve. She explained that the 1% reserve was calculated on a different revenue base than the 10% reserve. She said the 10% reserve was calculated from the operating revenues and incorporated ACPS operations. She said the 1% reserve was calculated from the County's general fund

and did not include the schools. She said the Board was requested to make the 1% reserve derived from the total general fund of the County to include the funds of ACPS. She said the change would result in a fund balance change of \$700K.

Ms. Birch said in addition, the Board was requested to consider increasing the budget stabilization reserve from 1% to 2%, and this would increase the fund balance by \$4.3M. She said the cost would not be an ongoing cost to the organization, it would be a one-time contribution to get the balance to the 2% level. She said the Board was requested to clarify the intent of what the budget stabilization reserve could be used for.

Ms. Birch said in the Board's packet, there was an FYI at the end, and the Board received supplemental information email from Mr. Bowman. She said the information considered how FY 22 performed. She noted FY 22 ended in June, and the County was undergoing the end-of-year accrual process and working toward an audit, due to the Auditor of Public Accounts by the end of November. She said they wanted to provide a report on how FY 22 ended with respect to the County's performance and the total amount of budget variance. She said they wanted to provide the Board assurance that one-time funding could be used.

Ms. Birch said a goal of the update was to clarify the intent. She said during the pandemic, the budget stabilization reserve was not used to mitigate the severe actions the County took in response to the pandemic because they did not realize the intention of the fund and it was not clear what it should be used for. She said the fund was protected and was not considered as an option to address the hiring freezes and other decisions staff made on capital projects. She said the intent now was to clarify that this could be a strategy.

Ms. Birch said the budget stabilization reserve was not only for operating funds but for capital funds as well. She said the funding could be used if there was a way to recoup the funding after it had been disbursed. She clarified that the fund would not be an ongoing source of funding. She said the rating agencies and the policy expected there to be a procedure to replenish the fund in the case its balance was utilized.

Ms. Birch said the Board would have to appropriate funding from the budget stabilization fund if it needed to be utilized. She said justification would be provided for why the fund should be used and a plan would be provided as to how the fund would be replenished. She said the intent of the budget stabilization reserve should be clarified. She said there were often times when the state was slow in making decisions so the impact on local revenues was delayed. She said the County had to make assumptions in its budget as a response, and the budget stabilization reserve could be used to mitigate the impacts. She said the fund could also be used to manage unforeseen situations.

Ms. Birch said in relation to expenditures, the County participated in revenue sharing with the City of Charlottesville, and often, it was hard to plan for the expenditure year-to-year. She said if there was an unexpected increase in the County's contribution, the funding would otherwise have to be reallocated from some other project to fill the commitment. She said the stabilization reserve could be used to manage any difference in the cost of revenue sharing with the City.

Ms. Birch said as they navigated through the workforce stabilization and had to develop options for attracting and retaining talent, they needed to come up with one-time funding strategies to do something different. She said such strategies would occur outside the budget deliberation process. She said the one-time could be used to support efforts related to workforce stabilization.

Ms. Birch said the bond rating community and investors were expecting the County to act and perform like a Triple Triple-A organization. She said when the County was compared to other AAA-rated communities across the country, they did not have a reserve that was overly high, and they were performing similarly to an AA bond-rated organization. She said the economy was unstable, and the County needed to be planned for that.

Ms. Birch noted there were some reserves that had been maintained over the past several years that staff no longer planned to continue because the budget stabilization reserve would replace them. She noted Ms. McKeel asked how frequently the County went to the market to issue bonds. She stated the County went to market inconsistently. She said when she joined the organization, she stated the County would go to the market every other year. She said not going to the market for long periods of time created a strain on cash management. She stated the County would be going to Wall Street every 2 years to convince bond holders that the County was performing as a Triple Triple-A organization. She said the recommendation helps tell that story.

Ms. McKeel asked for clarification regarding the timing for replenishing the reserve after funds had been utilized.

Ms. Birch said typically, rating agencies just wanted to know that there was a plan to replenish the funds. She said if there was a significant event where it would not be fiscally prudent to replenish the fund in one year, the agencies want to see a plan and path to replenish the fund. She said the circumstances of the moment would determine the time frame for replenishment of the fund.

Ms. McKeel said the work related to resiliency and flexibility. She said in regard to revenue sharing with the City, the amount was a two-year lag. She asked Ms. Birch to clarify why there was a lag and what it meant.

Mr. Andy Bowman explained there were three components in the revenue sharing formula, two of which could be determined in advance, and the third had to await information from the state that arrived in mid- to late-January. He said by the time the information was received it would be a month from the presentation of the recommended budget. He said major swings in the budget at that stage caused major disturbances in the rest of the budget.

Ms. LaPisto-Kirtley said the plan made sense and put the County in a strong financial situation.

Mr. Andrews asked if there was an estimate as to the amount of funding that was reduced in the other reserves.

Mr. Bowman explained that the amount in the pandemic reserve that was unobligated was approximately \$1.5M and closing out the reserve was one way to strengthen the stabilization reserve. He said the County received \$21M in federal ARPA funding over two years, and all the funding had been allocated, but there could still be flexibility in the funds. He said the County had been fortunate to receive large infusions of formula-based cash funding. He noted there were federal funding opportunities in the future, but those would be more competitive.

Mr. Bowman explained the general fund strategic priority reserve was funding focused on community development and had a balance of about \$400K. He said the capital budget stabilization reserve was created in the middle of the pandemic and approximated \$3M to \$4M. He said as part of the most recent CIP, it was anticipated to be eliminated. He said the County budget maintenance reserve was approximately \$1M to \$2M.

Ms. Mallek noted there was a fund used for cash flow between the December and June collection. She asked if that fund was included in this discussion.

Ms. Birch said typically, the fund balance was the County's cash account and the organizations working capital.

Mr. Gallaway asked if they had determined why the 1% figure had become the reserve value.

Ms. Birch explained some localities used the budget stabilization fund and appropriated it into the budget. She said the County did not, and because there was another 10% fund, staff never brought it forward or considered it.

Mr. Bowman said the minutes from 2017 provided insight along with the minutes from the start of the pandemic. He said through any of those discussions, it was not contemplated those funds would be used. He said through the County's practices, the funds had been treated hands-off. He said the intent of the proposed policy change was to add clarity to the restrictions and guidelines for how to use the fund.

Mr. Gallaway noted the other reserves that had been reduced or committed. He said those reserves were a rationale as to why the stabilization reserve should be created, not as a source for the new reserve.

Ms. Birch said some of the reserves would be liquidated, and that allowed for a year-end positive variance to contribute to the fund. She said the County had used the reserves in the ways that the stabilization reserve should be used in the future. She said for each fund that was not to continue, money was put aside and there was a plan to replenish them in the past.

Mr. Gallaway asked if the list of funds was exhaustive.

Mr. Bowman said the list was exhaustive, and any fund smaller would not have been of significant dollar amounts.

Mr. Gallaway clarified that if the Board supported the action, then the listed funds would no longer exist and their scopes would instead be included within the budget stabilization reserve.

Ms. Birch said that was correct, except for ARPA in the event funding returned.

Mr. Gallaway clarified if there had been a 2% budget stabilization reserve in place, a pandemic reserve would not have been created.

Ms. Birch said a reserve may not have been created.

Mr. Gallaway noted it was a fund to place money the County was considering spending but ARPA made available.

Ms. Birch said the funds would have likely been added to the budget stabilization reserve. She said it would have grown over 2% if it existed two years ago.

Mr. Gallaway clarified that in the case the County's contribution to revenue sharing with the City was higher than expected, the stabilization fund could be used to fulfill the difference.

Ms. Birch said it could be one of the strategies available to use. She said staff would try to not

use the fund and find ways that would make sense to fulfill the difference without drawing on a reserve.

Mr. Richardson said in most years, the difference in the County's contribution was \$200K to \$300K either positive or negative. He said those figures were significant in terms of operating cost but were not large enough to have a substantial impact on the total budget. He said there was one year where the difference was \$1.6M, and that figure could greatly impact the budget. He said the stabilization reserve could be used to mitigate the impact of a large variance in the County's cost-sharing contribution.

Mr. Gallaway asked if other uses would be identified for the fund for planning purposes. He said it would be helpful and transparent to identify the uses of the fund.

Ms. Birch said from a budget management perspective, the fund gave intention as to how staff should approach the proposal for when a draft is brought before the Board. She said if the Board wanted the uses to be more refined, it could happen. She said they would always have to receive Board approval to utilize funds because the funds had to be appropriated. She said staff could not spend the funds without Board approval.

Mr. Gallaway said it was important for the budget and for the public to be able to know what reserves the County held. He said simplifying the reserves was good, and the intent of the reserve should be clearly defined and outlined in the budget book. He said it was important for the community to understand the funding structure.

Ms. Mallek noted separate funds were used for funding from the federal government to keep the reports separated and organized. She said she was in support of increasing the reserves and maintaining flexibility to use the funds.

Ms. Price said as Board members and staff changed, the foundational reasoning for the policy change was the legislative history. She said the legislative history should be documented and clearly articulated so that future staff and Board members can understand the policy.

Ms. Price said there were 3,006 counties in the United States, so Albemarle was in the top 0.3% of counties in terms of bond rating. She said the benefit to the community was untold. She said she supported the proposal.

Ms. Birch said the next section regarded the sharing of revenue among the County government, public schools, debt service, and capital. She said the goal was to simplify the math but not change the policy. She said the Board was not requested to make a change to the policy related to the funding strategy. She explained that the current practice and policy were so complex, it was hard to train staff on how to do the calculation, and it was difficult for the public to understand how the figures were determined. She said the process lacked transparency.

Ms. Birch said they had collaborated with the ACPS financial department to ensure they understood the simplified formula and were able to use it in their processes. She said ACPS supported the recommendation.

Mr. Bowman provided an explanation for the revenue sharing calculations. He said the top of the formula defined a shared set of revenues that would be shared. He said adjustments were made to the shared revenues to account for reductions. He said capital and debt transfer were then calculated from the revenues. He said other adjustments would be made, and after those calculations were completed, there would be a 60/40 split of revenues of operations of County government and ACPS. He said 60/40 was part of the formula, but it was the last step.

Mr. Bowman said the calculation needed to be simplified. He said they needed to ensure it was shorter and there were numbers in the budget that it was easily tied to. He said a simplified formula would be easier to understand and easier to train staff. He said they did not want to change the policy, and they did not want to decrease any projected increases for the operations of ACPS or County government. He said they wanted to keep the actual dollar amounts as close as possible.

Mr. Bowman said the first step would begin by calculating a change in shared revenue, then expenses that reduced the tax revenue would be incorporated. He said the final step would simplify the adjustments and move the capital and debt calculation to the end. He said the funds would be split using whole number percentages; 10% for capital and debt service, 54% for ACPS operations, and 36% for County government operations. He said the 60/40 was still present in the figures because if 10% of the revenue was removed for capital and debt, then 90% of the revenue remained. He explained that 90% split 60/40 was equal to 54% and 36%.

Mr. Bowman said shared revenue was defined as general property taxes and other local taxes. He noted a line in the calculation called non-categorical state aid. He said revenue would be split that was not obligated specifically for County government or ACPS. He said \$15M was currently in the line item, but other revenues were included that were not designated. He said there were times when the state changed local revenues to state revenues, such as the telecommunications tax. He said there may be other changes directed by the state, and the formula should be able to accommodate those changes without revisions to the financial policies.

Mr. Bowman said the second category included expenses that reduced the tax revenue. He said they were the same expenses already included: the revenue sharing agreement with the City, the tax

relief programs authorized by the Board, EDA performance agreements, and the transfer to the water resources fund that was funded by 0.7 cents on the tax rate. He said after those reductions were made, what was left was shared revenue. He said the shared revenue would be split 10/36/54.

Mr. Bowman said the transfer to the ACPS operations and County government operations would grow by less than half a percent if the formula were used for FY 23. He said capital and debt service would see a decrease of approximately \$750K if the formula were used in FY 23. He said the decrease would extend through the five-year CIP. He said staff identified the decrease could be mitigated because earlier in the year, technology costs in the CIP needed to be removed because they were more appropriate as an operating expense. Mr. Bowman said the revenues going to capital and debt would be less, but so would the expenses. He said over the five-year period, capital and debt would receive less than \$4.9M, and the amount of expenditures removed would total \$4.7M.

Mr. Bowman said the number of items in the calculation had been reduced, and they were all identifiable in the budget document. He said it would be easier to train, calculate, communicate, and understand, and there was now one calculation for the major components of the budget. He said the proposal did not significantly change the net distribution of the shared revenue. He said staff recommended the Board approve the changes to the policies.

Ms. McKeel said the 60/40 split with the ACPS was confusing. She said the simplification would help. She noted the collaboration with the ACPS. She said there had been discussions about where technology belonged, whether in the CIP or not. She said she appreciated the clarity.

Ms. LaPisto-Kirtley said the changes put the County in a good financial position. She noted her support for clarity between local government and ACPS and the simplification of the process.

Ms. Mallek clarified that the new formula would also distribute costs when revenue decreased.

Mr. Gallaway said he appreciated that the process would be easier to explain. He asked if the transition of technology costs from capital to operating addressed the entire difference in the contribution from the new formula.

Mr. Bowman said there would still be a difference of about \$160K. He said it would be approached as one of the assumptions that would be updated in the upcoming CIP. He said as a percentage of the CIP, the difference was a tenth of a half of a percent.

Mr. Gallaway asked if it would be a one-time issue as they switched formulas.

Mr. Bowman said yes.

Mr. Gallaway said there was the opportunity to include how funds could be used to stabilize instability on the ACPS budget end. He clarified the budget stabilization reserve could be used to address funding needs for the schools.

Ms. Birch said that was possible. She said if the costs were unanticipated, then it was possible. She said they would evaluate the impact if they did not fund the need from the budget stabilization reserve. She said the funds could be used for any unanticipated needs, but the Board would have to grant approval.

Mr. Gallaway said workforce stabilization was an area identified as a use for the Board's purposes. He clarified that ACPS would have its own funds for workforce stabilization and would not consider the stabilization fund in its regular planning.

Ms. Birch said she did not foresee the ACPS would seek the reserve to fulfill their budget needs. She said the expectation would be that the Board would understand what the ACPS was able to accomplish in terms of operational and capital needs. She said during those discussions, they could figure out where the Board could provide more direction.

Mr. Gallaway said there should be clarity on what the reserve should be used for organizational wide because the positions they held were political.

Ms. Mallek said the ACPS already reserved 2% of its total budget, and that is the fund they would use first.

Ms. Birch said if ACPS required funds greater than the 2% reserve, they came before the Board to request more funding. She said the Board had previously authorized the School Board to use more than the 2% available in the fund.

Mr. Bowman noted that ACPS had identified a risk in state funding based on the timeline of the school budget, so a reserve in capital was created in the budget to prepare in case the state revenues were not as strong. He said the ACPS was able to provide itself flexibility.

Mr. Gallaway said there was a reserve specific for workforce stabilization and the rationale was to use the funds in the case wages changed.

Ms. McKeel **moved** that the Board adopt the revised Financial Management Policies as

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

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

FINANCIAL MANAGEMENT POLICIES

STATEMENT OF PURPOSE

The County of Albemarle has a responsibility to its taxpayers to account for public funds, to manage its finances wisely, and to allocate its resources efficiently, effectively, and equitably, in order to provide the services desired by the public. The primary objective of establishing Financial Management Policies is to provide a framework wherein sound financial decisions may be made for the long-term betterment and stability of Albemarle County.

POLICY GOALS

A fiscal policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. An effective fiscal policy should:

- Insulate the County from fiscal crises;
- Enhance the County's ability to obtain short-term and long-term financial credit by helping to achieve the highest credit rating and bond rating possible;
- Promote long-term financial stability by establishing clear and consistent guidelines;
- Provide the total financial picture of the County rather than concentrating on single issue areas;
- Provide a link between long-range financial planning and current operations; and
- Provide a framework for measuring the fiscal impact of government services against established fiscal parameters and guidelines.

OPERATING BUDGET POLICIES

The annual budget will be prepared consistent with requirements established by the Virginia Code, guidelines established by the Government Finance Officers Association (GFOA) and in accordance with budgeting best practices.

The budget must be structured so that the Board and the public can understand the relationship between revenues, expenditures, and the achievement of service objectives.

The budget will be structurally balanced, where ongoing revenues equal or exceed ongoing expenditures. The goal of the County is to fund all recurring expenditures with ongoing revenues, not one-time revenues.

The County will develop and annually update a long-range five-year Financial Plan. The Financial Plan will include a review of revenue trends and expenditures from the prior years' projections of revenues and expenditures, as well as future costs and the financing of the Capital Improvement Plan.

When revenue shortfalls are anticipated in a fiscal year, spending during that fiscal year must be reduced sufficiently to offset the projected revenue shortfalls.

The County shares the increase or decrease in available shared revenues among the County Government and Public Schools operating, debt service, and capital budgets.

- When developing the budget, the County calculates the increase or decrease in General Fund local tax and State non-categorical aid revenues.

- This amount is adjusted for changes in expenses that reduce available shared revenue: City of Charlottesville revenue sharing, Tax Relief programs, Economic Development Authority tax-related performance agreements, and the designated transfer to the Water Resources Fund.
- The remaining amount is allocated 54% to the Public Schools operating budget, 36% to the County Government operating budget, and 10% for the joint County Government and Public Schools debt service and capital budgets.

