

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 6, 2016, at 1:00 p.m., Lane Auditorium, Second Floor, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Norman G. Dill, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, Mr. Rick Randolph, and Mr. Brad L. Sheffield.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 1:01 p.m., by the Chair, Ms. Palmer.

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

Agenda Item No. 4. Adoption of Final Agenda.

Motion was offered by Ms. Mallek to adopt the final agenda. Ms. McKeel **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

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

Mr. Sheffield stated his 12-year-old daughter has been watching and listening to the video-streaming of the meetings, and like other constituents expressed that Board members need to sit up in their chairs and speak directly into their microphones.

Ms. Mallek announced that Crozet Tennis Day will be held April 14, 2016 and the third annual "Racquets for First Graders" will take place at Crozet Elementary School from 12:15 p.m. to 1:15 p.m., and this year 57 first graders will be given racquets and balls to keep. She said that in the afternoon, the girls' tennis team at Western Albemarle will have a tennis match at 5:00 p.m., and the Quick Start tennis organization has worked to have the young children at Brownsville and Crozet Elementary participate in lots of collaborative experiences with the varsity tennis girls at Western, who were the state champions last year. Ms. Mallek noted that it is a wonderful community-building exercise, and the "Little Warriors" tennis program at Western will continue this spring, which includes the Brownsville Elementary after-school tennis program with members of the Western team. She said there will be expansions to other schools in the summer of 2017 to Western Albemarle, Darden Towe, Jack Jouett, and Sutherland, where they will be planning joint tennis programs with the Parks & Recreation Department. Ms. Mallek stated this is just an example of how the community benefits so much from private individuals who organize themselves to add to the dimensions of what they can offer to children, and he thanked the Quick Start program and Linda Harrill for doing this.

Mr. Randolph reminded people that May 3rd is Election Day in Scottsville with three candidates running for town mayor, and the polls are open from 6 a.m. to 7 p.m.

Ms. McKeel reported that Western Albemarle, Albemarle High School, Monticello High School and Charlottesville High School have been placed in the top 5% of national rankings of "smartest schools," stating that the rankings are based on a number of factors including test scores, input from parents, academic performance, health and safety data, fitness, extracurricular programs, resources and teaching excellence.

Ms. Mallek reported that at the recent MPO meeting, Karen Davis of JAUNT had announced that JAUNT had a new one-day passenger record of 1,209 in one day, up 60 passengers from the previous record, which is a great example of the kind of service they are providing.

Ms. Mallek reported that there will be a 50th Anniversary and rededication of the Dogwood Vietnam Memorial at McIntire Park East on Friday, April 22 beginning at 10:45 a.m., and she noted that this is the oldest Vietnam memorial in the nation.

Ms. Palmer reported that the Cove Garden Ruritans will host a budget talk this Thursday, April 7 at 7:00 p.m. at the North Garden Fire Station, and Mr. Foley and Dean Tistadt will speak about the budget.

Agenda Item No. 6. Recognitions.

Item No. 6a. Resolution recognizing Wayne Cilimberg for service to the County.

Ms. Mallek read the following resolution recognizing Wayne Cilimberg

RESOLUTION OF APPRECIATION

- WHEREAS,** Vincent Wayne Cilimberg has faithfully served Albemarle County for 30 years, including 27 years as Director of Planning; and
- WHEREAS,** Wayne has served as the Secretary for the Planning Commission, steadfastly providing professional support at countless meetings over the last 27 years; and
- WHEREAS,** Wayne's many contributions to the community and his commitment to the vision of Albemarle County have promoted a proactive community planning effort that involves all stakeholders in a consensus building process and ensures that new development reflects the community's vision; and
- WHEREAS,** Wayne led development and adoption of three comprehensive plans (from 1989 to 2015) and numerous amendments focused on land use, rural areas, natural resource preservation, and the Neighborhood Model, (which received an honor award in design from the American Institute of Architects in 2002) and Master Plans for the County's urban neighborhoods, communities, and villages; and
- WHEREAS,** Wayne provided leadership in the development and adoption of proactive conservation programs/initiatives that protect important resources and provide for high quality urban communities; and
- WHEREAS,** Wayne provided leadership in the development of key policies for the County including affordable housing, economic development, biodiversity, wireless facilities, dark skies, and sustainability; and
- WHEREAS,** Wayne provided support and service to numerous citizen advisory committees including the Development Initiatives Steering Committee, the Natural Heritage Committee, the Public Recreation Facilities Authority, Scenic 250, the Historic Preservation Committee, and the Citizen Advisory Committees; and
- WHEREAS,** Wayne provided leadership and guidance for the larger community through the Planning and Coordination Council, Thomas Jefferson Planning District Commission, and the Metropolitan Planning Organization, which assured cooperative planning procedures among the City, County and University; and
- WHEREAS,** Wayne has diligently worked to advance good planning practices throughout the Commonwealth, including serving on the boards and executive committees of the Virginia Chapter of the American Planning Association and Rural Planning Caucus;
- NOW, THEREFORE, BE IT RESOLVED** by the Albemarle County Board of Supervisors that Vincent Wayne Cilimberg is hereby honored and commended for his many years of exceptional service to the County of Albemarle, the Department of Community Development, Albemarle County residents, the broader community in which we live, and the entire Commonwealth of Virginia with knowledge that Albemarle County is strengthened and distinguished by Wayne's leadership, dedication, commitment, professionalism and compassion in meeting community needs.

Meeting attendees gave Mr. Cilimberg a standing ovation.

Mr. Cilimberg stated that he is humbled and honored, and said that Albemarle is a fabulous place to do what he did, primarily because of the people, including the community at large, the Board of Supervisors, Planning Commission and staff. He said the trait they all share is that they care about what we do, and that is the most rewarding part of the job.

Item No. 6b. Proclamation recognizing May 1 through May 7, 2016, as Drinking Water Week.

Ms. Palmer asked Mr. Gary O'Connell to come forward. She then read the following proclamation recognizing Drinking Water Week, and offered **motion** to adopt same. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and McKeel.
NAYS: None.

PROCLAMATION

DRINKING WATER WEEK

WHEREAS, water is our most valuable natural resource; and

WHEREAS, only tap water delivers public health protection, fire protection, support for our economy and the quality of life we enjoy; and

WHEREAS, any measure of a successful society – low mortality rates, economic growth and diversity, productivity, and public safety – are in some way related to access to safe water; and

WHEREAS, we are all stewards of the water infrastructure upon which future generations depend; and

WHEREAS, each citizen of our city is called upon to help protect our source waters from pollution, to practice water conservation, and to get involved in local water issues by getting to know their water;

NOW, THEREFORE, BE IT RESOLVED, that we the Albemarle County Board of Supervisors, do hereby proclaim

**May 1-7, 2016
as
Drinking Water Week**

Mr. O’Connell, Albemarle County Service Authority Executive Director, accepted the recognition and stated this is the 35th year of a national drinking water week campaign and stating that there are a number of events, with the most significant one to be held at the Ragged Mountain Dam.

Item No. 6c. Proclamation recognizing April 10, 2016 as “Tech. Sgt. Frank Peregoy Day”.

Ms. Mallek read the following proclamation in recognition of Tech. Sgt. Frank Peregoy Day, and offered **motion** to adopt same. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

PROCLAMATION

Whereas, Technical Sergeant Frank Dabney Peregoy, born in Central Virginia on April 10, 1916, living in the Proffit area of Albemarle County, was a member of one of our area’s most famous World War II-era fighting commands: “The Monticello Guard,” Company K, 116th Infantry, 29th Division; and

Whereas, Peregoy, as a member of said unit, was awarded the Soldier’s Medal—America’s highest award for non-combat gallantry—on June 17, 1942, for saving the life of a fellow soldier; and

Whereas, Peregoy was awarded the Medal of Honor posthumously on June 4, 1945, for singlehandedly attacking and defeating a strongly held enemy position at Grandecamp, France, on D-Day plus two, killing 8 enemy soldiers and capturing 35 including machine gunners; and

Whereas, Peregoy is one of only two Central Virginia World War II recipients of the Medal of Honor; and

Whereas, Peregoy’s name is misspelled as “P-e-r-e-g-o-r-y” on numerous historical markers, buildings, and, sadly, on his gravestone in the U.S. cemetery in St.-Laurent-Sur-Mer, France;

NOW, THEREFORE, BE IT RESOLVED, that we the Albemarle County Board of Supervisors, do hereby declare **April 10, 2016**, “Tech. Sgt. Frank Peregoy Day,” and support a citizen campaign to correct the misinformation.

