

**ACTIONS**  
**Board of Supervisors Meeting of June 17, 2020**

June 18, 2020

AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 1:03 p.m., by the Chair, Mr. Gallaway. All BOS members were present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris.</li> </ul>		<a href="#">Link to Video</a>
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> <li>Pulled Consent Agenda Item #8.1.</li> <li>By a vote of 6:0, <b>ADOPTED</b> the final agenda as amended.</li> </ul>		
<p>5. Brief Announcements by Board Members.</p> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> <li>Urged caution on reopening due to COVID-19</li> <li>Expressed support for the Albemarle County Police Department.</li> </ul> <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> <li>Concurred with Ms. Price's comments.</li> </ul> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>Urged the Board to consider when establishing the Legislative package to talk to General Assembly about ways to help Albemarle County finance our government responsibilities, such as Social Services, that have been pushed back on localities to fund.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Reflected that there has been positive change to the Albemarle County Police Department. over the past 12 years and commented that there is an increase the training level, standards, and accountability.</li> <li>Remarked that businesses are not following the Governors guidelines about masks as related to COVID-19. She urged citizens to call the department of health for enforcement.</li> <li>Safe and Ready Resilience Committee, a subgroup of the White Hall Ruritans, are working on plans to help communication and planning to assist the community. They, and the Earlysville Fire Department are sponsoring a COVID-19 testing in July.</li> </ul> <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> <li>Concurred with Ms. Price's comments. Expressed her support for requesting assistance from the State for funding for mental health issues and Social Services.</li> </ul> <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> <li>Expressed his gratitude to Albemarle County citizens for contacting the Board with their concerns.</li> </ul>		
<p>6. Proclamations and Recognitions.</p> <p>a. Proclamation in Celebration of LGBTQIA+ Pride Month.</p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> proclamation and presented to Lisa Green.</li> </ul> <p>b. Resolution of Appreciation for Matt Smith.</p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution and presented to Bob Crickenberger on behalf of Matt Smith.</li> </ul>	<p>(Attachment 1)</p> <p>(Attachment 2)</p>	
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda on Matters Previously</p>		

<p>Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• <u>The following individuals spoke on various projects being considered in agenda item #10.</u> <ul style="list-style-type: none"> <li>• Peter Krebs</li> <li>• Dorothy Smith</li> <li>• Timothy Maywalt</li> <li>• Kendra Harrison – Hall</li> <li>• Jackie Vawter</li> <li>• Paul Josey</li> <li>• Kathryn Nepote</li> <li>• Bill Emory</li> <li>• Robin Hanes</li> <li>• Susan Kruse</li> <li>• Barbara White</li> <li>• Allen Ingling</li> </ul> </li> <li>• <u>The following individuals spoke toward agenda item #11.</u> <ul style="list-style-type: none"> <li>• Chris Meyer</li> <li>• Linda Goodling</li> <li>• Donna Shaunesey</li> </ul> </li> </ul>		
<p>8.1 Rules for the Public’s Use of the County Courthouse Grounds.</p> <ul style="list-style-type: none"> <li>• <b>Pulled from consent agenda and discussed as part of the regular agenda.</b></li> </ul>		
<p>8.2 Resolution to accept road(s) in the South Fork Farms Subdivision into the State Secondary System of Highways. (<i>Samuel Miller Magisterial District</i>)</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> Resolution.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development. (Attachment 3)</p>	
<p>8.3 Resolution to accept road(s) in the South Fork Farms Phase IV Subdivision into the State Secondary System of Highways. (<i>Samuel Miller Magisterial District</i>)</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> Resolution.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development. (Attachment 4)</p>	
<p>8.1 Rules for the Public’s Use of the County Courthouse Grounds.</p> <ul style="list-style-type: none"> <li>• <b>CONSENSUS</b> to direct staff to review and bring back on a future agenda.</li> </ul>	<p><u>Clerk:</u> Schedule on agenda when ready.</p> <p><u>County Attorney:</u> Proceed as directed and notify Clerk when ready to schedule.</p>	
<p><b>Non-Agenda.</b> Discussion: Review of Legislative Process of Senate Bill 1083 and House Bill 53 to Remove, Relocate or Contextualize Monuments.</p> <ul style="list-style-type: none"> <li>• <b>Discussed.</b></li> </ul>		
<p>9. HS202000035 Homestay Special Exception Minor Mill (Corradino).</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolution to approve the special exception with the conditions contained therein.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney’s office. (Attachment 5)</p>	
<p>10. Albemarle County 2020 Smart Scale Applications.</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolutions in Support of the following Smart Scale Project Applications in Albemarle County: <ol style="list-style-type: none"> <li>1. US 29/Hydraulic Road Intersection Improvement Package.</li> <li>2. Fontaine Avenue/US 29 Bypass Interchange Improvement.</li> <li>3. I-64 Exit 107 Park and Ride Lot.</li> <li>4. Route 20/Route 53 Intersection Improvements.</li> </ol> </li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney’s office. (Attachments 6-9)</p>	

<ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolutions in Support of the following Smart Scale Project Applications in Albemarle County: <ol style="list-style-type: none"> <li>1. US 250 Pantops Corridor Improvements - Route 20 to Hansen Road.</li> <li>2. Route 29 Shared Use Path – Carrsbrook Drive to Riverside Center project.</li> <li>3. 5th Street Bicycle and Pedestrian Hub and Trails project.</li> <li>4. Old Lynchburg Road/5th Street Extended/County Office Building Intersection Improvements.</li> </ol> </li> <li>• <b>CONSENSUS</b> to direct staff to bring back more information on the following Smart Scale Project: <ol style="list-style-type: none"> <li>1. Rio Road/Belvedere Boulevard Intersection Improvements.</li> </ol> </li> <li>• By a vote of 4:2 (LaPisto-Kirtley/Mallek), <b>ADOPTED</b> Resolution in Support of the following Smart Scale Project Application in Albemarle County: <ol style="list-style-type: none"> <li>1. Frays Mill Road/US 29 Intersection Improvement.</li> </ol> </li> <li>• Motion not to proceed with the Rt 20 Shared Use Path Smart Scale Project Application in Albemarle County <b>passed</b> by a vote of 6:0.</li> </ul>	<p>(Attachments 10-13)</p> <p><u>Clerk:</u> Schedule when ready.</p> <p><u>Kevin McDermott:</u> Notify Clerk when ready.</p> <p>(Attachment 14)</p>	
<p>Recess. At 5:29 p.m., to Board recessed and reconvened at 5:40 p.m.</p>		
<p>11. <b>Work Session:</b> Draft Climate Action Plan.</p> <ul style="list-style-type: none"> <li>• <b>HELD.</b></li> </ul>	<p><u>Greg Harper:</u> Proceed as discussed.</p>	
<p>12. Closed Meeting.</p> <ul style="list-style-type: none"> <li>• Closed Meeting not held.</li> </ul>		
<p>14. From the Public: Matters Not Listed for Public Hearing on the Agenda on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• <u>Matthew Christensen</u>, Rio District resident, spoke on the courthouse grounds policy and requested that the Board start the statue removal process as soon as possible.</li> <li>• <u>Rory Stolzenberg</u>, resident of the City of Charlottesville, spoke on the proposed Climate Action Plan.</li> </ul>		
<p>15. <b>Pb. Hrg.: SP202000003 – HH Car Care.</b></p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Resolution to approve SP202000003.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 15)</p>	
<p>Recess. At 6:51 p.m., the Board recessed and reconvened at 7:00 p.m.</p>		
<p>16. <b>Pb. Hrg.: SP201900006 Boyd Tavern.</b></p> <ul style="list-style-type: none"> <li>• Motion to adopt an ordinance to disapprove Special Permit for SP201900006 <b>failed</b> by a vote of 3:3 (Gallaway/McKeel/Palmer).</li> <li>• Motion to adopt ordinance approving SP201900006 <b>failed</b> by a vote of 3:3 (LaPisto-Kirtley/Mallek/Price).</li> </ul>		
<p>17. <b>Pb. Hrg.: Ordinance to Amend Ordinance No. 20-A(6), An Ordinance to Ensure Continuity of Government During the COVID-19 Disaster.</b></p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> Ordinance.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office. (Attachment 16)</p>	
<p>19. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p>		

