

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 6, 2022 at 12:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection, due to the COVID-19 state of emergency.

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

ABSENT: None.

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

Agenda Item No. 1. Call to Order. The meeting was called to order at 12:02 p.m. by the Chair, Ms. Donna Price.

Agenda Item No. 2. **Work Session:** FY 2022-2023 Operating and Capital Budget.

Mr. Richardson recognized this as the first hybrid meeting in the history of Albemarle County government, and he thanked the Board for their support and patience. He stated that he would introduce Mia Coltrane, Director of Human Resources, as a relatively new member of the County's leadership team who had been there for six months. He said that in a short period of time, Ms. Coltrane had traveled between the COB and 5th Street office buildings on a daily basis, and she was building a team that would be the first dedicated local government human resources function in a number of years.

Mr. Richardson said the Board and elected officials were dedicated to and supportive of the workforce. He said the work was done in partnership with the Executive leadership team, and moving forward, the County would look to move workforce stabilization in a way that strengthened and stabilized the workforce for years to come.

Mr. Richardson said Ms. Coltrane would discuss her thoughts and the leadership team's thoughts, as to where the County had been, what it was working on, and the things it wanted the Board to be aware of. He said the conversation would set up future conversations throughout the year. He said there were prepared slides and scheduled time for questions and discussion.

Ms. Mia Coltrane, Director of Human Resources, said the Board had a copy of the presentation. She explained workforce stabilization was the degree to which workers remained employed with an organization with 100% being premium optimum stability. She said 100% workforce stabilization was a nice goal, but there had to be realistic. She said retention was about staff retention and the tools used and the training and growth implemented in the programs and workforce.

Ms. Coltrane said there were 853.65 approved and funded positions. She said 7% of the positions were unfilled. She said there were recruitment challenges. She said retirements were also monitored. She said there were already 22 people who retired, and there were 10 people who were also retiring by the end of the fiscal year. She said there were 49 people that were eligible for either full or reduced retirement.

Ms. Coltrane said a 4% salary increase was proposed for July 1. She said it was an attempt to address ongoing inflation, salary challenges for new hires, and retention efforts. She said staff were able to research whether their pay was comparable, and the County wanted to provide accurate information to staff. She said there was \$1.5 million for the salary survey, implementation, and review. She said there was \$1.3 million for a 6% increase in health insurance premiums, and \$0.7 million for the VRS system rate increase.

Ms. Coltrane said the "great resignation" was more of a "great rethink." She said there was data pulled from a peer report; it was not from the current workforce. She said the exit interviews mimicked some of the data she was presenting. She said the peer report from March 9 highlighted areas that made people reconsider their employment. She said pay was a significant factor because pay was too low.

Ms. Coltrane said opportunities for advancement were a challenge. She said employees felt disrespected and not regarded in the workplace. She said there were ongoing childcare issues. She there was not enough flexibility in the workforce. She said the County wanted to continue providing employment benefits. She said people left work because they wanted to relocate. She said there were aspects that the County could not control. She said individuals rethought employment because of working too many hours, too few hours, or when considering COVID-19 vaccination requirements.

Ms. Coltrane said when the work-life balance was examined, there was a huge opportunity and challenge for the County. She said the work-life balance was huge, and there were individuals that combined the mental health and work-life balance, she said individuals considered whether they wanted to continue the work. She said the County aimed to make the organization a place that employees wanted to come to work and wanted to retain employment and grow.

Ms. Coltrane displayed a slide with a graph that displayed the generational breakdown of the working environment. She said Generation X and Generation Y each made up 38% of the organization. She said the breakdown was good for the County, but the workforce had to be retained. She said 17% of the workforce were Baby Boomers, and there was one member of the Traditionalist generation.

Ms. Coltrane said 7% of the workforce was in Generation Z. She said it was a generation that had never had to roll down a window, and they have always had technology. She said they were a generation that had their laptops and iPads in front of them at the grocery store, so they did not understand what had changed for them. She said there had to be flexible career paths. She said technology changes had to be met, and they had to be mindful of people coming to the organization from work environments that already had improvements.

Ms. Coltrane said the policy needed to mimic the technology expectations and the career path with the Equity, Diversity, Inclusion, and Belonging (EDIB). She said the policies had to show respect for the workforce.

Ms. Coltrane asked the Board "What does success look like?" She said success looked like proactive talent management oversight. She said the County knew ahead of time if there would be a vacancy, and it could plan for the vacancy by ensuring the job description was up to date or if it needed to be restructured. She said reduction in turnover needed to be examined. She said greater job satisfaction was a goal; though the work could not change for some roles, it could be made more comfortable.

Ms. Coltrane said she wanted Albemarle County to be an employer choice. She said there should be more individuals applying for positions. She said sometimes there were only one or two people who applied for a job posting. She said the applicant pool would reflect when the County became an employer of choice.

Ms. Coltrane said the next question was "How do we get there?" She said the County already had telework available and provided a flexible work environment. She said the supervisors would be evaluating whether job positions were telework eligible or capable. She said the supervisors would have to make the decisions. She said the job listing should notify applicants whether they will be allowed to work from home.

Ms. Coltrane said mental health challenges had to be addressed. She said the work to address mental health challenges had to be organic. She said the EAP program had to be examined and usage of it emphasized. She said the training and orientation discussed time management, stress management, incorporated mindfulness tools.

Ms. Coltrane said the HR department would examine the compensation, the policies, retention and recruitment, and learning and development. She said County emphasized soft skills and upskilling development. She said there may be a job with a skill change that may not require a reclassification and let the staff be upskilled. She said there was often a person that said they were proficient at Excel, and they could not make a spreadsheet to save their life. She said the tools to train those individuals should be available.

Ms. Coltrane said there was a Human Resources Information System (HRIS) that would allow the County to pull data quickly and allow staff to view their individual records and profiles and streamline the process. She said the market survey review was to determine where the County fell and where they were to get a baseline. She said the County wanted to ensure job benefits.

Ms. Coltrane said there had to be metrics to measure the outcomes. She said metrics would be added to evaluate skills and ability gaps. She said the time it took to fill a position would be evaluated. She said the Equity, Diversity, Inclusion, and Belonging gaps had to be considered. She said knowledge sharing was a point of consideration; whether one person knew all the process or were staff cross-trained. She said there must be succession plans. She said succession planning was not replacement planning. She said there would be people who retired or transitioned to other jobs, so the County had to be prepared to fill the vacancy and skill set. She said the County had to retain the staff employed.

Ms. Coltrane said the training department was preparing to give the supervisors compliance training. She said there was supervisor training, but the County wanted to ensure the supervisors knew how to coach people at the start and how to apply the policies and procedures. She said if the supervisors received the training, they were comfortable and confident to coach a staff member rather than going straight to discipline.

Ms. Coltrane said there had to be resources for the supervisors to help upskill and reskill staff members to relieve stress and create a better work-life balance. She said asked the Board if there were questions regarding the information she shared.

Ms. Price said the opportunities for the public to access and participate in the hybrid meeting was posted on the Albemarle County website, the Board of Supervisors homepage, and the Albemarle County Calendar.

Ms. Mallek said she had high standards for the workforce's performance. She said the supervisors should make the effort to provide training and support to help staff achieve whatever the performance standard may be. She asked what EAP stood for.

Ms. Coltrane said EAP stood for Employee Assistance Program.

Mr. Gallaway noted the generational breakdown provided of the County staff, and he asked if turnover was tracked by generational categories.

Ms. Coltrane said turnover was not currently tracked by generational category, but it would start.

Mr. Gallaway said he thought about the millennial age group when he thought about talent loss and turnover. He wanted to know how it impacted the County's ability to accomplish what it wanted to accomplish. He said it would be interesting to see the data. He said on the topic of mental health, he thought about the stress of the job. He said at his job, when an employee did something and turned it into him, he met with them, asked them questions, and voiced concerns in his office.

Mr. Gallaway said at the County, when issues came before the Board, there were cameras and video cameras, reporters, and the staff was coming before the County, and the criticisms and questions were done in such a public way that the stress level should be appreciated. He said the mental health and wellness pieces could be forgotten.

Mr. Gallaway said in terms of succession planning, the employees deserved to know how to move up in the organization. He said if there was not a good succession plan in place, then employees did not know if there was job growth. He said it was contingent on the organization show employees who were interested in upward mobility and moving to a higher position how to do that. He said if employees did not see the routes to job growth in the organization, then they might leave for other organizations that job growth was more apparent.

Mr. Gallaway suggested that as the Board undergoes the strategic planning process, that workforce stabilization be placed on the Board's list of strategic priorities. He said in the current priorities list there was the climate action plan, school space needs, revitalizing aging neighborhoods, and none was achieved without a healthy organization.

Mr. Gallaway said when budgeting and programming of resources was discussed, the strategic plan was consulted. He said the employees and organization deserved and needed the resource programming over the next two to five years to rise to the level of the strategic plan. He said workforce stabilization could be a top priority. He said the process was coming up in the fall. He said the item needed to be part of the Board's priorities in the next strategic plan.

Mr. Andrews said he agreed with Mr. Gallaway's comment that workforce stabilization be included as a priority. He noted the 4% compensation increase along with the \$1.3 million for the 6% increase. He asked if there was an estimate of the value of the benefits package provided to the County staff.

Ms. Coltrane said an answer would require further research. She explained when there was an increase in salary, but there were no increases to benefits, they both needed to be addressed. She said if an employee was not able to be offered a good salary, the County could additionally offer competitive job benefits.

Mr. Andrews said that his son's employer had informed his son on the value of the entire employment package. He said the employees may appreciate understanding the full value of the package as an employee.

Mr. Richardson requested Mr. Andy Bowman, Chief of Budget, step forward. He said there were conversations about every dollar paid in salary, how did it drive the associated benefits, such as the direct benefits seen in the budget.

Mr. Andy Bowman, Chief of Budget and Department of Finance and Budget, said the full list and breakdown of what benefits were included for particular positions could be provided. He said some of the benefits under the VRS were set by the state as a percentage. He said there were health and benefit rates as well. He said as part of the compensation and classification study, the County would look at the benefits and total package of the employees, and not just the salary piece.

Ms. McKeel said the Board had discussed over the last decade ways to communicate to employees the value of their benefits package. She said as there was more direct deposit, people were not understanding the benefits because they did not receive a paper pay slip or check. She said it would be good for the employees to understand the value of the benefits package.

Ms. McKeel said when employees either came to the office or worked from home, where it was appropriate. She said in terms of environmental issues, getting cars off the road, a lot was learned during the pandemic about ways to reduce the carbon footprint. She said the community went through a terrible event on August 17 during the Unite the Right rally. She said it created bad press, nationally. She said when you still search "Charlottesville" or "Albemarle" on the internet, a lot of the negative information was displayed.

Ms. McKeel asked Ms. Coltrane to provide her thoughts on the matter in the future, or to tell the Board what it could do to help the image of Albemarle County, nationally. She said it spoke to recruitment. She said if she were looking at a job in the County, the first thing she did was search it on the internet. She asked Ms. Coltrane if, based on her professional opinion, there were things the Board could do that would improve. She said the supervisors knew how great of an employer the County was, and it wanted to be better. She said the organization did not want to be branded under an old negative reputation.

Ms. Coltrane said she would take Ms. McKeel's suggestion under consideration. She said in terms of the benefits to staff members, under the ADP, staff could look at their profile or paystub and click through dropdown menus to see what they were paying for in benefits. She said it was visible to staff in the system. She said the pay slip was electronic.

Ms. McKeel suggested staff should be made more aware of the electronic document.

Ms. Price said she agreed with Mr. Gallaway's comments. She said she concurred with the comments from Mr. Andrews and Ms. McKeel. She said in the Navy, she would receive a statement of their total military compensation, which should substantially more than hourly wage or salary. She said it included the taxes paid by the employer. She said as a self-employed individual, she had to pay double on certain taxes.

Ms. Price said there were health care benefits and vacation benefits. She said everyone should understand the total compensation package. She said the employee should not have to search for the information, and it should be front and center. She said downside to technology is that users were expected to search for information. She said the particular item needed to be front and center, all the time. She said for the generation that never had the opportunity to roll down a window, she said her truck had manual door locks and windows, so she was happy to show them how it worked.

Mr. Gallaway said he appreciated Mr. Bowman's recent set of answers to questions. He said he had requested the School Division to explain in more detail what the \$3 million budget for workforce stabilization entailed in the Albemarle County Schools' budget. He said he appreciated the response, but he did not ask his question well.

Mr. Gallaway requested actual examples of what the School Division thought could occur in the given year that the money would be spent. He said when he asked the question to the County Executive, he got the response that it could be used for signing bonuses, for outside the pay range, bonuses—he said examples that could be done per employee or for different staff. He said he did not want commitments, but he wanted examples of what the School Division thought would be necessary—moving part-time to full-time, accelerate certain positions, and so on.

Mr. Bowman said he would follow up with the School Division staff for a more complete response.

Ms. LaPisto-Kirtley said on the topic of Mr. Andrews' question, if someone was salaried at \$75,000 a year, the real cost for the person was \$95,000 or \$105,000. She asked if that was the type of information Mr. Andrews' requested.

Mr. Richardson said it tracked exactly as Ms. LaPisto-Kirtley laid out. He said for every dollar, what would be the additional amount on the dollar in salary paid out in benefits. He said the data would be pulled together and presented to the Board. He said the information would be good because during the market survey, the County would gain an idea of how the benefits structure and investment compared to the market. He said the information was necessary to understand the things that were out there that the County did not offer, or the things out there the County needed to consider.

Ms. LaPisto-Kirtley said it would be good for the public to know the real cost to the County.

Ms. Price said the comprehensive compensation study would give the opportunity to look at the totality of various types of costs, expenses, and benefits so that both the County and individual employees or potential employees could see the benefits they would receive and the total value of their employment package. She said for some people, health care may be important while for others, time off may be better. She said it would help towards retention and workforce stabilization.

Mr. Richardson explained Mr. Bowman would discuss the next steps, the number of sessions that have been held, what was ahead, and ensure the Board was aware of what was to follow before the May 4 adoption of the budget.

Mr. Bowman said the Board would return on April 27 to continue the discussion on athletic fields. He said items would be revisited that had been identified by the Board for potential adjustment at the April 27 meeting as well. He said those items included changes to staffing in the DSS, whether accelerated or additional positions; capital or one-time issues, such as the athletic fields, the Boys and Girls Club of Central Virginia; the request for additional funding into the housing fund to an even \$5 million; additional support for the Southwood project. He said those items were being prepared by staff to be brought before the Board in the future. He said responses to the other questions and answers from the Board would be provided.

Agenda Item No. 3. Adjourn.

At 12:40 p.m., the Board adjourned its meeting until 1:00 p.m.

Agenda Item No. 1. Call to Order.

Ms. Price called the meeting back to order at 1:00 p.m. and said the opportunities for the public to access and participate in the electronic meeting was posted on the Albemarle County website, the Board

of Supervisors homepage, and the Albemarle County Calendar. She said participation would include the opportunity to comment on those matters for which comments from the public will be received.

Ms. Price announced the following in attendance: Jeff Richardson, County Executive; Cynthia Hudson, County Attorney; Board Clerk Claudette Borgersen; and Senior Deputy Clerk Travis Morris. She said other staff would introduce themselves and their titles at the appropriate times throughout the meeting.

Ms. Price announced the following Albemarle County police officers in attendance: Officer Jason Freishtat, Officer. Kevin Dean, and Captain Randy Jamerson.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price said Mr. Andrews had requested to remove item 8.2, Amend Section 8 of the Board's Rules of Procedure, from the Consent Agenda.

Mr. Andrews said that was correct.

Ms. Price said she would add onto the agenda, under item 8, Consent Agenda, a discussion by the Board with regard to the procedural rules for speakers on matters from the public not on the agenda for public hearing or on matters previously considered by the Board or on matters pending before the Board, which were the rules adopted during the pandemic. She asked if there were other requests from supervisors to remove any item from the Consent Agenda or to remove any items from the agenda.

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

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

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

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

Ms. Mallek announced spring was here, and Riverfest was beginning April 22 with activities sponsored by the Rivanna Conservation Alliance, and it ended with the Flow Art Festival on May 1. She said the Rivanna River Arts Festival was held from 11 a.m. to 3 p.m. on May 1, and it would be home-based at the Louis and Clark Exploratory Center where there would be arts, dance, drama, sculpture, and painting throughout the settler's grounds with music on the boat. She said the event would highlight exploring the river through art, and it was an opportunity to connect with the river in new ways. She said it was part of the River Renaissance that was started a number of years ago with the River Basin Commission and County staff.

Ms. LaPisto-Kirtley welcomed the people who came to the meeting. She said it was wonderful to be back in person and see so many people and for everyone to be together.

Mr. Gallaway said the people from the media had found their seats.

Mr. Andrews said he had received a notice that the Batesville Concert for Ukraine would be held on April 10, from 1 p.m. to 7 p.m. at Page's Field in Batesville.

Ms. McKeel said the pinwheels around the County and at the County office buildings were a symbol of lighthearted childhood and a carefree life for children. She said she wanted to ensure everyone knew that April was child abuse prevention month, and that is what the pinwheels represented. She asked that people support the County organizations and the nonprofit organizations that supported families and children.

Ms. McKeel said she had attended an event at the Ivy Creek Natural Area. She said the event was to recognize the work that was done around the historic Riverview Farm, the house and property of the Carr Greer family. She encouraged people to visit the Ivy Creek Natural Area. She said the property had been cleaned up, invasive species had been removed, and the barn was a treat to see.

Ms. Price added that she too was at the Ivy Creek Natural Area event. She said the farm started because a formerly enslaved person purchased for \$58 100 or more acres of land that became more than 250 acres eventually. She said the story was an example of an American success story—a Black family from enslavement to one of the most important operating farms in the region and the first Black individual to be an agricultural exchange agent who helped many other poor families in the area to become successful farmers.

Ms. Price said Greer School was named after a descendant of the family. She said there were

wonderful trails on the property. She said the homestead building itself was open, and the foundation was raising money and doing research before renovating the building and opening it to the public. She said the house started as a two-over-two, then had expansions added on. She said the farm was part of a history that was often overlooked. She said Albemarle County was not just the home of rich white people like Framers and Founding Fathers, it included working families and Black families.

Ms. Price said she had the opportunity to observe an exhibit at the Jefferson School on picturing climate justice. She said she had received a report from the organization that hosted the exhibit, and she forwarded the report to Ms. Emily Kilroy, the Director of Community and Public Engagement. She said the report showed the intersection between poverty, the environment, and quality of life. She said those individuals who were at the lowest income levels tended to be in the highest struggle in terms of simple things like paying utilities.

Ms. Price said on the topic of affordable housing, average median income had to be considered. She said the report showed that for those struggling financially, they tended to be in housing and locations that were heat islands that required a higher percentage of income for basic utilities services. She said she looked forward to ways to employ and implement that into the County's plans to help improve the quality of life for everyone.

Ms. Price said she had the opportunity to participate as a moderator on a panel that was hosted by Albemarle County's own former Director of the Office of Equity and Inclusion, Siri Russell. She said the panel dealt with the way social media used algorithms to send people down the dark hole of hate and divisiveness. She said it was interesting to see the people who dealt with communications, math and analysis to show how a person may start with a relatively innocent and innocuous search, and before you know it, they were inundated with hateful language. She said it was part of the propaganda that was leading to the divisiveness in the country, so it was important that people be aware of it.

Ms. Price said it was wonderful to be back live, in person, in Lane Auditorium. She expected more people would continue to show up for the meetings. She said the silver lining from the pandemic from the County's situation was that there was now a hybrid opportunity for those who were not able to come to Lane Auditorium can still participate virtually. She said those who were unable to access the internet, as the Broadband Authority and the County's Office for Accessibility and Affordability helped to improve that, would still have the opportunity to come into Lane Auditorium.

Ms. Price said the Blue Ridge health district lead on the medical side. She said Albemarle County continued to have the highest vaccination rate and the lowest infection rate in the Commonwealth. She said it had kept people safe. She noted more than 980,000 Americans had died over the past two years. She said the CDC released guidance to permit a second booster vaccine for those over the age of 50 or other immunocompromised people.

Ms. Price encouraged everyone to consult with their primary physician to see whether they were eligible and should receive the vaccination. She said she appreciated that while the whole auditorium was not set up for social distancing, people were being respectful of those around them. She noted some people were wearing masks and some were not. She said one of the hallmarks of Albemarle was the 'Virginia way.' She said the respectfulness the community had experienced and expressed with each other had made a tremendous difference.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Proclamation Recognizing April as Fair Housing Month.

Mr. Gallaway **moved** to adopt the proclamation recognizing April as Fair Housing Month 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. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.
NAYS: None.

Ms. Stacey Pethia, Housing Policy Manager, accepted the proclamation. She said fair housing was important to individuals in the community as a whole. She said where someone lived determine the quality of education, of accessible employment opportunities, and of available amenities.

Ms. Pethia said all County residents were invited to participate in a community art project to celebrate fair housing. She said www.engage.albemarle.org had information regarding fair housing, and all residents of all ages and artistic abilities were invited to submit a piece of art that considered what community and diversity meant and how to come together as a whole. She said towards the end or middle of the month, the submissions would be posted on the website for consumption.

Ms. Mallek said more and more was learned about the environmental deficits of low-income neighborhoods. She noted there was often a lack of trees to provide shade.

Ms. LaPisto-Kirtley said she had a cousin who devoted her life to fair housing. She said the stories of people who used various things to trick people to not let them have adequate housing brought shame to the system. She said she admired her cousin's work because housing makes a difference and where people live makes a difference for their quality of life.

Mr. Gallaway thanked Ms. Pethia for her work in the County and for the Regional Housing Partnership in attacking the issue regionally. He said the Regional Housing Partnership was underway with a strategic plan to start understanding the mission and scope of the partnership over the next five years. He said developers, nonprofits, community members, and elected officials from other localities were involved in the partnership with the County.

Mr. Andrews said the Board often discussed housing issues and appreciated the focus on fair housing with the proclamation.

Ms. McKeel said she agreed with the comments from the other supervisors. She thanked the member of the community who sent a copy of the book, *The Color of Law*. She said it was one of the best educational experiences she had. She said the book discussed how the government segregated the United States. She recommended the book.

Ms. Price said she had given the proclamation to the clerk, and Ms. Pethia could retrieve it from the clerk.

Proclamation Proclaiming April as Fair Housing Month

WHEREAS, April 2022 marks the 54th Anniversary of Title VIII of the Civil Rights Act of 1968, known as the Civil Rights Fair Housing Act; and

WHEREAS, this Act provides for equal housing opportunity for all Americans regardless of race, color, religion, sex, national origin, familial status, or disability as well as to ensure fair practice in the sale, rental, or financing of property; and

WHEREAS, the Fair Housing Amendments Act of 1988 added new rights, remedies, monetary penalties, and strengthened its enforcement procedures to affirmatively further housing choices, to eliminate legal barriers to equal housing and to emphasize equal housing as a fundamental human right for all; and

WHEREAS, individuals in Virginia have the right to choose where to live without discrimination based on race, color, religion, national origin, sex, elderliness, familial status, disability, source of funds, sexual orientation, gender identity, or military status; and

WHEREAS, Albemarle County supports the intent and purpose of the Federal Fair Housing Act, the Virginia Fair Housing Law, and follows policies and practices in order to achieve their goals.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby support equal housing opportunity and seek to affirmatively further fair housing not only during Fair Housing Month in April, but throughout the year.

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

Mr. John Cruickshank said he lived in the White Hall district in the Earlysville area. He said he was a resident of the area since 1980. He said he was retired from the Albemarle County Schools. He said he had an 8-year-old grandson who was an aspiring athlete.

Mr. Cruickshank said he came before the Board to discuss grass. He urged the Board to maintain and enhance only natural grass athletic fields in the County. He said natural grass had so many advantages over synthetic turf; improved water quality, reduced runoff and erosion, and provided habitats for worms, insects, and other beneficial organisms, absorbed carbon dioxide and released oxygen into the atmosphere, cooled the surrounding environment, provided a healthier environment for young athletes.

Mr. Cruickshank said artificial turf was made of synthetic products, such as polyethylene, polyester, and nylon, with some type of acrylic coating. He said the artificial turf would pollute the water, air, and soil. He said it would create a heat island up to 150 degrees Fahrenheit in hot weather. He said the turf was expensive and only lasted about 8 years, when it then became garbage. He said the manufacture and disposal of artificial turf produced greenhouse gases.

Mr. Cruickshank said in the long-range solid waste plan, it was stated that the wasteful use of resources and the creation of non-recyclable waste byproducts would be reduced, and wherever possible, eliminated. He said the climate action plan stated the County would protect and restore natural carbon sinks, promote practices on managed land that trapped carbon and minimized carbon emissions.

Mr. Cruickshank said while artificial turf may be convenient, maintaining a healthy and sustainable environment was often inconvenient but necessary. He hoped the Board had had the opportunity to read an NPR report by Sandy Hausman on artificial turf.

Ms. Barbara Cruickshank said she lived in Earlysville. She said children were not small adults—

they required additional precautions to ensure their health and development. She said there was not one person in the room who did not know artificial turf contained dangerous industrial chemicals. She said those chemicals could migrate into the bodies of children and disrupt their immune systems, hormonal systems, and neurological systems that were developing.

Ms. Cruickshank said the artificial turf manufacturers could not provide proof of safety. She said the law did not require the manufacturer to provide proof of safety. She said the basic guiding principle of children’s environmental health was a precautionary principle. She said the principle stated that when there was any action considered, if there was some evidence of harm to human health and the environment, and other options were available, another action must be chosen to ere on the side of caution.

Ms. Cruickshank explained the precautionary principle had been adopted to guide decisions on children’s environmental health by the European Union, Sweden, Denmark, Finland, Canada, and multiple other countries. She noted the United States had not adopted the precautionary principle. She said the system required the consumer prove evidence of harm. She said if a precautionary principle was used in terms of artificial turf, the artificial turf fields would not be constructed. She said there were other options and more than enough evidence of harm to the health of the children and the environment. She said it was 2022 and nothing had to be proven.

Ms. Price closed the matters from the public.

Agenda Item No. 8. Consent Agenda.

Ms. Price noted that item 8.2 on the Consent Agenda had been pulled.

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

Mr. Gallaway noted that Lance Stewart and Trevor Henry had responded to his questions. He said he had questions regarding the FES report that was on the Consent Agenda. He said the Facility Master Plan study results had been published. He said the report could come before the Board for further discussion sometime in the summer or the fall, and he mentioned the Southern Convenience Center and the Wildflower Meadow.

Item No. 8.1. Fiscal Year 2022 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 \$2,592,862. 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 described in Attachment A.

Appropriation #2022040

Sources:	State Revenue	\$2,567,410
	Currently appropriated Albemarle Broadband Authority (ABBA) Operating Budget	\$640,000
Uses:	2020 Virginia Telecommunication Initiative (VATI) Grant	\$291,300
	2021 Virginia Telecommunication Initiative (VATI) Grant	\$2,916,110
Net Change to Appropriated Budget:		\$2,567,410
Description:		
This request is to appropriate the following State revenue grant funding awarded to the Albemarle County		

Broadband Authority (ABBA):

- \$291,300 for the 2020 Virginia Telecommunication Initiative (VATI) Grant to support fiber broadband for rural areas of the County. The project provided the ability to gain access to fiber broadband for approximately 837 serviceable units.
- \$2,276,110 for the 2021 Virginia Telecommunication Initiative (VATI) Grant to support fiber broadband for rural areas of the County. A transfer of \$640,000 from the currently appropriated ABBA operating budget will serve as the match for the grant. The project will provide the ability to gain access to fiber broadband for approximately 1,675 serviceable units.

Appropriation #2022041

Sources:	Federal Revenue	\$25,452
	Currently appropriated Fire Rescue	\$25,452
	Department operating budget	

Uses:	2021 Local Emergency Management	\$50,904
	Performance Grant (LEMPG)	

Net Change to Appropriated Budget:	\$25,452
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Description:

This request is to appropriate \$25,452 in Federal Revenue from the 2021 Local Emergency Management Performance Grant (LEMPG). A transfer of \$25,452 from the currently appropriated Fire Rescue Department operating budget will serve as the match for the grant. Grant funds will be utilized to sustain and expand existing public safety and preparedness messaging and ad campaigns as well as support expanded advertisement and utilization of the County's public warning system "Code Red."

By the above-recorded vote, the Board approved the resolution in Attachment B approving FY22 appropriations:

**RESOLUTION TO APPROVE
ADDITIONAL FY 2022 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2022040 and #2022041 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2022.

* * *

APP#	Account String	Description	Amount
2022040	4-4300-91097-491097-950030-9999	SA2022040 VATI 2020 Grant \$291,300 and VATI 2021 Match \$640,000	-\$348,700.00
2022040	4-4300-91097-493000-935100-9999	SA2022040 VATI 2021 Match	\$640,000.00
2022040	3-4302-91097-324000-240820-9999	SA2022040 VATI 2021	\$2,276,110.00
2022040	3-4302-91097-351000-512000-9999	SA2022040 VATI 2021 Match	\$640,000.00
2022040	4-4302-91097-491097-950030-9999	SA2022040 VATI 2021 Broadband Incentives	\$2,916,110.00
2022040	3-5350-33300-333000-330215-9999	SA2022040 LEMPG Grant	\$25,452.00
2022040	3-5350-33300-351000-512004-9999	SA2022040 Grant Match	\$25,452.00
2022040	4-1000-33300-493000-935100-9999	SA2022040 Transfer from General Fund	\$25,452.00
2022040	4-5350-33300-432000-600000-9999	SA2022040 Supplies	\$2,000.00
2022040	4-5350-33300-432000-379300-9999	SA2022040 Advertising	\$48,000.00
2022040	4-5350-33300-432000-379200-9999	SA2022040 Printing and binding	\$904.00
2022040	4-1000-33300-432000-379200-9999	SA2022040 Printing and binding	-\$280.00
2022040	4-1000-33300-432000-379300-9999	SA2022040 Advertising	-\$25,172.00

Item No. 8.3. Commonwealth of Virginia 457 Deferred Compensation Plan.

The Executive Summary forwarded to the Board states that as a benefit to employees, the County offers a voluntary deferred compensation program by which employees can contribute portions of their earnings into 457(b) retirement savings accounts. Unlike the mandatory Virginia Retirement System (VRS) defined benefit program, to which both the County and the employee are required to contribute, the deferred compensation program is funded solely by employees' voluntary pre-tax contributions. The 457(b) retirement savings accounts held by County employees are similar to 401(k) accounts available to

private sector employees.

The County first established a deferred compensation program in 1983. The 1983 ordinance also created a Deferred Compensation Committee appointed by the County Executive. The ordinance granted the Committee the power to do all things by way of supervision, administration, and implementation of a plan of deferred compensation, as described in County Code § 2-1108 -- § 2-1110. After years as a work group, the Committee has recently been formally appointed and is reviewing the County's options.

When the County's deferred compensation program was first established in 1983, such programs were in their infancy. At that time, it made sense for the County to pool its resources with other localities in offering this benefit. However, over time, the County's deferred compensation program has grown to over \$51 million in employee retirement contributions and earnings, as of 6/30/2021. At the same time, many more options exist to serve these growing savings, often with lower fees and expenses.

A growing number of Virginia public employers now offer the Commonwealth of Virginia's 457 Deferred Compensation Plan (the "COVA 457 Plan") to their employees (Attachment A.) This Plan has several advantages, most notably lower costs and fees to participants/employees, described in Attachment B. Because of these benefits, the Deferred Compensation Committee has unanimously recommended adoption.

Because the County's Deferred Compensation Program is funded by voluntary employee contributions, no impact is expected on the County's budget.

Staff recommends that the Board adopt the attached Resolution to Adopt the Commonwealth of Virginia 457 Deferred Compensation Plan (Attachment C).

By the above-recorded vote, the Board adopted the attached Resolution to Adopt the Commonwealth of Virginia 457 Deferred Compensation Plan (Attachment C):

**RESOLUTION TO ADOPT THE COMMONWEALTH OF VIRGINIA
457 DEFERRED COMPENSATION PLAN**

WHEREAS, the County of Albemarle, Virginia (the "Employer"), acting by and through its Board of Supervisors, desires to adopt the Commonwealth of Virginia 457 Deferred Compensation Plan (the "Plan") for its employees as defined in the adoption agreement between the Employer and the Virginia Retirement System (the "VRS"); and

WHEREAS, the Plan, which includes both Roth and Traditional options, is authorized by the *Code of Virginia* § 51.1-600 et seq. and Internal Revenue Code § 457(b), and political subdivisions are authorized to participate in such Plan by the *Code of Virginia* § 51.1-603.1.

NOW, THEREFORE, BE IT RESOLVED, that the Employer hereby approves the adoption of the Plan for its employees in accordance with applicable law and policy; and

BE IT FURTHER RESOLVED, that the Employer's staff is hereby directed to implement the Plan effective the first day of June 2022 but no sooner than the date established and confirmed by VRS.

NOW, THEREFORE, the officers of the Employer are hereby authorized and directed in the name of the Employer to carry out the provisions of this resolution, enter an adoption agreement with VRS, and pay such sums as are due to be paid by the Employer for this purpose.

Item No. 8.4. Fiscal Year 2022 Virginia Department of Health (VDH) Local Government Agreement.

The Executive Summary forwarded to the Board states that Virginia Code § 32.1-31 allows local governing bodies to enter into contracts with the Virginia Department of Health (VDH) for the operation of local health departments. It also requires that these contracts specify the services to be provided in addition to those required by law and contain such other provisions as the VDH and the governing body may agree on. The County's contract specifies both the scope and costs for the services to be provided locally.

