

| ACTIONS | | |
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| Board of Supervisors Meeting of December 4, 2024 | | |
| December 5, 2024 | | |
| AGENDA ITEM/ACTION | ASSIGNMENT | VIDEO |
| <p>1. Call to Order.</p> <ul style="list-style-type: none"> The meeting was called to order at 6:01 p.m. by the Chair, Mr. Andrews. All BOS members were present. Also present were, Jeff Richardson, Andy Herrick, and Claudette Borgersen. | | Link to Video |
| <p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> Added a letter of endorsement for Senior Deputy Clerk, Travis Morris, for the International Institute of Municipal Clerks Vice President position to item #13, <i>From the Board</i>. By a vote of 6:0, ADOPTED the final agenda as amended. | | |
| <p>5. Brief Announcements by Board Members.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Mentioned that she had attended the Intelligence and National Security Alliance Conference the previous day, where representatives from federal agencies shared their experiences with intelligence hubs in other parts of the country and noted that there were benefits to the nation and their locality from Rivanna Station and the Rivanna Futures Project. Announced that on December 14 at noon, ceremonies would be held across the nation for Wreaths Across America. She noted that a local ceremony would take place at the Dogwood Vietnam Memorial at McIntire Park, followed by wreath-laying ceremonies at the memorial on the County lawn, the Oakley Memorial and the Earlysville Memorial. <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Commented that recently four cars parked over a leaf pile near Jackson-Via Elementary School and were destroyed when the leaves were ignited by a hot catalytic converter. She cautioned community members to be mindful of where they parked and to avoid piles of leaves. <p><u>Mike Pruitt:</u></p> <ul style="list-style-type: none"> Mentioned that the Scottsville Holiday Happenings would take place on Saturday, December 7. <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> Said that the Rivanna River Restoration Health Project was moving forward and that if community members were interested in volunteering to remove invasive species along the river, particularly in Darden Towe, a meeting was scheduled for December 10 from 1:00 p.m. to 3:00 p.m. She said for more information contact Lisa Wittenborn at exec@rivannariver.org. Mentioned that she had attended the Intelligence and National Security Alliance Conference. | | |

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| <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Mentioned that on Saturday, December 7, the third annual Crozet Holiday Market Crawl would take place, starting at Bluebird & Company and the Crozet Depot Artisan Gallery, and would feature local shops and 80 local artisans. | | |
| <p>6. Proclamations and Recognitions.</p> <ul style="list-style-type: none"> There were none. | | |
| <p>7. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <u>Marta Keane</u>, CEO of JABA (Jefferson Area Board for Aging), shared a story about her experience at the Yancey School Community Center. She mentioned that the Respite and Enrichment Center was now able to accept payment from the Veterans Administration and thanked the Board and staff for their support. <u>Denise Zito</u>, White Hall District resident, spoke regarding recommending an increase in the Albemarle County Emergency Relief Program. <u>Emily Mathon</u>, Rio District resident and member of Family Council, spoke regarding about the condition of their school buildings and overcrowded schools. She urged the Board to increase funding for their school buildings. <u>Heidi Gilman Bennett</u>, Samuel Miller District resident and Chair of Family Council, requested that the Board of Supervisors direct County staff to develop a strategic funding plan to address the backlog of public-school capital needs. | | |
| <p>8.1 Office of the Public Defender Memorandum of Understanding.</p> <ul style="list-style-type: none"> ADOPTED resolution to approve the Office of the Public Defender Memorandum of Understanding and to AUTHORIZE the County Executive to sign the agreement in the current year as well as future years provided that the only modification to the agreement in subsequent years pertains to the revised appropriated budgeted amount. | <p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachments 1 and 2)</p> | |
| <p>9. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> There were none. | | |
| <p>10. <u>Pb. Hrg.: Fiscal Year 2025 Budget Amendment and Appropriations.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution approving appropriations 2025016; #2025017; #2025018; #2025019; and #2025020 for County government projects and programs. | <p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachments 3)</p> | |
| <p>11. <u>Pb. Hrg.: Acquisition of Parcel # 056A2-04-00-000A3 in Parkside Village.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution to authorize the acquisition of Parcel ID # 056A2-04-00-000A3 by eminent domain. | <p><u>Clerk:</u> Forward copy of signed resolution to Facilities and Environmental Services and County Attorney's office. (Attachments 4)</p> | |