Ms. Mallek said that Mr. Rick Britton and Joanne Peregoy are present.

Mr. Britton accepted the honor on behalf of the Peregoy family. Ms. Mallek stated there will be a program at the Senior Center the following Sunday with more information about Sgt. Peregoy’s life.

Mr. Foley noted that the Board had not adopted the resolution for Mr. Cilimberg. He added that there will be a retirement party for him on April 28.

Ms. Mallek then offered **motion** to adopt the resolution as set out above. Mr. Sheffield **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Item No. 6d. Proclamation recognizing April 3-9, 2016 as Local Government Education Week and the Month of April as Local Government Month.

Ms. McKeel stated that it is important to educate young people and recognize the importance of local government service work. She then read the following proclamation recognizing Local Government Education Week and Local Government Month, and offered **motion** to adopt same. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

PROCLAMATION

April 3 – 9, 2016 as Local Government Education Week and the month of April as Local Government Month

WHEREAS, the nation's 3,069 counties serving more than 300 million Americans provide essential services to create healthy, safe, economically-resilient, and engaged communities; and

WHEREAS, in celebration and appreciation of the work performed by local governments, the National Association of Counties recognizes April as National County Government Month and the Virginia General Assembly designated the first week in April as Local Government Education Week in Virginia; and

WHEREAS, Albemarle County takes great pride in our responsibility to protect and enhance the health, well-being and safety of our residents in efficient and cost-effective ways; and

WHEREAS, in order to remain healthy, vibrant, safe, and economically competitive, Albemarle County provides public health, justice, emergency management and economic services that play a key role in everything from residents' daily health to disaster response; and

WHEREAS, Albemarle County encourages active and meaningful community engagement in local government activities through partnerships like the Community Advisory Committees, Neighborhood Leadership Summit and Learning Series, and community policy groups;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors does hereby proclaim April 3 – 9, 2016 **Local Government Education Week** and the month of April as **Local Government Month**. The Board of Supervisors encourages all County officials, employees, schools and residents to participate in the promotion of civic education and engagement in an effort to educate citizens about their local government, strengthen the sense of community, and engage the next generation of local government managers.

Ms. Lee Catlin, Assistant County Executive, then presented a video production featuring Albemarle County staff.

Ms. Palmer asked that staff stand and be recognized by the Board and meeting attendees.

Ms. Mallek noted that on May 19 from 11:00 a.m. to 1:00 p.m. is "Countypalooza," and stated that it is an event that should not be missed.

Mr. Foley thanked the Board for the recognition, on behalf of the County workforce.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Bob Garland addressed the Board, stating that he is a resident of Canterbury Hills in the Jack Jouett District and encouraged the Board to adopt the Virginia Maintenance Code (VMC), which requires property owners to reasonably maintain structures on their properties. Mr. Garland said that for decades Albemarle County has enacted planning policies which encourages residential development in growth areas while neglecting maintenance and infrastructure improvements in the existing older neighborhoods, especially those in the urban ring. He stated that he lives in one of those neighborhoods and has been actively involved in its neighborhood association, which strives to maintain the appearance, safety and desirability of that neighborhood. Mr. Garland said they have done many things to accomplish that, including cleaning up the streets at Barracks Road for over 20 years in the Adopt-A-Highway program, erecting attractive signs at the entrances to neighborhoods, landscaping all the cul-de-sacs, running a Neighborhood Watch program, encouraging property maintenance, removing junk cars, conducting trash pickups, and a host of other activities to ensure that the neighborhood remains a desirable place to live. He stated the association has been doing many of the things that have historically been done by various governmental entities, including Albemarle County, and because they have no protective covenants, they depend on county ordinances to protect the majority of residents from the sins of a few. Mr. Garland stated that the time has come when they need the Board's help to ensure that his neighborhood and

others in the County do not deteriorate further. He referenced pictures presented showing a home that at first does not look too bad, but upon closer inspection has clearly been abandoned and is unsafe for occupancy, with the roof having several holes, rainwater having severely damaged the interior, a falling tree resting on the roof, and the back deck obviously not safe. Mr. Garland said that while this is the worst example in the neighborhood, there are other examples of abandoned properties on Woodhurst Road and Barracks Road and a handful of other occupied homes where property maintenance is not a high priority. He stated that he doubts any Board member would want to wake up every morning and look off their front porch 140 feet across the road or look out the side window 25 feet next door and see any of these properties. Mr. Garland commented if this is not enough to convince them that it is way past time to protect the values and preserve the tax base for homes in the urban area, he is not sure what else he can do. He noted that Ms. McKeel heads up the neighborhood's Adopt-A-Highway program.

Mr. Morgan Butler of the Southern Environmental Law Center addressed the Board and stated that the SELC wants to offer some thoughts on transportation priorities and said the Board will be considering the next set of projects under House Bill 2. Mr. Butler stated that County staff has developed a recommended list of seven such projects, one of which was described as having two phases, paving a portion of Rio Mills Road and connecting it to the new Berkmar Drive Extended, and the second phase extending Ashwood Boulevard west from Route 29 so it connects to Berkmar Drive Extended. He said the SELC's understanding is that only the first phase will be submitted for scoring in the upcoming HB2 cycle, and the second phase will not be submitted this year. Mr. Butler stated the SELC agrees with holding off on submitting the phase two, and while they support creating connections between Berkmar Drive and Route 29, the Places 29 Master Plan shows several of them. He stated each of the possible locations has its own unique benefits and drawbacks, including some that will affect how well they score under HB2, and it is well worth exploring these differences before deciding which to submit for scoring. Mr. Butler emphasized the SELC feels the County needs to be very cautious about creating new vehicular connections between Berkmar and Route 29 outside of the development areas, such as one at Ashwood Boulevard. He said that such connections will create tremendous pressure for changing land use plans and approving unplanned development, which in turn will undermine the expected capacity of Berkmar Extended. Mr. Butler stated that in the short term, Ashwood may be a great location for a pedestrian and bicycle connection to Berkmar, but there is a real question about whether it should be the first in a vehicular connection it pursues, and the different options need to be compared with public input sought before an application is submitted. He stated the SELC urges the Board to follow what staff seems to be recommending in terms of keeping the Ashwood connection off the list of upcoming HB2 applications so that the necessary analysis and comparisons can be done. Mr. Butler also expressed his gratitude to Mr. Cilimberg, not just for his service to the County and the larger community, but for the respect he has shown for all sides of the issue and the people who voice them. Mr. Butler stated the County is not just losing Mr. Cilimberg's institutional knowledge and history, it is losing one of its most skilled and considerate diplomats, and said that he has learned some valuable lessons from Mr. Cilimberg and will miss working with him.

Agenda Item No. 8. Consent Agenda.

(Discussion: Mr. Sheffield and Mr. Dill stated that they needed to pull their assigned minutes.

Referring to Item 8.5, Ms. Mallek said that she has a question about the changes in the noise ordinance standards from 10:00 p.m. to 7:00 a.m., and said the second sentence says, "This amendment would not prohibit the work from being performed outside those hours but only make it subject to noise standards," and it seems like it should be the opposite.

Mr. Davis agreed that this is the intent, the activities are not prohibited, but they have to meet the decibel noise standards during that time, and he confirmed that means only at night.)

