A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 20, 2022, at 1:00 p.m. Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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 1:00 p.m. by the Chair, Ms. Donna Price. She announced that the opportunities for the public to access and participate in the hybrid meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received. She mentioned staff present and introduced Albemarle County Police Department officers Darrell Mikesh, Jerry Schenk, and Brian Miller.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek asked when the minutes would be pulled, either at this item or at the Consent Agenda.

Ms. Price asked Ms. Mallek to reference the item that needed to be pulled, then they would be pulled.

Ms. Mallek asked to pull the minutes from August 19, 2021.

Ms. McKeel offered a **motion** to adopt the final agenda as amended.

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.

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

Mr. Gallaway noted that he was asked to participate in welcoming Greater Charlottesville in an iftar. He said it was held at the Downtown Pavilion. He said the Central Virginia Islamic Association was part of the iftar. He said Chief Reeves was also present and able to speak. He said he learned about Ramadan and the iftar.

Mr. Andrews recognized VDOT's announcement that nearly 1 million cubic yards of debris had been cleared from the Culpeper District. He said 120,000 cubic yards were cleared after the 2012 derecho.

Ms. McKeel announced that Burley Middle School had a new marker that indicated Burley School as a National Historic Landmark, and she encouraged everyone to visit. Ms. McKeel said she attended the celebration of the placement of the landmark, along with several other elected officials and dignitaries. She encouraged people to go by and read the marker. She noted there was roadside parking. She said the marker celebrated Burley School as a critical historic building in the community. She said it was the previously segregated Black school in Charlottesville and Albemarle. She said the school had a rich history. She said it was a wonderful celebration.

Ms. McKeel reminded the community that there were three mass shootings over Easter weekend across the country. She said as of early April, there had been 119 mass shootings. She said more had to be done than acknowledging and thinking about it. She said the proliferation of guns and illegal guns had to be dealt with.

Ms. Mallek said she agreed with both of Ms. McKeel's comments. She said the Burley Bears had shown great determination over 15 years to accomplish the remembrances they had done. She said there were a lot of upcoming events. She said on April 24 from 10 a.m. to 5 p.m., as part of Virginia Garden Week, there would be three properties in Brown’s Cove open for the garden tour. She said the homes were three homes of the Brown brothers, who each fought in the Revolutionary War, and for whom Browns Gap Turnpike was named.

Ms. Mallek said on April 30 and May 1, the White Hall Ruritan Club was returning in person and there would be a plant sale from 8 a.m. to 1 p.m. on April 30 and from 11 a.m. to 2 p.m. on May 1. She said the sale was of plants grown from seed or dug from gardens. She said on May 1, the Rivanna River festival would be held from 11 a.m. to 3 p.m. at the Lewis and Clarke Exploratory Center. She said there would be painters along the river who would bring paintings to the center for display in the afternoon. She said there would be music, children's activities, and trail hiking.

Ms. Mallek said the Crozet Arts and Crafts festival would be held on May 7 and May 8. She said it had been on since 1980, and it was open 10 a.m. to 5 p.m. She said it provided funds for the operation of the Crozet Park. She said more than 100 artists would be present showing and selling pieces along with music, food trucks, and children's activities.

Ms. Mallek said in September, the Ivy Materials Utilization Center (MUC) would be offering a collection of unwanted and outdated pesticide materials. She said it was important the materials not be thrown in the trash.

Ms. Price announced there had been 988,000 deaths from the COVID-19 pandemic. She noted that interstate transportation had relaxed the masking rules. She said the Omicron BA.2 variant was very infectious, and people still needed to be diligent. She said she had the opportunity to observe a Local Energy Alliance Program (LEAP) energy audit at a house. She said the energy audits were provided for any household on a sliding scale of payment to accommodate budgets. She noted there were small changes people could make to dramatically reduce energy consumption, such as insulation around outlets to stop airflow through the household, sealing the attic, among others.

Ms. Price said she had the opportunity to represent the County on Founders Day at Monticello. She said an individual and an organization were recognized; Sherrie Rollins Westin, President of the Sesame Workshop (the nonprofit organization behind Sesame Street) and Charlottesville's International Rescue Committee.

Ms. Price said she attended the unveiling of the historic marker at the Jackson Price Burley School. She said it showed the resilience of a part of the community that had long and largely been discriminated against. She said from 1951 to 1967, the Burley School was the Black high school, which was the consolidation of three different schools that had been opened before then. Ms. Price said one of the most impressing comments were from the students who talked about when they would travel to other areas of the state for sporting events, that they would come back to the locker room after the game to find their clothes stolen, and when they got on the bus, bricks and rocks were thrown at them. She said hate, racism, and discrimination had no place in the United States. She said it warmed her heart that the individuals chose love and not hate despite what they had experienced. She mentioned the 1956 undefeated, unscored upon Burley Bears; a truly incredible achievement.

She announced it was Earth Week and Earth Day. She said in Scottsville, in conjunction with the Scottsville Center for the Arts and Natural Environment (SCANE), there were more than 20 events scheduled on Saturday. She encouraged people to attend.

Ms. Price said she was able to attend the last week of the County's fire and rescue recruit training class 20. She said they did exercises with the burn tower. She said appreciation must always be expressed to the law enforcement officers, fire rescue, EMTs, and those individuals who put their life on the line every day.

Agenda Item No. 6. Proclamations and Recognitions.

There were none.

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.

Ms. Price noted there was one virtual speaker.

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

Ms. Price said in-person speakers would be called first.

Mr. Doug Bates introduced Ms. Meg Holden, the President of the Downtown Crozet Initiative (DCI), a 501(c)(3) organization. He said for the last five years, the organization had engaged in an aspirational dream of hoping for a plaza. He said a couple years ago, the Board acted to develop an agreement between the New Town Associates, DCI, and the County. He said there was an addendum before the Board which contained a necessary condition to get the economic development sought in Crozet around the plaza. He said the plaza was a rather ugly building. He said many people on the County staff had worked on the project. He said the DCI believed that kind of commitment would be a thing that other places in the County could use as a model for a public-private partnership that would enhance the entire County.

Mr. Lee Dawson said he had questions on his real estate taxes. He said he understood the personal property taxes, such as using them to pay for the roads that the cars use. He wanted to know who to speak to understand what his real estate taxes supported. He said he was told the taxes went to various programs. He said he was curious what the programs were, how they benefited him. He said he was trying to better himself and buy more property in the County, but it raised his personal property taxes to where he could not afford it. He said he had never been to a meeting before.

Ms. Price said staff had Mr. Dawson's contact information, and she would ensure the appropriate people in County staff reached out to him. She noted there were no more in-person speakers. She said there was one virtual speaker.

Mr. Joe Fore said he lived in the White Hall District, and he was the Chair of the Crozet Community Advisory Committee (CAC). He said his comments reflected his own views and not necessarily those of the committee. He said it was his understanding that all of the members of the Village of Rivanna CAC had resigned in response to having their recent meeting unilaterally canceled by the Board and County staff. He said his knowledge of the event was limited to a blog post by the CAC members which quoted a lengthy email from Ms. Price regarding the event. He recognized some of the concerns leading to the resignations were long standing and some were unique to the Rivanna CAC.

Mr. Fore said the extent to which the event portended the treatment of all CACs was concerning. He said the notion CACs would be prevented from meeting or setting their own agendas, even in months with no pressing issues from County staff, was a dramatic departure from the way the committees had operated for many years. He said it was part of a trend that eroded the CACs ability to effectively represent residents and advise the Board. He said since the COVID-19 pandemic began, staff had steadily exerted more and more control over setting CAC agendas.

Mr. Fore said last month, the County introduced a fixed calendar for the CACs for the rest of the year which was developed without input from the CACs. He said the move further constrained the CACs' ability to set their own agendas. He said taken together, the changes felt less as collaborative partners who worked with staff and the Board to identify priorities and develop solutions, and more like focus groups who chose from a menu of preselected options. He said the CACs understood and respected staff's time and were grateful for their work.

Mr. Fore said the CACs were mindful of their charge and were willing to defer to staff's needs to hold community meetings and to align the meetings with comprehensive plan revisions. He said he hoped the Board would not prevent other CACs from meeting or discussing issues important to their particular areas of the County in the months when there were no pressing topics. He said in her email, Ms. Price suggested there were "inconsistent understandings of proper charges to the various CACs," and that she wanted to "get these things addressed in order to ensure the CACs were operating consistent with County policies and direction." He hoped the Board would engage the CACs themselves in any discussions about the changes to the committee's mission or operation.

Mr. Kirk Bowers said he lived in the Rivanna District. He said he was speaking as the Conservation Chair of the Piedmont Group Sierra Club. He noted there were over 2,000 members in the group. He announced Earth Day was Friday, and he would be tabling and environmental groups would be gathering at IX park. He said he was speaking on the topic of artificial turf and lighting for soccer fields.

Mr. Bowers expressed opposition to the use of artificial turf and the installation of lighting at the soccer fields of Darden Towe Park and Biscuit Run Park. He said he was a former soccer coach, travel league and high school league parent for about 12 years, and he was a long-time resident of the County. He strongly supported the continued development of soccer fields. He said there were several problems with artificial turf that needed consideration.

Mr. Bowers explained artificial turf was a plastic rug which was perfect when it was new but wore out and required frequent maintenance. He said artificial turf was hard and hurt when fell on. He said turf burns were found to be responsible for the spread of skin infections. He said synthetic turf contained unsafe levels of lead, mercury, cadmium, and other known carcinogens. He said artificial turf could get hot; on clear, warm days, fields could become superheated, with temperatures ranging from 120 to 180 degrees Fahrenheit. He said those were reasons to use natural grass to upgrade and improve soccer fields.

Agenda Item No. 8. Consent Agenda.

Ms. Mallek requested to pull the minutes for August 19.

Ms. Price asked if there were other items that needed to be pulled from the Consent Agenda. She noted there were none.

Ms. McKeel **motioned** to approve the Consent 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.

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Item No. 8.1. Approval of Minutes: September 2 and September 8, 2020.

By the above-recorded vote, the Board approved the minutes of September 2 and September 8, 2020.

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Item No. 8.2. Schedule a Public Hearing for Crozet Sports Community Foundation Lease Amendment.

The Executive Summary forwarded to the Board states that the lower level of the Crozet Library has two suites fronting Crozet Avenue that are available for leasing. Suite A had been leased by Staengl Engineering, which elected not to renew its lease, effective January 31, 2022. Suite B is currently leased by the Crozet Sports Community Foundation (the "Foundation").

Following the County's receipt of Staengl Engineering's notification of non-renewal, Suite A's availability was advertised in newspapers, on the County website, and on flyers placed at the Crozet Library. The Foundation was the only entity that responded to the request for proposals (Attachment A).

The Foundation is a for-profit agency that began operation in the fall of 2018 as an athletic and academic academy offering sports camps and clinics, kids day camps, and summer camps in the Crozet area. The Foundation engages the community through interest surveys to gather feedback from area residents on planning programs, services, affordability, and overall interest to help it identify community needs. These operations have been housed in Suite B of the Crozet Library since June 2021.

Since beginning its operations at the Crozet Library, the Foundation has met its program capacity in all services offered, but maintains a lengthy wait list because of the limited square footage of Suite B.

The attached lease amendment (Attachment B) would add Suite A to the Foundation's existing lease under all current terms and conditions. The proposed amendment would expand the Foundation's total space to 2,735 square feet. The additional leased space would be transformed into a second, multi-purpose classroom and learning space to accommodate growth of the Foundation's programs. The Foundation is prepared to move into the space in its current condition, with no need for improvements to the space.

The proposed lease amendment would result in annual rent revenue of $53,824.80, an increase of $20,427.84 over the Foundation's current rent. The County has not realized rent revenue on Suite A during its vacancy.

Staff recommends that the Board schedule a public hearing for May 18, 2022 to consider approval of the proposed lease amendment.

By the above-recorded vote, the Board directed staff to schedule a public hearing for May 18, 2022 to consider approval of the proposed lease amendment.

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Item No. 8.3. Resolution Affirming Commitment to Fund the Locality Share of Projects Under Agreement with the Virginia Department of Transportation.

The Executive Summary forwarded to the Board states that in 2016, the County and the Virginia Department of Transportation (VDOT) entered into a blanket Programmatic Project Administration Agreement (PPAA) to cover all projects funded by the Revenue Sharing Program. In 2019, the Agreement was renewed for another three years. The Agreement will expire on June 30, 2022. As VDOT no longer employs blanket PPAAs, each of the remaining revenue sharing projects requires a new, separate agreement, which must be executed by June 30, 2022. Failure to have a new agreement in place by June 30, 2022 could result in any work done after that date being ineligible for reimbursement until a new agreement is signed. Once executed, the agreements will continue in force through the life of the project.

Per VDOT's requirements, projects with similar scope are grouped under one agreement but with separate Appendix A's to delineate the scope and budget of each project. As a result, four of the projects will be under Agreement 1 and two under Agreement 2. Collectively the agreements are applicable to the following projects: Commonwealth Drive / Dominion Drive Sidewalks; Berkmar Drive Bicycle and Pedestrian Improvements; Crozet Square / Oak Street Improvements; and Library Avenue Extension to Parkside Village.

Staff recommends that the Board adopt the attached resolution (Attachment C) and authorize the County Executive to execute all agreements and/or addenda for any approved projects with the Virginia Department of Transportation.

By the above-recorded vote, the Board adopted the resolution and authorize the County Executive to execute all agreements and/or addenda for any approved projects with the Virginia Department of Transportation:

RESOLUTION

AFFIRMING COMMITMENT TO FUND THE LOCALITY SHARE OF PROJECTS UNDER AGREEMENT WITH THE VIRGNIA DEPARTMENT OF TRANSPORATION AND PROVIDE SIGNATURE AUTHORITY

WHEREAS, the County of Albemarle is a recipient of Virginia Department of Transportation funds under various grant programs for transportation-related projects; and

WHEREAS, the Virginia Department of Transportation requires each locality, by resolution, to provide assurance of its commitment to funding its local share.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Albemarle hereby commits to fund its local share of preliminary engineering, right-of-way, and construction (as applicable) of the project(s) under agreement with the Virginia Department of Transportation in accordance with the project financial document(s); and

BE IT FURTHER RESOLVED that the County Executive, or his designee, is authorized to execute all agreements and/or addenda for any approved projects with the Virginia Department of Transportation.

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Item No. 8.4. Amend Rule 6(D)(1) of the Board's Rules of Procedure.

The Executive Summary forwarded to the Board states that the During the COVID-19 pandemic, the Board's Rules of Procedure ("Rules") were amended several times to accommodate virtual meetings, and then hybrid meetings, which is the current meeting posture that began with the Board's April 6 meeting. Amendments to the Board's Rules during the pandemic (1) established a 10-person speaker limit for Matters from the Public, (2) confined the subject matter of speaker comments to "Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board or Matters Pending Before the Board", and (3) required online speakers to submit accompanying digital presentations to the Clerk at least 48 hours in advance of the meeting.

On April 6, the Board discussed whether to continue these practices in the current hybrid meeting format and a majority of the Board indicated support for retaining those rules. Accordingly, no amendment of those items in Rule 6 is required. On April 6, the Board also discussed whether to close the speaker sign-up period for Matters from the Public once the speaker list has been delivered to the Chair and the Matters from the Public agenda item begins. A majority of the Board indicated support for amending Rule 6 to require closing the speaker sign-up period at that point.

The proposed amended Rules (Attachment A) would amend Rule 6(D)(1) to require that the speaker sign-up list for Matters from the Public be closed upon delivery of the list of speakers to the Chair or other presiding officer and the opening of the Matters from the Public agenda item. This action is within the Board's statutory discretion to establish its rules of procedure at meetings.

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

By the above-recorded vote, the Board adopted the draft amended Rules of Procedure.

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Item No. 8.5. The Albemarle Broadband Authority Quarterly Report, **was received for information.**

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Item No. 8.6. Rivanna Water and Sewer Authority (RWSA) Quarterly Report, **was received for information.**

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Item No. 8.7. Albemarle County Service Authority (ACSA) Quarterly Report, **was received for information.**

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Item No. 8.8. VDOT Monthly Report (April) 2022, **was received for information.**

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Agenda Item No. 9. Action Item: Barnes Lumber Addendum to Crozet New Town Associates, LLC, Development Agreement.

The Executive Summary forwarded to the in 2019, Albemarle County entered into a public-private partnership with Crozet New Town Associates, LLC, to redevelop the former Barnes Lumber site in Downtown Crozet (Attachment A). This site had been planned for redevelopment since 2006 but had not organically happened. The public-private partnership was the result of the Board of Supervisors, Economic Development Authority, and staff acting to catalyze the redevelopment of this site through infrastructure investment and additional support. The public/private partnership was a recognition that this project would likely not move forward in a desirable manner without the County's participation, if at all.