<p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> <li>• Asked if there was interest in sending letter to the School Board regarding the location of the proposed Boys and Girls Club.</li> </ul> <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> <li>• Reported on a meeting with a previous School Board member and mention that at a future meeting he will be requesting Board support for submitting a letter to legislators concerning money for local government.</li> </ul>		
<p>20. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Jeff Richardson:</u></p> <ul style="list-style-type: none"> <li>• Recommended that Albemarle County join the state in observing June 19, 2020, Juneteenth as a paid Holiday.</li> <li>• <b>CONSENSUS</b> that the County observe June 19, 2020, Juneteenth as a paid holiday, and <b>DIRECTED</b> the County Executive to bring the full 2020/2021 Holiday Calendar for review on July 1.</li> </ul>	<p><u>Clerk:</u> Schedule on July 1 agenda.</p> <p><u>County Executive:</u> Proceed as directed.</p>	
<p>21. Adjourn to July 1, 2020, 1:00 p.m., Electronic Meeting pursuant to Ordinance No. 20-A(6).</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 11:20 p.m.</li> </ul>		

ckb/tom

- Attachment 1 – Proclamation in Celebration of LGBTQIA+ Pride Month
- Attachment 2 – Resolution of Appreciation for Matt Smith
- Attachment 3 – VDoT Resolution - South Fork Farms Subdivision
- Attachment 4 – VDoT Resolution - South Fork Farms Phase IV Subdivision
- Attachment 5 – Resolution to Approve Special Exception for HS2020-00035 Minor Mill Homestay
- Attachment 6 – Resolution in Support of Smart Scale Project Application: US 29/Hydraulic Road Intersection Improvement Package
- Attachment 7 – Resolution in Support of Smart Scale Project Application: Fontaine Avenue/US 29 Bypass Interchange Improvement
- Attachment 8 – Resolution in Support of Smart Scale Project Application: I-64 Exit 107 Park and Ride Lot
- Attachment 9 – Resolution in Support of Smart Scale Project Application: Route 20/Route 53 Intersection Improvements
- Attachment 10 – Resolution in Support of Smart Scale Project Application: US 250 Pantops Corridor Improvements - Route 20 to Hansen Road
- Attachment 11 – Resolution in Support of Smart Scale Project Application: Route 29 Shared Use Path – Carrsbrook Drive to Riverside Center
- Attachment 12 – Resolution in Support of Smart Scale Project Application: 5th Street Bicycle and Pedestrian Hub and Trails
- Attachment 13 – Resolution in Support of Smart Scale Project Application: Old Lynchburg Road/5th Street Extended/County Office Building Intersection Improvements
- Attachment 14 – Resolution in Support of Smart Scale Project Application: Frays Mill Road/US 29 Intersection Improvement
- Attachment 15 – Resolution to Approve SP202000003 H&H Car Care
- Attachment 16 – Ordinance No. 20-A(8)

**Proclamation in Celebration of LGBTQIA+ Pride Month**

**WHEREAS,** Albemarle County's stated mission is to enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds; and

**WHEREAS,** the Board of Supervisors is committed to supporting through its actions and its partnerships the promotion of an equitable and inclusive Albemarle County; and

**WHEREAS,** Lesbian, Gay, Bisexual and Transgender Pride Month (LGBT Pride Month) is celebrated annually in June to honor the 1969 Stonewall riots, and works to achieve equal justice and equal opportunity for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) Americans; and

**WHEREAS,** on April 11, Governor Northam signed the Virginia Values Act, comprised of 16 pro-equality bills, into law, making history as Virginia became the first state in the South to protect LGBTQ people from discrimination in their daily lives; and

**WHEREAS,** the Virginia Values Act:

- bans discrimination against LGBT people in employment, housing, and public spaces
- allows cities and counties to pass their own non-discrimination ordinances
- prohibits health insurance companies from discriminating against transgender Virginians
- ensures public schools provide an equal learning environment to transgender students; and more; and

**NOW, THEREFORE, BE IT RESOLVED,** that we, the Albemarle County Board of Supervisors continue to affirm our commitment to our stated mission to enhance the well-being and quality of life of all the members of our community, and recognize with pride the rich cultural diversity and contributions of lesbian, gay, bisexual, transgender, queer and questioning (LGBTQ) residents to the vibrant Albemarle County.

Signed this 17th day of June 2020

**Resolution of Appreciation for Matt Smith**

**WHEREAS**, Matt Smith has faithfully served the County of Albemarle over the last 46 years as the Superintendent of Parks, providing mentorship and leadership as a recreation service provider, building and maintaining relationships at the community, regional and state level, that reflect the community's and organizational vision; and

**WHEREAS**, Matt's leadership and vision with the Parks and Recreation Department in creating and maintaining a County wide Park and Recreation system have led to tremendous growth and success which has resulted in over 5,000 acres of public park land, 12 regional and community parks, 3 swimming beaches, 4 community centers, 21 athletic fields, 5 public river accesses, 2 dog parks, 75 miles of multi-use recreation trails, greenways and open spaces that provides recreational experiences for over 850,000 visitors and guests annually; and

**WHEREAS**, Matt has coordinated and served as project manager on countless Capital Improvement and Park Enhancement projects, been a leader in many existing and new park designs, with his knowledge, skills and innovation have resulted in project design and development savings; all benefiting our community and surrounding areas; and

**WHEREAS**, Matt has diligently worked with community leaders and stakeholders, both non-profit and for-profit, in accessing and providing community recreation needs, not only for the present but for future generations, and has served on many civic organizations that also benefit our community in so many ways; and

**WHEREAS**, Matt has coached and mentored not only his own staff but also staff from other departments and agencies, looked at the broader picture in assisting others as to how projects, tasks and issues would benefit the County in meeting community needs, encouraged others to do the utmost for excellence, viewed success in relation to the overall organizational success, and has strived to provide the highest level of service for Albemarle County.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, hereby honor Matt Smith and commend him for his many years of exceptional service to the County of Albemarle, the Department of Parks and Recreation, Albemarle County residents, the broader community in which we live, and the Commonwealth of Virginia, with the knowledge that Albemarle County is strengthened and distinguished by Matt's leadership, dedication, commitment, professionalism and compassion in meeting community needs.

Signed this 17th day of June 2020.