The Blue Ridge Health District (BRHD), in cooperation with the VDH, is the primary provider of public health services and programs for Albemarle County and surrounding localities. BRHD offers specific health programs targeted at preventing and controlling infectious diseases, as well as initiatives aimed at improving the health of low-income women, children, and infants. In addition, BRHD provides an inspection and monitoring program to ensure the safety of food and private well/septic systems. These services are funded cooperatively by the state, County, and other neighboring jurisdictions. Non-local funding for these BRHD programs is provided by the Commonwealth of Virginia, grants, and fees charged to individual clients. The localities served by BRHD provide matching local funds for the allocations made by the state and allocate resources for Local-Only Programs, such as food safety. The VDH requires that local governments enter into agreements stipulating the scope of health services to be provided by the health districts in their respective jurisdictions.

The proposed Fiscal Year 2022 (FY 22) Agreement (Attachment A) outlines the respective obligations of the County and VDH. The state's contribution decreased by \$13,410, for a total of

\$898,290, this fiscal year, and the County's required funding increased by \$16,177, for a total of \$821,999. Further, \$29,757 will be carried forward from the previous year-end BRHD closing balance into FY 22. These funds are 100% local funding. According to the most recent BRHD funding application information, the increase in County funding and the carry-forward funding is to support the Community Health Worker position and the associated costs of the Yancey Community Center clinic that serve southern Albemarle.

Attachment B sets forth the services to be provided.

Pursuant to the funding formula set by the Joint Legislative Audit and Review Commission and based on the state's FY 22 contribution of \$898,290 to the BRHD, the County's required FY 22 funding includes local matching funds of \$734,965, and \$87,034 in 100% local funds, for a total of \$821,999 in local funds for this fiscal year. Further, \$29,757 will be carried forward from BRHD's FY 21 year-end closing balances into FY 22; all of which are local funds.

Based on the vital nature of the services provided by the BRHD, staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the FY 22 Virginia Department of Health (VDH) Local Government Agreement (Attachment A) and to authorize the County Executive to execute that Agreement after it is approved as to form by the County Attorney.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment C) to approve the FY 22 Virginia Department of Health (VDH) Local Government Agreement (Attachment A) and to authorize the County Executive to execute that Agreement after it is approved as to form by the County Attorney:

**RESOLUTION TO APPROVE THE FY 22 AGREEMENT
BETWEEN THE COUNTY OF ALBEMARLE AND
THE COMMONWEALTH OF VIRGINIA DEPARTMENT OF HEALTH**

WHEREAS, the Board finds it is in the best interest of the County to enter into an Agreement with the Commonwealth of Virginia Department of Health for the operation of the local Blue Ridge Health District.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to Virginia Code §32.1-31, the Board of Supervisors of Albemarle County, Virginia hereby approves the FY 22 Agreement between the County of Albemarle and the Commonwealth of Virginia Department of Health and authorizes the County Executive to execute it on behalf of the County after it is approved as to form by the County Attorney.

* * * * *

Electronic Signature Agreement Page

**STATEMENT OF AGREEMENT TO
PROCESS NEEDED SIGNATURES OF
THE VIRGINIA DEPARTMENT OF
HEALTH (VDH) LOCAL
GOVERNMENT AGREEMENT
ELECTRONICALLY**

VDH and The Albemarle County Board of Supervisors agree to
use electronic signatures, as authorized in Title 59.1, Chapter 42.1
Uniform Electronic Transactions Act of the Code of Virginia.

Authorizing officer printed name and title

Authorizing officer signature

Parham Jaber, MD, MPH
Chief Deputy Commissioner for Community Health Services
Virginia Department of Health

Parham Jaber, MD
Authorizing signature

**AGREEMENT BETWEEN THE VIRGINIA DEPARTMENT OF HEALTH AND
THE ALBEMARLE COUNTY BOARD OF SUPERVISORS FOR FUNDING AND
SERVICES OF THE BLUE RIDGE HEALTH DEPARTMENT**

This agreement ("Agreement") for the services to be provided by the Blue Ridge Health Department and the funding therefore is by and between the Virginia Department of Health ("VDH") and Albemarle County Board of Supervisors (collectively "the Parties").

The Agreement is created in satisfaction of the requirements of § 32.1-31 of the Code of Virginia (1950), as amended, in order to operate the Blue Ridge Health Department under the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements in this Agreement, the sufficiency of which is acknowledged, the Parties agree as follows.

§ 1. VDH, over the course of one fiscal year, will pay an amount not to exceed \$898,290.00, from the state general fund to support the cooperative budget in accordance with, and dependent upon, appropriations by the General Assembly, and in like time frame, the Board of Supervisors of Albemarle County will provide by appropriation and in equal quarterly payments a sum of \$734,965.00 local matching funds and \$87,034.00 one-hundred percent local funds for a total of \$821,999.00 local funds for this fiscal year.

In addition, the Board of Supervisors has approved the Blue Ridge Health Department to carry forward \$0.00 in local matching funds for a total of \$734,965.00 matching funds and an additional \$29,757.00 in one-hundred percent local funds from the prior fiscal year closing locality balance.

SA

01/27/2022

These joint funds will be distributed in timely installments, as services are rendered in the operation of the Blue Ridge Health Department, which shall perform public health services in Albemarle County as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

§ 2. The term of the agreement begins July 1, 2021. This Agreement will be automatically extended on a state fiscal year to year renewal basis under the existing terms and conditions of the Agreement unless timely written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective.

§ 3. The Commonwealth of Virginia ("Commonwealth") and VDH shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.

- A. The responsibility of the Commonwealth and VDH to provide liability insurance coverage shall be limited to and governed by the Commonwealth of Virginia Public Liability Risk Management Plan, established under § 2.2-1837 of the Code of Virginia (1950), as amended. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under § 2.2-1839 of the Code of Virginia (1950), as amended, or under a policy procured by the locality.
- B. The Commonwealth and VDH will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Commonwealth of Virginia Public Liability Risk Management Plan.

- C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia (1950), as amended, when performed by a state employee, are herewith expressly exempted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Commonwealth of Virginia Public Liability Risk Management Plan , the Attorney General has approved, pursuant to § 2.2-507 of the Code of Virginia (1950), as amended, and the Commonwealth of Virginia Public Liability Risk Management Plan , the legal representation of said employee by the city or county attorney, and, the Board of Supervisors of Albemarle County hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
- D. In no event shall the Commonwealth or VDH be responsible for providing legal defense or insurance coverage for local government employees.

§ 4. Title to equipment purchased with funds appropriated by the local government and transferred to the Commonwealth, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.

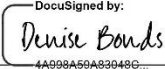
§ 5. This Agreement may only be amended or otherwise modified by an instrument in writing signed by the Parties.

Parham Jaber, MD, MPH
Chief Deputy Commissioner
Community Health Services
Virginia Department of Health

Local authorizing officer signature

Jeffery B Richardson
Authorizing officer printed name

Date



Denise Bonds
District Health Director
Blue Ridge Health District

County Executive
Authorizing officer title

Date

1/31/2022 | 10:22:14 AM EST

Date

Approved as to form by the Office of the Attorney General on July 23, 2018

Attachments: Local Government Agreement, Attachment A(1.)
Local Government Agreement, Attachment A(2.)

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT ([32.1-11](#))

For Each Service Provided, Check Block for Highest Income Level Served			
COLLABORATIVE COMMUNITY HEALTH IMPROVEMENT PROCESS	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Assure that ongoing collaborative community health assessment and strategic health improvement planning processes are established. To include public health, health care systems and community partners. As provided for in §32.1-122.03 Code Link- 32.1-122.03 ; State Health Plan Link Virginia Plan for Well-Being 2016-2020			X
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Immunization of patients against certain diseases, including Childhood Immunizations As provided for in 32.1-46 Code Link- 32.1-46			X
Sexually transmitted disease screening, diagnosis, treatment, and surveillance 32.1-57, Districts may provide counseling Code Link- 32.1-57			X
Surveillance and investigation of disease 32.1-35 and 32.1-39 Code Links- 32.1-35 , 32.1-39 , 32.1-43			X
HIV/AIDS surveillance, investigation, and sero prevalence survey 32.1-36, 32.1-36.1, 32.1-39 Code Links- 32.1-36 , 32.1-36.1 , 32.1-39			X
Tuberculosis control screening, diagnosis, treatment, and surveillance 32.1-49, 32.1-50.1, and 32.1-54 Code Links- 32.1-49 , 32.1-50 , 32.1-50.1			X
FAMILY PLANNING SERVICES	Income A only	Defined by Federal Regulations	All
Clinic services including drugs and Contraceptive supplies Family Planning Population Research Act of 1970, Title X Code Link- 32.1-77 , 42 U.S.C 300 et seq., and 42 CFR Part 59		X	
Pregnancy testing and counseling Family Planning Population Research Act of 1970, Title X Code Link- 32.1-77 , 42 U.S.C. 300 et seq., and 42 CFR Part 59\		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT ([32.1-11](#))

CHILD HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Children Specialty Services; diagnosis, treatment, follow-up, and parent teaching 32.1-77, 32.1-89 and 32.1-90 Code Links- 32.1-77 , 32.1-89 , 32.1-90			X
Screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements Code Links- 32.1-65 , 32.1-67 , 32.1-68			X
Well child care up to age 18 Board of Health Code Link- 32.1-77	X		
WIC : Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link42 U.S.C. § 1786; 7 C.F.R. Part 26		X	
EPSDT: DMAS MOA Social Security Act section 1905(r) (5) Code Link- 32.1-11			X
Blood lead level testing Code Link- 32.1-46.1 , 32.1-46.2			X
Outreach, Patient and Community Health Education Code Link- 32.1-11 , 32.1-11.3			X
Community Education Code Link- 32.1-11 , 32.1-23			X
Pre-school Physicals for school entry Code Link- 22.1-270	X		
Services for Children with Special health care needs Title V, Social Security Act Code Link- 32.1-77			X
Child restraints in motor vehicles Code Link- 46.2-1095 , 46.2-1097			X
Babycare, Child : DMAS MOA			X
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Prenatal and post partum care for low risk and intermediate risk women, Title V, Social Security Act Code Link- 32.1-77		X	
Babycare, Maternal : DMAS MOA		X	
WIC: Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link 42 U.S.C §1786 and 7CFR Part 26		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulation of the Board of Health and/or VDH agreements with other state or federal agencies and VDH policies. Data regarding the below services shall be entered in, or exported to, the statewide environmental health database for all available data fields. Local health department staff shall be responsible for responding to all complaints, constituent responses, media inquiries, and Freedom of Information Act request related to the following services.	
Investigation of communicable diseases: Pursuant to §§ 32.1-35 and 32.1-39 of the Code of the Code of Virginia, the local health director and local staff are responsible for investigating any outbreak or unusual occurrence of a preventable disease that the Board of Health requires to be reported. Code Links-32.1-35, 32.1-39	X
Marinas: Pursuant to § 32.1-246 of the Code of Virginia, local health department staff are responsible for permitting marinas and other places where boats are moored and is responsible for inspecting them to ensure that their sanitary fixtures and sewage disposal facilities are in compliance with the Marina Regulations (12VAC5-570-10 et seq.) Code Link-32.1-246	X
Migrant labor camps: Pursuant to §§ 32.1-203-32.1-211 of the Code of Virginia, local health departments are responsible for issuing, denying, suspending and revoking permits to operate migrant labor camps. Local health departments also must inspect migrant labor camps and ensure that the construction, operation and maintenance of such camps are in compliance with the Rules and Regulations Governing Migrant Labor Camps (12VAC5-501-10 et seq.). Code Links-32.1 Chapter 6 Article 6	X
Milk: Pursuant to §§ 3.2-5206, 3.2-5208 of the Code of Virginia and the agency's MOA with VDACS, the local health department is responsible for issuing, denying, suspending and revoking permits for Grade "A" milk processing plants which offer milk and or milk products for sale in Virginia. Local health departments are also responsible for the inspection of Grade "A" Milk plants for compliance with the Regulations Governing Grade "A" Milk (2VAC5-490-10). Code Links- 3.2-5206, 3.2-5208	X
Alternative discharging sewage systems: Pursuant to § 32.1-164(A) of the Code of Virginia, local health departments are responsible for issuing, denying and revoking construction and operation permits for alternative discharging systems serving individual family dwellings with flows less than or equal to 1,000 gallons per day on a monthly average. Local health departments are also required to conduct regular inspections of alternative discharging systems in order to ensure that their construction and operation are in compliance with the Alternative Discharging Sewage Treatment Regulations for Individual Family Dwellings (12VAC5-640-10 et seq.). Code Link-32.1-164	X
Onsite sewage systems: Pursuant to § 32.1-163 et seq. of the Code of Virginia, local health department staff is responsible for reviewing and processing site evaluations and designs of onsite sewage systems in accordance with applicable state regulations and may perform such evaluations and designs as allowed. Local health department staff is also responsible for issuing, denying and revoking construction and operation permits for conventional and alternative onsite sewage systems. Local health department staff are responsible for assuring that onsite sewage systems are inspected at time of construction for compliance with the Sewage Handling and Disposal Regulations (12VAC5-610-20 et seq.; "SHDR") and the Alternative Onsite Sewage System Regulations (12VAC5-613-10 et seq.; "AOSS Regulations"); local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. Code Link-32.1-163	X
Rabies: Pursuant to § 3.2-6500 et seq. of the Code of Virginia, the local health department is responsible for investigating complaints and reports of suspected rabid animals exposing a person, companion animal, or livestock to rabies. Code Link- 3.2-6500	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS

Restaurants/eating establishments: Pursuant to § 35.1-14 of the Code of Virginia, local health departments are responsible for issuing, denying, renewing, revoking and suspending permits to operate food establishments. In addition, local health departments are required to conduct at least one annual inspection of each food establishment to ensure compliance with the requirements of the Food Regulations (12VAC5-421-10 et seq.). These regulations include requirements and standards for the safe preparation, handling, protection, and preservation of food; the sanitary maintenance and use of equipment and physical facilities; the safe and sanitary supply of water and disposal of waste and employee hygiene standards. Code Link- 35.1-14	X
Hotels/Motels: In accordance with § 35.1-13 of the Code of Virginia, local health department staff is responsible for issuing, denying, revoking and suspending permits to operate hotels. The local health department is responsible for conducting inspections of hotels to ensure compliance with the Hotel Regulations (12VAC5-431-10 et seq.). These regulations include requirements and standards for physical plant sanitation; safe and sanitary housekeeping and maintenance practices; safe and sanitary water supply and sewage disposal and vector and pest control. Code Link- 35.1-13	X
Wells: Pursuant to § 32.1-176.4, and the resulting authority provided by the Board, local health departments are responsible for issuing, denying and revoking construction permits and inspection statements for private wells. Local health departments are also responsible for inspecting private wells to ensure that their construction and location are in compliance with the Private Well Regulations. (12VAC5-630-10 et seq.) Code Link- 32.1-176.4	X
Homes for adults: The local health department, at the request of the Department of Social Services (DSS), will inspect DSS-permitted homes for adults to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))	X
Juvenile Justice Institutions: Pursuant to § 35.1-23 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of juvenile justice institutions in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link- 35.1-23	X
Jail inspections: Pursuant to § 53.1-68 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of correction facilities in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link- 53.1-68	X
Daycare centers: At the request of DSS will inspect DSS-permitted daycare centers to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))	X
Radon Pursuant to § 32.1-229, local health department may assist VDH Central Office with Radon testing and analysis. Code Link- 32.1-229	X
Summer camps/ Campgrounds: Pursuant to §§ 35.1-16 and 35.1-17 of the Code of Virginia and the corresponding regulations, local health departments are responsible for issuing, denying, and revoking permits to operate summer camps and campgrounds. The local health department is responsible for conducting inspections of summer camps and campgrounds not less than annually to ensure that their construction, operation and maintenance are in compliance with the Regulations for Summer Camps (12VAC5-440-10 et seq.) and the Rules and Regulations Governing Campgrounds (12VAC5-450-10 et seq.). Code Links- 35.1-16 , 35.1-17	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)
VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES
OTHER PUBLIC HEALTH SERVICES
BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulations of the Board of Health and/or the policies and procedures of the State Department of Health	
Pre-Admission Screenings (PAS) DMAS MOA Code Link- 32.1-330	X
Comprehensive Services Act Community Policy and Management Teams (CPMT) 2.2-5201-2.2-5211 Code Link- 2.2-5201 , 2.2-5211	X
Interagency Coordinating Council (Infants/Toddlers) Early Intervention Services Code Link- 2.2-5305 , 2.2-5306	X
Vital Records Code Link- 32.1-254 , 32.1-255 , 32.1-272	X
Immunizations for maternity and post-partum patients Code Link- 32.1-11 , 32.1-325 , 54.1-3408 .	X
AIDS Drug Assistance Program (ADAP) Code Link- 32.1-11 .	X
Emergency Preparedness and Response Code Link- 32.1-42 , 32.1-43 et seq., 32.1-229 .	X
HIV Counseling, Testing and Referral Code Link- 32.1-37.2	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All
Foreign Travel Immunizations			
Other:			
CHILD HEALTH SERVICES			
Disabled disability Waiver Screenings DMAS MOA Code Link 32.1-330 Other:			
Other			
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Other:			
FAMILY PLANNING SERVICES	Income A only	Defined by Federal Regulations	All
Nutrition Education			
Preventive Health Services			
Pre-Conception Health Care			
Other:			
MEDICAL SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All
Community Education			
Other			

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
SPECIALTY CLINIC SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All
DENTAL HEALTH SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

PUBLIC HEALTH ENVIRONMENTAL SERVICES PROVIDED
UNDER LOCAL ORDINANCE OR CONTRACT

Neither the <i>Code of Virginia</i> nor Regulations of the Board of Health requires the following services to be provided by the local health department	Place an X in this column if service is provided for locality	Local ordinance code cite	Provide a brief description of local ordinance requirements
Water supply sanitation-Inspection of Water Supplies. Code Link- 15.2-2144 on local regulation			
Other Environmental – identify services below			
Smoking Ordinances	X	Albemarle Code §7-307 Charlottesville Code § 24.1-11	Enforcement
Water Supplies and Sewer System	X	Albemarle County Code, Chapter 18, Section 4.1	Enforcement- Establishes minimum area requirements for original and replacement subsurface drainfields that are more restrictive than state regulations require
Location of Onsite Sewage Systems	X	Albemarle County Code, Chapter 18, Section 4.2.4	Enforcement – In support of Section 4.2(Critical Slopes), intent is to discourage onsite sewage systems on slopes of twenty (20) percent or greater
Types of structures, improvements and activities which may be allowed in a stream buffer by program authority	X	Albemarle Country Code, Chapter 17, Section 600	Enforcement – In support of Chapter 17 (Stream Buffers), intent is to provide stream buffers in the development area, water supply protection area and rural area which require sewage disposal systems to be located a minimum of 100 horizontal feet from a perennial or intermittent stream and 200 horizontal feet from the flood plain of any public water supply impoundment. The applicable state regulations require a minimum of 50 horizontal feet.

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)
VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES
PUBLIC HEALTH SERVICES PROVIDED UNDER
LOCAL ORDINANCES OR CONTRACT WITH LOCAL GOVERNMENTS
OPTIONAL PUBLIC HEALTH MEDICAL SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
Neither the <i>Code of Virginia</i> nor Regulations of the Board of Health requires the following services to be provided by the local health department. (Identify services below)	Income A only	Local ordinance code cite, or contract number	All

Item No. 8.5 Donation of Surplus Gym Equipment to the Albemarle County Sheriff's Office.

The Executive Summary forwarded to the Board states that the Albemarle County Police Department (ACPD) is updating its on-site training facility and equipment with funding approved in the Fiscal Year 2022 (FY 22) budget. The Albemarle County Sheriff's Office has indicated its personnel would benefit from having the surplus equipment formerly used by ACPD.

While donating the training equipment would remove the potential of the County's receipt of nominal revenue from the sale or auction of the property, the County would avoid personnel costs to handle the equipment multiple times through the typical surplus property sale or auction process, and the Sheriff's Office would benefit from having the additional training equipment at no cost to them.

Virginia Code §15.2-953 (C) permits the Board of Supervisors or any locality to make a donation to another governmental entity in or outside of the Commonwealth within the United States.

Making this donation would eliminate the potential nominal revenue from the sale or auction of the surplus property, but the Sheriff's Office would avoid the cost to purchase the additional equipment.

Staff recommends that the Board authorize the donation of surplus gym equipment to the Albemarle County Sheriff's Office.

By the above-recorded vote, the Board authorized the donation of surplus gym equipment to the Albemarle County Sheriff's Office.

Item No. 8.6 Resolution to accept road(s) at CATEC into the State Secondary System of Highways and to Abandon/Delete a Portion of the CATEC Drive.

By the above-recorded vote, the Board adopted the Resolution to accept road(s) at CATEC into the State Secondary System of Highways and to Abandon/Delete a Portion of the CATEC Drive:

RESOLUTION

WHEREAS, portions of Route 9567 have been realigned and new segments constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Virginia Department of Transportation has inspected these new street segments and found them to be acceptable for maintenance; and

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors, this the 6th day of April, 2022, that the old segments of Route 9567, identified in the "Abandonment" section of the attached Form AM-4.3, are no longer needed as part of the Secondary System of State Highways, as new road segments serve the same citizens as the old segments and are hereby requested to be deleted and/or abandoned by the Virginia Department of Transportation pursuant to § 33.2-912, Code of Virginia, 1950 amended.

BE IT FURTHER RESOLVED, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the new segments identified in the "Addition" section of the attached Form AM-4.3 as part of the Secondary System of State Highways, pursuant to § 33.2705, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT.

BE IT FURTHER RESOLVED, that the County Board of Supervisors does hereby guarantee unencumbered rights-of-way plus the necessary easements for cuts, fills, and drainage for these added segments;

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Virginia Department of Transportation.

* * * * *

In Albemarle County

38172256

by Resolution of the governing body adopted April 06, 2022

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): 

Report of Changes in the Secondary System of State Highways

Project/Subdivision: 0631-002-128, C502

Abandonment - Project by VDOT §33.2-912

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
9567	Calec	Rt 631	Rt 9567	0.06			
9567	Calec	Rt 9567	Rt 9567	0.08			

Addition - VDOT Project §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
9567	Calec	Rt 9567	Rt 9567	0.03			0
9567	Calec	Rt 9567	Rt 9567	0.05	2		0

In Albemarle County
by Resolution of the governing body adopted April 06, 2022

38172256

Page: 2/2

Item No. 8.7 Facilities & Environmental Services (FES) Quarterly Report – 1st Quarter CY2022, **was received for information.**

Item No. 8.8 Land Use and Environmental Planning Committee Semi-Annual Update, **was received for information.**

The Executive Summary forwarded to the Board states that on November 6, 2019, the Board of Supervisors, Charlottesville City Council, and UVA senior leadership agreed to form the Land Use and Environmental Planning Committee. The Committee's membership is comprised of representatives from the City, County, UVA, the UVA Foundation, and Rivanna Water & Sewer Authority, as well as representatives from the City's and County's planning commissions.

LUEPC's charter requires that it submit semi-annual updates to Albemarle County, Charlottesville, and UVA leadership.

From September to December 2021, the Committee heard presentations from UVA on the North Fork development; thermal energy and alternative systems for energy production and carbon reduction; and community partnerships and engagement. The City presented on Schencks Branch Sanitary Sewer Interceptor project and the City's Comprehensive Plan. Albemarle County gave presentations on its Stream

Health Initiative; large scale solar deployment opportunities; greenhouse gas emissions; the County's Comprehensive Plan; and community engagement strategies.

There is no budgetary impact.

Staff recommends that the Board receives this report.

Item No. 8.9 Transportation Planner Quarterly Report, **was received for information.**

Item No. 8.10 January 2022 Winter Storm After-Action Review, **was received for information.**

Item No. 8.11 Board-to-Board, March 2022, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Item No. 8.2 Amend Section 8 of the Board's Rules of Procedure

The Executive Summary forwarded to the Board states that, during the COVID-19 pandemic, the Board's Rules of Procedure ("Rules") were amended several times to accommodate virtual meetings, and then hybrid meetings, which is the meeting posture the Board begins on April 6. The amendments to the Board's Rules during the pandemic removed the former rule that allowed an individual Supervisor to participate by electronic communication means in certain circumstances allowed by Virginia Code § 2.2-3708.2. If the Board desires to allow a Supervisor to participate in a meeting by electronic communication means when a quorum of the Board is physically assembled, the policy must be re-inserted into the Board's Rules of Procedure.

Virginia Code § 2.2-3708.2 allows members of Virginia public bodies to participate by electronic communication means when a quorum of the public body is physically assembled if the member is unable to physically attend because of a medical condition, a disability, the need to care for a family member with a medical condition, or a personal matter. However, a public body must adopt a policy meeting the requirements of Virginia Code § 2.2-3708.2 for its members to be able to participate in a meeting using electronic communication means.

The proposed amended Rules (Attachment A) would add Rule 8(A), which is the policy required by Virginia Code § 2.2-3708.2. Briefly, amended Section 8 identifies the circumstances when a Supervisor may participate by electronic communication means, requires the Supervisor to notify the chair before the meeting, and establishes the requirements for the Board to act on the request and for the Clerk to document the request. New Rule 8(B) revises and incorporates the substance of current Rule 8 pertaining to when the Board may meet virtually.

The Board's Rules of Procedure may also need to be amended again before July 1, 2022. HB 444 would amend Virginia Code § 2.2-3708.2 and add Virginia Code § 2.2-3708.3. HB 444 was approved by the General Assembly and is awaiting the Governor's signature at the time this executive summary is written. The deadline for the Governor's signature is April 11

There is no anticipated budget impact.

Staff recommends the Board adopt the draft amended Rules of Procedure (Attachment A). For the Board to adopt the amended Rules at its April 6 meeting, Rule 13(B)(3) requires the affirmative vote of five Supervisors.

Otherwise, the Board may follow one of the alternative procedures in Rule 12(B)(1) or (2), which is a two-step process by which a Supervisor gives notice to the Board of an intention to amend the Rules at one Regular Meeting of the Board, with action on the amendment itself to follow at the next (Rule 12(B)(1)) or a later (Rule 12(B)(2)) Regular Meeting of the Board

Ms. Price said the Board would discuss item 8.2, to Amend Section 8 of the Board's Rules of Procedure, pulled from the Consent Agenda.

* * * * *

Mr. Andrews said the Consent Agenda attached on the original agenda had inconsistencies and errors that needed to be fixed. He said there were copies available with a corrected version. He said the corrected version of the rules had been reviewed that made it clear as to who to notify in the case of a supervisor attending a meeting remotely, and also the rules regarding how remote attendance was allowed and how often a supervisor could attend remotely.

Ms. Price clarified that the particular section as Mr. Andrews referenced dealt with the procedures for a supervisor who may desire or need to participate virtually at a Board meeting, as well as the number of times that may happen, and the necessary notification if a supervisor were to request to participate virtually.

Ms. Cynthia Hudson, County Attorney said one of the last actions of the former County Attorney Mr. Greg Kamptner was to propose the amendment to the rules in section 8 that addressed individual remote participation by supervisors to conform to the setting now following the lifting of the pandemic restrictions that allowed the Board under law to conduct all-virtual meetings.

Ms. Hudson said in order to allow participating individually by supervisors on a virtual or remote basis, the rules were suggested to be amended to incorporate the requirements of the Freedom of Information Act (FOIA) section 2.2-3708.2, which allowed members to participate in meetings remotely

where a quorum of the body was physically assembled under certain conditions.

Ms. Hudson said those conditions were where the, assuming the supervisor followed the proper procedures in terms of notifying the Chair, those circumstances included the fact that a supervisor was suffering from their own medical condition or disability that prevented them from physically attending the meeting, or having to care for a family member with a medical condition that required them to not attend the meeting, or that they had a certain personal matter that had to be specifically identified that prevented them from attending the meeting. She said in order to invoke those bases for participating in the meeting remotely, the Board was required by FOIA to adopt a policy that set forth the bases and circumstances when the Board may consider approval of the remote participation. She said the amendment proposed to do that today.

Ms. Price said she believed the amendment also placed a limit on the number of meetings that a supervisor was permitted to attend virtually. She asked what the limit was.

Ms. Hudson said if invoking the personal matter basis for remote participation, a supervisor may only do that for two meetings per year, or 25% of the total number of meetings that the Board proposed to hold in a year, rounded up to the nearest whole number.

Ms. Price said the amendment required supervisors provide notification to the Chair in advance of the meeting and should notify the clerk, and if the supervisor requesting the exemption happens to be the Chair, the Chair will notify the Vice-chair and should notify the clerk.

Ms. Hudson said Ms. Price was correct. She said it was an additional amendment to the rule as it was originally submitted.

Ms. McKeel recognized this was Ms. Hudson's first day. She said there was an inquiry from one of the Planning Commissioners, that if it was possible if the Board adopted the amendment, would it be possible for the Planning Commission to adopt the amendment as well.

Ms. Hudson said any public body governed by FOIA with respect to its open meeting requirements could adopt a policy of this nature.

Ms. McKeel noted the Planning Commission and School Board could adopt a similar amendment.

Ms. Hudson said they would need to adopt a similar policy in order to permit members to participate remotely when there was a quorum of members physically present.

Ms. McKeel said the Commission was not an elected body, but they could adopt the amendment.

Ms. Hudson said that was correct.

Ms. Andrews **moved** to adopt Section 8 of the Board's Rules of Procedure as amended. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

* * * * *

Non-Agenda Item. Does the Board want to continue the practice of the 10-person speaker rule limit that was implemented during the pandemic?

Ms. Price said she had requested to add a discussion with regard to the rules of procedure established during the pandemic with regard to matters from the public not on the agenda for a public hearing but dealing with matters previously before the Board or with matters pending before the Board. She said prior to the meeting, she requested the clerk to distribute four questions that were open to expansion.

Ms. Price stated the questions. She said the first question was did the Board desire to continue the practice of having a 10-person speaker rule limit implemented during the pandemic. She said the rule was implemented in part because the times were during a work-meeting, and it was a public meeting of the Board, a meeting of the Board open to the public, not a public meeting. She said it was up to the Board to decide whether there would be limitations on the number of speakers. She opened the item up for discussion.

Ms. Mallek said she would prefer to have no limit on the number of speakers because on the rare occasion there was an issue that drew several speakers, she wanted them to feel welcome that they would be able to voice their opinions.

Ms. LaPisto-Kirtley said she did not have a problem with the 10-speaker limit. She said if a speaker had supporters in the audience, they could ask the audience who agreed with their comments and use the audience response in support of their comment. She said it communicated to the Board there were other people who supported what the person at the podium was saying.

Ms. LaPisto-Kirtley said there did not seem to be a lot of people, and people were able to send in written comments. She said every time there was a public hearing on a contentious issue, the Board

received hundreds of emails. She said the Board received the opinion of people prior to the public hearing. She said when the public hearing was before the Board, there was rarely new information from the public because the Board received several written comments prior.

Mr. Gallaway said he was fine keeping the speaker limit in place. He said if the total number of speakers was split between in-person comments and remote comments, then he would support a 10-person in-person comment limit and a 10-person remote comment limit. He said the intent of the limit was to allow the Board to keep control of the agenda time and what was on the agenda.

Mr. Gallaway said the limitation for non-public hearing items, because the rule was not in place for the public hearings, would still allow the Board to keep control of the work that needed to be done during the meeting. He said he did not know of a time in the past two years where the Board encountered an issue due to the rule, that became problematic to have the limit in place.

Mr. Gallaway said whether online or in person, the limit helped with better time management. He said if the Board decided it was 10 people total between remote and in-person comment, he would not object, but he suggested there be some leeway to allow enough speakers in person and remotely would be reasonable.

Mr. Andrews noted the rule only applied to matters that were not a public hearing. He said he would support equally dividing the number of speakers.

Ms. McKeel said she agreed with continuing the practice. She agreed with Mr. Andrews' point about not distinguishing between remote and in-person speakers. She said the Board was engaged. She said they read almost every e-mail they received, so there were other opportunities to reach the Board. She agreed with the 10-person speaker limit. She recognized the number of speakers was not limited for public hearings.

Ms. Price concurred with the comments. She noted that in the past two years, there may have been a couple of occasions when more than 10 people signed up to speak. She said there was a distinction from public hearings where there was not a number limitation. She said with regards to signs ups remotely and in-person, a thought she considered was if more than 10 total people signed up, five speakers would be chosen from the in-person group and five would be chosen from the remote group.

Ms. Price said each of the two groups would have an equal opportunity for the first five slots, and then the rest would be determined. She said technology had allowed the community to engage with the Board beyond what it was able to do before e-mail. She said the Board was engaged with meeting the public about matters. She said speakers who exceeded their speaking time limit were encouraged to submit their written comments that were not able to be articulated in front of the Board.

Ms. Price proposed that the Board take each in turn. She said if four or five were in favor of maintaining the 10-person limit—she noted Mr. Gallaway suggested a 10-person limit each for in-person and remote sign ups. She said there would be a vote after a full discussion.

Mr. Gallaway said the rationale for 5 and 5, that was the reason he suggested 10 and 10. He said it would not be unreasonable for there to be six people who would show up to speak in person and then there would be six remote speakers. He noted it was not usual 10 people showed up to speak, but the Board could see 5, and he would not want someone who came to speak to be bounced because they did not know who signed up remotely. He said the intent of expanding the limit was to allow flexibility in the total number of speakers of the combined groups.

Ms. Mallek said she considered people who travelled far to make a public comment. She said they might not have a related issue to an item on the agenda. She said many people had commented to her that they missed the in-person meetings and they did not use e-mail and they felt isolated from the process. She said since there had been few times in 14 years where the matters from the public went past its time, she suggested the limit would be more lenient because she wanted people to feel more welcome. She said it was possible for a group of enterprising folks to take over the comment period.

Ms. Price noted the Board had experienced extremely long meetings in the past. She said the rule was part of a time management strategy. She said maybe the questions should be taken in turn. She asked if a supervisor wanted to make a motion to maintain the 10-person speaker rule limit for matters from the public not on the agenda for public hearing.