The partnership is governed by a Development Agreement that requires both the County and developer to provide financial and in-kind support. The Development Agreement includes five prominent elements of the overall project: predevelopment, road network, public plaza, financing, and downtown development. Attachment A provides an overview of the Development Agreement.

To complete the Barnes Lumber project under the Development Agreement, additional funding is needed. The updated cost estimate for completing the road network now exceeds the original cost estimate that was developed more than three years ago. The most significant factors impacting the cost of the road network include the escalation of material costs, high demand for construction, increased labor costs, and unanticipated utility relocation expenses.

In order to accomplish the goals of the project, staff is proposing an addendum to the original Development Agreement to administer how the increased costs will be shared by the County and the developer. The proposed addendum enables the County to complete the road network, whereas the developer will provide additional contributions to include paying for water and sewer utility installation, building a public restroom in a development adjacent to the public plaza, providing seed money to fund an Executive Director for the Downtown Crozet Initiative (a community development organization supporting the project), donating Right of Way (land) in the amount of approximately $300,000, and covering expenses exceeding the new project budget (Attachment B).

In conjunction with this update on the Barnes Lumber site, staff will be providing an informational update on an adjacent County project known as The Square.

The Barnes Lumber redevelopment project will expand downtown Crozet in a manner consistent with the County Comprehensive Plan and the Crozet Master Plan. This project will contain mixed use development, build a central public plaza for gathering, create a Main Street, and utilize private investment for placemaking, redevelopment, and growing the commercial base.

The budget impact will include the contribution of $2.5 million to complete the road project. The source of these funds would be $1 million from the American Rescue Plan Act and $1.5 million from the Economic Development Investment Pool. Future appropriations will be brought to the Board of Supervisors as needed based on timing and appropriation requirements.

Staff recommends the Board adopt the attached resolution (Attachment C) approving the proposed addendum to the Development Agreement (Attachment B) upon the County Attorney’s approval as to form.

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Mr. Doug Walker, Deputy County Executive, said Mr. Roger Johnson was unable to attend in-person, but he was attending virtually and able to answer questions. He said the project had been developed for many years. He said the project was at an inflection point, and he wanted to ensure the Board and the community were on the same page as recommendations on how to move forward were made.

Mr. Walker said there was an extensive background to the project. He said he would provide a brief background. He said he would cover the project context and details, the roads, and the funding proposal. He said the project went back to 2014, but some would say it started earlier. He said there were 13 Crozet CAC meetings between 2014 and 2018, and 31 DCI meetings between 2015 and 2020. He said the results of the community engagement were that they wanted a new and expanded downtown Crozet. He said the expansion in the particular project was revealed in a new public plaza, expansion and enhancements to an existing road network, and creating a more aesthetically pleasing downtown area in one of the core development districts.

Mr. Walker said it was previously presented to the Board that downtown Crozet would not occur or happen but for the County's participation by means of a public-private partnership. He said in 2018, the County engaged with the property owner and developer in crafting a public-private partnership (P3), that met the interests of both parties that culminated in the Board authorizing the P3 in 2019.

Mr. Walker said the project was consistent with the Comprehensive Plan, and it was consistent with the Crozet Master Plan. He said it provided contributions to provide for public benefit, including the developer's contribution of his money to match VDOT revenue sharing money. He said it would invest in public road infrastructure, public place making with respect to the plaza, and it would grow the commercial tax base.

Mr. Walker said Crozet was far removed from the core of the development area. He noted that Crozet was developing intentionally to best reflect the values of the Comprehensive Plan and the Master Plan. He provided an aerial image of the crossroads and downtown Crozet. He noted Crozet Pizza, Mudhouse, Fardowners, and Parkway Pharmacy. He mentioned the library investment the County made. He said those investments had not fully taken advantage of the need for better transportation circulation. He said to the east, the property known as Barnes Lumber was ripe for redevelopment.

Mr. Walker provided images of the condition of Barnes Lumber property. He said in the background there were buildings leased by Perrone Robotics, and in the foreground was evidence of the concrete pads that were left over from previous industrial use. He provided a drone (birds-eye view) image of the same location. He noted the dilapidated condition and that it had not been invested in.

Mr. Walker said the intention with the new development was to reflect the architectural vernacular that was unique to downtown Crozet. He noted existing buildings such as the rail depot, Crozet Pizza, Mudhouse, and Fardowners. He said the new development was informed by examples of downtowns from other places. He noted commonalities of pedestrian scale, lower building heights, diversity of storefronts and facades to reflect the character of the downtown Crozet area.

Mr. Walker said there were a number of examples to show the scope and scale of what the plaza could be for an area like the one proposed for redevelopment. He mentioned the Charlottesville Downtown Mall, which was a plaza owned and managed by City Parks and Recreation Department. He said it provided essential connectivity to the business corridor. He said the thought was that a similar development could do the same in downtown Crozet.

Mr. Walker provided an illustration of a characterization of how the design intended to be scalable and flexible to accommodate a variety of events, such as small crowds, large crowds, and large crowds that involved street closures. He said the street network around the plaza could become part of the event space to accommodate large crowds.

Mr. Walker acknowledged the proposal primarily focused on Phase 1, indicated in yellow on the displayed image. He said the road network, as a part of Phase 1, extended into Phase 2, indicated in green. He said Phase 1 had been rezoned and was the focus of the public-private partnership. He noted the area was heavily non-residential, and it was one of the reasons why staff and the Board felt it important to make the investment to facilitate more non-residential, tax paying investment rather than residential tax paying investment. He said there would be an estimated 5,000 square feet of retail space, 40,000 square feet of hotel use, almost 29,000 square feet of office use, and 52 housing units. He said the units would extensively be second-floor residential units.

Mr. Walker explained that the massing diagram was a tool used to reflect the scope and scale of development as part of a planning process to show massing and how the different uses could fit on a site. He said the image provided an overview of the integrated street network and its orientation to the plaza at the top left.

Mr. Walker acknowledged that the P3 for Phase 1 focused on the road infrastructure and the plaza was interrelated with a project at the square. He said the square was a piece of road from Crozet Avenue to the front of Mudhouse, Fardowners, and Parkway Pharmacy, and it tied into Phase 1 of the project. He said it was also a transportation revenue sharing project managed entirely by the County.

Mr. Walker said the square project was slightly ahead of the subject project, but the intention was to ensure the projects aligned because they were interrelated. He mentioned the library and Library Avenue. He said the success of the square, the library, and Library Avenue had led to the opportunity to finish the first phase of the road network in downtown Crozet.

Mr. Lance Stewart, Director of Facilities and Environmental Services (FES), said FES was involved because it the project moved forward, the department would manage the construction of the project. He said they had worked closely with the developer and the developer's engineer. He provided an early conceptual drawing of the road network and the plaza. He said the road would connect to Hill Top Street to the east, and it would help connect the neighborhoods to the east to the downtown area.

Mr. Stewart said the developer would eventually build those out for roads and buildings as well as sell parcels. He said the drawing was a birds-eye view of the downtown area overlayed with a more recent version of the roadway concepts. He noted there was a multiuse path that would connect to future developments and multiuse paths, and it would provide safe pedestrian access to the downtown area.

Mr. Stewart noted how much grading, clearing, and demolishing had to happen in the path of the roadway. He said it was an involved project that would include the construction of roads and temporary parking areas that would be in place as the plaza was constructed.

Mr. Stewart said the original estimate for the project was developed a number of years ago. He noted the inflation that had dramatically accelerated the past few years across the country for construction materials in particular. He said the County worked with the developer and the developer's engineer as well as a third-party cost-estimating agency that focused on construction cost administration to understand where the project was.

Mr. Stewart provided a chart of the high-level costs for the project. He noted the cost for procurement of the right-of-way and necessary easements for the construction of road and utilities. He said the cost of the project and the necessary resources to complete the project was $6.4 million. He said an unanticipated cost was the developer utilities. He explained it made sense to have the developer utilities, mainly the water and sewer utilities, installed prior to installing the roads instead of building the roads, tearing up the road, installing the utilities, then repairing the road. He said the County agreed in principle to do the work for the developer. He said the contributions from the developer offset the cost of the construction of the utilities.

Mr. Stewart said there was a VDOT revenue sharing match of $2.3 million, and a contribution towards that of $2 million from the developer. He said that left a funding gape of almost $2.5 million. He said the developer had agreed to cap the cost of the right-of-way to be purchased from his development at $200,000; it was valued at approximately $500,000. He said it was effectively a savings of $300,000 to the County. He said regarding the plaza, the developer had offered to construct public restrooms immediately adjacent at his cost. He said they would be a necessary amenity and important to the plaza's successful operation.

Mr. Stewart said the DCI was anticipated to manage the plaza and also contribute to the economic vitality of downtown. He said the DCI did not have staff, so the developer offered $50,000 of seed money to support onboarding an executive director. He displayed an image of the approximate location of the public restrooms. He said the developer anticipated the construction of a hotel at the southwest corner of the block. He said there would be a mix of commercial spaces. He said there would be ground-level public restrooms.

Mr. Stewart said a draft agreement had been crafted that was distributed to the Board. He restated that in addition to the developer's $2 million contribution to the roads, he agreed to provide significant savings for the cost of the right-of-way. He said staff recommended that the County cover the anticipated gap of $2.5 million and put it towards the project. He said the developer had agreed that if there were cost overruns, his organization would cover the costs.

Mr. Stewart said for the plaza, there was a new commitment to build public restrooms and seed money for the DCI director.

Mr. Walker said the funding sources identified by staff if the Board was interested in continuing in this regard was $1 million in ARPA reserve that had been and was being created to place some ARPA money that could be used with greater flexibility in the County's budgeting. He said economic development was an allowable expense under ARPA. He said the project was an appropriate potential use, as determined by the Finance staff, for some portion of the $10 million ARPA reserve. He said there was $1.5 million in an Economic Investment pool. He said the funding assumed the County would follow the staff recommendation to restore funding into the economic development fund. He said it was seen not as just a land use program, but an infrastructure investment that would help advance the County’s economic development interests.

Mr. Walker said the project was a non-residential investment. He said it was appropriate, as characterized by the project, to be appropriate within the context of economic development's work. He noted the project repurposed an old industrial site. He said it was being put back into productive and constructive public and private use, and the economic development was appropriate.

Mr. Walker said there was reason to believe that while costs for transportation projects were increasing, the project was a transportation revenue sharing project supported by VDOT. He said the County would pursue any opportunity to have VDOT put up a proportionate share of the increased cost, since it was a 50/50 program. He said the outcome was unknown, but the opportunity would be pursued to minimize the use of County funds if there was state funding available.

Mr. Walker said the Municap Report was an independent third-party analysis that was intended to give information about what the return on investment would be. He said it was done several years ago with the original proposed partnership, and there was a revised Municap Report. He said there was a 70-page report that could be provided on request. He said with the additional investment, a total investment of $5.7 million, would be covered in future tax revenue within eight to nine years. He said it was broken down into the two aspects of the existing public-private partnership.

Mr. Walker said there was the construction loan which was repaid through synthetic TIF tax rebates of $1.6 million. He said there was actual cash which was already encumbered within the existing economic development fund. He said there was $2.5 million in road escalation costs. He said the project was project to generate $21.1 million in net new tax revenue within 15 years. He said there was a resolution in the Board packet, Attachment C, that requested the Board authorize the County Executive to execute the addendum to the development agreement after concurrence by the County Attorney. He said he was available for questions.

Ms. LaPisto-Kirtley asked Mr. Walker to go back to slide 26. She noted there was $1 million from the ARPA fund and $1.5 million from the economic development pool. She said on slide 27, there were figures for $1.6 million, $1.6 million, and $2.5 million. She asked for clarification regarding the figures.

Mr. Walker said the addendum was the additional amount necessary to complete the project to the best estimate. He said the $2.5 million was to address the increased costs associated with the road. He said the two $1.6 million figures were the original public-private partnership that the Board adopted in 2019. He said they were shown as different.

Ms. LaPisto-Kirtley noted a certain amount of dollars had been funded, and to make it whole was the $1 million in ARPA reserves and $1.5 million from the economic development fund. She said there could be additional monies from VDOT coming in.

Mr. Walker said the economic development fund had been encumbered of $1.6 million; it had been held in reserve, and no funds had been dispersed. He said they would wait until the project was complete and ready to go.

Ms. LaPisto-Kirtley asked if the contribution could be just $1 million.

Mr. Walker said the amount had been pledged pursuant to the agreement, and the County had pledged to rebate another $1.6 million in order to pay the construction loan based on the terms of the performance agreement. He said the $2.5 million was in addition.

Ms. LaPisto-Kirtley asked if the $1.6 million could be recouped from VDOT.

Mr. Walker responded that some portion of the $2.5 million was an additional cost that the County would seek additional reimbursement from VDOT since it was a revenue sharing program. He said the amount could not be guaranteed.

Ms. LaPisto-Kirtley asked if the maximum amount could be $2.5 million.

Mr. Walker explained the developer had agreed he would absorb any additional cost over the $2.5 million.

Mr. Gallaway said he hoped the public restrooms were adequate for the size of the regular events. He said the larger events would likely have other facilities brought in. He said it had to be more than two stalls.

Mr. Stewart said the County had to approve the designs as part of the addendum, and there would be discussions about the appropriate size for the normal function of the plaza. He said it was expected that for larger events, port-a-johns would be used.

Mr. Gallaway said he was supportive of the project. He said the return on the investment would happen overtime. He said a public space could serve as an example for other projects. He noted the $50,000 contributed by the developer for an executive director and the management of the space. He asked how the relationship between the County and the entity, and the responsibilities of each for the management of the space, would be formalized.

Mr. Stewart said there was a term sheet offered by the DCI after a number of focused meetings. He said he expected work sessions with the Board in the future to ensure it was comfortable with the role and the management responsibilities the DCI would have. He said there would be boundaries around the time, manner, and place of activities that might occur. He said it would be a Board involved process that would result in a management agreement.

Mr. Gallaway said he hoped that if a staff position were needed for the project, the nonprofit would serve to fill the need. He said the County would have maintenance responsibilities for the space. He hoped the project would not create another FTE for the County, but that it would be funded through the local nonprofit initiative. He noted the 58,000 square feet in Phase 1 for retail and the 28,000 for office space. He said 1/3 was given to office space and 2/3 given to retail.

Mr. Gallaway said there was not a similar breakdown for the future phases. He said the fourth goal of project ENABLE was being met; the investment for a public good was the plaza. He said it would be useful to receive an estimated breakdown of the office space uses and how the development would achieve the first, second, and third goals of the economic development plan.

Mr. Stewart asked Mr. Johnson if he had additional comments.

Mr. Roger Johnson, Director of Economic Development, said he would prepare a statement and send it to the Board. He said he did not have the information in front of him.

Mr. Andrews said the project was an example of a public-private partnership that had brought a public good. He said he shared Mr. Gallaway's concerns about the restroom capacity. He noted there could be transportation and parking issues.

Ms. McKeel said she was impressed with the technology of the meeting. She said it moved the organization forward. She said she appreciated the project because it showed the community that public-private partnerships could work. She said she supported the project. She noted the economic development benefit was important for Albemarle County. She said the project continued a history of the Board and staff supporting the Crozet community with infrastructure through Albemarle County dollars. She said people in Crozet sometimes said the County did not support them. She said she was going on record to say the project was the continuation of support. She said there had been $116 million to $119 million over the last six to eight years in investments to Crozet.

Ms. McKeel said when she travelled, she saw universal bathrooms. She said in the United States, she saw men's and women's bathrooms. She noted the women's line was long. She suggested that the number of users be considered and eliminating the waiting lines be considered.

Mr. Stewart said the organization was considering universal bathrooms for its own facilities. He said it was important to consider for the project.

Ms. McKeel said men used to design the bathrooms, but now there were more women architects and designers, and more women on staff, so they should have input. She said she was adamant about the fact that the County should not be in the management business. She said the County should not be in management for rental space or for the project. She said Crozet should be able to fundraise.

Ms. McKeel noted there were plans for a hotel, retail and office space, and a residential space. She hoped that the residential phase would include an affordable housing conversation. She wanted the people who worked in the area to live in the area.

Ms. Mallek agreed with the concern over the retail versus office space. She hoped there would be a bucket of space that was adjustable based on the needs rather than have the County restrict a certain square footage. She said the community organization was eager to manage the space. She said she understood the bathroom wait dilemma.

Ms. Price said she agreed with the comments from the other Supervisors. She suggested the County consider contracting out to a management company for any spaces. She said there was an item on the consent agenda rather than the County having to address the issue. She said she supported the project; it was an opportunity to take a derelict piece of property and turn it into a jewel in downtown Crozet.

Ms. Price said staff recommended the Board adopt a resolution.

Ms. Mallek offered a **motion** to adopt the resolution (Attachment C) approving the proposed addendum to the development agreement (Attachment B) upon the County Attorney's approval as to form.