The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 17th day of June 2020, adopted the following resolution:

**RESOLUTION**

WHEREAS, the street(s) in **South Fork Farms Phase IV Subdivision**, as described on the attached Additions Form AM-4.3 dated **June 17<sup>th</sup>, 2020**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **South Fork Farms Phase IV Subdivision**, as described on the attached Additions Form AM-4.3 dated **June 17<sup>th</sup>, 2020**, to the secondary system of state highways, pursuant to §33.2-705, §33.2-334 Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right- of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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**Report of Changes in the Secondary System of State Highways**

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**Project/Subdivision South Fork Farms Phase IV**

**Type Change to the Secondary System of State Highways:          Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change:	New subdivision street
Pursuant to Code of Virginia Statute:	33.2-705, 33.2-334

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**Street Name and/or Route Number**

◆ **Sycamore Creek Circle, State Route Number 1798**

Old Route Number: 0

- 
- From: Rt 1797 Sycamore Creek Dr  
To: 0.12 Miles East to CDS, a distance of: 0.12 miles.

Recordation Reference: DB 5135: PG 98-119

Right of Way width (feet) = 0



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**Street Name and/or Route Number**

◆ **Sycamore Creek Drive, State Route Number 1797**

Old Route Number: 0

- 
- From: Rt 1798 Sycamore Creek Circle

To: 0.28 Miles South to CDS, a distance of: 0.28 miles.

Recordation Reference: DB 5135; PG 98-119

Right of Way width (feet) = 0

**Street Name and/or Route Number**

◆ **Sycamore Creek Drive, State Route Number 1797**

Old Route Number: 0

- 
- From: Route 710 Taylors Gap Road

To: 0.40 Miles South to Rt 1798 Sycamore Creek Circle, a distance of: 0.40 miles.

Recordation Reference: DB 5131; PG 98-119

Right of Way width (feet) = 0

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR HS2020-00035 MINOR MILL HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot southwestern front yard required for a homestay in the Rural Areas zoning district for HS2020-00035 Homestay Special Exception (Minor Mill), subject to the conditions attached hereto.

\* \* \*

**HS 2020-00035 Minor Mill Homestay Special Exception Conditions**

1. The Homestay use is limited to two (2) guest rooms within the existing second dwelling (renovated barn) as depicted on the Parking and House Location Exhibit dated May 22, 2020.
2. Parking for Homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated May 22, 2020.
3. The existing 25' vegetative buffer located along the southwestern property line as depicted on the Parking and House Location Exhibit dated May 22, 2020 may not be disturbed and must be maintained with screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Charlottesville-Albemarle Metropolitan Planning Organization to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

US 29/Hydraulic Road Intersection Improvement Package

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Charlottesville-Albemarle Metropolitan Planning Organization to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

Fontaine Avenue/US 29 Bypass Interchange Improvement

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Thomas Jefferson Planning District Commission to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

I-64 Exit 107 Park and Ride Lot

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires to submit an application for the following project to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

Route 20/Route 53 Intersection Improvements

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires to submit an application for the following project to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

US 250 Pantops Corridor Improvements - Route 20 to Hansen Road

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Thomas Jefferson Planning District Commission to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

Route 29 Shared Use Path – Carrsbrook Drive to Riverside Center

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.



**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Thomas Jefferson Planning District Commission to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

5<sup>th</sup> Street Bicycle and Pedestrian Hub and Trails

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires to submit an application for the following project to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

Old Lynchburg Road/5<sup>th</sup> Street Extended/County Office Building Intersection Improvements

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION IN SUPPORT OF A SMART SCALE PROJECT  
APPLICATION IN ALBEMARLE COUNTY**

**WHEREAS**, the County of Albemarle desires the Thomas Jefferson Planning District Commission to submit an application for the following project located within Albemarle County on the County's behalf, to be funded through the Smart Scale Program in the Fiscal Year 22-27 Six-Year Improvement Plan:

Frays Mill Road/US 29 Intersection Improvement

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports the submittal of the Smart Scale application for funding the above referenced project on behalf of Albemarle County.

**RESOLUTION TO APPROVE  
SP 202000003 H&H CAR CARE**

**BE IT RESOLVED** that, upon consideration of the staff report prepared for SP 202000003 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-26.2, 18-27.2, and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 202000003, subject to the condition attached hereto.

\* \* \*

**SP-202000003 H&H Car Care  
Special Use Permit Condition**

1. Development of the use shall be in general accord with the Conceptual Plan titled "H&H Car Care Concept Plan," prepared by Lisa Scherer, with the latest revision date of March 6, 2020, and project narrative titled "1833 Avon Street Extended: Project Narrative," with the latest revision date of January 21, 2020, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development and as described in the Narrative and the Conceptual Plan:
  - a. Location of the vehicle parking and waiting areas.
  - b. Location of the auto detailing and washing areas.

## ORDINANCE NO. 20-A(8)

AN ORDINANCE TO ENSURE THE CONTINUITY OF GOVERNMENT DURING THE COVID-19 DISASTER

**WHEREAS**, on March 11, 2020, the World Health Organization declared the novel coronavirus (“COVID-19”) outbreak a pandemic; and

**WHEREAS**, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

**WHEREAS**, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; and

**WHEREAS**, Executive Order Fifty-One acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a “disaster” as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

**WHEREAS**, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a national emergency in response to the spread of COVID-19; and

**WHEREAS**, on March 17, 2020, Governor Ralph S. Northam and the Virginia State Health Commissioner issued an Order of the Governor and State Health Commissioner Declaration of Public Health Emergency (amended on March 20, 2020) limiting the number of patrons in restaurants, fitness centers, and theaters to no more than 10 per establishment; and

**WHEREAS**, on March 18, 2020, the Board of Supervisors consented to the County Executive, acting as the Director of Emergency Management, issuing an amended declaration of local emergency to refer to the COVID-19 pandemic as not only an emergency, but also as a “disaster,” as the Governor had included in Executive Order Fifty-One, and the County Executive issued the amended declaration on March 20, 2020; and

**WHEREAS**, on March 20, 2020, the Attorney General for the Commonwealth of Virginia issued an opinion in which he concluded that the COVID-19 pandemic, which the Governor declared is a “disaster” as defined in Virginia Code § 44-146.16, is also a “disaster” as that term is used in Virginia Code § 15.2-1413; and

**WHEREAS**, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to “assure continuity in its government” in the event of a disaster for a period not to exceed six months; and

**WHEREAS**, on March 23, 2020, Governor Ralph S. Northam issued Executive Order Fifty-Three, which closed all public and private K-12 schools throughout the Commonwealth of Virginia for the remainder of the 2019-2020 school year, imposed further restrictions on public and private gatherings on several classes of dining establishments, closed many classes of “recreational and entertainment businesses” in their entirety, imposed limitations on the number of patrons allowed in other businesses, and encouraged businesses to use teleworking when feasible and, if not feasible, to adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance to the extent possible; and

**WHEREAS**, Executive Order Fifty-Three states that, despite the measure taken to date, “COVID-19 presents an ongoing threat to our communities,” that there are occurrences of the virus in every region of the Commonwealth, and that the data suggests that in several regions there may be community spread of the virus; and

**WHEREAS**, Executive Order Fifty-Three states that further measures are needed because “[u]nnecessary person-to-person contact increases the risk of transmission and community spread” and that “we must limit such interactions to those necessary to access food and essential materials”; and