Motion was then offered by Ms. Mallek to approve Item 8.1 (as read) through Item 8.6, on the consent agenda. Ms. McKeel **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None

Item No. 8.1. Approval of Minutes: February 3 and March 1, 2016.

Mr. Sheffield pulled the minutes of February 3, 2016, pages 1-25 (end at Item #13), and carried them to the next meeting.

Mr. Randolph read the minutes of February 3, 2016, pages 25 (begin with Item #13) - end, and found them to be in order with a few typographical errors.

Mr. Dill pulled the minutes of March 1, 2016 and carried them to the next meeting.

By the above-recorded vote, the Board approved the minutes as read.

Item No. 8.2. Proposed Easements - East Rivanna Fire Station.

The executive summary forwarded to the Board states that staff has worked with the East Rivanna Volunteer Fire Company (ERVFC) to negotiate the sale of certain easements to Rivanna Village LLC (Rivanna Village) across a portion of the unused East Rivanna firehouse property (TMP 93A1-2), which is jointly owned by the County and the ERVFC. Rivanna Village is seeking construction, grading, drainage, stormwater management, trails and landscaping easements to serve its neighboring development.

The Fire Station property was acquired by proffer when the Glenmore Planned Development was approved in 1990. The six-acre parcel was proffered for a fire station and/or other public facilities. The ERVFC currently utilizes approximately 2.62 acres for the fire station, leaving a balance of 3.38 acres. The proposed easements affect approximately 1.355 acres around the perimeter of the site, but do not affect the existing building envelope at the center of the property, including approximately two acres potentially available for future development. The proposed easements are non-exclusive, and for the limited purposes of grading, drainage, stormwater management, trails and landscaping only. Therefore, the County and ERVFC will retain all other non-conflicting property rights within the easement areas. Staff is requesting Board authorization of a public hearing to consider the conveyance of these easements to Rivanna Village.

The attached proposed Agreement to Grant Easements (Attachment A) has been reviewed and approved by the ERVFC Board and Rivanna Village. Under the proposed Agreement, in exchange for the requested easements, and at its sole cost and expense, Rivanna Village would:

- a. Connect the East Rivanna Fire Station property to the public sewer system serving the Rivanna Village Property upon certain milestones;
- b. Connect the East Rivanna Fire Station property to the public water system serving the Rivanna Village Property upon certain milestones;
- c. Donate \$25,000 to the ERVFC to be used to purchase, upgrade, and detail an all-terrain utility vehicle designed and outfitted to serve as an emergency vehicle;
- d. Resurface the two existing asphalt parking lots on the East Rivanna Fire Station property, and to the extent that the resurfacing work costs less than \$50,000, complete exterior renovations to the East Rivanna Fire Station; and
- e. Coordinate with the ERVFC on site plan design issues that affect the East Rivanna Fire Station property to ensure continuous access to and from the East Rivanna Fire Station property, to ensure that drainage plans are appropriately designed, and to address other design issues.

The County Attorney's Office has reviewed and approved the proposed Agreement as to form. Virginia Code § 15.2-1800 requires that the Board hold a public hearing prior to conveying the interest in County-owned property.

Under the proposed contract, the ERVFC would receive \$25,000 in property (all-terrain emergency vehicle) and \$50,000 in improvements (parking lot resurfacing and possible exterior building renovations). With the subject property's six acres assessed at \$1,157,000, the \$75,000 offered equates to 28.7% of the full value of the 1.355 acres subject to the proposed easements.

Staff recommends that the Board schedule a public hearing on the proposed conveyance of these easements across the East Rivanna Fire Station property on May 4, 2016.

By the above-recorded vote, the Board scheduled a public hearing on the proposed conveyance of these easements across the East Rivanna Fire Station property on May 4, 2016.

Item No. 8.3. Approval of Underground Right-of-Way License Agreement.

The executive summary forwarded to the Board states that in 2006, Qwest Communications Corporation was granted a license by the County and the City of Charlottesville to install underground fiber optic facilities across a portion of Darden Towe Park. The facilities are exclusively for governmental use as a part of a Richmond to Charlottesville link. Darden Towe Park is jointly owned by the County and the City. The installation and initial operation was authorized by a five-year Underground Right-of-Way License Agreement that ran from 2006 to 2010. In 2011, the County and the City approved a new five-year license agreement that ran through the end of 2015. CenturyLink Communications LLC, the legal successor to Qwest, is now requesting a renewal of that license agreement. This new Agreement must be authorized by both the County and City.

CenturyLink Communications LLC is requesting the County and City to approve the renewal of an Underground Right-of-Way License Agreement permitting continued operation of fiber optic facilities across a portion of Darden Towe Park. The location of the fiber optic facilities does not interfere with park activities. CenturyLink agrees that if a conflict arises in the future, they will relocate the facilities at no expense to the County or City. Because of legal limitations placed on cities, the term of both the original Agreement and the proposed new Agreement is five years. The County and City are charging a fair market value annual fee for the license. The Director of Parks and Recreation has reviewed the request

and does not object to the proposal. The County Attorney has reviewed the proposed Agreement and finds that it addresses the County's legal issues and concerns.

This request has no budget impact. The proposed Agreement would continue to generate \$840.00 of revenue for the County in each year of the five year agreement. \$1,680.00 has been determined to be the total fair market value of the license, and the County would receive half of that amount.

Staff recommends that the Board adopt the attached Resolution (Attachment B) approving the Underground Right-of-Way License Agreement with Century Link Communications LLC for facilities at Darden Towe Park and authorizing the County executive to execute the Agreement after approval as to form and content by the County Attorney.

By the above-recorded vote, the Board adopted the following Resolution approving the Underground Right-of-Way License Agreement with Century Link Communications LLC for facilities at Darden Towe Park and authorized the County executive to execute the Agreement after approval as to form and content by the County Attorney.

**RESOLUTION TO APPROVE AN UNDERGROUND RIGHT-OF-WAY LICENSE AGREEMENT
WITH CENTURYLINK COMMUNICATIONS LLC FOR
UNDERGROUND FIBER OPTIC FACILITIES AT DARDEN TOWE PARK**

WHEREAS, the County and the City of Charlottesville entered into 5-year license agreements with Qwest Communications Corporation ("Qwest") in 2006 and in 2011 for Qwest's installation and maintenance of underground fiber optic facilities across a portion of Darden Towe Park, which is jointly owned by the County and the City; and

WHEREAS, the Board finds it is in the best interest of the County to enter into a new 5-year license agreement with CenturyLink Communications LLC, Qwest's legal successor, for the continued operation of the underground fiber optic facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the Underground Right-of-Way License Agreement with CenturyLink Communications LLC for underground fiber optic facilities at Darden Towe Park and authorizes the County Executive to execute the Agreement after approval as to form and content by the County Attorney.

UNDERGROUND RIGHT-OF-WAY LICENSE

Permission is hereby granted by the **CITY OF CHARLOTTESVILLE** and the **COUNTY OF ALBEMARLE**, political subdivisions of the Commonwealth of Virginia and the joint owners of the property that is subject to this License (hereinafter referred to as "Licensors") to **CENTURYLINK COMMUNICATIONS, LLC**, a limited liability company authorized to transact business in Virginia (hereinafter referred to as "Licensee") to make excavation into the real property owned by Licensors and as described herein, under the terms and conditions set forth in this License.

1. Term:

This License shall be valid for a period of five (5) years beginning January 1, 2016 and ending December 31, 2020, unless this License is terminated as provided herein.

2. Rights Not Exclusive:

Nothing contained in this License shall ever be held or construed to confer upon Licensee, its successors and / or assigns, exclusive rights or privileges of any nature whatsoever.