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 APPROVING AN ADDENDUM TO DEVELOPMENT AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE AND CROZET NEW TOWN ASSOCIATES, LLC

WHEREAS, the Board finds it is in the best interest of the County to enter into an Addendum to Development Agreement dated July 1, 2019, with Crozet New Town Associates, LLC, to support the redevelopment at the former Barnes Lumber site in Downtown Crozet, which is expected to grow the commercial tax base, create positive tax revenue growth, and provide outdoor recreational and entertainment opportunities for the general public.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute an Addendum to the Development Agreement dated July 1, 2019, Sections 3 and 4 only (concerning the Road Plan and Construction and the Plaza Development, Construction and Conveyance), between the County of Albemarle and Crozet New Town Associates, LLC, to support the redevelopment of the former Barnes Lumber site in Downtown Crozet once the Agreement has been approved as to form and content by the County Attorney.

Agenda Item No. 10. Presentation: Update on the Southwood Redevelopment Project.

The Executive Summary forwarded to the Board states that the Southwood Mobile Home Park (“Southwood”) is located on Hickory Street south of I-64 and east of Old Lynchburg Road in the Southern Urban Neighborhood and is located in one of the County’s Development Areas. Southwood currently has 341 mobile homes, more than 1,500 residents, and is the County’s largest concentration of substandard housing. Habitat for Humanity of Greater Charlottesville, Inc. (“Habitat”) purchased Southwood in 2007 with a stated intention of redeveloping the site into a mixed income, mixed-use development, removing all 341 mobile homes and replacing them with a variety of housing unit types, including site-built homes.

In October 2016, the Board of Supervisors adopted a resolution supporting a collaborative redevelopment process with Habitat for Southwood. Following this action, the Board included Southwood Phase 1 as part of its Fiscal Year 2020 - 2023 Strategic Plan under Revitalizing Aging Urban Neighborhoods. In January 2018, the Board approved an action plan and authorized the County Executive to sign a performance agreement on behalf of the County in which the County contributed $675,000 to Habitat to assist with costs associated with the preparation and submission of a complete rezoning application for Phase 1 of the project.

The rezoning for Phase 1 (ZMA2018-003) was approved by the Board in August 2018 and included approximately 33.96 acres of undeveloped land within Southwood. The approved rezoning to the Neighborhood Model District (NMD) included a maximum of 450 units and 50,000 square feet of nonresidential. The area where the existing mobile homes are located was not included as part of Phase 1.

A performance agreement was approved by the Board in June 2019 to support up to 155 affordable dwelling units for Phase 1. The County’s contribution within the performance agreement includes up to $1.5 million for construction of 75 affordable units, $300,000 for 80 or more Low-Income Housing Tax Credits (LIHTC), and up to $1.4 million over 10 years in tax rebates. In addition to the rezoning and performance agreement, the County applied on behalf of Habitat and was awarded a Community Development Block Grant (CDBG) of $1 million to support 20 affordable units within Phase 1. Habitat was also awarded $1.5 million in HUD HOME

In November 2021, Habitat submitted a rezoning application for Phase 2 of the project. The application proposes rezoning the 93-acre existing mobile home park to NMD and includes a maximum of 1,000 residential units and 60,000 square feet of non-residential. A public hearing is expected at the Planning Commission on April 26, 2022.

The purpose of this presentation is to provide an update on Southwood redevelopment activities since the update provided to the Board in September 2021. County staff will provide a presentation on project planning and submittal of site plans, and performance agreement progress, as well as the project budget and funding status.

There is no additional budget impact associated with this agenda item. Rather, this work session is intended largely to inform the Board on prior commitments pursuant to the Phase 1

Performance Agreement and related costs incurred by the County. Consideration of future funding support for this project may occur separately.

Staff welcomes questions and feedback regarding the update on the Southwood Redevelopment Project.

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Ms. Stacy Pethia, Housing Policy Manager, said there would be a brief summary of the project background, an update on the progress of Phase 1, a brief update on the Phase 2 rezoning application, and an update on the budget and funding. She displayed a map with the Southwood site marked. She said it was south of the City on Old Lynchburg Road. She said Phase 1 took place on approximately 34 acres of undeveloped land along the eastern and southern portions of the property.

Dr. Pethia said that Habitat for Humanity purchased the mobile home park in 2007. She said in 2016, the Board passed a resolution supporting a collaborative effort to redevelop the community. She said the project was identified as one of the Board's strategic plan initiatives for FY17 through FY19 period. She said the public-private partnership agreement was approved in 2019. She said the approval of the Phase 1 rezoning application followed shortly. She said the rezoning application for Phase 2 was submitted to the County in 2021.

Dr. Pethia said Phase 1 included a maximum of 450 residential units, 270 of which would be provided as affordable housing. She said Phase 1 also included a maximum of 50,000 square feet of non-residential uses, a neighborhood center in blocks 11 and 12 along Hickory Drive, and amenity areas in blocks 1 and 2 which included preserved stream buffers and a primitive trail network.

Dr. Pethia said the approved site plan for Phase 1 would provide a total of 335 residential units. She said 211 of those units were affordable. She said the affordable housing units included approximately 121 low-income housing tax credit units which would be located along Hickory Drive. She said 86 Habitat built units would be located in Villages 1 and 2 as well as in block 10. She said Habitat units included condominiums, townhomes, and single-family attached and detached units.

Dr. Pethia said Village 1 was under construction, and once complete, it would include a total of 80 residential units, including 31 market rate homes for sale and 49 affordable homes. She said Habitat was working with residents of Southwood to prepare them for homeownership and had identified 37 individuals who were approved to purchase an affordable home in Village 1. She said those residents were in the process of selecting the lots on which their homes would be built.

Dr. Pethia said other activities associated with Phase 1 and Village 1 included New Hickory Street and Horizon Street. She said the County had issued building permits for two affordable homes, and they were under construction. She said 24 additional building permits were under review. She said site plans for other areas of Southwood were under review by County planners, including the site plan for the low-income housing tax credit (LIHTC) project in blocks 11 and 12. She said the 120 units would line both sides of Hickory Street and would include a recreational area along Hickory Street and East Street.

Dr. Pethia said the site plan for blocks 9 to 11 proposed construction of 86 residential units. She noted most would be market rate units, but there would be 16 affordable townhomes. She said planning staff were reviewing the site plan for Village 2. She said once complete, Village 2 would include a total of 48 housing units, and 21 of those units would be affordable. She said Village 2 would include a pocket park honoring the Monacan Indian nation's history on the site. She said the park was part of the currently funded community development block grant (CDBG) project, and it would be designed in partnership with members of the Monacan tribe.

Dr. Pethia said Habitat had submitted the rezoning application for Phase 2 of the project. She said Phase 2 focused on the redevelopment of the existing mobile home park. She said if approved, Phase 2 would include 527 to 1,000 housing units, and 227 units would be affordable, including l 60 additional LIHTC units. She said a maximum of 60,000 square feet of non-residential uses were included, and there was a proposed neighborhood center special area along Hickory Street to extend the one created in Phase 1. She said there were amenity areas through blocks 13 to 15.

Dr. Pethia said the Phase 2 rezoning application was scheduled for a public hearing with the Planning Commission on April 26. She said in 2019, the Board approved a performance agreement to support the project. She said the agreement provided a total of $3.2 million towards the redevelopment of Southwood, including $1.8 million in direct cash contributions and $1.4 million in real estate tax rebates. She said to date, Habitat had met four of the milestones associated with the cash contribution and had received a total of $900,000. She said the remaining $900,000 in cash contributions would be disbursed once Habitat reached the final two milestones.

Dr. Pethia said the County had supported the Southwood project in several ways. She said there was a $675,000 contribution from the Housing Fund reserve allocated to Habitat to support the preparation of the Phase 1 rezoning application. She said there was an additional $175,000 in-kind contribution in the form of County staff time. She said the County applied for and was awarded $2.4 million in grant funding, including a $40,000 CDBG in 2018 and a $2.25 million Vibrant Communities Initiative Grant. She said the County had been awarded $118,524 in home funding which was secured through the Thomas Jefferson regional HOME Consortium.

Dr. Pethia said Habitat estimated the total cost to redevelop Southwood, including Phases 1 and 2, would be $154.7 million. She said the majority of the costs were associated with site development with the remaining costs covering resident engagement and rehousing activities, mobile home park operating costs, acquisition and relocation of mobile homes, as well as repayment and project soft costs.

Dr. Pethia said in terms of funding sources, Habitat anticipated securing $131.1 million to cover the project costs. She said it included funds that had been received and that had or will be expended by the end of the fiscal year. She said the project funds included donations received through Habitat's capital campaign, revenue generated through mobile home park operations, proceeds from the sale of land for market rate housing, and funds Habitat anticipated receiving through federal and state grants, local government contributions, and foundations.

Dr. Pethia said the difference between the estimated project costs and the anticipated revenue throughout the life of the project was an estimated $16.2 million. She said staff had identified a number of different grant funding programs that would help close the gap in funding. She said the sources would include CDBG, such as the construction-ready water and sewer fund, a maximum of $800,000 grant reward. She said the fund was geared towards projects that already had engineering drawings already approved.

Dr. Pethia said the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund was being considered, and it was a maximum award of $500,000 and required a matching contribution from the County. She said Budget and Finance staff were looking at Infrastructure Act funding to determine which sources would be appropriate for Southwood. She said there were opportunities to reenter into a P3 agreement with a performance agreement as well as funding opportunities through the Housing Fund Reserve.

Ms. LaPisto-Kirtley asked Dr. Pethia to go to slide 16. She noted that resident engagement and rehousing was 7%. She said she understood the costs for rehousing but asked for clarification regarding resident engagement.

Dr. Pethia said the residents had been active planners throughout the process. She said resident engagement was the effort that was put into making sure residents understood the planning process.

Ms. LaPisto-Kirtley asked if those were associated costs or continuing and future costs.

Mr. Dan Rosensweig, Habitat for Humanity, said the costs were throughout the entire project; from inception in 2007 to completion. He said each cohort would design its own neighborhood, and the costs projected for that.

Mr. Andrews mentioned slide 17 and the different sources of revenue. He noted a gift to the Habitat for Humanity of Charlottesville. He said he wanted to know how the gift played in with the project.

Mr. Rosensweig said the gift was already baked into the revenue sources. He said without the funding, there was a $26 million deficit, and with the funding, there was a $20 million deficit. He said it had already been paid forward towards deficit spending at Southwood.

Mr. Andrews asked where the funds were included in the chart on the slide.

Mr. Rosensweig said the chart was a translation of a chart from some numbers he provided to the County. He said he was not sure how it was distilled. He said he could provide more details later.

Mr. Andrews said he had concerns regarding resident retention as the process moved forward and looked forward to hearing more.

Ms. McKeel said the presentation was for informational purposes and was an update on where the project was and was supportive of the project.

Ms. Mallek said she would like further explanation as to how the process would move forward and as to the possibilities for improvements of the septic situation. She said she wanted an explanation to make sure there were timetables and people were aware of the schedule.

Mr. Rosensweig noted the environmental challenges on the site. He said $2 million had been invested into environment remediations, so Phase 1 was clean. He said by doing Phase 1 and beginning to do oil and septic tank removals as part of Phase 2, what was under the ground was known. He said there was a cohesive, coordinated plan that was being finalized with the contractors, Faulkner

Construction, to complete remediation of the site. He said there were two areas of the mobile home park that were on failing septic systems at that current time.

Mr. Rosensweig said there was one area of the mobile home park that was draining directly into the area being developed which was a catastrophe. He said trailer pads were created on the side of the park with sewer connections. He said people had moved out over the years, and some mobile homes had been purchased and rehabilitated. He said about 80 families were in the process of moving out of the park with the failing septic into an area that was on public sewer so they could temporarily be in a safer and healthier place, and so the sewage did not start leaching into the cleaned areas.

Mr. Rosensweig said there was one more area of 170 trailers that were on failing septic that was leaching into Biscuit Run Park. He said every time someone flushed the toilet, it effected the watershed. He said there was a deep and pressing urgency to get the homes off of septic in advance of redevelopment. He said the plan was to ultimately build one area and move people from one area to another. He said there was not the time to do that.

Mr. Rosensweig said County engineering staff had been consulted along with American Rescue Plan Act (ARPA) and grant specialist to put together an application for installation of a sewer line in the area of the park that would take every home on septic in Southwood off of septic. He said the total cost would be $6.5 million. He said it would be infrastructure that was designed to be part of Phase 2. He said it was permanent infrastructure that would help in the future. He said the funding proposal was before the Board, but it was not recommended for funding by staff. He said the engineering was underway. He said it could be started in 2023, and it was a 6-month installation. He said by the end of 2023, potentially all Southwood residents would be off of septic.

Ms. Mallek asked if outside grants would be used to cover the septic replacement and sewer installation.

Mr. Rosensweig said it was all outside grants. He said the grant application was an ARPA application. He said the infrastructure money was specifically targeted to low-income neighborhoods that had disproportionately suffered the brunt of the COVID pandemic. He said Southwood had a 50% positivity rate, and most people lost income and was the definition of hardest hit neighborhoods. He said sewer line installation was one of the specific items. He said there were opportunities to raise other money, and there were other grants.

Ms. Mallek asked Dr. Pethia to elaborate on the townhomes that were under construction that would be available for people to move into in Village 1.

Dr. Pethia said Habitat would be construction condominium buildings in Village 1 which could be used for rehousing purposes.

Ms. Mallek asked the timeline for when the houses would be ready.

Mr. Rosensweig said there were building permit applications, and they were waiting to receive building permits. He said there was a contractor lined up. He said it was four buildings: two six-unit buildings and two four-unit buildings. He said the contractor estimated each building would take about three to four months to complete, so people could be rehoused by the end of the year.

Ms. Price said the rehabilitation of Southwood required expenses a typical developer would not have because of moving people around and cleaning up. She noted it was exciting to see the first two structures' progress. She noted the complexity and the time. She said it was 15 years since Habitat purchased the property, and the first units were just beginning to be built. She assured the Board that the financials were way more complex than what was visible on the screen.

Ms. Price said the scheduled recess would be skipped, and Dr. Pethia can proceed with her next presentation.

Ms. Mallek noted the 527 minimum and 1,000 maximum possible units for Phase 2 and the 227 that were designated as affordable. She asked if the number of affordable units would increase as the total number of units increased to keep the same relative percentage of affordable housing.

Dr. Pethia said that information can be gathered for Ms. Mallek and the Board.

Agenda Item No. 11. Request for Housing Support.

The Executive Summary forwarded to the Board states that between September and November 2021, the County solicited applications for funding through both the Agency Budget Review Team (ABRT) and American Rescue Plan Act (ARPA) processes. All ARPA applications were reviewed and rated by a team comprised of staff from various County departments.

Application scores were then reviewed by the Department of Finance and Budget and the County Executive’s Office, with funding recommendations being incorporated into the overall FY 2023 budget development process. Final decisions about funding are made by the Board of Supervisors with the adoption of the final budget.

Not all of the funding requests to support affordable housing projects are being recommended for funding, and some of these requests are being recommended for funding at a lower amount than requested. An available balance in the Housing Fund Reserve could be used to fill some of these gaps in project funding. Housing staff worked with a team of County staff to review all of the requests related to affordable housing projects and develop recommendations for additional funding. These recommendations are presented below.

One additional request for funding was received outside of either application process. This request was included in the staff review and is included in the following discussion.

A total of eight funding requests to support affordable housing projects were received during the application periods, with one additional funding request received outside of the ABRT and ARPA processes. The combined total funding amount associated with these requests equals $22,187,152, which would support the construction of 445 and preservation of 133 affordable housing units. A complete summary of all funding requests is included as Attachment A.

The application review team recommends allocating a total of $1,296,520 from the FY22 Housing Fund Reserve available balance as follows:

Agency: Albemarle Housing Improvement Program (AHIP)
Project: Critical Home Rehab &
Repair Amount: $421,520

Agency: Piedmont Community Land Trust
Project: Long-term Affordable
Homeownership Amount: $625,000

Agency: Local Energy Alliance Program (LEAP)
Project: Assisted Home Performance
Program Amount: $250,000

The review team also considered project funding requests utilizing the anticipated FY22 Housing Fund Reserve. Accordingly, should the Board approve the recommended transfer of $3.1 million to the Housing Fund Reserve from the FY21 year-end undesignated General Fund balance, the application review team recommends allocating a total of $3,306,504 to the following projects and in the following amounts:

Agency: Piedmont Housing Alliance
Project: Southwood Apartments A
Amount: $3,000,000

Agency: Greater Charlottesville Habitat for Humanity
Project: Southwood Resident Relocation & Anti-Displacement Plan - Temporary On-site Housing
Amount: $306,504 (for master leasing associated with Southwood Phase 1)

The total amount of recommended FY22 project funding equals $1,296,520. After accounting for the proposed project funding, and approved set-asides of $900,000 for the Southwood Performance Agreement, and $170,000 for a Southwood Project Manager, there will be $473,055 remaining in the Housing Fund Reserve to support future affordable housing projects.