**WHEREAS**, on March 27, 2020, the Virginia Employment Commission reported that the number of initial claims for unemployment insurance benefits filed statewide for the week ending March 21 was 46,277, an increase of 43,571 claimants from the previous week’s total of 2,706, a more than 2000% increase in one week; and on April 3, 2020, the number of initial claims for unemployment insurance benefits filed statewide for the week ending March 28 was 112,497; and

**WHEREAS**, on March 28, Governor Ralph S. Northam issued Executive Order Fifty-Four, in which he affirmed and delegated to the Commissioner of the Virginia Employment Commission the authority and responsibility for executing agreements with the United States Department of Labor related to implementing Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and requesting Title XII advances from the Federal Unemployment Account; and

**WHEREAS**, Executive Order Fifty-Four was issued because “many Virginians are out of work due to temporar[y] business closures, school closures, and other health-related emergencies;” and

**WHEREAS**, on March 30, 2020, Governor Ralph S. Northam issued Executive Order Fifty-Five, entitled a “Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19)” which, among other things, ordered that all “individuals in Virginia shall remain at their place of residence,” with specific exceptions, continued to prohibit all public and private in-person gatherings of more than 10 individuals, with specific exceptions, prohibited all institutions of higher education cease all in-person classes and instruction, and closed all public beaches; and

**WHEREAS**, on April 2, 2020, President Donald J. Trump declared that a major disaster exists in the Commonwealth of Virginia and ordered Federal assistance to supplement Commonwealth, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic beginning on January 20, 2020, and continuing; and

**WHEREAS**, on May 8, 2020, Governor Ralph S. Northam and the Virginia State Health Commissioner issued Executive Order Sixty-One and Order of Public Health Emergency that began the easing of restrictions due to COVID-19, which have since been amended; and

**WHEREAS**, on May 26, 2020, Governor Ralph S. Northam and the Virginia State Health Commissioner issued Executive Order Sixty-Three and Order of Public Health Emergency that required people to wear face coverings while inside buildings; and

**WHEREAS**, the Board of Supervisors finds that the COVID-19 pandemic constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code § 44-146.16 and within the meaning of Virginia Code § 15.2-1413; and

**WHEREAS**, the General Assembly recognizes the extreme public danger created by contagious diseases such as the COVID-19 virus by enabling counties, through the exercise of their police powers expressly granted in Virginia Code § 15.2-1200, to “adopt necessary regulations to prevent the spread of contagious diseases among persons” and to adopt “quarantine regulations” affecting persons; and

**WHEREAS**, Virginia § 15.2-1413 authorizes the County, by ordinance adopted by the Board of Supervisors, to “provide a method to assure continuity in its government” in the event of a disaster such as the COVID-19 disaster, and that this authority is granted “[n]otwithstanding any contrary provision of law, general or special”; and

**WHEREAS**, the Board has tailored this ordinance to “assure continuity in [the County’s] government” during the COVID-19 disaster by attempting to vary from existing State law and County Code procedures and requirements to the minimum extent necessary, recognizing the danger to public health and safety posed by public bodies physically assembling to conduct public meetings, and the difficulty in adhering to all of the procedures and deadlines imposed on the County and its public bodies by State law and the County Code, which are routine during normal governmental operations but which may be impossible to completely and timely satisfy during the disaster because most County staff are working remotely and significant staff resources are dedicated to, in effect, designing County government to address the unique issues arising daily during the disaster; and

**WHEREAS**, the Board has identified in Section 4 of this ordinance the functions of County government that it deems to be essential in order for it to continue during the COVID-19 disaster and, in doing so, observes that State and local government is complex, and the powers, duties, and obligations imposed on localities by the State to promote the public health, safety and welfare of their residents are numerous and varied, and that they extend well beyond merely those functions related to survival during a disaster; and

**WHEREAS**, this ordinance is solely in response to the disaster caused by the COVID-19 pandemic, promotes and protects the public health, safety, and welfare of the residents of the County, the City of Charlottesville, and the Commonwealth of Virginia, and is consistent with the laws of the Commonwealth of Virginia, the Constitution of Virginia, and the Constitution of the United States of America.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that:

### **Sec. 1. Purpose**

The purpose of this ordinance is to ensure the continuity of the government of the County of Albemarle, Virginia, during the novel coronavirus (“COVID-19”) disaster, which is currently a pandemic, by identifying the many essential governmental functions that must continue and establishing regulations to ensure these functions continue by providing for: (1) the succession of elected officials and appointed officers; (2) meeting procedures that allow the County’s public bodies, whose members are elected or appointed, to meet and conduct business in a manner that is safe for the members of the public bodies, staff, and the public, and allow the public to participate in these meetings to the fullest extent practicable given the current circumstances; (3) provide alternative deadlines for certain matters that are different than those provided by State law or the County Code; (4) establish the method for resuming normal governmental operations; and (5) other matters related to the foregoing.

The requirements, procedures, deadlines, and other provisions of this ordinance vary from those that apply to County government under normal governmental operations. However, for the reasons explained in the recitals, these alternative regulations are deemed to be essential in order to ensure the continuity of government during the COVID-19 disaster without further risking the health and lives of the public and County officers, appointees, and employees resulting from exposure to the COVID-19 virus and its further spread. The regulations that apply during normal governmental operations will be followed to the extent they can be in a manner that is consistent with State and Federal orders and declarations and without risking the health and lives of the public and County officers and employees.

### **Sec. 2. Authority**

This ordinance ensures the continuity of government during the COVID-19 disaster and is authorized by Virginia Code § 15.2-1413, which enables the Board of Supervisors to provide by ordinance “a method to assure continuity in its government.”

### **Sec. 3. Scope**

This ordinance applies not only to the government of the County of Albemarle, Virginia, but also to the Albemarle County Public Schools, the County’s authorities identified in this ordinance, public bodies established pursuant to a joint exercise of powers agreement or other agreements, and other public bodies and offices described in Section 4.

### **Sec. 4. Essential Governmental Functions**

Under the county executive form of government, the “powers of the county as a body politic and corporate” are vested in the Board of Supervisors. *Virginia Code § 15.2-502*. Any actions of the Board in which it exercises its powers are essential governmental functions. By providing vital support for the Board, the activities of the Clerk of the Board and her office are also essential governmental functions.

The Board of Supervisors also finds that the essential governmental functions that must be performed in order to ensure the continuity of government during the COVID-19 disaster are those activities or functions of the County established by Virginia Code § 15.2-518 (departments of finance, social services, law enforcement, education, records, and health), those that the Board has previously deemed to be “necessary to the proper conduct of the business” of the County pursuant to Virginia Code § 15.2-518, the authorities that provide essential public services, the County public bodies that oversee the proper administration and enforcement of State laws and the County Code, and the other

public bodies and offices that facilitate the proper administration and implementation of State laws and the County Code to the extent necessary and practicable during the COVID-19 disaster.