3. Conditions of Use:

a. Prior to beginning any work on the property subject to this License, Licensee shall submit detailed engineering drawings to the County of Albemarle for approval, and obtain from the County any permits or approvals that may be required by the County or any other governing authority for the installation of a total of 4,500 linear feet of fiber optic cable at the location more specifically described in section 4 herein. Licensee is further required, before beginning any excavation on the property described herein, to contact all applicable utility companies for location of buried cable, water or sewer services or mains, electric lines, gas lines, and the like. All construction allowed under this License shall be accomplished under the supervision and direction of the County Engineer, or such other person as the County of Albemarle may designate. Licensee shall not unnecessarily obstruct or impair traffic upon any street, road or other public way within Albemarle County and shall comply with all of the County's rules and regulations designed to prevent damage to trees and shrubbery that may be caused by its installation hereunder.

b. Upon making an opening in any portion of the property subject to this License for the purpose of laying, constructing, repairing and/or maintaining Licensee's System, Licensee shall, without unnecessary delay, replace and restore the same to its former condition as nearly as possible, and in full compliance with the provisions of the County of Albemarle's policies, rules, regulations and / or ordinances. Licensee shall re-sod disturbed grassed areas and replace all excavated areas to their original or better

condition in order to minimize the disruption of public property. Licensee shall, at its sole cost, repair paving cuts in a good workmanlike manner to specifications outlined by the County.

c. Licensee shall provide safe passageway for pedestrians and vehicles through, in and around the work site areas. Work shall be performed at night, if requested by the County, so as not to impede the regular use of Darden Towe Park. Licensee shall use directional boring in all areas where possible unless otherwise required or approved by the County of Albemarle. Licensee shall meet all local and State requirements for traffic control and notify the County at least 24 hours prior to the commencement of work or the accessing of conduit installed pursuant to this License, except in cases of emergency.

d. Licensee shall not cut or install any ditches or trenches within the root zone of any tree but rather shall bore under the same unless written permission to do otherwise is provided in advance by the County Engineer or his designee.

e. The work authorized by this License shall be the installation, repair, replacement and maintenance of two (2) two-inch (2") conduits containing fiber optic cable, as well as related other facilities and equipment (collectively, the "Facilities"). All such Facilities within Darden Towe Park shall be placed underground.

f. Licensee shall file with the County Engineer true and correct maps or plats of all existing and proposed installations and the types of equipment and facilities installed or constructed, properly identified and described as to the type of equipment and facility by appropriate symbols and marks and which shall include annotations of all public property, public ways, street, road and conduits where the work is to be undertaken. Maps shall be drawn in a scale and in such detail so as to allow proper review and interpretation by the County Engineer, and the same will be filed with the County not less than ten (10) working days before any excavation or installation of said cable or equipment or facilities commences.

g. If, at any time during the term of this Permit, Licensors shall determine, in their sole discretion, that the Facilities of Licensee installed pursuant to this License are in conflict with an intended use of Darden Towe Park by the City or County (and not, for example, to accommodate another private party or utility) and must be relocated, Licensee, upon reasonable notice from Licensors, shall remove, relay and relocate its Facilities at its own expense and within reasonable time schedules established by Licensors, to another location mutually agreeable to Licensors and Licensee. Should Licensee refuse or fail to remove its equipment or plant as provided for herein within 45 days after written notification, Licensors shall have the right to do such work or cause it to be done and the full cost thereof shall be chargeable to the Licensee, or in the alternative, to consider such failure by the Licensee to remove its equipment or plant as abandonment of all ownership rights in said property. Upon relocation, Licensee shall prepare at its own expense and provide to Licensors a revised survey plat that shows the new location of Licensee's wires, cables and equipment.

h. Licensee shall keep Licensors fully informed as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, operation and repair of Licensee's System installed hereunder. Licensee shall report to Licensors such other information relating to the Licensee as Licensors may reasonably request in writing. Licensee shall respond to such inquiries on a timely basis.

i. Licensee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of all applicable County codes, ordinances and regulations, and in such a manner that they will not interfere with any existing installations of the County or of a public utility serving the residents of the County of Albemarle or the City of Charlottesville.

4. Permit Specifications; Payment:

a. The right-of-way occupancy permitted under this License shall be approximately 4,500 linear feet of Licensee's System, to be installed in Darden Towe Park in the location shown on the attached survey plat prepared by Thomas B. Lincoln Land Surveyor, Inc., and dated January 6, 2006, revised February 10, 2006, a copy of which is attached to this License as Exhibit A.

b. The granting of this License is conditioned upon the payment by Licensee to Licensors of the annual sum of One Thousand, Six Hundred Eighty and 00/100 Dollars (\$1,680.00), which represents the fee for the placement and occupation of the facilities for approximately 4,500 linear feet of property in Albemarle County that is subject to this License. Annual payments shall be due and payable on or before January 10th of each year commencing for the year 2016 and shall be due and payable at a like date each year during the term of the Permit. In the event that Licensee's payments are not timely made, a ten percent (10%) surcharge shall be due and payable to Licensors. All payments by Licensee pursuant to this License shall be made to the County of Albemarle, as agent of the Licensors.

5. Safety Requirements:

a. Licensee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injury to the public or to constitute a nuisance. Licensee shall install such equipment and employ such personnel to maintain its facilities so as to assure efficient service, and shall have the equipment and personnel necessary to make repairs promptly.

b. Licensee shall install and maintain its System in accordance with the requirements of

applicable building codes and regulations of the County of Albemarle and the statutes and regulations of appropriate Federal and State agencies, including but not limited to the Federal Communications Commission and the U.S. Army Corps of Engineers, which may now be in effect or enacted, and in such a manner that will not interfere with any installations of the County of Albemarle or the City of Charlottesville or of any public utility serving residents of the County of Albemarle or the City of Charlottesville.

c. Licensee's System, wherever situated, or located, shall at all times be kept and maintained in a safe operating condition and in good order and repair.

6. Liability and Indemnification:

a. By acceptance of this License, Licensee agrees that it shall indemnify, protect, defend and hold forever harmless the Licensors, their elected officials, officers, agents, representatives and employees, and their successors, legal representatives and assigns, from any and all claims of every kind and nature whatsoever, and from liabilities, losses, costs, judgments, penalties, damages, and expenses, including reasonable attorney's fees and expenses of litigation incurred in the defense of any such claim arising out of or relating to the installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this License, including but not limited to claims for injury or death to any person or persons, or damages to any property, as may be incurred by or asserted against Licensors, or either of them, their elected officials, officers, agents, representatives and/or employees, directly or indirectly, by reason of the installation, operation or maintenance by the Licensee of the Licensee's System within the area subject to this License. Licensee shall pay, and by acceptance of this Permit, the Licensee specifically agrees that it will pay all damages and penalties which Licensors, or either of them, may legally be required to pay as a result of installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this Permit. These damages or penalties shall include all damages arising from the installation, operation or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Permit, and Licensors shall not be responsible in any manner for any damage to the System and which may be caused by Licensee or other persons regardless of the cause of damage. Notwithstanding the foregoing, Licensee shall not be required to indemnify, protect, defend or hold harmless Lensor(s) for claims arising out of or relating, in whole or in part, to the negligence or willful conduct of either or both Lensor(s).

b. Licensee shall maintain, and by its acceptance of this License, specifically agrees that it will provide throughout the term of the Permit, workers compensation insurance in such amounts of coverage as required by the Commonwealth of Virginia and liability insurance coverage with regard to all damages mentioned in subsection (a) above in the following minimum amounts, whichever is greater:

1. General Liability Insurance- \$1,000,000 per occurrence, \$2,000,000 aggregate limits. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. The County of Albemarle and City of Charlottesville are to be included as additional insureds with respect to General Liability coverage.

2. Comprehensive Automobile Liability Insurance including owned, non-owned and hired vehicles. Minimum coverage of \$1,000,000 combined single limit for each accident. The County of Albemarle and City of Charlottesville are to be included as additional insureds with respect to Auto Liability coverage.

c. Licensee agrees that all insurance contracts providing any of the above-required coverage will be issued by one or more insurance carriers duly authorized to do business in the Commonwealth of Virginia and will contain the following required provisions:

1. Both of the Licensors, their elected officials, officers, agents, employees and representatives shall be included as additional insureds (as the interests of each may appear) as to all applicable coverage:

2. The amount and conditions of said liability and comprehensive insurance may be increased upon sixty (60) days written notice by Licensors should the protection afforded by this insurance be deemed by Licensors to be insufficient for the risk created by this License. At no time, however, will any such increase in the amount of required liability and comprehensive insurance exceed that which is customarily required of other franchises or contractors of services for similar situations of risk.