Additionally, should the Board approve the recommended transfer of $3.1 million in FY21 General Fund balance to the Housing Fund Reserve in FY22, and should the Board approve the recommended $3,306,504 to support the Southwood Apartments A and Southwood resident relocation projects, there will be $266,551 remaining in the Housing Fund Reserve to support future affordable housing projects.

Staff recommends the Board approve the recommendation to allocate $1,296,520 from the FY22 Housing Fund Reserve available balance as follows:

Agency: Albemarle Housing Improvement Program (AHIP)
Project: Critical Home Rehab &
Repair Amount: $421,520

Agency: Piedmont Community Land Trust
Project: Long-term Affordable
Homeownership Amount: $625,000

Agency: Local Energy Alliance Program (LEAP)
Project: Assisted Home Performance
Program Amount: $250,000

Staff further recommends that the Board direct staff to return in June with an appropriation request in the amount of $3.1 million from FY21 year-end General Fund fund balance to the Housing Fund to be allocated with the existing Housing Fund Reserve as follows:

Agency: Piedmont Housing Alliance
Project: Southwood Apartments A
Amount: $3,000,000

Agency: Greater Charlottesville Habitat for Humanity
Project: Southwood Resident Relocation & Anti-Displacement Plan - Temporary On-site Housing
Amount: $306,504 (for master leasing associated with Southwood Phase 1)

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Dr. Stacy Pethia, Housing Policy Manager, said she would bring recommendations forward to fund some affordable housing projects and programs with the Housing Fund Reserves. She said she would provide background on the housing fund and housing needs in the County. She said she would discuss requests for funding received from the Agency Budget Review Team (ABRT) processes and the APRA application processes. She said she would then discuss recommendations for funding.

Dr. Pethia noted the graphic displayed showed the housing needs in the County. She said the most vulnerable in the community were persons experiencing homelessness, and the least vulnerable populations were in workforce housing, but often needed support moving to homeownership as housing prices rose.

Dr. Pethia said in order to help support affordable housing, the County provided funding support for various projects and programs through several funding streams. She said the allocation of some funds were approved through the budget development process, such as the ABRT process. She explained that each year, nonprofit organizations submitted funding requests to the County which were reviewed and rated by teams comprised of community members and supported by County staff. She said the County budget office used those ratings to develop funding recommendations for human services programs, including affordable housing. She said those were included in the proposed budget for the upcoming fiscal year.

Dr. Pethia said the recommendations were then considered by the Board during the work sessions and approved with the adoption of the final budget. She said the County utilized the same process for allocation of ARPA funds and those were included in the FY 23 budget. She said another mechanism the County used to provide funding for affordable housing programs was the County's Housing Fund Reserve. She said the fund was established in FY19 to provide funding support for Phase 1 of the Southwood project and for housing projects and programs that were one-time costs. She said funding through the Housing Fund Reserve was approved by the Board outside of the budget development process.

Dr. Pethia said through the ABRT and ARPA application process, the County received more than $20 million in requests for funding for affordable housing programs. She said seven applications that were received would support the construction of 445 new units of affordable housing, the preservation of 133 affordable housing units, and programs to support individuals and families experiencing homelessness, as well as emergency shelter and supportive services for victims of domestic violence. She said one additional application was received outside of the two processes, and she would discuss that later.

Dr. Pethia said through the ABRT process, the recommendations put forth in the upcoming proposed budget provided services to support homelessness and emergency shelter programs, affordable home ownership programs (particularly rehabilitation), and affordable rental housing with the Piedmont Housing Alliance (PHA). She said the ARPA reserve recommendations in the budget would support homeless and emergency services, affordable homeownership through housing rehabilitation with AHIP (Albemarle Housing Improvement Program), and permanent supportive housing which supported the chronically homeless in the community. She said it would be a $2.4 million investment if approved, and it would effectively end chronic homelessness in Albemarle County. She said there would be enough housing to ensure that as someone moved into chronic homelessness, they moved out quickly.

Dr. Pethia said she would discuss projects and programs that were not funded through the budget process or were not fully funded. She said a review team with representatives from several County departments, including Finance and Budget, the Office of Equity and Inclusion, the Office of Communications and Public Engagement, and the Department of Social Services. She said the team reviewed and rated the applications and came together to discuss the funding recommendations. She said she facilitated those discussions.

Dr. Pethia said the team came forward with recommendations to support three programs. She said the Housing Fund Reserve had $1.7 million that was available in FY22 funding. She said the recommendations were to take $1.29 million to fund the three programs. She said approximately $421,000 would be allocated to AHIP to support the preservation of 41 housing units. She said $625,000 would be provided to the Piedmont Community Land Trust for the construction of 12 permanently affordable new units. She said $250,000 was dedicated towards the Energy Improvement Program which was being funded through FES and its climate action plan. She said the $250,000 would allow the program to expand and serve more households. She said in total, the $1.29 million would serve a total of 78 units if approved.

Dr. Pethia said should the Board approve the transfer of $3.1 million into the Housing Fund during the budget process, staff would be coming back before the Board with a proposal and recommendation to fund an additional $3.3 million from the FY23 Housing Fund Reserve. She said the funds would provide support to 161 units of affordable housing. She said $3 million of the funds would be recommended to be provided to the Piedmont Housing Alliance and the Southwood Apartments. She said $306,000 would be provided to Habitat for Humanity to provide master leasing for resident relocation. She said the funds were not being considered at this meeting and the update was informational. She said staff would tentatively return before the Board in June.

Mr. Gallaway noted staff would return to discuss the $3.3 million in funding. He said for the next fiscal year, there was potentially a total of $5 million. He noted that between the requests today and the potential request, the $5 million would be gone.

Dr. Pethia said she believed the $5 million Mr. Gallaway referenced was the $3.1 million recommended in the budget plus what currently existed. She said when staff returned in June with the $3.3 million funding request, there would still be funds.

Mr. Gallaway asked where the moneys requested today came from.

Dr. Pethia said from the Housing Fund balance.

Mr. Gallaway said that is what he did not understand. He said if the funding was currently from the Housing Fund balance, and a $3 million transfer was proposed to get the fund to $5 million, and if the moneys were taken out of the current fund, and staff requested an additional $3.3 million, his math brought him close to zero.

Dr. Pethia said he was correct. She thought he was referencing putting additional funds above the $3.3 million.

Mr. Gallaway said if the Board approved the additional funding request in June, there would be no more dollars in the reserve fund.

Dr. Pethia said that was correct.

Mr. Gallaway asked if there were plans to return before the Board when they requested the $3.3 million to also discuss the replenishment plans for the Housing Fund.

Dr. Pethia said there were no plans at the time, but she could add it.

Mr. Gallaway said whatever the return date, he was concerned the County would start the fiscal year with no funds left in the reserve for affordable housing. He said the projects did not address the total affordable housing issue around the County, and it was specific to some locations. He said the Board was in the midst of discussing incentives. He said the incentive packages are what would target in to help developers hit the Housing Albemarle targets of 20% and the lowered rents. He said if the County went into FY23 with zero funds in the reserve, there would be no money for incentives. He asked if there would be a discussion about how the incentives would be funded.

Dr. Pethia said she did not have a firm answer. She said those discussions had been happening.

Mr. Gallaway noted the funds provided to the Piedmont Community Land Trust for permanent affordable housing. He said often with rezoning, the affordable housing was not permanent. He asked how the project achieved permanent affordability for those units.

Dr. Pethia said as an individual purchased a land trust home, they entered into a 90-year ground lease with the Community Land Trust. She said that controlled how much money the property could be resold for when they moved. She said when the second buyer came in, they entered into a new 90-year ground lease. She said each time a person moved in, they began a new 90-year affordability period.

Mr. Gallaway said the bigger thing on his mind was that they had over $20M asked for affordable units, and that was indicative of the people who asked, so they knew the resources needed to tackle the issue were probably greater than that, but they were going into a time where they knew they were pushing these incentives out, and they wanted people to come forward and ask for these to help get affordable units into the stock, and he was very concerned that they were going to go a full fiscal year without having any money available to be able to attack the issue any further than what the $5M was. He said he knew that was being used for the issue, but they had more to do, and just the ask for applications was an indication of what the scale of it was.

Mr. Gallaway said in his mind, this was also what helped get to the discussion of the trust fund and the processes used to control that trust fund. He said all of that was needed and urgent so that next year they did not find that they had another $3M-$5M that they were putting in play for affordable housing, and right away it would be spent, and they did not have that ongoing plan on how that was replenished. He said he would appreciate when it came back to them that they were proactive rather than reactive when the requests came in. He requested that for the next conversation whenever it was appropriate to do so.

Mr. Walker introduced himself as Doug Walker, Deputy County Executive. He asked Supervisor Gallaway if he could address the incentive issue, because he had clearly hit on a dilemma that staff had, which was the extent to which they recommended using funds that may be available now for needs that were identified now, and how that related for choices that were going to be available for them to make in the future. He said there would obviously not be a clear answer for that. He said they would be back in front of the Board in May with that next conversation around incentives. He said they certainly hoped they had heard enough from the Board from the last conversation to have a conversation with them this time that would result in some confidence and comfort level that they were heading in the right direction.

Mr. Walker said at the end of the day, the incentives were going to relate to money. He said there were other ways than only cash available to try to address that, with the synthetic TIF (Tax Increment Financing) being the easiest, but not the only example, of where a rebate for future investment was used as a way to provide certainty of what the investor would get in exchange for what it was that they wanted. He said he wanted to acknowledge their conversation on May 4 around the program for developer incentives would not answer this question either, but it was one they were aware of and knew that when they brought forward a recommendation to use all the money they were now asking them to put into the Housing Fund, but they did not have an effective strategy today for those future needs that had not yet been identified.

Mr. Gallaway said that was a good point. He said in the budget recommendation, there was a target year in one of the outyears that the annual contribution to the fund would begin. He said they had been doing one-time monies into the Housing Fund but wanted to know if that was two years down the road.

Mr. Walker said Mr. Bowman had that information.

Mr. Gallaway said that was the backstop in part of the replenishment plan he was thinking about.

Mr. Bowman introduced himself as Andy Bowman, Chief of Budget in the Department of Finance and Budget. He said with the Board, the five-year plan process this fall would be contemplated for the housing fund, economic development, and other strategic priorities, starting the ongoing funding that would ramp up in the outyears. He said their approach with the Board this fall with the strategic planning process would be to revisit this in the context of the five-year plan in those outyears to what extent they could be brought forward in time. He said that was something that they would appreciate the Board’s feedback on as they worked through that process the rest of the year.

Mr. Gallaway asked if they retained the ability to put any one-time monies that came available into the fund as they saw fit.

Mr. Bowman said that was correct.

Mr. Andrews said he shared many of the same concerns as Mr. Gallaway. He said if he had the timing right, they were talking about the budget a lot and the Housing Reserve Fund. He said some of the funding was coming from FY22, and it was expected that the funds would be allocated to the recommended projects. He said on May 4, the budget would be adopted. He said in May, developer incentives would be discussed. He said the additional request for $3.3 million would be reviewed.

Mr. Andrews said it was mentioned that there would be money in a future five-year plan. He clarified that the plan was not reflected in the budget documents.

Dr. Pethia said that was correct.

Mr. Andrews mentioned that some of the projects occurred outside of the usual process. He said he missed when the specific project was discussed.

Dr. Pethia said there was only one. She said a request had been received from LEAP for their home energy retrofit program. She said in speaking with Facilities and Environmental Services (FES) which was funding a similar program with AHIP and LEAP (Local Energy Alliance Program), it would be convenient and easy to expand the program rather than create a new one.

Mr. Andrews said he appreciated both programs. He noted they already collaborated. He said the AHIP website indicated an amount a house typically devoted towards energy. He said he hoped the programs were being coordinated.

Ms. McKeel noted staff was thoughtful who was looking to the future and planning as they made recommendations. She said she appreciated the professionalism, quality, and thoughtfulness of the staff. She said she was supportive of the recommendations.

Ms. Mallek asked how the money was actually handled contract-wise and what sort of agreements would be in place. She wanted to ensure people understood the pennies were being watched closely because there were a lot of zeros. She said the question may be premature, but it could ease people’s minds.

Dr. Pethia said it was a good point. She said whenever the County provided funding to any project, there were mechanisms in place that protected the public dollars. She said there were a variety of different ways the funds could be secured. She said the ways would likely be different for each project. She said it would require entering into some contract that would spell out exactly how the funds would be disbursed. She said there would be ways that progress could be tracked annually. She said it helped keep track of information, such as the number of households, income levels, and demographic data. She said there could be claw-back provisions, that if the recipient did not meet the County’s expectations or the developer’s commitments, then the funds could be recouped. She said an exact example could not be provided, but there would be something in place.

Ms. Mallek said that was very reassuring and what she expected. She said the same would go forward as they began to enter into agreements with the land trust, and they would all be able to learn more about who exactly and what was going on in there and what the rules would be for the participants. She said the infrastructure bill, which was not even in Congress, and they had not come up with the rules for it yet, may have some possibility for future grants, and she was sure staff was paying attention to that. She said she appreciated their recommendation for the weatherization, because they were able to help current affordable housing homeowners fix serious mechanical problems. She said being able to leverage outside funding for weatherization from Dominion, as well as the way AHIP and LEAP were able to work together to bring in even further outside dollars had been helpful to so many families, so she was glad they were expanding an already existing program rather than starting up a new one.

Ms. Mallek said a final thought was about the year 2010, the County Executive proposed a particular levy on the tax rate for water resources and stormwater investments only. She said because it was absolutely designated for a described use, and had all the criteria laid out, it was very well accepted by the community, and even in very difficult budget years, it was one of the things that was well supported, so something like that might be a way in the future to set up that ongoing funding. She said she hoped they would find some plan like that to help them move forward.

Ms. Price said it was evident their needs were great, and their resources were limited. She said she thought the other Supervisors had addressed the concerns and questions she had, but she would bring up again the suggestion that a property transfer fee that went into an affordable housing account may be a good way to regularly fund that. She said she shared Supervisor Gallaway's concerns of ensuring they had continuing available funding for affordable housing.

Mr. Gallaway said he had an additional question that could be addressed as a follow-up. He said both to the point of what they were funding today and what would be coming back to before the Board, he was very interested in knowing what they were not funding, because if that was presented, he did not see that. He said when they made the choice to fund something at the expense of other projects, they needed to know what those projects were. He said the AMI (Area Median Income) chart shown could have a scorecard whereas they saw the projects they decided to use, that type of chart could show what those monies were connected to, and perhaps populations affected as well. He said as they spent this type of money on it, for things that were not achieved, when they were eventually achieved, they should be tracking that and its relation to the other processes.

Ms. LaPisto-Kirtley said in regard to Ms. McKeel's comments, staff knew where they were going and what needed to be accomplished because they were intuitive and intelligent. She said regarding what Supervisor Gallaway said, it was very interesting as to whether they were spending down all of their money. She said her thought was whether or not they should have a balance and if they should spend down all their money for affordable housing. She said she knew at one point there was a large balance, or seemingly nice-sized balance, and she was concerned.

Ms. LaPisto-Kirtley said she even asked Dr. Pethia how much they were being asked for affordable housing, because they had this balance, and Dr. Pethia's answer was a huge amount. She said that was good information for her to receive, and it brought the question forward again of if they wanted to spend it all or save some of it. She said if there were good projects, they should spend it and have a process of recordation fees, the TIF, and whatever else staff came up with as a way to put monies into affordable housing every year. She said extra monies would be given when they could but having a process had never been done before. She asked if that was correct.

Dr. Pethia said as far as she knew, that was correct.

Ms. LaPisto-Kirtley asked if this would incorporate their incentives for developers as well.

Dr. Pethia said it definitely could do that.

Ms. LaPisto-Kirtley said it sounded like there was a little bit of work to do.

Mr. Richardson said it was several budgets ago when they were in 241. He said that was prior to the pandemic and they were talking about three areas they focused on in the year-round budgeting process. He said one was sustaining a high-quality organization, and that meant they had to continue to make ongoing investments in their people, organization, processes, and systems to ensure they could transform as the community around them transformed. He said that it could be seen in the budget that they were investing in the organization. He said the other was aligning their capacity they had, both one-time and ongoing capacities with the Board's strategic plan. He said they had nine focus areas in the Boards strategic plan and were very collaborative with extending this 2021-2022 Strategic Plan by an additional year, and they would be meeting in the late summer or early fall to discuss this further.