A. Essential governmental functions provided by County offices and departments. The following offices and departments provide essential governmental functions as described below:

1. County Executive's Office. The County Executive is the administrative head of the County, whose duties include executing and enforcing all Board resolutions and orders, that all laws of the Commonwealth required to be enforced through the Board, or some other County officer subject to the control of the Board, are faithfully executed, and performing other duties as may be required by the Board and as may be otherwise required by law. *Virginia Code § 15.2-516.* The functions of the Office of Equity and Inclusion and the Communications and Public Engagement Office, which exist within the County Executive's Office, are included in this designation. The Office of Management and Budget and the Project Management Office are also within the County Executive's Office, but their functions are identified separately below.
2. County Attorney's Office. The County Attorney is the legal advisor to County government whose duties are to advise the Board and "all boards, departments, agencies, officials and employees" of the County on civil matters, draft or prepare ordinances, and defend or bring actions in which the County or any of its boards, departments, agencies, officials, or employees are a party; and in any other manner advising or representing the County, its boards, departments, agencies, officials and employees. *Virginia Code § 15.2-1542(A).*
3. Department of Finance. The Director of Finance's duties include administering the financial affairs of the County, including the budget; assessing property for taxation; collecting taxes, license fees, and other revenues; being the custodian of all public funds belonging to or handled by the County; supervising the expenditures of the County and its subdivisions; disbursing County funds; keeping and supervising all accounts; and performing other duties as the Board of Supervisors requires. *Virginia Code § 15.2-519.*
4. Economic Development Office. This office is responsible for promoting the economic development of the County and the region, consistent with the County's Economic Development Strategic Plan, and providing staffing assistance to the Economic Development Authority. During the COVID-19 disaster, this office also is providing economic assistance to County businesses, and its services will also include any additional State or Federal assistance or services programs, either on its own or in its work with the Economic Development Authority.
5. Department of Community Development. This department oversees a wide range of functions related to the physical development of the County, including developing proposed plans for the physical development of the County, reviewing all types of land use-related applications, ensuring that its zoning, subdivision, and water protection regulations are current and continue to be reasonable, and enforcing the Albemarle County Zoning, Subdivision, and Water Protection Ordinances, and administering and enforcing the Virginia Uniform Statewide Building Code and other related codes are essential functions.
6. Department of Facilities and Environmental Services. This department maintains and operates the County's buildings, manages the lands owned by the County, manages County capital projects and administers related construction contracts, and oversees environmental-related County responsibilities including, but not limited to, ensuring the County's compliance with the County's Clean Water Act permit, and its obligations as a municipal separate storm sewer system (**MS4**) program.
7. Department of Fire Rescue. This department provides fire protection and emergency medical services and, through the Fire Marshal, administers and enforces the Virginia Fire Prevention Code.
8. Department of Human Resources. This department provides human resources support for the County and Albemarle County Public Schools. The department provides services in seven key human resources functional areas: (1) recruitment/staffing support; (2) classification and compensation; (3) benefits and leave administration; (4) training and development; (5) employee relations; (6) workplace safety; and (7) teacher licensure and certification.
9. Department of Parks and Recreation. This department protects, maintains, and operates the County's parks and provides numerous recreational programs, which during normal governmental operations, are essential to the public health and welfare.



10. Department of Social Services. This department provides a range of: (1) child welfare services including child protective services, family support, family preservation services, a foster care program, and adoption services; (2) economic assistance for those in need, including administering the supplemental nutritional assistance program (SNAP), the temporary assistance to needy families (TANF) program, energy assistance, and auxiliary grants; (3) self-sufficiency services, including services related to employment training, career services, and child care services; (4) health care services, including administering the Medicaid program; (5) adult and elder care services, including adult protective services; (6) housing assistance; and (7) language assistance. During the COVID-19 disaster, these services also include any additional State or Federal assistance or services programs.
  11. Office of Management and Budget. This office, which is part of the County Executive's Office, has the following responsibilities: (1) developing and implementing the County's operating and capital budgets; establishing budget policies, and monitoring departmental and agency budgetary and program performance; (2) preparing the five-year Financial Plan, five-year Capital Improvement Plan, and the long range Capital Needs Assessment; (3) developing and managing the performance management system; and (4) managing the local government grants application and awards process.
  12. Police Department. This department provides law enforcement and community safety services.
  13. Project Management Office. This office, which is part of the County Executive's Office, provides planning, organizational, and management responsibilities for the County's project portfolio, including organizational projects, strategic plan objectives, and technology solutions. This office also plays a critical role in planning, organizing, and managing a range of projects related to the County's response to the COVID-19 disaster.
  14. Department of Information Technology. This department provides, manages, and supports the use of critical technology that allows the County to operate and communicate internally and with the public.
- B. Albemarle County Public Schools. Under the County Executive form of government, the County is required to have a "department of education." *Virginia Code § 15.2-518*. The "department of education" is composed of the Albemarle County School Board, the Superintendent of the "school division," and the "officers and employees thereof." *Virginia Code § 15.2-531*. Article VIII, Section 1 of the Constitution of Virginia states: "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained." Albemarle County Public Schools provide essential governmental functions.
- C. Authorities. The following authorities and their boards provide essential governmental functions:
1. Albemarle Conservation Easement Authority. The Albemarle Conservation Easement Authority ("ACEA") was created as a parks and recreational facilities authority by resolution adopted by the Board of Supervisors on November 20, 1989 pursuant to the Public Recreational Facilities Authority Act (*Virginia Code § 15.2-5600 et seq.*). The ACEA was called the Public Recreational Facilities Authority until its name was changed by resolution adopted by the Board of Supervisors on July 11, 2018. The ACEA's articles of incorporation state that its purpose is to accept, hold, and administer open-space land and interests therein under the Open-Space Land Act (*Virginia Code § 10.1-1700 et seq.*). *Amended Articles of Incorporation adopted July 11, 2018*. The types of interests held include open-space easements that are donated by landowners, easements acquired by the County under its Acquisition of Conservation Easements ("ACE") program, and easements created pursuant to Rural Preservation Developments allowed under the County's zoning regulations. The functions of the ACEA include monitoring and enforcing these easements.
  2. Albemarle County Broadband Authority. The Albemarle Broadband Authority ("ABBA") was created as a wireless service authority "to provide qualifying communications services as authorized by Article 5.1 (*Virginia Code § 56-484.7:1 et seq.*) of Chapter 15 of Title 56 of the Virginia Code." One of the primary functions of ABBA is to facilitate the ongoing deployment of broadband infrastructure and services in the underserved areas of the County.