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| 12. | <u>Pb. Hrg.: SP202400002 Midway-Martin Store Powerline Upgrade.</u> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution to approve SP202400002 Midway–Martin’s Store Power Line Upgrade Phase II with conditions. | <u>Clerk:</u> Forward copy of signed resolution to Community Development Department and County Attorney’s office. (Attachment 5) | |
| 13. | From the Board: Committee Reports and Matters Not Listed on the Agenda. <ul style="list-style-type: none"> Other Matters <ul style="list-style-type: none"> There were none. Letter of Endorsement of Candidacy for Travis Morris for International Institute of Municipal Clerks Vice President. <ul style="list-style-type: none"> By a vote of 6:0, authorize the Chair of the Board of Supervisors to sign a Letter of Candidacy for Travis Morris for Vice President of the International Institute of Municipal Clerks (IIMC). | | |
| 14. | Adjourn to December 6, 2024, 1:30 p.m., Room 241. <ul style="list-style-type: none"> The meeting was adjourned at 7:00 p.m. | | |

ckb/tom

Attachment 1 – Resolution to Approve the Office of the Public Defender Memorandum of Understanding

Attachment 2 – Public Defender Memorandum of Understanding.

Attachment 3 – Resolution to Approve Additional FY 2025 Appropriations

Attachment 4 – Resolution to Authorize the Acquisition of Parcel ID # 056A2-04-00-000A3 by Eminent Domain

Attachment 5 – Resolution to Approve SP202400002 Midway - Martin’s Store Power Line Upgrade Phase II

**RESOLUTION TO APPROVE THE OFFICE OF THE PUBLIC DEFENDER
MEMORANDUM OF UNDERSTANDING**

WHEREAS, the Board finds it is in the best interest of the County to enter into Agreement with the Office of Public Defender for the City of Charlottesville and the County of Albemarle and the Virginia Indigent Defense Commission. **NOW, THEREFORE, BE IT RESOLVED** that, pursuant to Section 19.2-163.01:1 of the Code of Virginia, the Board of Supervisors of Albemarle County, Virginia hereby agrees to enter a memorandum of understanding with the Charlottesville Public Defender (serving Charlottesville and the County of Albemarle) and the Virginia Indigent Defense Commission, and authorizes the County Executive to execute an agreement in substantially the same form as attached to this resolution for the current year agreement, and to execute future-year agreements in substantially that same form, provided that the only modification to the agreement in those years is the amount budgeted.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF ALBEMARLE,
THE VIRGINIA INDIGENT DEFENSE COMMISSION,
AND THE PUBLIC DEFENDER OFFICE FOR THE CITY OF
CHARLOTTESVILLE AND THE COUNTY OF ALBEMARLE**

THIS MEMORANDUM OF UNDERSTANDING is entered into this day 6 of December, 2024, by and between the **COUNTY OF ALBEMARLE**, a political subdivision of the Commonwealth of Virginia ("County"), the **VIRGINIA INDIGENT DEFENSE COMMISSION**, an independent state agency that supports the judicial branch of the Commonwealth of Virginia designated by Code of Virginia §19.2-163.02 ("VIDC"), and the **PUBLIC DEFENDER OFFICE FOR THE CITY OF CHARLOTTESVILLE AND THE COUNTY OF ALBEMARLE**, an office of the Virginia Indigent Defense Commission, ("Office of Public Defender").