Mr. Richardson said between now and then, the Board was beginning to identify things they wanted to move to the top of the list for additional consideration. He said they did that at the last Board meeting by ensuring they had a healthy workforce through recruitment and retainment, as well as being an employer of choice. He suggested as they moved towards the late summer and fall, that they be responsive to the Board with their strategic plan, capacity, and things they wanted to see, but also keep an eye on their financial condition, economic vitality, and making sure they did not outrun their capacity.

Mr. Richardson said the best way to do that was by keeping everything in front of the Board. He said not all nine areas would be looked at in every meeting, but he would make sure to look at all of it in tandem as they progressed, because they had an ambitious strategic plan and they wanted to be able to meet the Board's expectations and align the capacity in the areas that they thought were the greatest opportunities and their greatest needs right now.

Ms. Price said it was important they remembered the numerous things they were working on all the time. She asked Dr. Pethia to continue.

Dr. Pethia said there was a motion presented to the Board if the Board chose to approve staff's recommendations for the allocation of FY2022 funds from the Housing Fund Reserve.

Ms. Price asked for clarification that this was for the figure of $1,296,520.

Dr. Pethia said that was correct.

Ms. McKeel **motioned** the Board approve the allocation of $1,296,520 from the FY22 Housing Fund Reserve available balance to the projects and the amounts recommended by staff as follows:

Agency: Albemarle Housing Improvement Program (AHIP)
Project: Critical Home Rehab & Repair
Amount: $421,520

Agency: Piedmont Community Land Trust
Project: Long-term Affordable Homeownership
Amount: $625,000

Agency: Local Energy Alliance Program (LEAP)
Project: Assisted Home Performance Program
Amount: $250,000

Ms. Mallek **seconded** the motion.

Ms. Price asked County Attorney Hudson if that was a sufficient motion.

Ms. Hudson said she believed it was sufficiently specific.

Ms. Price asked if there was any further discussion.

Mr. Gallaway said as the motion was on the table, he thanked Dr. Pethia for all her effort to further this work and wanted to acknowledge it.

Ms. Mallek clarified that the $625,000 for the land trust said 12 permanently affordable units, and those would be in the County.

Dr. Pethia said that was correct.

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. Price said the other request from staff was whether the Board would direct staff to return in June for the appropriation request in the amount of $3.1M from the FY21 General Fund balance to the Housing Fund to be allocated with the existing Housing Fund Reserves as follows: Piedmont Housing Alliance for the project Southwood Apartments A for the amount of $3M, and the Greater Charlottesville Habitat for Humanity Southwood Resident Relocation and Anti-Displacement Plan Temporary Onsite Housing for the amount of $306,504 for the master leasing associated with Southwood Phase 1.

Mr. Walker said that would be taken as general guidance unless the Board wanted to take an action. He said they had heard from them and believed it was something they would support.

Ms. Price asked if a motion would be preferable.

Ms. Hudson said a motion would be appropriate.

Mr. Gallaway asked why it was a motion if they were coming back with recommendations for a future action, and he had questions that remained about what was not being funded relative to these two projects.

Ms. Hudson said she thought it would perhaps be helpful for staff to have a definitive action taken. She said it was not critically necessary.

Mr. Gallaway said his recommendation would be on consensus as they said they would bring this back to the Board, but taking some sort of motion on these two when there was additional information needed, he would not be prepared to do.

Ms. Hudson said she understood he believed there would be leftover issues.

Ms. Price said that appeared to be the consensus of the Board for staff to come back with the additional information that had been requested, for example the things that had been submitted for funding that were not recommended for approval.

Ms. Mallek said these amounts may not be written in stone, so she would think all of them deserved an update on whether an organization could actually use all the funds allocated so that the Board could consider that information.

The Board reached consensus for Staff further recommends that the Board direct staff to return in June with an appropriation request in the amount of $3.1 million from FY21 year-end General Fund fund balance to the Housing Fund to be allocated with the existing Housing Fund Reserve as follows:

Agency: Piedmont Housing Alliance
Project: Southwood Apartments A
Amount: $3,000,000

Agency: Greater Charlottesville Habitat for Humanity
Project: Southwood Resident Relocation & Anti-Displacement Plan - Temporary On-site Housing
Amount: $306,504 (for master leasing associated with Southwood Phase 1).

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

At 3:17 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 Village of Rivanna Community Advisory Committee;
    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
    3. To discuss and consider the search for candidates for county attorney.

- Under Subsection (3), to discuss and consider the acquisition of real property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.

- Under Subsection (8) to consult with legal counsel employed by the County regarding specific legal matters involving regulatory compliance and requiring the provision of legal advice.

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

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

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

At 6:03 p.m., Mr. Andrews **motioned** 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. 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.

Ms. LaPisto-Kirtley **motioned** the Board authorize the Chair to notify its appointee to a multijurisdictional body of the termination of that appointment.

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.

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

Mr. Richardson thanked the Chair and the members of the Board, and Ms. Kilroy for assisting with the presentation, staff, and the public. He said he would be giving the County Executive's Report for April 2022. He said this was now the second meeting back in Lane Auditorium. He said last week, the Planning Commission and the School Board had successful in-person hybrid meetings, and each group experienced minor hiccups that were being addressed. He said they were looking forward to having a work session with this Board next month to discuss bringing back the next tier of public meetings.

Mr. Richardson said the photo shown on the slide that showed the County Office Building. He thanked the Albemarle County Police Foundation and the Perry Foundation for their support of a major upgrade to the fitness facility at their COB (County Office Building) 5th Street location. He said this was an employee fitness center, and because of the location, this was what was used most frequently by the police department but was open to all County employees. He said both foundations provided generous support to upgrade the equipment, the aesthetics of the space, and worked with staff to ensure it had the right type of equipment to meet staff's needs. He said physical fitness was not just about staying in shape but was about the overall wellbeing of their staff. He said the convenience of this fitness center to where their staff worked who worked long hours throughout the year was important to meet the staff's needs.

Mr. Richardson said there were several comments today about the Window Replacement Project. He said the project at the McIntire Office Building was now well underway to replace the windows that were installed when the County purchased the building in the late 1970s. He said this project would run through July and was managed by their Facilities and Environmental Services Department. He said the windows had a number of features that would make them much more efficient than their current windows. He said the new windows would have a "U-factor" of .29, a solar heat gain coefficient of .25, and a low "E-coding" that minimized the UV light. He said they were excited about this project, it had a nice return on investment, and with their Climate Action Plan, the investment they made to make this building more energy efficient made sense.

Mr. Richardson said the Board was aware that April was Child Abuse Prevention Month, and their staff and Board members had participated in events that occurred at the Downtown Mall Free Speech Wall, the office buildings, and with local partners to increase awareness of child abuse and the resources available to children and families in need. He said the pinwheels planted reminded that every child in their community should have a childhood that was carefree and joyous.

Mr. Richardson said the Western Park playground was now open to the public. He said this was the first of an initial phase for Western Park to build a playground and some natural trails. He said it had been a very popular addition.

Mr. Richardson asked Mr. Henry to discuss the next slide about the Parks and Recreation Department's attempt at opening the County pools.

Mr. Trevor Henry said they had been aggressively recruiting for their Parks and Recreation needs since mid-March for ticket-takers, maintenance staff, and lifeguards. He said lifeguards as a resource had been problematic in pre-pandemic years and similar to last year, they were struggling with that hiring. He said what was in front of them was that they were offering $15 per hour and reimbursement for certifications. He said they needed at least 21 lifeguards on staff in order to open up the three swim parks in a reduced state. He said right now they had 15. He said they had been aggressive in media, and three times daily on multiple radio stations and on social media since mid-March. He said they had attended two job fairs at PVCC, communicated with all area swim coaches and had been setting up tables at the high school.

Mr. Henry said he wanted to alert the Board that they would continue to push this, and Joe Clark would be on NBC29 News community outreach in an upcoming segment to discuss summer employment, but he himself would be back before the Board during May to give an update on where they stood as it related to opening up to full pre-pandemic or limited openings based on resource constraints, similar to what was done last year. He reiterated that they had been aggressive with recruitment but were behind the curve. He said in their communications with the City, they also had been struggling to fulfill the lifeguard need.

Mr. Richardson said the slide shown was meant to give the Board and the community an update on the standing up of the dedicated local government Human Resources function. He said the Human Resources Department had come alive over the past several weeks. He said the slide before them was the staff that had been hired and onboarded. He said their Director of Human Resources, Mia Coltrane, was onboarding 13 new staff, and two more positions were under recruitment in order to bring their first local government HR Department into full staff operations. He said this was a budget initiative in the current fiscal year, and they were already providing excellent support for their organization in some key areas, especially in recruitment and systems as they began the Human Resources Information System Project.

Mr. Richardson noted that if the Board had not been to the Human Resources Department, it was located at the 5th Street County Office Building. He said they were excited to offer that dedicated HR function out of that building. He said those staff also came to this building, and they were accessible in this building to their staff and kept hours in an effort to go back and forth and be available to County employees. He said it was very nice dedicated space, and he knew Ms. Coltrane had mentioned she would like to have a more formal gathering there sometime in the near future, and when they did that they would make sure to invite the Board of Supervisors. He said the names on the slide were the people who had been hired and what their specific areas of expertise were.

Mr. Richardson said the next item he would like to discuss was the Spring Community Read. He said *We Are Displaced* by Malala Yousafzai was the Spring Community Read, and they were hosting a discussion on April 28th at 6:00 p.m. online. He said the panel would include stories written by local women about their experience as refugees and resettling in this community. He said they partnered with Jefferson Madison Regional Library to highlight books that focused on inclusive storytelling. He said different books would be selected, read, and discussed throughout the year to uplift the stories of groups within their population who often were left out of the main narrative that the County tells about this place. He said the books were available to borrow through the County's Little Free Libraries as well as throughout the branches of the Jefferson Madison Regional Library system.

Mr. Richardson said they were nearing the end of the high season for wildfires in Virginia. He said this year had been an average year in terms of the number of brush fires and forest fires. He said the largest event in Albemarle County this year thus far had been the forest fire at Roundtop Trail, which was believed to have been a naturally occurring fire, likely due to lightning, between February 15 and April 30. He said open-air burns were not permitted in Virginia before 4:00 p.m. for a combination of risk factors, such as humidity, wind, and the volume of dry natural material. He said if burning during the season or at any time, always have a plan for if the fire were to be out of control, and to be sure to extinguish all cigarettes and smoking materials before disposing of them.

Mr. Richardson said Recruit School 20 completed a week of live fire trainings, which simulated live burn incidents, at their training center. He said these scenarios gave recruits experience with actual fires as well as opportunities to practice real-time decision making. He said these exercises included hose deployment, containment, extinguishment, and simulated rescues. He congratulated the recruits on completing a very difficult week of training. He said this training was real-life scenario training and could save the lives of both firefighters and community members.

Mr. Richardson said the County would begin deploying body-worn cameras for all officers in the field. He said over 100 cameras would be in service. He said devices were worn on the uniform and in sync with the dash cameras to provide a recording of law enforcement activity that they believed enhanced transparency for everyone in the community. He said the slide showed two images from their media demonstration day last week, where they received lots of comments from the community and thanked the media for their coverage. He said the image on the top was the dashboard footage and the image at the bottom was the body-worn camera footage. He said deploying the cameras was a big project led by the Albemarle County Police Department with the support of the Information Technology Department. He said these departments were critical to the success of this program.

Mr. Richardson said his final remark was about "Let's Talk Albemarle." He said they had reached the 1,000th listen of the Let's Talk Albemarle podcast. He said that was launched in 2021 as a way to share long-form stories and information to reach different audiences than those reached through traditional communication channels. He said recent episodes had covered the FY23 budget on an audio-only version of "Meet the Chief" event with Col. Reeves, and "Let's Talk Albemarle" was hosted by the Public Engagement Coordinator, Serena Gruia. He said it was very interesting work and was so handy to listen to podcasts to learn about what was going on in their community while doing other activities. He said that concluded his monthly report.

Ms. McKeel commented that as the previous liaison to the Police Department CAC, she followed the work around the body cameras for several years. She thanked staff and the police department for the thoughtful way they approached the body camera initiative because it required a lot of planning and work.

Ms. Mallek agreed with the careful planning work for the body-worn cameras, and she loved reading the book by Malala Yousafzai. She said her granddaughters had been reading it as well.

Ms. Price extended her appreciation to Mr. Richardson and Mr. Henry. She said she knew the lifeguard situation was a real challenge because the last few years, without any public gatherings, it had been difficult for people to maintain their certifications among other things, so she knew that they and staff had been working to bring better things to the County.

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

Ms. LaPisto-Kirtley read the procedural rules for public comment.

Mr. Tom Olivier introduced himself as a resident of the Samuel Miller District. He said he came before the Board this evening to speak about the now-being-updated Comprehensive Plan and the need to build the plan in a fresh vision for the future of their County. He said the Intergovernmental Panel on Climate Change and other scientific bodies have warned that they must transform modern societies in the next twenty years to avoid the worst consequences of climate change. He said climate change was just one consequence of humanity's expanding, prolonged mistreatment of the natural world. He said a guiding principle in the now-required transformation of modern societies must be movement toward ecological sustainability, recognizing and living within the limits of a finite plant.

Mr. Olivier said accomplishing the necessary transformations will require a broad reimagining of their future and what they valued within it. He said in short, more than ever, the new County Comprehensive Plan must begin with and be guided by a robust vision that addressed the challenges of their disturbed times. He said an ad hoc group of County and City residents recently developed and submitted to the City and County a vision for these troubled times. He said he had provided the Clerk with additional copies, and they should have received them electronically already. He said those of them who developed the vision asked that they urged staff and planning to consider incorporating the vision into the new comprehensive plan. He asked if they would not now, in this critical moment, imagine a future in which they respected and lived within the planet's limits, would they ever. He thanked the Board.

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Mr. Mason Pickett said it was interesting to hear how little people understood about climate change. He said climate change was not caused by man; it came from nature. He said an example would be in Death Valley, a place called "The Basin" used to be a big lake eight miles long, and thousands of years ago it dried up. He said scientists would tell them it dried up due to natural causes. He said no cars were around and no power plants were around. He said that was not why he came to speak. He said the Board found it necessary to give a big relief to personal property but not to houses.

Mr. Pickett said they should look at who people were. He said perhaps they were doing pretty well, and each family member had a vehicle, and perhaps they owned a boat and a jet ski. He said if they lived in Northern Virginia, there was a chance they had a plane, but this was not Northern Virginia. He said a family may have a $200,000 or $300,000 house, with an eight-year-old car, a fifteen-year-old car, and they were getting no relief. He said the Board ought to be ashamed of themselves.

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Ms. Margaret Walker introduced herself and said she lived in Congressional District 5 in Albemarle County, and she was also a member of the Green Grannies of Charlottesville. She said she was speaking in support of a "yes" vote to a tax on plastic bags. She asked if they were all sick of plastic. She said Wegmans already planned to charge for plastic and paper bags starting this fall. She said they were charging 5 cents and they thought it should be $1. She said for a cleaner and healthier environment, stop pollution from plastic. Ms. Walker played her ukulele and sang the Board a song about bringing their own bags.

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Agenda Item No. 16. **<u>Public Hearing to Consider a Stillhouse Ridge Rural Preservation Boundary Line Adjustment.</u>** To receive public comment on a proposed boundary line adjustment to correct the location of an open space land use easement across Tax Parcel ID 85-29A9, known as the Stillhouse Ridge Rural Preservation Tract.

The Executive Summary forwarded to the Board the County approved the Stillhouse Ridge Rural Preservation Development in 2005. The approval required the dedication of a tract of at least 40 acres to perpetual open space use. The owner granted the County and the ACEA (formerly the Albemarle County Public Recreation Facilities Authority) a conservation easement over a 40.134-acre tract (the Preservation Tract) by deed dated November 10, 2005 (Attachment A).

The Stillhouse Ridge Subdivision Plat prepared in 2004 identified an encroachment by the neighboring property (Crisler Property) involving the corner of a house and a private driveway to Plank Road (Attachment B, Sheet 3 of 3). Regarding the encroachment, the owner of the Preservation Tract sent a "letter to the owner of the house at the time but did not receive a reply. [He] was not concerned with that small piece as traditionally the creek had been understood as the boundary," according to the owner's email of January 20, 2021.

The Rural Preservation Development was reviewed and approved without mention of the encroachment in the public record. It should have been corrected then, prior to final approval, upon the exercise of due diligence. The ACEA agreed on December 9, 2021, that this is subject to correction, and authorized its Chair to execute necessary documents (Attachment C).