This guideline may be reviewed annually with Board of Supervisors approval.

The operating budget preparation process is conducted to allow decisions to be made regarding anticipated resource levels and expenditure requirements for the levels and types of services to be provided in the upcoming fiscal year.

- The County Government operating budget is approved and appropriated by the County Board of Supervisors. Each year the County Board of Supervisors' annual resolution of appropriations dictates the level of appropriation authority for all funds. Total expenditures cannot exceed total appropriations of any department within the General Fund. The annual resolution of appropriations will also establish how the budget may be amended.

The Board of Supervisors appropriates Public Schools funding in accordance with Virginia Code § 22.1-115.

The Board of Supervisors will adopt and appropriate the budget in accordance with Virginia Code requirements and the Board of Supervisors' annual budget calendar.

The County will annually seek the GFOA Distinguished Budget Presentation Award.

CAPITAL BUDGET AND ASSET POLICIES

The County will approve a one-year capital budget, which is the first year of the Capital Improvement Plan.

County Government will collaborate with the Public Schools and Planning Commission regarding the development and coordination of the capital budget and Capital Improvement Plan. The processes and procedures related to this collaboration, whether joint Board meetings, designated committees, or other activities will be determined as part of the annual budget calendar or as otherwise directed by the Board of Supervisors.

The County will coordinate the development of the capital budget with the development of the operating budget so that future operating costs, including annual debt service associated with new capital projects, will be projected and included in operating budget forecasts.

The County believes in funding an appropriate portion of its capital improvements on a cash basis to provide budgetary flexibility, to support those capital expenses not eligible for debt financing, and to reflect useful life considerations. The appropriate level and funding goal of ongoing and one-time cash provided to the capital budget in a fiscal year will be determined in the context of the budget processes.

Financing plans for the five-year capital program will be developed based upon a five-year forecast of revenues and expenditures.

The County maintains a capital assets inventory and estimates remaining useful life and replacement costs.

The County will maintain a system for maintenance, replacement, and enhancement of the County Government's and Public Schools' physical plant. This system will protect the County's capital investment and minimize future maintenance and replacement costs:

- The operating budget will provide for minor and preventive maintenance;
- Within the Capital Improvement Plan, the County will maintain a capital plant and equipment maintenance/replacement schedule, which will provide a five-year estimate of the funds necessary to provide for the structural, site, major mechanical/electrical rehabilitation, or replacement of the County Government's and Public Schools' plant.

DEBT POLICIES

The County will not fund current operations from the proceeds of borrowed funds.

The County's debt offering documents will provide full and complete public disclosure of financial condition and operating results and other pertinent credit information in compliance with municipal finance industry standards for similar issues.

Recognizing the importance of long-term financial obligations, including total tax-supported debt, lease, and financing payments, to its overall financial condition, the County will set target debt ratios, which will be calculated annually and published as part of the budget and bond issuance processes

- Total long-term obligations, as defined above, as a percentage of the estimated market value of taxable property should not exceed 2%; and
- The ratio of debt service expenditures to General Fund and School Fund revenues, less General Fund transfers to the School Fund, should not exceed 10%.

The County intends to maintain a 10-year payout ratio at or above 60% at the end of each adopted five-year Capital Improvement Plan for tax-supported debt and lease payments. When the County finances capital improvements or other projects through bonds or capital leases, it will repay the debt within a period not to exceed the expected useful life of the projects.

The County will not entertain the use of derivatives as a method of financing debt unless and until such time as the Board of Supervisors adopts a specific derivatives-related policy.

REVENUE POLICIES

Re-assessment of real property will be made every year and will be performed in accordance with Generally Accepted Appraisal Practices and guidelines established by the International Association of Assessing Officers (IAAO).

The County will maintain sound appraisal procedures to keep property values current. The County's goal is to achieve a 100% median assessment to sales ratio using valid sales from the calendar year prior to the tax year in question. This percentage varies from the Virginia State ratio study analysis that uses sales within the year after the assessment is determined.

The County will maintain a diversified and stable revenue structure to shelter it from short-term fluctuations in any one year. To the extent possible, the County shall attempt to decrease its dependency on real estate taxes to finance the County's operating budget.

The County will project its annual revenues and generate its five-year forecasts by using an objective, analytical process that is consistent with Government Finance Officers Association (GFOA) best practices.

The County will monitor all taxes to ensure that they are equitably administered and that collections are timely and accurate.

The County will follow an aggressive policy of collecting tax revenues. The annual level of collected current property taxes should be at least 96%, unless caused by conditions beyond the County's control.

The County will, where possible, institute user fees and charges for specialized County programs and services based on benefits, and/or privileges granted by the County or based on the cost of a particular service. Rates will be established to recover operational as well as capital or debt service costs and considering the equitable access to services with a goal to review user fee charges at least every three years.

Local tax dollars will not be used to make up for losses of inter-governmental aid without first reviewing the program and its merits as a budgetary increment.

PROCUREMENT POLICIES

The County will adhere to the procurement policies articulated in the County's Purchasing Manual which is informed by the Virginia Public Procurement Act.

Contractual consolidated banking services will be reviewed regularly and procured in accordance with the Virginia Public Procurement Act.

INVESTMENT POLICIES

The County will invest County revenue in accordance with the County's Investment Policy Document, which is overseen by a staff investment committee, to maximize the rate of return while maintaining a low level of risk. The County will invest in conformance with the Virginia Security for Public Deposits Act and all other applicable laws and regulations.

The County will conduct an analysis of cash flow needs at least on an annual basis. Disbursements, collections, and deposits of all funds will be scheduled to ensure maximum cash availability and investment potential.

The Chief Financial Officer shall maintain a system of internal controls for investments, which shall be documented in writing and subject to review by the County's independent auditor.

ACCOUNTING, AUDITING, AND FINANCIAL REPORTING POLICIES

The County will establish and maintain a high standard of internal controls and accounting practices in conformance with the Uniform Financial Reporting Manual of Virginia and Generally Accepted Accounting

Principles (GAAP) for governmental entities as promulgated by the Governmental Accounting Standards Board.

An independent firm of certified public accountants will perform an annual financial and compliance audit according to generally accepted auditing standards; Government Auditing Standards issued by the Comptroller General of the United States; and Specifications for Audit of Counties, Cities and Towns issued by the Auditor of Public Accounts of the Commonwealth of Virginia. The County will hold a request for proposal process for audit services every five-years.

The County will maintain an audit committee comprised of the County Executive, or designee, the Superintendent of Schools, or designee, the Chief Financial Officer, two Board of Supervisors members and one School Board member. The committee's responsibility will be to review the financial statements and results of the independent audit and to communicate those results to the Board of Supervisors.

The County will annually seek the GFOA Certificate of Achievement for Excellence in Financial Reporting.

The County will provide the Board of Supervisors with quarterly General Fund and School Fund financial reports.

FUND BALANCE OR RESERVE POLICIES

The fund balance is built over years from savings to provide the County with working capital to enable it to finance unforeseen emergencies without borrowing. The County will maintain a fund balance for cash liquidity purposes that will provide sufficient cash flow to minimize the possibility of short-term tax anticipation borrowing.

At the close of each fiscal year, the unassigned General Fund's fund balance, plus the committed fund balance available for fiscal cash liquidity purposes, should be equal to no less than 10% of the County's total operating revenues, which includes the General Fund plus the School Fund, less the General Fund transfer to the School Fund.

The County does not intend, as a common practice, to use General Fund equity (unassigned fund balance) to finance current operations. If circumstances require the use of the unassigned fund balance that causes the balance to fall to a point below the 10% target level, the County will develop a plan during the annual budget adoption process to replenish the unrestricted fund balance to the 10% target level as quickly as reasonably possible.

In addition to maintaining the 10% target level as described above, at the close of each fiscal year, a target amount equal to 2% of the County's total operating revenues, which includes the General Fund plus the School Fund, less the General Fund transfer to the School Fund, shall be reserved as an unassigned Budget Stabilization Reserve. The Budget Stabilization Reserve is intended to be among the strategies available in a difficult budget year or unanticipated situation. This reserve may be used from time to time as necessary to meet unanticipated one-time emergencies and unanticipated expenditures required to pay costs necessary to maintain the quality or level of current services or to smooth/offset revenue fluctuations occurring within a fiscal year. The Budget Stabilization Reserve is not meant to be an ongoing source of funding for the operating budget and balances utilized should be replenished as quickly as reasonably possible.

The Board of Supervisors may appropriate funds in excess of the unassigned 10% General Fund's fund balance policy level and the Budget Stabilization Reserve to the Capital Improvement Plan in support of "pay-as-you-go" funding; or for other one-time uses. Appropriations to the Capital Improvement Plan are intended to provide flexibility in meeting debt service and capital requirements and to mitigate tax rate increases related to future capital projects

At the close of each fiscal year before the County's audit is complete, all non-appropriated School Operating Fund's fund balance will be transferred into the General Fund-School Reserve Fund. The Board of Supervisors will maintain in the General Fund-School Reserve Fund an amount not greater than 2% of the current year's Public Schools adopted operating revenues. These funds will be available for Public Schools' purposes subject to appropriation by the Board of Supervisors. The Board of Supervisors will transfer any funds in excess of that 2% to the CIP on an annual basis unless otherwise determined by the Board of Supervisors.

The County will also establish targeted fund balances for other County funds, such as the Healthcare Fund and the Children's Services Act Fund (CSA), to meet cash flow needs and to address unexpected expenditure or revenue shortfalls.

GRANTS POLICIES

The County shall seek to obtain grants that are consistent with County priorities.

The County will review and update the Grants Administrative Policy on a regular basis, and departments shall follow the procedures contained therein. The purpose of the Grants Administrative Policy is to ensure the efficient administration, operation, and financial management of grant programs, including related systems, internal controls, sub-recipient monitoring, communications, reporting, and auditing.

Before applying for or accepting either state or federal funding, the County will assess the merits of the program as if it were to be funded with local dollars. No grant will be accepted that will incur management and reporting costs greater than the grant and the County will work with Grantees to fully offset administrative costs when possible.

The County will attempt to recover all allowable costs – direct and indirect – associated with the administration and implementation of programs funded through inter-governmental aid. In the case of state and federally mandated programs, the County will attempt to obtain full funding for the service from the governmental entity requiring that the service be provided.

Policies Adopted: October 5, 1994 Amended: October 11, 2000; August 1, 2012; March 13, 2013; September 6, 2017, November 1, 2017, January 6, 2021, and September 7, 2022.

Agenda Item No. 12. **Action Item:** Fiscal Year 2024 Operating and Capital Budget Calendar and Recommended Process Modifications.

The Executive Summary forwarded to the Board states that the process of developing the County's Operating Budget for Fiscal Year 2024 (FY 24) and the Capital Improvements Program (CIP) for FY 24 - 28 is underway. Staff provides a proposed budget calendar on an annual basis and highlights any other staff recommendations regarding process modifications.

Attachment A provides a preliminary budget calendar for the FY 24 budget process. The budget development calendar establishes specific dates for Board meetings and public hearings on the tax rate, the budget, and the CIP. Staff will continue to provide the public with as much notice as possible for planned community engagement opportunities, public hearings, and work sessions associated with the development of the upcoming budgets.

There are several dates that are driven by Virginia Code requirements that are reflected in the attached calendar:

- Localities with a first-half tax year collection in June must adopt the tax rate on or before May 15.
- There must be at least seven days between the public advertisement of the budget public hearing and the actual hearing date.
- There must be at least seven days between the budget public hearing and the adoption of the

budget.

- Localities must provide at least 30 days' notice of the real estate tax rate public hearing if the reassessment would result in an increase of one percent or more in the total real property tax levied compared to the prior year's real property tax levies.

The preliminary budget calendar for the FY 24 budget process meets the Virginia Code requirements.

Staff is also recommending modifications to the Agency Budget Review Team (ABRT) process and the creation of a Non-Profit Community Partner Capital request process, in part based upon feedback received from the Board and the County's community partners.

ABRT Process modification may include:

- Review of non-profit partner agencies and programs to ensure alignment with appropriate review process (ABRT or County staff review process).
- Provide an expedited and simplified review process for agencies that received an exemplary rating for the last two review cycles.
- Subject to the context of the total budget process, provide a more sustainable mechanism for new and/or additional grantees to receive funding at a level appropriate for successful program administration, without relying on reduced funding levels of other currently funded programs to support entrance.

Non-Profit Community Partner Capital Request Process:

- Process will provide a mechanism of non-profit community partners to request one-time capital funding separate from any operational request or support provided by Albemarle County.
- Such community partners would include, but are not limited to, regional partners such as the volunteer fire rescue agencies, regional library, Emergency Communications Center, or community non-profits such as the Boys and Girls Club, On Our Own, Local Food Hub, or others that receive funding from the County.
- Requests would be required to have direct tie-in to the priorities identified in the Board of Supervisors strategic planning process.
- Requests would be reviewed and evaluated alongside other County departmental requests and priorities in the context of the larger Albemarle County Capital Improvement Program.

This executive summary provides information on the FY24 Budget development process.

Staff recommends that the Board adopt the preliminary budget calendar set forth in Attachment A and approve staff's recommendation for modifications to the upcoming budget development process.

Mr. Bowman said the desired outcome of the presentations was to set dates associated with planning the FY 24 budget process and to consider modifications related to the capital process and to the community human services agency processes. He said staff annually brought forward the budget calendar and any changes to the Board for approval and feedback.

Mr. Bowman said the Board had begun the long-range priority and policy process in August during the strategic plan retreat. He said in October there would be an update from economists on the economic outlook. He said in October, a discussion on the Board's strategic plan would continue, and there would be a long-range financial planning session in November and December. He said one of the meetings in December would be with ACPS and would examine the long-range plan in terms of operating and capital budgets. He said the five-year financial plan would inform the annual budget process.

Mr. Bowman said the backbone of the budget calendar was based on legal requirements set forth in state code. He said the calendar complied with the codes. He noted the Board had provided feedback to staff on how to best position the Board for success during the work sessions. He provided a list of other considerations for the budget calendar. He said there were potential challenge points in the calendar where it would be difficult to comply with all of the requirements.

Mr. Bowman said FY 24 would start the same way; the County Executive will present a budget on February 22, there would be a public hearing on March 1, and then there would be work sessions on March 8 and March 13. He said there was a change from the regular calendar; he noted there was a work session scheduled for March 15, but it was also a regular Board meeting. He said the intent would be to hold the work session as the afternoon session of the meeting, and the evening session would be for regular business. He said at the March 15 meeting, the Board would set the maximum tax rates and the advertised rate.

Mr. Bowman said the meeting being held on March 15 went against one of the rules to not hold budget meetings on a regular workday. He said an advantage, however, was that the Board would not have three meetings in one week or any back-to-back meetings. He said they would use the 6-month jump time to work with the Clerk and County Executives to ensure the agenda for the March 15 meeting and other surrounding meetings allowed business to move forward.

Mr. Bowman said the rest of the calendar was largely the same, and there was space for additional work sessions if needed. He said the public hearings on the rates and proposed budget would be held on April 26, and adoption of the budget would occur on May 3. He said they had coordinated the

dates with ACPS, and though they had not yet set a calendar, they intended to use a calendar similar to the prior year. He said the schedules should be able to coordinate.

Mr. Bowman noted there were process modifications. He said the first related to Agency Budget Review Team (ABRT); a group of staff and community volunteers who evaluated human services nonprofits. He said they tended not to be larger human services-related organizations with state relationships. He said they were smaller groups such as the Boys and Girls Club. He said the process had been regularly endorsed by the Board, and the modifications were intended to be incremental.

Mr. Bowman said the intent was to evaluate all of the agencies and make sure they were within the correct review scopes. He said the County had data about high-performing community agencies, and they were looking for ways to streamline the process while still providing an adequate review based on how the agency performed the prior two review cycles. He said the third change related to how they approached the budget recommendations, subject to the overall budget process.

Mr. Bowman said as new agencies came on through the ABRT process, they had been limited, and the practice had been to cap new funding at 50% of their request. He said the practice was not making a difference to position the agencies to succeed and deliver the intended services. He said the change would not limit new agency funding to the degree it had been limited in the past.

Mr. Bowman said the final process modification was called the Non-Profit Community Partner Capital Request process. He said there was a formal request process for non-profit community partners with operating funds, but there was not one for those that received capital funds. He said the intent was to build upon the current processes and create one where a non-profit community agency could submit capital requests. He said the requests could be brought into the budget process at one time, and all of the requests could be considered together as the FY 24 to FY 28 CIP was developed. He said requests would be sent to the related department and considered against the strategic plan.

Mr. Bowman noted that there was a balanced CIP from FY 23 to FY 27. He said FY 28 would contemplate the construction of the third school capacity project. He said they wanted to develop a way to bring the projects under one budget process. He said if they were in a position to adjust the CIP, the information was available to make changes in the context of the whole budget process.

Mr. Bowman said staff recommended the Board adopt the preliminary budget calendar and approve the modifications to the process.

Ms. McKeel said they discussed during the prior budget process how to address one-time requests. She said it was mentioned providing money to new non-profit organizations without a history to help them become established. She asked for clarification on what funds were involved and what the intent of the funding was. She said she wanted clarification regarding the new agencies that did not have a history with the County.

Mr. Bowman clarified that "new agency" did not necessarily mean the agency was recently established, and they would need to meet the criteria for performance, existence, and other governing procedures. He said it could refer to an agency that had been established, but the County funding was new for a program.