Ms. McKeel **moved** to maintain the 10-person speaker rule limit for matters from the public not on the agenda for public hearing.

Ms. Hudson reminded the Chair about the rule of procedure with respect to amendments of Board rules, which required actual action be taken at the next regular meeting after such a proposal was made to amend.

Ms. Price said the item would be addressed the next meeting.

Ms. McKeel withdrew her motion.

* * * * *

Non-Agenda Item. Does the Board want to continue with the pandemic rule as outlined in the Boards Rules of Procedure that confines comments from the public to “Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board?”

Ms. Price said the item was up for discussion, and action would be taken the following meeting.

Ms. Mallek said she would like to stop with the limitation on topics. She said matters from the public was a way for an individual with a great idea to share it with the community.

Ms. LaPisto-Kirtley said she did not have a problem continuing with the pandemic rule. She said if someone had a great idea, they could e-mail the Board. She said the rule could control types of discussions that may arise that were not beneficial.

Mr. Gallaway said he did not know how the rule precluded any statement other than those entirely unrelated to County business. He said he was fine with the rule as stated because it was open to allowing for all of the comments the Board was interested in hearing. He said the great idea comment was often related to the strategic plan or connected to existing project of the County. He said he would be hard pressed to tell someone their comment did not relate to County business.

Mr. Andrews said he was fine with the rule

Ms. McKeel said she was fine with the rule and she did not view it as limiting.

Ms. Price said in regard to a meeting in February, the Chair was able to cut off a speaker immediately after accusations were being made. She said it was helpful to have a limitation on matters previously considered by the Board or pending before the Board. She said she supported keeping the restriction.

Ms. Mallek said she understood in the circumstance provided by Ms. Price. She asked how many times the clerk or someone in the registration process told a speaker they were unable to make their comment.

Ms. Price said she did not know.

Ms. Mallek said she was worried someone would state the intent of their comment, and then they would be denied. She said any topic could be connected to climate change or local government activity. She said if there was a filter that prevented people from speaking, that was a problem.

Ms. Price asked that the clerk prepare information for the Board before they took action on the follow-up item.

* * * * *

Non-Agenda Item. Will in-person speakers be required to provide the clerk with a PowerPoint presentation 48 hour in advance? This would be consistent with the rule implemented during the pandemic for online speakers.

Ms. Mallek said as long as people brought the presentation before the meeting began, and as long as it could be uploaded ahead of time so it was seamless in the presentation, she would be fine without the 48-hour rule.

Ms. LaPisto-Kirtley said the question as IT related. She said the 48-hour advance rule was intended to ensure the presentation could be handled prior to the meeting. She said if someone was able to come with a copy of the presentation and use it, it would not be a problem. She said she would leave it to the IT experts to determine the needs for presentations.

Mr. Gallaway said he was fine with the rule. He said the rule was a logistics piece. He said the clerk could decide on the IT piece. He said he supported what was reasonable to the clerk.

Mr. Andrews said it was an IT question. He said the rule of 48-hours in advance was for remote comments. He said if there was a different rule for in-person comment, it put someone in a position where they would have to come in person for their presentation if they did not submit their presentation in time.

Ms. McKeel said pre-pandemic, people would delay the meeting because of the USB drive. She said she was supportive of a timeframe to submit presentations.

Ms. Price said she saw it as an IT security issue. She said someone should not be permitted to plug in a USB drive that could potentially have malware and cause problems for the County. She concurred that by having the presentations in advance, they could be ensured to be safe and complied with the established procedural rules, and it avoided potential delays.

* * * * *

Non-Agenda Item. Does the Board want to close the signup period for “Matters from the Public” at the start of the item, or allow new speakers to approach the podium after the signup sheet has been delivered to the Chair?

Ms. Price noted online signups were limited before the matter started before the Board, but the clerk's office could clarify the rule.

Ms. Mallek said she would like people to be able to respond. She said they could sign up after items had started if they heard something that they would like to respond to and were in the period of the agenda.

Ms. LaPisto-Kirtley said the rule was for matters not listed for public hearing. She said it was time management related. She said if it was closed for people online, then it should be closed for people in-person. She said if people wanted to speak, they should be able to sign up, but it should be closed before the item started. She said it was more professional that once the item started, no more speakers could sign up.

Mr. Gallaway said he was fine with signups while the item was being addressed. He said there were plenty of times when people came in during the public signup period where the Board was not on a hard and fast agenda. He said items could start off schedule, and people could walk in and want to sign up to speak. He said from a time perspective, the issue was not problematic to the flow of the meeting. He said he was fine with signups continuing until the speaking period was over.

Mr. Andrews said one of the rules was that there was not back and forth during comments. He said he there should not be a limit before the item begins, but he felt once the item began, there was the risk that people would want to speak because they would want to respond to a previous speaker. He said he did not know if that was consistent with how the Board wanted to handle meetings.

Ms. McKeel clarified a point Mr. Gallaway made. She said he referenced people signing up to speak at the start of the item. She said she was not as adamant about people signing up. She said it was important people signed up to speak to control the timing of the meeting. She said late meetings were not good. She said the rule stated, "or allow new speakers to approach the podium after the signup sheet had been delivered to the chair." She said that option did not allow for good time management. She said it would encourage the public to respond to previous comments and create back and forth debate.

Ms. McKeel said if an individual wanted to respond to a comment, they could e-mail the Board. She said it was a fairness issue. She said if she went through the trouble of signing up to speak, regardless at what point they walked into the room. She said without signups, it was not fair to the people who did signup to speak.

Ms. Price said she concurred with Ms. McKeel's and especially with Mr. Andrews' comments. She said someone should sign up before the signup sheet was passed to the chair. She asked if there were other items with regard to the topic that supervisors would like to address.

Mr. Gallaway clarified that logistically, when the clerk delivered the speaker sheet, it was the start and the Board went through the rules for comment. He said he believed people had to sign up to speak. He said speakers should not cherry pick to get the last word. He said there were instances where people did not know they had to sign up to speak. He said how it played out, the clerk delivered the sheet, and as soon as another person signed up, the new sign up was delivered immediately. He said he supported time management, and in the past, it had not been an issue from a time management perspective.

Ms. Price said the Board could ensure that the people present knew there was a signup sheet on the side of the auditorium to ensure people were not overlooked from the opportunity to speak.

Ms. McKeel noted at one point there was a sign.

Ms. Price said something similar could be done.

Agenda Item No. 9. **Action Item:** Commonwealth Drive/Dominion Drive Sidewalk Project Update.

The Executive Summary forwarded to the Board states that the Commonwealth Drive/Dominion Drive Sidewalk Project is a locally administered project, funded through the Virginia Department of Transportation's Revenue Sharing Program. The extent of the proposed work on Commonwealth Drive addressed in the Revenue Sharing Agreement include sections of Commonwealth Drive from Hydraulic Road to Dominion Drive, and Dominion Drive from Commonwealth Drive from to Route 29. The approved scope was limited to the provision of sidewalks to enhance pedestrian safety.

During the design process, staff and project engineers with Kimley-Horn Associates considered alternatives to expand the scope to include features to enhance both bicycle safety and safe access to public transportation stops. A thorough evaluation of existing conditions and scope alternatives indicate the potential for a number of valuable enhancements, but also impacts to properties which may be considered negatively be neighborhood residents. Staff will provide a recommended scope of work which achieves the project's primary objectives while limiting negative impacts.

The proposed scope of work does not require funds beyond those previously identified for this project.

Staff recommends that the Board direct Staff to proceed with the proposed scope of work.

Mr. Lance Stewart, Director of Facilities and Environmental Services (FES), said an update would be provided for the sidewalks project. He said it had been in the design phase for some time. He said there was a staff recommendation at the end of the presentation. He said the project was challenging, and the recommendation was that the scope of the project needed to be modified from when it was approved by the Board and approved for funding by VDOT during the revenue sharing process due to the negative impacts on the neighborhood in question. He said the Board would be asked to consider a motion to formally reduce the scope of work to reflect the information presented.

Mr. Kevin McDermott, Planning Manager, said the project was first identified in the 2011 Places29 Master Plan. He said the plan recommended to add sidewalks along Commonwealth Drive where they did not exist. He said in the implementation chapter of the plan, there were recommendations for sidewalks along Commonwealth Drive and Dominion Drive. He said between 2015 and 2017, the Planning Division was considering ways to best prioritize projects for grant applications.

Mr. McDermott said in 2016, the transportation priorities were discussed with the Board. He said the Board requested the Commonwealth Drive and Dominion Drive sidewalks were added to the list of priority projects to look for grant opportunities. He said the Planning Division did not previously have as formalized a process as it did now, but the list of priority projects would be reviewed to identify good applications for funding.

Mr. McDermott said a revenue sharing project was considered in 2017. He said the sidewalk project rose to the top during review for potential project candidates because transit accessibility, and Route 5 went along Commonwealth Drive, and it was known as the route with the highest ridership in Albemarle County, so the transit accessibility was emphasized. He the residential area was high density along Commonwealth Drive, the highest concentration of apartments.

Mr. McDermott said there was a lot of commercial development in the area. He said Stonefield was adjacent to Commonwealth Drive. He said equity issues were considered because the neighborhood had some of the highest concentrations of low-income and racially and ethnically diverse populations in the County. He said there was another sidewalk project along Hydraulic Road that connected Commonwealth Drive to Georgetown Road to provide connectivity.

Mr. McDermott said in 2017, the Board approved seeking revenue sharing funding for the sidewalk project. He said the application was approved for funding in 2018. He said in 2019, just as the agreements with VDOT were being executed, the Jefferson Area Bicycle and Pedestrian Plan was adopted. He said the plan recommended bicycle facilities on Commonwealth Drive. He said the sidewalk project was evaluated to see if the bicycle facilities could be incorporated.

Mr. McDermott provided an aerial map of the project site. He noted the length of Commonwealth Drive. He said the project split between the Jack Jouett and Rio Magisterial Districts. He mentioned the Stonefield area, Route 29, and Hydraulic Road. He said the initial project recommended sidewalk along Commonwealth Drive, and he noted a section of the road that already had sidewalk on both sides. He said the project was broken into three segments labeled on the map. He noted the location of the commercial, area 29th Place, and of the higher density residential area.

Mr. McDermott said the purpose of the project was to improve pedestrian and bicycle facilities along Commonwealth Drive between Hydraulic Road and Greenbrier Drive, along Commonwealth Drive between Commonwealth Circle and Four Seasons Drive, and along Dominion Drive between Commonwealth Drive and Route 29.

Mr. Brian McPeters, consultant with Kimley-Horn, said he had worked with the County staff for over 16 years. He said the project was intended to be a pedestrian and bicycle safety project. He said there were associated transit user improvements. He said the types of improvements contemplated by the original application were concrete sidewalk and bicycle accommodations. He said both "sharrows," arrows in the roadway designed to communicate to cyclists where to ride their bike, or in-road bike lanes were evaluated.

Mr. McPeters said pedestrian crosswalk improvements were considered. He said the ways pedestrians accessed and crossed the street had to be considered and ensured it was done safely. He said transit stop improvements and enhancement would be discussed in detail for CAT bus route users. He said the project would implement ADA accessibility improvements and follow appropriate guidelines.

Mr. McPeters said the corridor for sidewalk improvements was divided into three segments. He said each of the segments had a slightly different context. He said near Hydraulic Road along Commonwealth Drive were multifamily, high density residential type developments. He said the second segment was less dense and had more single-family residential housing. He said the third segment which went to Route 29 was a transitional area—there was single-family residential along with commercial uses along the corridor.

Mr. McPeters said the first segment ran from the completed project that Kimley-Horn helped deliver with the County at Hydraulic Road to the signal at Greenbrier Drive. He said the displayed slide was an opportunities graphic that gave a sense of the area around the first segment. He said there was existing sidewalk in the first segment and Kimley-Horn helped construct the sidewalk in 2004 along the northern portion of Commonwealth Drive in the first segment. He said there was already a continuous pedestrian facility in the right of way. He noted transit stops along the segment. He pointed out that

throughout the segment there were crosswalks and other proposals that would be discussed.

Mr. Dillon Lynch, Kimley-Horn, said the first component along the first segment was the western-most portion along Commonwealth Drive, where they connected the existing sidewalk that was constructed on Hydraulic Road to the bus stop on the east-bound route of the CAT system. He said the intent was to improve accessibility at the bus stop, provide a wider sidewalk area for potential transit stop amenities, and provide a safer landing area for buses as they approached the stop.

Mr. Lynch said the slide displayed a photograph of Commonwealth Drive looking east towards the bus stop. He displayed the same image with a rendered sidewalk improvement overlayed. He noted the rendered sidewalk connected to the bus stop and a rendered transit shelter. He noted the sidewalk would be maintained and serve as the main east-west pedestrian route along Commonwealth Drive. He said while there may not be continuous sidewalk along the southside of Commonwealth Drive, the existing publicly maintained sidewalk on the northside would be maintained.

Mr. Lynch said the next component of the first segment was in the middle near Northwest Drive. He said the intent was to connect the existing bus stops that straddled Northwest Drive with an accessible crosswalk. He said there was currently no accessible crosswalk until Hydraulic Road or Greenbrier Drive. He said there would be transit stop improvements and accessible crosswalks between the bus stops.

Mr. Lynch said the final component of the first segment was the eastern most portion of segment one near Peyton Drive. He said there was a similar scope of transit stop improvements and crosswalk connectivity across Commonwealth Drive. He said the bus stop location would be moved slightly. He explained there was not a lot of opportunity to improve accessibility without significant tree removal and uprooting of landscaping, so the bus stop was proposed to be moved to a more desirable location and closer to existing bus stops on the other side of Commonwealth Drive.

Mr. Lynch displayed a photograph of eastbound Commonwealth Drive looking towards the existing bus stop. He displayed the same image with the proposed improvements rendered on top.

Mr. McPeters said continuous sidewalk was not proposed along the southside of Commonwealth Drive. He said part of the reason was because of the number of parcels, and as the number of parcels impacted by the construction increased, the more complicated acquisitions became. He said the construction did not also fit inside the space behind the curb throughout the length.

Mr. McPeters said the number of impacts would be reduced by targeting the improvements to just the transit stops to a minimum number of eight. He said approximately three driveways had to be reconstructed to ensure the driveway was accessible and the accessibility guidelines were met with the new pedestrian route. He said two transit stops were improved with shelters, benches, and signage, and a third stop was relocated and a structure would be constructed similar to the graphics displayed.

Mr. McPeters said there was existing sidewalk in the second segment east of Greenbrier Drive until Westfield. He said there was a potential continuous sidewalk to connect sidewalk from the section to the third segment and Four Seasons Drive. He said the section had significant impacts if constructed, and it would be part of the recommendation later for addressing the second segment.

Mr. Lynch said the sidewalk would be focused on the southside of Commonwealth Drive. He said it was evaluated whether sidewalk on the north or south was more viable and the impacts were similar, so it was decided to focus the efforts on the southside of the road. He said the main goal was to connect the existing sidewalk on Commonwealth Drive to the existing sidewalk on Four Seasons Drive to complete the gap. He said there would be a bus stop relocation. He said the bus stop currently sat in the middle of Commonwealth Drive with no pedestrian connectivity. He said the concept proposed to move the bus stop to Four Seasons Drive to help improve pedestrian connectivity.

Mr. Lynch said noted two options considered for the southside of Commonwealth Drive. He said the impacts to maintaining the existing curb line were displayed. He said the benefits were that the road would be unimpacted, and the existing parking and pavement width would be unaffected. He said in order to not disturb the curb line, it required intrusion into individual properties and structures and other large impacts that inspired the need for a potential engineering solution that would help minimize the impacts.

Mr. Lynch said the solution to mitigate the impacts was displayed beneath. He said curb and gutter were proposed to be in the pavement, thereby reducing intrusions into individual parcels by five feet. He said the landscape impact was able to be compared from the images.

Mr. Lynch displayed an image of the existing conditions looking west along Commonwealth Drive. He said it displayed one of the steeper front yards to illustrate the potential impacts of the sidewalk construction. He displayed the same image with the rendered sidewalk improvements of embedded curb and gutter in the pavement overlayed. He said the anticipated impact was visible. He said the parking on the other side of the road would be unaffected, but in order to fit the section as shown, the parking on the southside of Commonwealth Drive would have to be removed.

Mr. Lynch said in order to maintain the parking, the scale of impacts on the individual properties was greater and moved the sidewalk further into the grass. He displayed a rendered image with sidewalk improvements and maintained parking.

Mr. McPeters said if sidewalk were constructed continuously through the second segment, and to

make the improvements more appealing for negotiations with property owners for acquisitions of easements and right of way, that would involve the loss of approximately 30 legal parking spaces. He said spaces were not marked on a subdivision street or roadway street. He said the spaces would be lost in order to reduce the necessary amount of surface grading.

Mr. McPeters said there would be 13 properties impacted, and those impacts were fairly consequential through right of way negotiations. He said there were ways to compensate the owner for the impacts, but it became challenging and time consuming. He noted there were a number of driveways that changed by 10 to 12 feet in elevation and were steep, and they had to be made steeper to fit the sidewalk through. He said there had to be a flat, 2% grade space for the pedestrian walkway.

Mr. McPeters said there were seven grading impacts to front yards and driveways. He said of the 13 properties impacted, seven had substantial grading impacts. He said one transit stop had to be relocated, which would be a benefit to the segment. He said there was no way to connect pedestrians to the existing transit stop. He said the second segment would be challenging, if not impossible, to implement in the current project because of the impacts, the associated costs, and time impact. He said the project still had to be presented to the public. He said in Kimley-Horn's opinion, the public would not receive the information favorably.

Mr. McPeters said the third segment was the piece that turned from Commonwealth Drive down Dominion Drive and approached the Route 29 intersection. He said in the third segment, there was a mix of high-density residential housing and single-family residential housing.

Mr. Lynch said three different sidewalk options were evaluated for the third segment. He said the options were sidewalk on both sides of the road, sidewalk along the southside, and sidewalk along the northside. He noted that unlike the second segment, there were fewer front yard impact concerns to provide sidewalk on both sides. He said the options were considered given the constraints.

Mr. Lynch said the benefits to the southside option, there was existing sidewalk that could be incorporated, minimizing the amount of construction required for the corridor. He said the downside to the option was a lack of direct connectivity to the 29th Place commercial development.

Mr. Lynch said the biggest benefit of the northside option was that it connected to the commercial development. He said additional sidewalks would need to be constructed, including ramp improvements at the Route 29 intersection, but a direct connection to the shopping center could be provided. He noted the front yards in the corridor were not as great of a concern as in the second segment.

Mr. Lynch said the property impacts were similar between the northside and southside options for the third segment in terms of number of homes and properties impacted. He said both options offered a similar level of impact.

Mr. McPeters said only the second segment would construct a sidewalk all the way through the section. He said the second segment did not provide sidewalk on both sides of the road. He said the first segment made a connection between the transit stops and the existing continuous sidewalk. He said for the third segment, the number of impacts would be increased to construct sidewalk on both sides, so it suggested only one side of the third segment needed to be improved with a pedestrian sidewalk.

Mr. McPeters said the first and second segment would provide room for bicycle accommodations, and both segments included transit improvements, shelters, and signage. He said all of the sections would meet ADA accessibility guidelines. He said there were two takeaways for the second section. He said one was for the second segment to appeal to property owners, the elimination of approximately 30 on-street parking spaces had to be considered. He said the disadvantages and challenges of the grading required and right of way impacts in the second segment would generate significant costs to implementing the segment.

Mr. Stewart said staff recommended that the first segment proceed as discussed. He said it was in the conceptual design phase, and there was still public outreach and more design opportunities to consider and the work with VDOT to determine what was allowable. He said it was presumed that 'sharrows' be used in the section rather than dedicated bicycle lanes because the elimination of the lines in the road triggered a VDOT requirement to repave the road before remarking which was a considerable expense and would include rebuilding every ADA ramp along the way.

Mr. Stewart said the intention was that when it was time to repave the road that the marking would be done at that time in conjunction with VDOT at no cost to the developer. He said the combination of signage and 'sharrows' would be a significant improvement over the current conditions. He noted the transit shelter improvements were important at the location. He said it was a major driver for many of people who took the buses in the County.

Mr. Stewart said it was recommended that no work be considered for the second segment. He said it would not be palatable to the neighbors, and in addition to the right of way acquisition, the County erred on property owners declining. He said the project could not proceed even to bidding until every right of way and easement be acquired, which could be an indefinite delay. He said in the third segment, it was believed sidewalk on one side of the road instead two was sufficient, and that both sides would be duplicative. He said the opinion of staff was to continue design and public outreach efforts to consider which of the two sides of the road would have the most advantages and least number of impacts.

Mr. McPeters said the schedule, pending direction from the Board, would advance the design phase of the project. He said there was ample work to be done before the public was to be engaged. He said the intention of the time would be in the fourth quarter later in the year, a formal community meeting would be held where the drawings and findings would be presented, and the impacts to parcels would be clarified so property owners were aware of what would be acquired, and they would be given opportunity to provide feedback, comments, and input on the design.

Mr. McPeters said it was likely staff would come back before the Board for a formal endorsement of the design, and approval for the design would be received which would enable the project to begin right of way and utility relocations throughout 2023 into 2024, and construction would begin by the end of 2025 and the spring of 2026. He said the schedule would be expedited where possible, and property owners and stakeholders would be worked with to come to a design that could be completed so people could use the sidewalk as soon as possible.

Ms. Mallek asked if the sidewalk was absent in the first segment. She noted there were designs for short sections that would make huge improvements.

Mr. McPeters said sidewalks in the first segment providing a pedestrian connection to the transit stops to the continuous sidewalk were proposed. He said a continuous sidewalk on the southside of Commonwealth Drive was not proposed, from Hydraulic Road to Greenbrier Drive, predominantly because of the significant impacts to a number of parcels based on width.

Ms. Mallek clarified that the segments marked with orange on the slide were included in the proposal.

Mr. McPeters said for the first segment, everything that was presented was proposed to move forward. He clarified that was not a continuous southside sidewalk from one intersection to the next.

Ms. Mallek clarified that the short sidewalk sections were focused on transit access and crossing the road.

Mr. McPeters said Ms. Mallek was correct. He said for the first segment, pedestrians would have to cross at the signalized intersection constructed in 2016 or 2017.

Ms. LaPisto-Kirtley said she had a question regarding the second segment, but since they were not moving forward with the segment, she would hold her question.

Mr. Gallaway said the third segment, if one side was constructed, the parking would remain—it would not be removed if sidewalk was constructed on only one side of the road.

Mr. Lynch said the intent with the third segment, whichever side was decided upon, the parking would remain the same—the existing curb and gutter would remain unaffected and the parking through the corridor would be maintained as is.

Mr. Gallaway said he understood the issues with the second segment. He said he hoped if the first and third segment were created, the community living in the second segment would decide to agree to the project.

Mr. McPeters said the second segment would remain on the Board's priority list unless the Board changed it.

Mr. Gallaway said once the gap in the sidewalk became evident, the community may change its opinion. He said it was a tough ask of the property owners given the steepness of some of the yards. He said his one frustration with no improvements in the second segment was related to the transit stop issues. He asked if there was a way to improve the transit stops. He noted that there was a picture of a single transit stop pole sticking up out of the grass.

Mr. Gallaway said the bus stopped and people exited into a yard; there was no facility, no crossing. He said there were a lot of similar stops. He asked if there was a way to make a transit improvement while not constructing the sidewalk elements. He said if there was a chance to get a transit stop improvement in the second segment, he would like it considered. He said he did not disagree with the staff recommendation.

Mr. Gallaway said as he understood, the sidewalk in the first segment would connect to a privately maintained sidewalk, or under private possession. He said when facilities were considered, the current sidewalk and parking area, when new facilities were installed to connect the facilities that were not being maintained, obviously it was the various owners of the parcels who were responsible for maintenance and upgrade of the sidewalks.

Mr. Gallaway said it should be considered how to influence the maintenance. He said he heard from people in the area that rent raises that should be considered criminal were happening, but if the increases were happening, then there should be facility upgrades happening as well. He said the area might not be in the field, but it gave him the opportunity to raise the question that they had the responsibility to upkeep the property in a way that if public facilities were connected to them, they should do their part to enhance it for the people who lived there and for the people who traversed the sidewalk. He said he supported the improvements suggested in the first segment.

Mr. Andrews said the idea of getting off the bus and stepping into traffic was concerning. He noted there were proposed connections to the existing sidewalk segments. He said he shared a similar concern over the bus stops in the second segment, without there being any sidewalk. He noted the steep slopes in the second segment. He said he could imagine the driveways that would be affected. He noted the southside driveways in the third segment would be steepened. He asked if they would be steepened the same amount in terms of how steep they would become.

Mr. McPeters said it was 8 on one side and 7 on the other, but he did not have the information as to how steep they became. He said there was enough due diligence to ensure the project would be completed within the County's requirements, but they would steepen.

Mr. Gallaway said the southside of the road was on the left which was the inverse on the area of the second segment because the driveways sloped up to the road. He noted it would be easier to manage than a driveway that sloped down to the road.

Mr. McPeters said it would be part of the analysis as they considered which side of the road to put the sidewalk on if the recommendation was approved as staff proposed.

Mr. Andrews said which side was better for acquisition purposes would be evaluated. He said the project was great.

Ms. McKeel said she had discussed the project with Mr. Gallaway multiple times. She said it overlapped with the Rio and Jack Jouett magisterial districts. She asked about the transit stop in the second segment. She said Mr. Gallaway was correct. She added that Mr. Garland Williams, Director of CAT, was working with VDOT on the criteria and the process to get right of way for the bus stops and shelters. She encouraged that CAT prioritize the item because Mr. Williams would be coming before the Board with a list of bus stops to prioritize.

Ms. McKeel said it would be a missed opportunity. She said another stop was prioritized on Georgetown Road, another area with high levels of transit users. She suggested Mr. Williams should be contacted. She said she agreed with the comment regarding the second segment. She said it would be difficult to get the right of ways, and the best way to get them would be as Mr. Gallaway suggested and complete construction on the other two sides. She noted the third segment was good but still required more work. She said choosing one was the right decision for access. She suggested that if the side opposite the shopping center were chosen, there would be a pedestrian connection crossing the road to the shopping center.

Mr. McPeters said one of the concerns of the consultant team was the proximity to the signalized movement at Route 29. He said VDOT would be a tough sell for a crosswalk because of the process and the proximity to Route 29. He said if the sidewalk were placed on the southside, the crosswalk would be requested, but the decision ultimately lied with VDOT.

Ms. McKeel said it would be a missed opportunity to not have a crosswalk and some sort of crossing signal. She said the whole area was a traffic cut through, and she noted the parking along the street, especially in the second segment.

Ms. McKeel said she was supportive of the project. She said sidewalks had been needed in the area for a long time. She said transit had a high usage through the area, and she noted Stonefield was on the other side, so pedestrian access was important. She said the first segment was a lost opportunity for the community. She recognized that the townhomes were all privately owned, and there was a lot of rental property, so the pedestrians were diverted to private sidewalk, and there would be an access point to cross Commonwealth Drive.

Ms. McKeel said the private sidewalk was not well maintained. She said there was a berm between Commonwealth and the duplexes. She said along the berm were skinny, dead trees that were unmaintained. She said on the right-hand side of the road, there were deep potholes. She noted a small car could break an axle. She said there was a newly paved section further down. She said it was a lost opportunity around equity in a community that needed help.

Ms. McKeel said there was private property, so she understood the challenges. She said an issue had come up where an owner abruptly increased the rent by a shocking amount to handle other problems. She said it was a lost opportunity to improve the area. She said much of the property was rental. She said the right place would be to clean the berm up and put the sidewalk on the berm off of private property. She said maybe it was impossible to do. She said she was referring to the first segment. She said she did not know how to grab the opportunity for the people who lived in the community.

Mr. McPeters said he did not have a solution. He said for the second segment, the idea of sidewalks in the areas that were missing them would still be on the Board's list of priorities unless they changed them, so a future project was not precluded.

Ms. McKeel said she was referring to the first segment.

Mr. McPeters said the priority list stated Commonwealth Drive, so the particular segment was not important. He said if a particular area was not improved with the subject project, it could be considered by the Board for a future project.

Ms. McKeel said it was a missed opportunity to do all the work only to come back later. She asked if the berm would be removed.

Mr. McPeters said no, unless the berm happened to coincide with that.

Ms. McKeel said the road was very wide. She said for the people who lived in the community, it was a lost opportunity. She said she appreciated the transit connections. She said she resisted pushing people onto a private sidewalk. She said the Hydraulic CAC encompassed the area. She said she had a deal with Mr. Gallaway that, because of communities of interest and location, she had three people who lived in the area of the first and second segment. She recommended the Hydraulic CAC be kept in mind when considering public engagement.

Mr. Trevor Henry, Assistant County Executive, said before the Board was a recommendation staff felt it could move forward with and execute. He said the remaining public process and budget process would be worked through. He said staff had spent about two years looking at a myriad of options as it related to the first segment.

Mr. Henry explained that on the displayed image, each of the white lines were lot lines of privately owned parcels. He said the section was complex, and he understood what Ms. McKeel said about the opportunity. He said it was complicated to execute in its current state of extending the sidewalk on both sides.

Mr. Henry said before the Board was the best effort to make improvements. He said there were discussions for several years on the item through Community Development, the legal department, and this was an area that needed continued focus. He said staff wanted to move the project forward in an executable way that provided some improvement, albeit the ultimate improvement. He said the project could go back to the drawing board and determine what would be required to put sidewalk on both sides of the road. He said the proposal reflected the work of the past couple of years to get the project to an executable state.

Ms. McKeel said that on behalf of the people who lived in the area, it was a lost opportunity. She said she had thought the right of ways could have been acquired with the help of VDOT. She said there were about 60 rights of way. She said she did not want to stop the project.

Mr. McPeters said VDOT was willing to support the rights of way acquisition for the project. He said it opened up opportunities and brought in resources, but it still complicated the challenges of working through a public process to discuss the project.

Ms. McKeel said parallel work could be done.

Mr. McPeters said using the right methodology and scope and frame of application, yes. He said Mr. Henry's point would still stand that if there needed to be a look, it was the Board's decision, and they could, but it would be challenging to deliver.

Ms. McKeel said she was not saying the project should be stopped.

Ms. Price said none of those sitting on the Board likely knew what the situation was at the time Commonwealth Drive was originally paved and the initial developments made. She said the complications from increased development and demand were evident. She said Commonwealth Drive was wider than when it was built. She said it could not be projected as to the impact it would have on the ability to build sidewalks.

Ms. Price said it was evident that no matter what was proposed, it was not going to cover every single thing the Board would like to be covered. She said regardless of how the project proceeded, there would be gaps in the sidewalks that would inevitably result in pedestrians having to walk to a paved path. She said perfect should not be the enemy of good.

Ms. Price said the proposal provided some improvement and she was supportive of the recommendation. She said with regard to the second segment, the steep slopes and safety issues and costs and impacts to the property owners who would then be responsible for maintaining an exceptionally steep segment of property, in terms of mowing and other things, caused complications. She said staff had come up with the best solution. She noted the plan projected completion of construction in 2027. She said she supported moving forward with the proposal.

Mr. Stewart asked if there were further questions or comments.

Mr. Gallaway said in the third segment, there was a question from another supervisor regarding the crosswalk. He asked for the visual to be displayed. He noted the outlet from the shopping center to Route 29, and a segment in front of the bank before the crosswalk. He said everything to the west, was the decision to put a sidewalk on one side or the other. He said if someone was walking down Route 29, the section from the parking outlet to Route 29 would be critical no matter the choice for the rest of the segment. He asked for the plans to be clarified.

Mr. McPeters said if the northside of the sidewalk was chosen, the connection across Dominion Drive would be made.

Mr. Gallaway asked about if the southside was chosen for the sidewalk.

Mr. McPeters said if the southside was chosen, there was already a crosswalk across the intersection, and the need for improvements could be evaluated. He said an improvement would be made if the southside was not built.

Mr. Gallaway said whether the northside or the southside were chosen, the stretch from the parking lot outlet to Route 29 would have to be there regardless.

Mr. McPeters said that was correct. He said the crosswalk he referred to was the mid-lot crosswalk further up the street. He said it would be challenging.

Mr. Gallaway said the people who turned out of the parking lot to Route 29 went fast at their own risk. He said he wanted to make sure the section between the parking lot and Route 29 was built no matter which side was selected. He said in the second segment, it was deceiving in the picture because it looked like there was a right of way. He asked if the property line extended to the road.

Mr. McPeters said the property line was likely 10 to 12 feet off the road. He noted the property line in the image.

Mr. Gallaway said the GIS made it seem the property line extended to the road.

Mr. McPeters said the property line in the image was based on field survey and research.

Mr. Gallaway asked if there would be room in the easement to construction the sidewalk.

Mr. McPeters said he could build the sidewalk, but he could not build the slopes and other requirements. He said there was also a ditch along half the length of the corridor that would have to be dealt with from a stormwater management and drainage perspective.

Mr. Gallaway said there were savings from not doing the second segment.

Ms. Mallek clarified that if the lots were not there, the sidewalk could be built in the space between the road and the property lines.

Mr. McPeters said Ms. Mallek was correct. He said there was no room for the slopes and grading that would tie the sidewalk in because they would be on private property.

Ms. Mallek clarified that the slopes were a concern because of the three exits from the parking lot.

Mr. McPeters said she was correct.

Ms. Mallek said the drainage would be solved with a concrete bridge section. She said there were ways to engineer over a wet spot with a sidewalk. She said she did not want to give up on the project. She said she wanted the savings from not doing the second segment to be put towards the first segment and extend it as far as possible.