The new owner of the Preservation Tract, the Daniel Living Trust, plans to exercise its right to construct a dwelling on the property. The trustees discovered the encroachment and wish to correct it to remove any potential defect in the title, which will allow them to secure financing. They agreed with their neighbor to adjust the boundary line to eliminate the encroachment while maintaining the Preservation Tract's qualifying acreage. Thus, the boundary line adjustment will shift 6,656 square feet of land from the Preservation Tract to the Crisler property and will shift an equal area of land from the Crisler property to the Preservation Tract, shown in Attachment D. The adjustment to the Preservation Tract is open, unimproved land that will increase the conservation values. Virginia Code § 55.1-609(G) and Virginia common law permit parties to correct error in deeds that "vary from the actual understanding of the parties at the time it was entered." 1977-1978 Va. Op. Atty. Gen. 124. Here, the prior Preservation Tract owner notified the neighbor of the encroachment with the intent to correct it. All other parties to the development were on notice of the encroachment by virtue of the survey plat, but none raised it or addressed it. The oversight should have been corrected in the exercise of due diligence. A public hearing is necessary pursuant to Virginia Code § 15.2-1800 (B), as this correction involves the disposal, albeit a corrective exchange, of the County's interest in real property.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the Stillhouse Ridge Rural Preservation Boundary Line Adjustment.

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Mr. Richard DeLoria greeted the Board and introduced himself as being with the County Attorney's Office. He said he was present today to ask the Board to consider and approve a boundary line adjustment to correct an encroachment and what they believed to be an error in a preservation tract in a County subdivision. He said what necessitated the Board's involvement with this was that the Board and the Albemarle Conservation Easement Authority had an interest in the preservation tract, and in order for the Board to convey or dispose of that interest in some fashion, a public hearing must be held. He said the subject of this issue was the Stillhouse Ridge Subdivision, which was a ten-parcel subdivision in the Batesville area of Albemarle County. He said it was created in 2005. He said nine parcels were between 2 and 5 acres, and the tenth parcel that was of concern this evening was the preservation tract, which was 40.134 acres.

Mr. DeLoria showed an aerial image from their GIS system that showed the subdivision. He said the red circle on the map notated the parcel, and the northern part of that circle was the preservation tract they were taking about. He said the lot below that, which he would refer to as the Crisler parcel, was not part of the subdivision. He said the County and the Conservation Easement Authority only had an interest in the preservation tract. Mr. DeLoria continued that the rural preservation was a development of County Code and was intended to more efficiently create subdivisions and preserve land. He said they allowed up to twenty smaller-acreage lots as long as there was one preservation tract of at least 40 acres. He said in this case, they did not have twenty parcels, but nine parcels with one 40-acre preservation tract.

Mr. DeLoria said in terms of the division, when it was created, the preservation tract was inured to the benefit of the County and the Conservation Easement Authority, so those two bodies held interest in the preservation tract, which was actually an open space easement. He said that was what their ordinance was; they required when creating the preservation tract that they would become open space easements, also known as conservation easements, and were subject to Virginia's Open Space Land Act. He said they had to be perpetual, and if property needed to be removed, converted, or diverted in that tract, it was very difficult to do so, which was the purpose of the perpetuality element of it. He said if property was diverted from it, they had to substitute either more or greater valued property. He said in summary, that was what they were doing for this situation, but they were doing it with a different mechanism.

Mr. DeLoria showed a 2005 survey that was submitted to the County and developed when they were creating the subdivision. He said as could be seen in the yellow highlighted area, there was a house built around 1950 that was on the Crisler property. He said the area to the northeast of that house was the preservation area they were talking about. He showed in greater detail the encroachment that was discovered in 2005 when they were creating this subdivision. He said a small corner of the house that was there in 1950, and there was a road that went out to the connecting road, which he was uncertain of the name of.

Mr. DeLoria said the Daniel family bought the preservation tract from Jesse Haden in 2021. He said his purpose was to put his family house on that property, which was appropriate, and he had a right to do that. He said the problem that arose was that the encroachment gave a negative look to the title and posed a problem to getting financing to build the house on the property. He said this was his effort to clear that up. He said what he had done was that they only needed to give Crisler .15 acres out of the preservation tract, and the Crisler property would give an equal amount.

Mr. DeLoria showed Mr. Daniel's proposal to the Conservation Easement Authority. He said that on the left side of the diagram, Crisler would get .15 acres, and to the right, the preservation tract would get .15 acres, which is inured to the benefit of both the County and the Conservation Easement Authority. He said he did not have a good picture of it, but on the left parcel there was a house with a drive, and the parcel to the right had trees and a hill, so it was a better deal for both entities in his own opinion. He said when this matter was brought before the ACEA, the notion was that they would go with this exchange.

Mr. DeLoria said the problem was that Virginia Code Section 10.1-1704 had some onerous burdens in making that exchange, so the Conservation Easement Authority was not comfortable in pursuing that type of analysis. He said what they suggested instead was to do this by way of Deed of Correction, and by identifying whether there was an error. He said it was pretty obvious that in 2005 with the survey that had the encroachment, that matter should have been fixed, but unfortunately it was not done.

Mr. DeLoria said his question after the meeting with the Conservation Easement Authority was that while he knew it should have been done, if there was an oversight. He said Mr. Jim Cox was present at the meeting tonight and represented Mr. Daniel, and he had been able to reach out to some realtors who were able to get them in contact with Jesse Haden, who sent them this email indicating that he did in fact, when the subdivision was going through, reached out to Mr. Crisler that it was a problem and should be fixed. He said he also had a mistaken impression as to what the property line was, because there was a creek that ran by the driveway, and over time that had been recognized as the boundary.

Mr. DeLoria said when looking at the County records, they found nothing that mentioned that encroachment, so that supported his view that it was an oversight that should have been taken care of and was not because it was never addressed. He said Mr. Haden was the only one who made any effort to address it. He said he reached out to Mr. Haden's attorney, who had since retired, and he was unable to get information from that attorney.

Mr. DeLoria showed a map that he said supported Mr. Haden and his own conclusion that a Deed of Correction would be appropriate and warranted under the circumstances. He said that red line was on the preservation tract, and they could see how the creek came to the driveway, so it was understandable how, after being in the Haden family for over 100 years, became known as the boundary.

Mr. DeLoria said other reasons to think that was the boundary was a 1952 survey brought by Curtis Haden, and what was seen in the surveys was that there was nothing that showed the house encroaching, or anything that showed where the house was, and that was 1952. He said Curtis Haden did a subdivision that was subsequently abandoned, but a 1979 survey again did not document the encroachment. He showed a 1991 prior survey that also showed no documentation of the encroachment. He said again, that supported the notion that Mr. Haden knew there was a problem, but through the process it was overlooked and was a mistake.

Mr. DeLoria said in December 2021, the Conservation Easement Authority approved a motion allowing their Chair to sign a Deed of Correction or anything that adjusted the boundary line and solved this. He said that brought them to the resolution in the packet that Mr. Cox had drafted a Deed of Boundary Adjustment Agreement and Deed of Correction, so the suggested motion was that the Board adopt the resolution and allow Mr. Richardson to execute it along with Jay Fennell of the Conservation Easement Authority. He said he would report that Scott Clark, the staff member assigned to this, supported the boundary line adjustment and correction. He said he would now take any questions from the Board, and that he believed Mr. Daniel was on the phone for the meeting as well.

Ms. LaPisto-Kirtley said she had no questions and found no reason not to support this matter.

Ms. Price said they would now open the public hearing. She asked the Clerk if there were any in-person speakers signed up.

Ms. Borgersen said they had no speakers signed up, but the landowner was available and would like to make some comments.

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Mr. Bradley Daniel thanked the Board of Supervisors, staff, and members of the public for the opportunity to provide comments today. He said as Mr. DeLoria outlined, they purchased this property in May 2021. He said they currently lived in Sacramento, California, but he grew up in Dumfries, Virginia and his wife was from Bristol, Virginia. He said they met at the University of Virginia and Virginia was their home, so they were hoping to come back. He said during the title search prior to closing the purchase, they were made aware of this encroachment as was just outlined to the Board, and as they heard they worked very closely with the neighbor to remedy this situation. He said he served three terms on the Board of Directors of the Blue Ridge Parkway Foundation and his wife, and he had recently completed the Virginia Tech Forestry for Landowners Program.

Mr. Daniel said he mentioned all of that because he wanted them to know they had a profound respect for easements, and he assured them they would be good stewards of this land. He said by clearing up this resolution, which was in the best interest of the County, the neighbor, and they as landowners, they would be moving forward with building their home and being better caretakers by being present on the land. He said he would especially like to thank Scott Clark, Mr. DeLoria, and other County staff members who assisted them with presenting the solution and thanked them in advance for their consideration of this matter.

Ms. Price asked the Supervisors if there were any questions for Mr. Daniel. Hearing no further questions, she closed the public hearing portion, and the matter was back before the Board.

Mr. Andrews **moved** that the Board of Supervisors adopt the resolution identified as Attachment E, which authorized the County Executive to execute a Deed of Boundary Adjustment Agreement and corrected deed of easement once the County Attorney approved it as to form.

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.

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RESOLUTION APPROVING DEED OF BOUNDARY ADJUSTMENT AGREEMENT AND CORRECTED DEED OF EASEMENT TO STILLHOUSE RIDGE RPD PRESERVATION TRACT

WHEREAS, the County of Albemarle jointly holds a perpetual conservation easement in gross with the Albemarle Conservation Easement Authority pursuant to the Virginia Open Space Land Act on the Stillhouse Ridge RPD Preservation Tract (Parcel 08500-00-00-029A0); and

WHEREAS, an encroachment on the Preservation Tract by a dwelling and a private driveway, both primarily located on Parcel 08500-00-0000-034A0 (the Crisler Property), was identified on a survey prior to the consideration, review, and approval of the RPD subdivision; and

WHEREAS, such encroachment should have been corrected through the exercise of due diligence but was inadvertently overlooked by the parties to the transaction; and

WHEREAS, the Board of Supervisors finds that the proposed boundary line adjustment will correct the encroachment, preserve the same area of land as open-space land, and will increase the conservation value of the Preservation Tract.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the boundary line adjustment and authorizes the County Executive to sign, in a form approved by the County Attorney, such Deed of Boundary Adjustment Agreement and Corrected Deed of Easement correcting the oversight.

Agenda Item No. 17. **Public Hearing to Consider the Adoption of an Ordinance to Exempt Real Property Owned by Surviving Spouses of Certain Persons Killed in the Line of Duty from Taxation.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation. The proposed ordinance would amend Article 7, Real Property Tax, Division 1, Generally, to add Section 15-704.1 to create an exemption from taxes on property for the surviving spouses of certain persons killed in the line of duty, as enabled by Virginia Code § 58.1-3219.14, to be effective on and after January 1, 2022.

The Executive Summary forwarded to the Board states that during the February 16 work session, the Board received and discussed information on current real estate and personal property tax relief/exemption programs, as well as the opportunity to add new programs or modify existing programs. The Board directed staff to bring forth the proposed surviving spouses of persons killed in the line of duty real estate tax exemption program.

Virginia Code § 58.1-3219.13 through 58.1-3219.16 grants localities the authority to exempt from real estate taxation properties of surviving spouses of certain persons killed in the line of duty. The attached proposed ordinance (Attachment A) would amend County Code Chapter 15, Taxation, Article 7, Real Property Tax, by adding § 15-704.1 to implement the enabled real estate tax exemption. The program applicant must be a surviving spouse of individuals identified in the State's Line of Duty Act (Virginia Code § 9.1-400). The applicant must own the real property for which the exemption is sought and must occupy the property as their principal residence. The applicant shall retain program eligibility as long as they do not remarry. The amount of the exemption will be full exemption up to the average assessed value of a single-family residence. If the assessed value is more than the average, only the amount in excess of the average will be subject to real property taxes. The start date for this program is January 1, 2022.

The real estate tax exemption for surviving spouses of persons killed in the line of duty would decrease collectible tax revenues. For FY 23, the budgetary impact of the program is estimated to be $50,000 and is incorporated into the FY 23 proposed budget.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

Mr. Sumner introduced himself as Jacob Sumner, Assistant CFO for Policy and Partnerships. He said he would be walking the Board through five different public hearings tonight. He said all five public hearings were in reference to amendments or additions to County Code Chapter 15, the chapter on taxation. He said on the slide shown were the five items they would be discussing tonight. He said the first was the exemption from taxation of real property owned by surviving spouses of certain persons killed in the line of duty, the second was the modification to the real estate tax relief program for the elderly and disabled, followed by discussing the possible increase in the transient occupancy tax rate, the potential increase for the food and beverage tax rate, and finally the potential to impose a tax on disposable plastic bags.

Mr. Sumner noted that the Board would be requested to take action on the first two ordinances after they were discussed. He said the remaining three, which were the ones related to the transient occupancy tax, the food and beverage tax, and the tax on disposable plastic bags would be brought back to the Board on May 4 as part of the list of ordinances they would be asking the Board to approve as part of the FY23 budget and CY2022 Tax Rates. He said tonight would only include the public hearing on those items.

Mr. Sumner said the first item on the agenda was the Real Estate Tax Exemption for Surviving Spouse of Persons Killed in the Line of Duty. He said this was an exemption that was a local option per state code, and there were certain criteria for eligibility for this exemption. He said the applicant for this exemption must be a surviving spouse of certain persons who met the definition of a VRS eligible beneficiary under Virginia's Line of Duty Act. He said this included state and local law enforcement officers, sheriffs, deputy sheriffs, correctional officers, members of fire companies, departments, or emergency medical services. He said there were a few other occupations listed as well, but this was more for the general consensus of what was deemed a VRS eligible beneficiary. He said the applicant must own the real property for which the exemption was sought, and it must be their primary resident.

Mr. Sumner said under the state code, there was a provision that the surviving spouse was only eligible if they did not remarry. He said the amount of this exemption was a full exemption up to the average assessed value of the single-family residence. He said should the amount be more than average, only the amount in excess of the average would be subject to real property taxes. The effective date for implementing this program would be January 1 of 2022, so it would be effective for this calendar year's tax billings.

Mr. Sumner said from a budgetary standpoint, they had estimated there was probably about fifteen properties that could be found eligible for this exemption, and the average 2021 assessed value of a single-family residence was just under $427,000, and the estimated tax relief in total would be approximately $50,000. He said he would be happy to answer any questions before the public hearing. He said that staff recommended that after the public hearing commenced that the Board adopt the proposed ordinance in Attachment A on item 17 of the agenda.

Ms. LaPisto-Kirtley said she was very supportive of this.

Mr. Gallaway asked if they took the average of all of the residences, and that was the exemption, and if a house were worth more than the exemption, they would only pay the difference.

Mr. Sumner said yes. He said anything below the average was completely exempt. He said for example, if the house were $500,000, it would be the difference between the average assessed and that $500,000 that would be subject to the tax.

Mr. Gallaway thanked him for confirming that.

Ms. Price opened the public hearing. There were no speakers, so Ms. Price closed the public hearing.

Ms. LaPisto-Kirtley said she supported this.

Ms. Price said her only comment was that she fully supported this. She asked if the County would consider this a legislative initiative to propose a limit that the constraint upon remarriage be eliminated above a certain age. She said this was very similar to the survivor benefit program that the military had, where a surviving spouse above a certain age, which she believed was age 55 or 60, no longer lost the benefit if they remarried. She said it troubled her that they would have a legislative constraint that might prevent someone later in life from being able to remarry and essentially risk having to live alone or face the consequences of not having an immediate family member present for important decisions that had to be made as they aged. She said that was not something they on the Board could do, so she asked they consider that.

Ms. McKeel **moved** that the Board adopt the proposed ordinance in Attachment A.

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. 22-15(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, ARTICLE 7, REAL PROPERTY TAX, DIVISION 1, GENERALLY, 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 15, Taxation, Article 7, Real Property Tax, Division 1, Generallly, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Adding:
Sec. 15-704.1 Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.

Chapter 15. Taxation

Article 7. Real Property Tax

Division 1. Generally

Sec. 15-704.1 Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.

A. The real property meeting the description in Virginia Code § 58.1-3219.14(B), owned by the surviving spouse of any covered person, as defined in Virginia Code § 58.1-3219.13, and who occupies the real property as his principal place of residence, is exempt from taxation as provided in Virginia Code § 58.1-3219.14.

B. The exemption provided by this section applies to the same number of acres as the exemption provided in Division 2 of this Article.

C. Eligibility for the exemption shall be as stated in Virginia Code § 58.1-3219.14.

(§ 15-704.1, Ord. 22-15(2), 4-20-22, effective 1-1-22)

State law reference – Va. Code § 58.1-3219.14.

This ordinance is effective on and after January 1, 2022.

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Agenda Item No. 18. **Public Hearing to Consider the Adoption of an Ordinance to Modify the Real Estate Tax Relief for the Elderly and Disabled.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation. The proposed ordinance would amend Article 7, Real Property Tax, Division 2, Real Property Tax Exemption for Certain Elderly and Disabled Persons, Section 15-709, Real property eligible for an exemption, to increase the maximum annual income allowed to qualify for the exemption from $69,452 to $75,100, and would increase the percentage of the real estate tax exemption, as enabled by Virginia Code §§ 58.1-3210 and 58.1-3215, to be effective on and after January 1, 2022.