3. Albemarle-Charlottesville Regional Jail Authority. The Albemarle-Charlottesville Regional Jail Authority (“Jail Authority”) was created as an authority under the Jail Authorities Law (Virginia Code § 53.1-95.2 *et seq.*) by agreement among the County, the County of Nelson, and the City of Charlottesville on November 15, 1995. The Jail Authority replaced the Regional Jail Board as the operator of the Albemarle-Charlottesville Joint Security Complex.
  4. Albemarle County Service Authority. The Albemarle County Service Authority (“ACSA”) was created as an authority under the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The ACSA’s articles of incorporation state that its purpose is to undertake projects for distributing and selling potable water to retail customers, collecting wastewater from retail customers, and delivering the wastewater to the Rivanna Water and Sewer Authority. *Amendment to the ACSA Articles of Incorporation, dated December 16, 1985; County Code § 2-701.*
  5. Economic Development Authority of Albemarle County, Virginia. The Economic Development Authority (“EDA”), officially identified as the “Economic Development Authority of Albemarle County, Virginia,” was created as an industrial development authority (now, an economic development authority) by ordinance adopted by the Board of Supervisors on May 12, 1976 pursuant to the Industrial Development and Revenue Bond Act (Virginia Code § 15.2-4900 *et seq.*). *County Code § 2-600.* The EDA has all of the powers of such an authority under the Act. The EDA operates in cooperation with the County pursuant to a Memorandum of Understanding and the Albemarle County Economic Development Strategic Plan, also known as Project ENABLE (Enabling a Better Life Economically). The functions of the EDA include promoting the economic development of the County as it is enabled to do pursuant to Virginia Code § 15.2-4900 *et seq.*, providing economic assistance to County businesses within the scope of its enabling authority, and providing any services related to any additional State or Federal assistance or services program either on its own or in its work with the Economic Development Office.
  6. Rivanna Solid Waste Authority. The Rivanna Solid Waste Authority (“RSWA”) was created on November 5, 1990 by the Solid Waste Organizational Agreement entered into between the County and the City of Charlottesville, together with a concurrent resolution of the Charlottesville City Council and the Albemarle County Board of Supervisors and the RSWA’s articles of incorporation, all pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RSWA’s articles of incorporation state that its purposes are to “develop a regional refuse collection and disposal system, as such terms are defined in Virginia Code Section 15.2-5101 of the Virginia Water and Waste Authorities Act, including development of systems and facilities for recycling, waste reduction and disposal alternatives with the ultimate goal of acquiring, financing, constructing, and/or operating and maintaining regional solid waste disposal areas, systems and facilities, all pursuant to the Virginia Water and Waste Authorities Act.” *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated November 6, 2009.*
  7. Rivanna Water and Sewer Authority. The Rivanna Water and Sewer Authority (“RWSA”) was created on June 7, 1972 by the City of Charlottesville and the County pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RWSA’s articles of incorporation state that its purpose “is to acquire, finance, construct, operate and maintain facilities for developing a supply of potable water for the City of Charlottesville and Albemarle County and for the abatement of pollution resulting from sewage in the Rivanna River Basin, by the impoundment, treatment and transmission of potable water and the interception, treatment and discharge of wastewater, together with all appurtenant equipment and appliances necessary or suitable therefore and all properties, rights, easements or franchises relating thereto and deemed necessary or convenient for their operations. *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated May 5, 2017.* The RWSA operates five reservoirs at Ragged Mountain, Sugar Hollow, South Fork Rivanna, Totier Creek, Beaver Creek, along with five water treatment plants, and wastewater treatment plants.
- D. Public bodies existing under joint exercise of powers agreements. The following public bodies exist under joint exercise of powers agreements, and they and their boards exercise essential governmental functions:

1. Charlottesville-Albemarle Convention and Visitors' Bureau. The Charlottesville-Albemarle Convention and Visitors' Bureau ("CACVB") has existed in various forms for more than 20 years. Its current iteration was established by the County and the City on June 28, 2018, and it became effective July 1, 2018. Individually, both the County and the City are enabled by Virginia Code § 15.2-940 to "expend funds from the locally derived revenues of the locality." The purpose of the CACVB is to jointly promote the resources and advantages of the County and the City, including marketing of tourism and initiatives that attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County. *Second Amended Agreement to Operate a Joint Convention and Visitors' Bureau, dated October 2, 2019*. The County and the City contribute funds to support the CACVB's facilities and operations from their respective transient occupancy tax revenues. During the COVID-19 disaster, the CACVB also supports the County's hospitality business sector.
  2. Emergency Communications Center. The Emergency Communications Center ("ECC") was established by the County, the City of Charlottesville, and the University of Virginia on January 20, 1984. The ECC was established to provide a centralized dispatching facility for the respective parties' law enforcement and emergency service providers operating in the County and the City, and to provide a 911 emergency system. *Agreement By and Among the County of Albemarle, Virginia, the City of Charlottesville, Virginia, and the Rector and Visitors of the University of Virginia, dated January 20, 1984*. The ECC also provides coordination and assistance in emergency management for the Emergency Operations Plan adopted by its participating agencies.
- E. Jefferson Madison Regional Library. The Jefferson Madison Regional Library ("JMRL") system was established by an agreement entered into on August 11, 1972 (the current agreement is dated January 1, 2013) among the County, the City of Charlottesville, and the counties of Greene, Louisa, and Nelson pursuant to the enabling authority in Virginia Code § 42.1-37 *et seq.* JMRL provides essential governmental functions by maintaining a regional free library system pursuant to the terms of the agreement.
- F. Other public bodies and offices. Other public bodies and offices of the County also exercise essential governmental functions. They include, but are not limited to, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, any advisory bodies established by the Board of Supervisors, and the office of the General Registrar.

## **Sec. 5. Succession**

This section establishes the procedures to fill vacancies in elected and appointed offices arising during the COVID-19 disaster in order to ensure the continuity of County government. This section also applies to Albemarle County Public Schools and may be applied by the authorities and the other public bodies identified in Section 4 to the extent practicable. The Albemarle County School Board, in its discretion, may establish by resolution its own procedures to fill vacancies in elected offices arising during the COVID-19 disaster.

- A. Elected officials. When a vacancy occurs either on the Board of Supervisors or the Albemarle County School Board, the vacancy shall be filled according to the procedure generally established by Virginia Code § 24.2-228, as modified below:
1. Appointment by remaining members. When a vacancy occurs, the remaining members of the Board, within 45 days of the office becoming vacant, may appoint a qualified voter of the magisterial district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members of the Board cannot agree, or do not act, the vacancy must be filled by judicial appointment as provided in Virginia Code § 24.2-227.
  2. If a qualified voter from the magisterial district cannot be found. If the Board is unable to find and appoint a qualified voter from the magisterial district in which the vacancy exists after a reasonable effort, it may appoint a qualified voter from any other magisterial district.
  3. Duration of appointment. The person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to Virginia Code § 24.2-682 and the person so elected has qualified.

4. Effect of being appointed. Any person appointed to fill a vacancy holds office the same way as an elected person, is authorized to exercise all powers of the elected office, and this includes having that person's vote be considered the vote of an elected member.
  5. Majority of seats are vacant. If four or more seats on the Board are vacant, the vacancies must be filled by judicial appointments as provided in Virginia Code § 24.2-227.
  6. Holding over. If, during the COVID-19 disaster, a general election cannot be held, any member whose term expires may continue to hold over in office until a successor is appointed.
  7. Temporary vacancies. If a member is unable to participate in any meeting of the Board for more than 30 days and the number of members available to meet and act falls below that required for a quorum as provided in Section 6, and action by the Board is determined to be essential to continue the functions of the County or the Albemarle County Public Schools, as applicable, the remaining members may, in their discretion, appoint a qualified voter to temporarily exercise the powers and duties of the office until the permanent member is able to participate.
- B. Appointed officers. This subsection applies to the County government and not to Albemarle County Public Schools, which is recommended to establish its own succession plan for appointed officers.
1. If the County Executive and the Deputy County Executive are incapacitated. If the County Executive and the Deputy County Executive are both incapacitated such that they cannot perform the duties of the County Executive, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Executive.
  2. If the County Attorney and the Deputy County Attorney are incapacitated. If the County Attorney and the Deputy County Attorney are incapacitated such that they cannot perform the duties of the County Attorney, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Attorney.
  3. If the Clerk and the Senior Deputy Clerk are incapacitated. If the County Clerk and the Senior Deputy County Clerk are incapacitated such that they cannot perform the duties of the County Clerk, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Clerk of the Board of Supervisors.
  4. If any department head and deputy department head or equivalent position are incapacitated. If any department head and any deputy department head, or any equivalent position are incapacitated, the County Executive may appoint any person he deems qualified to serve as the acting department head.