Mr. McPeters said it had been examined extensively in the first segment. He noted to construct a sidewalk over the ditch to standards were two-fold; there were VDOT requirements and there were ways to minimize the requirements, but ADA would require a regrade and for the slope to be moved back, which forced a situation to deal with the ditch because the code required it. He said he would have to design the ditch to accommodate whatever the designed storm was to ensure properties were not harmed, whether it was a change in conditions or not, if you were the last person to alter the infrastructure, you were responsible. He said those were the challenges.

Ms. Mallek said the ditch was along the blue line in the image.

Mr. Lynch said the invert of the ditch where the water flowed was along where the blue line was.

Ms. Mallek said there was not enough room for the sidewalk in the grass.

Mr. McPeters said the sidewalk was five feet wide. He said there was flexibility with how far away it could be from the curb. He said there was debate as to what program required the distance behind the sidewalk for pedestrian safety.

Ms. Mallek said all the questions needed to be considered.

Ms. Price noted there were no further questions. She said staff requested the Board take action to recommend that they proceed with the scope of work.

Ms. Mallek said one and three, and whatever they could get on the first.

Ms. Price said staff would decide on which one of three.

Ms. Mallek said there would be no comment about getting rid of the second segment.

Mr. Stewart said there was a draft motion on the monitors.

Ms. Price asked if a supervisor desired to make the motion.

Ms. McKeel **moved** to direct staff to eliminate from the scope of work of the Commonwealth Drive/Dominion Drive sidewalk project any sidewalk improvements located on Commonwealth Drive between Westfield Drive and Dominion Drive.

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

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

NAYS: None.

Agenda Item No. 10. **Action Item:** The Rebuilding American Infrastructure with Sustainability and Equity Grant Application - Three Notched Trail Shared Use Path.

The Executive Summary forwarded to the Board states that the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant program is an opportunity for localities to leverage federal funding for the construction and/or planning of surface transportation infrastructure projects that would have a significant local or regional impact. The RAISE program is particularly useful for funding multi-modal, multi-jurisdictional projects that would be more difficult to support through traditional Department of Transportation (DOT) programs. The Infrastructure Investment and Jobs Act authorized and appropriated \$1.5 billion to be awarded for RAISE 2022.

RAISE grant applications can be submitted for "Capital Funding," in which right-of-way can be acquired and construction can proceed. Alternatively, RAISE grant applications can be submitted for "Planning Funding," in which project planning, preparation, and design can occur, but no right-of-way acquisition or construction can begin. No less than \$75 million will be awarded to planning funding applications.

Albemarle County is eligible to submit applications for funding through RAISE as a rural area. With the rural designation, the County's grant request must be between \$1 million and \$25 million. A local match is not required. If funding is awarded, all funds must be obligated by September 30, 2026 and expended by September 20, 2031.

RAISE applications are scored on how effectively the project targets the following RAISE program criteria: safety, environmental sustainability, quality of life, mobility and community connectivity, economic competitiveness and opportunity, state of good repair, partnership and collaboration, and innovation.

Shared use path planning and/or construction projects are eligible for RAISE funding. A shared use path is typically a 10' wide paved path that is physically separated from the motor vehicle travel way and allows bidirectional pedestrian and bicycle traffic.

There has long been local and regional interest in the development of a shared use path along the historic Three Notched Road. A shared use path along Three Notched Road is highlighted in the Albemarle County Comprehensive Plan, the Crozet Master Plan, the Jefferson Area Bicycle and Pedestrian Plan, and the most recent Virginia Outdoors Plan. Segments of the shared use path were prioritized in the 2019 update of the Albemarle County Transportation Priorities list.

The shared use path is generally expected to serve both transportation and recreational purposes, having a significant impact on the safety of vulnerable road users, reducing greenhouse gas emissions, improving quality of life by increasing opportunities for physical activity and access to nature, and having a positive impact on the local economy.

Despite the public interest in a shared use path along the historic Three Notched Road and its inclusion in multiple plans, there has been no publicly funded feasibility study at this time. A feasibility study is needed to determine an alignment for the shared use path. The alignment must be determined before design planning can begin.

Staff proposes the submission of an application for RAISE Planning Funding to:

- 1) conduct a feasibility study to identify potential alignments for the shared use path along Three Notched Road from the Blue Ridge Tunnel through Crozet to the City of Charlottesville;
- 2) conduct public outreach to determine a preferred alignment;
- 3) reach 60% design for the entirety of the preferred alignment; and
- 4) identify segments of the alignment that would have independent utility if constructed separately.

This Planning Funding application would be limited to project planning, preparation, and design; right-of-way acquisition and construction would not be allowed. As a result, no more than 60% design is expected at this time. Right-of-way acquisition typically begins after reaching 60% design, then designs are modified through the right-of-way and construction process to reach 100% design.

The application would likely request just over \$1 million to fund County staff time (0.5 FTE for up to two years) to both administer the project and pay a consulting firm to complete the above four tasks.

Following the completion of this project, County staff would identify opportunities, including (but not limited to) Transportation Alternatives, Revenue Sharing, Smart Scale, and future rounds of RAISE, to fund construction of the shared use path segments until the entire distance between the Blue Ridge Tunnel and Charlottesville was completed.

Though a resolution of support for a RAISE grant application is not required, staff is requesting feedback and general support from the Board regarding the proposed application.

If the RAISE application were successful, the budget impact would be limited to staff time, which would largely be reimbursed by the grant, as it would fund 0.5 FTE for the two-year duration of the project. During the application process (between now and April 14), budget impacts would be limited to staff time spent working on the application.

Staff recommends that the Board endorse Albemarle County's RAISE grant application for planning funds to reach 60% design for a shared use path from the Blue Ridge Tunnel through Crozet to the City of Charlottesville.

Ms. Jessica Hersh-Ballering, Principal Planner, said she was before the Board to seek feedback and support for a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant application. She said while the application did not require a resolution, a letter of support was requested from the County Executive Office. She said at the end of the presentation, a suggested motion was included if the Board was inclined to direct the County Executive Office to provide the letter.

Ms. Hersh-Ballering said the grant application was titled, "Planning for a Three Notched Trail Shared Use Path." She said that if successful, the grant would fund the planning of a shared use bicycle and pedestrian path from the City to Crozet likely along the Route 250 corridor. She said the shared use path would continue west to the Blue Ridge Tunnel in Nelson County. She said the trail could continue along Route 250 or turn north into Crozet along Three Notched Road and continue on Jarmon's Gap Road, or it could follow a route to be determined.

Ms. Hersh-Ballering said City staff and Nelson County staff had been contacted to get letters of support, and they had received favorable responses. She said RAISE stood for Rebuilding American Infrastructure with Sustainability and Equity. She said it was an incredibly competitive discretionary grant program used for the construction and or planning of surface transportation infrastructure projects, including infrastructure projects for non-motorized travel.

Ms. Hersh-Ballering said RAISE applications were scored on how effectively the project targeted the following criteria: safety; environmental sustainability; quality of life; mobility and community connectivity; and economic competitiveness and opportunity. She said the County was eligible to apply for RAISE funds, and it could request between \$1 million and \$25 million in funding. She said it was a unique year. She said typically, there was \$1 billion available for the program. She said this year, there was \$1.5 billion available, and that additional funding was due to the infrastructure investment and jobs act.

Ms. Hersh-Ballering said the proposal requested between \$1.5 million and \$3 million to plan a shared use path along the historic Three Notched Road from the Blue Ridge Tunnel through Crozet to the City. She said the amount of funding requested was a large range and different from what was originally stated in the executive summary. She said the reason was because the budget details were still being considered with local consultants.

Ms. Hersh-Ballering said the number would be finalized by the time the application was submitted the following week. She said the planning process included four main planning activities. She said the first was to conduct a feasibility study to identify potential alignments for the shared use path, especially important for the section west of Crozet to the Blue Ridge Tunnel.

Ms. Hersh-Ballering said public outreach would be conducted to determine a preferred alignment for the path. She said functional design would be reached for the entirety of the preferred alignment. She said functional design was the equivalent of 30% design, different than what was listed in the executive summary. She said the difference was due to discussions as the project budget was prepared.

Ms. Hersh-Ballering said 60% design would involve survey work and environmental clearances which would increase the cost of the project and would not make sense because those items were best done closer to construction of the project, and construction would likely not happen for some time. She said segments of the alignment would be identified that would have independent utility if constructed separately. She said it was unlikely the proposal would be planned and constructed in one fell swoop. She said the segments with independent utility would be identified so they could be constructed one at a time with the usually smaller funding sources.

Ms. Hersh-Ballering said between \$1.5 million and \$3 million was requested in federal funds. She said the fund would be separated into two streams; one to fund County staff time for two years to administer the project, and the rest used for a consulting team who would complete the technical work. She said no local match was required. She said if awarded, the grant would cover the entire planning

project.

Ms. Hersh-Ballering said there had been long-held local and regional interest in the project. She said there had been references to a Three Notched Road shared use path in the Comprehensive Plan, the Crozet Master Plan, the Jefferson Area Bicycle and Pedestrian Plan, and the Virginia Outdoors Plan. He said segments of the path had been prioritized in the 2019 update of the Albemarle County Transportation Priorities list. She said the path would serve both transportation and recreational purposes, so it would meet several needs of residents. She said the recreational purposes would likely inspire tourism for the County.

Ms. Hersh-Ballering said there had been similar projects. She mentioned the Virginia Capital Trail. She said those kinds of projects saw a lot of success. She said in 2021, the Capital Trail saw over 1 million users. She said a completed Three Notched Trail shared use path would have similar success. She said RAISE was the ideal funding source for the project. She said it was a large funding amount that would allow the project to be viewed with a wide lens. She said the best route could be envisioned for the full 25 to 30 miles of shared use path that would touch three localities. She said it allowed the big picture view that could not be gained from planning the path one small segment at a time.

Ms. Hersh-Ballering said a completed Three Notched Trail had the ability to reduce greenhouse gas emissions. She said the County was unique in that the transportation sector comprised 52% of community wide emissions, in contrast to a 30% national average. She said the reason for the difference was because the County had noncontiguous development areas. She said people were travelling from Crozet to the development areas closer to Charlottesville and vice versa for work, school, or other appointments. She said the only real option for most people was to drive. She said the path would allow some people to shift some of those trips to nonmotorized trips, reducing greenhouse gas emissions.

Ms. Hersh-Ballering said there was a big economic benefit to the County. She said an economic impact report showed that the total economic activity stimulated by the Virginia Capital Trail from 2018 to 2019 was approximately \$8.9 million. She said trail users typically spent \$22 per visit at local businesses. She said a completed Three Notched Road shared use path would improve safety for nonmotorized travelers.

Ms. Hersh-Ballering said the only people who cycled or walked along the corridor were strong and fearless or had no other options. She said even with low numbers of bicycles and pedestrians, there had been two relatively recent fatalities; one cyclist and one pedestrian, along the Route 250 corridor between the City and Crozet. She said the project would connect residents to employment, schools, and parks.

Ms. Hersh-Ballering said if the grant were awarded and the two years of planning activities was completed, the County would end up with a list of segments for the Three Notched Trail shared use path that would have independent utility if constructed. She said the segments would be constructed in three different ways. She said the construction activities could be funded directly through grants.

Ms. Hersh-Ballering said the County could apply for a RAISE capital grant, SMART scale, transportation alternatives, revenue sharing, and other regular methods. She said the construction could be funded indirectly by including the segments as a component of other VDOT projects. She said if there was a VDOT roadway project nearby one of the independent utility segments, they could request the segment be included as part of the roadway project. She said additionally, construction could happen through proffers from developers.

Ms. Hersh-Ballering supplied a suggested motion if the Board wished to direct the County Executive to send a letter of support for the application. She said she was available to take questions.

Ms. Mallek said she was excited for the project. She said the Virginia Capital Trail was unbelievably successful. She said Nelson County, over 15 years, got multiple TAP grants and VDOT grants, planning grants and execution grants just with sheer determination to get the tunnel done. She said in the last year, over 100,000 people had walked through the tunnel. She said the project would attract people to the County.

Ms. LaPisto-Kirtley said she looked forward to supporting the proposal enthusiastically.

Mr. Gallaway said he was supportive of the project. He said the RAISE grant applications could be project applications or planning applications. He said the proposal was just a planning application. He said the feasibility study worked under the planning application. He said the project could be done as a SMART scale project or RAISE project. He asked if the project would be viable for a RAISE project grant. He said he brought the question up because the grant appeared to have high bars for racial equity, environmental justice factors, job creation, labor considerations, so some of the expectations that would be met for the project success were higher than the planning grants.

Ms. Hersh-Ballering said Mr. Gallaway was mostly correct. She said there were planning grants and there were capital grants, or what he referred to as project grants. She said the grants were judged on the same merit criteria, and the scoring was exactly the same. She said there was a set amount of funding for RAISE set aside for planning grants only, and then there was another fund for the capital grants.

Mr. Gallaway said he was interested in the project application. He said when some of the

rationale for the RAISE grant, such as the racial equity piece, the environmental justice piece, was not necessarily listed in some of those pieces presented. He said he was curious, and maybe it was not a Board topic but a follow up conversation so he could understand the RAISE piece, how the project would align with the particulars.

Mr. Gallaway said it was important to consider because when the County considered how to fund the project, if it would be able to meet the RAISE criteria, then they should apply, but if not, maybe it should go towards a SMART scale application. He said it would help them preplan their priorities.

Mr. Gallaway said the functional design equaled 30%. He noted the funding request would fund the entire planning project. He asked if entire funding meant it would achieve the functional design of 30%.

Ms. Hersh-Ballering said Mr. Gallaway was correct.

Mr. Andrews said he enthusiastically supported the project. He recognized the item had come up before the Board previously.

Ms. McKeel said she was supportive of the proposal. She said Mr. Gallaway's question should be a topic that came back before the Board to discuss the RAISE criteria.

Ms. Price said she was excited about the project. She said she did not feel safe cycling on the roadways in the County. She said a trail connecting the City to the Blue Ridge Tunnel was great. She asked if there were further comments or questions. She said the floor was open for a motion.

Ms. Mallek **moved** to direct the County Executive to send a letter of support for the RAISE grant application to fund planning activities for Three Notched Trail shared use path.

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

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

Non-Agenda Item – Recess

The Board recessed its meeting at 3:20 p.m. and reconvened at 3:31 p.m.

Agenda Item No. 11. **Presentation:** Earlysville Road/Reas Ford Road Intersection Study.

The Executive Summary forwarded to the Board states that over the past seven years, safety concerns have been identified at the Reas Ford Rd/Earlysville Road Intersection in north-central Albemarle County. As a result, VDOT and Albemarle County have been evaluating this intersection for potential improvements that might address these concerns. In support of this effort, two studies were produced by VDOT and their on-call consultant, one in 2018 and another in 2019. Those studies reviewed the historical crash data, assessed the factors contributing to the crashes, and evaluated geometric, and volume information. Both studies offered recommendations for short and long-term improvements to address the safety issues.

Initial recommendations, including vegetation clearing, new/replacement signage, and new/improved pavement markings were all completed in 2019. In May through June 2020, Albemarle County worked with VDOT to install a flashing LED stop sign on Reas Ford Rd approaching the intersection from the south and radar speed detection and display signs that show drivers' their speed on Earlysville Rd approaching the intersection from both the east and west. These were funded through the Secondary Six Year Plan and are being maintained by VDOT.

In early 2021, the Board of Supervisors requested staff to engage a consultant to further evaluate potential issues and solutions at the intersection and to develop more detailed cost estimates for the potential solutions. Attachment A is the *Earlysville Road with Reas Ford Rd/Earlysville Forest Dr Intersection Traffic Study* completed to address that request. The findings are summarized below.

The intersection of Earlysville Road with Reas Ford Road and Earlysville Forest Drive is a four - legged crossroad intersection that is two-way stop controlled with free flow on Earlysville Road. Traffic counts were conducted at the intersection in the fall of 2021. The overall peak hour occurred between the hours of 4 PM to 5 PM, when 996 vehicles entered the intersection. This includes 543 vehicles on the Earlysville Road northbound approach, 307 vehicles on the Earlysville southbound approach, 95 vehicles on the Reas Ford Road eastbound approach, and 51 vehicles on the Earlysville Forest Drive westbound approach.

Trucks and heavy vehicles constitute 1.2% of all vehicles entering the intersection, primarily to and from Reas Ford Road. Over the five-year period from July 1, 2016 to June 30, 2021, 15 crashes were reported within 300' of the intersection. Right angle crashes account for 53% of intersection crashes and is the most common crash type reported to occur. No fatal crashes occurred at the intersection during the study period.

The preliminary intersection alternatives developed as the basis for evaluation through this study included the “No Build” and five additional alternatives:

- **Alternative 1** includes construction of left-turn lanes on both Earlysville Road approaches and a right-turn lane on the Reas Ford Road eastbound approach without any modification to intersection control, with a planning level cost estimate of approximately \$2 million.
- **Alternative 2** includes the installation of a traffic signal along with construction of left-turn lanes on both Earlysville Road approaches and a right-turn lane on the Reas Ford Road eastbound approach. Alternative 2 has a planning-level cost estimate of approximately \$2.5 Million. However, this alternative is likely not feasible because traffic signal warrants do not appear to be met.
- **Alternative 3** includes construction of a single-lane traditional size roundabout. The full roundabout has a preliminary cost estimate of approximately \$4.5 Million.
- **Alternative 3B** includes a mini-roundabout. Due to the truck percentage and location of the Earlysville Business Park, a mini-roundabout is not recommended.
- **Alternative 4** is simply the installation of All Way Stop Control as a short-term (interim only) potential option to address the occurrence of angle crashes at the intersection. This would likely cost less than \$5,000 to install but would require VDOT approval and would likely result in significant queuing issues for the Earlysville approaches and increased incidences of rear end accidents.

Based upon assessment of the entirety of the collected data, major intersection reconfiguration is not necessary at this time, and the No Build Alternative is appropriate. The intersection currently operates at adequate Level of Service (LOS) and the occurrence of crashes at the intersection has declined in the most recent 30-month period of the study, a trend that has continued since the study was completed.

There is no budget impact related to the recommended next step of continued monitoring. If the Board decides to move forward with a different option presented in the study, then the next steps of engineering, right-of-way, and construction would come with the attendant costs associated with the selected alternative. Preliminary cost estimates are listed in the report by alternative. This study cost approximately \$55,000 of the \$350,000 the Board made available to address concerns at this intersection.

Staff concurs with the study that continued monitoring is the recommended approach at this time. The intersection currently operates at adequate Level of Service (LOS) and the occurrence of crashes at the intersection has declined significantly in the most recent 30-month period of the study, a trend that has continued since the data from the study was collected.

This work session is intended to give the Board the opportunity to provide staff with direction for follow-up.

Mr. Kevin McDermott, Planning Manager, said the presentation was on the Earlysville Road/Reas Ford Road intersection study. He said he would provide background on the issue, present the results of the study, and then request direction from the Board on next steps. He said a vote was not needed. He said it was only necessary if Board members wanted to go on record with the direction provided to staff. He said if the direction was to move forward with some sort of capital project, then an appropriation request would have to come before the Board that would have to be voted on.

Mr. McDermott noted the map of the area. He noted Route 29 and the airport. He said the red dot on the map signified the intersection of Earlysville Road and Reas Ford Road. He said safety concerns were identified at the intersection, primarily in 2016 and 2017, there were a significant number of crashes, and two were severe injury crashes. He said those crashes prompted previous safety studies of the intersection; one in 2018 performed by VDOT staff, and one in 2019 performed by a consultant from VDOT. He said the 2018 study made recommendations for short-term, intermediate, and long-term improvements.

Mr. McDermott said the short-term recommendations were to refresh the pavement markings on Reas Ford Road, which was completed, to refresh and relocate a stop bar on Earlysville Forest Drive, which was completed, and to clear the vegetation, which was completed. He said the intermediate recommendations included access management in the parcels surrounding the intersection, primarily the ones on the north and south side of Earlysville Road to the west of the intersection.

Mr. McDermott noted one of the improvements had been made on the northside at the church. He said they recently reconfigured the site and moved one of the access points that was on Earlysville Road to Earlysville Forest Road to increase the distance from the intersection and improve safety. He said the other area was on the southside at the Earlysville Exchange store.

Mr. McDermott said there was an open access through the site, and staff recommended it be noted so that if there was a future site development plan, staff could go back to the owner and request they improve the access on the site. He said the other intermediate recommendation was to construct a right turn lane on Reas Ford Road and to evaluate for a roundabout.

Mr. McDermott said in 2019, the study recommended some more short-term improvements, including the installation of oversized crossroad warning signs and new street signs, which were completed for the Reas Ford approach. He said there was a crossroad warning sign there. He said there

were enhanced pavement markings to delineate the lanes to the intersection, such as the right turn lane onto Earlysville Road.

Mr. McDermott said the pavement markings had been enhanced. He said improvements included the installation of stop-ahead signs, and new stop signs on the side streets, which were completed for the Reas Ford approach. He said the reason for using the Reas Ford approach would be explained. He said reflective signposts were installed for the Reas Ford stop sign, and vegetation and obstructions were removed to improve site distance. He said the 2019 study recommended evaluating for a roundabout as a long-term solution.

Mr. McDermott said additional improvements made in the area, in May 2020, the Board approved with moving forward with a permanent radar feedback sign installed on the Earlysville Road approaches. He explained Earlysville Road was 45 miles per hour before entering the area where it dropped to 35 miles per hour.

Mr. McDermott said radar feedback signs were installed that showed drivers their speed and the speed limit. He said those were installed in 2020. He said on the Reas Ford approach, there was a new, larger stop sign with LED lights surrounding it and it was solar powered. He said it was installed to improve the intersection.

Mr. McDermott said the 2022 intersection study was requested by the Board, and one of the consultants was hired to evaluate the options and identify more clear costs. He said the physical condition for the intersection, there was a stop sign on Reas Ford Road and one on Earlysville Forest Drive, and then there was through movement with no stops. He noted there was one right turn lane on Earlysville Road, and the rest were single lane approaches.

Mr. McDermott said the traffic volumes and operations from the 2022 study showed Earlysville Road to be the busiest road with 8,500 average annual daily traffic, and Reas Ford Road the next highest with 5,700. He said Earlysville Forest Drive had 1,100 daily trips. He said there were traffic counts performed by the study in September 2021.

Mr. McDermott said the traffic study showed that 996 vehicles entered the intersection during the peak hour from 4 to 5 p.m. He said trucks and heavy vehicles made up about 1.2% of the entering vehicles. He said the operations showed Earlysville Road had a level of service of A for movements, Reas Ford Road had a level of service of C during a.m. and p.m. service, and Earlysville Forest Drive had a level of service of D in the p.m. and a level of service of C in the a.m.

Mr. McDermott explained a level of service of D meant that a vehicle had to wait approximately 26 to 35 seconds to get through the intersection. He said a C was 15 to 25 seconds, and the general industry standard was to keep wait times below the 35 seconds, which was why the level of service from A through D was passing, and E and F were considered failing, longer than 35 seconds.

Mr. McDermott said the crash data was from 2015 and 2021 data. He said he pulled more recent data. He said there was one additional crash since the study had been completed, and there was an additional crash discovered in 2015. He said in 2015 and 2016, the number of crashes went from two to three, and in 2017 the number of crashes increased to six, the peak year. He said in 2018, there were two crashes, and in 2019, there were two crashes.

Mr. McDermott said there was one crash in 2020, and one crash in 2021. He said he did not hear of additional crashes, though the data was not updated to the current standard. He said he had checked with the police department, and the department had not identified any recent crashes. He said there were no fatal crashes recorded. He noted the severe injury crashed in 2016 and 2017. He said angle crashes were the most frequent, being 53% of all crashes.

Mr. McDermott said the angle crashes were entirely coming from Reas Ford Road as drivers tried to turn onto Earlysville Road. He said in addition to the no build alternative, the intersection study looked at five build alternatives. He said the first alternative was to add left turn lanes onto Earlysville Road and a right turn lane on Reas Ford Road with a planning level estimate of approximately two million. He said the second option was to add a traffic signal and left turn lanes on Earlysville Road and a right turn on Reas Ford Road.

Mr. McDermott said the planning level estimate was approximately \$2.5 million. He pointed out that it would not be feasible at the time because a traffic study warrant analysis was performed which was required by VDOT to install a traffic signal, and the warrants did not appear to be met. He said staff would likely not be able to construct the signal, so it was not considered as a potential alternative.

Mr. McDermott said the third alternative was to construct a single lane traditional sized roundabout with a planning level estimate of about \$4.5 million. He said staff had asked the potential for a mini-roundabout be evaluated. He said it was considered. He said the mini-roundabout would still require some right of way, and staff did not get a cost estimate. He said it would be less than \$4.5 million, but there was right of way required as well as some of the construction.

Mr. McDermott said due to the truck percentage, it was not recommended that a mini-roundabout be constructed. He said there was a business park on Reas Ford Road with a significant number of trucks making the movement. He said the maintenance of a mini-roundabout because of trucks driving over it was a concern.

Mr. McDermott said the fourth alternative was an always stop control with a planning level estimate under \$5,000. He pointed out that the alternative would require VDOT approval, and similar to a signal installation, a warrant analysis was required for all-way stops. He said the analysis in the study showed queueing issues on Earlysville Road, the primary approach, would be far—over two minutes during peak hours—to get through the intersection. He said often, when the stop signs were installed on roads like Earlysville, they would still see an increase in rear-end accidents. He said it was something to note.

Mr. McDermott said the recommendation from the intersection study, which staff concurred with, was that monitoring be continued. He said the intersection as shown to operate at an adequate level of service, and the occurrence of crashes had declined significantly in the most recent 30-month period of the study. He said the trend had continued since the data from the study was collected. He noted the improvements started in 2019 along with the significant decrease in crashes. He said during 2019, 2020, and 2021, there were four crashes.

Mr. McDermott said for Board discussion, he would like feedback with whether they agreed with the recommended approach of continued monitoring of the intersection. He said a follow up could be planned with the Board in a year, or if the Board preferred one of the build alternatives to move forward, a funding appropriation request would have to come back before the Board.

Mr. McDermott said the Board saw construction estimates. He said if engineering wanted to be done for a project, it would add an additional 20% to the budget. He said the engineering could be moved forward and construction funding could be considered later. He turned the meeting over to the Board for discussion and questions.

Ms. Mallek said the traffic numbers were down. She noted there were 7,000 cars a day on the Advance Mills Road, which was half of Earlysville Road 15 years ago. She said in the middle of the pandemic, it needed to be recognized the situation was better than in 2017, but the numbers were likely lower than normal traffic figures. She said her constituents wanted a roundabout. She said the simple answer that could be tried never got past the engineers. She said since she was not an engineer, many things seemed possible to her.

Ms. Mallek said there were several stop lights in the area that did not need warrants. She said if it was solution, then they should ask rather than assume they would get denied. She said lights on Route 151 and Route 250 were delayed for years until two people were killed. She said she would rather not wait for someone to be killed. She said the improvements that were done, such as the flashing stop sign, were spectacular. She said the stop sign was visible at night. She said there should be more radar traffic signs. She said people used to get airtime going over a hump in the road by the post office, but now they were slowing down.

Ms. Mallek said she understood the planning conclusion. She said she hoped things continued to be improved. She said it would be a perfect location for an automatic speed enforcement device and the County would make so much money. She said it would change behavior, noting traffic tickets left lifetime impression on people.

Mr. McDermott clarified the study had been sent to VDOT for review, which had the evaluation of the signal warrants. He said VDOT had reviewed the study and stated the warrants were not met. He said the submittal was not official and neither was the VDOT decision. He said if the County wanted to move forward, the full warrant study could be performed and sent to VDOT. He said VDOT did the preliminary evaluation and did not think the warrants passed.

Ms. Mallek said it had to be a 60/40 split between the two directions to have it count.

Mr. McDermott said no, it did not necessarily have to be a 60/40 split. He said there was a number.

Ms. Mallek said the intersection was at 70/30 a number of years ago.

Mr. McDermott said he did not know the exact number, and there were different warrants that it could be.

Ms. LaPisto-Kirtley said she was impressed with the level of service scores of A and B. She said there was a level of service score of D on Earlysville Forest Drive.

Mr. McDermott explained Earlysville Road was free flow, and traffic did not have to stop on the road, so that was why there was a level of service of A. He said the study identified that left turns from the road did not typically have to wait at the intersection.

Ms. LaPisto-Kirtley asked about the completed improvements. She wanted to know what improvements were actually made.

Mr. McDermott said after the 2018 study, the pavement markings were refreshed, the stop bar was relocated, and vegetation was cleared. He said after the 2019 study, new signage was installed, new lane markings were applied, and more vegetation was removed. He said the final improvements were the radar feedback sign and the stop sign.

Ms. LaPisto-Kirtley said she looked forward to installing photo-speed cameras. She said the number of incidents being down would push her to support the staff recommendation.

Mr. Gallaway said he had several questions and comments. He asked if each study determined that a roundabout or mini roundabout was the long-term solution.

Mr. McDermott responded yes.

Mr. Gallaway asked how the roundabout behind the airport compared to the envisioned roundabout for the subject intersection.

Mr. McDermott said he had not reviewed the item. He said from his understanding, the airport roundabout was smaller than standard.

Mr. Gallaway said it was somewhere between a roundabout and a mini roundabout. He said for the 1.2% truck traffic, what was the 1.2% a percent of.

Mr. McDermott said it was the percentage of the total number identified in the traffic counts.

Mr. Gallaway asked what the total number of the traffic counts was.

Mr. McDermott said there were 996 vehicles recorded entering the intersection.

Mr. Gallaway asked if the 1.2% was just for the hour.

Mr. McDermott said he believed there were 10 reported trucks during the peak hour in the study.

Mr. Gallaway said one of the reasons for not doing a mini roundabout was because of truck traffic. He said the percentage of truck traffic was 1.2%, and if the rationale for not doing the mini roundabout was because of 1.2% of use, what was the 1.2% of.

Mr. McDermott said it was the 996 number.

Mr. Gallaway asked if the daily truck traffic was known.

Mr. McDermott said he did not know.

Mr. Gallaway asked if the movement of the trucks was known, whether they travelled northbound or southbound.

Mr. McDermott said the primary movement was from Earlysville Road onto Reas Ford Road.

Mr. Gallaway said the trucks were going up Earlysville Road. He asked if they headed northbound.

Mr. McDermott said the trucks were coming from the airport on Earlysville and turning left on Reas Ford Road.

Mr. Gallaway asked if the trucks navigated the roundabout behind the airport.

Mr. McDermott said if that was where the trucks came from, then yes. He said he had designs for the roundabouts to display.

Mr. Gallaway asked if the prevailing speed of traffic was known.

Mr. McDermott said a speed study was not done.

Mr. Gallaway noted speed was an issue. He asked if speed was a factor in the crashes.

Mr. McDermott said of the 15 crashes evaluated in the study, speed was identified as a factor in only one.

Mr. Gallaway said when the project was first discussed, speed through the intersection on the Earlysville Thoroughway was an issue. He said the mini roundabout was designed for a 30 mile per hour approach. He said two of the reasons to not do the roundabout was the prevailing speed and the truck traffic. He said he presumed the prevailing speed was trying to be addressed through the intersection. He said the prevailing speed was not 35 miles per hour. He said a roundabout was meant to slow people down, which was part of the solution for the intersection. He asked the speed limit for the airport roundabout.

Mr. McDermott said he did not know the information offhand.

Mr. Gallaway said he presumed it was above 30 miles per hour.

Ms. Mallek said the roundabout at the end of Earlysville Road at the end of the runway was 45

miles per hour.

Mr. Gallaway said the roundabout had vehicles entering at 45 miles per hour. He said in the report, there was a safety consideration and a capacity analysis. He said Alternative 3 and 3B would equate to a roundabout, but Alternative 3 was the one that improved the intersection the most and reached the highest grade of level of service.

Mr. Gallaway said the safety report stated by comparison of the forecast crash reduction with estimated costs, Alternative 3B, the mini roundabout, was found to achieve the highest benefit cost ratio of all alternatives evaluated. He said on the next page, it stated a mini roundabout appeared to be inappropriate at the intersection due to volume, truck traffic, and prevailing speed. He said he had issue with the statement.

Mr. Gallaway said if it was about truck traffic, then he would like to see the standard that stated 1.2% was a compelling percentage to deny a traffic solution. He said it did not look like speed was studied because there was no speed study. He said the prevailing speed was stated as a reason why the mini roundabout was not appropriate for the intersection, but the speed was not studied, so comments should not be made regarding prevailing speed. He said to control speed in the intersection, it was a good idea to install a roundabout.

Mr. Gallaway noted the \$2.4 million for the mini roundabout. He said \$3 million was mentioned in the presentation. He asked if those prices reflected immediate acquisition.

Mr. McDermott asked Mr. Gallaway to clarify his question.

Mr. Gallaway said the engineering construction estimate for alternative 3B improvements was \$2.4 million.

Mr. McDermott said it was not included in his presentation.

Mr. Gallaway asked if there was a \$3 million figure.

Mr. McDermott said he did not know what \$3 million figure.

Mr. Gallaway said the \$2.4 million for the mini roundabout would not include any right of way acquisitions.

Mr. McDermott said right of way acquisition was included in the costs.

Ms. Mallek said the costs could be lower.

Mr. Gallaway said he misheard the \$3 million.

Mr. McDermott explained the cost estimates included right of way and construction but did not include the cost of engineering.

Mr. Gallaway asked if there was a ballpark for the engineering costs.

Mr. McDermott said it was typically assumed engineering costs were about 20% of the construction costs.

Mr. Gallaway said the mini roundabout could cost more than \$3 million.

Mr. McDermott said he was correct.

Mr. Gallaway said these smaller, impactful projects had to be addressed, because they would never be accomplished with a larger SMART scale project due to the other transportation priorities on the list. He said project should reach a cost point where the County could take it on as a project. He guessed there where a lot of those types of instances around the County where a similar project would be necessary. He said if the Board did not start trying to achieve the projects and figuring out how to get them done, the areas needing improvements would remain the same.