3. Prior to the commencement of any work pursuant to this License and at least annually thereafter Licensee shall make available to Lensor evidence of such insurance coverage certifying that such coverage is in full force and effect. Evidence of Licensee's insurance is available at www.centurylink.com/moi.

7. Licensors' Rights in License:

a. Licensee shall construct, maintain and operate said System in the locations described in Exhibit A and will at all times comply with all reasonable requirements, regulations, laws and ordinances now in force, and which may hereafter be adopted by the County of Albemarle and be applicable to the construction, repair or maintenance of said system or use of the property subject to this License. Failure

of the Licensee to comply with any of the terms of this License or failure to pay the License fees prescribed by this Agreement shall be cause for Licensors to revoke this License. Without limiting the generality of the foregoing, Licensors also reserve the right to terminate and cancel this License and all rights and privileges of the Licensee hereunder in the event that the Licensee: (1) violates any rule, order or determination of Albemarle County made pursuant to this License, except where such violation is without fault or through excusable neglect; (2) becomes insolvent, unable or unwilling to pay its legal debts, or is adjudged a bankrupt; (3) attempts to evade any of the provisions of this License; (4) practices any fraud or deceit upon the Licensors, or either of them or; (5) fails to begin construction of its System within one hundred eighty (180) days from the date this License is granted and to continue such construction without unreasonable delay or interruption until completed.

b. Licensors' right to revoke this License pursuant to section 7.a. may be exercised only after written notice of default and a thirty (30) day period for Licensee to cure such default except for any act of default involving the payment of money or failing to provide any insurance coverage required hereunder in which event said thirty (30) day period shall be reduced to three (3) business days. The right is hereby reserved to the County of Albemarle to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations of general applications to all similarly situated Licensees as it shall find necessary in the exercise of its police power provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

8. Assignment:

The License granted pursuant to this Agreement shall not be assigned by the Licensee without the prior written consent of the Licensors, which consent may be granted or withheld in Licensors' sole discretion; provided, however, that Licensee may assign this License to a governmental entity without consent of the Licensors, and provided further that the sale or transfer of a controlling interest in Licensee shall not be considered an assignment within the meaning of this paragraph.

9. Notice:

For the purpose of giving notice as provided for in this Permit, the following addresses are provided:

For the Licensee:

CenturyLink Communications, LLC
100 CenturyLink Drive
Monroe, Louisiana 71203
Attention: National ROW

For the Licensors:

Maurice Jones
City Manager
P. O. Box 911
Charlottesville, VA 22902

With a copy to:

S. Craig Brown
City Attorney
P. O. Box 911
Charlottesville, VA 22902

And

Thomas C. Foley
County Executive
401 McIntire Road
Charlottesville, VA 22902

With a copy to:

Larry W. Davis
County Attorney
401 McIntire Road
Charlottesville, VA 22902

Unless and until a different address is provided in writing by Licensee to Licensors, the placing of notices in the United States Mail addressed to the Licensee as set forth above by registered or certified mail, return receipt requested, shall constitute compliance with the provisions of this Section.

10. Miscellaneous:

If any section, subsection, sentence, clause, phrase or portion of this Permit is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent, and severable provision and such holding shall not affect the validity of the remaining portions hereof. This Permit shall be interpreted and construed in accordance with the laws of the Commonwealth of Virginia. All claims, disputes and other matters in question between the Licensee and Licensors, or either of them, arising out of or relating to this Permit, or the breach thereof, shall be decided

in a state or federal court in the Commonwealth of Virginia that has subject matter jurisdiction over the claim or dispute. The Licensee, by accepting this Permit, specifically consents to venue in either state or federal court in Virginia and waives any right to contest venue in Virginia.

WHEREFORE, this Permit has been authorized by the City Council of the City of Charlottesville, Virginia in an open meeting on March 21, 2016 and by the Board of Supervisors of Albemarle County, Virginia in an open meeting on April 6, 2016, and each governing body has authorized the execution of this License by the City Manager and County Executive, respectively, as attested by the Clerk of each governing body, and the Licensee has accepted the terms and conditions of this License as evidenced by its corporate presents which have been executed by and through its authorized officers and the seal of the corporation affixed.

This 12th day of April, 2016.

Licensee:

CenturyLink Communications, LLC

By: Gary L. Pace (Signed)
Title: Mgr. National Contract Admin & ROW

Licensors:

City of Charlottesville

By: Maurice Jones (Signed)
Title: City Manager

County of Albemarle

By: Thomas C. Foley (signed)
Title: County Executive

Item No. 8.4. Designation of the County as a Hybrid Entity Under the Health Insurance Portability and Accountability Act of 1996 and the HIPAA Privacy Rule.

The executive summary forwarded to the Board states that in 1996, the federal government enacted the Health Insurance Portability and Accountability Act (HIPAA). HIPAA requires that all “covered entities” must comply with the law as well as its regulations. “Covered entities” include health plans and health care providers that electronically transmit any health information in connection with transactions for which the Department of Health and Human Services has adopted guidelines such as Medicare or Medicaid. If any portion of an entity is a “covered entity”, the entire entity is subject to HIPAA and its regulations unless the entity declares that it is a “hybrid entity”. The “hybrid entity” declaration specifies which portions of an organization are health care components. When an entity declares itself a “hybrid entity”, only its health care components are subject to HIPAA and its regulations.

The Human Resources Department administers the County’s health plan, and the Fire and Rescue Department electronically bills Medicare and Medicaid for emergency medical vehicle transports. Therefore, Albemarle County is a “covered entity”, and the entire entity is subject to HIPAA and its regulations. All County departments are therefore subject to potential Department of Health and Human Services (DHSS) HIPAA compliance audits and enforcement actions. The adoption of the attached proposed “hybrid entity” resolution (Attachment A), which declares that the County’s Human Resources and Fire and Rescue Departments are the only health care components of the County, would limit potential HIPAA compliance audits and enforcement actions to those departments. Without the “hybrid entity” designation, DHSS may audit or investigate complaints about any County department and its protected health information practices and procedures. The purpose of HIPAA is to protect information related to health care. Other County departments encounter health information on an infrequent basis, and do not provide health care services. Therefore, the resolution’s designation only applies to the Human Resources Department and the Fire and Rescue Department, and other County departments would not be subject to a DHSS HIPAA investigation related to health information and would be exempt from HIPAA audits and enforcement actions.

There is no budget impact associated with this request.

Staff recommends that the Board adopt the attached Resolution (Attachment A) designating Albemarle County as a hybrid entity pursuant to HIPAA.

By the above-recorded vote, the Board adopted the following resolution designating Albemarle County as a hybrid entity pursuant to HIPAA:

**RESOLUTION TO DESIGNATE THE COUNTY OF ALBEMARLE, VIRGINIA
AS A HYBRID ENTITY UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
ACT OF 1996 AND THE HIPAA PRIVACY RULE**

WHEREAS, the County of Albemarle, Virginia (the “County”) is committed to compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services “HIPAA Regulations”); and

WHEREAS, the County is a “covered entity” as that term is defined under HIPAA because the County administers a health plan to its employees and bills for emergency medical vehicle transports; and

WHEREAS, the Board of Supervisors of Albemarle County has determined that the County may more effectively and efficiently comply with HIPAA and administer the HIPAA Regulations by designating the County as a “hybrid entity,” as that term is defined under HIPAA, 45 C.F.R. § 164.103; and

WHEREAS, the County’s Human Resources Department and Fire and Rescue Department have adequate training, policies, and procedures for HIPAA compliance in place; and

WHEREAS, the County has contracted with a third party to administer its health plan such that no County employee responsible for administration of the plan normally has contact with “protected health information” as that term is defined under HIPAA, 45 C.F.R. § 160.103; and

WHEREAS, all third parties who contract with the County to receive, process, or transmit protected health information held by the County are required to execute a “Business Associate Agreement” as required under HIPAA, 45 C.F.R. § 164.308(b), thereby agreeing to comply with HIPAA regulations in their handling of “protected health information”.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Albemarle, Virginia, hereby designates the County as a “hybrid entity,” pursuant to the HIPAA Privacy Rule, 45 C.F.R. § 164.105.