## **Sec. 6. Public Meetings**

This section establishes the procedures for public meetings of the Board of Supervisors, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, and any advisory bodies established by the Board of Supervisors. These procedures may also be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4 to the extent this section is practicable for their public bodies. These procedures may be used during the COVID-19 disaster in order to ensure the continuity of government. References to the "Board" and the "Supervisors" in this section should be modified as appropriate when applied by public bodies other than the Board of Supervisors.

- A. The need to change how meetings are conducted during COVID-19. The Board fully endorses the statements in Virginia Code § 2.2-3700, which is the introductory section of the Virginia Freedom of Information Act, that the "affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government," and that unless an exception to open meetings is invoked "every meeting shall be open to the public." The regulations in this section for conducting public meetings are necessary because the COVID-19 disaster makes it unsafe for public bodies, as well as their staff and the public, to physically assemble in one location or to conduct meetings in accordance with normal practices and procedures. Although the regulations in this section establish rules for conducting public meetings that are different from normal practices and procedures, the regulations are intended and designed to continue the policies expressed in Virginia Code § 2.2-3700.

- B. Meeting format. Any meeting or activity that requires the Board to physically assemble may be held through real time electronic means (including audio, telephonic, video, or any other practical electronic medium) without a quorum physically assembled in one location. Nonetheless, this ordinance does not prohibit the Board from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration, and that doing so does not violate any order or declaration from Governor Ralph S. Northam or the State Health Commissioner. In addition:
1. If the Board will physically assemble, but the public will not be allowed to attend. Subsections (C), (D), (E), and (F) apply to any meeting where the Board will physically assemble to conduct the meeting but the public is not allowed to attend for public health and safety reasons.
  2. If the Board will physically assemble and the public will be allowed to attend. The general laws for conducting a public meeting, including those in Virginia Code §§ 2.2-3700 *et seq.* and 15.2-1400 *et seq.*, and the Board's Rules of Procedure, apply to any meeting where the Board will physically assemble and the public will be allowed to attend, provided that any applicable public health and safety measures are followed.
- C. Agenda. The agenda for an electronic meeting should: (1) state that the meeting is being held pursuant to this ordinance; and (2) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items on the agenda neither makes the electronic meeting illegal nor invalidates any action taken at the meeting.
- D. Notice. Before holding a regular electronic meeting, the Board of Supervisors must provide public notice at least three days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment. The notice must: (1) state that the meeting is being held pursuant to this ordinance; and (2) identify the opportunities for the public to access and participate in the electronic meeting. Any notice provided before the effective date of this ordinance, for a public meeting or public hearing after its effective date, that complied with the law when it was given but which is inconsistent with this ordinance, including with respect to the location of the meeting or public hearing, is deemed to satisfy any notice requirements and no action taken at that meeting or regarding any public hearing is invalid for that reason.
- E. Statement by the Chair. At the beginning of the meeting, the Chair should: (1) state that the meeting is being held pursuant to and in compliance with this ordinance; (2) identify the Supervisors physically and electronically present; and (3) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items neither makes the electronic meeting illegal nor invalidates any action taken at the meeting.
- F. Public participation. Any electronic meeting must be open to electronic participation by the public and closed to in-person participation by the public. In addition, for any matters requiring a public hearing, public comment may be solicited by electronic means in advance and must also be solicited through telephonic or other electronic means during the electronic meeting. The public comments received before the electronic meeting will be provided to the Supervisors at or before the electronic meeting and made part of the record for the meeting.
- G. Postponing certain matters. Any non-emergency public hearing and action item on the Board's agenda may be postponed to a later date provided that public notice is given so that members of the public are aware of how and when to present their views.
- H. Quorum. If three Supervisors are unable to participate in a public meeting because each of those three Supervisors is sick from the COVID-19 virus, and at least one temporary vacancy has not been filled pursuant to Section 5, a quorum of the Board of Supervisors to conduct business is reduced from four to three. If four or more Supervisors are unable to participate in a public meeting for the reasons stated above, the only action that the participating Supervisors may take is to adjourn the meeting until the temporary vacancies can be filled.
- I. Voting. State laws, as may be implemented in the County Code, may impose different voting requirements.
1. Vote required to act. Although most actions require the majority vote of those Supervisors present and voting, there are some actions that require a supermajority vote, the majority vote of the elected members, or impose some other requirement. These different voting requirements continue to apply unless: (1) one or more Supervisors is sick from the COVID-19 virus; (2) the sick Supervisors are unable to participate in the public meeting; (3) the

temporary vacancy has not been filled pursuant to Section 5 and the voting requirement imposed by State law or the County Code cannot be complied with; and (4) a vote is required by the Board at that meeting in order to ensure the continuity of government. If all four of those prerequisites are satisfied, the Board may approve the matter on the affirmative vote of those Supervisors present and voting. Following are examples of different voting requirements for certain matters, and how they are addressed if the four prerequisites are satisfied:

- a. When the affirmative vote of the elected members is required. Article VII, Section 7 of the Constitution of Virginia and its statutory companion in Virginia Code § 15.2-1428 require, among other things, the affirmative vote of a majority of all members elected to the governing body on certain matters. As provided in Section 5(A)(4), and based on language in Virginia Code § 24.2-228, any appointed Supervisor's vote is considered to be the vote of an elected Supervisor.
  - b. When a supermajority vote is required. Virginia Code § 15.2-2405 requires a two-thirds vote of the elected Supervisors to impose taxes in a service district. The Board is unique because it is a six-member Board and, for it, a majority vote is also a supermajority when a two-thirds vote is required. There are no service districts in the County. If another matter requires a supermajority under Virginia law, the Board may approve a matter by a majority of the Supervisors participating and voting.
  - c. When the vote by those present and voting is required. The requirement that a matter be approved by a majority vote of those present and voting is common, one example being found in Virginia Code § 15.2-1427(A). For the purposes of this voting requirement, any Supervisor who is participating in the matter is "present."
2. Roll call vote. A roll call vote should be taken on all matters requiring a vote and must be taken on any action on an ordinance and any other matter requiring a roll call vote pursuant to State or Federal law.
- J. Closed meetings. In addition to the purposes for the Board to have a closed meeting in Virginia Code § 2.2-3711(A), the Board may have a closed meeting to discuss plans to protect the public health and safety as it relates to the COVID-19 disaster and the discussion may include briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to those matters, to the extent that this purpose is not otherwise covered by Virginia Code § 2.2-3711(A)(19) or any other purpose for a closed meeting in Virginia Code § 2.2-3711(A).
- K. Minutes. The minutes of all electronic meetings must comply with the requirements of Virginia Code § 2.2-3707(H), identify how the meeting was conducted, and the Supervisors participating, and specify what actions were taken at the meeting.
- L. Recordings. An audio recording of any electronic meeting must be made and retained as provided by law. This requirement does not apply to any public body, such as an advisory committee, that is not required to have minutes of its public meetings.
- M. Other requirements not modified. Any requirements for conducting a public meeting in Virginia Code §§ 2.2-3700 *et seq.* and 15.2-1400 *et seq.* that are not modified by this section, including those pertaining to special and emergency meetings, apply to conducting a public meeting.
- N. Alternative authority. If Section 6 is determined to be unconstitutional or invalid by a valid judgment or decree of a court of competent jurisdiction, the authority for public bodies to meet by electronic communication means conferred by the budget amendments in HB 29 and HB 30 of the Commonwealth of Virginia's 2020-2022 biennium budget is deemed to apply, as applicable, on and after May 21, 2020.