Mr. Gallaway said the study stated that a mini roundabout should be limited to 30 miles per hour. He noted the truck traffic. He said if they were able to navigate the airport roundabout, he did not see why they could not navigate the mini roundabout. He said the 1.2% truck traffic did not seem like high enough of a threshold. He said a roundabout was the right direction.

Mr. Gallaway said three studies had been completed that stated the long-term solution was a roundabout and two studies that also suggested a mini roundabout. He said things did not get less expensive overtime, they only got more expensive. He said there continued to be a speed issue. He said he was glad the 2022 study confirmed the results of the other studies regarding the roundabout.

Mr. Gallaway said when the Board considered multi-million-dollar projects, and he noted the sidewalk project cost \$3.3 million. He said the projects would cost the same and it was the same type of localized improvement for the people who lived in the areas. He said the rationale was there to complete the projects. He said the smaller scale projects were more difficult to get through the transportation

funding list.

Mr. Gallaway said there was support to complete the roundabout. He said the intersection should continue to be monitored. He said the study stated a mini roundabout was the safest way to go, and the level of service improved with the mini roundabout. He said he had points of contention with the reasons against the mini roundabout. He said the Board should continue to look toward making the project a reality.

Mr. McDermott said he would confirm the truck traffic numbers and evaluate whether the airport roundabout was equivalent.

Mr. Andrews said he looked forward to the answers to the questions. He said by looking at the maps, it did not look like the airport roundabout was a mini roundabout.

Mr. Gallaway said it was between a mini and regular roundabout.

Ms. McKeel said she had driven in other countries and through many roundabouts. She said roundabouts were very expensive. She agreed the intersection needed to be monitored. She said there was an improvement to the intersection from the work already completed. She said she looked forward to the answers to Mr. Gallaway's questions. She said a follow up in a year was a long time. She said maybe there could be a discussion as part of the strategic planning work. She said there were numerous spots with traffic issues.

Ms. Mallek said the roundabout at the airport was much smaller than the one on Earlysville Road, and the designed speed was 35 miles per hour. She said she had seen multiple 18-wheelers going to Crutchfield. She noted there were four landowners to negotiate the right of way acquisitions.

Ms. Price said if a roundabout was too small, there was the risk of trucks becoming stuck, which blocked the entire traffic flow. She said the short-term actions had reduced the number of accidents and serious accidents, but there was still the risk for serious accidents. She concurred staff should continue to monitor, evaluate, and report to the Board at the appropriate time if there were revisions.

Ms. LaPisto-Kirtley said there were so many roundabouts in Europe. She asked if there was a template for roundabouts, or if every roundabout was designed in context. She asked if there was a way to reduce the number of resources spent on design.

Mr. McDermott said any roundabout at any intersection would be different based on everything around it—the traffic flow, the speed, the volume, the size of vehicles, and the different movement. He said there was no template, but there were VDOT guides that discussed when different types of roundabouts were appropriate. He said those guides did not allow a roundabout to be dropped in. He said because the County had planned and designed so many roundabouts, they had learned to be more efficient and cost effective in their work.

Ms. LaPisto-Kirtley said she meant templates, not one template, for various scenarios.

Ms. Mallek added that the Wegmans roundabout was 80 feet in diameter and would be a good diameter for the intersection. She said lots of trucks used the Wegmans roundabout.

Ms. Price said the Board was not asked to take action, but staff did ask for a recommendation from the Board. She asked that the supervisors vote by a show of hands to show which option they supported.

Ms. Price asked which supervisors recommended the approach of continued monitoring of the intersection for safety and operational use. She asked if there was consensus for the first option.

Ms. Mallek said she would prefer both options.

Ms. Hudson said it appeared that a proper motion and vote were required.

Mr. Gallaway **moved** to recommend that staff move forward with one of the evaluated build alternatives.

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

AYES: Mr. Gallaway, Ms. Mallek.

NAYS: Ms. LaPisto-Kirtley, Ms. McKeel, Mr. Andrews, Ms. Price.

Ms. McKeel **moved** that the Board recommend staff continue monitoring the intersection for safety and operational issues and staff would return to the Board for follow up in June 2023 in addition to providing the answers to questions from this meeting.

Ms. LaPisto-Kirtley **seconded** the motion.

In further discussion, Ms. Mallek asked what the timetable was for this coming back.

Mr. McDermott clarified that he would provide the information by email within the next two weeks.

Ms. McKeel agreed to incorporate that modified timetable into her motion. Ms. LaPisto-Kirtley agreed with the amendment.

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

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

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

At 4:15 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):
 1. To discuss and consider the appointment of members to the Board of Equalization, the Jefferson Area Board for Aging Advisory Council, the Region Ten Community Service Board, the Social Services Advisory Board, and three County advisory committees; and
 2. To discuss and consider the performance of one member of a multi-jurisdictional public body who was appointed by the Board of Supervisors; and
- Under Subsection (6), to discuss and consider the investment of public funds for the development of Downtown Crozet where bargaining is involved and where, if made public initially, would adversely affect the financial interest of the County.

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.

Agenda Item No. 13. **Certify Closed Meeting.**

At 6:00 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. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price
NAYS: None.

Agenda Item No. 14. Boards and Commissions:
a. Vacancies and Appointments.

Ms. LaPisto-Kirtley **moved** that the individuals named be appointed to the respective committees:

- **APPOINT**, Mr. Evan Mayo to the Equalization Board as the Scottsville District Representative with said term to expire December 31, 2022.
- **REAPPOINT**, Mr. Waki Wynn to the Equalization Board as the Rio District Representative with said term to December 31, 2022.
- **APPOINT**, Col. Sean Reeves to the James River Alcohol Safety Program with said term to expire January 1, 2025.
- **APPOINT**, Ms. Pamela Macintyre to the Jefferson Area Board for Aging (JABA) Advisory Council with said term to expire May 31, 2023.
- **APPOINT**, Ms. Jody Saunders to the Places 29 (Hydraulic) Community Advisory Committee with said term to expire August 5, 2023.
- **APPOINT**, Mr. Shareef Tahboub to the Places 29 (North) Community Advisory Committee to fill an unexpired term ending August 5, 2022.
- **APPOINT**, Ms. Tanishka Cruz to the Police Department Citizens Advisory Committee with said term to expire March 5, 2024.
- **REAPPOINT**, Mr. John Springett, Mr. Brian Williams, and Mr. Richard Hewitt to the Police Department Citizens Advisory Committee with said terms to expire March 5, 2024.
- **APPOINT**, Mr. Joseph Mason to the Region Ten Community Services Board to fill an unexpired term ending June 30, 2022.
- **APPOINT**, Mr. Joshua Cherrix to the Region Ten Community Services Board to fill an unexpired term ending June 30, 2024.
- **APPOINT**, Ms. Sarah Harris to the Social Services Advisory Board as the White Hall District

Representative to fill an unexpired term ending December 31, 2023

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

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

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

There was no report.

Agenda Item No. 16. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Mr. Kent Schlusell introduced himself as a resident of the Rio District. He said on March 2, he presented to this Board the unethical violation of the Civil Rights Act of 1964 that were done by the AC44 group by asking questions of those that applied to be members of a citizen advisory group about their sexual orientation. He said on March 8, those questions were withdrawn by the AC44 group. He said on March 11, the County Executive and the County spokesperson met with him at their request to discuss a violation of the law for about one hour. He said he was assured at that time that the people responsible for this violation of civil rights had been spoken to and were to receive training. He asked for a written statement from the County stating that the AC44 group had been in violation of the law and corrective actions had been taken. He said he had yet to receive such a written statement.

Mr. Schlusell said on March 29, he received another email from the AC44 group indicating they had "received a tremendous and overwhelming response for participation in the working group and needed additional time to work through the selection process." He said this statement was very suspicious to him. He said the statement indicated to him two issues. He asked why the number of applications were not mentioned, and what was tremendous and what was overwhelming. He asked if the number was 100, 1,000, or 2,000. He said it seemed that the AC44 working group was hiding something and not being transparent as a government agency should be. He said he would like to know how many applications were received, or if this was another attempt to circumvent the law.

Mr. Schlusell said second, the statement by the AC44 working group implied that those who violated the law a few weeks ago were now deciding who would be on the working group. He asked if that was fair. He said if he did what the AC44 working group did when asking the questions during his military and civilian career, he would have been removed from any personal action, namely hiring that person, and verbally reprimanded. He asked if they did not understand the rules for personnel actions just a few weeks ago, how they could now be qualified to review the applications. He said the AC44 group should be completely removed from reviewing any application for a citizen working group.

Mr. Schlusell said the AC44 working group may be qualified to review the comprehensive plan, however, the AC44 group needed to be transparent in the actions, be lawful in every action, and be removed from reviewing any applications for the citizen working group. He said he was sure there were more qualified reviewers in the County that would be fair and know the rules, regulations, and law for personnel actions. He said hopefully they, the Board of Supervisors, the acting County Attorney, and the County Executive would act on this matter so that they would not have another violation of the law.

Agenda Item No. 17. **Public Hearing: SP202100015 Midway-Martin's Store 115kV Transmission Line.**

PROJECT: SP202100015 Midway-Martin's Store 115kV Transmission Line

MAGISTERIAL DISTRICT(S): Samuel Miller

TAX MAP/PARCEL(S): 07100000002500, 07100000002600, 071000000026C0, 071000000027A0, 071000000029B0, 071000000029H0, 071000000029I0, 071000000048A0, 07100000004900, 07100000005000, 07100000005200, 07100000005500, 07200000000700, 072000000010A0, 085000000016A0, 08500000001700, 085000000017B0, 08500000001800, 085000000018A0, 085000000018A2, 085000000018A3, 085000000018B0, 085000000018D0, 085000000018E0, 085000000020A0, 085000000020A1, 08500000002100, 085000000021D1, 085000000022B0

LOCATION: From Midway, running southwest for approximately 3.85 miles along an existing transmission corridor that continues west and south of Batesville.

PROPOSAL: Upgrade an existing electrical transmission line from wooden H-poles approximately 60 to 70 feet in height to single iron poles approximately 70 to 95 feet in height.

PETITION: Energy and communications transmission facilities under Section 10.2.2(6) of the Zoning Ordinance, on 29 parcels of land totaling approximately 859.68 acres. No dwelling units proposed.

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

ENTRANCE CORRIDOR: No

OVERLAY DISTRICT(S): Steep Slopes Overlay district, Flood Hazard Overlay district

COMPREHENSIVE PLAN: Rural Area - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that at its meeting on January 18, 2022, the Planning Commission voted 5:0 to recommend approval of SP202100015, with the condition recommended by staff and stated in the staff report.

The Planning Commission staff report, action letter, and minutes are attached (Attachments A, B, and C).

The Planning Commission raised no objections to SP202100015, but asked questions about the possibility of co-location of personal wireless service facilities on the new transmission poles. (These facilities were not designed for such co-locations.)

No members of the public spoke at the public hearing on this proposal.

The County Attorney's Office has prepared the attached Resolution to approve the special use permit.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202100015, subject to the condition contained therein.

Mr. Clark said that SP202100015 was a request for approval to upgrade an existing electrical transmission line that runs from Midway south into Nelson County. He said this was the first phase of what was probable to be a three-part upgrade as they did the pole upgrades in stages along this route. He said the route currently had wooden H-poles of 60 or 70 feet in height, and that would be increased to 70 to 90 feet but with single iron monopoles.

Mr. Clark continued that the future phases of the special use permit request were separate requests that would run the rest of the width of the Nelson border, and they may note that the southern end of the corridor during this phase of the upgrade ended at the same property where the County recently approved a solar energy facility. He said that facility would not be using these transmission lines, but it was a convenient place for them to stop. He said the solar facility would connect to the by-right distribution lines but not the long-distance transmission line. He said they had a community meeting on November 10, and there were not any significant concerns raised.

Mr. Clark showed an aerial view of a typical section of the existing corridor. He said the wooden H-poles were visible in the photo, which he said would be replaced with slightly taller iron monopoles. He showed a graphic of the existing H-poles on the right and the new monopoles on the left for comparison. He said as mentioned by the applicant, there was a three-phase distribution underbuild. He said this was the by-right distribution lines that would also be on some of these poles. He said the poles in this case would be a bare iron finish, which looked similar to a weathered down brown wooden pole in appearance.

Mr. Clark said they did not suspect there would be substantial detriment in the replacement of one set of poles with another in the same corridor, and they did not expect the character of the area to change because it was an existing corridor with the replacement happening entirely within it. He continued that they felt the use was in harmony with the purposes of the zoning ordinance and was providing a necessary public utility and the utility needed to upgrade these pole facilities because of the age and degraded condition of the existing ones.

Mr. Clark said supplemental regulations in section 5 address pole replacement. He said the existing poles would be removed as part of the replacement process so they no longer existed in the corridor. He said subsection D of that section referred to stream crossings, and there were no new stream crossings being proposed here because it was entirely within the existing corridor. He said one temporary construction crossing would be created with bridge mats over the river and would be removed once construction was completed. He said the use was in align with the comprehensive plan in that there were no additional impacts on natural resources except for the temporary work from the construction.

Mr. Clark said in summary, staff found that the use would improve reliability of electrical services in the area without creating new impacts, and they did not identify any unfavorable factors. He said the Planning Commission voted 5-0 to recommend approval of SP202100015 with the one condition that required they remain within the existing right-of-way easement. He said he would now take questions and said the applicant would be presenting remotely. He said there were motions to be considered after that.

Ms. Mallek said he mentioned construction crossing and asked if that was done with a deck bridge placed down or if they were going through the stream for the construction.

Mr. Clark said they were going over the stream without being in the stream itself. He said it was a bridge mat that sat on the banks and bridged the stream.

Ms. Mallek asked if there was a picture of what ductile iron looked like.

Mr. Clark said he did not have a photo. He said from his past experience with other similar applications was that ductile iron poles weathered down to a rusted brown color and was not a highly reflective surface that had been seen in other proposals.

Ms. Mallek asked if someone could provide the amount of time it would take for that to happen.

Ms. Price asked Mr. Clark to repeat the answer to that question.

Mr. Clark said he was sure the applicant could give the weathering time, but he did not have it currently.

The applicant, Ms. Briana Eddy from Booth & Associates, said she was speaking on behalf of Chuck Ward with Central Virginia. She said Mr. Ward would be on the call shortly, and she would begin the presentation that matched much of what Mr. Clark had already presented.

Ms. Eddy said they had a couple slides to present. She showed the vicinity map that Mr. Clark also showed, displaying the one third of the portion of the line, beginning at Central Virginia's Midway Substation, and the end would be at the Martin's Store Substation, but this was only going through phase one to Thunder Ridge Road at this time.

Mr. Ward said the current slide showed the existing transmission line that extended from the Midway Substation in Albemarle County to Martin's Store Substation in Nelson County. He said the total distance of the line was approximately 11 miles, but this was just phase one. He said these lines and structures were more than forty years old. He said the existing structures were 2-pole wood structures, as shown in the photo, and were H-frame with wood cross-arms. He said the existing 115 kV poles ranged in height from sixty feet to seventy feet.

Mr. Ward said the project consisted of replacing approximately 3.4 miles of the existing line and structures with a new line and structures. He said phase one was replacing all 11 miles to Martin's Substation in Nelson County. He said 3.4 miles is due to financial and manpower restraints they had at Central Virginia Electric Co-op (CVEC). He said the new 115 kV single-pole transmission line will be constructed near the center of the existing 150-foot CVEC easement. He said there would be no additional easement required, and CVEC easement was maintained and would not require any cutting. He said the transmission line project was an upgrade to the poles only. He said the same sized conductor would be used so there would not be an upgrade to the capacity of the line.

Mr. Ward said the new 115 kV transmission line single pole design was on ductile iron poles with vertical construction and a three-phase distribution underbuild on fiberglass crossarms, which was the picture seen on the bottom left. He said the existing 115 kV H-frame transmission line would be removed once the new line is constructed. He said as he stated earlier, the line was about forty years of age, and needed to be replaced due to deterioration of the wood poles and wood cross-arms. He said they were rotting from the inside out, so they did not know if they were actually bad until they failed. He said this line served 6,750 members through four other substations, all on the radial feed so there was no backup.

Mr. Ward said CVEC had had several outages within the past three years where the poles and crossarms had broken, which affected all 6,750 customers. He said this upgrade would increase the reliability to their members and to the CVEC system. He said ductile iron poles were resistant to woodpeckers, insects, rot, and had a weathered natural finish, which was bare iron and looked very similar to a wood pole finish. He said the transmission line fell in the Rural Areas zoning classification and within the "Rural Area 3" of the Comprehensive Plan. He said the public health, safety, and general welfare would be maintained. He said consistent with the Comprehensive Plan Objective 10, and Strategy 10a, "support provision for private electric telephone, natural gas, wireless and fiberoptic service when its provision is in keeping with other aspects of the Comprehensive Plan."

Mr. Ward said properties surrounding the transmission line were rural with a mix of vacant, residential, farmland, hunting property, et cetera. He said all right of way was clear with a mix of maintained fields. He showed a diagram of a typical cross section showing the H-frame wooden poles on the right, which was what was called a horizontal construction. He said on the left was the vertical construction, with the iron poles with fiberglass crossarms with the distribution on the bottom. He said the reason for the additional height was due to the vertical construction rather than the horizontal.

Mr. Ward said there was a crossing of a conservation easement as shown on the slide of the properties owned by Jason Pollock. He showed a map of the conservation area. He continued to say that there would be no impacts expected from the proposed project due to the work being performed in an existing right-of-way. He said the design would avoid sensitive areas, and matting, similar to the picture shown on the slide, would be utilized for any work in a wetland or sensitive area.

Mr. Ward said they had a couple of creeks to cross, the largest of which was Mechums Creek. He said the photo on the slide was of a typical bridge, and was not the exact bridge or exact creek, but would be very similar to this. He said they would put it across Mechums Creek, and the other creek was smaller and would necessitate a smaller bridge. He said all the work would be performed with rubber tract vehicles throughout the project. He said the existing right-of-way included multiple overhead crossings of Mechums River, Dollins Creek, and other unnamed tributaries lying within the Upper Mechums River Water Supply Watershed.

Mr. Ward said there were very careful design considerations for this and was very complicated with a lot of detail and measurements. He said they went to the extent of showing the trees that were in the vegetation and so forth. He said there was a lot of thought that went into that process. He said the next few slides would show the streams and wetlands within the area. He said CVEC performed extensive work each year to cut and maintain rights-of-way for new and existing electric lines along its

4,500-miles system utilizing Integrated Vegetation Management. He said CVEC invested more than \$2.5 million annually in its vegetation management system in order to increase reliability for its members and to remove danger trees from areas near the electric lines. He said they were proud to be a caretaker of the environment and displayed a Habitat Partners Certificate awarded to Central Virginia Electric Cooperative by the Virginia Department of Game and Inland Fisheries.

Ms. Mallek thanked Mr. Ward for mapping the several wetlands and answering about the bridges. She asked him to share more information about the ductile iron poles. She said she would like to know what the timeline was to take on a brownish color, because she had read descriptions that they were white as opposed to silver colored.

Mr. Ward said it would be almost immediately. He said the ductile iron came to them in a brown color to begin with and weathered a bit and took on a bit more. He said it was not like a steel pole and was not galvanized. He said they had them currently staged onsite, and had not currently set any poles, but they had them ready to go and were already in a brown state.

Ms. Mallek asked if each pole had a concrete base or something else to hold it up.

Mr. Ward said no, they were directly set. He said they put an auger into the ground and dug the hole out, set the pole in it, and backfilled.

Ms. Mallek thanked him and said she had no further questions.

Ms. LaPisto-Kirtley asked if the poles were iron and had a coating on them.

Mr. Ward said no, they did not have a coating on them. He said they were iron poles. He said there was a coating that was not able to be seen because it was below ground, and that was to protect the pole in the ground. He said the poles were typically set nine or ten feet deep and had a coating within that ten-foot area that protected it from moisture while it was in the ground, but there was no coating on it above ground.

Ms. LaPisto-Kirtley asked if iron did not deteriorate.

Mr. Ward said it did not. He said these poles were rated as 75-year poles.

Ms. LaPisto-Kirtley thanked Mr. Ward. She said she had no more questions.

Ms. McKeel said she would direct her questions to staff.

Ms. Price said that Mr. Ward and Ms. Eddy had up to five minutes if they had a rebuttal to any of the questions they had been asked.

Mr. Ward said they did not. He thanked the Board.

Ms. Price said she would now close the public hearing.

Ms. McKeel said her questions were from reading the minutes from the Planning Commission. She said she thought there were a few good questions asked and she was interested in the answers of those. She said they had seen numerous replacement projects that all had very similar requests. She asked if there was a way they could move this to some sort of an administrative review so they did not have to hear about the pole replacements again and again. She said she was attempting to find a way to simplify staff's workload and the Board's agendas.

Mr. Clark said in order to do that, they would have to amend Section 10 of the zoning ordinance to move all or some of the transmission scale facilities out of the special use permit category and into the by-right category. He said for several of the pole upgrades seen recently like this one that were pole-for-pole replacements with no other changes, that may be something to consider. He said however, not all of them were going to be like that. He said they had pre-application meetings with other applicants who were doing much more significant changes where they may be increasing the right-of-way, making much more visible poles in a more sensitive area, and things like that. He said thus, it would have to be done through a well-considered zoning text amendment.

Ms. McKeel asked if they looked at the ones that were pole-for-pole replacements, such as this one, and looked at the time it took to move those to an administrative review versus handling three or four of these public hearings.

Mr. Clark said it could be well worth the time, because they would see more and more of these. He said they were hearing from all of the utilities that worked in the County that they were going into a phase of having to upgrade facilities.

Ms. McKeel said she would push for them to save time on the back end by potentially spend time to turn this into an administrative review rather than a legislative one for specific situations that were only doing pole replacements.

Mr. Clark said that would of course be considered through the Community Development work

plan.

Ms. McKeel said she would assume so.

Ms. Price said they would have to converse about that later after finishing this particular hearing.

Ms. Hudson said the County Attorney's Office would look at that more closely. She said there seemed to be some questions as to whether they were statutorily required to legislatively make those decisions, and she did not know the answer for sure but would be glad to take a look at it.

Ms. McKeel said the Planning Commission had asked the same question, which she thought was a good one. She asked Mr. Clark what their ability was to look at co-location. She said they had this upgrade coming and they had a tower. She asked if at some point a company was interested to co-locate another antenna if they could keep a record of those, because this may be an ideal place for co-location.

Mr. Clark said that was something they would have to address at the pre-application stage. He said they did not for this particular application, and when the applicants had answered that question before, they said these particular poles were not designed for that, and the same had been said by other utilities they had talked to. He said it would be challenging to put a transmitter above a high-powered transmission line. He said access for repair of that antenna was very difficult because they had to shut down the transmission line to get there, so these monopoles for transmission were often not a good choice, but that did not mean that there were no other facilities that would not work, so that was something that they needed to bring up earlier in the process with the applicants. He said he did not know if there were areas where they needed to see that, but it was certainly a question to raise.

Ms. McKeel asked if it was something to be considered in the future.

Mr. Clark said yes.

Mr. Andrews **motioned** to adopt SP202100015 Midway Martin's Store 115kV Transmission Line subject to the conditions in Attachment D.

Ms. LaPisto-Kirtley **seconded** the motion.

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

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

NAYS: None.

RESOLUTION TO APPROVE SP202100015 MIDWAY-MARTIN'S STORE 115kV TRANSMISSION LINE

WHEREAS, upon consideration of the staff report prepared for SP 202100015 Midway-Martin's Store 115kV Transmission Line and the attachments thereto, including staff's supporting analysis, the information presented at the public hearing, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(6) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would: 1. not be a substantial detriment to adjacent parcels; 2. not change the character of the adjacent parcels and the nearby area; 3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, with the applicable provisions of County Code § 18-5.1.12, and with the public health, safety, and general welfare (including equity); and 4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202100015 Midway-Martin's Store 115kV Transmission Line, subject to the condition attached hereto.

* * *

SP202100015 Midway-Martin's Store 115kV Transmission Line Special Use Permit Condition

1. Supporting structures for the electrical transmission lines shall remain within the existing right-of-way easement.

Agenda Item No. 18. **Public Hearing: SP202100016 CVEC Cash's Corner Substation.**

PROJECT: SP202100016 CVEC Cash's Corner Substation

MAGISTERIAL DISTRICT(S): Rivanna

TAX MAP/PARCEL(S): 05000-00-00-045C0

LOCATION: Approximately 1,850 feet north-west of Gordonsville Road (Route 231), from a point on Gordonsville Road approximately 0.4 miles north of the intersection of Gordonsville Road and Lindsay Road.

PROPOSAL: Upgrade an existing electrical substation by expanding the equipment pad and adding equipment for 25 kilovolt distribution.

PETITION: Energy and communications transmission facilities under Section 10.2.2(6) of the Zoning Ordinance, on 1-acre parcel. No dwelling units proposed.

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

ENTRANCE CORRIDOR: No

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that at its meeting on February 15, 2022, the Planning Commission voted 6:0 to recommend approval of SP202100016, with the condition recommended by staff and stated in the staff report. The Planning Commission staff report, action letter, and minutes are attached (Attachments A, B, and C).

The Planning Commission raised no objections to SP202100016.

No members of the public spoke at the public hearing on this proposal.

The County Attorney's Office has prepared the attached Resolution to approve the special use permit.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202100016, subject to the condition contained therein.

Mr. Scott Clark said this was another electrical utility special use permit request in the rural areas. He said this proposal was to upgrade an existing electrical substation by expanding the equipment pad and adding some equipment for 25 kilovolt distribution. He said it was currently a 12kV facility. He said there was an existing substation on the site built in 1963 that currently converted power from transmission lines to 12 kV for local distribution.

Mr. Clark explained that this would increase that to 25 kV for general service, but most particularly because there was a natural gas pumping station that was being upgraded in Louisa that needed the higher voltage in order to run their motors for the pump station. He said of course other facilities along that distribution network would also benefit. He said the site was only one acre, and this would add 13,000 square feet of pad to 35,000 in total in order to accommodate the new equipment. He said there was a virtual community meeting held on December 22, 2021 where no significant objections were raised.

Mr. Clark showed a photo of the view of the substation facility from Gordonsville Road. He said it was about 1,800 feet back from the road and the existing facility was about seventy feet tall with the equipment that was there now. He said with the new equipment, it would only be forty feet tall, so it would be less prominent visually than what was there now. He showed an aerial image of the site and said to clarify, there were two substations next to each other on the site and the one on the left, the Dominion substation, was not a part of this application.

Mr. Clark showed an aerial view of the plan for architectural use. He said the gray area here was the existing asphalt pad, and outside of that was currently vegetated. He said the paved area would expand out to near the property line of the one-acre substation site, and the new forty-foot equipment would go in that area. He said to clarify, there was some existing vegetative buffering on the adjacent property that was done a while back through a different matter, there was a change notated by a hashed area where a purely overhead line access easement and the utility had, as part of that process, worked out with the landowner that the utility would provide some additional screening. He said that was already planted and growing.

Mr. Clark said overall, they felt the character of the existing use would not change and it was less visually prominent than what was there now. He said the new pad would be subject to stormwater plan review. He said as a utility, it did not need a site plan, but it did need to comply with stormwater requirements. He said the increase in area on the pad within the small one-acre site would not change the overall character of the area, and the electrical distribution was compatible with permitted uses in the district. He said one favorable factor was the increase in reliability of electrical distribution to the area without creating new impacts. He said they did not find any negative factors. He said on February 15, 2022, the Planning Commission voted 6-0 to recommend approval of this request for an upgrade, with one condition, which essentially was just holding the development to what was shown on the conceptual plan.

Ms. Price asked the Board if there were any questions or comments for Mr. Clark. Hearing none, she asked the Clerk if there were any speakers signed up for the public hearing.

Ms. Borgersen said there were not.

Ms. LaPisto-Kirtley read the protocol for the public hearing.

Mr. Ward said he would present information about the Cash's Corner Substation rebuild project, SP202100016. Mr. Ward showed a vicinity map that showed it was to the west of Gordonsville Road.

Mr. Ward said the substation was constructed in 1963 and consisted of 115-25/12kV power transformer, meaning it was a dual voltage, and right now was set to serve at 12 kV. He said it was serving the 12kV low side with two 12 kV circuits. He said one ran east and one ran west up the mountain

to the AT&T facility. He said they had received a request from an existing customer that would be increasing their load substantially. He said the project load was an existing gas compressor station located at 1173 Waldron Road, Gordonsville, VA. He said it was approximately 7 circuit miles northeast of the Cash's Corner Substation. He said the customer was adding a new 1250 horsepower motor to their existing load. He said the conversion of distribution to 25 kV was required to keep the flicker within the required limits within motor starting, thus preventing adverse service to existing customers.

Mr. Ward said the rebuilt project fell in line with the spirit of the Comprehensive Plan which discussed the future of the County zoning and planning efforts. He said Objective 10, Strategy 10a said "support provision of private electric, telephone, natural gas, wireless, and fiber optic service when its provision is in keeping with other aspects of the Comprehensive Plan." He said there were staggered rows of Green Giant Arborvitae, currently 5- to 6- feet tall and was currently in place as a vegetative buffer. He said the surrounding area was rural and there would be no impacts to neighbors. He showed photos of the trees from the southside and said the substation could be seen in the background. He showed another photograph he said from was from the east.

Mr. Ward said properties surrounding the substation site were rural with a mix of vacant, residential, farmland, hunting property, et cetera. He said the existing access drive would be utilized. He said the distance was 1,930 feet from the Cash's Corner substation gate to the public road. He said no disruption of traffic was anticipated. He said no impacts were expected from the proposed project due to the work being performed in an existing cleared, grassy parcel. He said there were no sensitive areas within the parcel and no watersheds would be impacted. He said minimal grading of approximately 12,000 square feet was planned, and best management practices would be followed during construction. He said the CVEC parcel lies surrounded by a conservation easement. He said CVEC had a strong commitment to caring for the environment and would follow all regulations during their rebuild of the steel structures on the proposed substation area.

Mr. Ward showed a map of the easement area around the substation. He showed a photograph of the substation looking toward the Highway 231. He showed another aerial photograph with the site plan laid over the image. He said the gray area was the substation, and they were extending the fence about 63 feet on their own property and rebuilding some of the equipment inside of the substation so they could convert to 25kV and serve the new load.

Ms. Price asked the Board if there were any questions for Mr. Ward. Hearing none, she asked Mr. Ward if he had any rebuttal. Hearing no rebuttal, she said the matter was now back before the Board for any additional questions for Mr. Clark. There were questions for Mr. Clark, so she asked if there was a motion.

Ms. LaPisto-Kirtley **moved** to adopt the resolution approving SP202100016 CVEC Cash's Corner Substation with the conditions outlined in the staff report.

Ms. McKeel **seconded** the motion.

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

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

RESOLUTION TO APPROVE SP202100016 CVEC CASH'S CORNER SUBSTATION

WHEREAS, upon consideration of the staff report prepared for SP 202100016 CVEC Cash's Corner Substation and the attachments thereto, including staff's supporting analysis, the information presented at the public hearing, any comments received, and all of the factors relevant to the special use permit in Albemarle County Code §§ 18-10.2.2(6) and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, with the applicable provisions of *County Code* § 18-5.1.12, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202100016 CVEC Cash's Corner Substation, subject to the condition attached hereto.

* * *

SP202100016 CVEC Cash's Corner Substation Special Use Permit Condition

1. Development of the use must be in general accord (as determined by the Director of Community Development, or the Director's designee) with the conceptual plan entitled "115kV Substation – Cash's Corner LS Rebuild," prepared by Booth & Associates, and last revised 10/15/2021. To be in general accord with the plan, development must reflect the location of developed substation pad shown in the plan. Minor modifications to the plan that do not conflict with that essential element may be made to ensure compliance with the Zoning Ordinance.

Agenda Item No. 19. **Public Hearing: SP202100013 Living Earth School**

PROJECT: SP202100013 Living Earth School

MAGISTERIAL DISTRICT: Samuel Miller

TAX MAP/PARCEL(S): 08600-00-00-017C5

LOCATION: Pounding Creek Rd., approximately 1.3 miles south of the intersection with Dick Woods Rd.

PROPOSAL: Day and overnight environmental-education camp

PETITION: Day camp, boarding camp under Section 10.2.2.20 of the zoning ordinance on a 125-acre parcel. No dwelling units proposed.

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

OVERLAY DISTRICT(S): Steep Slopes Overlay District

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that at its meeting on December 14, 2021, the Planning Commission voted 5:1 to recommend denial of SP202100013. The Planning Commission staff report, action letter, and minutes are attached (Attachments A, B, and C).

Prior to the Planning Commission hearing, this use was proposed for a 125-acre portion of Parcel 8617C, whose total size was 414.93 acres. Since that time, that 414.93-acre parcel has been divided into three large parcels. The same 125-acre area proposed for the school use is now identified as Parcel 8617C5. Nothing about the location or boundaries of the proposed use has changed.

The Planning Commission's discussion largely focused on traffic-safety issues. Public comment focused on traffic impacts on Pounding Creek Road and impacts of the proposed use on nearby properties.

The County Attorney's Office has prepared the attached Resolution to deny the special use permit.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to deny SP202100013. Alternatively, if the Board chooses to approve this special use permit, staff recommends that any approval be subject to the "Recommended Conditions of Approval" included in the staff report (Attachment A).

Mr. Scott Clark said this was a special use permit request for a property located on Pounding Creek Road. He said the proposal was for a day and overnight environmental education camp under the day camp and boarding camp category. He showed a map of the property and the surrounding roadways and land parcels. He said again the property was on Pounding Creek Road, east of Batesville. He said the two main routes of access were south from Dick Woods Road along Pounding Creek, or east along Pounding Creek from Miller School Road. He showed an aerial photograph of the property he said was taken a few years ago.