WHEREAS, the Office Public Defender submits a pay equity proposal to the County for funding to supplement the salaries of employees in the Office of Public Defender; and,

WHEREAS, Virginia Code§ 19.2-163.01:1 authorizes the governing body of any city or county to supplement from the funds of the city or county the compensation of public defenders or any of their deputies or employees, from the funds of the city or county; and,

WHEREAS, the Albemarle County Board of Supervisors has appropriated the amount of \$181,983 to supplement the salaries of the Office of Public Defender in fiscal year 2025; and,

WHEREAS, the VIDC will issue pro-rated payment as of the Effective Date with a maximum amount of \$181,983 to supplement the salaries of the Office of Public Defender in fiscal year 2025 in accordance with their internal practices; and,

WHEREAS, the County, the VIDC, and the Office of Public Defender now wish to set forth in this Memorandum of Understanding ("MOU") the obligations and procedures for providing the salary supplements directly to the VIDC for the purpose of providing pay equity to the attorneys employed by the Office of the Public Defender for the City of Charlottesville and the County of Albemarle.

NOW, THEREFORE, in consideration of the mutual covenants contained herein the County, the VIDC, and the Office of Public Defender do hereby agree as follows:

(1) Term: The term of this MOU shall begin on the day ___ of December, 2024 (the "Effective Date") and thereafter renew automatically every July 1 unless terminated by either party. In the event such funds are not appropriated for the following fiscal year, this MOU will automatically terminate as of June 30th of the then current fiscal year, and neither party will have any further obligation or responsibility pursuant to this MOU for the next fiscal year or subsequent fiscal years for which funds are not appropriated.

(2) Obligations of the Office of Public Defender

(A) To assist in the preparation of the County's proposed annual budget, each year the Office of Public Defender will submit to the County, Department of Finance and Budget, on or before November 15, the amount requested for funding for the next fiscal year with an explanation of how the amount was determined. The amount requested shall be based on principles of pay equity between employees of the Office Public Defender and employees of the Commonwealth's Attorney for Albemarle County and the City of Charlottesville, and the request shall include a comparison of the respective salaries and supplements for the comparable positions in the three offices.

(B) On or before June 1 in each subsequent calendar year in which this MOU remains in effect, the Office of Public Defender will provide in writing to the County, Department of Finance and Budget, (i) the names of the employees in the Office of Public Defender who will receive salary supplements during the following fiscal year; (ii) the amount of the annual salary supplement for each such employee; and (iv) such other information requested by the County that is reasonably necessary for the County to comply with any applicable requirements.

(C) The Office of Public Defender will give prompt written notice to the VIDC whenever any employee of the Office of Public Defender who is receiving a salary supplement terminates his or her employment with the Office of Public Defender, or who otherwise becomes ineligible for the salary supplement. The Office of Public Defender shall also give prompt written notice to the VIDC and the County of any new hire in the Office of Public Defender who will be eligible for the salary supplement, and the effective date of employment.

(3) Obligations of the VIDC

(A) The VIDC will submit an invoice to the County, Department of Finance and Budget, within 30 days of the start of the calendar year, January 1, for a one-time payment to fund the Office of Public Defender's salary supplements pursuant to this MOU.

(B) The VIDC will assume full responsibility for timely delivery of the supplemental salary payments to the Office of Public Defender's employees pursuant to this MOU per their internal payroll process.

(C) The VIDC will assume full responsibility for providing each employee who receives a salary supplement with any statement or form required from payors by the Internal Revenue Service or the Commonwealth of Virginia. VIDC will reduce the amount the employee will see in their pay by withholdings, including payroll taxes and employee/er FICA. The employer FICA is 7.65% and will be subtracted from the amount that is provided by the County prior to it being paid to the employee. The supplement payments provided pursuant to this agreement shall not be considered creditable compensation for purposes of the Virginia Retirement System.