The Executive Summary forwarded to the Board states that during the February 16 work session, the Board received and discussed information on current real estate and personal property tax relief/exemption programs, as well as the opportunity to add new programs or modify existing programs. The Board directed staff to bring forth the proposed modifications to the real estate tax relief for the elderly and disabled program.

Albemarle County Code Chapter 15,Taxation, Article 7, Real Property Tax, Division 2, Real Property Tax Exemption for Certain Elderly and Disabled Persons, describes the real property tax relief for the elderly and disabled. The proposed ordinance (Attachment A) would modify the current program by increasing the income threshold from $69,452 to $75,100. For reference, this metric is the County's FY 2020 Housing and Urban Development's 80% of area median income for a family of four. Further, the modification simplifies the relief percentage brackets into three tiers: $0 to $37,550 for 100% relief, $37,551 to $56,325 for 75% relief, and $56,326 to $75,100 for 50% relief. In addition, the financial net worth criteria are expanded to be less than $200,000 for all three of the proposed tiers. The start date for this program is January 1, 2022.

The modification to the real estate tax relief for the elderly and disabled would decrease collectible tax revenues. For FY 23, the budgetary impact of the program is estimated to be $84,000 and is incorporated into the FY 23 proposed budget.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A).

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Mr. Sumner said the modification proposed today was for the Real Estate Tax Relief for the Elderly and Disabled Program. He said this information had been brought to the Board, along with the previous item discussed, at the February 16 work session where they talked about tax exemption programs and the opportunity for modifications. He said what was seen on the slide shown was the criteria for this program that was already established and currently available to residents. He said there was a modification they were proposing.

Mr. Sumner said the criteria for this program was that the applicant must be at least 65 years old or totally and permanently disabled, must be the titleholder of the property, and must not use the property in a business. He said there were certain income and financial net worth criteria, and that was the crux of what the recommendation before the Board was. He said that was an increase to the income threshold and to simplify the relief percentage brackets.

Mr. Sumner said he had two charts listed on the slide shown. He said the chart in blue was the current program. He said it could be seen that the maximum income threshold had to be less than $69,452, and the maximum net asset cap was less than $200,000. He said there also were several tiers that broke down the percentage of relief across the spectrum of income and net assets. He said the recommendation was in the second green box. He said they were requesting and recommending an increase the income threshold to $37,550, and on the income threshold line, they were expanding the tiers.

Mr. Sumner said the first tier, instead of being from less than $30,000 of income, it was less than $37,550. He said this was from direct feedback they received from the Board during that February work session when they asked staff to go back and look at spreading out the increased tiers amongst the recommendation. He said they did that and brought that before the Board today. He said the second item he would bring to the attention of the Board and the public was under the net asset classifications. He said they removed the stratification of $0-100k, $100k-$150k, and $150k-$200k. He said they made it a clear $0-$200k. He said hopefully that was a bit easier for the public to follow and would be easier for staff to administer with the less tiers available.

Mr. Sumner said the percentage of relief was also simplified from a very stratified 100% down to 20%, now three essential buckets to 100%, 75%, or 50%. He said the effective date for this program modification would be January 1, 2022, so that would affect this calendar year and the tax bills due in June and again in December. He said the estimated budget impact for implementing this modification would be an additional tax relief to their citizens of about $84k. He said that concluded his formal remarks regarding the program and said he would answer any questions.

Mr. Andrews asked if he understood correctly that this was what they were authorized to do under state law, and they had adjustability within these numbers, but they did not otherwise have adjustability in the program.

Mr. Sumner said that was correct. He said the adjustability was on the income threshold and the net asset threshold.

Ms. Mallek asked if they were at the state maximum right now with the increases in income that they were considering today.

Mr. Sumner said these were not the state maximum. He said he did not believe there was a state maximum that was listed in the state code, and it was at the discretion of the localities, but what they did, just for reference, in the staff's recommendation was look at the 2020 AMI produced by HUD, and that was the 80% of a family of four. He said they were using targets and metrics they thought would align with their community.

Mr. Andrews commented that people had been concerned about assessed valuation increases and inflation, and he thought this was a very appropriate way to try to address this sort of issue.

Ms. Price opened the public hearing. There were no speakers, so Ms. Price closed the public hearing.

Ms. McKeel **moved** that the Board adopt the proposed ordinance in Attachment A.

Ms. Mallek commented that this will really help those who are right on the bubble and struggling.

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.

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ORDINANCE NO. 22-15(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, ARTICLE 7, REAL PROPERTY TAX, DIVISION 2, REAL PROPERTY TAX EXEMPTION FOR CERTAIN ELDERALY AND DISABLED PERSONS, 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 15, Taxation, Article 7, Real Property Tax, Division 2, Real Property Tax Exemption for Certain Elderly and Disabled Persons, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By amending:
Sec. 15-709 Real property eligible for an exemption.
Sec. 15-710 Amount of exemption

Chapter 15. Taxation

Article 7. Real Property Tax

Division 2. Real Property Tax Exemption for Certain Elderly and Disabled Persons

Sec. 15-709 Real property eligible for an exemption.

Real property that satisfies all of the following requirements is eligible for the exemption established in County Code § 15-708:

A. *Age or disability*. The eligible owners shall have either:

   1. *Age.* Reached the age of 65 years prior to the taxable year for which the exemption is claimed; or

   2. *Disability.* Become permanently and totally disabled prior to the taxable year for which the exemption is claimed.

B. *Ownership*. The eligible owners shall have title or partial title in the dwelling. Any interest under a leasehold or for term of years is neither title nor partial title. The eligible owners claiming the exemption shall own title or partial title to the real estate for which the exemption is claimed on January 1 of the taxable year.

C. *Joint ownership*. Jointly owned dwellings are eligible for the exemption in the following circumstances, provided that any other requirements for the exemption are satisfied:

   1. *Joint ownership with spouse*. A dwelling jointly owned by a husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled.

   2. *Joint ownership with person other than spouse.* A dwelling jointly owned by two or more persons, all of whom are either 65 years of age or older or are permanently and total disabled.

D. *Occupancy of the dwelling*. The eligible owners shall occupy the dwelling as that owner's sole dwelling.

   1. *Business uses limited.* The dwelling may not be used in a business that is required to pay a County business license tax or fee.

   2. *Residing in medical or mental care facilities for extended periods does not disqualify*. An eligible owner's residence in a hospital, nursing home, convalescent home, or other facility for physical or mental care for extended periods of time for extended periods does not disqualify the real estate from the exemption. The dwelling continues to be the sole dwelling of the eligible owner during these extended periods in a facility, provided that the real estate is not used or leased to others for consideration.

E. *Manufactured homes.* A manufactured home is real estate eligible for the exemption if the eligible owner~~s~~ demonstrates to the satisfaction of the Director of Finance that the manufactured home is permanently affixed. Either of the following is evidence that the manufactured home is permanently affixed:

   1. *Ownership and connection to water and sewage lines or facilities.* The eligible owner~~s~~ owns title or partial title to the manufactured home and the land on which the manufactured home is located, and the manufactured home is connected to permanent water and sewage lines or facilities; or

   2. *Permanent foundation or connected rooms or additions*. The manufactured home rests on a permanent foundation and consists of two or more units which are connected in such a manner that they cannot be towed together on a highway, or consists of a unit and other connected rooms or additions which must be removed before the manufactured home can be towed on a highway.

F. *Maximum annual income allowed.* The total combined income shall not exceed $75,100 for the calendar year immediately preceding the taxable year.

G. *Maximum net combined financial worth allowed*. The net combined financial worth shall not exceed $200,000.00 as of December 31 of the calendar year immediately preceding the taxable year.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; 6-12-85; 5-13-87; Ord of 12-19-90; Ord. of 4-7-93; Ord. 96-8(2), 12-11-96; Code 1988, § 8-26; 9-9-81; Ord. 12-19-90; Code 1988, § 8-26.1; § 15-704, Ord. 98-A(1), 8-5-98; Ord. 00-15(2) , 9-20-00; Ord. 03-15(2) , 11-5-03; Ord. 04-15(2) , 12-1-04, effective 1-1-05; Ord. 06-15(3) , 11-1-06, effective 1-1-07; Ord. 07-15(1) , 10-3-07, effective 1-1-08; Ord. 14-15(3) , 9-3-14; § 15-709, Ord. 19-15(1) , 4-17-19; Ord 22-15(1), 4-20-22, effective 1-1-22)

State law reference(s)—Va. Code §§ 58.1-3210 —58.1-3215.

Sec. 15-710 Amount of exemption.

The exemption established by this article shall apply only to the real property taxes for the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated. The amount of the exemption for any taxable year is as follows:

Percentage of Real Estate Tax Exempted

		Net Combined Financial Worth
		$0-$200,000
Total	$0-$37,550	100.00%
Combined	$37,551-$56,325	75.00%
Income	$56,326-$75,100	50.00%

(2-15-73; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-27; § 15-705, Ord. 98-A(1), 8-5-98; Ord. 00-15(2) , 9-20-00; Ord. 04-15(2) , 12-1-04; Ord. 06-15(3) , 11-1-06, effective 1-1-07; Ord. 07-15(1) , 10-3-07, effective 1-1-08; Ord. 11-15(1) , 5-11-11; § 15-710, Ord. 19-15(1) , 4-17-19; Ord 22-15(1), 4-20-22, effective 1-1-22)

State law reference(s)—Va. Code § 58.1-3212

This ordinance is effective for the tax year that begins on January 1, 2022.

Agenda Item No. 19. **Public Hearing to Consider the Adoption of an Ordinance to Increase the Transient Occupancy Tax Rate.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation. The proposed ordinance would amend County Code § 15-901, Transient occupancy tax imposed; amount, to increase the tax from five percent to eight percent of the amount charged for the use or possession of rooms or spaces in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms, as enabled by Virginia Code §§ 58.1-3819 and 58.1-3826, to be effective on and after July 1, 2022.

The Executive Summary forwarded to the Board states that during the 2020 General Assembly session, Virginia counties received enabling authority to increase the taxation amount on several taxing vehicles, including transient occupancy tax. Under the legislation, the limit on the transient occupancy tax was removed while maintaining that revenue attributable to a rate over two percent but not exceeding five percent must be dedicated to tourism marketing.

The proposed ordinance (Attachment A) would revise Chapter 15, , Article 9, Transient Occupancy Tax, to increase the tax from five percent to eight percent, effective July 1, 2022.

The proposed ordinance (Attachment A) will be presented to the Board for adoption on May 4, 2022 as part of the FY 23 budget-related ordinances.

Increasing the transient occupancy tax rate would increase tax revenues. For FY 23, the budgetary impacts of these taxes are estimated to be $1.7M and are incorporated into the FY 23 proposed budget.

Staff recommends that the Board hold a public hearing on the attached proposed ordinance (Attachment A), which will be presented to the Board for adoption on May 4, 2022.

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Mr. Sumner said in 2020, the General Assembly granted Virginia counties additional taxing authority, and one of the taxing authorities directly impacted the Transient Occupancy Tax rate. He said the legislation passed removed the limit on the Transient Occupancy Tax rate. He said however, it maintained a requirement that the revenue from this tax that was over the 2% mark, and not exceeding 5%, must be dedicated to tourism marketing. He said the County's current tax rate for the Transient Occupancy Tax was at 5%, and they were adhering to the state code of dedicating those 3% to tourism. He said the recommended tax rate before the Board and for public hearing tonight was the increase to 8%.

Mr. Sumner said for comparison, the City's Transient Occupancy Tax rate was also at 8%. He said the proposed effective date for the increase in the tax should it be approved was July 1 of 2022 and staff had incorporated this tax increase into the FY23 budget. He said should this pass, the estimated additional tax revenues from this increase would be an additional $1.7M.

Ms. Price asked if this were approved, up to 5% would go towards tourism and the next 3% would then go into general County revenues.

Mr. Sumner said the stratification of that tax would be the first 2% goes to general revenues, then the next 3% would go towards tourism, and the final 3% would go towards general revenues.

Ms. Price opened the public hearing. There were no speakers, so Ms. Price closed the public hearing.

Ms. Price said this item would be before the Board for action on May 4.

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Agenda Item No. 20. **Public Hearing to Consider the Adoption of an Ordinance to Increase the Food and Beverage Tax Rate.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation. The proposed ordinance would amend County Code § 15-1001, Food and beverage tax imposed; amount, to increase the tax from four percent to six percent of the amount paid for food served, sold, or delivered for human consumption in the County in or from a restaurant, as enabled by Virginia Code § 58.1-3833, to be effective on and after July 1, 2022.

The Executive Summary forwarded to the Board states that during the 2020 General Assembly session, Virginia counties received enabling authority to increase the taxation amount on several taxing vehicles including food and beverage tax. Under the legislation, counties are authorized to impose a food and beverage tax up to six percent. Further, the legislation removed the requirement to hold a referendum before imposing such tax.

The proposed ordinance (Attachment A) would revise Chapter 15,Taxation, Article 10, Food and Beverage Tax, to increase the food and beverage tax rate from four percent to six percent, effective July 1, 2022.

The proposed ordinance (Attachment A) will be presented to the Board for adoption on May 4, 2022 as part of the FY 23 budget-related ordinances.

Increasing the food and beverage tax rate would increase tax revenues. For FY 23, the budgetary impacts of these taxes estimated to be $5.1M and are incorporated into the FY 23 proposed budget.

Staff recommends that the Board hold a public hearing on the attached proposed ordinance (Attachment A), which will be presented to the Board for adoption on May 4, 2022.

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Mr. Sumner said during the 2020 General Assembly session, there was legislation passed that allowed localities, particularly Virginia counties, to increase the food and beverage tax rate. He said there was a maximum that was implemented and increased the maximum tax rates for food and beverage tax in counties to 6%. He said the legislation also removed the requirement to hold a referendum before imposing such a tax. He said currently, the County's food and beverage tax rate was at 4%, and the recommended tax rate that was before the Board and the public for consideration today was 6%.

Mr. Sumner said much like the Transient Occupancy Tax, this was incorporated into the FY23 budget. He said the effective date should this tax move forward would be July 1, 2022, and the budgetary impact from the increase would be an additional tax of revenues of $5.1M. He noted that the City's meals tax was recently increased to 6.5%. He said counties, under state code had a maximum at 6%, which was what staff was recommending before the Board.

Mr. Gallaway said that procedurally, they were going to approve these as part of the budget and had public hearings on the budget. He asked if the state required them to have individual public hearings on each one of these items.

Ms. Hudson said yes.

Mr. Gallaway said that was a requirement they were fulfilling, even though it was redundant.

Ms. Hudson said any increase in a tax that they contemplated had to be subject to a public hearing, and it was only proposed until it was approved, so these elements that helped build it were similarly proposed until approved.

Ms. McKeel said they were getting two public hearings.

Mr. Gallaway said they were getting three or four.

Mr. Andrews said he applauded how this diversified revenue. He said he had a question as to whether any analysis was done in terms of who came to eat in Albemarle County, whether they are Albemarle County residents, Charlottesville residents, or outside visitors.

Mr. Sumner said at this point in time, he did not have a specific analysis. He said the consensus he thought he had received in doing the research with staff on this was that it was truly a mix, and there were residents who partook in the restaurant industry, but they also had a robust tourism industry, and they had a lot of people coming in from outside of the community, whether it was for tourism or for work as well that came to their restaurants.

The Chair invited public comment. Ms. LaPisto-Kirtley read the protocol for in-person public hearings.

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Mr. Ray Van Dorn introduced himself as past president of the Virginia Restaurant, Lodging, and Travel Association Charlottesville Chapter. He said his company was based in Charlottesville and for the last thirty years, he had been working with lodging, restaurants, attractions, and their management. He said first, he asked for the Board to reconsider the highest tax increase on hospitality in County history, 40%. He said the claim by the County, so that they did not need to raise taxes on residential property, they should tax those who could not vote, their visitors. He said that the claim that visitors would pay the bill was primarily false. He said according to National Restaurant Association research, visitors made up just a fraction of those who paid meals tax. He said he would break it down by category.

Mr. Van Dorn said fine dining, nationally, had 25% come from visitors, which meant 75% were locals. He said table service restaurants had 33% come from visitors, so 67% was from locals. He said for fast casual, or quick service, had 18% come from visitors, which meant 82% came from locals. He said to add that to prepared food in stores, food trucks, and that group, while not in the national research, was over 80%. He said repeated studies had shown that regressive meals taxes, especially on prepared and fast casual, impacted as a percentage of income those who could afford it least: those on a fixed income, and lowest wage earners in the community.