BE IT FURTHER RESOLVED that the following are hereby designated as the health care components of the County’s hybrid entity: (i) the County’s health plan, and (ii) the County’s Fire and Rescue Department. The health plan is defined for purposes of HIPAA as those County employees responsible for administration of the health plan, including the Human Resources Department and the County Executive’s Office, only to the extent that their duties involve administration of the plan.

BE IT FURTHER RESOLVED that the following departments are designated as part of the health care component of the County’s hybrid entity only to the extent that they receive protected health information in the course of providing support services to the health plan or the Fire and Rescue Department; (i) the Finance Department; (ii) the Information Technology Department; (iii) the County Attorney’s Office; (iv) the County Executive’s Office, and (v) the Human Resources Department.

BE IT FURTHER RESOLVED that departments providing support services to the health care component of the County’s hybrid entity shall receive a level of HIPAA training commensurate with their level of access to “protected health information”.

Item No. 8.5. Set public hearing on Proposed Noise Ordinance amendment.

The executive summary forwarded to the Board states that the County regulates noise under County Code Chapter 7, Health and Safety, and Chapter 18, Zoning. The noise regulations under Chapter 7 regulate certain types of sound created from specific sound sources, such as construction and demolition activities, motor vehicles, electronic devices such as sound amplification equipment, and sounds generated near noise-sensitive institutions such as schools, courts, and hospitals. The Zoning Ordinance regulates other types of noise generated by land uses.

County Code § 7-105 prohibits certain sounds from being audible from a distance of 100 feet or more from the property line on which the activities are located or from within a dwelling unit or a hotel room. County Code § 7-105(E) prohibits sounds from construction, demolition, and maintenance activities between 10:00 p.m. and 7:00 a.m. County Code § 7-106 exempts a number of sounds from the noise standards, including sound produced from construction, demolition, or maintenance activities between 7:00 a.m. and 10:00 p.m. Sound produced from public facilities and public uses are exempt from the noise standards entirely. By interpretation, this “public use” exemption has been extended to construction activities related to public facilities.

The Route 29 Solutions project created a new noise issue, primarily as part of the Best Buy ramp project. State contractors and/or subcontractors left the project area and dumped construction soil on a vacant parcel along Rio Road very late at night. Banging dump truck gates and backup warning sounds produced noise that generated complaints from residents in nearby residential neighborhoods. The overnight work was relatively limited in duration, but as the Route 29 Solutions project expands, there is a possibility that late off-site night dumping work may begin again.

The proposed ordinance would amend County Code § 7-105(E) to provide that construction, demolition, and maintenance work performed by a contractor or subcontractor of a government entity, either off-site or outside of the public project’s limits, would be subject to the County’s noise standards between 10:00 p.m. and 7:00 a.m. This amendment would not prohibit the work from being performed outside of those hours, but only make it subject to the noise standards. In turn, the proposed amendment may encourage the haulers to change their practices to reduce the off-site noise generated late at night.

The Police Department has recommended that a person who violates subsection 7-105(E) be deemed to be guilty of a class 4 misdemeanor, which subjects the violator to a fine of not more than \$250.00. Sound generated from on-site construction, demolition, or maintenance work for public projects would continue to be completely exempt as provided in the proposed clarification to County Code § 7-106(D).

There is no budget impact related to this ordinance.

Staff recommends that the Board schedule a public hearing for the attached proposed ordinance (Attachment A) on May 4, 2016.

By the above-recorded vote, the Board scheduled a public hearing on the proposed noise ordinance on May 4, 2016.

Item No. 8.6. Cancel April 13, 2016, Regular Night Board Meeting.

By the above-recorded vote, the Board cancelled the April 13, 2016 regular night Board meeting.

Item No. 8.7. County Grant Application/Award Report, ***was received for information.***

The executive summary forwarded to the Board states that pursuant to the County's Grant Policy and associated procedures, staff provides periodic reports to the Board on the County's application for and use of grants.

The attached Grants Report provides a brief description of one grant application made and two grant awards received during the time period of February 13, 2016 through March 16, 2016. This report also includes a comprehensive look at potential Five Year Financial Plan implications if projects and/or programs that are supported by grants are continued with local funding after the grants end. As grant funding ends, recommendations will be included in the County Executive's proposed annual budgets for the Board's consideration as to whether local funding should be used to continue those projects and programs. No County funds will be used to fund the continuation of those projects and programs without Board approval.

The budget impact is noted in the summary of each grant.

GRANT REPORT ACTIVITY – February 12, 2016 through March 16, 2016

Applications were made for the following grants:

Granting Entity	Grant	Type	Amount Requested	Match Required	Match Source	Department	Purpose
Congregation Beth Israel	Tzedakah Fund Grant	Local	\$1,500	None	None	Department of Social Services	These grant funds would be used to purchase items such as board games, and outdoor toys that will engage families and children in enjoyable activities and encourage positive family interaction and outdoor play during the summer months.

Awards were received for the following grants:

Granting Entity	Grant	Type	Amount Awarded	Match Required	Match Source	Department	Purpose
Department of Education	Virginia Preschool Initiative Expansion	State	\$100,000	None	N/A	Department of Social Services	These grant funds will be used to expand preschool support with collaboration from the United Way through June 2016.
Department of Criminal Justice Services	Revised Victim Witness Program Award	Federal	\$13,056	None	N/A	Police	These grant funds will be used to purchase technology equipment, promotional materials, and furniture.

Comprehensive Look at Potential Five Year Financial Plan Grant Impacts:
The following chart includes grants that are expected to end within the next five years and an estimate of the County's cost over the next five years if the grant-supported position, project or program is continued after the grant ends. The continuation of those positions, projects and programs will be considered as part of the County's annual budget process.

Grant Entity	Grant Name	Summary	# of FTE	Designation of Current Budget Match	Expected End Date	FY16 Grant Amount*	Potential Financial Impact - Includes Five Year Plan salary assumptions				
							FY17	FY18	FY19	FY20	FY21
Virginia Department of Criminal Justice Service	FY16 Byrne/Justice Assistance Grant (JAG) Law Enforcement	This grant provides funding for a current police Sergeant position to form and lead the new Problem Oriented Policing (POP) Team and includes equipment/supporting costs. This grant requires the local match to increase each year with the goal at the end of the grant to be for a full time employee to be hired.	1	Grants Leveraging Fund	6/30/2020	\$125,910.00	\$ 35,961.74	\$ 73,308.49	\$ 112,096.36	\$ 152,383.46	\$ 155,383.98
Virginia Department of Criminal Justice Service	FY16 Byrne/Justice Assistance Grant (JAG) Crime Analysis	This grant provides funding for the current Crime Analyst position. The grant requires the local match to increase each year with the goal at the end of the grant to be for a full time employee to be hired.	1	Police Department	6/30/2018	\$33,879.00	\$ 52,420.18	\$ 71,785.57	\$ 73,752.87	\$ 75,798.46	\$ 77,925.47
*does not include local match funds							\$ 88,381.92	\$ 145,094.07	\$ 185,849.23	\$ 228,181.92	\$ 233,309.45

The following chart includes an estimate of the County's cost over the next five years for the replacement of equipment that was purchased with grant funding. The replacement of such equipment will be considered as part of the County's annual budget process.