## **Sec. 7. Deadlines**

This section applies to the County government. State law and the County Code impose many deadlines by which the County, Board of Supervisors, and other public bodies must act. The following deadlines are extended, with the proviso that the Board of Supervisors and the County will endeavor to the extent practicable to meet the deadlines established by State law and the County Code. Subsections (D), (E), and (F) may be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4.

- A. The tax rates. It is the intention of the Board to meet all of the deadlines established by State law to fix the tax rates. However, the May 15 deadline established by Virginia Code § 58.1-3321(E) for fixing the real estate tax rate, and the June 30 deadline to fix other tax rates established by Virginia Code § 58.1-3001, are extended indefinitely as may be necessary in order to allow the tax rates to be fixed.
- B. The budget. It is the intention of the Board to meet all of the deadlines established by State law to approve the County's annual budget. However, the May 15 deadline established by Virginia Code § 22.1-93 requiring the Board to "prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county . . . of the estimates of state funds, whichever shall later occur," and the July 1 deadline to approve the budget established by Virginia Code § 15.2-2503 ("the date on which the fiscal year begins"), are extended indefinitely as may be necessary in order to approve the County's annual budget.
- C. Land use applications. Any deadline established by State law or the County Code for action by the County, the Board of Supervisors, or any County public body within the scope of Chapter 14, Subdivision of Land, Chapter 17, Water Protection, or Chapter 18, Zoning, is extended indefinitely as may be necessary to allow any public body or County staff to act. Any provision in State law or the County Code to deem the failure of any County action to be timely taken to be approval of the pending matter is of no force or effect.
- D. Requests for records under the Virginia Freedom of Information Act. Any deadline by which a response to a request for records under the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*) is due, and the time for which the records sought may be inspected or produced, are extended indefinitely as may be necessary in order to respond to the request or allow any records to be inspected or produced.
- E. Hold harmless. The failure to meet any deadline imposed by State law, including the Prompt Payment Act, or the County Code does not constitute a default, violation, approval, recommendation or otherwise.
- F. Other deadlines may be extended. Any other deadlines not extended by this section may be extended by a separate ordinance.

## **Sec. 8. Procurement**

This section pertains to procuring goods and services by the County. This section also may be applied by the Albemarle County Public Schools, the authorities, and the other public entities identified in Section 4 that do their own procurements, to the extent this section is practicable for their public entities. References to the "County Executive" and other County-specific references in subsections (A) and (C) should be modified as appropriate when this section is applied by public entities other than the County.

- A. Authority to modify requirements or procedures for procurements not directly related to the COVID-19 disaster. The County Executive is authorized to modify any requirement or procedure imposed pursuant to the Virginia Public Procurement Act (Virginia Code § 2.2-4300 *et seq.*), the Albemarle County Purchasing Manual, or by custom, that requires or allows any procurement-related documents to be hand-delivered or delivered by a carrier to the County Office Building, or that requires or allows bidders and vendors to physically assemble for bid openings and other steps in the procurement process. Requirements or procedures may be modified as follows:
  1. Documents. Any modification pertaining to documents should require electronic documents to be submitted by any person submitting an inquiry, or responding to a request for information, request for proposals, an invitation for bids, or any other solicitation.
  2. Physical assemblies. Any modification pertaining to physical assemblies should require any steps in the procurement process by which people would otherwise physically assemble to participate through electronic communication means or to be conducted in a location that complies with any County, State, and Federal orders or declarations regarding gatherings.
- B. Authority of the County Executive for COVID-19 disaster related procurements is unaffected. Subsection (A) does not affect the County Executive, acting as the Director of Emergency Management pursuant to Virginia Code § 44-146.21(C), to "enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, and

proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and other expenditures of public funds, provided such funds in excess of appropriations in the current approved budget, unobligated, are available.”

- C. Notice. Modifications to requirements or procedures made under this section do not need to be published in the Albemarle County Purchasing Manual to be effective. Notice reasonably calculated to make the public aware of these changes, including on the Albemarle County Purchasing Department’s website, is sufficient.

**Sec 9. Duration**

This ordinance is effective immediately and expires not later than six months after the COVID-19 disaster ends. The COVID-19 disaster will be deemed to be ended when the Board of Supervisors adopts a resolution ending the declared local emergency.

**Sec. 10. Method for Resuming Normal Governmental Authority and Operations**

- A. When normal governmental authority and operations will resume. Normal governmental authority and operations will resume after the County Executive, acting as the Director of Emergency Management, reports to the Board of Supervisors that all emergency actions that can be taken by the County have been taken, the Board ends the local emergency, the Governor ends the state of emergency, and the State Health Commissioner advises that it is safe for people to once again gather in public so that normal governmental authority and operations, including normal public meetings (or words to that effect), may be re-established.
- B. Method to resume normal governmental authority. When the events in subsection (A) have occurred, normal government authority will resume as follows, subject to further amendment to this section as may be necessary:
1. Succession. The appointment of any person to the Board pursuant to Section 5(A)(2) or 5(A)(7) terminates and any resulting vacancy will be filled as provided by law.
  2. Public meetings. Section 6 will no longer apply.
  3. Deadlines. Section 7 will no longer apply, subject to the County Executive establishing revised guidelines to allow for a reasonable transition period back to full normal County operation.
  4. Procurement. Section 8 will no longer apply to any steps in the procurement process that have not already been completed or been substantially completed.

**Sec. 11. Effect of this Ordinance on the Powers of the Director of Emergency Management**

This ordinance does not affect the powers of the County Executive, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster. The intention of the Board of Supervisors is that this ordinance and any powers exercised by the Director complement one another.

**Sec. 12. Effect of this Ordinance on Albemarle County Courts and Constitutional Officers**

This ordinance does not apply to the Albemarle County Circuit Court, General District Court, or Juvenile and Domestic Relations District Court. This ordinance also does not apply to the offices of the Albemarle County Clerk of the Circuit Court, Commonwealth’s Attorney, or Sheriff.

**Sec. 13. This Ordinance Supersedes Prior Continuity of Government Ordinances; Exception**

This ordinance supersedes any previous continuity of government ordinance adopted by the Board of Supervisors, including the emergency ordinance for continuity of government, Ordinance No. 20-E(2) adopted by the Board of Supervisors on March 27, 2020, provided that Section 7(C) of that ordinance pertaining to certain deadlines related to the tax on personal property employed in a trade or business continues until Ordinance No. 20-E(2) expires or the subject matter of Section 7(C) is superseded by another ordinance.

**Sec. 14. Severability**



It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

**Sec. 15. Liberal Construction**

Because its purpose is to ensure the continuity of government, this ordinance should be liberally construed to accomplish this purpose and to facilitate the performance of the governmental functions and related services determined by the Board of Supervisors, either expressed or implied, to be essential.

**State law reference – Va. Code § 15.2-1413.**