Mr. Clark said the proposal included that six weeks per year, there would be a summer camp with both day campers and overnight campers totaling 160 attendees, and the rest of the year would have day and overnight programs with up to 150 attendees. He said there would also be two fundraising events per year with up to 200 attendees. He said improvements on the site would include a camp hall building, gravel driveway and parking, storage barn, staffer cabins, platform tents for campers, shared bath houses, and a couple of pavilions and nature libraries. He showed a topographical sketch plan for the site and said they could see it was entirely located north of the stream buffer that was highlighted in pink and showed the access to Pounding Creek Road was on the left side of the slide.

Mr. Clark clarified that one change that occurred during the review of this project was that they originally had this as a 400-acre parcel, and the parcel at the top of the map shown, Parcel E of 125 acres, was designated as the limits of use for the proposed camp. He said while they were in the process of reviewing this, the landowner completed the subdivision planning process, and this was now actually its own parcel. He said the boundaries had not changed, the proposed boundaries were the same, but it was now called 86-17C5 when referring to those 125 acres.

Ms. McKeel asked for Mr. Clark to provide more context for the map displayed.

Mr. Clark showed a map of the entire 400-acre property lying east of Batesville. He said the portion they were seeing that was 125 acres was at the northern end. He showed where the stream was located and said that was the southern boundary of the proposed use, and the developed portion would be nearby, with the camp in the wooded area on the side of the ridge.

Ms. McKeel said that was helpful.

Mr. Clark said her questions were appreciated. He showed the topographical map with the entrance again and said it was an existing logging road with a bridge that needed to be upgraded. He said all the camp facilities were proposed to be north of that creek. He showed the map of 86-17C5 and showed where the stream buffer of that same creek was along the 125-acre boundary.

Mr. Clark said they had a community meeting back in August and showed a map of the camping area. He said it was sizeable due to the size of the property. He said concerns at that meeting included road capacity and traffic issues on Pounding Creek Road which he would discuss momentarily, water sources for the camp, and impacts on the area's limited internet service capacity.

Mr. Clark said to briefly review the special use permit criteria in the zoning ordinance, under "substantial detriment," they felt that the noise impacts would be very minimal, because there would be no outdoor amplified sound, the nearest dwelling was 2,200 feet away from the tent area where most of the activity would be, and there were no immediately adjacent dwellings. He said however, there was chance of detriment due to traffic on a narrow, infrequently maintained gravel road that was needed to access the site. He said under "harmony" with other permitted uses, there were limited impacts on the identified resources in the rural areas from a use like this, because it had a relatively minor footprint on the site overall. He said the site could be largely returned to silvicultural use in the future, and service demands would be limited to occasional emergency services. He said again it was easily reversed into forestry use later, and except for the building, most facilities were low-impact and could easily be removed.

Mr. Clark said under public health and safety, the chief concern in this review and among the attendees at the community meeting was about trip generation, traffic safety, and the condition of the road. He said they broke this down for summer, and said there would be variable traffic impacts, but up to 92 trips on a Sunday when there were overnight campers arriving. He said under the applicant's proposal, up to 40 trips plus some shuttles on the road during the week, which increased to 86 trips plus shuttles on Friday because the weeklong campers were returning home and there were more pickups. He said, unfortunately, they did not have much traffic data for this road and the last traffic count done in 2014 estimated about 48 trips a day on this very narrow road. He said that outside of summer, the applicant was proposing that any class, overnight camping trip, or educational activity that required more than 40 trips would use shuttles.

Mr. Clark said Pounding Creek Road was a concern throughout this review. He said it was an unusual situation in that it was a very narrow road. He said it was the main connection to the site from Dick Woods Road, and at the bottom of the slide was the corner of the facility where the entrance would be. He said there were multiple pinch points on this road where the road was only 10 to 12.5 feet wide, which was much narrower than the typical minimum standard of 40 ft for a small VDOT road. He said there were no shoulders or ditches in many areas, and the site distance was limited both by horizontal and vertical coverage throughout this route between Dick Woods Road and the site.

Mr. Clark said the issue this created was that when there was two-way traffic with arriving and departing campers and parents, there would be vehicles meeting at these pinch points repeatedly along this road. He said to illustrate that, there were three points at the southern section of Pounding Creek where the road was only 11 to 12 feet wide and there was no shoulder, and the banks were immediately at the road edge, so there was no way for two-way traffic to get through these sites. He said if cars met there, there would instantly be a backup. He said farther up the road, there were three more sites ranging from 10 to 12.5 feet in road width, so this was a very limited capacity route to access any kind of site.

Mr. Clark said staff recommended to the applicants that they use shuttle access rather than individual vehicle access to avoid two-way traffic at pinch points. He said they duly considered it but felt that it was not practical for them to propose entirely shuttle-based transportation, so their proposal was that 75% of their attendees would arrive for the summer camp by shuttle, but that 25% would still be allowed to arrive by individual vehicles. He said they also pointed out that overnight campers, especially children arriving for a week-long program, had families who would want to be on-site and they would need to arrive by individual vehicles so the families could interact before the child was on-site for the week.

Mr. Clark said the issue they had with this was that the compliance with percentage requirement for non-summer attendee numbers cannot effectively be monitored or enforced by the County. He said they could not ensure that in fact 75% were using the shuttles from one week to another. He said even if they did have effective monitoring and controlled that, there would still be the problem of pinch points, with some of the traffic meeting at those very narrow sites on this road where they could not pass. He said an additional safety concern was the entrance from Dick Woods Road onto Pounding Creek Road. He said as was shown, the photograph was facing west and showed the hill in the back of the frame that was difficult to see over, and Pounding Creek Road was nearly invisible until it was reached. He said that was another feature of Pounding Creek Road that made it a difficult route to access a use that had increased traffic.

Mr. Clark said the final special use permit criterion was for consistency with the comprehensive plan. He said they felt this use did help protect natural resources on this site and did not significantly decrease the ability of agricultural and silvicultural resources. He said it helped inform citizens on "cultural, economic, and ecological aspects of the rural area," as called for in the Comprehensive Plan, and it increased awareness of biodiversity because it was an ecological education facility. He said in summary, there were two favorable factors. He said one was that the facility on the site itself would have minimal impacts, and second was that it was an environmental education facility that helped meet the County's awareness goals in the Comprehensive Plan.

Mr. Clark said however, there were three unfavorable factors, the first being the road safety issues with access via Pounding Creek Road, the second that the shuttling requirement for the summer camp was not something they could effectively monitor, and there would be some individual vehicle access needed on that unsafe road, and finally that the non-summer programs had the same issues of not being able to monitor the shuttling requirement compliance with the shuttling requirements and having

some degree of access on a very narrow road.

Mr. Clark said given those factors, on the December 14 hearing, the Planning Commission voted 5-1 to recommend denial of SP202100013. He said that staff recommend the Board adopt the Resolution to deny SP202100013. He said however, if the Board chose to approve it, there was a list of conditions that were recommended for any approval of this use. He said there were motions he could show the Board when it was time for them.

Ms. Mallek asked if the forty trips was forty round trips, or the equivalent of dropping off ten children in the morning and picking up ten children in the afternoon.

Mr. Clark said yes.

Ms. Mallek asked if anyone had talked to Albemarle County Rescue Squad about their experience with this road. She said she would ask the applicants as well.

Mr. Clark said he had not.

Ms. Mallek said these were roads she lived on all the time, and Clark Road was no bigger than this, sometimes smaller, and the dairy trucks got in and out of there for fifty years until someone's retirement last year every single day. She said Sugar Hollow was not much wider and there was a Girl Scout Camp there. She said timber trucks harvested on this property or one next door and went up and down Pounding Creek Road for years. She said while she understood it was difficult to monitor, she thought it had great possibilities to get people to be compliant, and one solution she thought of was that they had cohort times, and if people missed the time, they would have to wait another few minutes. Her example was that traffic could travel inbound to the camp from 8:00 a.m. to 8:15 a.m. and then outbound from 8:15 a.m. to 8:30 a.m. She said that was one of the ways the applicant could be in charge of things, because she was not interested in making staff responsible for any of this.

Ms. LaPisto-Kirtley said she wondered if there was a possibility of the shuttle bringing the parents and children to the site on those days when the parents were dropping off children to attend the week-long summer camp. She said they may have to make multiple trips with the bus. She said it was a wonderful program, but there were concerns.

Mr. Clark said it would be up to the applicant to see if they could make that work, because they had not discussed it yet.

Mr. Andrews said on slide 14, it showed the number of participants and trips. He asked if the numbers of trips supplied by the applicant were based on the number of campers.

Mr. Clark said these were supplied by the applicant based on their plan for operation.

Mr. Andrews asked if that were based on assumptions of 160, because that would give forty trips.

Mr. Clark said that was saying that 120 of those, or 75% of users would travel by shuttle.

Mr. Andrews said he was concerned about that. He said he would withhold his questions for now.

Ms. Price asked what the distance in miles was in either direction on Pounding Creek Road from the proposed site to either Dick Woods Road or the other road that she could not recall.

Mr. Clark said he thought it was in this presentation, but he would have to check that information for her.

Ms. Price said they would open the public hearing. She asked the Clerk to confirm there were two in-person speakers.

Ms. Borgersen said yes.

Ms. Price asked if there was anyone participating online.

Ms. Borgersen said there was not.

Ms. Price said she would now ask Vice Chair LaPisto-Kirtley to read the rules for in-person comment and also for the applicant.

Ms. LaPisto-Kirtley read the rules for public hearings.

Mr. Cunningham introduced himself as Scott Cunningham, Director of Operations, and Adam "Hub" Knott, the Executive Director. He said they were as of the first day of the year, a nonprofit organization. He said last year they converted to be a nonprofit to better reach their community. He said their mission was to bring education and connection to nature. He said this was the 20th year for this organization, and congratulated Mr. Knott for that job. He said it was nature-based and about understanding the woods, trees, invasive species, animals, connecting with nature, and knowing where they as humans fit into the world. He said it was very helpful. He said they now had a Board of Directors,

Kathryn Abbot, Kate Guenther, Jay Fennell, Diana Boeke, John Outland, Kate Knott, and Hub Knott. He said the Knotts were the founders. He said Ms. Knott was retired to be a full-time mother.

Mr. Cunningham showed a topographical map of Israel Mountain Farm and said it was approximately 424 acres and had been subdivided. He said they were trying to get a hold of a 125-acre section. He said one neighbor was the Miller School, which was 5,500 acres. He said he would skip some of this information, because people were not interested in the self-sustaining educational components they would have there, but it would come down to traffic. He said to let them know the economic impact, they had overnight campers from all across the United States and other countries. He said there was an opportunity before them to become the eco-education center for the east coast. He said they were leading in that and were now looking at opening a home school in Fredericksburg to build and grow the project. He said there was education for ages 5-80 and dealt with adults, children, and teens. He said a problem they faced currently was a gap year for youth that needed more direction and guidance and could not do it right now because they did not have the land to make that happen.

Mr. Cunningham said they bought a van, had funds to buy another, and were committed to using group traffic management. He said they proposed to deal with the traffic that they put into control mechanisms that during the six Sundays and six Fridays, they could control traffic by taking and directing traffic in at a specific time, doing a family event during the drop-off, getting the kids settled into the camp, and then having the families leave all at the same time. He said the day camps did not have the same necessity for the parents to be there, and in fact parents would rather not drive their children to those camps. He said they could have buses meet in Crozet, at Barracks Road, or Wegmans.

Mr. Cunningham said when they were going through this process, they needed to plan for the future, so they were very transparent. He said the numbers they put in for day and overnight campers that had not historically been reached, so the numbers were much higher. He said typically they had 48 campers overnight, and 48-60 during the day. He said that would definitely reduce the amount of traffic, but if the need continued to grow, he could foresee it being larger, but he had to present what their future was predicted to be. He said it would be one or two buses dropping off and picking up 48 campers. He said they proposed they had the people coming in on the Sundays and leaving on Fridays, coming in during the morning and leaving early afternoon, controlled and sent from Miller School and exited to Miller School. He said they would not use the other side and would manage the traffic flow, and the rest would be brought in with their own vehicles

Mr. Cunningham said he could not transparently say that they would get 100% of people via bus, so he threw in 75% as a figure, but there were circumstances that necessitated parents being able to drive their children in individual vehicles to the site, such as appointments or just that it would be closer for them to drive there than to drive to the bus pick-up stations. He said they were very committed to making sure this was a place that was close to Charlottesville so they could actually reach the community, bring them there quickly, efficiently, and as environmentally friendly as possible, and deliver services and programs.

Mr. Knott introduced himself as Hub and said he was the founder of this work and had been doing this work for more than twenty years. He said he lived to see children's fascination with nature and the woods, and he planned to do this work until he could not anymore. He said the kids needed a place to go because mental health was a major issue, and the woods was a remedy that was being discussed more and more. He said that was what they were dedicated to continuing. He said they operated for eighteen years in Sugar Hollow, where he knew narrow roads well, and that one had many fast cars going down it, but they managed and kept kids safe with signs and special letters to the parents to drive out slowly.

Mr. Knott said Scott Clark had been a great resource, but the pictures shown were one side of Pounding Creek Road heading towards Dick Woods Road, and if they went left out of the entrance, the road was a lot wider all the way to Miller School Road, so he did not think that was as big of a hazard, and they could point parents with a sign that said which way to go. He said it was a minute or two of a difference of travel time, and they could work to ameliorate that. He said they needed land to work on, because they had never had a permanent location and that had been a struggle for their business, alongside increase in demand for their services and programs.

Mr. Knott said the Board was ultimately the authority as to who had access. He said easements blocked a lot of their access, not by any ill intent, but because people wanted to protect the land. He said they found that much education relied too much on memorization of information, which did not spark the same love that giving adventures and the ability to run around did. He said some of their former students were doing work such as environmental law, land restoration, and education. He said they were building towards something and needed more nature education in their community. He said the alternative in this neighborhood was that it could have 25 homes by right and could be a vineyard that hosted lots of people. He said that 25 homes a year would generate about 75,000 trips per year compared to their program's 3,000.

Ms. Mallek said he had answered her question about the cohort perfectly.

Ms. LaPisto-Kirtley said he had answered her question about transportation to and from the site.

Mr. Gallaway asked when they had dealt with the maintenance of dirt roads in the past, if there was anything that the camp had done knowing this was a road that did not necessarily have any fund for it.

Mr. Knott said they had talked with some of the landowners on both sides of the property, and they said they were fine if they wanted to clear but could not mess with VDOT's road. He said they could clear the areas that had dead trees to clean up, but they could not change the roads. He said it was his understanding that VDOT would respond if traffic increased. He said not many people used the road, so there was not a lot of incentive to go there and take care of it.

Mr. Andrews said there was a lot of debris in the road when he visited the site a few days ago. He asked how many people the van held.

Mr. Knott said they currently had a 15-passenger van, and they were looking into buying school buses, which they would only consider buying if it was needed. He said there were 45-person school buses and 75-person school buses, but he would prefer a smaller one.

Mr. Andrews asked if there was any relationship between what they were doing here and the proposal that came before the Board in October about a Batesville Road property for a similar camp.

Mr. Cunningham said before he was there, the Haupts were talking with Hub about their property in that it could be a potential support of the programs while they tried to find land, because they already had a special use permit for the ropes course on it, and it was only for that summer with 36 kids so it could not sustain itself financially, but it was a great and beautiful property. He said it was 100 acres, and 25 was not under easement, but they were utilizing it and it definitely could be used from 8 a.m. to 4 p.m. as a summer camp, but it was not a property where they could have other programs that were held throughout the year, such as their home school program that ran from September until May, and an adult foundations program that ran on weekends for eight months. He asked if that answered Mr. Andrews' question.

Mr. Andrews said yes, he needed to understand the difference between the two. He said his other concern was with how to enforce the ideas about restricting people from coming in or going out Dick Woods Road, which was hazardous.

Mr. Cunningham said in the initial conversation, they discussed putting up a physical barrier and sign and a staff member to direct traffic down Miller School Road. He said on those six Sundays and six Fridays, they would have someone there to manage that. He said their people were very conscientious, meaning that they already did a large amount of carpooling. He said he thought that was very manageable. He said they could not manage the people who would want to come in individually during the day to pick up a child for a specific appointment, but the management of those twelve days during the year could be done well.

Mr. Andrews asked how the conditions they were talking about worked with respect to trying to put them into this process so they could be sure this was how it would work. He said if they issued a special use permit to do this, then anybody could come in and take advantage of the permit and operate in a completely different manner.

Mr. Knott said he imagined it was similar to the Sugar Hollow Girl Scout camp that had a 190-person limit, and he was unsure of how that number was policed. He said in some ways, if it seemed that someone was going above and beyond, neighbors would make it known. He said they did not plan to do that, but many places had restrictions and he did not know how that policing worked, but he thought it was for their integrity in Sugar Hollow and being good neighbors and having a good track record, but he did not have an adequate answer, because Mr. Clark did not want to police the traffic, and it was not fair to people.

Mr. Andrews said the question was not just about monitoring, but about how they would put the restrictions into the permit.

Ms. Hudson said it would be done by virtue of conditions they imposed and approved as a body. She said the staff report was that even with the imposition of those conditions, it would be very difficult to enforce and monitor, so it was the nature of the conditions that seemed to be an issue in the staff report.

Mr. Andrews said okay.

Ms. Hudson said the issue was that even with those conditions, they were not sufficient enough to address the concerns.

Mr. Cunningham said ultimately, everything came down to trust and integrity of the people doing what they set out to do.

Mr. Andrews said so was everyone knowing what those expectations were so they could be reported appropriately if they were not met. He said he had no further questions.

Ms. Price said they mentioned one of the places parents could gather for the van, shuttle, or bus was 5th Street Station and some other areas. She said those were sort of commercial locations somewhat far removed. She asked if there was a closer place for families to gather at, or if they were all far removed.

Mr. Knott asked if she meant in town as being far removed.

Ms. Price said yes.

Mr. Knott said they had talked to Ix Art Park because it was central.

Ms. Price asked if there was nothing near this property.

Mr. Knott said Crozet would be the closest.

Ms. Price said she wanted to know what the closest one might be.

Mr. Knott said another potential one was Crossroads, but they would hear more from people as they gathered feedback from parents on their carpooling preferences. He said they often used input from their customers to inform their business operations.

Ms. Price asked if the Supervisors had any further questions for the applicants. There were none and she asked for the speakers from the public to come forward.

Ms. Tucker introduced herself as Sally Tucker, resident of the Samuel Miller District. She said her house was the closest house to the property. She asked the Board to deny this special use permit. She said there were multiple reasons she believed it should be denied, but she must bring up the discrepancies after the applicants' presentation. She said the applicant said if they did not have the property, the property could have 25 houses developed on it by right. She said according to County staff, the number of houses would be six, so that seemed like a large discrepancy. She said they also said they spoke to all the landowners on the road and were told they could clear what they needed to and create bump-outs, but there was some discrepancy there. She said she knew they spoke with Steve Morales, who owned the property they wanted to lease, and he spoke with the large landowner that went down from that position to Dick Woods Road, but that was only hearsay and she did not speak to that landowner.

Ms. Tucker said she was a landowner and was not approached to do any kind of carve-outs and did not give them permission. She said no one had been approached in the direction they were proposing the cars be sent. She said there were still narrow places between her house and Miller School Road where only one car could pass. She said it was somewhat concerning that they were giving a special use permit to an entity that did not own the property. She said the special use permit, as far as what she had learned from former Supervisor Liz Palmer, was that it went to the property, not to the person doing business on the property. She said the other thing she wanted to bring up was that their community already used that road for walking, hiking, biking, and Miller School used it for track practice.

Ms. Tucker said it was much a loved road in the community, and the traffic concerns for the road for was disturbing to all of them. She said unfortunately, this hearing was during spring break, Covid-19, and the fact that the County gave a 5-1 denial, most of the community felt that this would not pass. She said the community members' presence at the meeting was meant to show that they were people unhappy with this process.

Mr. Cocke introduced himself as William Cocke and was also a resident of the Samuel Miller District. He said he and Sally lived in the same household and he wanted to reiterate what she said and said he approved of it. He said he supported the Living Earth School's mission and had no doubt they would be good neighbors with a low-impact development. He said he benefited from nature camps as a teenager himself, but they had concerns about the access issues and felt that they made this permit problematic for the reasons his wife, the Planning Commission, and the staff had outlined. He said the road access during the busy times would be challenging to say the least to parents, campers, and the residents who lived on that road. He said they were not the only ones, and there were probably several dozen on that road.

Mr. Cocke said to reiterate, this was a beautiful and old road, unchanged probably since Albemarle County was incorporated. He said it would be a shame to change it from a quiet, rural, unpaved road with little traffic to a busy commuter thorough-way even though it was only for a few days. He said Sundays were the quietest days, usually, with minimal amounts of traffic during the entire day. He said this use would significantly increase the traffic on the weekends. He said the road was used heavily by walkers, birders, and bicyclists as a recreational area. He said again that he had issues with the access, and he had no further comments.

Ms. Price said the applicants had up to five minutes for rebuttal.

Mr. Cunningham said they understood that change was not easy and it would make a bit of a difference and agreed with that sentiment. He said when they talked about the road and the owners, they should have been more specific that Steve Morales owned the area all the way to their entrance and some ways past it and was just on the north side of the road. He said those people talked about being able to expand that side of their road and the property they owned. He said it would not negatively impact any of the people on the other side. He said he wanted to clarify that point.

Mr. Knott said he heard the question about leasing, but he had discussed with Mr. Morales that if they got the permit, they would sell that area to them, which was of major interest. He said they had been

in a lot of rental situations where they could not control their own future and that made it difficult to operate a business. He said their goal would be, if they received the permit, to work with Mr. Morales to buy the property outright. He said he knew the dangers of one-way traffic and bridges on roads like Sugar Hollow, and people figured it out. He said he knew there was debris on the road right now, but when trees fell at Sugar Hollow during storm events, their camp staff would clear the road with chainsaws to ensure that the roads were accessible for emergency vehicles and regular use.

Mr. Knott said he understood people walked the road, and people walked Sugar Hollow still, but there were likely thousands of cars per year that drove that road, and their use would by comparison only be for six Sundays and six Fridays of the year for the summer, and throughout the year there would be home school kids dropped off for their programs, so he did not think it would be as egregious amount as other uses might be.

Ms. Price asked the Board if they had any other questions for the applicants. Hearing none, she said they would now close the public hearing and the matter was now back before the Board. She asked the Supervisors if there were questions for staff.

Ms. Mallek said she would like to clarify the condition process, because her understanding was that when an applicant stipulated what they would do to have their operation and that was written down, that was the basis of the operation, and if it did not happen, then the SP would be invalidated. She said there was a lot of self-policing that went on in the issuance of a special permit if it was carefully done. She said if they relied too much on the boiler plate and said things would be taken care of with the site plan, that did not mean it did not, but if they had conditions in their approval that said what the applicant must do, in other experiences that had come true very well, because their whole future depended on it. She said they certainly had the ability to say to their parents "We will fail and be gone if you do not do what we asked you to do on this," and people did respond positively when faced with the reality of that kind of situation. She said she hoped to resolve some people's concerns. She said the issues that were present were certainly manageable and she hoped children would get to participate in these activities.

Ms. Price said Mr. Clark was showing on slides 28 and 29 some of those conditions.

Ms. LaPisto-Kirtley agreed with Supervisor Mallek that if they could put some of those conditions into an approval process, it would go a long way. She asked if Miller School would also be a parking area where parents would park, and the van would pick them up.

Mr. Clark said they had quite a bit of feedback from the public at the community meeting and at the Planning Commission hearing, so the applicants took some time after the Commission hearing to discuss options with the neighbors, one of which that came up at that meeting was considering using the Miller School site as a parking area and the main access point for the camp. He said there were several difficulties with that, and the applicants could speak better to the practicality of that, although he would point out it was about a mile walk through the woods from the developed part of the Miller School to the entrance of this property. He said the last part of that was actually along that public road, so it was not a very safe access, and it was not a very convenient access because it was a mile away. He also said the Miller School would have to join into the application, which he was unsure if they were willing to do.

Ms. LaPisto-Kirtley said she did not imagine them walking to the site. She said she imagined it as being a pickup point like a Park-and-Ride where parents who lived nearby would go to get on the van with their children and drive in.

Ms. Price said she believed that Mr. Clark was just addressing that the Miller School had not joined in on the application.

Ms. LaPisto-Kirtley said she understood it had not joined in. She said they did not know that part yet.

Mr. Clark said that was correct.

Ms. Price asked Ms. LaPisto-Kirtley if she had anything further.

Ms. LaPisto-Kirtley said that was all.

Mr. Gallaway asked to see the third condition on the list of conditions for outside of the summer camp season. He asked Mr. Clark to talk through the rationale of how that third condition was arrived at.

Mr. Clark said these were based on the applicant's description given during the review process of the estimated level of activity on the site. He said condition two was more complicated because they were dealing with two groups of campers, which were the overnight campers that created the traffic on Sundays and Fridays only, and the day campers who arrived and departed Monday through Friday each week. He said his understanding of the programs that would happen the rest of the year outside of that six-week summer camp period was that they were smaller classes, typically not as large as 150, although they could be, that were individual programs that might be one day or only a few days long and would thus be more variable.

Mr. Gallaway asked if the numbers in the conditions were suggested by the applicant.

Mr. Clark said yes, they tried to form the conditions based upon the requested level of use.

Mr. Gallaway asked if that condition applied to condition number five if they had large amounts of attendees. He asked if that was how it was written, and if there would be a cap on attendees.

Mr. Clark said the 200-attendee number was chosen in part to be consistent with the other event-type uses they permitted for wineries and special events across the County.

Mr. Andrews asked if there was a discrepancy as to what the by-right developability of the 125 acres would be.

Mr. Clark said they calculated it would be seven dwellings. He said he believed the 25 that Mr. Knott mentioned was likely for the entire 440-acre property that Mr. Morales owned, which has a potential split across the three parcels that now make it up. He said their estimate was that these 125 acres could have seven dwellings.

Ms. McKeel asked if the special use permit would go with the land.

Mr. Clark said that was correct, any operator that wanted to use this site could use it.

Ms. McKeel said it did not go with the owner or lessee of the property. She asked Ms. Price if she should give comments in addition to her question.

Ms. Price said they would gather Supervisors' comments after questions were asked.

Ms. Price asked to see Slide 28. She said Condition 2A stated that the attendance of the summer camp must not exceed 160 campers, of which no more than 60 could be overnight. She asked if that meant up to 100 could be day campers.

Mr. Clark said that was correct.

Ms. Price said 2b said that at least 75% of all daily attendees must be transported by shuttle bus or van. She said that if they took 75 people on the bus, that potentially left 25 individual routes per day on top of the shuttle buses per day, which would bring the 75 to up to 100-day campers. She asked if she was doing that math right.

Mr. Clark said he believed so. He said he believed that it was likely that of the 25% of attendees who came by individual vehicle may have multiple children in the vehicle so it would be under 25 cars in some cases.

Ms. Price said she understood. She said it could potentially be 25 separate vehicles in the summer for the day campers in addition to however many shuttle vans or buses were required for the 75. She said again she was looking at maximum numbers because of the impact. She asked how many other properties were between this location to the paved road if all the traffic went on the route on Miller School that the applicant was discussing. She asked if that was known.

Mr. Clark said he did not have an exact count for her, but there were on the order of two to four dwellings directly on Pounding Creek Road, but there was also a subdivision with ten or twelve dwellings that accesses onto Pounding Creek just before Miller School at that west side of the site.

Ms. Price asked for a moment to check if she had any other questions.

Mr. Clark said he could answer her previous question about the distance in each direction, which from the site to Miller School was about 1.4 miles, and from the site north to Dick Woods Road was about 1.3 miles.

Ms. Price thanked Mr. Clark. She asked if it was fair to say that any plans, policies, and procedures that the applicant had with regard to scheduling inbound and outbound traffic would only apply to their travelers but not to other people who transited through those roads.

Mr. Clark said that was true. He said in an attempt to find conditions that could work for the Planning Commission's consideration, condition number six addressed outbound traffic and that it must be directed westward toward Pounding Creek Road. He said they did not feel there was any way to effectively control inbound traffic, but obviously once people were on the site, as Mr. Knott said, they could direct them once they were leaving.

Ms. Price asked what entity or entities were responsible for the maintenance of the road.

Mr. Clark said it was a VDOT maintained road.

Ms. Price asked the Board if there were any other questions for Mr. Clark.

Ms. Mallek asked if there were seven houses, that was estimated to have ten cars per day per house. She said if that were the result, there would be seventy cars or more, so she wanted to ensure the math was right but also to discuss this in relationship to what the property could be.

Ms. Price said she would now ask the Supervisors for comments.

Ms. Mallek said she thought this could be done, and to add a condition about the cohort entering and leaving would help to seal that uncertainty for people, so with any improvements the Board could make to the conditions, she would be glad to support this application.

Ms. LaPisto-Kirtley said she was also looking for reasons to approve this, and if they had conditions that addressed the traffic flow, she thought it would be a great opportunity for children to experience this, so if they could allay the concerns of the neighbors regarding the traffic and use the vans to shuttle, there would be positive results.

Mr. Gallaway said when he thought about an education program such as this one and what it attempted to achieve, he had a difficult time determining that it would be on any other site but a site like this one. He said this could not be done without being out with the separation that was there. He said as a speaker mentioned, it was a quiet, beautiful, and unpaved road, but it was a public road, and was one where if they did not have an education program or something similar out there, how would anyone be able to appreciate that and know that it existed? He said the merits of the education program weighed with him on how they could achieve it without having separation into a site like this.

Mr. Gallaway said he agreed with and read very carefully Mr. Randolph's comments in the Planning Commission minutes about trying to figure out the roadway. He said he liked the cohort idea and thought if that could be put into the conditions, it would give him additional consideration to see how they could make this work. He said just like event planning, they could achieve control of traffic on the road. He said if the will were moving towards finding a way to approve it, a conversation about those conditions would be merited.

Mr. Andrews said he had respect for what the staff and Planning Commission recommended to them that this was something they should not approve, and he had heard concerns from Batesville residents about the traffic generated by this. He said people coming in and out would not be familiar with this road the way people who lived there would be, so it would be different to have residents accept that they were going out on a very narrow one-car road versus inviting the public to come. He said he believed the nature of a camp like this that traffic was tied to peak times when people were arriving and leaving, and not the same as the traffic generated by residents who went to work and home on a fixed route and often in the same direction. He said he thought a lot of the conditions they were talking about were essentially unenforceable, and there was no real mechanism to hold to them, so that concerned him and he was unsure of how they would write those additional conditions, but he was happy to hear what others had to say about it.

Ms. McKeel said the idea of a nature camp was wonderful and her children had attended them. She said there were numerous nature camps in this area that operated in areas that did not impact the neighbors like she believed this particular nature camp would. She said that led her to say that while they needed to think about the children, she would still have to think about the neighbors along that road who would be impacted. She said when she saw this many conditions being put on a special use permit, it appeared as a red flag that perhaps they were having to create so many conditions that it was not in the right place. She said she was very concerned about the conditions and enforcement of the conditions.

Ms. McKeel said this would go with the property, and while she understood the applicants would probably do a wonderful job and maintain it as they were supposed to for the community around, they would not always have control of that property. She said for those reasons, she agreed with the Planning Commission and staff and would not be interested at this point in approving the special use permit with the number of conditions that had to be placed on it.

Ms. Price said she would really like to find a way to approve this. She said she had seen so many reports of the health benefits of being in the woods. She said she lived in the woods and her driveway looked very similar to the gravel road that Mr. Clark showed photographs of, although her road was private and not VDOT maintained. She said there was soon to be five houses in total on her driveway and they had already struggled with the traffic on the road. She said when she looked at Pounding Creek Road, which had traffic coming in from three different directions, Batesville, Dick Woods, and the Miller School, with a number of other properties and residences that were there, she was extremely concerned about the impact the volume would place upon those who lived out there.

Ms. Price said she agreed with Mr. Gallaway that she could not think of a better type of a location for a nature camp and she wanted to see something like this for the children, but she struggled to impose the burden onto the people who already lived out there and the safety aspect of the number of vehicles that would be coming in and coming out. She said at the present time, she would not be able to support it as it had been presented. She said she did not know if the conditions could be abbreviated, because she agreed with Supervisor McKeel that the more conditions they had, the more concern that had about the enforceability of it. She said again she could not support it as it was right now.

Ms. Mallek said that Pounding Creek Road was a loop, so it was one road that connected two other roads, and there was not a cut-through by any means.

Ms. Price thanked her and said she appreciated that. She said that might make it more difficult with the number of vehicles and traffic that may be moving through that. She said if there were no other comments or questions, it was now time to call the question. She asked if anyone desired to make a motion.

Mr. Andrews **moved** that the Board adopt the resolution to deny SP202100013 for the Living Earth School.

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

AYES: Ms. McKeel, Mr. Andrews, Ms. Price.

NAYS: Ms. Mallek, Mr. Gallaway, Ms. LaPisto-Kirtley.

Ms. Price asked Ms. Hudson if this concluded the discussion or if there was another motion to be done by the Board.

Ms. Hudson said to be on the safe side, they may solicit an affirmative motion to approve the resolution. She said they did not have a resolution in the packet to approve the permit with the conditions, however Mr. Herrick just emailed one to her and to the Clerk who could provide that if they would like to have that before taking up that motion.

Ms. Price said they had them on the screen.

Ms. Hudson said the stated conditions in the presentation were accurate as set forth in the resolution.

Ms. Mallek **moved** the Board adopt SP202100013 Living Earth School with the conditions, and perhaps other conditions added on at another meeting to be adopted at that time.

Ms. Hudson said their procedures required they expressly move to approve the resolution.

Ms. Price said it would be a motion to approve the resolution, but it would have to be with the conditions as outlined, not with future conditions. She said she believed they would have to have specificity. She said the question then was if there was a way to proceed at this point if a Supervisor wanted to amend or propose an amendment to the conditions specified.