Grant Name	Summary	# of FTE	Designation of Current Budget Match	Actual End Date	Potential Financial Impact				
					FY17	FY18	FY19	FY20	FY21
2006 Assistance to Firefighters	This grant provided funds for the purchase of turnout gear in 2006. The equipment life is now expiring and the estimated amount of approximately \$140,000, which is typically budgeted in a given year for this expense, is now estimated to be inadequate to replace the equipment over time. The additional funds listed in this chart reflects the additional costs estimated to replace this equipment each year. Costs in the out years is estimated to decrease due to the newly centralized management process and expected efficiencies.	0	Fire Rescue Fund	6/30/2006	\$ 158,068.76	\$236,700.23	\$ 191,830.46	\$ 147,090.10	TBD
Equipment Grant	This grant provided funds for the purchase of fitness equipment. The equipment life span is now expiring.	0	Fire Rescue Fund	6/30/2009	\$ 37,878.00	\$ 39,117.00	\$ 40,356.00	\$ 53,345.00	\$ 54,934.00
					\$ 195,946.76	\$275,817.23	\$ 232,186.46	\$ 200,435.10	\$ 54,934.00

Item No. 8.8. Annual Report of the Jefferson Area Board for Aging (JABA), April 2016, **was received for information.**

Item No. 8.9. Jefferson Madison Regional Library Annual Report, **was received for information.**

Item No. 8.10. Brooks Family YMCA Quarterly Update, **was received for information.**

Item No. 8.11. Metrics Update, Route 29 Solutions Business Assistance Plan, **was received for information.**

The executive summary forwarded to the Board states that this report follows-up the February 3, 2016 presentation to the Board on the Route 29 Solutions Program, outlining the most appropriate and available economic indicators to track impacts from VDOT projects. To measure the Program's potential impact, staff from the Finance Department and the Economic Development Office compiled and analyzed vacancy rates; excise (meals and lodging) tax; business professional and occupational license (BPOL) tax; real estate tax; business personal property tax; and, where applicable, machinery and tools (M&T) tax.

For purposes of this study, staff defined the impacted area, also called Tier 2, as the northbound side of Route 29 from Fashion Square Mall north to the Woodbrook Shopping Center, and the southbound area includes Rio Hill Shopping Center south to the shops at 29th Place.

The table below reflects the mixed results of assessed values and tax levies for tax years 2014 and 2015.

Tax Type:	Assessed Values			Tax Levies		
	2014	2015	% Chg	2014	2015	% Chg
BPOL	\$1,106,331,2	\$917,381,824	-17.08%	\$2,179,920	\$2,018,366	-7.41%
Business PP and M&T	\$17,367,807	\$18,829,916	8.42%	\$722,277	\$792,445	9.71%
Excise Taxes (meals, lodging)	\$109,368,998	\$120,201,907	9.90%	\$3,461,582	\$3,389,930	-2.07%
Real Estate	\$579,885,200	\$621,569,300	7.19%	\$4,749,260	\$5,095,253	7.29%
Sales	1.49% decrease from 06/30/2014 to 06/30/2015					

On the one hand, BPOL tax assessments (based on estimated business gross receipts) and excise tax levies declined from 2014 to 2015. However, excise tax assessments, business personal property/machinery & tools and real estate valuations all increased during the same time period. Using CoStar, staff also collected vacancy data in the Tier 2 area. The first quarter 2016 vacancy rate is 4.0%,

while the prior 5-year average vacancy is closer to 7.1%. Please see Attachment A, 2015 Quarterly Vacancy, and Attachment B, 5-Year Vacancy.

Based on the available data collected, staff is unable to conclude that business activity has been adversely impacted by construction activity in the Tier 2 area.

Retail Sales Tax data is not yet available for the 2015 holiday season; therefore, the percentage change from calendar 2014 to 2015 will be provided during the next update. Excise taxes will be reported in June to capture the full year comparison between 2014 (the base year) and 2015.

There is no budget impact associated with this report.

This report is provided for information only. No action is required by the Board.

Item No. 8.12. Board-to-Board, March 2016, ***A monthly report from the Albemarle County School Board to the County Board of Supervisors, was received for information.***

Item No. 8.13 Copy of letter dated March 4, 2016, from Ms. Sarah Baldwin, Designee to the Zoning Administrator, to Ms. Helen Evans, ***re: LOD-2015-00017 – OFFICIAL DETERMINATION OF PARCELS OF RECORD AND DEVELOPMENT RIGHTS – Tax Map 89, Parcel 63 (Samuel Miller Magisterial District), was received for information.***

Item No. 8.14. Copy of letter dated March 9, 2016, from Mr. Francis H. MacCall, Principal Planner, to Roger W. Ray & Associates, Inc., ***re: LOD-2016-00002 – OFFICIAL DETERMINATION OF PARCEL OF RECORD AND DEVELOPMENT RIGHTS – Parcel ID 04300-00-00-02400 (property of Liberty Hall Farm LLC) – Jack Jouett Magisterial District, was received for information.***

Item No. 8.15. Copy of letter dated March 9, 2016, from Mr. Francis H. MacCall, Principal Planner, to Mr. Carl E. Martin, ***re: LOD-2016-00003 – OFFICIAL DETERMINATION OF PARCEL OF RECORD AND DEVELOPMENT RIGHTS – Parcel ID 11800-00-00-030C0 (property of James D. or Connie M. Hillyard) – Samuel Miller Magisterial District, was received for information.***

Agenda Item No. 9. Location Alternatives for Courts Project.

The executive summary presented to the Board directed staff to provide information by April 6, 2016 regarding potential alternatives for relocating the Courts, with an emphasis on better understanding the alternatives in the County previously considered. This agenda item will provide a brief overview of the downtown renovation/expansion option, as well as hypothetical County greenfield and redevelopment location concepts for the Board's information and further discussion.

The primary purpose of this agenda item is to discuss potential alternative Court locations in the County, including both greenfield and redevelopment options. Staff will present primary factors and considerations associated with these options, with an opportunity for questions and discussion with the Board.

The total CIP request for the Courts Project is approximately \$47 million over a seven year period based on the downtown renovation/expansion option. Potential high level budget impacts of other options will be included in the presentation.

Staff recommends that the Board discuss and consider the information presented on options and provide feedback to staff.

Mr. Trevor Henry, Director, Facilities and Environmental Services, addressed the Board, stating that he will be presenting the information on the worksession along with Mr. Cilimberg. Mr. Henry stated that this item is in response to the Board's request from their February worksession to have staff bring back alternatives for the courts, identified through a study the Board funded several years ago, and his report will start with a brief review of the downtown option. He said that Mr. Cilimberg will talk about why the alternatives are considered in the study, and they will end with a summary and time for questions, with the main objective at this meeting being to present the alternatives. Mr. Henry stated that in the discussions of the downtown option, they have looked at staying within the existing facilities of the historic court buildings as well as moving into property co-owned by the City and the County at the Levy building site. He stated that he walked Mr. Dill and Mr. Randolph through the facilities to give them a boots-on-the-ground perspective of the facilities and the downtown location.