(D) At the conclusion of each fiscal year, the VIDC will provide a detailed supplemental pay report to the County illustrating the use of the one-time payment to fund the Office of Public Defender's salary supplements pursuant to this MOU.

(4) Obligations of Albemarle County:

(A) Upon receipt of the invoice provided by the VIDC pursuant to section 3 (A), the County will pay the amount submitted by the VIDC directly to the VIDC.

(B) The County shall give prompt written notice to the Office of Public Defender if any information necessary to make supplemental salary payments, or to make a payment to the VIDC, has not been provided to the County.

(C) As required by Virginia Code section 19.2-163.01:1 the County shall provide notice to the VIDC of the amounts provided to each Public Defender employee pursuant to this MOU.

(D) During consideration of the annual County budget the Office of Management and Budget will notify the Albemarle County Board of Supervisors of the amount of funding requested by the Public Defender and the amount, if any, recommended by County staff. The County staff shall review the amount requested by the Office of Public Defender to ensure it is based on principles of pay equity between employees of the Office Public Defender and employees of the Commonwealth's Attorney for Albemarle County and the City of Charlottesville.

(E) Nothing in this MOU shall be interpreted as obligating the Albemarle Board of County Supervisors to appropriate funds, or to appropriate funds in any particular amount, for salary supplements for employees of the Office of Public Defender.

(5) Suspension and Termination:

If any party fails to fulfil its obligations under this MOU, or otherwise violates the terms or conditions of this agreement, the other party may suspend its performance. If such noncompliance continues after notice and a reasonable opportunity to remedy the noncompliance, the non-breaching party may terminate this MOU without liability or further responsibility.

(6) Erroneous Payments:

If any payment made by the VIDC to an employee of the Office of Public Defender is not in compliance with the terms or requirements of this MOU, regardless of whether it is an underpayment or an overpayment and regardless of cause or fault, VIDC and the Office of Public Defender agree to work cooperatively and in mutual good faith to remedy the erroneous payment as soon as practicable.

(7) Unspent Funding:

Should there be turnover, or any other circumstances, that allow for any unused or remaining funding at the end of the fiscal year, the VIDC may redistribute unused or remaining funding as additional supplemental income to the employees of the Office of Public Defender with prior approval of the County. The VIDC may also apply unused or remaining funds to supplement a replacement hire at a higher supplemental income than the former employee with prior approval from the County. The County, the VIDC, and the Office of Public Defender agree to work cooperatively to appropriate unused or remaining funding.

(8) Compliance with Applicable Law:

The payments contemplated by this MOU will be made pursuant to and in accordance with the provisions of Virginia Code § 19.2-163.01:1, or any successor statute that authorizes a locality to supplement the compensation of a public defender and his or her employees. Accordingly, nothing herein shall be construed as placing any condition or requirement upon a Public Defender employee's receipt of funds under this MOU, as prohibited by the aforementioned enabling legislation.

(9) Supersedes Prior Agreement

This agreement supersedes the November 16, 2016 Memorandum of Understanding between the County and Elizabeth Murtagh in her official capacity as the Public Defender for the City of Charlottesville and the County of Albemarle.

WITNESS the following authorized signatures:

ALBEMARLE COUNTY, VIRGINIA

By: 

Date: 12/6/24

Jeffrey Richardson, County Executive

OFFICE OF PUBLIC DEFENDER FOR THE CITY OF CHARLOTTESVILLE AND
THE COUNTY OF ALBEMARLE

By: 

Date: 11/22/24

Name: Nicholas Reppucci, Esq., Public Defender

VIRGINIA INDIGENT DEFENSE COMMISSION (VIDC)

By: 

Date: 11/19/24

Name: Maria Jankowski, Executive Director

**RESOLUTION TO APPROVE
ADDITIONAL FY 2025 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 25 Budget is amended to increase it by \$20,383,049;
- 2) That Appropriations #2025016; #2025017; #2025018; #2025019; and #2025020 are approved;
- 3) That the appropriations referenced in Paragraph # 2 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, 2025.