Ms. Hudson asked if she meant to add to, modify, or subtract from the conditions.

Ms. Price said yes.

Ms. Hudson said yes, a motion to approve the resolution with certain amendments would be in order.

Ms. Mallek **move** that the Board defer the matter to work on the possible additional conditions that could be reached to result in an approval.

Ms. Hudson said Mr. Herrick made a good point in his comments to her that they must solicit the applicant's consent to a deferral given the time involved for the applicant to extend this period.

Ms. Price asked the applicants if they would be open to a motion to defer the application so that further consideration could be given to conditions.

Mr. Cunningham said yes.

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

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

NAYS: Ms. McKeel.

Ms. Price asked if they should set a time for the deferral.

Ms. Hudson said it was not in the motion and they were not required to. She said the motion had been approved without a set time, so it was something they could take up in their setting of the agenda.

Ms. Price thanked Mr. Clark, County staff, Supervisors, and the members of the public who spoke on this matter.

Agenda Item No. 20. **Public Hearing: ZTA202100004 Public Hearing on Zoning Text Amendment to Homestay Zoning Regulations.** To receive comments on a proposed ordinance to amend County Code Chapter 18, Zoning. The proposed ordinance would amend § 18-5.1.48 (Homestays) to create consistency in setback regulations between districts, require buffer/screening requirements to homestays in the Rural Areas, allow owners of Rural Areas parcels greater than five acres to request a waiver to allow a tenant resident manager in lieu of owner occupancy, and make structural and organizational updates for clarity.

The Executive Summary forwarded to the Board states that on August 7, 2019, the Board of Supervisors adopted the current homestay regulations. Zoning staff presented regular updates to the

Board on both the implementation of the new homestay regulations, known as “closing the compliance gap,” and staff recommended improvements to the ordinance. On June 3, 2020, and again on August 18, 2021, staff presented the Board with proposed amendments to the ordinance, and on October 6, 2021, the Board approved a resolution of intent to initiate these changes in an amendment. On February 1, 2022, the Planning Commission voted unanimously to recommend approval of ZTA202100004. Following the Planning Commission meeting, the County Attorney’s Office suggested additional revisions, primarily to clarify the homestay use of accessory apartments, among other minor wording changes.

The proposed ordinance would update the homestay regulations to allow Rural Areas homestays on parcels greater than five acres to meet primary structure setbacks with screening and to request a Special Exception for a tenant resident manager in lieu of owner occupancy. The proposed ordinance would also make structural and organizational updates for clarity.

Staff currently brings an average of two homestay Special Exceptions for reduced setbacks to the Board every month, the majority of which are approved. These approvals consistently include a condition of approval requiring screening consistent with that applicable to Commercial uses adjacent to Rural Areas properties, referencing the minimum requirements of section 32.7.9.7(b)-(e). Staff estimates that the special exception review process takes an average of 20-30 total staff hours to complete. The adoption of standard reduced setbacks with required screening for large Rural Areas properties would greatly reduce staff and Board hours while achieving the same end results.

Additionally, this proposed ordinance includes the opportunity for owners of large Rural Areas parcels to request Special Exceptions for Resident Managers. This is consistent with the treatment of smaller Rural Areas and Residential district parcels.

Finally, the proposed ordinance amendments reorganize and redefine terms and regulations for clarity.

Staff recommends that the Board adopt the attached Ordinance, ZTA 202100004 Homestay Updates.

Ms. Leah Brumfield introduced herself as Senior Planner II in Zoning. She said tonight she would be presenting staff analysis and recommendations for the zoning text amendment 202100004 Homestay Updates. She said she would summarize the history and purpose of the ZTA, briefly present the three types of changes to the zoning ordinance proposed and discuss staff’s recommendation before turning the matter back before the Board for discussion.

Ms. Brumfield said the public purpose of this ZTA was to provide consistency in the ordinance for homestay eligibility across districts, reduce staff and Board time spent on special exceptions for reducing setbacks for homestays, and create clarity by rewording and reorganizing the ordinance from how it stood today. She said they anticipated this would reduce the amount of staff time, the amount of County resources that were used in the administration of homestay uses, provide clarity to the public, and further the goals of the Comprehensive Plan in encouraging the preservation of undeveloped, rural land.

Ms. Brumfield said they began this particular leg of the homestay regulations journey on August 7, 2019 when the Board adopted current regulations. She said staff presented the progress of the program and recommended updates in 2020 and again in 2021. She said in late 2021, the Board adopted a resolution of intent to address the inconsistencies and the time-consuming but routine processes of the program that staff brought forward. She said in particular, they specified that a reduction of setbacks in the rural area were recommended to be accompanied by a codification of now-standard conditions of approval for screening on those same properties. She said Planning Commission recommended approval of the changes therein, which led them to where they were today.

Ms. Brumfield said the first change they would discuss was clarity and rewording. She said these changes were generally non-substantive and created better application of the existing regulations and further explained what they were trying to do. She said on the first page of the proposed ordinance, there were two new terms clarifying regulations. She said they had introduced the term “hosted” and “unhosted” stays. She said it had been a confusing term in the ordinance that they introduced the phrase “whole house rental” to regulate these rentals.

Ms. Brumfield said when property owners rented out an entire guest cottage or entire house but stayed on their primary residence on the same parcel, that was not considered a whole house rental. She said this had been confusing to people, but what was meant by whole house rental was really a whole parcel rental, so they were moving to the term “unhosted” stay, which created clarity in saying there would be no host where they were staying. She said additionally, the term was an industry standard used by Law Insider, American Planning Association, San Francisco, Richmond, Goochland County, Henrico County, and many other municipalities. She said they would replace the term “whole house rental” with the term “unhosted” stay and introduce the term “hosted” stay to contrast the unhosted stay.

Ms. Brumfield said the general reorganization of the ordinance moved the format to a more user-friendly layout, making it clear which regulations applied to which properties, which were parcel-based, which were for all properties, and explicitly listing in a special exceptions section which regulations could be waived or modified by special exception within the actual ordinance description itself. She said additionally, they clarified a few points that had caused confusion. She said one was when and how to present documents for residency verification.

Ms. Brumfield said another was whether a homestay host could leave to go to the grocery store or if they had to stay on the property. She said another was what kind of owner could reside on a parcel. She said in addressing the last question, they had specified that one individual owner must reside on that parcel, so that addressed some previous questions they had about what type of ownership could reside on a parcel. She said again that these were not substantive changes and were consistent with the regulations to date and the determinations the zoning administrator had issued to those points.

Ms. Brumfield said the second type of change that was proposed was to reduce the minimum yards for homestays on rural area parcels from the current 120 feet on all sides to the existing primary structure setbacks. She said one of the ways this had caused a lot of issues was that a primary structure setback for any home in the area was 75 feet from the front and 25 feet from the sides, and 35 feet from the rear. She said that meant people would have to build their house significantly farther away from the normal building setbacks in order to qualify for a homestay. She said they knew they were concerned with impacts to neighbors and potential cars, so they addressed that with the number of special exceptions they had.

Ms. Brumfield said they had 42 special exceptions applied for reduction of setbacks for homestays since August 2019, and of those 42, two had been denied and two were still under review, while the other 38 were approved. She said the two that were denied would not meet the regulations they were proposing today, which was reducing the setbacks but requiring screening. She said they were codifying the exact same conditions that they had approved on those 38 approvals so far and taking that out of the conditions and making that a regulation that applied regardless. She said the screening was consistent with what was in Section 32797, which was the screening in the zoning ordinance that regulated site plans for commercial uses.

Ms. Brumfield said those were the screening regulations they would use for all the special exceptions to date, and because they were just taking that out of the conditions of approval for a special exception and putting them into the zoning ordinance, they anticipated that would reduce about 20-30 staff hours per special exception, which was what they had spent on it up to this point. She said also that primary setbacks were consistent with regulations for major home occupations. She said major home occupations were permitted to occur on a property in the rural area by right and were staff approved, but any structure for a home occupation needed to meet primary structure setbacks. She said those could be much more intensive than a homestay, so staff thought this was an equitable change.

Ms. Brumfield said the last type of change in this proposed ordinance was to create additional consistency through the districts with potential use of a resident manager, and what they were proposing was that an over-5-acre parcel in the rural area would be allowed to request a special exception to use a resident manager in the same way they allowed the parcels of under five acres in the rural area and the residential district parcels to request they have the special exception to have a resident manager. She said currently, larger parcels were not eligible for that. She said they had a lot of inquiries about homestays on large parcels that were owned by a family that kept it in an LLC.

Ms. Brumfield said they had inquiries about farms that were active and working, selling agricultural products, and because it was their business, the property was kept in an LLC, so this would allow them to request that they serve as their resident manager. She said they had questions where a property owner owned two abutting parcels and lived on one and their farm manager lived on the other. She said with a resident manager, the farm manager could rent out a small cottage or their own residence, whereas right now, because they were a farm manager and did not own the property, they were not allowed to do that, even though these were right next to each other and the farm manager lived there full time. She said as these larger area parcels were often more distant from their neighbors, they often contained existing cottages or guest houses. She said homestays like those were less likely to impact neighbors and cause additional development.

Ms. Brumfield said again she would stress that this particular change would not open the eligibility for resident managers as a whole. She said each resident manager request would require a normal special exception and would come to this body for approval. She said as a comparison, they had five requests for resident managers so far since 2019, and those were all in the residential district and the smaller, under-5-acres. She said of those five, one was pending and would be before the Board in May. She said two were denied and two were approved. She said each individual application would be viewed, analyzed, and processed based on its own merits, any reported violations, and on neighbor input to make the decision on each individual case, whereas today they could not even consider the applications because they were not permitted in the ordinance.

Ms. Brumfield said in conclusion that staff recommended approval of the draft zoning ordinance shown in Attachment D of the transmittal summary.

Ms. Mallek said one of the things the Board was concerned about was owners tearing down old, affordable country houses, or fixing up something that was there and evicting the working-class people living there and turning it into an AirBnB. She said since they were not required to live there, one person could own fifty of those. She said she would like to know if there was any relationship between that concern and what they were doing today.

Ms. Brumfield asked if she should answer the question.

Ms. Price said to answer the questions in turn.

Ms. Brumfield said the concern was based on properties not being a primary residence. She said that was not something that was being considered in this ZTA. She said every single property needed to be a primary residence of a person, and right now, in the larger rural area parcels, that could only be the residence of the property owner. She said in the example she gave where it was an affordable property, it would be more likely there would be a resident manager working there for someone, who perhaps got reduced rent. She said the question about the LLC owning multiple properties would not be addressed, but she believed it was something the Board could take into consideration when they addressed that. She said they could look at that and say they already applied for one of those. She said that was something the Board would be allowed to question and take into their determination.

Ms. Mallek asked if, in their application process, they would have the information on other properties owned provided to them, and if not, perhaps they could add that so they did not have to spend more time finding all the properties owned by one person.

Ms. Brumfield said as far as any time a property came to them as an LLC for a resident manager on those smaller parcels, she personally had looked them up in the GIS system to see if they owned anything else. She said that was something they could definitely put into the staff review process but would not necessarily be in the ZTA.

Ms. LaPisto-Kirtley said sometimes with larger parcels, someone may own a large piece of property and then inherit another piece of property that was in an LLC. She asked if they could have a resident manager living on that property and could use some of the older renovated buildings as homestays.

Ms. Brumfield said as long as a resident manager lived on the parcel, they could consider their application at that point.

Ms. LaPisto-Kirtley said that some parcels had been acquired over time that were all adjacent and under one property owner. She asked if there would have to be a property line adjustment as they discussed earlier if it was all under the same ownership. She said if later on, they sold one portion, then perhaps the entire homestay issue dissolved.

Ms. Brumfield said she believed Ms. LaPisto-Kirtley's question was why they could not allow residency on a contiguous parcel to serve as occupancy for the parcel being rented out. She said unfortunately that was a simple answer, and it was because the ordinance was written to say that each individual parcel must be occupied by the owner or have the special exception for resident manager. She said that was the way it was outlined and as general practice, that was the way they did a lot of things that were not regulated by a special use permit.

Ms. Brumfield said a use needed to be limited to the individual parcel. She said they could not have accessory uses on a parcel that did not have the primary use on it. She said the primary use here was residence, and the homestay was an accessory use, and accessory uses could not exist by themselves, and must exist as an accessory to a primary use. She said that was just a legal precedence in zoning ordinances. She said unless a homestay became a primary use and was permitted to be one, it could not exist without a primary use for it existing to be an accessory to.

Ms. LaPisto-Kirtley said she understood. She asked if it would be difficult to change the ordinance if the Board was inclined to do so. She said there were historic sites that had multiple buildings that could not be used unless there was a lot line adjustment. She asked if that was correct.

Ms. Brumfield said that was correct. She said that went back to the requirement of the homestay being an accessory use. She said they did not allow for someone to build a garage on a property with no house on it. She said they could not just have one property that had nothing on it except for a garage where cars were parked, because that was something that was done next to the house. She said the house was the primary use.

Ms. LaPisto-Kirtley asked if the outbuildings would all belong to the house.

Ms. Brumfield said yes.

Ms. LaPisto-Kirtley said she understood. She said she was glad they were doing this.

Mr. Gallaway said when Ms. Brumfield mentioned 42 total applications and the two applications were denied because of the setback, he recalled there were other reasons those two applications were denied.

Ms. Brumfield said that was correct. She said she could give him the specifics of what those were.

Mr. Gallaway said that was fine. He said it was not just the setback they were deciding on.

Ms. Brumfield said one was the setback and request for owner occupancy, and the other was the setback and the request for increase in guest rooms.

Mr. Gallaway asked if the two denied for the resident manager issue also had other factors.

Ms. Brumfield said one had the setback and the resident manager issues, and the other was a resident manager and the number of guest rooms. She apologized and said she misspoke, and that there were actually three that were denied. She clarified that there were two with the owner occupancy and guest rooms, and one that was owner occupancy and the 125-foot setback.

Mr. Gallaway said it sounded like the way they would have to try and get around it in Ms. Mallek's hypothetical scenario of one business owning multiple homestays would be that each property they would buy they would have to instill a different resident manager and have a different name on the LLC.

Ms. Brumfield said that was correct.

Mr. Gallaway said otherwise they could tell the owner they already had a homestay and could not have two.

Ms. Brumfield said that was accurate.

Mr. Andrews said his questions had been answered. He said he saw this as a procedure where they would come to the Board and the Board would have the opportunity to ask the questions to investigate why it was they were looking for this exception and to see if the reasons that they gave suggested anything other than what they had talked about such as the ownership being in a corporation.

Ms. McKeel clarified that they were talking about properties five acres or larger.

Ms. Brumfield said yes.

Ms. McKeel said that when Ms. Brumfield mentioned smaller lots, she became wary of representing rural areas that were dense and had neighborhoods. She said she wanted to make sure they were talking about lots larger than five acres.

Ms. Brumfield asked which aspect she was referring to specifically.

Ms. McKeel was talking about the resident manager aspect.

Ms. Brumfield said the smaller lots already had that.

Ms. McKeel apologized for her confusion. She said what Ms. Brumfield was getting at was that they had to live in their house.

Ms. Brumfield said yes.

Ms. McKeel said she understood that, but she pictured a resident manager being different from an owner.

Ms. Brumfield said an example was for a property that would be coming before the Board next month where the owner lived on one parcel and both parcels were under five acres in size, but the owner had the property right next door and the son lived on that parcel. She said that was the kind of thing they were anticipating. She said another example would be a tenant who lived in the basement of a house in an apartment and they wanted to rent out the upstairs floor. She said that situation had come up with a larger parcel where the owner actually lived in the basement and wanted to rent out the upstairs.

Ms. McKeel said she did recall that. She wanted to make sure the resident manager in no way could be supplanted by a property management company.

Ms. Brumfield said absolutely not.

Ms. McKeel said that was not where they were going.

Ms. Brumfield said the property had to be someone's primary residence, and someone had to live there. She said the Board could decide if that was to be the owner or someone else such as a manager or family member or employee.

Ms. McKeel said she knew people who had multiple LLCs, and she had been told by staff that they could not say who owned a property owned by an LLC because it was impossible to find who owned them. She said that was a deep concern to her when staff could not find the owner of an LLC because the name was being changed.

Ms. Brumfield said her limited knowledge was that the LLC had to have a signatory, so that person would likely be signing the application.

Ms. McKeel said if the application was signed by an attorney they would not know.

Ms. Brumfield said they would hopefully be able to find out if that person was signing on behalf of the LLC or as a holder.

Ms. McKeel said staff had said to her that they had no idea who owned a property because it was

under an LLC, which was a concern.

Ms. Brumfield said that was something that could happen, and in that case, if they could not find any information, the Board would be able to make that decision when it came to the Board.

Ms. Price said she had two concerns about homestays. She said one was that they should not allow homestays to affect the availability of their already-limited housing stock for permanent residences. She said whatever they did, she wanted to make sure it was not a problem, because as she understood and as the ordinance was written, a homestay was an accessory use of a primary residence that allowed a property owner to make money on the side, but not to turn a residential property into a primary income producer, which would therefore be a lost residential building in their community.

Ms. Price said with regard to what Supervisor McKeel was just discussing, she too had concerns that individuals could have multiple LLCs, so she thought one of the requirements should be that any LLC that applied for a homestay for their owned property, there must be a certification that that owner of the LLC did not have any other application for a homestay in the County. She said if there were four individuals, they could collectively have a large number of properties that were being used for this situation, although it was understood there must be a primary resident at that property. She said as long as they were not adversely affecting the availability of full-time housing, whether it be ownership or long-term rental, she was fine with it, and she did not want individuals to have ownership of multiple homestays in the County.

Ms. Mallek said what had come to her mind from this discussion was does the County have the authority to require on their application that the owners of the LLC identify themselves. She said she did not want to put a burden on staff to research that information, but otherwise there was no way to achieve that.

Mr. Deloria introduced himself as Richard Deloria with the County Attorney's Office. He said he thought it was a practical answer to her question in a sense that if an LLC would apply for a homestay, in order to meet the elements, they would have to divulge who the members were. He said he could not comment as to whether the zoning text required divulging the membership, but it would be appropriate for staff to say they needed to see the articles of organization, operating agreement, and to know who the members were. He said he thought that could be part of identifying whether there was an owner living there, one of the owners of the LLC living there, or a resident manager. He said he thought it was possible, and it would be nice to put into writing but he was not very familiar.

Mr. Svoboda introduced himself as Bart Svoboda, Zoning Administrator. He said that was not written into the current draft, so if that language was to be added it would have to be constructed carefully. He said if that was of great concern, it should be deferred as opposed to trying to craft that language tonight.

Ms. McKeel asked if they were getting at the issue of multiple LLCs owned by a single person.

Ms. Price said she believed staff understood they did not want one individual, through the use of multiple LLCs, have multiple homestays.

Mr. Svoboda said whether they would be able to track if someone was an owner of an LLC and a member of another LLC would be a different thing.

Ms. Price said that was what they were asking for because they all had to be identified, and there should be an attestation that there was no multiple ownership interest in homestays subject to a penalty of some sort. She said they would leave that for them to work on.

Mr. Svoboda said they would like to take the time to vet that.

Ms. Price said she believed the Board had clarified where they were interested.

Ms. Hudson said to Chair Price that she thought that was an issue that needed to be examined more closely from a legal perspective. She said an LLC was a perfectly legitimate business form and was entitled to own property in its own name irrespective of who made up that LLC, and she was unsure if looking past that business form was something that was permitted, but she would be glad to look at it to answer that question for her.

Ms. Price said she thought that was what they wanted, to look at that issue separate from this evening. She said she would editorialize that the liability protections of an LLC may be different than the identification of the ownership, but that was not to be addressed tonight, only that it had been expressed as a concern of the Board's for staff to look into.

Ms. LaPisto-Kirtley said she knew of people who had large properties and who had an LLC for reasons and had inherited another piece of property under a different LLC. She said she did not know if they wanted to limit it to one or two, but she would like to see what they came up with, because if it was all under the same ownership that was one thing. She said she had a home and a smaller home next to it. She asked if she rented it out all year round to renters, and if she stopped that and changed it to a homestay, they would advise her not to do that.

Ms. Price said that was where the discussion had gone, but that was a provision that needed to

be looked at by staff to be brought back to them, which was separate from what they were discussing.

Ms. LaPisto-Kirtley said she was trying to figure out how they would legally do that. She said she had spoken with someone who had a small home and did homestays because they could get four times as much for less time renting it out as a homestay than renting year-round. She said that was one of the problems.

Ms. Price said it cut into their housing stock.

Ms. LaPisto-Kirtley agreed and said she realized that.

Ms. Price asked if she had any other questions.

Ms. LaPisto-Kirtley said that was all.

Mr. Gallaway said he knew the resident manager issue would unfold this way. He said he hoped at the very least, the non-substantive changes to the wording could proceed tonight and the setback piece could proceed tonight, and the third element could get done later. He said they did not need staff in the meantime to chase the setback issue where they had denied none based solely on setbacks. He said he would like that to move forward this evening.

Ms. LaPisto-Kirtley said yes.

Mr. Andrews said he agreed they could move forward on part of this, and he was unsure as to why they could not at this point move forward with the whole thing and come back later to specify what information they would want.

Ms. LaPisto-Kirtley said she agreed.

Ms. McKeel said she agreed and was happy with this to move forward. She said she would like the information and more clarity around LLCs and how they would work with those.

Ms. Price asked if there was anyone signed up for public hearing on this item.

Ms. Borgersen said there was not.

Ms. Price asked the Board if there was any further discussion on this item.

Mr. Gallaway asked Mr. Svoboda if it was clear what the Board wished to move forward and what they did not.

Mr. Svoboda said he believed they could come back with a different text amendment to update the language. He said the safety valve they had in this current proposal was that any LLC that would create the resident manager option would come before the Board, so enable to open the ask up for the larger parcels, the safety valve of coming to the Board still existed, so they could further develop the ordinance for that LLC and what they could require with consultation from the County Attorney's Office.

Ms. LaPisto-Kirtley asked if what he was saying was that what they approved this evening went to the setbacks but also for parcels larger than five acres allowed a resident manager.

Mr. Svoboda said it allowed for the ask of a resident manager.

Ms. LaPisto-Kirtley said that was fine. She thanked Mr. Svoboda.

Ms. Mallek said one of her elementary school friends called her the other day to support this, and the example she gave was that she had a cabin in a very remote part of their farm that was inaccessible during the winter, so was unavailable to live in year-round, but was a wonderful place to have a resident manager who already lived on their farm to allow it to be rented out. She said what they talked about tonight solved that.

Ms. Brumfield said she had a point of clarification about what they were discussing tonight and what would be brought back before the Board. She said the way they had previously addressed bringing all of the special exceptions for setbacks to the Board with particular standards for the Board to look at, and after they did that many times, they figured out what worked and what did not, and the ones that worked were taken off the action agenda items and those went to consent, and those were now up for the zoning text amendment today. She said that was a way to get the oversight they were looking for while still being able to move forward with the ZTA.

Ms. Price asked if there was any further discussion from the Board. She said the floor was open for a motion.

Ms. LaPisto-Kirtley **moved** that the Board adopt ZTA2021-00004 Homestay Updates as outlined in Attachment D of the transmittal summary.

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

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

ORDINANCE NO. 22-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions.

Sec 5.1.48 Homestays.

Chapter 18. Zoning

Article I. General Provisions

...

Sec 3.1 Definitions.

...

Hosted stay. "Hosted stay" means a homestay use in which at least one individual owner of the subject parcel or an approved resident manager is present overnight at the subject parcel during the entirety of a homestay rental period.

...

Responsible agent. "Responsible agent" means for a homestay use, an owner, manager, management company, rental agent, or individual identified in the zoning clearance, whose role is to promptly address complaints regarding the homestay use.

...

Unhosted stay. "Unhosted stay" means a homestay use in which at least one individual owner of the subject parcel or an approved resident manager is not present overnight at the subject parcel during part or all of a homestay rental period.

...

[(§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15; Ord. 15-18(10), 12-9-15; Ord. 16-18(1), 3-2-16; Ord. 16-18(7), 12-14-16; Ord. 17-18(1), 1-18-17; Ord. 17-18(2), 6-14-17; Ord. 17-18(4), 8-9-17; Ord. 17-18(5), 10-11-17; Ord. 18-18(1), 1-10-18; Ord. 18-18(4), 10-3-18; Ord. 19-18(3), 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12; Ord. 14-18(3), 6-4-14; Ord. 15-18(3), 5-6-15; § 4.15.3; Ord. 15-18(11), 12-9-15; Ord. 17-18(4), 8-9-17) (§ 4.17.3: Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01; Ord. 17-18(5), 10-11-17) (§ 4.18.2: Ord. 00-18(3), 6-14-00; Ord. 13-18(4), 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.5; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17); § 3.1, Ord. 19-18(3), 6-5-19; Ord. 19-18(6), 8-7-19; Ord. 20-18(2), 9-2-20; Ord. 20-18(3), 9-16-20; Ord. 21-18(3), 6-2-21; Ord. 22-18(2), 4-6-22]

...

Article II. Basic Regulations

...

Section 5 – Supplementary Regulations

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Sec. 5.1.48 Homestays.

Each homestay is subject to the following regulations:

- a. *Zoning clearance.* A parcel owner must obtain a zoning clearance under section 31.5 prior to conducting a homestay.
 1. *Information and sketch plan to be submitted with request for zoning clearance.* The following items must be submitted with each application for a homestay zoning clearance under section 31.5:
 - i. *Information.* The following information:
 1. the proposed use;
 2. the maximum number of guest rooms;
 3. the provision of authorized on-site parking; and
 4. the location, height, and lumens of outdoor lighting.
 - ii. *Schematic plan.* A schematic drawing of the premises with notes in a form and of a scale approved by the Zoning Administrator, depicting:
 1. all structures to be used for the homestay;
 2. the locations of all guest rooms; and
 3. how access, on-site parking, outdoor lighting, signage and minimum yards would comply with this chapter.
 2. *Signatures.* An application must be signed by the responsible agent and an owner of the subject parcel(s).
 3. *Residency verification.* The owner must provide two forms of verification of permanent residency, such as a driver's license, voter registration card, or other document(s) that the Zoning Administrator determines provide equivalent proof of permanent residence at the subject parcel(s). These documents must be provided in person for review during the review process.
 4. *Building code, fire and health approvals.* Before the Zoning Administrator approves a zoning clearance under section 31.5, the owner of the parcel must obtain approval of the use from the building official, the fire official, and the Virginia Department of Health.
 5. *Annual notice.* The owner(s) of a homestay parcel must provide notice to the owner(s) of all abutting parcels, containing the name and contact information, including a working telephone number, of the homestay parcel's owner(s) and any other designated responsible agent. The homestay parcel's owner(s) must provide both a copy of the notice to the Zoning Administrator prior to approval of a zoning clearance and updated contact information annually thereafter.
- b. *Use provisions.* Each homestay use is subject to the following regulations:
 1. *Accessory use.* Each homestay use must be accessory to a primary residential use. A homestay use may not be accessory to an accessory apartment.
 2. *Residency.* At least one individual owner of the homestay parcel must reside on the subject parcel for a minimum of 180 days in a calendar year of the homestay use, provided that by special exception, the Board of Supervisors may authorize the residency of a property-managing agent to meet this requirement.
 3. *Minimum yards.* The minimum applicable front, side, and rear yard requirements for primary structures apply to all structures used for homestays, provided that by special exception, the Board of Supervisors may authorize the reduction or modification of the minimum yards.
 4. *Parking.* In addition to the parking required for a single-family dwelling, the number of off-street parking spaces required by section 4.12.6 must be provided on-site. No alternative parking under section 4.12.8 is permitted.
 5. *Responsible agent.* The homestay parcel owner(s) must designate a responsible agent to promptly address complaints regarding the homestay use. The responsible agent must

be available within 30 miles of the homestay at all times during a homestay use. The responsible agent must respond and attempt in good faith to resolve any complaint(s) within 60 minutes of being contacted. The responsible agent may initially respond to a complaint by requesting homestay guest(s) to take such action as is required to resolve the complaint. The responsible agent also may be required to visit the homestay if necessary to resolve any complaints.

c. *Parcel-based regulations.*

1. Each homestay located on (a) a parcel of less than five acres in the Rural Areas zoning district or (b) a parcel of any size that allows residential use in the Residential zoning districts or Planned Development zoning districts is subject to the following regulations:
 - i. *Number of homestay uses.* Any parcel may have only one homestay use.
 - ii. *Structure types.* Homestay uses may be conducted only in a detached single-family dwelling or within its accessory apartment, provided that by special exception, the Board of Supervisors may authorize the homestay use of accessory structure(s).
 - iii. *Number of guest rooms.* A maximum of two guest rooms used for sleeping may be permitted with each homestay use, provided that by special exception, the Board of Supervisors may authorize the homestay use of up to five guest rooms.
 - iv. *Hosted stays.* At least one individual owner of the homestay parcel or an approved resident manager must reside on and be present overnight on the subject parcel during the homestay use.
2. Each homestay located on a parcel of five acres or more in the Rural Areas zoning district is subject to the following regulations:
 - i. *Number of homestay uses.* Any parcel may have up to two homestay uses, provided it has at least two single-family residences, and all other applicable requirements are met.
 - ii. *Structure types.* Homestay uses may be conducted in a detached single-family dwelling, within its accessory apartment, or within an accessory structure built on or before August 7, 2019, provided that by special exception, the Board of Supervisors may authorize the homestay use of accessory structures built after August 7, 2019.
 - iii. *Number of guest rooms.* A maximum of five guest rooms used for sleeping may be permitted with each homestay use.
 - iv. *Required development rights, density and limitation.* Each single-family dwelling to which a homestay use is accessory must comply with the following regulations:
 1. On any parcel less than 21 acres in size, the single-family dwelling must have and use a development right as provided in section 10.3;
 2. On any parcel, regardless of size, the single-family dwelling must comply with the permitted density; and
 3. No single-family dwelling may have more than one accessory homestay use.
 - v. *Screening.* Structures and parking used for homestays located less than 125 feet from any abutting lot not under the same ownership as the homestay must have screening that meets the minimum requirements of section 32.7.9.7(b)-(e).
 - vi. *Hosted stays.* At least one individual owner of the homestay parcel or an approved resident manager must reside on and be present overnight at the subject parcel during the homestay use except during approved unhosted stays.
 - vii. *Unhosted stays.* The owner(s) of a homestay parcel that is approved for unhosted stays may be absent during up to seven homestay rental days in any calendar month and up to 45 homestay rental days in any calendar year. The owner(s) must maintain a log of all homestay uses, including the date of each rental for which the owner(s) is/are absent. This log must be provided within five business days to the Zoning Administrator upon request.

d. *Special exceptions.*

1. Waiver(s) or modification(s) of this section may be authorized only by the special exception(s) specifically provided in this section.

2. The Board of Supervisors may grant special exception(s) only after notice to abutting parcel owners.
3. Among other relevant factors, in granting homestay special exception(s), the Board of Supervisors may consider whether:
 - i. There would be any adverse impact(s) to the surrounding neighborhood;
 - ii. There would be any adverse impact(s) to the public health, safety, or welfare;
 - iii. The proposed special exception would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
 - iv. The proposed special exception would be consistent in size and scale with the surrounding neighborhood.
- e. *Uses prohibited.* The following uses are not permitted as uses accessory to a homestay use: (i) restaurants; and (ii) special events serving attendees other than homestay guests.
- f. *Lawfully pre-existing uses.* Any bed and breakfast or tourist lodging use approved prior to August 7, 2019 may continue, subject to conditions of the prior approval(s).

(Ord. 12-18(3), 6-6-12; Ord. 19-18(6), 8-7-19; Ord. 22-18(2), 4-6-22)

Agenda Item No. 21. **Public Hearing: Ordinance to Amend County Code Chapter 13, Solid Waste Disposal and Recycling, to Address Clutter.**

The Executive Summary forwarded to the Board states that Virginia Code § 15.2-901, as amended in 2021, now enables localities to adopt an ordinance requiring landowners to remove or dispose of trash, garbage, refuse, litter, clutter (excepting that on land zoned for farming or in active farming), and other substances that might endanger the health or safety of other residents.

The attached draft ordinance would:

1. make it unlawful for any owner or occupant of property not zoned for farming or used for farming to store or accumulate clutter (mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of the community when left in public view), along with existing prohibitions against the storage or accumulation of trash and other refuse, on their property;
2. allow the County to require the owner or occupant to remove clutter or for the County to remove clutter itself as it is already authorized to do with trash and other refuse upon reasonable notice to the owner or occupant; 3) allow the County to charge the owner for the costs of removal and to impose a lien for the unpaid expenses on the property that would be treated the same as a lien for unpaid real estate taxes;
3. allow for the imposition of civil penalties for the unlawful storage or accumulation of clutter (\$50 for each business day a violation continues under the same operative; \$200 for violations arising from different set of operative facts; penalties limited to \$3,000 per 12-month period);
4. allow for criminal charges (Class 3 misdemeanor, punishable by a fine of not more than \$500) for fourth or subsequent offenses not arising from the same set of operative facts within a 24-month period; and 6) declare that the remedies set forth in Chapter 13, Article III, are not exclusive and do not preclude the County from pursuing other remedies such as injunctive relief, orders of abate, or nuisance declarations.

Code Compliance Officers in the Community Development Department will enforce the proposed ordinance in the same manner as they enforce zoning violations involving unlawful trash and inoperable vehicle storage and accumulation, uncontrolled vegetation growth, and stagnant water. Enforcement will be complaint-based. Consistent with current practices, staff will educate and cooperate with property owners and occupants to obtain voluntary compliance.

No budget impact is anticipated. Staff will enforce this ordinance similar to zoning violations involving trash and inoperable vehicle storage and accumulation. When voluntary compliance is not achieved, the County will continue to seek civil penalties and judicial decrees (abatement orders and injunctions) to resolve violations. The County has yet to use staff or outside contractors to remedy violations involving unlawful trash storage or accumulation.