Ms. McKeel said it was not up to taxpayers to fund new start-up nonprofits. Ms. McKeel said during the previous budget cycle, the ACPS needed to include in the CIP a project based on a donation that was not vetted. She said it resulted in the CIP needing a costly infusion based on federal law. She said the ACPS promised that the donations would be vetted to ensure they would not have unanticipated impacts on the CIP. She said she wanted to ensure the vetting was happening. She said the cost was \$600K to the CIP. She said the ACPS had to have a process for vetting donations.

Ms. Birch said she brought the concern to the attention of the COO of ACPS during the last capital budget process. She said she was informed a process had been established, but she was unsure what the process was. She said the procedure or policy would be provided and explained to the Board.

Ms. McKeel said she wanted to ensure the ACPS was following through.

Ms. LaPisto-Kirtley asked if it was possible for nonprofits to submit their requests at the same time, or if the requests would come to the Board at different times.

Mr. Bowman responded that for the operating process, there may be requests throughout the year, but if so, the process could be explained and the applicants could be added to the distribution list. He said when the application was released, they would communicate to the organizations on the list whether or not they were awarded funding. He said there would be the opportunity to formally request capital funding.

Ms. LaPisto-Kirtley clarified the application would be timed with the CIP process so that the funding would be known.

Mr. Bowman said that was correct.

Mr. Andrews asked if there was a mechanism within the ABRT process where the County helped applicants identify other sources of funding.

Ms. Kaki Dimock, Director of Social Services, responded that technical assistance was provided to nonprofits throughout the application process, and that assistance could be as simple as the number of words in each one of the boxes required in the application or suggestions for other sources of funding. She said many of the community partners regularly worked with County staff, so resources were shared back and forth. She said there were some points attached to the budget, and staff looked if requests for County participation were less than 20%, preferably 10%, of the total project budget. She said that remedied requests for 100% of funding from the County.

Ms. Mallek asked if the agencies were located in the County, because it looked like the County was funding several that were not in the County. She said she wanted to ensure there were guidelines related to where agencies were established.

Ms. Dimock explained many of the nonprofits were based in the City but were required to serve County residents. She said the agencies reported the beneficiaries of their services to the County by zip-code and neighborhood.

Ms. Mallek asked if the agencies were equally funded by the City.

Ms. Dimock said it was a mix. She said most nonprofits were funded by the City and the County, and if they looked at the per beneficiary cost, there would be some fluctuation. She said they tried to do a similar calculation but the data did not reveal any clear findings.

Mr. Gallaway clarified they were not opening up a new program with a new funding source. He said it was tied specifically to the strategic plan. He said it was not designed to be small-scale projects. He said the new process could not be defining a new program to access funds.

Mr. Bowman said that was correct.

Ms. McKeel said the timing was important, and requests had to come in at the right time.

Ms. Birch said knowing there was a time and place for requests had aided in the process. She said the time and place had not been present for capital requests, so it was difficult to plan and manage expectations. She said the process would hopefully help the Board and staff direct requests to the appropriate time and place so that they can be properly discussed at the right time.

Ms. McKeel said the Board had to stick to the established parameters.

Ms. Price said she echoed the concerns about avoiding the perception there was a new line of funding for capital improvements. She said she appreciated establishing the process to de-politicize it and make the process more objective.

Ms. Price said Ms. McKeel's comment reminded her that the economics for the high school districts varied substantially. She said because of the way schools were funded, and because of the disparity of incomes in different school districts, it was common to find schools that received substantial financial support from the public while other schools may not receive the same. She said the Board had the obligation to ensure that when a school received a large contribution, its funding brought a degree of equity so no student was underprivileged financially from decisions made by the Board.

Ms. McKeel said there were schools with \$60K to \$90K in the PTO balance while others had \$1,500 to \$2,000. She noted ACPS had been working on a public education foundation, the Albemarle County Public Education Foundation. She said the intent was to use the foundation to equalize the funding.

Ms. Price said her comment applied to any sort of contribution to the County generally. She said the Board had the obligation to ensure the equitable distribution of resources.

Ms. Mallek said when they looked at criteria for the agency capital requests, they had to consider that the County was making an investment. She said in some instances, if the project fell through, the County gained control of the assets, sometimes resulting in multi-million-dollar facilities. She noted most of the time, the County was not providing the initial funding; they provided the funding to round out the costs after applicants had already received a majority of the funding.

Mr. Andrews **moved** that the Board adopt the preliminary budget calendar set forth in Attachment A and approve staff's recommendation for modifications to the upcoming budget development process. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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



**Recommended
FISCAL YEAR 2024
BUDGET CALENDAR**

August 2022	
24 (Wed.)	Board of Supervisors Strategic Planning Retreat
September 2022	
7 (Wed.)	Board of Supervisors Meeting - Review of Financial Policies and FY 2024 Budget Calendar
October 2022	
5 (Wed.)	BOS Regular Meeting - County Financial Outlook: Economic Report
November 2022	
2 (Wed.)	Work Session – Long-Range Financial Planning
December 2022	
7 (Wed.)	Work Session – Long-Range Financial Planning: Public Schools, Operating and Capital
14 (Wed.)	Work Session – Long-Range Financial Planning
February 2023	
22 (Wed.)	County Executive’s presentation to Board – Recommended Budget and Capital Improvements Program
March 2023	
01 (Wed.)	Public Hearing on County Executive’s Recommended Budget and CIP
08 (Wed.)	Work Session #1
09 (Thur.)	<i>Tentative</i> - School Board adopts Public Schools budget request
13 (Mon.)	Work Session #2 – To include School Board funding request and CIP
15 (Wed.)	Work Session #3 – Board proposes Budget and sets maximum tax rate for advertisement
22 (Wed.)	If needed - Work Session #4
29 (Wed.)	If needed - Work Session #5
April 2023	
Week of 3-7	Spring Break
12 (Wed.)	If needed - Work Session #6
26 (Wed.)	Public Hearing on the CY 22 tax rate and Board’s Proposed Budget
May 2023	
3 (Wed.)	Board approves and appropriates FY 24 Budget and sets tax rate
11 (Thur.)	<i>Tentative</i> - School Board adopts Public Schools Final budget

Non-Agenda Item. Recess.

The Board recessed its meeting at 3:46 p.m. and reconvened at 3:57 p.m.

Agenda Item No. 13. **Work Session:** Proposed Legislative Priorities 2023.

The Executive Summary as forwarded to the Board states that each year, the Board considers and approves a set of legislative priorities to pursue in the upcoming General Assembly session. The Board then meets with the County’s local delegation from the General Assembly to discuss these priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties (VACo), and the Virginia Municipal League (VML).

During its work session on June 15, 2022, the Board of Supervisors reviewed its prior year’s legislative priorities and discussed its 2023 legislative priorities. On September 7, 2022, the Board will have a second opportunity to consider its priorities.

On June 15, the Board directed staff to continue developing legislative priorities for the 2023 General Assembly session. The Board indicated that failed legislative priorities from the 2022 session should remain priorities. Those priorities include the following:

Civil penalties in lieu of criminal penalties for violations of local ordinances: amend Virginia Code § 15.2 -1429 to enable a localities to adopt an ordinance to establish a schedule of civil penalties in lieu of criminal punishment for violations of certain local ordinances.

- Minimum standards for farm buildings and structures used by the public: amend Virginia Code § 36-97 and other sections of the Virginia Uniform Statewide Building Code to require agricultural buildings used by the public to be subject to minimum safety standards.

- Expand the use of photo-speed monitoring devices: amend Virginia Code §§ 46.2-882 and 46.2-882.1 to enable the use of photo-speed monitoring devices on segments of secondary roads where speeding has been identified as a problem.

Staff have identified additional items that the Board may consider adding to its 2023 legislative priorities. They include:

- Grant the County taxing authority for school division capital projects. The County lacks a dedicated funding mechanism for school construction and renovation projects. The County could seek an amendment to the retail sales and use tax provisions of the state code (Title 58.1, Subtitle I, Chapter 6) that would authorize the County to levy a local sales tax for the purpose of funding school construction and renovation projects.

- Change eligibility requirements for the Virginia Business Ready Sites Program. As described by the Virginia Economic Development Partnership, the Virginia Business Ready Sites Program is a discretionary program to promote development and characterization of sites to enhance the Commonwealth of Virginia's infrastructure and promote its competitive business environment. The program's goal is to identify and assess the readiness of potential industrial sites of at least 100 contiguous acres. The County could seek an amendment to the applicable provisions of the state code (Virginia Code § 2.2-2240.2:1) that would reduce the required acreage of sites eligible for funding under the program from 100 acres to 50 acres. Fifty-acre sites are presently eligible for funding in GO Virginia Region 1 or 2.

- Changes to virtual meeting requirements for Community Advisory Committees (CACs). Amendments to the Virginia Freedom of Information Act (FOIA) adopted last year by the General Assembly and effective as of September 1, 2022, prohibit certain public bodies from meeting virtually more than two times per calendar year or 25% of the meetings held per calendar year, whichever is greater, and from holding consecutive all-virtual meetings. The Board has expressed an interest in further amendments to FOIA to allow greater flexibility in the use of all-virtual meetings by CACs to reduce the burden on them.

The Board's 2022 Legislative Priorities is provided as Attachment A for the Board's reference.

David Blount, deputy director of TJPDC, will also participate in the presentation to the Board.

There are no specific, identifiable budget impacts.

Staff recommends that the Board review potential legislative priorities, identify those that have Board support, and direct staff to finalize the 2023 legislative priorities.

Mr. Steve Rosenberg, County Attorney, thanked Mr. James Douglas, a paralegal in the County Attorney's office, and Mr. David Blount, TJPDC, who had worked on the Board's legislative priorities for years. He said they helped bring him up to speed on the Board's agenda. He said there had been a failure on his part.

Mr. Rosenberg said in June, Interim County Attorney Cynthia Hudson reviewed with the Board the 2022 legislation and the outcome of the Board's efforts during the prior year's General Assembly (GA) session. He said they began a discussion on possible legislative priorities for the coming session in 2023. He said they would discuss possible legislative priorities and the Board's legislative positions and policy statements at the present meeting. He said in October, they would schedule for the Board to consider those same documents.

Mr. Rosenberg said in November, the Board would have the opportunity to meet with members of the local GA delegation. He said the Board had requested during the prior process that the meeting occur earlier in the process. He said Mr. James Douglas had worked with the Board to determine available dates before extending invitations to members of the local delegation. He said they were optimistic they would be able to schedule the meeting.

Mr. Rosenberg said when Ms. Hudson briefed the Board in June, she provided the Board with the legislative priorities from the previous year that did not succeed. He said one of the priorities was to provide for civil penalties in lieu of criminal punishment for violations of local ordinances, another was to require agricultural buildings used by the public to comply with minimum safety standards that applied to other structures in the locality, and the third was to expand the authority to use traffic speed-monitoring devices.

Mr. Rosenberg said regarding the civil penalties' priority, there was a bill introduced in the House that failed in committee. He said in regard to use of photo speed-monitoring devices, there were two bills introduced, and both failed in committee. He said in regard to compliance of agricultural buildings with minimum safety standards, a bill was introduced in the Senate, enacted by the General Assembly, and approved by the Governor, but it required reenactment during the next session to be effective.

Mr. Rosenberg said the legislation immediately established an advisory committee that would

consider how best to approach implementation of the legislation if it were reenacted. He said the committee had been established and convened. He noted the Board wanted to continue to support the three stated priorities. He said they would be included in the document that would be submitted and reviewed at the October meeting.

Mr. Rosenberg said three additional priorities had been identified for the Board's consideration, and they were summarized in the executive summary included in the Board's agenda materials. He said the first was to provide for County taxing authority for school division capital projects. He said there were certain localities in the Commonwealth that already had the authority to levy a local sales tax for the purpose of funding school construction and renovation projects.

Mr. Rosenberg said legislation could be sought that added Albemarle County to the identified localities that had that sort of authority. He said the second possible addition for their discussion was legislation to change the eligibility requirements for the Virginia Business Ready Sites Program. He said that program was a program of the Virginia Economic Development Partnership, which provided funding to promote the development and characterization of sites. He said currently, in order to be eligible in this region, a site must have a contiguous 100 acres.

Mr. Rosenberg said thinking about land in the development area in the County, it was difficult to come up with any 100-acre sites that were contiguous. He said in other regions of the state, including Go Virginia regions 1 and 2, the threshold to qualify a site for participation in the program was not 100 acres, it was 50 acres. He said the idea would be to pursue a legislative change to allow other areas of the state to apply to the program for sites that were less than 100 acres and perhaps 50 would be the applicable threshold in other areas of the state including Albemarle County.

Mr. Rosenberg said the final additional priority that staff opted to present was out of past comments at a meeting of the Board during which they were briefed by Mr. Herrick concerning the transition back to in-person meetings and the tiers one, two, and three public bodies in the County. He said there was a limitation on both the total number of meetings of eligible public bodies that could be conducted virtually of two times per calendar year or 25% of the meetings.

Mr. Rosenberg said there was also a restriction that prevented the conduct of back-to-back virtual meetings. He said he believed Supervisor Gallaway raised the issue during that meeting that this was particularly burdensome on the Community Advisory Committees and that it might be desirable for there to be a legislative change to the Freedom of Information Act that would be more permissive and provide greater flexibility to the CACs to conduct virtual meetings. He said there were some challenges in separating out one type of public body for particular treatment, but it was an additional priority that could be pursued if the Board desired.

Mr. Rosenberg said that included in the materials with Ms. Hudson's briefing, there was a one-page handout that was provided to members of the legislative delegation when they met with them last year in November, and that document identified, in addition to their legislative priorities, two significant legislative positions and policy statements. He said one of those concerned impact fees and the other concerned erosion and sediment control standards for agriculture and forestry operations.

Mr. Rosenberg said Ms. Hudson discussed these also during the June briefing, and these two would be carried forward. He said the breakdown occurred because he was relying on the materials that Ms. Hudson had used in her June presentation to the Board, and he failed to recognize that these two significant legislative positions and policy statements were part of a much larger four-page document that included far more in the way of positions and policy statements. He said he had a conversation with Mr. Blount about this and they would be working on this over the next several days to update the content to reflect changed circumstances that occurred over the last calendar year, and they would get this document to them with revisions so that they had the opportunity to review it before this came back to them in October.

Mr. Rosenberg said if they did not have a consensus among the Board after sending the revisions, perhaps they could put it on the agenda for discussion at their second meeting in September before it came to the Board for action in October. He said alternatively, they could push the consideration from the first meeting in October to the second meeting in October and still have everything wrapped up before meeting with the legislative delegation. He apologized to the Board for not understanding that these two significant positions were part of a larger set of positions and policy statements.

Mr. Rosenberg said before coming back to the Board for input on the three possible additional legislative priorities, he wanted to ask Mr. Blount to give the Board an update on where things stood with the advisory committee that was dealing with safety standards for agricultural buildings and also to give them some general perspective on what may be coming in the session in January. He said they could then come back and ask for the Board's input on these additional priorities.

Mr. Blount greeted the Chair and Board members. He introduced himself as David Blount with the Thomas Jefferson Planning District. He said to address first the Senate Bill 400 tack, the work group did convene in early August, although he was not in attendance, it was his understanding that there were some organizational matters and an airing of different perspectives by the stakeholders that were involved. He said the group was planning to meet again later this month, but he did not think there was an agenda set for that. He said that would be the second meeting, with a possible additional meeting or two before the end of the calendar year. He said he learned there was someone there from Albemarle County who was part of that first meeting in August, representing the Virginia Fire Prevention group, the

Deputy Fire Chief, Mr. Maddox.

Mr. Blount said another item mentioned concerned FOIA. He explained that to his understanding, Delegate Bennett-Parker, who was the patron of approved House Bill 444 this session that provided the framework for the all-virtual meetings that public bodies at the local level were authorized to have, was reintroducing a bill this session that authorized all-virtual meetings to be allowed for all public bodies. He said that was where she began with the bill last year, and it passed the House but when it got into the waning days of the legislative session, it was whittled down and included carve-outs for local governing bodies, school boards, and others to not allow them to have all-virtual meetings.

Mr. Blount said the issues they had discussed previously concerning some of the lower-tier advisory committees was a notion to bring up with her, and if that was the direction the Board was looking to go, he would be glad to make that connection with her on their behalf. He said Chair Price mentioned an issue before this session about the homestay ordinance, and on the short-term rental issue that they had legislation five or six years ago at the state level that created the framework as to what localities were allowed to do in terms of their regulation.

Mr. Blount said he anticipated there would be some legislation that they would be considering to further restrict local government authority in this area from those who were proponents of short-term rentals. He said he was in the area of cost of permits, parking restrictions, zoning, owner onsite during a rental, so they may be in a defensive posture for that legislation during the coming session. He said there could perhaps be other possibilities of pushing back when those discussions took place.

Ms. Price asked if Mr. Rosenberg was ready for Board questions.

Mr. Rosenberg said yes, and when it was deemed appropriate, input on the possible inclusion of these three additional legislative priorities.

Ms. McKeel asked for clarification from Mr. Blount about taxing authority for school division capital projects. She asked if this was what they spoke to during the last session when trying to get school renovations.

Mr. Blount said yes. He said there were several initiatives; the City of Charlottesville was interested and had a bill put in to add the City. He said there was a list of nine localities in the code now. He said there was some legislation on the side to make it applicable to all localities, but it was the same.