Mr. Van Dorn said he did not need to inform them that the restaurant industry continued to suffer. He said COVID-19 and mandatory obligations forced on their industry devastated the entire local restaurant community. He said some said the restaurants were still open, so they were okay, but from his vantage point behind the scenes, they were suffering mightily. He said in the best of times, restaurants netted 3%-5%, and this tax would mean that the County received income greater than those people who were running their restaurants, and he did not think that was fair. He said the County's own survey, if they had read what the Economic Department said, 100% of those who replied, both in the City and County that were in the restaurant industry said this was devastating.

Ms. Price asked Mr. Van Dorn to submit his full comments to the Clerk so the Board could have those.

The Chair closed the public hearing.

The item will be presented for consideration at the Board's May 4, 2022, meeting.

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Agenda Item No. 21. **Public Hearing to Consider the Adoption of an Ordinance to Impose a Tax upon Disposable Plastic Bags Tax.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation. The proposed ordinance would add Article 8.1, Disposable Plastic Bag Tax, to impose a disposable plastic bag tax effective on and after January 1, 2023, as enabled by Virginia Code § 58.1-1745.

The Executive Summary forwarded to the Board states that During the 2020 General Assembly session, Virginia counties received enabling authority to increase the taxation amount on several taxing vehicles, including the ability to impose a disposable plastic bag tax. The legislation allows counties to impose a five cent per bag tax on disposable plastic bags provided by certain retailers with certain stipulations on the use of the associated revenues. Revenues from this tax must be used for programs supporting environmental cleanup, litter and pollution mitigation, or environmental education efforts, or to provide reusable bags to SNAP or WIC benefit recipients.

Virginia Code § 58.1-17.45 through 58.1-1748 grants localities the authority to impose a five cent per bag tax on disposable plastic bags provided by grocery stores, convenience stores, or pharmacies. The attached proposed Ordinance (Attachment A) would amend County Code Chapter 15, Taxation, by adding Article 8.1 to impose the enabled plastic bag tax. Durable plastic bags designed for repeated use and plastic bags used solely to wrap, contain, or package certain goods to prevent damage or contamination are exempt from this tax. This exclusion would include packaging for ice cream, meat, fish, poultry, produce, unwrapped bulk food items, perishable food items, dry cleaning, prescription drugs, and multiple bags sold in containers for use as garbage, pet waste, or leaf removal bags. Revenues from such tax shall be used for programs supporting environmental cleanup, litter and pollution mitigation, environmental education efforts or to provide reusable bags to SNAP or WIC benefit recipients.

Collection of the plastic bag tax would be performed by the State Department of Taxation. State Code requires localities to provide a certified copy of the ordinance to the Tax Commissioner of the Commonwealth at least three months prior to the date the ordinance becomes effective. The effective date for the disposable plastic bag tax will be January 1, 2023.

The proposed ordinance (Attachment A) will be presented to the Board for adoption on May 4, 2022, as part of the FY 23 budget-related ordinances.

Imposing the disposable plastic bag tax would increase revenues. However, these revenues would be dedicated sources for qualifying expenditures. For FY 23, the budgetary impact of this tax is estimated to be $20,000 and is incorporated into the FY 23 proposed budget.

Staff recommends that the Board hold a public hearing on the attached proposed ordinance (Attachment A), which will be presented to the Board for adoption on May 4, 2022.

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Mr. Sumner said the 2020 General Assembly had quite a bit of action that affected Virginia localities, especially counties. He said another legislation passed during the 2020 session was granting the Virginia counties the authority to impose a tax on disposable plastic bags. He said that legislation put a maximum of 5 cents per bag. He said in the state code, it said that plastic bags that were subject to this tax were provided by grocery stores, convenience stores, or pharmacies. He said there were some noted exclusions, which included durable bags designed for repeated use or bags that were used to wrap, contain, or package certain goods. He said several of those examples were listed on the screen, but in general they were the bags used to package, wrap, and separate items such as produce, meat, or fish in groceries. He said those bags were not subject to the disposable plastic bag tax.

Mr. Sumner said the state code dictated that the revenues generated from this tax should be implemented at the locality level and be dedicated to specific programs. He said there were four areas that were stipulated in the state code. He said the first was that the revenue could be used for supporting environmental cleanup, second was for litter and pollution mitigation, third was environmental education efforts, and the last option permitted for use was providing reusable bags to SNAP or WIC benefit recipients. He said the recommendation from staff was to have a tax rate on disposable plastic bags at 5 cents per bag. He said the effective date for this tax should it be approved was January 1, 2023, or halfway through FY23. He said there was a reason for that; the State Department of Taxation collected this tax on behalf of the County, so their requirement was that they needed three months lead time.

Mr. Sumner said from a locality standpoint, that meant there must be a certified copy of an approved ordinance at least three months before the State was able to collect it. He said this would be before the Board on May 4, so they would absolutely meet that requirement should the Board approve the ordinance to implement this tax. He said the budget impact, which as he said was for half of the Fiscal Year 2023 would be an estimate of about $20,000. He said it was very challenging to put an estimate to because it was a relatively new tax. He said there were only six other localities in the Commonwealth that had implemented this tax thus far, and the County would join those if they decided to move forward with this.

Ms. LaPisto-Kirtley said she supported this because she believed it reduced litter and supported awareness of what they could do for the environment.

Mr. Gallaway asked logistically, what a retailer did to charge for the tax and how it was collected.

Mr. Sumner said there were two options. He said it could either be entity-paid, so the convenience store or grocery store paid it on behalf of their participants, but most that they had seen in the six localities that implemented this, it was rang up at the register when someone checked out with their groceries, so the onus was upon the clerk checking out the groceries to calculate the number of bags that were a part of that trip and add it to the bill. He said a lot of the automated registering systems had the availability to add that onto the tax bill, which was passed onto the customer. He said through the reporting process, the State Department of Taxation would collect that along with the other taxes that were admitted through the State, particularly on groceries, which was why the State Department of Taxation had evolved. He said that that mechanism of flowing from the entity to the state was how it got from the consumer to the State, and the State would then remit that back to the locality.

Mr. Gallaway asked how that would work with a self-checkout system.

Mr. Sumner said that was a very good question. He said he would have to do more research on the self-checkout option.

Mr. Gallaway said that with cigarettes, there was a record of the sale, there was a tax charged for it, and there was a way to report it. He asked how they would count the bags being used. He said perhaps some of the other localities had material that would help. He said he would like to know how it played out logistically for retailers.

Mr. Richardson asked if the question Mr. Gallaway had was on the self-checkout for the retailers.

Mr. Gallaway said that if there was a store clerk checking out the items, they could count the bags and add up the amount, but if there was a self-checkout, there was no one there to count the bags, so he supposed it would be self-reported. He said he did not know so he would like to understand.

Mr. Richardson said the Short Pump Wegmans self-checkout machine was programmed to ask if they were using paper bags, plastic bags, and if so, how many.

Mr. Gallaway asked if it was self-reporting.

Mr. Richardson said yes, it was self-reporting, and was in the system as an additional step of the process of paying at the self-checkout. He said he wanted to share that recent and relevant personal experience.

Mr. Andrews clarified that the authority they had to do this was limited to plastic bags, not other types of non-reusable bags, or other types of plastic single-use items. He said this was what was possible to be done at this time.

Ms. McKeel said she knew there were other localities around the nation that had banned plastic bags completely. She said they did not have the authority to do that, but they could charge a tax for them.

Mr. Sumner said that was his understanding.

Ms. McKeel said she had received a question a few times from constituents about paper bags. She said Wegmans was going to be eliminating plastic bags and charging 5 cents per paper bag. She asked Mr. Sumner to clarify how paper bags fit into this tax.

Mr. Sumner said the state code specifically mentioned disposable plastic bags, so the interpretation of that was that the paper bags did not fit into that definition, so a checkout with a paper bag would not be subject to the tax.

Ms. McKeel said that was true under their ordinance and asked if Wegmans could charge 5 cents for paper bags.

Mr. Sumner said while he was not familiar with Wegmans business practices, he surmised as much.

Ms. Price said many retailers charged for bags.

Ms. Birch introduced herself as Nelsie Birch, Chief Financial Officer for Albemarle County. She said this had nothing to do with their ability.

Ms. McKeel said she understood and wanted clarification.

Ms. Birch said Wegmans was charging 5 cents on paper and donating the proceeds. She said this was a business decision they had made.

Ms. McKeel said she wanted to clarify before her town hall tomorrow night. She said she was very supportive of what had been proposed to them.

Ms. Mallek said she supported this as an effort to reduce the volume of trash and the damage it did to wildlife and ocean and river environments. She said it would also help with the mess that occurred when the plastic was tangled in the processing machines in the solid waste centers. She asked if the ordinance were adopted, in the future they could give an exemption for biodegradable bags. She asked if there was authority for that. She asked if there was any threshold related to the size of a business. She said while the types of businesses participating were listed, she would like to know if there were some businesses that were not participating.

Mr. Sumner said the state code was silent on the size of the institution.

Ms. Mallek asked how the collection of money was transmitted to the state through the cash registers. She said it seemed like a burden for people to manage, but she would like to know the reality of that.

Mr. Sumner said his understanding was that this would be similarly programmed into the cash registering systems.

Ms. Mallek clarified that it would be for both collecting the tax and sending it to the state.

Ms. Hudson said the state code specifically provided that the retailer should collect this tax the same way they collected sales tax and transmitted it to the State Department of Taxation.

The Chair opened the public hearing. Ms. LaPisto-Kirtley read the protocol for speakers.

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Mr. Michael Pillow introduced himself and said he was a resident of the White Hall Magisterial District and was representing the Piedmont Sierra Club. He said he was speaking in support of the disposable plastic bag tax. He said he first wanted to acknowledge all the work the County staff and Supervisors had done to try and put this tax in place. He said he thought they lived in one of the most gorgeous counties and states in the world. He said unfortunately, as someone acknowledged a few minutes ago, their scenic land and waterways were littered with trash, including the scourge of disposable plastic bags. He said these disposable plastic bags did not decompose for hundreds of years, and they would be around forever as microplastics and part of the food chain. He said they needed to do something about it, otherwise the harm was devastating.

Mr. Pillow said he had thought about what could be done about this using the “three R’s” of recycling: reduce, reuse, recycle. He said these disposable plastic bags were not reusable, recycling posed a problem for the recycling machinery, and only about 10% of bags got recycled at all. He said that meant they had to reduce. He said studies had shown that these kinds of taxes helped reduce plastic bag usage and the resultant pollution. He said he thought the benefits were clear, but what were the concerns? He said the Supervisors had raised some concerns, and the main one he had heard was the equitable nature of the tax on lower-income folks, of which he had a few responses. He said one was that it was 5 cents per bag, so if you used twenty bags in one week, that would cost $1. He said he knew that it could be a lot of money to people, but it really was a small amount. He said more importantly, this tax could be avoided altogether by bringing your own bag, avoiding bags altogether as some stores did, and the County could provide reusable bags with their revenue.

Mr. Pillow said there were also alternative bags that the Piedmont Sierra Club had bought 250 of and were working with local food pantries to distribute them. He said local groups were also trying to recycle and redistribute reusable bags, so they thought this issue of equity could be readily addressed. He said they were present to urge the Board to join the other municipalities in Virginia that had already passed a tax. He said to pass the tax on May 4 and get it in place, and it would also lead the way for Charlottesville and the neighboring counties.

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Mr. Tom Olivier said he was a resident of the Samuel Miller District. He expressed his support for the plastic bag tax ordinance and supported the Sierra Club’s position. He said plastic waste was now a terrible problem on the planet. He said certainly in the ocean, it was a threat to many forms of marine life. He said it reflected a broader problem of our society, namely as so many single-use things were only used once and thrown away, which had consequences outside of human society. He said he took a look at the ordinance, and it seemed very simple and straightforward. He said it included measures to reduce the financial burden on low-income people, and it was an important step to solve an important problem. He urged them to pass the ordinance.

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Mr. Kirk Bowers greeted the Board and said he lived in the Rivanna District. He said he was speaking today as a long-term resident of the County and as Conservation Chair for the Piedmont Group. He thanked the staff for developing the ordinance, and he thanked all the Sierra Club members for their support. He said they enthusiastically supported the adoption of a plastic bag tax for Albemarle County. He said there was obvious substantial environmental damage caused by plastic bags. He said plastic bags littered the land and waterways and harmed aquatic life. He said it was predicted that by 2050, there would be more plastic in the oceans than fish if they did not stop using plastic bags. He said plastic took 100 years or more to decompose and break down into microplastics, which polluted air, water, and soil, and entered the food chain. He said the bag tax would incentivize reduction of the use of plastic bags.

Mr. Bowers said the County could benefit from using revenue from the plastic bag tax for environmental cleanup, educational efforts about pollution reduction, and to provide reusable bags for federal aid recipients. He said what he observed locally in stores was that checkout clerks automatically gave him a plastic bag unless he asked them not to. He said he hoped the adoption of this ordinance would help the stores change their policies for automatically using plastic bags. He said the consumers could avoid the tax by using reusable or paper bags. He said reducing the harm of plastic pollution far outweighed the financial impact of a tax. He thanked the Board for their consideration and time.

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Ms. Price said she understood that was their last speaker.

Ms. Borgersen said that was correct.

Ms. Price said she would close the public hearing and the matter was now back before the Board.

Ms. LaPisto-Kirtley said she was fully supportive.

Mr. Andrews commented that if it turned out they did not get the revenue because everyone switched to using reusable bags, it would be a good thing.

Ms. McKeel said she agreed.

Ms. Mallek said she had no questions, and her only comment would be that when they got to the point of thinking about providing reusable bags, she hoped they would focus on cloth bags, not ones made of recycled plastic.

Ms. Price said taxation reflected societal priorities, and it was not simply for revenue generation as they could tell by the fact that the estimated income from this would be only $20,000. He said instead, they reflected what was important as a society, and this was intended more for behavior modification rather than revenue generation. She said she knew consistent with one of their speakers, as she looked at the plastic bags that had accumulated over the last several years, probably no more than 10% had been reused, usually for the bathroom trash can.

Ms. Price said that when they put a fee on the plastic bags at the store, people would generally look for an alternative and would be buying the small plastic bags to put in their bathroom trash cans, but she had yet to see one of those bags in the trees as they saw the disposable bags all the time in the waterways or alongside the roadways. She said she also had to acknowledge that she had been lazy for the last year, and for a while they were not allowed to use reusable bags when there was uncertainty of how COVID-19 was transmitted, and she had forgotten to bring those bags in, but this would help motivate her, so she fully supported it.

Ms. LaPisto-Kirtley said there were compostable plastic bags.

Ms. Price said yes, and they had mentioned they might be able to modify the ordinance to include that. She reiterated that there was no vote on this item, and as with the last two items, would be voted on at their May 4, 2022, meeting as part of the FY 23 budget-related ordinances.

Agenda Item No. 22. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. McKeel said today, they approved minutes from August and September of 2020. She said those minutes were old. She said she just was questioning if at some point they might want to discuss their options with minutes, because they had technology now, great video streaming, the ability to watch the meetings, which was what she went to if she had a question, and when they were approving minutes that were two years old, one did think that maybe it was time to have a discussion about if they still wanted to have the same type of minutes in the same format.

Ms. McKeel asked if they could become more efficient with summary minutes, because they had the tapes that had exactly what they said. She said it seemed like they were spending a lot of time and effort, and she knew how much time these minutes took on behalf of the Clerks and the attorneys. She said she was unsure of what was required by law but wanted to bring the topic up because when she needed information, she referenced the video and cut to exactly what they wanted to listen to. She said they had been in this position before and had talked about how far behind they had been, how much money they were costing, and how much time they were taking up by staff.

Ms. Price said they would have a discussion about that in the future. She said they would contact the County Attorneys' Office and the Office of the Clerk to communicate some information to the Board with regard to the minutes process.

Mr. Richardson said he wanted to bring to the Board's attention the CAPE Office did a very good job of pulling together a document they had at their workstation tonight that had several levels of managers from each of the County departments and had the picture of the employee. He said Ms. Birch and her team just left, but that would be a great example of the upper-level management personnel who were provided with contact numbers at their office so that Board members could more easily find people as they adjusted from the retirements and regular turnover over the last couple of years. He said it was good for the Board members to have the relevant staff's contact information. He said Ms. Kilroy and her team would look to see how they could keep that updated and shared with the Board.

Ms. Price said they all appreciated that, especially after two years of not seeing faces to be able to have them on the organizational chart.

Ms. McKeel said to Mr. Richardson that she saw the list of new hires, and she was so excited they had Bessie Bracey. She said in her opinion, he had hired one of the best folks that they could have possibly hired. She said she worked with her at UVA, and she wanted someone to send Bessie to her office to greet her.

Ms. Hudson said there was nothing from the County Attorney's Office for tonight's meeting.

Agenda Item No. 23. Adjourn to April 27, 2022, 2:00 p.m., Lane Auditorium

At 7:47 p.m., the Board adjourned its meeting to April 27, 2022, at 2:00 p.m. which would 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 03/06/24 Initials CKB