Staff recommends that the Board adopt the attached draft ordinance (Attachment A).

Mr. DeLoria addressed the Board and introduced himself as Richard DeLoria with the County Attorney's Office. He said tonight before the Board was an amendment of Chapter 13 of the County Code regarding the County's waste management or storage ordinances. He said the impetus of this amendment was the notion that the General Assembly informed localities that they could regulate clutter. He said it started out as what appeared to be a simple clutter ordinance, but in working with zoning and the code compliance officers, what they realized was that it was an opportunity to take the County's Chapter 13 Article 3 to take the regulations of trash, litter, and garbage and change the ordinance so it could become a better and more effective tool for code compliance.

Mr. DeLoria said the changes proposed included adopting a definition of clutter. He said to be clear, clutter would be added to the definition of refuse. He said what the County's ordinance did was regulate refuse, and that was kind of an umbrella term, so clutter would be added into that. He said they also somewhat refined the definition of refuse to comply with Virginia administrative code. He said the largest item in terms of enforcement was that they would change from criminal enforcement.

Mr. Deloria said right now, if someone had an accumulation of trash and garbage on their property, it was a class one misdemeanor, which in theory sounded good in that it was punishable with up to twelve months in jail with a fine of \$2500, but he had never heard or seen it actually be prosecuted. He said this was a difficulty because the Commonwealth Attorney usually did not spend time on matters such as trash, and the County Attorney's Office did not have the power to do anything. He said they were proposing a shift towards civil penalties, which was consistent with their zoning enforcement and with their nuisance ordinance. He said this could be used in a similar fashion for enforcement purposes. He said there were some other minor changes that reconciled their ordinance with Virginia code, the enabling authority, and updating some references.

Mr. DeLoria said the enabling authority was Virginia Code Section 15.2-901, which regulated the accumulation of trash, garbage, litter, waste, and refuse on property. He said it also regulated the accumulation of other substances deemed to be dangerous. He said in 2021, the General Assembly said clutter could be added to that, although he did not know the reason for the decision. He said it was something that the Board could consider adopting.

Mr. DeLoria said the definition of clutter was a bit different from the definition of trash. He said in courts, people would argue that it was not trash because it was a hobby. He said there were sometimes situations where people collected appliances or household furniture. He said trash did not have an intrinsic value and was being abandoned, but clutter was qualitatively different than that. He said this would include things like mechanical equipment, household furniture, containers, and similar items that may have some intrinsic value and may be useful to the owner or occupant, but the Virginia General Assembly said that clutter may be detrimental to the community when such items were left in public view for an extended period or allowed to accumulate

Mr. DeLoria said that was a little bit of a different standard than when they were looking at trash, which arguably had potential for danger due to pests or disease, but in this situation, it was detrimental when left out in public view, so there was a different standard for clutter. He said it did not apply to lands zoned for farming or in active agricultural use. He said he had interpreted that to mean agriculture, so the clutter ordinance would not apply to rural areas, the Monticello Historic District, and areas under special use permits that allowed agriculture in other areas. He said likewise, it did not apply to those properties under active farming or agricultural use.

Mr. DeLoria said the slide showed an example of a case in the past where it was possible that clutter could have been used as a different tool. He said it was important to understand in terms of their process that this would have been a case that would have been pursued under a zoning violation for essentially a junkyard. He said other areas were inoperable vehicles, and there was an ordinance for nuisance that could be proceeded under, but this one potentially would come under the clutter ordinance. He said in his experience with their complaint-based code compliance system, in over 90% of the cases, voluntary compliance was met, and whether it was clutter, trash, a junkyard, or inoperable vehicles, the code compliance officers worked with the occupants and landowners.

Mr. DeLoria said most of the time they were successful and did not have to go to court. He said if they did have to go to court, the process under zoning could be done under inoperable vehicles or nuisances and was composed of a warrant for debt in civil penalty. He said in zoning cases, it started at \$200 and went up to \$500. He said if they went to court, they could add on allegations and call it a zoning violation, nuisance, clutter, or something else. He said they could plead the alternative and take that to court. He said if they failed in an effort to say this was a junkyard or trash, they could succeed in convincing a judge that it was clutter. He said this would give the County another tool to bring properties into compliance and to promote general welfare.

Mr. DeLoria showed another example of a property with what could be contended as a junkyard and littered with inoperable vehicles and other equipment, but in this particular case, the landowner said they were operable vehicles if a battery was put in. He said if in fact they were operable, they could still perhaps proceed under the clutter definition and get relief. He said to clarify, the civil penalties may not seem that big, but one of the alternatives they had was if they got the civil penalty to be imposed, they could get an order of abatement, and in repetitive cases they could get an order of injunction. He said that quickly ramped it up to a court order, and if someone did not comply with the court order, they could ask for the court to hold the landowner or occupant in contempt. He said contempt could be anything from a fine to jailtime until the issue was resolved, or the court could treat it as criminal and impose a jail sentence of a particular length of time. He said it gave them leverage in that respect.

Mr. DeLoria showed another example and said that the multiple bicycles shown were arguably trash but could be part of someone's bicycle repair work. He said there was also an appliance there and he could not say if it worked or not. He said that sort of accumulation and complaints that it was detrimental because it was in public view, they could proceed under clutter if the Board were to adopt this ordinance. He showed another photograph of the same property, and while he personally thought it could be classified as junk, it clearly would come under the rubric of clutter, so it was another tool for them.

Mr. DeLoria showed an example that he said would be unfortunate to only be described only as clutter because it had storage containers and some appliances that were actually in their boxes, as well as some furniture, but also littered with a sizeable amount of what was considered junk. He said however, this example was in the rural area, so the clutter ordinance would not apply to this situation. He said it did not mean that there were no other alternatives, because this was a successful prosecution without the clutter, but he wanted to use this example to illustrate that clutter would not apply to this situation because it was in a rural area and farming use and agricultural use was a by-right use.

Mr. DeLoria said for this particular ordinance, they were adopting the General Assembly's definition of clutter, and Chapter 13, under 13-100 had a laundry list of definitions, which he thought were fantastic. He said the Virginia code did not have the same definitions, but their definitions did come from Solid Waste Management from the Virginia administrative code. He said this added clutter into that. He said they also had a definition for refuse, and that was updated to be consistent with the Virginia administrative code. He said he did not believe there was anything controversial in there in terms of that definition, but he always wanted to think about what the County's legal definition was, and if it fit in with the General Assembly's notion. He said if they did not have a definition from the General Assembly, having one from a state administrative body helped and was persuasive. He said that was why he wanted to update that and why it was in there. He said again he did not think it was controversial in any way.

Mr. DeLoria said another thing they did was only regulate refuse. He said the Virginia code made it clear they were allowed to regulate refuse or other substances that might endanger another's health. He said that clarification was made in a few places in the ordinance, and he thought that was because it gave the County room to argue in court that they did not have to prove that trash or garbage would endanger another's health. He said he believed they could make that inference easily, but he wanted to make that separation, particularly because when they looked at clutter, it did not have that same element of potentially endangering someone's health. He said he wanted to make that distinction in case there came a time when they needed to rely on it.

Mr. DeLoria said it simply was following what the General Assembly said, but he also thought there was a strategic reason for having that in there. He said something Zoning was interested in was defining refuse and also the clutter that came under it as a nuisance, so the ordinance did declare that those conditions were nuisances. He said that meant they could sue under a nuisance and get the circuit court to allow injunctive relief. He said he could not guarantee that because they declared it to be a nuisance that the judge would agree with their definition and proof may still be required to be presented. He said there were a number of other jurisdictions that outlined nuisances in conditions, and he could not say whether they were successfully defended in court or not, but it was at least a tool that said a deliberative body determined something to be a nuisance, and that had weight in a courtroom.

Mr. DeLoria said they were reconciling some language under the Virginia code. He said a question Mr. Svoboda brought up was that the ordinance, in talking about regulating refuse, required the Board of Supervisors make some form of determination, and Mr. Svoboda asked if that meant they had to bring it to the Board every time, and he was unsure because the ordinance said the Board had to do it and did not say they could designate an agent. He said the law made it clear that the Board could designate an agent, so he included a designation of the County Executive, Mr. Richardson. He said keeping him in mind as he was supposed to do, he indicated in there that the County Executive's designee could serve as agent, which would be Mr. Svoboda's duty. He said the way enforcement worked out was that it made clear the County had the right to demand correction of the landowner or occupant.

Mr. DeLoria said at the same time, they wanted to be careful to afford the owners and occupants due process rights. He said in exercising this, the County would have to send a letter, which was noted in the ordinance that it could be hand delivered to the occupant, by certified mail, or on the tax records the last known address of the person or organization paying the taxes. He said that would be sufficient notice. He said it would give them a reasonable period of time. He said in zoning cases, it was usually thirty days when giving a notice of violation after a lengthy intervention, and in this case, it would not require thirty days, but would depend on the circumstances as to what was reasonable. He said they considered saying ten days, but circumstances may be different. He said his thought was ten days initially, but if it was a large amount of clutter more time may be required.

Mr. DeLoria said the ordinance allowed the County to clean up the property on its own in a set period of time, and immediate removal by the County was allowed if it was an emergency situation without giving a time period. He said it was very similar to getting civil penalties in the zoning situation as to when they did get a penalty it could be recorded as a lien on the property, which was good because the money could be collected when they sold the property. He said in this particular case, if the County were to incur any cost associated with cleaning up the property, the costs associated with using County employees or the costs associated with hiring an independent contractor to do the work was treated as an unpaid tax, so it could become a lien on the property

Mr. DeLoria said they talked about adopting civil penalties in lieu of criminal penalties, which allowed them to charge each business day as a violation. He said the fine in the zoning ordinance case was that they had to wait ten days before charging a separate civil penalty. He said after ten days, if it was not cleaned up, they could put in a warrant debt and add those together to sue for \$250 or \$500 or any amount. He said if they did get a judgement, it was a lien on the property so they could docket that with the circuit court, and also use collection efforts, such as debtors' interrogatories, where someone must provide information about what they owned and bank account information, after which liens could be put on personal property and real property. He said if it went on long enough or was repeated, criminal

charges could be brought, which was very similar to the zoning violations, where the maximum amount in judgements was \$3000, after which point it became a criminal summons. He said for this item, there was a two-year window where if there were repeat violations, criminal charges could be brought.

Mr. DeLoria said he believed he was speaking for Zoning when he said what they liked about this was that it was very consistent with their zoning enforcement for junkyards, trash, and inoperable vehicles. He said it fit in well with how they did business right now. He said if they were to leave it as a criminal charge, it took it out of the County Attorney's lap and left it with the Commonwealth Attorney, put them in different court dockets, potentially could lead to criminal defense attorneys being appointed, and was a more complicated system. He said he thought the proposed system fit in better with what they did at this time.

Mr. DeLoria said another thing to keep in mind about what was added to the ordinance was that it was made clear that it was not an exclusive remedy, so if they had trash or clutter, they were not limited to this, and could still pursue simultaneous zoning violations and the circuit court for declaratory and injunctive relief. He said in all cases, when they went to court, they asked for an order of abatement, which as he explained, was enforceable through contempt powers. He reiterated they could sue for a nuisance and said they could also undertake collection procedures for the civil penalties and tax assessments if they got high enough. He said the suggested motion was displayed on the screen and he was ready for the Board's questions.

Ms. Mallek said she did not understand how any rural area counted as agriculture. She said the state definition of agriculture said there must be something grown. She asked if there was a way to improve their definitions so not every rural property looked like the pictures shown, especially the one described as a rural area. She said if it was active farming, it was a different land use than a situation where someone may be harmed by the clutter.

Mr. DeLoria said he was operating off of the Virginia statute, and it described land zoned for farming or actively being farmed. He said he did not know why they would have to say both, but he supposed there could be special use permits that allowed for farming. He said that was the enabling authority, and they could only do what the General Assembly said they could in this situation. He said they did not have areas that were zoned for farming, so he had to interpret it, and the closest thing they had were areas zoned for agriculture.

Mr. DeLoria said the best answer to her question would be to go back to the General Assembly, and as said, Ms. Brumfield talked about earlier, it should be looked at in terms of uses. He said if the primary use was agriculture as opposed to the example Ms. Mallek pointed out, where the primary use was residential and not agriculture. He said it would be more effective and more useful if it was based on uses as opposed to zoning, but he had to extrapolate what the General Assembly meant. He said they could try to narrow it, but said to be cautious about doing that, because it could leave them susceptible to failing in court.

Ms. Mallek said that there were counties that had agricultural zones, and Albemarle did up until the 1980s, when they decided to create rural areas instead so houses could be built in any location.

Mr. DeLoria said he agreed with her.

Ms. Mallek said many of the vehicles shown in the photograph had out of state license plates. She asked if the vehicles had to be registered in Virginia or another state and had to be inspected to be declared operable.

Mr. DeLoria said the answer was yes, the vehicles must have to have inspection if it was required, and they must have a current license and a current registration. He said it had to be operable, and if it had out-of-state plates, it would be an inoperable vehicle. He said when he talked about people claiming it to be operable or a hobby, the unknown factor was the judge, so that was why he wanted to keep as many options as possible to give the judge the path of least resistance to find in favor of the County. He said if a battery had to be put into it, a judge would probably find it inoperable.

Ms. Mallek asked how these rules interacted with the ordinance about standing water. She said all of the pictures shown had tubs with standing water, which would breed mosquitos in warm weather. She said that was another avenue to get at a different problem, but they were caused by the same avenue.

Mr. DeLoria said his understanding was that the standing water would be a nuisance, so now there were multiple avenues for nuisance.

Ms. Mallek said Mr. DeLoria referenced a solution to the trash in the rural area lot. She asked what that solution was.

Mr. DeLoria asked her to clarify.

Ms. Mallek said in the rural area with the trash, he had found a solution.

Mr. DeLoria said it was a junkyard due to the accumulation of trash and housing debris. He said that case was fairly comprehensive.

Ms. Mallek asked if the refuse or things that would danger another's health would include animals or only humans.

Mr. DeLoria said he did not understand. He asked if she was asking about a dangerous dog, for example.

Ms. Mallek said no. She said with all the trash, animals could be susceptible to injury, so she wanted to know if the focus of endangering another's health was on people or if it was more expansive.

Mr. DeLoria said he felt comfortable expanding it to people and their property. He said this may be a distinction without a difference, but what he was suggesting was that, by separating refuse and including clutter into refuse, other substances that might endanger were something different. He said the trash, garbage, and broken glass would constitute refuse and they would not have to show it might endanger another or another's property. He said that was his position.

Mr. Gallaway said at the end of the day, it had no budget impact, and at first, he wondered how they would comply, but it was complaint driven, so it was based on other people filing the complaint and the County would be investigating those complaints. He said the clutter would not increase what the complaints may be but added to what the complaint was for in legal terms.

Mr. DeLoria said he believed that was correct. He said they were not anticipating it to increase the number of complaints that came in by a significant number, just because most of them would probably involve zoning violations, and code compliance was already doing that. He said he mentioned the County's self-help of being able to clean up things, but they had not done that before, and it would be nice for the ordinance to give that option if the Board decided to go that route, but it was not an avenue they were looking at right now.

Mr. Gallaway said that this term may help homeowners who did not have the right term for their problem.

Ms. McKeel said this was a tool for them to use and was not a magic bullet.

Mr. DeLoria said he did not think it was, and they had had great success with the junkyard and inoperable vehicles. He said the clutter would have to be a special case. He said they would bring it along with those others, but to have just a clutter case and no zoning violation or no inoperable vehicles, standing water, or another example, it would be tough to see that but he suspected they would.

Ms. McKeel said she appreciated any change. She said they had these issues in the rural area as well as the developed area, adding that older neighborhoods suffered from this issue too. She said staff had been spending a lot of time on this, so anything they could do to make staff's time more efficient should be done. She said they had an inoperable vehicle policy that said in the neighborhoods of the development area, there could be one inoperable vehicle on the property, and in the rural area there could be two.

Mr. DeLoria said that was right.

Ms. McKeel said it was required to have a cover.

Mr. DeLoria said it must be form-fitting.

Ms. McKeel clarified it must be a form-fitting cover. She said yet, she had been told by staff when they went to determine whether it was inoperable, the property owner had the ability to order them off of the property and staff could not see if the vehicle was inoperable because of the cover on the car. She asked if the cover was working against the County.

Mr. DeLoria said that must be balanced. He said he reminded in code compliance that they were the government, so they were bound by the Fourth Amendment and were not allowed to search properties without a warrant. He said they had not done it yet, but they had the ability to get an administrative search warrant.

Ms. McKeel said she knew of a house with multiple inoperable vehicles, but they were covered when someone was coming, and then the covers would blow off. She said she had been told that staff did not have the ability to look under the cover or ask to start the car.

Mr. DeLoria said they could ask and get consent, which was an exception, but if the owner said they did not want them on the property and did not want them to look under the cover, they must go to the court and get an administrative search warrant.

Ms. McKeel asked if staff could request them to attempt to start the car if there was no cover on. She asked if the cover was the issue.

Mr. DeLoria said Ms. Green could answer, but in his experience, they made that request.

Ms. McKeel said she wanted to know if the cover posed an issue.

Ms. Lisa Green greeted the Board and introduced herself as the Manager of Code Compliance.

She said they had and do ask people to start the vehicle to see if it was inoperable.

Ms. McKeel said right.

Ms. Green said it was not necessarily the cover that was the problem, but it was a Fourth Amendment issue, so if they were denied, the County could not look underneath.

Ms. McKeel said the cover made it a Fourth Amendment issue. She said that answered her question.

Ms. Green said there would be one or two people who simply told them to go away, so they were working on these tools.

Ms. McKeel said she wanted to know if they were working against their own forces.

Ms. Green said typically, it worked, and typically, they had people who would lift the cover or hand them the registration.

Ms. McKeel said she appreciated it. She said she had no further questions.

Ms. Price said there was one person signed up for in-person public comment. She asked Ms. Borgersen if there was anyone signed up for public comment online.

Ms. Borgersen said there was not.

Ms. LaPisto-Kirtley read the rules for public hearing.

Mr. Bob Garland said he lived in the Canterbury Hills neighborhood in the Jack Jouett District. He said he was the internal secretary of the Canterbury Hills Homeowners Association. He said off topic, he wanted to thank and compliment whoever was responsible for the dramatic improvement of sound quality in this room. He said it was the first time he had ever attended where he could understand every word spoken tonight. He said he understood they were considering changes to Chapter 13 of the County Code with the hope that it would reduce clutter in the residential areas of the County.

Mr. Garland said as some of them were aware, their neighborhood had an ongoing struggle with this issue and would welcome any changes that would help improve upon this situation. He said in all the single-family residential neighborhoods, whatever a neighbor did or did not do had the potential to directly affect adjacent neighbors and affect the whole neighborhood. He said he was confident that none of them would want to live next to or across from a neighbor whose home and property were in a state of disarray because of clutter and poor maintenance. He said it could not help but lower the property values of adjacent neighbors and the neighborhood, as well as erode the tax base of the County. He said neighborhoods such as theirs without protective covenants depended on the ordinances of Albemarle County to keep them as desirable places to live. He said he trusted they would agree and adopt these ordinance amendments. He thanked the Board.

Ms. Price asked the Board if there were further comments.

Mr. Gallaway thanked Mr. DeLoria for the substantive presentation.

Mr. Andrews **moved** that the Board adopt Attachment A. an ordinance amending County Code Chapter 13, Solid Waste Disposal and Recycling, Articles 1, 2, and 3.

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

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

ORDINANCE NO. 22-13(1)

AN ORDINANCE TO AMEND CHAPTER 13, SOLID WASTE DISPOSAL AND RECYCLING, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 13, Solid Waste Disposal and Recycling, is hereby reordained and amended as follows:

By Amending:

Sec. 13-100
Sec. 13-300
Sec. 13-301
Sec. 13-302

CHAPTER 13

SOLID WASTE DISPOSAL AND RECYCLING

ARTICLE I. IN GENERAL

Sec. 13-100 Definitions.

The following definitions shall apply to this chapter:

- (1) *Clutter*. The term "clutter" means mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when such items are left in public view for an extended period or are allowed to accumulate, unless such items are on land zoned for agriculture or in a lawfully active agricultural operation.
- (2) *Commingled recyclables*. The term "commingled recyclables" means a mixture of several recyclable materials in one container.
- (3) *Food waste*. The term "food waste" means all animal and vegetable solid wastes generated by food facilities, or from residences, that result from the storage, preparation, cooking, or handling of food.
- (4) *Garbage*. The term "garbage" means solid waste consisting of decomposable animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce, and other food products.
- (5) *Industrial solid waste*. The term "industrial solid waste" means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and publicly operated treatment works, and/or solid wastes placed in debris boxes.
- (6) *Litter*. The term "litter" means solid waste discarded outside the established collection disposal system.
- (7) *Multi-family dwelling*. The term "multi-family dwelling" means a building or portion thereof containing more than two dwelling units and not classified as a one family or two family dwelling nor as a townhouse, with not more than one family occupying each dwelling unit.
- (8) *Nonresidential units*. The term "nonresidential units" means commercial buildings or structures, both retail and wholesale, including apartments with more than two dwelling units.
- (9) *Person*. The term "person" means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.
- (10) *Processing*. The term "processing" means the separation and marketing of recyclable materials.
- (11) *Recyclable materials*. The term "recyclable materials" means materials which have been source separated by any person or materials separated from solid waste for the subsequent utilization in both cases as raw material to be manufactured into a new product other than fuel or energy.
- (12) *Recycling*. The term "recycling" means the process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.
- (13) *Refuse*. The term "refuse" means all solid and semiliquid wastes that are composed wholly or partially of materials such as garbage, trash, litter, clutter, rubbish, ashes, street cleanings, industrial solid waste, residues from clean up of spills or contamination, and other discarded materials, but not human or agricultural animal body wastes.
- (14) *Residential unit*. The term "residential unit" means any housing unit within the county including single-family dwellings, two-family dwellings, townhouses and mobile homes. It does not include multi-family dwellings. Occupants of such residential units are referred to as residents.

- (15) *Rubbish*. The term "rubbish" means nondecomposable solid waste consisting of both combustible and noncombustible waste materials.
- (16) *Sanitary landfill*. The term "sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment.
- (17) *Solid waste*. The term "solid waste" means garbage, refuse, sludges, and other discarded solid materials, including those from industrial, commercial, and agricultural operations, and from community activities.
- (18) *Source separation*. The term "source separation" means the segregation of various specific materials from the waste stream at the point of generation.
- (19) *Transfer station*. The term "transfer station" means a place or facility where waste materials are taken from small collection vehicles and placed in larger transportation units for transport to disposal areas, usually landfills, and where compaction or separation may be an incidental activity.
- (20) *Trash*. The term "trash" means dry waste and usually does not include food waste and ashes but may include other organic materials, such as plant trimmings, or material considered worthless, unnecessary, or offensive that is usually thrown away.
- (21) *Waste*. The term "waste" means garbage, trash or other refuse that is discarded, useless, or unwanted.
- (22) *Waste collector*. The term "waste collector" means all persons engaging in the business of picking up garbage, trash or refuse of any description by truck or other vehicle for the delivery to a sanitary landfill area or other place, for disposal of the same as may be permitted by law.
- (23) *Waste stream*. The term "waste stream" means the total flow of solid waste from residences, businesses, institutions, and manufacturing plants that must be recycled, burned, or disposed of in landfills; or any segment thereof, such as the "residential waste stream" or the "recyclable waste stream." The term "waste stream" also means the total waste produced by a community or society, as it moves from origin to disposal.

(Code 1967, § 15-1; 9-15-93; Code 1988, § 16-1; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)- Va. Code § 15.2-901(A) and 9VAC20-81-10.

Sec. 13-101 Permit required.

No person engaged in a business as a refuse remover shall conduct any portion of such operation within the county unless he has a current permit to do so issued by the county pursuant to this article.

(9-15-93; Code 1988, § 16-18; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-102 Waste collection and recycling permit application.

- A. Each person is required to obtain a permit pursuant to section 13-301, or to renew an existing permit shall submit a permit application to the department of engineering and public works. The application shall be made on a form provided by the department of engineering and public works, and shall require the applicant to provide its name, address and telephone number, and to state generally the areas within the county the applicant proposes to serve.
- B. An application for a new permit shall be submitted, and a permit issued, before the person engages in business as a waste collector as provided in section 13-301.
- C. An application to renew an existing permit shall be submitted between June 1 and June 15 of each year.

(§§ 16-19, 16-21; 9-15-93; Code 1988, §§ 16-19, 16-21; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-103 Waste collection and recycling permit expiration.

Each permit issued pursuant to this chapter shall expire on June 30 following the date of issue.

(9-15-93; Code 1988, § 16-21; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-104 Waste collection and recycling permit issuance or denial.

- A. A permit for which an application has been submitted pursuant to section 13-102 shall be issued or denied by the department of engineering and public works within 15 days of the receipt of such application.
- B. A permit shall be issued if the department of engineering and public works determines that the application is complete and valid and that the applicant has reasonably and substantially complied with all applicable sections of this chapter.
- C. The department of engineering and public works shall provide an applicant whose permit is denied with a written statement of the reasons for denial.

(9-15-93; Code 1988, § 16-20; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

Sec. 13-105 Violation and penalty.

Any person who fails to comply with any requirements of article I or article II of this chapter shall be subject to the following:

- A. Any alleged violation will be brought before a committee composed of one representative of the waste collectors, one citizen representative appointed by the county executive, and a third representative chosen jointly by the waste collectors and citizen representatives. The committee shall review the violation from a report of the department of engineering and public works. The alleged violator shall be provided the opportunity to respond to the alleged violation. The committee shall determine whether a violation has occurred, and recommend an appropriate enforcement action including, but not limited to, a recommendation as to whether civil penalties should be pursued.
- B. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$100.00 for the first violation, \$250.00 for the second violation, \$500.00 for the third violation, \$750.00 for the fourth violation, and \$1,000.00 for each violation thereafter.
- C. With the consent of any person who has violated or failed, neglected or refused to comply with any requirement of these articles, the county may provide in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the applicable limitation specified in paragraph B. These civil charges shall be in lieu of any appropriate civil penalty which could be imposed pursuant to paragraph B.

(9-15-93; Code 1988, § 16-22; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-930.

ARTICLE II RECYCLING

Sec. 13-200 Purpose.

The purpose of this article is to encourage and promote recycling throughout the county in order to protect limited natural resources for the benefit of its citizens.

(9-15-93; Code 1988, § 16-13; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-928.

Sec. 13-201 Residential and nonresidential source separation of solid waste for purposes of recycling.

The following regulations shall apply to the source separation of solid waste for purposes of recycling:

- A. Each waste collector shall collect recyclable materials identified in paragraph B from county residents choosing to participate, and such collection shall be consistent with the recycling program for which the waste collector provides service.
- B. Each waste collector shall recycle source separated newspaper, magazine, container glass, metal cans, and plastic soda, milk and water containers from residential units. The county will provide for the processing of newspaper and commingled recyclables collected by a waste collector from residential units.
- C. Each waste collector shall offer recycling services to the owner or manager of each multi-family dwelling and apartment complex in the county to which it provides service.
- D. Each waste collector shall make a reasonable effort to promote residential and nonresidential participation in a recycling program.
- E. This article shall not affect the right of any person or entity to sell or otherwise dispose of waste material as provided in Virginia Code § 15.2-933 or permitted under any other law of the commonwealth, nor shall it impose any liability upon any waste collector for failure of its customers to comply with this article.

(9-15-93; Code 1988, § 16-15; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-937.

Sec. 13-202 Frequency of removal.

Each waste collector serving residential units shall collect recyclable materials in accordance with paragraph 13-201(A) either weekly or biweekly.

(9-15-93; Code 1988, § 16-16; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code §§ 15.2-928, 15.2-930.

**ARTICLE III DUMPING, ACCUMULATION, STORAGE, REMOVAL
AND DISPOSAL OF WASTE**

Sec. 13-300 Dumping waste on public property, a public highway, right-of-way, or on private property.

- A. It shall be unlawful for any person to dump or otherwise dispose of refuse or other unsightly matter on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.
- B. When any person is arrested for a violation of this section, and the refuse or other unsightly matter alleged to have been dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Virginia Code § 46.2-936 in making such arrest.
- C. When a violation of the provisions of this section has been observed by any person, and the refuse or other unsightly matter dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or removing of such matter. This presumption shall be rebuttable by competent evidence.
- D. Any person convicted of violating this section shall be guilty of a misdemeanor punishable as provided in section 1-301 of the Code, at the court's discretion, in lieu of a criminal conviction it may permit the person to volunteer his services for a reasonable period of time to remove litter from the highway.

(Code 1988, § 16-2; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code §§ 33.1-346, 33.1-346.1.

Sec. 13-301 Transporting refuse in vehicles.

It shall be unlawful for any person to transport any refuse upon the streets, roads, or highways in the county in a motor vehicle unless the vehicle is constructed or loaded to prevent any of the load, consisting of the refuse and refuse containers, from dropping, sifting, leaking or otherwise escaping therefrom. A vehicle may be deemed to be constructed or loaded to prevent the load from dropping, sifting, leaking or otherwise escaping if the refuse is transported in one or more secured covered containers within the vehicle which do not allow sifting, leakage or the escape of refuse therefrom, and each container is loaded in the vehicle in a manner that prevents it from dropping or otherwise escaping from the vehicle.

Any person convicted of violating this section shall be guilty of a misdemeanor punishable as provided in section 1-301 of the Code.

(Code 1967, § 15-4; 4-17-75; Code 1988, § 16-3; Ord. 98-A(1), 7-15-98; Ord. 01-13(1) , 12-5-01; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code § 10.1-1424.

Sec. 13-302 Accumulation, storage and removal of refuse on private property.

The following regulations shall apply to the accumulation, storage and removal of refuse and other dangerous substances on private property:

- A. No owner or occupant of any property in the county shall store, accumulate, or dump refuse or other substances that might endanger the health or safety of other residents of the County except as otherwise provided by law. The storage, accumulation, or dumping of refuse or other substances that might endanger the health or safety of others is declared a nuisance.
- B. All refuse must be placed in personally owned or privately owned watertight containers and be kept covered until transported to a public sanitary landfill or until taken from the property by trash or garbage collectors or otherwise disposed of as provided by law.
- C. Each owner or occupant of property in the county shall, at such time or times as the board of supervisors or its agent may prescribe in a writing personally delivered to the owner or occupant or sent to the owner or occupant by certified mail to the property or sent to the owner by certified mail at the last known address as shown on the current real estate tax assessment records, remove from the property any and all refuse and other substances which might endanger the health or safety of other residents of the county as directed in such writing. For purposes of this Article, the board of supervisors designates the county executive and the county executive's designee as its agents.
- D. If the board of supervisors or its agent deems it necessary, after written notice personally delivered or sent by certified mail to the owner or occupant of property in the county according to subsection C above, the board of supervisors or its agent may have such refuse and other substances that might endanger the health of other residents of the county removed by the county's own employees or independent contractors within a reasonable period of time, in which event the cost or expense thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes are collected. If the condition poses an emergency, the county may correct or abate the condition immediately with or without notice. Every such charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on parity with liens of unpaid local taxes and enforceable in the same manner as provided in section 15-100 of the Code and Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia. The county executive may waive such liens in order to facilitate the sale of the property but may only do so as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property from when the liens were imposed.
- E. Violations of this section are subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months after the first violation is \$200.00. Each business day during which the same violation is found to have existed constitutes a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period. A violation shall constitute a Class 3 misdemeanor and preclude the imposition of civil penalties if three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative faces, within a 24-month period.
- F. The remedies identified in this section are not exclusive and do not preclude the county from seeking all other available legal remedies, including injunctive relief to abate, correct, prevent, and preclude violations of this Article's provisions.

(Code 1967, § 15-6; 11-15-89; Code 1988, § 16-5; Ord. 98-A(1), 7-15-98; Ord. 22-13(1); 4-6-22)

State law reference(s)—Va. Code § 15.2-901.

Sec. 13-303 Waste collectors to dispose of same at authorized locations.

It shall be unlawful for any waste collector to dispose of garbage, trash, or refuse at any location in the county other than at a public sanitary landfill, transfer stations, recycling drop-off centers and other locations designated by the county. Any person convicted of violating this section shall be guilty of a class 1 misdemeanor.

(Code 1967, § 15-5; Code 1988, § 16-4; Ord. 98-A(1), 7-15-98)

State law reference(s)—Va. Code § 15.2-931.

Sec. 13-304 Scavenging.

It shall be unlawful for any person other than a permitted waste collector to salvage or otherwise remove any recyclable materials set out for collection by a permitted waste collector.

(9-15-93; Code 1988, § 16-17; Ord. 98-A(1), 7-15-98)

Agenda Item No. 22. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Gallaway said the Charlottesville-Albemarle Metropolitan Planning Organization (MPO) chose the preferred location for the Rivanna River bike-ped crossing that would move from the Pantops side over at the Woolen Mills side or East Market Street location. He said that was the preferred location that was voted on, and it passed 4-1 if he recalled correctly.

Ms. McKeel said there was an issue about maintenance and the structure of the bridge. She asked how that was resolved. She said the structure was going to require additional maintenance that the County or another entity would be responsible for.

Ms. Mallek said the County nor the City jumped at the ability to put in money to take care of the maintenance, so they reverted to VDOT taking care of it themselves, which was the truss bridge.

Ms. McKeel thanked her for the clarification.

Agenda Item No. 23. Closed Meeting (if needed).

There was none.

Agenda Item No. 24. Adjourn to April 20, 2022, 1:00 p.m., Lane Auditorium

At 9:32 p.m., the Board adjourned its meeting to April 20, 2022 at 1:00 p.m. which will be held in Lane Auditorium. Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page.

Chair

Approved by Board
Date: 01/10/2024
Initials: CKB