Ms. McKeel said it was helpful for the government division and school division's shared programs to advocate for the same things. She said she did not have any other questions, but she would like to revisit this topic if needed.

Ms. LaPisto-Kirtley said she wanted to voice her support for what was being proposed. She said she understood requiring further restrictions for the homestay, which was disappointing. She asked for clarification about the CACs.

Mr. Blount said the patron of the bill from this past session that was approved was interested in returning and attempting to make the provision for all-virtual meetings applicable to all local public bodies. He said that the final bill that was approved did exclude local governing bodies, school boards, planning commissions, BZAs, and architectural review boards, from being able to hold an all-virtual meeting. He said she was interested in coming back and trying to have those other bodies be able to hold all-virtual meetings as well.

Ms. LaPisto-Kirtley asked for clarification. She asked if it would not include the Board of Supervisors, School Board, or Planning Commission, but would include any of their boards and committees.

Mr. Blount said that currently, if it was a public body or any of those that were under the Board of Supervisors' authority and created by the BOS at the local governing body level, they would not be able to conduct the all-virtual meetings.

Mr. Rosenberg said the Board of Supervisors, the Planning Commission, the School Board, and the BZA were precluded from conducting virtual meetings. He said to Ms. LaPisto-Kirtley that he understood Mr. Blount to be saying that the patron of last year's legislation sought to expand the authority to include those bodies as well, which was the intent of her original legislation last session. He said she was going to take another "bite at the apple" to see if the authority could be expanded to include those bodies.

Ms. LaPisto-Kirtley said that it would be great but would make it more problematic if it did not include elected bodies. She said the CACs were not elected but were appointed by the Board. She said it would be fantastic for the CACs because she had heard that they were looking for places to meet and having difficulties, so virtual meetings were preferable. She said it worked well with virtual meetings.

Mr. Rosenberg said to clarify, they could meet virtually but could only meet a certain number of times per year and could not have consecutive virtual meetings. He said to specifically target those restrictions was a possible subject of one additional legislative priority.

Ms. LaPisto-Kirtley said that was correct. She thanked Mr. Blount and said she liked the one

regarding school boards enacting a local tax for construction.

Mr. Andrews asked for clarification about there being two separate issues with FOIA, one being the possibility that any of the bodies might have a limited number of virtual meetings and the second being that certain bodies of the CAC type could, under this other proposal, have all-virtual meetings. He asked if that was correct.

Mr. Blount said yes.

Mr. Andrews said the taxing authority was a taxing authority for school projects. He said he just wanted to make sure he understood these. He said he supported these and recognized there were likely to be some instances of defensive lobbying ahead of them.

Mr. Gallaway said for the Virginia requirements for the business-ready site program, he would like to know if there were current site analyses for programs in the County up to date enough to support whether or not 50 acres was the proper number. He said if they were moving from 100 to 50 that it accomplished the purpose.

Mr. Rosenberg said he could not give specifics but could say that in discussing this particular initiative they did engage with Economic Development, and they said that they would like to see this pursued. He said he knew they considered it, so he believed it cast the net widely enough to capture a meaningful number of sites.

Mr. Richardson said that in talking with Economic Development, it was clear they could use this.

Mr. Gallaway asked Mr. Blount if there were other counties in this situation. He said he did not want to hear from other places that they should open up rural lands to development. He asked if there were other localities moving from 100 to 50 that could give collective power versus trying to explain their own specific situation. He said when discussing their specific needs, sometimes that led to them being told to change their approach.

Ms. McKeel said that was what they told them about the composite index.

Mr. Blount said he could not give specific examples, but he imagined there were others who could benefit from such a change and he was glad to run that up the flagpole with some of his colleagues in some other parts of the state.

Mr. Gallaway said sometimes a specific local thing would fly through because it was not a big deal, but this one would open up additional funding to compete for, so he would imagine other places that were trying to compete would have a problem with it. He said he was in favor of this, especially now that it was informed by their own purposes, but the strategy behind trying to get this to occur would be stronger with additional people.

Mr. Blount said part of the strategy may include conversations with VDEP because they were handed this through legislative and budget action, so it was unclear what had transpired in terms of requests made from them since this provision became effective and what they may have heard from other people. He said they would at least get some information gathered through VEDP (Virginia Economic Development Partnership) to help inform their conversation and strategy.

Mr. Gallaway said he would hold his further comments.

Ms. Price said on the third bullet of additional items, the virtual meeting requirements, she said she was opposed to expanding the virtual meetings for elected bodies, which would include the Board of Supervisors and School Board, as well as bodies such as the Planning Commission. She said she understood why they met virtually during the pandemic, but there was a necessity that these bodies met publicly rather than virtually. She said she supported CACs going all-virtual. She said she discussed with Mr. Rosenberg and Mr. Blount before this meeting the homestay short-term rentals, and she understood the law did not allow them to differentiate between individual ownership versus LLC ownerships.

Ms. Price asked if the Board would think about a legislative initiative that would make the homestay special exception go with the applicant rather than the land. She said when talking about institutional investors, they talked about corporations, but in the Atlanta metro area, 42.8% of for-sale homes went to institutional investors in the third quarter of 2021. She said in the Phoenix-Glendale-Scottsdale area, 38.8% of for-sale homes (went to institutional investors). She said what they would face in Albemarle County was institutional investors purchasing properties and turning them into short-term rentals.

Ms. Price said they already had a housing crisis, so if they did not have a way of limiting that impact on the housing stock. She said she would like the Board to consider that being a legislative initiative to give them the authority to have special exceptions with short-term rentals go with the applicant rather than with the land, so if there was a change in ownership, they had the ability to stop that from continuing. She said now was the time for Board comments, so she would like to hear about the three they had carryover, the three that were identified as potential, and if there were any others that the County Attorney or Mr. Blount should look at for legislative proposals.

Ms. McKeel said to do the first three, violations of local ordinances and civil penalties she was still supportive of. She said that went with an exception; they were going to have criminal penalties for frequent flyers.

Ms. Price said that was built into the proposal.

Ms. McKeel said exactly. She supported the minimum standards for farm buildings and structures again and the photo speed-monitoring devices. She said she believed one of the problems with the bill was the sheriff's departments needed to deliver the summonses.

Mr. Blount said for several years, legislation had been introduced to expand the authority, and when enabling legislation passed in 2020, it was limited to school zones and construction zones, so those were the only authorized situations where they could have those tickets issued without them being a police officer documenting speed and issuing a citation. He said there was reluctance because the authority that had just been enacted in 2020 was new and there had been a few localities that had taken advantage of that. He said he knew they had discussions about that with the school zone about the reluctance to expand it.

Ms. McKeel said she thought there had been a problem with who was going to be delivering it and that was the reason it was stopped.

Mr. Blount said he did not think that was an overriding issue.

Ms. McKeel said she was supportive of this initiative moving on. She said the school division granted County taxing authority for school capital projects was something she supported and the 50 acres was a great idea. She said for changes to the meeting requirements, she was specifically interested in their advisory groups having this ability to increase the number. She said perhaps if they targeted advisory groups, it would have a better chance of passing.

Mr. Blount said the way this legislation began with discussions between the Delegates, VML, VACo, Coalition for Open Government, and Press Association was with the attempt of making different provisions for different types of bodies, whether it was elected bodies more so at the appointed level such as the planning commissions and then the strictly lower-tier advisory bodies. He said as they continued to talk about what the legislation might look like that it was kind of complex to make those distinctions between the different bodies. He said he did not know how much of a difference it would make; there was a bill this past year that had those four groups he mentioned behind it and could not get it all. He said he did not know that trying to make that one carve out would sway one way or the other.

Ms. McKeel said she would love for the advisory committees to be able to meet via Zoom all the time, and she thought there was a good case for that with their increased participation. She said she was supportive of impact fees and the erosion sediment control standards the County had in the past. She asked if she had covered all the pages.

Ms. Price said those were all that were listed. She said she mentioned another item.

Ms. McKeel said she was absolutely in favor of the homestays staying with the applicant and not the land.

Ms. LaPisto-Kirtley said to clarify for Supervisor McKeel, the reason there was legislation for red light cameras at Rio and Hydraulic before the grade separation took place and they had not installed it elsewhere yet, but they would. She said the reason the photo camera legislation did not pass was because they could not use a third-party vendor and Albemarle County Police had to have their own equipment to monitor, requiring extra labor from officers and monitored yearly by the state police, which was not part of the issue. She said any profits from that could not be put back into Albemarle County to pay for the police to do this; any profits from the tickets being paid would go to the state literary fund. She said they did not even support the proposed legislation.

Ms. McKeel thanked Ms. LaPisto-Kirtley for the clarification.

Ms. LaPisto-Kirtley said she supported civil penalties for violations, with regulars going to another category, minimum standards for farm buildings, expanding the use of photo speed cameras, taxing authority for the school division, and the Virginia Business Ready Sites Program, taking into consideration what Supervisor Gallaway said. She said she also supported the virtual meetings for CACs and other committees, but not for the elected officials. She said the person who was spearheading the legislation again wanted the entirety to be virtual, and she hoped there would be an amendment so that it got through, because she was unsure if the legislature would pass it as it was. She said regarding Chair Price's suggestion for special exceptions to not go with the land and with the owner was something she also fully supported.

Ms. Price said to Mr. Rosenberg that she understood the other two were coming back, so they were covered.

Mr. Andrews said he supported the three that they had previously discussed and additional items as well, with respect to the CACs. He said he was unsure if it would do them any good if there were

nuances with any elected Board to do virtual meetings, but if there were an ability to have a closed meeting virtually with no actions taken, it would expedite business. He said he was in favor of the issue of homestays, but wanted to ask if special exceptions were generally running with the applicant.

Ms. Price said she meant the entire homestay and not the special exception aspect of it.

Mr. Andrews said okay. He asked if they were looking at just homestays, because that was the only way it would go through in that limited way.

Ms. Price said yes.

Mr. Andrews said he also supported the impact of the authority of the erosion standard as well. He said he saw the item that was mentioned for 2022, but it was the 2021 legislative positions and policy statements, which was a much longer, three- or four-page list. He said he would appreciate seeing an update on those, and he did not know if there were things they needed to add to the list, but it was good to go through the other options that were considered because it was something new.

Mr. Rosenberg asked for clarification from Supervisor Andrews that he was supportive of the taxing authority for school capital projects and the eligibility requirement changes.

Mr. Andrews said yes, he was in support of all of those.

Ms. Mallek said she was supportive of civil penalties, ag buildings, and the photo speed cameras. She said she learned at the VACo meeting that companies had been certified by the state, and she forwarded an email to everyone. She said that was a step in the right direction, and she had no idea where their money would go, but once their costs were covered, she did not care so long as people slowed down. She said she supported local sales tax to fund schools, reducing acreage for VEDP, FOIA for advisory and appointed bodies, and she suggested they had their own legislation that did not get mired in the one that already failed and say it was for advisory and appointed bodies only.

Ms. Mallek said she supported the homestay suggestion, impact fees, and erosion and sediment control. She said the latter was last updated in 1996 and she worked with the last Secretary of Agriculture, Bettina Ring, who managed to retire before it was passed in full. She said it had been worked on for a long time and needed to be done, so she hoped they got somewhere. She said the legacy policy's long list was important so that when something happened at 11 p.m., Mr. Blount could refer to the long list and know they had already talked about something.

Mr. Gallaway said he had no objection to any of these. He said about the virtual meetings that based on the conversation they had at the TJPDC last week that mentalities were changing, and the state should stop trying to dictate who could do what and should just give everyone the authority to do it and then put requirements on it such as notice, recording the session, and public access. He said if they had the ability to hold all-virtual meetings, he did not think they would choose to do that. He said they probably would have what was put into practice now, so it became a matter of local authority.

Mr. Gallaway said giving them the authority to do what they wanted and making sure that FOIA interests were met, but not who could do what and when, was a change in mentality that allowed the technology to do something they championed in Virginia, which was part-time legislators. He said there were so many people who could not participate because of their physical inability to move around. He said as someone who had a full-time job, he learned during the pandemic that he would set aside time for Board of Supervisors meetings, but he set aside many other assignments that he must do as an elected official, and they became much easier for him to do and participate in because of the virtual piece.

Mr. Gallaway said they heard that at the last CAC meeting that there were bodies that, for political reasons, at the beginning of the pandemic held in-person meetings and did not wear masks. He said others did not want to drive an hour to sit in the meeting and would rather attend virtually from their home. He said it was easier and more convenient and would open up more doors to who could be a part of this process.

Mr. Gallaway said because of that, as he said at the TJPDC meeting, if the state legislators started to hear all these different political persuasions and interests would help get them the ability to meet virtually and they would meet the requirements so that they could focus on the things that would allow the public to be involved. He said otherwise, they would just get involved in explaining details about local bodies and it would complicate the process. He said they should focus on the requirements and what the Freedom of Information Act was supposed to be.

Ms. McKeel said they were just trying to get something through.

Mr. Gallaway said the legislator last year shot for the moon and got something. He said it was one where it made sense to do that so that they would get something less, so he was glad she was reintroducing it. He said he was not interested in doing this meeting virtually, but if he could be at work and did not have to leave his job early and attend a TJPDC meeting at 7 p.m. when his dealership closed, it made it easier for him to perform his duties as an elected official. He said he thought there was merit to that and not only about people whining about having to drive an hour somewhere.

Ms. Price said she did not disagree, with the exception that elected bodies should stick with what they had right now. She said there were nine legislative items listed and she supported all nine. She

asked Mr. Rosenberg if that gave him what he needed.

Mr. Rosenberg said it did and he appreciated it.

Agenda Item No. 14. Board-to-Board, August 2022, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

Ms. Acuff said she was presenting to the Board today because the Chair of the School Board had tested positive for Covid-19 two days prior, and the Vice Chair had a scheduling conflict. She said before she began, she would like to address the gift question. She said the original gift question was raised as the impact on capital was a gift to improve the softball field at Western Albemarle High School. She said she did not know how that was approved and she did not ever see it, but it had capital consequences of about \$500,000 and was a serious unintended consequence of accepting that gift to make the girls' softball field satisfy both ADA and Title IX requirements.

Ms. Acuff said they had protections in place for that, but what had emerged was other concerns about gifts, and they were meeting with Judy Lee on the School Board with the COO and attorney because there was significant discrepancy in gift giving by the PTO and PTAs. She said they were private organizations that could not be managed, but they had one school raising money for winter coats and another school asking for School Board permission to install a \$42,000 fitness course on their elementary school grounds.

Ms. Acuff said she did not know if or how they should address that. She said another issue was that there was a gift to the school division anonymously of \$250,000 for mental health. She said she appreciated that gift but with staff changes, there was a question of how that worked ongoing in the budget. She said as a member of the founding board, she could confirm the Albemarle Foundation for Education was being stood up, and they did not know how to coordinate gift giving through that. She said they would be looking at all of this next week, and if the Board was interested, she could report back to them.

Ms. Acuff said two weeks ago, school opened in Albemarle County. She said with Covid-19, ACPS took a large enrollment dip in the 2021 school year; their numbers were now growing but they had not yet reached the pre-pandemic levels of enrollment. She said in 2019-2020, the enrollment was 14,495 students, and enrollment as of September 6, 2022 was 13,552. She said they were growing but not back to where they were, and so far, the growth curve seemed flatter than it had been. She said they had been adding 200-300 students per year, and she was unsure of what the numbers for this year were, but they would get them at the end of September. She said the reason they waited until the end of September was because there was enormous volatility in those numbers.

Ms. Acuff said in the meeting materials received by the Board a week before this meeting, the Albemarle High School early data topped 2,000 students. She said today's numbers were more like 1,970, but they did not know exactly where they would end up. She said they were growing again, but slowly. She said some of the schools were changing demographically, and Albemarle High School was, for the first time, a majority-minority school, meaning that minority groups composed a majority of the population. She said that in fact, the entire Lambs Lane campus, which included Greer Elementary, Journey Middle School, and Ivy Creek, was now a majority-minority campus.

Ms. Acuff said from last year, the numbers showed that Greer was over 75% minority and Journey was 60% minority. She said in addition, the Lambs Lane campus was home to almost one-quarter of Albemarle County Public School students. She said it had the highest percentage of ESL students and the highest percentage of low-income students. She said this was an important thing to consider when forming their policies. She said the Lambs Lane campus was never conceived as a holistic campus, with the original structure there being a high school and new buildings added every 15 years or so. She said they recently completed a study with a consultant that reimagined that as a campus that had a specific identity.

Ms. Acuff said the Lambs Lane campus was home to other functional, utility-like buildings such as a gas station, transportation, and things that if someone decided to ask another school in their community if they would like to have on their campus, would probably decline. She said she would encourage them to look at this report and hoped there were proposals to improve aesthetics as well as safety, as they only had one access point, along with student engagement and equity. She said she also thought it was an opportunity to enhance its value to the County's entire economic development. She said it would be much nicer to show that this was their biggest campus and how much they valued their education.

Ms. Acuff said they had a systemic shortage of bus drivers. She said for a county like Albemarle, which was 726 square miles, in a normal year their bus drivers drove 14,000 miles per day. She said this was unlike the City, which covered 10 square miles, they did not have the option to ask the majority of their students to walk. She said they had increased walk zones because they had to, but most students could not easily walk to school. She said as of today, the transportation department had 31 openings, 19 of which were for home-to-school drivers, which meant that many of their drivers had to do double routes. She said students had to wait for hours for buses or showed up to school late, so this was a challenge for families, but they were doing their best.