RESOLUTION TO AUTHORIZE THE ACQUISITION BY CONDEMNATION OF A CERTAIN PARCEL OF LAND IN FEE SIMPLE, PARCEL ID NUMBER 056A2-04-00-000A3, FOR THE PURPOSE OF CONSTRUCTING ROAD AND SAFETY IMPROVEMENTS, IN ACCORDANCE WITH THE LIBRARY AVENUE EXTENSION TO PARKSIDE VILLAGE ROAD PROJECT, AND TO ENTER UPON THE PROPERTY TO BE ACQUIRED AND INITIATE CONSTRUCTION BEFORE THE CONCLUSION OF THE CONDEMNATION PROCEEDING PURSUANT TO VIRGINIA CODE SECTIONS 15.2-1904 AND 15.2-1905(C) AND CHAPTER 3 OF TITLE 25.1 (SECTIONS 25.1-300 ET SEQ.)

WHEREAS, Albemarle County has proposed certain roadway improvements in the White Hall District as part of the Library Avenue Extension to Parkside Village Road Project in order to extend Library Avenue eastward through the Barnes Lumber property to connect to High Street and then to Hill Top Street in Parkside Village as well as connection to The Square;

WHEREAS, the Library Avenue Extension to Parkside Village Road Project is necessary for the public health, safety, peace, good order, comfort, convenience, and welfare of the County;

WHEREAS, the project design for the Library Avenue Extension to Parkside Village Road Project requires the acquisition of certain right-of-way and easement interests for the construction of road and safety improvements;

WHEREAS, the County has reviewed the acquisition for purposes of complying with Section 1-219.1 of the Code of Virginia and has certified that the acquisition is for the possession, ownership, occupation, and enjoyment of the property by the public, for the purpose of construction and maintenance of public facilities including public roads and other improvements;

WHEREAS, the owner of record of the subject property, Hauser Homes, Inc., is a defunct Virginia corporation and title to the property has transferred by law to the Unknown Trustees in Liquidation of said company;

WHEREAS, title to the subject property is further clouded by a subsequent deed by which Weather Hill Homes Ltd. purported to convey said property to Parkside Village Homeowners Association, Inc., though Weather Hill Homes Ltd. did not own the property at the time of the conveyance;

WHEREAS, the County is unable to make a bona fide but ineffectual effort to purchase the necessary right-of-way for public road and other improvements at fair market value as determined by a licensed appraiser, and the County and the landowner have been unable to reach an agreement because the landowner is unknown and unable to convey legal title to the County; and

WHEREAS, it is now necessary to enter upon the property to install the facilities and improvements prior to the completion of condemnation proceedings;

NOW, THEREFORE, BE IT RESOLVED BY THE ALBEMARLE COUNTY BOARD OF SUPERVISORS:

1. That the property is to be acquired for construction and maintenance of public roadway improvements and other related improvements, including road and safety improvements, required as a result of the proposed improvements for the purpose of extending Library Avenue eastward through the Barnes Lumber property to connect to High Street and then to Hill Top Street in Parkside Village as well as connection to The Square.
2. That the Board approves the proposed public use of the property.
3. That acquisition of the property, as shown in the following chart along with the referenced plat, is for the public roadway and related facilities and is declared to be necessary for a public use and an authorized public undertaking pursuant to Chapter 19 of Title 15.2 (§ 15.2-1900, *et seq.*) of the Code of Virginia (1950), as amended.

| Landowner | Parcel ID Number | Referenced Plat Showing Property Interests to be Acquired |
|---|-------------------------|--|
| Unknown Trustees in Liquidation of Hauser Homes, Inc., a defunct Virginia corporation and Parkside Village Homeowners Association, Inc., as its interest may appear | 056A2-04-00-000A3 | Parcel 008 on "Right of Way Plan Sheet" Number 3RW prepared by Timmons Group, dated December 10, 2020, last revised February 16, 2024, attached hereto and labeled "Exhibit A." And as shown as Parcel W on "Plat Showing Lots 48 Thru 71, Phase 2, Parkside Village" prepared by B. Aubrey Huffman & Associates, LLC, dated May 2, 2005 and recorded in the Albemarle Circuit Court Clerk's Office in Deed Book 2932, Pages 621-626. |