Ms. Acuff said they worked a couple of years ago to get bus drivers classified as a critical shortage position, which would permit them to work and continue their VRS benefits, but there was a

glitch in that where one must go without benefits for a year before receiving them, so staff met with Creigh Deeds to figure out how to get around that in some sort of emergency declaration because they were not the only school division that was having this issue. She said the driver shortage predated the pandemic and they had been aggressively recruiting by paying higher salaries and sign-on bonuses, and they were looking at other kinds of options such as addressing the split shift, packaging driver jobs with building services or food services with a discrete eight-hour shift and then an afternoon.

Ms. Acuff said many parents were distressed about the transportation issue. She said she hoped it would get better. She said one of the issues was that last year they had 7,000 students sign up to ride the bus, but only 5,200 did so, so they had to plan for 7,000. She said this year, 10,023 families signed their students up for the bus, and they did not know exactly what the ridership would be yet. She said they had to plan for 10,000 students, so they would not know for a little while how many students were actually riding the buses, but this year, they were implementing a policy that if they did not ride the bus for 10 consecutive non-excused days, they would be removed from the bus route, with the option to rejoin.

Ms. Acuff said assessments were an issue everyone was concerned about and one that Dr. Haas was present to go through as well. She said they were concerned about the impact of the pandemic on remote learning and the overall impact it had on learning losses. She said the initial scores were at or above the overall state pass rate for SOLs, but that was overall. She said they had a bifurcated student population with overachieving students that required them to look at specific demographic groups to understand the full picture.

Ms. Acuff said that Black students, Brown students and low-income students continued to fall below state averages, and the pandemic exacerbated those gaps. She said in addition to the single SOL scores, VDOE implemented a growth assessment at the beginning of 2021 and the end of the year, making growth adjustments to the SOL scores. She said she knew that Supervisor Mallek had sent her an article that was a bit confusing.

Ms. Mallek said it was very confusing.

Ms. Acuff said it was incorrect in some aspects; one being that they did receive the non-growth-adjusted scores in August, and the growth-adjusted scores would be released by the state on September 22, along with their accreditation information. She said the article seemed to suggest that Albemarle County had its own factor to give growth-adjusted numbers, which they were not. She said however, they still had work to do.

Dr. Matt Haas said he wanted to take the opportunity to address this article. He said he gave the Board a printout of his statement, along with a copy of the article and the strategic plan. He said this morning, one of his staff sent him a link to an article in the Crozet Gazette with the title "School Division Weaves Growth Rate Adjustment into SOL Rates." He said the title itself shocked him. He said he first saw the article this morning and would share his assessment. He said this was a complicated subject, and some of Mr. Jeremiah's comments were placed in the incorrect context, and his staff-based comments to Ms. Martin on data that they were not yet able to share to go with the comments.

Dr. Haas said the article made it sound like they came up with their own growth measurement and then compared the 2019 SOL results with the 2022 results that were inflated with this growth measurement and then said they were doing better. He said this was not factual. He said beginning in 1998, SOL tests began and still continued. He said there were various ways in which the SOL tests had been used to measure the success of schools, eventually leading to where they were now. He said each spring, all Virginia students from 3rd grade through 8th grade took SOL tests, mostly in the four core subject areas, with some arbitrary exceptions here and there. He said high school students took a variety of tests at different grade levels depending on the core subject area classes they were taking in a given year.

Dr. Haas said each school and school system receives two preliminary reports that reflected two perspectives on the SOL results. He said from the Virginia Department of Education in July, the VDOE advised them to embargo this information until they released it in August and September. He said the first report in August provided a flat, unadjusted pass rate in which all students were aggregated and then broken out into federally identified enrollment groups, reflecting student demographics, special education status, English language learner status, and socioeconomic status. He said this report was for federal accountability for the state around ARPA funding done during the recession.

Dr. Haas said the scores were displayed in an online score report card called the Virginia School Quality Profile that anyone could access and see for every school and school system. He said this was also mandated by the federal government as part of the Every Student Succeeds Act, formally known as the No Child Left Behind Act. He said both of them were authorizations of the Elementary and Secondary Education Acts passed during the Johnson Administration. He said the second report that was coming on September 22 provided an adjusted pass rate similar to the first, only many students were counted as passing because they demonstrated enough growth based on progress and learning the current year's standards to meet VDOE-established growth benchmarks.

Dr. Haas said they put together kids that passed and kids that grew according to stanines that were broken out for the scores, so if a student moved from one to the next, they counted as a passing score. He said he wanted to emphasize that all of these growth scores were created by the VDOE and not by the Albemarle County Public Schools. He said these had nothing to do with their philosophy other than to say they did value growth. He said these adjusted scores were then aggregated much the same

way the federal scores were aggregated, and the VDOE used the pass grades for all students and the broken out demographic groups of students to measure a school and decide whether it was an accredited school and given the state's seal of approval.

Dr. Haas said scores adjusted for growth to be used for accreditation purposes came about relatively recently, with growth scores beginning around 2017. He said this last year, there was a preassessment at the beginning of the year and the growth could be seen during the current year for a student. He said none of this was invented by Albemarle County Public Schools. He said like every other district in the state, they began modeling projections for both the unadjusted pass rates and the adjusted pass rates as soon as testing started in May for the same reasons local governments began modeling property tax revenues: so that they could plan accordingly for how they would respond in the summer to improve their instructional program for the coming year rather than waiting for when the scores would be released by VDOE.

Dr. Haas said it became an autopsy at that point. He said the VDOE awarded adjusted pass rates to schools individually for accreditation purposes; it was not possible for ACPS to completely and accurately make a division-by-division comparison with regard to these adjusted rates because the state did not calculate them at the state or division level. He said it was his understanding that Ms. Martin asked for their scores, and rather than saying the scores were embargoed, to be transparent, provided commentary about their preliminary data. He said they did not provide scores. He said they were not making a report of the schools to the public and they were trying to request from a reporter who asked for information. He said there was no press release.

Dr. Haas said the bottom line was that no matter how someone looked at this data, Albemarle County Public Schools had a decades-long legacy of poor SOL test results for students of color, students with disabilities, and students who received free or reduced lunch, no matter how it was looked at. He said while overall pass rates were at or above state averages, their unadjusted SOL scores for these groups were below state averages in almost every case.

Dr. Haas said in 3rd grade, the gap between their white students and students of color on the reading assessment was among the widest in the state. He said that as a result, one year ago, their Board oversaw and approved a new, five-year strategic plan that was largely focused on eliminating the predictive value of race, class, gender, and special capacities on student achievement through high-quality teaching and learning for all. He said that was their mission statement.

Dr. Haas said the plan had several strategies that were evidence-based and reflected deeper learning while improving students' performance. He said during the principals' meetings today and tomorrow, he was laying out ambitious goals for improving their performance on the SOL curriculum, particularly with Black students, with whom they had the most intransigent levels of failure. He said a pandemic was no excuse, but for two years, they had other priorities to keep everyone safe and keep kids coming to school. He said he had been superintendent for four years, but he was in his second year of trying to do this work with fidelity.

Dr. Haas said he was encouraged by their adjusted scores in the spring of 2022, because the vastly improved student growth gave them better-than-expected results in comparison to their adjusted scores from 2019. He repeated he was comparing the adjusted scores in 2022 to adjusted scores from before the pandemic. He said he could say more about this, but their data was embargoed until September 22. He said this told him that the strategies they put in place were working and they were making efforts in their progress to close achievement gaps. He said if they wanted to learn more about this information, he invited them to tune into their School Board work session on September 22, which was entirely devoted to their SOL scores.

Dr. Haas said they would also do a state of the division report in November that used between 10 and one hundred different metrics to measure student progress and growth besides the SOL scores. He said SOLs were a standardized factor that they must do better with. He said on that day, the state would release their adjusted pass rates for accreditation purposes, and most of what he had spoken of today would be unnecessary, because both sets of scores, neither generated nor otherwise fabricated by ACPS, would have been handed down from VDOE along with whatever interpretation the state wanted to make.

Dr. Haas said finally, visiting the Board meeting this afternoon was an effort to continue to be 100% transparent with the Board of Supervisors and the community. He said many of them had known him for almost 20 years, and he believed it was fair to say he had never been one to sugarcoat the truth or back down from challenges. He said there was nothing to hide, and while there were things he was not proud of, they were not hiding or running from it.

Dr. Haas said he appreciated that this topic was brought up during their meeting and it meant a lot to him that they cared about the schools and made sure they were doing their job. He said they all owned this challenge and should be partners in making it better. He said they now had the facts, and if someone brought this up, he encouraged them to share those facts. He said he was always happy to have questions from constituents about anything they did refer to him.

Ms. Acuff said that Dr. Haas was correct that they had work to do. She said for many years, they looked at their overall scores as being indicative of their overall achievement, and they were now focusing on all the different groups they could do better with. She said that COVID-19 continued to be an issue for them but one that was becoming easier to address. She said before the start of school, a parent with an

immunocompromised child at Brownsville Elementary School wanted to keep their child present in the classroom, so a letter was sent to all Brownsville 4th grade parents to see if anyone would be in a voluntary mask-only classroom. She said the response was overwhelmingly positive, and the child was able to be in that class.

Ms. Acuff said there were federal dollars to provide for COVID-19 paid sick leave, and when these programs expired in September of 2021, ACPS extended that coverage until the end of that school year, which was June 30. She said it lapsed, and attention was raised by employees, so they voted to reinstate that coverage this school year, retroactive to July 1. She said there were multiple ALICE acronyms, but theirs was related to school security and stood for Alert, Lockdown, Inform, Counter, and Evacuate. She said it was an evidence-based, high-profile program based on mitigating tragedies in the schools. She said all Baker-Butler school staff members had taken this training and it would be made available to all school principals in their professional development in November.

Ms. Acuff said for the first time, there was an all-schools convocation held at Ting Pavilion, with Chair Price and Mr. Richardson present as speakers. She said there were about 2,000 of the 2,500 employees in attendance, made possible by price breaks from Ting as well as Albemarle Foundation for Education contributions. She said the purpose was to bring everyone together as a team after a few challenging years. She said there was also an opportunity to introduce the newly formed Albemarle Foundation for Education.

Ms. Acuff said multiple speakers shared stories and inspiration related to the importance of public education; some of the Golden Apple recipients made remarks, and the keynote speaker was Coach Kevin Sauer, who led the UVA women's rowing team, who gave a speech about leadership and team building. She said the staff had been enthusiastic that it was a good way to start off the year, so they may continue doing it. She said there was a presentation at the last School Board meeting to improve the intentional instruction in their middle school advisory classrooms.

Ms. Acuff said the proposed curriculum was to implement concrete skills in students in 6th grade with a focus on understanding the self, the 7th grade relating the self to others, and in the 8th grade relating staff to community, with each level having lessons in digital citizenship, identity, and pathway explorations, and in the 8th grade, there was an advisory curriculum that included a youth participatory action research project, which was something similar to capstone projects at Monticello. She said it was out for community feedback and they would make a decision at their next School Board meeting. She asked if there were any questions.

Ms. McKeel said she had not seen the article, but she appreciated Dr. Haas addressing it head-on. She said she read the Board-to-Board and wanted to address a few things.

Ms. McKeel said that school boundaries were fixed for the most part with a few targeted exceptions. She said this report made it seem as if students could choose to move through the school, and they could not.

Ms. Acuff said she did not know what Ms. McKeel was referring to, but it may deal with walking boundaries to schools, which was different than actual school boundaries.

Ms. McKeel said within Albemarle County, the boundaries were fixed for schools.

Ms. Acuff said that was correct.

Ms. McKeel said there were a few exceptions, such as the academies.

Ms. Acuff said that was correct.

Ms. McKeel said there were also specific, targeted concerns. She said they had discussed the United Way ALICE data, or Asset Limited Income Constrained Employed for their magisterial districts, and the Lambs Lane campus was about 25% of all children in Albemarle County and had the highest level of diversity and free and reduced lunch populations.

Ms. Acuff said that was within all of Albemarle County Public Schools.

Ms. McKeel said that was right. She said this campus was composed of a majority- minority students. She asked what the families and students should expect with this outcome. She said they had a master plan that would address some of the environmental inequities and some of the concerns on that campus, as well as providing expanded educational opportunities. She said it would be important to look at their master plan in the CIP and decide as a community how they were going to make the recommendations in the master plan come to fruition.

Ms. McKeel said because they were looking at the concentration at that campus, it was necessary for them to give attention and financial support to them for that plan. She said they celebrated and sought diversities in schools, neighborhoods, and in the organizations they supported, however, diversity was usually considered a positive if it was not concentrated, and what they had now was poverty and diversity concentrated on a specific campus within Albemarle Public Schools, so they must look at how they could support that campus with the work that they did.

Ms. Mallek thanked Dr. Haas and Ms. Acuff for explaining the article when she received it. She

said she was glad to hear they had the authority to make the rules about bus participation.

Mr. Gallaway said he agreed with Supervisor McKeel's comments about the master plan for the Lambs Lane campus. He said he hoped the whole body was engaged on that plan and not only the representative of Jack Jouett on both the Board of Supervisors and the School Board. He said this also tied to their facilities study about the Berkmar site and the use of it. He said that they should not lose sight of that study as well and how the two were tied together. He said at the end of last school year and the beginning of this school year, the Woodbrook community was dealing with traffic issues that were significant.

Mr. Gallaway said they were unable to deal with it in a timely manner last school year so he was addressing it now, and understood it was likely exacerbated by the bus driver shortage. He said if they had a regional transit authority in place instead of competing transit providers, there could perhaps be wage equalization that could give each organization some stability. He said he appreciated Dr. Haas addressing the article about the SOL scores.

Mr. Gallaway said as a parent, he hoped the 10 unexcused absences for missing the bus was for 10 consecutive days the bus was running on time. He said if it was between a choice of his child going to school late on the bus or being driven, he opted to drive him. He said he did not want to be penalized for driving his child to school so he was there on time versus when the school buses were running.

Ms. Price thanked Ms. Acuff for being there today.

Ms. Mallek asked if the School Board was discussing the ability of bus drivers and discipline on the buses. She said she had heard of frustration from bus drivers and parents who said they could not keep order on the bus and it was dangerous. She asked if that could be addressed and brought back to the Board.

Ms. Acuff said she would check into it. She said Mr. Gallaway had a good point about the reasons for the bus absences.

Ms. Price apologized for her comments about Mr. Gallaway's suggestion for all-virtual meetings as they were inappropriate and she regretted them. She said he convinced her that they should have all that authority.

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

At 5:27 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 boards and commissions, including, without limitation, five Community Advisory Committees, the Rivanna River Basin Commission and the Route 250 West Task Force; and
- Under subsection (7) to consult with legal counsel and receive a briefing by staff members pertaining to actual litigation of the Board against Scottsville Volunteer Rescue Squad, Inc.; and
- Under subsection (8) to consult with legal counsel employed or retained by the County regarding specific legal matters involving regulatory compliance and requiring the provision of legal advice.

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

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

Agenda Item No. 16. **Certify Closed Meeting.**

At 6:09 p.m., Mr. Andrews **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

Non-Agenda Item. Motion Coming Out of Closed Meeting.

Mr. Andrews **moved** to adopt the resolution to settle the agreement in the matter of the Board of Supervisors, et al., v. the Scottsville Volunteer Rescue Squad, Inc.

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

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

Agenda Item No. 17. Boards and Commissions.

Item No. 17.a. Vacancies and Appointments.

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

- **Reappoint** Mr. Nathan Holland, Robert Finley, Shawn Brydge, and Thomas Thorpe to the 5th & Avon Community Advisory Committee with said terms to expire September 30, 2024.
- **Reappoint** Mr. Ron Brownfield to the Pantops Community Advisory Committee with said term to expire June 30, 2024.
- **Appoint** Mr. Rudy Fernandez to the Places 29 (Hydraulic) Community Advisory Committee with said term to expire August 5, 2024.
- **Reappoint** Mr. William McLaughlin, Ms. Susan Friedman and Mr. James Dean to the Places 29 (North) Community Advisory Committee with said terms to expire August 5, 2024.
- **Appoint** Ms. Janet Moran to the Places 29 (North) Community Advisory Committee with said term to expire August 5, 2024.
- **Reappoint** Mr. Brian MacMillan, Ms. Judy Schlusell, and Mr. Lee Kondor to the Places 29 (Rio) Community Advisory Committee with said terms to expire September 30, 2024.
- **Reappoint** Mr. James Sofka to the Route 250 West Task Force with said term to expire September 5, 2025.

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

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

Agenda Item No. 18. From the County Executive: Report on Matters Not Listed on the Agenda.

There was no report from the County Executive.

Agenda Item No. 19. 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 public speakers signed up.

Agenda Item No. 20. **Public Hearing: ZMA202200003 Firdyiwek-Deal Rezoning.**

PROJECT: ZMA202200003 Firdyiwek-Deal Rezoning

MAGISTERIAL DISTRICT: Samuel Miller

TAX MAP/PARCEL: 09000-00-00-003A0

LOCATION: 954 Old Lynchburg Rd.

PROPOSAL: Rezone a parcel of land from Rural Areas to R-2 Residential.