4. That it is necessary to enter upon the property to begin construction of the roadway and other improvements prior to the completion of condemnation proceedings in order to adhere to the project schedule.
5. That Albemarle County may, upon the deposit of compensation in the amount of the County's opinion of just compensation and in compliance with all statutory requirements, including the recordation of a Certificate of Take with the Clerk of the Circuit Court of Albemarle County, enter upon the property identified herein and take possession of the property prior to the conclusion of condemnation proceedings.
6. That, based upon the assessment records or other objective evidence, Albemarle County has determined that the just compensation due to the landowner for the property interests to be acquired for public purposes is as follows:

| Landowner | Parcel ID Number | Property Interests to be Acquired | Appraised Value |
|---|-------------------------|---|------------------------|
| Unknown Trustees in Liquidation of Hauser Homes, Inc., a defunct Virginia corporation and Parkside Village Homeowners Association, Inc., as its interest may appear | 056A2-04-00-000A3 | Fee Simple Right-of-Way; Parcel 008 on "Right of Way Plan Sheet" Number 3RW prepared by Timmons Group, dated December 10, 2020, last revised February 16, 2024, attached hereto and labeled "Exhibit A." And as shown as Parcel W on "Plat Showing Lots 48 Thru 71, Phase 2, Parkside Village" prepared by B. Aubrey Huffman & Associates, LLC, dated May 2, 2005 and recorded in the Albemarle Circuit Court Clerk's Office in Deed Book 2932, Pages 621-626, attached hereto and labeled "Exhibit B." | \$900.00 |

7. That the ownership of the property interests to be acquired is as stated in paragraphs 3 and 6 herein.
8. That the County Executive or his designee will deposit with the Clerk of the Circuit Court of Albemarle County, to the credit of the landowner named above, the County's opinion of just compensation for the property interests, as listed in paragraph 6 herein and simultaneously record a Certificate of Take with the Clerk of the Circuit Court of Albemarle County.
9. That the County Executive or his designee will mail a certified copy of this resolution to the landowners, if known.

10. That the County Attorney or his designee is authorized and directed to acquire the property interests for public use by condemnation or other means, and to institute and conduct condemnation proceedings to acquire the property interests from the landowner named herein in the manner authorized and provided by Chapter 19 of Title 15.2 (Sections 15.2-1900 *et seq.*), and Chapters 2 and 3 of Title 25.1 (Sections 25.1-200 *et seq.* and 25.1-300 *et seq.*) of the Code of Virginia (1950), as amended.
11. That the County Executive or his designee may also continue to negotiate acquisition of the property interests, subject to approval by the Board of Supervisors, if the landowner is identified and can convey clear title.

**RESOLUTION TO APPROVE SP202400002
Midway - Martin's Store Power Line Upgrade Phase II**

WHEREAS, upon consideration of the staff report prepared for SP202400002 Midway - Martin's Store Power Line Upgrade Phase II, the recommendation of the Planning Commission and 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), 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 (RA) district, with the applicable provisions of Albemarle County Code § 18-5, 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 SP202400002 Midway - Martin's Store Power Line Upgrade Phase II, subject to conditions attached hereto.

* * *

SP202400002 Midway - Martin's Store Power Line Upgrade Phase II Conditions

1. The design of the new poles must be in general accord with those shown in the Concept dated 06/18/2024.
2. Supporting structures for the electrical transmission lines shall remain within the existing right-of-way easement.
3. During construction, timber bridging shall be used for all stream crossings as shown in the Concept Plan dated 06/18/2024.