PETITION: Request to rezone a two-acre parcel of land from the RA Rural Areas zoning district, which allows residential uses at densities up to 0.5 unit/acre, to R-2 Residential, which allows residential uses up to 2.0 units/acre. ZONING: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

OVERLAY DISTRICT: EC Entrance Corridor

PROFFERS: Yes

COMPREHENSIVE PLAN: Neighborhood Density Residential – residential (3-6 units/acre); supporting uses such as places of worship, schools, public and institutional uses and small-scale neighborhood serving retail and commercial in Neighborhood 5 of the Southern and Western Neighborhoods Master Plan.

The Executive Summary forwarded to the Board states that at its meeting on June 28, 2022, the Planning Commission (PC) voted 7:0 to recommend approval of ZMA202200003 with proffers for the reasons stated in the staff report.

Attachments A, B, and C are the PC staff report, action letter, and meeting minutes.

At the PC meeting there was minimal discussion, and no concerns were raised regarding the rezoning application. No members of the public spoke at the public hearing.

Concurrent with the rezoning request, the applicant made an application (ACSA202200002) to amend the Albemarle County Service Authority Jurisdictional Area (ACSAJA), which does not require PC review or action. Since the PC meeting, Staff has learned that the subject property is already within the ACSAJA for water and sewer service. The parcel was designated for water and sewer service by the Board of Supervisors on October 3, 2010 with the Whittington Planned Residential Development Amendment to the ACSAJA. Therefore, the accompanying ACSA application has been withdrawn and the GIS map layer has been corrected.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve ZMA202200003 Firdyiwiek-Deal Rezoning with the proposed proffers.

Mr. McCollum greeted the Chair and members of the Board. He introduced himself as Kevin McCollum, Senior Planner with the Planning Division of Albemarle County Community Development. He said he would be giving the presentation from staff on Zoning Map Amendment Application ZMA202200003 Firdyiwiek-Deal Rezoning of a two-acre rural areas parcel in R2 residential. He continued that the subject property of this rezoning application was located just south of the City of Charlottesville and the Interstate 64 and 5th Street Station exit, was located on Old Lynchburg Road. He said the parcel was located at 954 Old Lynchburg Road and was two acres zoned Rural Areas.

Mr. McCollum said the property was generally wooded with a single-family detached house with an accessory garage. He said the nearby neighborhoods included the Whittington subdivision, which abutted the property, and the Mosby Mountain subdivision, just to the north along Old Lynchburg Road. He said there was one other abutting a two-acre rural areas parcel, and across the street was property that was part of Biscuit Run Park. He said as he mentioned, the existing zoning was Rural Areas, which could be seen in white on the map. He said the adjacent parcel and the Biscuit Run Park property were also zoned Rural Areas. He said the green color on the map was the Whittington subdivision, which was zoned Planned Residential Development. He said the light green color on the north and south was R1 residential.

Mr. McCollum said the applicant was requesting to rezone the property from Rural Areas to R2 residential. He said the applicant intended to subdivide the property into two 1-acre lots for a total of two dwelling units on the acres, a proposed density of one dwelling unit per acre. He said the conceptual plan on the screen was provided by the applicant and showed the potential subdivision of this property. He said the applicant intended to keep the existing house at 954 Old Lynchburg Road and add one additional dwelling unit, and the applicant had offered to proffer development of the site to two single-family dwelling units.

Mr. McCollum said the subject property was located within Neighborhood 5 of the Southern and Western Neighborhoods Master Plan, the future land use was designated as neighborhood density residential, which called for residential uses at a density of 3-6 dwelling units per acre. He said that however, the master plan also suggested that there were existing residential neighborhoods within or below this range. He said while the proposed rezoning suggested a density of one dwelling unit per acre, staff believed this was appropriate given the density of those existing neighborhoods. He said Whittington and Mosby Mountain, for example, were within the same land use category but were also closer to one dwelling unit per acre or less.

Mr. McCollum said the slide shown listed the factors favorable, which were that the rezoning request would have minimal impacts on neighboring properties and public facilities and services, the request was consistent with the County's Growth Management Policy, and the rezoning request was consistent with the recommendations of the Southern and Western Neighborhoods Master Plan. He said there were no factors unfavorable. He said that staff recommended the Board adopt the attached resolution (Attachment D) to approve ZMA202200003 Firdyiwiek-Deal Rezoning with the proposed proffers.

Ms. Price asked the Board if there were any questions. Hearing none, she opened the public hearing.

There were no public speakers, so Ms. Price asked for the applicant to speak.

Mr. McCollum said the applicant did not intend to speak.

Ms. Price said the item was back before the Board for any additional comments.

Mr. Andrews asked for verification that the process had been transparent and straightforward for the applicant.

Ms. Mallek said it seemed to be compatible with all the surroundings.

Mr. Andrews **moved** that the Board adopt the attached ordinance (Attachment D) to approve ZMA202200003 Firdyiwiek-Deal Rezoning with the proposed proffers. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

ORDINANCE NO. 22-A(11)
ZMA 2022-00003 FIRDYIWEK-DEAL REZONING

AN ORDINANCE TO AMEND THE ZONING MAP
FOR PARCEL ID 09000-00-00-003A0

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 2022-00003 and their attachments, the proffers signed June 2, 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 §§ 18-14 and 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2022-00003 with the proffers signed June 2, 2022.

Agenda Item No. 21. **Public Hearing: ZMA202100011 The Heritage on Rio.**

PROJECT: ZMA202100011 The Heritage on Rio

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 045000000026A2; 045000000026B2; 045000000026B3;
045000000026B4; 045000000026B5

LOCATION: Five parcels of land on the southeast side of Rio Road W., approximately 800 feet northeast of the intersection of Rio Road W. and Four Seasons Drive; 435, 445, 455, and 463 Rio Road W., and an additional parcel located in front of 505 Rio Road W.

PROPOSAL: Rezone five parcels to allow a maximum of 250 residential units.

PETITION: Request to rezone a total of approximately 8.23 acres from the R6 Zoning District, which allows residential uses at densities up to 6 units/acre, to Planned Residential Development (PRD), which allows residential (maximum of 35 units/acre) with limited commercial uses. A maximum of 250 multi-family dwelling units is proposed, at a gross and net density of 31.29 units/acre. An associated request for a Special Exception (SE202100041) to modify or waive the setback requirements for the proposed buildings, under §18-4.19.5.

ZONING: R-6 Residential – 6 units/acre

OVERLAY DISTRICT(S): AIA – Airport Impact Area, EC – Entrance Corridor, and Steep Slopes – Managed

PROFFERS: No

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/acre); supporting uses such as religious institutions, schools, commercial, office, and service uses; and Neighborhood Service Center – commercial, retail, and employment uses with supporting residential (3 – 20 units/acre); in Neighborhood 1 in the Places29 Master Plan area.

The Executive Summary forwarded to the Board states that at its meeting on Tuesday, July 12, 2022, the Planning Commission (PC) conducted a public hearing and voted 6:0 to recommend approval of ZMA202100011. The PC also voted 6:0 to recommend approval of the special exception request, SE202100041, to waive the setback requirements for buildings in the development. 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 and Special Exception applications. The proposal is consistent with the future land use and density recommendations identified in the Places29 Master Plan. The PC voted 6:0 to recommend approval of both ZMA202100011 and SE202100041.

No members of the public commented at the public hearing.

No changes have been made to the application since the PC public hearing.

Staff recommends that the Board adopt the attached Ordinance (Attachment D) to approve ZMA202100011 The Heritage on Rio and the attached Resolution (Attachment E) to approve SE202100041, the special exception to waive the setback requirements.

Mr. Reitelbach greeted the Board of Supervisors and introduced himself as Andy Reitelbach, Senior Planner with the Albemarle County Planning Division. He said he was presenting a Zoning Application and Special Exception Application, ZMA202100011 and SE202100041 for a project called the Heritage on Rio. He said the aerial view on the slide provided more context on the location of this site; the five parcels included in this application were highlighted in yellow along West Rio Road as it turned to the southwest and intersected with Earlysville Road and Hydraulic Road. He said this property was to the north of the Charlottesville Health and Rehabilitation Center, to the west of the Blake at Oakleigh and the Garden Spot Garden Center, and to the east of the Four Seasons subdivision.

Mr. Reitelbach said this proposal included five parcels that totaled approximately 8.23 acres, with existing uses of four single-family detached houses and the fifth with a wooded parcel with an entrance drive to Charlottesville Health and Rehabilitation Center. He said the request was to rezone these five parcels from R6 residential to PRD or Planned Residential Development for a maximum of 250 residential units. He said the map on the slide showed the zoning and highlighted the five parcels that were included. He said the zoning was R6, which was currently by right, would allow up to 49 dwelling units; additional units could be possible with bonus factors. He said the overlay zoning districts for this property

included the entrance corridor, managed steep slopes, and the airport impact area.

Mr. Reitelbach presented a slide that showed the Comprehensive Plan designation for this property. He said it was located within the Places 29 Master Plan and all of the parcels were designated as Urban Density Residential, which recommended a density of 6.01-34 units per acre. He said in the northeast corner of the largest parcel, a small area of approximately one acre was designated as a neighborhood service center, which was notated with pink and white stripes on the map. He said it recommended a mixture of uses, including commercial, retail, employment, as well as residential from 3-20 units per acre. He said the maximum residential building height in these areas was four stories.

Mr. Reitelbach showed a conceptual plan of the proposal with the seven buildings identified with green space areas. He said the specifics of the proposal were a request for a maximum of 250 dwelling units spread across seven buildings with multifamily apartments. He said the density was approximately 31.28 units per acre and the buildings were a maximum of three to four stories, mainly three stories for the buildings that fronted Rio Road West, with interior buildings proposed as being four stories in height. He said the special exception request that was going along with this site application was a request to waive the stepback requirement for the fourth story for the buildings that are interior to the site.

Mr. Reitelbach said the applicant was proposing that 15% of the constructed units be affordable housing at 80% AMI, which was in line with the County's housing policy. He said as a PRD, the zoning ordinance required that 25% of the site be open space and the applicant had shown where that open space would be included and included a 10-foot landscaped buffer surrounding the entire perimeter of the site as well as two recreational areas, one in the south-central portion of the site and one in the southeastern portion of the site.

Mr. Reitelbach said overall, approximately 43 total additional students were expected to be generated with this development, and Albemarle High School was over capacity already, and the additional students who would be going to that high school would keep it over capacity; however, both Agnor-Hurt Elementary School and Burley Middle School had available capacity for the additional students at those grade levels.

Mr. Reitelbach said regarding access and circulation to this site, there were two entrances proposed off of Rio Road West and entrance design would be reviewed by VDOT at the site planning stage, and a right-turn lane was proposed for the western entrance. He said a ten-foot multi-use path was proposed to be provided along the Rio Road frontage, including some right-of-way frontage the applicant was proposing to dedicate to the County for VDOT right-of-way for the construction of that path.

Mr. Reitelbach said the applicant was proposing to relocate an existing bus stop from the eastern portion of this property to a more central location along Rio Road on this property to allow for easier access for residents who used that transit, and as a part of this, the applicant was proposing to construct a new bench and bus shelter at that bus stop as well. He said the current bus stop on that site did not have either of those amenities. He said the applicant was proposing to dedicate approximately one-quarter acre total for the public right-of-way.

Mr. Reitelbach said the interior of the site would be interior travel ways, and a subdivision was not proposed at this time, so it would all remain in one parcel with interior travel ways to access the individual apartment buildings. He said the existing entrance drive into Charlottesville Health and Rehabilitation would remain as that organization had an access easement over that drive; however, the applicant was proposing to upgrade it to a more urban streetscape with sidewalks, curbs, and parallel parking along that entrance drive. He said for inter-parcel connections, the applicant had depicted areas along the northwest and southeast portions of the property to allow for future inter-parcel connections if that occurred in the future.

Mr. Reitelbach said after review of this application, staff determined there were several factors favorable; the request was consistent with the uses and density recommended by the Places 29 Master Plan, and the request provided multi-modal infrastructure, including a bus shelter and a bench, as well as a multi-use path with dedicated right-of-way, along Rio Road West, the request was consistent or mostly consistent with the applicable neighborhood model principles, and the request provided affordable units at 15% of the total number of units constructed, consistent with County policy. He said the one unfavorable factor was that the proposed development would result in additional student enrollment at the area schools, especially at Albemarle High School, which was already over capacity.

Mr. Reitelbach said both the rezoning and special exception applications were heard by the Planning Commission at a public hearing on July 12, 2022, and at the public hearing, the Planning Commission voted 6-0 to recommend approval of both the rezoning request and the special exception request.

Mr. Andrews said in terms of the review of stormwater and any drainage issues regarding the neighboring properties, he would like to know how that got reviewed.

Mr. Reitelbach said during the rezoning application, Frank Pohl did a preliminary review of the stormwater management and erosion and sediment control based on the applicant's proposal, and he had no preliminary concerns at this stage. He said if this rezoning application was approved, at the site planning stage the very detailed stormwater management plans would have to be submitted, including a WPO plan, and at that time, one of the County engineer reviewers would look at it to make sure it conformed with County and State code requirements for stormwater management.

Ms. Mallek said asked for an explanation for the very large trail around the boundary worked with the existing tree buffers.

Mr. Reitelbach said the applicant was proposing to do a ten-foot landscaping buffer around the perimeter of the site along the west, south, and east sides; it was mainly going to be landscaping to provide a buffer with those existing uses, including the single-family house that would remain on the west side of the property. He said on the north side of the property along Rio Road West, there would be a ten-foot landscaping buffer, but it could vary between 10 and 12 feet. He said in that area was where any required landscaping from the ARB would be planted. He said because this was in the entrance corridor, ARB review would be required.

Ms. Mallek said the dotted line was 35 feet away from the street. She asked if the buildings stepped over that.

Mr. Reitelbach said that was correct. He said the 35 dotted line was the maximum front setback that the PRD zoning district allowed, so the buildings along Rio Road West could not be set back any further than that line. He said most of them were a bit closer, generally about 20 feet away from Rio Road was how far the buildings would be set back.

Ms. Mallek asked if there was no trail around the boundary.

Mr. Reitelbach said there was no trail.

Ms. Price said the overall concept was appealing, however, she was looking at the difference for green open space versus recreational space, and 250 units at four stories tall would result in at least 500 people moving in, and other than the ten-foot vegetative buffer on the main road, the only other areas of usable open space in the drawing shown on the slide was 2/10 of an acre of what was called a recreation area, .54 acres for the clubhouse and pool in the center, which in another diagram, showed that the clubhouse and pool took up that entire area.

Ms. Price said pools were typically open about three or four months out of the year, so other than a small seating area outside of the clubhouse and the .28 acre on the right, there was not much area for recreation. She said virtually the entire area was taken up by buildings or pavement. She asked how that tied in or met with the County expectations for recreation area. She said she recognized that they could total up all the square feet, but it did not seem that there was a lot of usable outdoor recreational area for 250 units in a relatively small space.

Mr. Reitelbach said the 25% minimum that the PRD required was open space, including many different allowable uses such as paths of open space, such as vegetation or fields, to be able to be used how residents would like, as well as more programmed open space like the common amenities such as the pool or clubhouse. He said it allowed for a wide range of recreational uses and facilities. He said there were certain requirements in the zoning ordinance that were required for recreational facilities, including a playground.

Mr. Reitelbach said if the applicant wished to do something different with something like the pool house, they had to submit a substitution request at the site planning stage, which was reviewed by staff and ultimately approved by the Planning Director. He said the applicant may be able to provide more information on the specifics of what they were proposing for how all the open space in the development would be used.

Ms. Price said that may be more appropriate to the applicant, but she did not see anything in the aspect of a playground for children. She said she had no other questions for staff.

Ms. McKeel asked if the roads within the parcel would be brought up to VDOT standards. She asked if they would be private roads.

Mr. Reitelbach said this parcel was not going to be subdivided, so it would remain all under the same ownership. He said the roads in the interior would be constructed at the requirements for interior travel ways within an apartment complex.

Mr. McKeel said she understood the difference. She said that made sense because they would be maintaining them.

Mr. Reitelbach said the organization for the apartment complex would be maintaining the roads.

Ms. Price said at this time she would open the public hearing. She asked the Clerk if anyone was signed up in public or online.

Ms. Borgersen said they did not.

Ms. LaPisto-Kirtley read the rules of procedure for the applicant.

Ms. Megan Nedostup of Williams Mullen, representing the applicant, GW Real Estate Partners said she could not be present in the auditorium because she was still recovering from COVID-19, and she appreciated the County having hybrid meetings so she could present in the meeting via Zoom. She said

in the auditorium were representatives of GW Real Estate Partners as well as Scott Collins of Collins Engineering. She thanked staff for their presentation and work throughout the review of the application. She said, as Mr. Reitelbach presented, this was a request to rezone approximately 8 acres from R-Spec to PRD for multifamily development along Rio Road in the development area. She said while currently the title for the development was named Heritage on Rio, it was a placeholder and would be renamed by the community moving forward.

Ms. Nedostup showed a photograph of Rio Road looking west toward the site. She said the entrance to the Charlottesville Health and Rehabilitation Center was visible, and this access point would continue to provide entry to the Center as well as the development. She said the view looking east showed the site to the right with some overhead powerlines existing and the sidewalk along there. She displayed another view looking east toward the entrance. She showed the application plan on the screen and said she would provide a broad overview of the commitments.

Ms. Nedostup said there were seven building envelopes proposed for the site, and the buildings closest to Rio Road would be three stories, with the back of the site having three or four stories with a basement. She said there was a commitment to the maximum number of 250 units on the plan. She said there were two entrances, one being the existing entrance she mentioned off of Rio Road, and the second entrance further to the west of the site.

Ms. Nedostup said they were proposing to upgrade that existing sidewalk to become a ten-foot multi-use path along Rio Road, and they were proposing to relocate and enhance the existing bus stop, coordinating with CAT and the County to include shelter and a bench. She said the existing bus stop was near the existing entrance and was simply a sign with no seating or shelter. She said as Chair Price mentioned, there were two open amenity spaces they believed would meet the needs of the residents of the development.

Ms. Nedostup said the benefits and commitments were that the project met the Comprehensive Plan goals, provided and enhanced multi-modal transportation, the location was ideal for rental apartment housing by being on a bus line and close to shopping and employment, and it met the Climate Action Plan strategies and actions. She said the commitments made with this application plan were the multi-use trail along Rio Road, the enhanced and relocated bus stop and shelter, several proposed bike racks as commitments onsite to encourage multi-modal transportation in this area, sidewalks and pedestrian facilities located throughout the site, around the buildings, and connecting into the multi-use paths so residents could get into the amenity spaces and out to the multi-modal facilities on the adjacent site.

Ms. Nedostup said they were committing to the building heights and locations as seen on the slide, and the affordable housing was notated on the application plan. She said the tallest buildings would be located in the back of the property. She said parking was located at the side and rear of the buildings, as recommended under the neighborhood model principles. She said they had established that stepbacks that were not only meeting the requirements along the border but also along the travel way internal to the site.

Ms. Nedostup said they established a landscape buffer along the frontage that Mr. Reitelbach mentioned; there were challenges with the overhead line, but they worked hard with staff to provide adequate area for architectural review landscaping there. She said there was also a landscaping buffer running along all of the property lines. She said there were also amenity spaces as mentioned earlier, planting strips, and trees along the travel way.

Ms. Nedostup showed the illustrative plan of how the parcel would be developed given those commitments she just discussed. She showed a schematic of the main amenity space with the clubhouse that could be programmed. She said as mentioned, there was a community pool, a large clubhouse, a patio area with some seating, and they could fit in a playground area for children in the community and a little lawn for some lawn games as well. She said there was lots of area for the residents to use for amenity space.

Ms. Nedostup showed the other amenity space located behind building 5, which was a pocket park. She said there was a portion of the property of the rehabilitation center adjacent that was a strip that connected back to Rio Road that would remain with trees and created a great buffer, but there was room for a little trail off the lawn area with grilling stations and a dog park. She said this would create more amenity space.

Ms. Nedostup showed an illustration of the main entrance to show how landscaping could fit even with those overhead utility lines and also buffering some of that parking adjacent to Rio Road that they were able to get those plantings in there per the ARB guidelines that they would have to go through in the future. She showed an enlargement of that area next to the existing single-family house, showing how there was plenty of room for some buffering.

Ms. Nedostup said the building was currently a three-story rental home and sloped toward the rear of the site, with one story facing Rio but two stories in the back. She said there was plenty of room for landscaping and buffering along that edge. She showed an illustration of the large area between buildings 5 and 6, creating a nice pedestrian experience with the sidewalks, planting strips, and street trees, with parallel parking on one side of that travel way. She said there was lots of pedestrian access within and between the sites and amenity spaces.

Ms. Nedostup said there were some 3D renderings that showed how the site may look. She said

the buildings were shown as gray because they had not designed the buildings prior to going through the ARB, but they envisioned the ARB would require not to have a back and may include some balconies and quality materials. She said it could be seen there was plenty of room for landscaping and the multi-use path. She said highlighted on the slide was the bus shelter. She said the next rendering was the entrance that connected to the rehabilitation center.

Ms. Nedostup said the streetscape created a nice pedestrian experience into the site and onto the multi-use path. She said further down by building 5, there was on-street parking and street trees. She showed a 3D rendering of the clubhouse space and how it could be programmed with the pool and patio areas. She said behind the trees shown was space where a playground could be. She said the last rendering was of the amenity space highlighting the dog park and open space with grilling stations. She said she mentioned earlier that they would also meet the Board's Climate Action Plan.

Ms. McKeel asked what the approximate cost of these apartments would be.

Ms. Nedostup said she would ask a member of GW Partners to answer.

Ms. Price asked the speaker to identify themselves and speak into the microphone.

Ms. McKeel said she saw the 15% affordable number and wanted to get a sense of what that was.

Mr. Will Gordon, Principal, GW Real Estate Partners, said that given where they were in the design process, it would be difficult at this phase to cite a specific number.

Ms. McKeel asked if he could not tell them anything at all.

Mr. Gordon said that was correct. He said he would not feel comfortable projecting a cost right now.

Mr. Andrews asked how many parking spaces per unit were there.

Ms. Nedostup said they requested a parking reduction, which given the proximity to the bus stop and multi-modal aspects of the project they were providing, staff did not have a concern, so their proposal was with a 20% reduction, which would equate to 1.5 spaces per unit.

Mr. Andrews said there were two entrances for cars, but the bus stop would be accessible from the inside of the apartment complex; they wouldn't have to go out and walk down the street.

Ms. Nedostup said that staff recommended connecting the middle parking lot to the multi-use path and bus stop so that pedestrian connection was provided as well.

Mr. Andrews said that was a good idea. He said they mentioned green spaces in the rehab center property behind, but he would like to know if there was any restriction on that or expectation. He said there may be reasons why they could not get rid of that green.

Ms. Nedostup said it was owned by the rehab center and she did not think they had any plans for that area. She said it was previously envisioned for the main entrance, but because of site distance, they decided on the current entrance location, so that was a leftover space. She said there was an easement over that for an entrance, but they could develop that as well.

Ms. Mallek said someone mentioned providing multi-modal transportation. She asked how that happened in addition to the bus stop. She asked if they were providing something like access to bus transit or something like building sidewalks and bike racks.

Ms. Nedostup said they were upgrading that sidewalk that was existing as a five-foot sidewalk along the curve of Rio Road and replacing that with a ten-foot multi-use path that hopefully would eventually continue down Rio Road as things redeveloped. She said that in addition, they were providing the upgraded bus stop with the shelter and bench that was not currently there.

Ms. Mallek said at a recent meeting, she heard the terms "attainable" and "sustainable" for what a true description of affordable housing should be, and she knew there were many different definitions flying around, but if there was any more information to be had about affordable housing, she would love to have it at some point from the applicant or whomever. She said they had experiences with housing that did not stay affordable.

Mr. Gallaway said there was a lot of parking and paved area. He asked how stormwater management would be addressed on this site.

Ms. Nedostup asked Scott Collins to talk in detail about how the stormwater management worked, but she understood it was an underground facility underneath the parking.

Mr. Collins introduced himself as Scott Collins with Collins Engineering. He said the stormwater for this site would be a hybrid system incorporating many elements of stormwater management. He said it would have a central underground retention providing a lot of the water quantity, but they were also looking at the use of some pervious pavers mainly for that parking lot near the bus stop and the ones

seen from the road.

Mr. Collins said they were also trying to incorporate a few rain gardens in with some of the green spaces around the perimeter and around the pocket park to the north side of the project. He said they were doing multiple things for water quality and there may be some nutrient credits involved, but there were some other aspects of the stormwater that would break up the continuity of the stormwater and provide water quality onsite as well.

Mr. Gallaway asked if it was known where the water ended up from this location.

Mr. Collins said much of the water from this site outfalls from Rio Road. He said a stream began to the west on a private road near the corner of the site and the outfall was near the Four Seasons. He said that was where it all sort of drained out. He said some water in this facility underground would be held there and released at that point. He said they were also picking up a lot of the stormwater from Rio Road and a couple of acres above Rio Road that drained down to that system, so they were collecting a lot of that with the entire design of the system, slowing it down, and releasing it.

Mr. Gallaway said any development on Rio 29 had interesting places where the water ended up, both during development and after the development was in place. He said it sounded like Mr. Collins had a good understanding of that and would be mindful during construction as to where it was all going.

Mr. Collins said definitely.

Mr. Gallaway said putting a bench in a transit area would be a marked change for the other bus stops in the Rio District. He asked if there was thought to having a pull-off for the bus; Rio Road was not exactly a place that buses should stop, and not many people rode the bus along Rio Road because of other issues. He said 250 units could potentially mean more ridership from that particular area. He asked Ms. Nedostup if it was ever discussed to have a pull-off for the bus.

Ms. Nedostup said they had not discussed that yet because they wanted to coordinate with CAT (Charlottesville Area Transit). She said where they had shown it was what they thought was a good spot for distance, but there was a right-turn lane into the western-most entrance that they could discuss with CAT if that could be a dual pull-off area if they wanted to have that space to move the bus shelter and stop further to the west. She said that was a possibility, but they wanted to coordinate with CAT and the County to get it in the right spot, so they would take into account his comment.

Mr. Gallaway said he would encourage anything to get the bus off the road. He said the traffic as they approached Berkmar and 29, and as the bus stopped right before Berkmar, the cars would have to decelerate very quickly.

Ms. Nedostup said they would discuss Mr. Gallaway's comments with CAT moving forward.

Mr. Gallaway asked Mr. Reitelbach if the development further down the road put in a sidewalk or a ten-foot multi-use path.

Mr. Reitelbach said he could not recall from memory.

Mr. Gallaway said his memory was that it was a sidewalk, and this project was putting in a ten-foot path. He said he understood the appeal, but disjointed segments of sidewalk and paths would lead to more work needing to be done in the future to fix it. He asked who would take care of the path and specifically the area between the path and Rio Road.

Mr. Reitelbach said the proposed multi-use path would be included within the land the applicant was proposing to dedicate to the County as part of the right-of-way, so it would be part of the Rio Road right-of-way that VDOT would be responsible for maintaining.

Mr. Gallaway said that was not good news. He said this should be along the path that their street sweeper program, once up and running, would be. He said this area would be something the County would have to maintain, and VDOT had issues with giving the County the ability to do the maintenance, so this was something their new position would have to deal with. He said even if it was under VDOT, it was not an answer. He asked Ms. Nedostup why they were only offering 15% affordable housing.

Ms. Nedostup said they felt that met the County's current policy, so that was what they were proposing at this point. She said there were financial challenges with the incentive program with providing affordable housing. She said they hoped that would be moved along more as they were working on this project, but the incentives had not quite gotten there yet, so they were providing what was currently required.

Mr. Gallaway said if their current housing policy, which stated 20%, was enforced, they were doing the 20% requirement.

Ms. Nedostup said yes, they would have to evaluate that with their client and their financials and what the incentive program and package that the County was offering would be, but it would be hard to speculate on if that was what they would be providing. She said they were providing what was currently required.

Mr. Gallaway asked how the applicant was going to make the effort to ensure the affordable units found their way to people who needed them versus going to a market rate.

Ms. Nedostup said the language currently on the application plan was what the housing planner had recommended; it was the current standard language for the 10 years. She said she could not recall what the procedure was for implementing that. She said they currently had the existing language as it existed for rental units for 10 years.

Mr. Gallaway asked how they would ensure the people who ended up in those units were the people who needed affordable units. He asked what the plan was.

Ms. Nedostup said she would ask staff to give information on what the County's current procedure was under that policy and the wording that was standard and typical they were also proposing.

Mr. Gallaway said that staff knew where he was going with his comments. He said three weeks ago he said they had a voted-on Housing Albemarle Policy that stated 20% affordable units. He said until they did what they needed to do, applicants were still going to come forward and take advantage of 15% and put it on them, in this case, the incentive program, which he asked not to be the delaying factor of the policy to begin with, and they did not have to have a defined list of incentives to be able to move forward with this, because there was nothing to stop the applicant from providing a certain incentive and giving 20% units, which he thought was a good idea for the incentive plan to begin with. He said right outside of the Rio Small Area Plan where they wanted the density to go, they could not achieve their own vision of the housing policy. He said he was upset that it said this was consistent with County policy in the executive summary and in line with County policy because in his opinion, it was not.

Mr. Gallaway said it was an unfavorable factor that this was not in line with the affordable housing policy that they voted on last year. He said it had been 15 months since they voted on the 20% line, and he was not going to take it out on the applicant because he thought it was their responsibility to get things in place so that when applications moved forward, they had no choice but to meet the 20% standard. He said they also had an applicant come forward a few weeks ago who volunteered the 20% because they knew that was the aspirational goal, and he thought it was contingent upon developers who were putting in affordable units to not just turn around and ask the County to take responsibility for placing people in those units.

Mr. Gallaway said if they were getting some density bonus from it, they should get some play in the fact of getting those units into people's hands, because that was the right thing to do. He said some may think that was unreasonable. He said when he asked what was the game plan to make sure the units found their way to the people who needed them, he thought the people developing and running the facility should have some say in that. He said they had a Regional Housing Partnership that had developers on it as members, a porchlight system that was designed for them to be able to direct people, and it could not only be their understaffed housing team doing all this work if they were going to solve this affordable housing issue in the County.

Mr. Gallaway said he would keep repeating this point until they had their Housing Albemarle in force so that these housing applications, especially in the development areas, were solved and fixed. He said he would encourage the applicant to educate and figure out how they could assist the County with finding people who needed to be in those units and helped them do so. He said he understood not wanting to commit to an answer for prices, but they had to have some sort of estimate, so he thought it was a fair question for this Board to ask developers and applicants when they came forward, and he hoped people would be more forthcoming. He said they were attempting to understand who could have access to these units as they approved the increase in density.

Ms. Price said that showing the successive aspects of the plan on the slides with the biking, sidewalks, and other areas visible and understandable. She said she agreed with Mr. Gallaway's comments and Ms. McKeel's questions as they related to the cost of affordable housing as well as ensuring they remained affordable. She said as they discussed where the bus may be able to be pulled off of the main travel ways of Rio Road, it appeared that with buildings 2 and 3 there may be room to give an area for that.

Ms. Price said she appreciated and understood why they were looking to reduce vehicular traffic and parking to 1.5 spaces per unit based on this location with the availability of other modes of transportation. She said she had a concern that when they reduced the parking that there should be space for visitor parking; it was often a problem with only residents finding enough parking and could become quite antagonistic if visitors had no space to park. She said she appreciated that enforcement of visitors in parking spaces could pose a problem as residents would utilize visitor spaces because they did not have enough space for their own vehicles.

Ms. Price said she was not satisfied that there was sufficient recreational space. She said she did not necessarily believe it was incumbent upon an applicant for 8.23 acres to solve the problem of recreational space in the County, and she believed the County needed to look at the difference between these smaller land applications versus something large like the Southwood project. She said in the larger developments, it was easier to come up with space.

Ms. Price asked if the County should be looking to acquire pieces of land to create urban recreational areas, particularly in densely populated and developed areas such as this. She said she was concerned that this measure of density was without sufficient outdoor recreational space within walking

distance of their residents. She asked the Board to support having the County look to acquire properties that they could turn into urban pocket parks.

Ms. McKeel said she appreciated Ms. Price's suggestion because that was exactly what they discussed at their strategic retreat about urban pocket parks. She said Mr. Gallaway asked who would maintain the trail and sidewalk, and the answer was VDOT and the County. She asked if the development would have a maintenance crew who did lawn work.

Ms. Price said the issue was that some of the sidewalks would be the responsibility of the County.

Ms. McKeel said that along Georgetown Road and Hydraulic, there were several large complexes that maintained their sidewalks. She said she was disappointed there was not even a ballpark range for price.

Mr. Gordon said that he understood the question, but given the macroeconomic environment they were in, the material prices had been highly volatile, so it was genuinely difficult to give a price. He said if there was another venue to discuss it, they could provide more detail.

Ms. McKeel asked about maintaining it.

Mr. Gordon said that for the service and safety of their residents, it would be something they would be happy to do and would work with the contracts of their landscaping and snow removal services.

Ms. McKeel said it would be great because they had the crew.

Mr. Gordon said that in regard to the affordable housing, he believed with R6 that the calculation was above the by-right density for the additional density for the housing calculation, and they were doing the 15% across the entire density, so it was in fact slightly more than what was required by the current policy.

Ms. Nedostup said that rezonings often came in with R1 or R2 low-density zoning, this was already a midpoint as far as conventional zoning districts. She said by right, they could currently build 49 units, so they were not asking for that credit toward their affordable but providing the affordable across the proposed 250 units.

Ms. McKeel said they were going to proffer a transit stop. She said three and four blocks away, people in the different apartment complexes could not get to the bus stop because no one shoveled the snow. She said she appreciated them volunteering to take care of that area, but she would love to have it in writing as part of their agreement. She said that would be necessary until they had a Public Works Department taking care of that area.

Ms. Mallek said last year there was an application where they stipulated 50% of the units, and that became her new threshold. She said the developer stepped up to do it right because they were on Route 29, had transit, and were putting in more greenspace, because they wanted a quality place for their residents who were low- and moderate-income to live. She said she agreed with others who said this was not usable green space, and 500 people would be in a very small area with very little place to have contact with nature. She said they learned during COVID-19 that people benefited from a quiet place outside that did not require a big transit effort to get to.

Ms. Mallek said the only way they would get more would be if they pushed for more, and she did not see that she could support this based on what it was. She said it continually put it on the County to do all these things when they should be responsible as landlord and owner of property. She said the quality of life of the residents living here and the fact there would be more space for a recreation area if there were fewer units. She said if they took away one building, there would be much more green space and the people there would benefit from that.

Ms. Mallek said she did not approve of using the neighbor's trees as a buffer because they did not allow that for any other kinds of rezonings. She said the pocket park with the stream and shade from trees in a linear park was a great way to provide recreation and contact with nature for residents. She said she had not gotten answers to any of these concerns that would make her want to vote for this. She said they had seen visitor parking in every district that became a nightmare and they needed to make sure those things were handled onsite for residents.

Mr. Gallaway said this was the right place to have the density within the areas they defined for it. He asked if the maintenance piece would be allowed to be in writing.

Ms. McKeel said they were an apartment complex. She asked if they had maintenance crews.

Mr. Rosenberg said generally, they could not condition a rezoning on the performance of some such obligation.

Mr. Herrick said that the complication was that once it was dedicated to VDOT, it was no longer private property, so they would be requiring someone to do something on public property, which was the problem.

Ms. McKeel said it was sad for the people who would live there.

Ms. Mallek said the County would have to accept the provision that donated the land to the County and to VDOT, so if they did not accept it, it could stay the responsibility of the landowner. She asked if that was correct.

Mr. Herrick said the problem would then be that it would not be a public use pedestrian path but would be a private path.

Ms. Mallek said she did not see how they could have a private path on Rio Road.

Mr. Herrick said the choice the County faced was either to have it dedicated to public use and allow the public to be on it and publicly maintained, or it could be private and privately maintained. He said the general planning policy said to put in a public right-of-way and have it publicly maintained so it could be used by the public.

Ms. LaPisto-Kirtley said from what she understood they were willing to mow that area and remove the snow, so as long as they did that, it would show they were stewards of the property. She said they could not make them do that, but it would be nice if they volunteered. She said she knew there were 1.5 parking spaces for each dwelling. She asked if at least one parking space was dedicated to each resident.

Ms. Price clarified that Ms. LaPisto-Kirtley was asking if they were completely open or if any of the spaces would be designated per unit.

Ms. Nedostup said they had not gotten that far into the detail of knowing that. She said perhaps someone from GW Partners could talk about what was typical on their properties, but they had not gotten to that level of detail at this part of the process.

Ms. LaPisto-Kirtley said it might be something to consider because it would cause much fewer problems related to parking.

Ms. Price said there was an applicant representative who would address the question.

Mr. Gordon said that for parking and other operational elements of the property, they were in competition with other apartment communities, so their goal was to make it as great of an experience as possible for the residents, so instead of doing specific individualized parking spaces, in the planning stage, they tried to get parking parity around the buildings as best they could around the site so that when they were managing the property they had parking zones so it could be a color-coded zone with residents.

Ms. LaPisto-Kirtley said because this was in an area where higher density was needed, she hoped they were cognizant of the fact this should be made attractive for this area and doing what they could. She said she wished it would be 20% as well.

Mr. Gallaway said this was the perfect place for the density. He said the amenities provided were limited unless they eliminated a building, but in the development area and urban ring, the County had to give something to help provide for these amenities to the greater public and not only those living onsite. He said they began to think of that in the small area plan where they said they would commit to some public spaces and that would be their stake in maintaining them; they had a design as part of the small area plan for the amenity behind the library, which was a specific park.

Mr. Gallaway said the County had to provide those amenities as well and could not only be on the areas designed for the apartment units. He said it would be nice to finally see bus shelters in the Rio District along the bus line, and hopefully it would create a different level of service as more people and this density came to be in the area that they wanted it. He said some of his issues were bigger than this individual application, but it would not stop him from supporting this individual application.

Ms. Price said Ms. Nedostup had up to five minutes for any rebuttal she would like to present.

Ms. Nedostup said she appreciated the Board's comments this evening. She said continuing Mr. Gallaway's thinking, the library was within .25-.5 miles of the site, so that would be a great asset to the residents of the community to be able to walk; there was a sidewalk all the way there. She said as the Berkmar path was extended all the way to the intersection with Rio, she anticipated with the County putting money into extending that path near Woodbrook further to Rio, it would be a great amenity for the residents to use that path to get to Hollymead. She said she failed to mention that there were existing bike lanes, so as part of the multi-modal, those existing lanes along Rio would remain even with the frontage improvements there. She said this was a great project in this small area that was the right place for the density and she hoped they would support this project this evening.

Ms. McKeel said she thought this was the right place for the density and they needed some units. She said at some point Rivanna would be putting in a pipeline on the other side, so she was hopeful they would have a multi-use path on the other side of the road over that water pipeline. She said she would support the project.

Ms. LaPisto-Kirtley said she had no questions and she was supportive.

Mr. Andrews said he appreciated Supervisor Gallaway's and others' concerns, but it was the right place, so he would be supportive. He emphasized that these were requests for them to allow for this much increase in density and it was not by right, so they were doing this because it was the right place.

Ms. Mallek said she had raised a lot of problems but heard a lot of things in support. She said she would acquiesce and vote in favor, but she continued to have a high-performance bar for these things to make sure all residents of all income levels had a place to live.

Mr. Gallaway said they had to understand that as this density went in, the pedestrian crossing from Rio 29 on that side of the road over was better than if someone tried to cross where Berkmar currently was. He said there was a shopping center there that would be a popular destination because it was within walking distance, but the County would have to start thinking about Berkmar and Rio and how people got back and forth there as the residential units began to grow. He said the maintenance of the sidewalks was something he wanted to understand better. He said there were clearly places where sidewalks were being well-maintained and others where they were not. He said the way it had been described to him, it sounded as though the ones maintaining them must be disobeying something; otherwise, they were not allowed to keep it maintained.

Mr. Gallaway said this was likely incorporated into their mid-year budget item of an individual who would help with this and the street sweeper as they continued, but he needed to understand this issue better. He said Housing Albemarle was the policy of the County, so it may just be wordsmithing or he was being too picky, but he would like the caveat to be that it was not in line with their housing policy but it was in line with the previous policy because they were not enforcing the new policy yet when it came to the percentage they required for the density bonus.

Ms. Price said their conversation was a perfect example of most of what they dealt with was better and best versus right and wrong. She said there was a right and wrong aspect in that one could look at the current development and contrast that with what was proposed. She said it was the right area for density, and she had articulated the areas that concerned her, which were not fully on the shoulders of any individual applicant. She said there were things the County had to do, but to give up the opportunity to allow this density and instead allow the by-right development was giving up their need for increased density in the development area, and they would soon have no choice but to expand the development area to where they would not want to. She said she was in support of this item.

Mr. Gallaway **moved** that the Board adopt the attached ordinance as presented in Attachment D) to approve ZMA202100011 The Heritage on Rio. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

ORDINANCE NO. 22-A(10)
ZMA 2021-00011 THE HERITAGE ON RIO

AN ORDINANCE TO AMEND THE ZONING MAP
FOR PARCEL IDs 04500-00-00-026A2, 04500-00-00-026B2, 04500-00-00-026B3,
04500-00-00-026B4, AND 04500-00-00-026B5

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 2021-00011 and their attachments, including the application plan last revised on June 6, 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 2021-00011 with the application plan last revised on June 6, 2022.

Mr. Gallaway **moved** that the Board adopt the attached resolution as presented in Attachment E to approve SE202100041, the special exception to waive the setback requirements. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

RESOLUTION TO APPROVE
SE 2021-00041 THE HERITAGE ON RIO

WHEREAS, upon consideration of the staff reports prepared for SE2021-00041 The Heritage on Rio (in conjunction with ZMA202100011) and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-4.19(5), 18-8.2(b)(3), and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the proposed special exception:

- (i) would be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfy all other applicable requirements of Albemarle County Code § 18-8;

- (ii) would be consistent with planned development design principles; and
- (iii) would not adversely affect the public health, safety or general welfare.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves a special exception to waive the 15-foot setback requirement of County Code § 18-4.19 on Parcel IDs 04500-00-00-026A2, 04500-00-00-026B2, 04500-00-00-026B3, 04500-00-00-026B4, and 04500-00-00026B5.

Agenda Item No. 22. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Price reminded the Board that Supervisor Mallek desired to include for their discussion the buffer protection for Albemarle streams. She asked Supervisor Mallek to address that first.

Ms. Mallek said she hoped everyone received the emails with the information provided to her by various sources of staff, the Army Corps of Engineers, and neighbors. She said the example given here was the stream on the Via James and Highlands West property to the south of 240 as part of the Montclair application. She said the best-case scenario for her request would be for the Board to ask staff to let them know the process for changing the redesignation of this stream, which was done at the last minute before the adoption of the Crozet Master Plan, that it had been different for the first three master plans that existed.

Ms. Mallek said there was no effort to put the whole parcel into green space as it had been until last October, but just to reestablish the stream on County maps as seen in the mail received over the last few weeks. She said for more than 100 years, it was designated on there. She said there was also information from the Washington office of the Army Corps of Engineers that there was no redesignation of the stream by the Army Corps of Engineers, but staff was told otherwise by an unnamed source. She said that had been corrected. She said if the Board had questions, that would be the best way to proceed, as she already shared a lot of information with them. She said stream courses were a wonderful way to have linear connections between neighborhoods throughout the growth area, and particularly important for wildlife migration and for people.

Ms. Mallek said one of the frameworks at the comprehensive plan roundtable last Monday was about connections, and someone brought up streams and what a great place it was for trails and playing in the water, and the wildlife got to migrate around. She said in this property, it was part of the watershed protection that drained, after a few iterations, into South Fork Reservoir and provided drinking water for the entire area. She said it was very important they maintained the stream designations they had and protect them. She said it was so much harder to clean up after it had been ruined than it was to protect it from the beginning.

Ms. Price asked Mr. Richardson if County staff had any further comments on this discussion.

Mr. Richardson said Community Development Director Filardo was present at the meeting and could speak to the Board about what they understood at this moment. He said it was his understanding that they were awaiting a written response from the Army Corps of Engineers to verify the category of the stream. He said Ms. Filardo and Mr. Pohl in her department were working with a consultant who would perform independent verification of the stream and would provide a report back to Ms. Filardo and Mr. Pohl.

Ms. Price greeted Ms. Filardo.

Ms. Filardo greeted Chair Price and the Board. She introduced herself as Jodie Filardo of Community Development. She said this particular property, called the Montclair property, or project, was a property that had three different segments that had been identified on it that were channeled. She said segment one was an area that had already been piped by the current developer, segment two ran horizontally across the property, and segment three moved down the property into the stormwater retention area.

Ms. Filardo said there had been some confusion on what exactly was going on with each of these stream pieces, and as a result, they decided to procure an independent outside third party who was an expert in this to give a determination the County could stand on. She said they finished the negotiations on that contract today and they expected to have that purchase order issued by the end of this week but no later than the beginning of next week. She said that particular contract had, as part of its terms and conditions, the report from that expert was due in 60 days.

Ms. Filardo said what they wanted to do was get some expert advice on this particular thing and then move forward with a recommendation from there. She said the developer had been bringing forward a particular application and rezoning on this property and then they found out there had been a change in what staff understood to be the characteristics of this waterway. She said they were now going after the expert opinion so that they would all have something to stand on.

Ms. Mallek mentioned that the report would be back in 60 days, so that would take the history that had been provided already and then would go and look. She asked if the consultant was from the area.

Ms. Filardo said yes. She said their contract, as part of their approved vendor list for the County,

had two water experts, and this was one of those. She said this was someone who already had an existing contract and they were adding additional qualifications and requirements for this particular purchase order.

Ms. Mallek asked if, because the Army Corps of Engineers said they did not reclassify or redesignate, the consultant would get the answer they were looking for.

Ms. Filardo said they were waiting for and fully expected to get a written determination from the Army Corps of Engineers, which they had not yet received and had not yet been issued. She said they also had an expert's opinion to bring to the table as well.

Ms. Mallek asked if anyone from the Army Corps of Engineers or anyone else provide a timeline on when that would be arriving.

Ms. Filardo said no.

Ms. Mallek asked if they anticipated the application would be on hold until that arrived.

Ms. Filardo said the applicant requested an indefinite deferral at the Planning Commission, so that was as far as they knew right now.

Ms. Mallek said the two pipes under her driveway rotted away, two heavy corrugated pipes that were similar to the pipe in this circumstance, and at great expense, they had to replace them, but she was now worried that if the County was permitting houses to be built upon structures like that, what kind of jeopardy those residents would be in if those pipes failed in 30 years. She said this may be something they had no policy on right now, but she hoped they would get one.

Ms. Filardo said she would take that under advisement but could not comment on that at this time.

Ms. LaPisto-Kirtley said she looked forward to the report from the third party and the Army Corps of Engineers.

Mr. Andrews said he looked forward to hearing about this as well as how the investigation happened, so they knew what went on as well as what people assessed the current situation at the stream. He said he knew of a culvert on his road that had collapsed and was called to the attention of VDOT, but he would hate for a building to be on top of that as opposed to a bit of road.

Ms. Mallek said what she heard from the Board was that they wanted to wait for more information, so that was what they would do.

Ms. Price said she would only change that it was not a matter of if one of these pipes failed, but of when it would fail. She said she did not know the measurement of the life of a pipe such as that, but it existed. She thanked Ms. Filardo for staff's action to get the expertise to provide the information needed by the Board.

Ms. Filardo thanked Chair Price.

Ms. McKeel said she had read an article in the Richmond Times-Dispatch that in Hampton Roads, their workforce council was using a \$1 million grant for its strong pilot program to train members of their area's ALICE (Asset Limited, Income Constrained, Employed) members in skilled trades. She said it was interesting to target a specific population that needed it and she wanted to share it.

Ms. McKeel said they had been discussing their legislative packet, and she had something from 2/16/22 that was an executive summary that talked about Virginia Code 15.2-901 that now enabled localities to adopt an ordinance requiring landowners to remove or dispose of trash, garbage, refuse, litter, clutter, and other substances, excluding farming, that might endanger the health or safety of other residents. She said she had at least two or three of these exact properties, one of which they had been working on for over 15 years.

Ms. McKeel said she did not understand if there was something they needed to do to adopt this ordinance and to make this work for their community in these areas and neighborhoods where they did not have HOAs. She said she wanted staff to get back to the Board about this issue. She said uncontrolled vegetation growth and stagnant water were covered under ordinances and staff was aware of that, so she did not understand why they could not enforce these ordinances that were enforceable.

Ms. Price said Mr. Richardson and Mr. Rosenberg could address that for the Board.

Ms. Mallek said even with an HOA, it took 12 years to get a house fixed in Hickory Ridge.

Ms. McKeel said she knew staff had been trying.

Mr. Andrews said ABBA continued to oversee the VATI (Virginia Telecommunication Initiative) programs. He said there had been some glitches and some Board members may continue to hear from constituents about connection issues with VATI, but he would assure them that staff was vigilant in trying to communicate. He said that said, there had been some significant things like a water line being cut. He

said DHCD (Department of Housing and Community Development) was coming for a site visit tomorrow to see the work, and October 3rd was the scheduled date for the official transfer of assets to Brightspeed from CenturyLink Lumen. He said that may or may not have an impact, but there would be more information as the work being done continued.

Ms. Mallek asked if there was an itinerary for the DHCD visitors.

Mr. Andrews said he could find out.

Ms. Mallek asked if she could nominate a few neighborhoods.

Mr. Andrews said he did not know.

Mr. Gallaway said he and a constituent attempted to search archive material through the website and encountered some obstacles. He said he could not navigate the site, and perhaps he needed his own training session to learn how to use it. He asked if the County archives were different from the School Board archives and if their search engines were different. He said he used to do more searching with School Board information, but through his own experience in trying to navigate this, he would like to understand it better so he could help constituents search for archive material.

Ms. Kilroy introduced herself as Emily Kilroy, Director of Communications and Public Engagement. She said she spent a few minutes with Supervisor Gallaway to see what he was seeing, and he was seeing problems. She said she identified three things that they needed to work on; pulling down some bad links, creating tutorials for different systems to navigate where items were located, and for anyone who would like to attend a demonstration, she would be glad to do that. She said they were working with IT to fix some minor issues that should be done by the end of the week, and she believed they could get some written guidance together that should address the concerns they looked at together. She said if after reviewing that they would like to have a session, that was certainly an option, but she hoped they could address it more quickly than that.

Mr. Gallaway said that would be beneficial. He said during the meeting, he attempted to search for the budget stabilization reserve to see if he could quickly find the 2017 information. He said he knew constituents did that as well for items that were important to them. He thanked Ms. Kilroy identified what could be fixed quickly and he would reach out for his tutoring.

Ms. Mallek said they had all been looking for the minutes from the Board of Supervisors from April 2014 for a year and had not been able to find them, so that was another example of the search function not working. She said she was glad Mr. Gallaway raised the issue.

Ms. Price said she meant to mention that she wanted to compliment Mr. Richardson and the HR department for item 8.3 on the Consent Agenda, which was the sick leave supplement for all employees. She said it was an incredible thing to do to provide a degree of security not only to current but incoming employees.

Ms. Price adjourned the meeting.

Agenda Item No. 23. Adjourn to September 21, 2022, 2:00 p.m., Lane Auditorium.

At 7:58 p.m., the Board adjourned its meeting to September 21, 2022, 2:00 p.m. Lane Auditorium. Information on how to participate in the meeting was posted on the Albemarle County website Board of Supervisors home page.

Chair

Approved by Board
Date 06/12/2024
Initials CKB