Mr. Henry stated that in 2001, the City and County co-funded a study with Moseley Architects to look at court options, recognizing the growth and the need for future development, and that joint effort allowed the City and County in 2005 to acquire the Levy building, the Jessup House adjacent to Levy, and 7th & Market, all of which are now co-owned. He said the most acute need at that time was to address the Juvenile & Domestic Relations Court, so a project co-funded by the City and the County was

done. Mr. Henry stated that in 2011, there were still growth pressures for additional court spaces, so a new study commissioning PSA Dewberry was done, with a look at current conditions, caseloads and trends, and options the architects recommended. Mr. Henry stated the options consisted of a staying downtown option, an option of relocating General District to this campus, and a greenfield option of relocating all of the courts facilities to a new area of the County. He said there were multiple stakeholder meetings with members of the courts and those who serve the courts, and in May 2013 staff presented the findings, and the Board directed staff, at that time, to focus on the downtown option while working with the City on valuation of the co-owned land and resolving the parking, which was important to the Board and citizens. Mr. Henry noted that over the next year, appraisals were done along with further discussions with the City. He stated that in July 2014, the Board directed staff to form and support a stakeholder committee with representatives from the Board, City Council and executive staff, to take another look at the downtown option with the idea that the City was potentially interested in collocating their General District Court, which was a change from five or six years ago. Mr. Henry said that in 2014-2015, a smaller study with Moseley, co-funded by the City and County, was done, which led to an option that envisions taking the Levy property and converting it to use by the Commonwealth Attorney, demolishing the non-historic addition and building the Levy property up to three stories that would consist of space for General District clerks and four court sets, three for the County, one for the City. He stated that the study shows the County needs just over one full court set today, with two needed within 20 years, and possibly a third court set in 20+ years.

Mr. Henry said if they are to move forward, the phasing would be such to address the General District Court and Levy property first, then renovate the existing historic courthouse for Circuit Court, giving that facility two full court sets plus plenty of space for the clerk and storage. Mr. Henry stated that the costs are projected at \$47 million over about seven years as reflected in the CIP, with about \$6.5 million of cost-sharing from the City, if the downtown option proceeds. He noted there are still negotiations underway with the City on parking, and the Board has held several closed sessions on it.

Ms. McKeel asked if the \$47 million figure is still felt to be accurate. Mr. Henry responded that it is accurate and was updated most recently with the Moseley study, but it does not include any additional costs for parking.

Ms. McKeel asked about the timeframe needed for renovations. Mr. Henry responded that if they started today with design, it would be seven years before the entire project was completed.

Ms. McKeel commented that because they would still be using the court facilities, it would draw out the length of the construction time. Mr. Henry stated that the plan would be to design and construct the Levy site first, which would allow all of the court functions to move into Levy for General District and Circuit, whereas Circuit would be just temporary while they renovate the existing courthouse.

Ms. McKeel said she is trying to separate the design phase versus actual construction. Mr. Henry responded that there would be about two years for the Levy construction and 18-24 months for construction of the historic court, and while Levy is being constructed they would also be working on a design of the historic court, and as soon as that design was done they would be able to get the functions moved and start on the construction of the historic court. He stated the impact of actual construction would be about four years total.

Mr. Wayne Cilimberg, Director of Planning, stated that the alternative options have their own opportunities and possibilities that include capital investment going into a court to stimulate economic development and revitalization, leverage outside investments to advance urbanization goals, provide ample facilities with parking and future expansion possibilities, create a modern facility, present the possibility of public/private partnerships, and advance the Neighborhood Model goals of mixed use and walkability. He said that alternatives provide the possibility for furthering the vision and purpose of the development areas, which have envisioned urban communities for people to live, work and play, and investing in a public facility such as a courts complex in development areas can stimulate other investments to create a center of urban activity and a sense of place. Mr. Cilimberg stated that Places 29 and the master plan for northern development areas depict how existing urban form might be transformed by both public and private investments, such as in the Berkmar Drive/Fashion Square area, utilizing urban design principles in the Comp Plan and the Neighborhood Model, with multi-modal transportation, pedestrian orientation, and a mixture of uses.

Mr. Cilimberg presented a concept showing the Sam's Club parking lot and stated that with Berkmar Drive Extended northward across the South Fork Rivanna River, noting there could be an infill of buildings and spaces of human scale, creating a neighborhood center, and a courts complex could ultimately be a catalyst for affiliated offices supporting commercial and residential in close proximity to the complex. He stated the County is already investing in public projects that will hopefully stimulate development in the development areas such as the Crozet Avenue streetscape, a new Main Street in Crozet, and the new Crozet Library, as well as the conversion of the old Phillips Building Supply building to the new northern urban library along an important stretch of Rio Road near Route 29.

Mr. Cilimberg stated that as Mr. Henry has noted, there are two possible approaches to developing a courthouse complex in the County, a greenfield development, which would utilize open land for the complex within a larger undeveloped area where complementary development might occur; and urban redevelopment would locate the complex on land that is currently developed, possibly in partnership with private interests in an area that might be right for further transformation. He mentioned the greenfield example of Newtown in James City County near Williamsburg, and said that public/private

development of a new courts facility there which started with essentially open rural land close to the city subsequently resulted in a new courthouse and a significant adjacent mixed-use development. Mr. Cilimberg stated that a similar possibility for Albemarle County might be to utilize open public land the County owns adjacent to Monticello Fire Station on Mill Creek Drive that could stimulate complementary mixed-used development nearby. He noted the County had already heard during the recent Comp Plan review that there is community and public interest in the potential of transforming Mill Creek Drive between Avon Street and Route 20 into a town center. Mr. Cilimberg stated the County had previously laid out one concept, although other design approaches of a more urban form could provide opportunities similar to James City County. He reported that one Virginia urban redevelopment example is in Arlington County, which started with an older lower-scale courthouse, with that redevelopment becoming the center of a major urban downtown center. He stated that a similar possibility in Albemarle might be the redevelopment of a shopping center, such as Albemarle Square, depicted as the "midtown" area of Places 29, albeit at a lower urban scale than Arlington.

Mr. Henry stated that there are some challenges and considerations for any of these options, and if they are looking to do something that would involve relocation outside of the downtown campus. There is a great likelihood that there would be a longer timeframe, and the decision on phasing would need to have strong consideration from the Board and additional interim solutions might be required. He mentioned the County has just recently completed some small improvements to the Commonwealth Attorney's office space to improve security and add some personnel and storage space, which is badly needed. Mr. Henry said that storage for court records is an issue and there will be many details with accommodating current use while figuring out other options, and the biggest hurdle and decision point will be relocating the Circuit Court, as it will require a referendum to move the County seat. He stated that these will be the hurdles or considerations for any of the options outside of downtown, and the study done several years ago concluded that project costs were in the same order of magnitude at \$45-50 million. Mr. Henry said this will be one of the biggest projects the County has done, so it warrants proceeding cautiously to ensure they have the right plan, but from a decision standpoint cost will not be the primary driver at this level of analysis. He added that the next step would be further design so they could really drill down into costs at a deeper level.

Mr. Henry stated that resolving the parking limitations is a key factor in the consideration of a downtown location, and the City intends to cost-share for the General District Court for that piece of the project. He said that a greenfield site will allow for a different style of construction, more state-of-the-art with better security, and it can be phased now and in the future so costs could be mitigated up front with additions added over time. Mr. Henry noted that with either approach there is an economic development component. He stated the urban infill concept was not studied by the architects, but a lot of the construction costs are comparable and the unknown piece would be location, public/private partnership, land acquisition, etc.

Mr. Randolph asked if there was any examination of a potential Scottsville location, particularly the old tire factory site, as that would provide a considerable amount of property, and although privately owned, it may have the potential for negotiation with the owner. Mr. Henry responded there was not consideration of that site for the courts complex, although that site had been discussed for the firing range in the Keene site search process. He stated there was some due diligence done to follow up on that idea, and the assessment revealed great concern about the environmental conditions of the site.

Mr. Randolph said he is suggesting that site because it already has ample parking, the location and view are beautiful as the property overlooks the James River, and it is a large square-footage site. He added that it would allow for easier construction than having to start from a complete dig and build process.

Ms. Mallek pointed out that a phase one environmental remediation study was done for that site, and pretty significant work would be needed on that site.

Ms. Palmer commented that the site is also pretty far away.

Ms. McKeel stated she would like to see a copy of that environmental study, if possible. Mr. Henry responded that he received that from the owner/developer of that site, but could probably provide a hard copy of it.

Ms. McKeel said she would like to see it, as Scottsville has the need to develop that site.

Mr. Foley noted that because it had been shared with the County, it is a public document.

Ms. Palmer said if the courts are placed in a greenfield site, that will take away prime property from the tax rolls, and she asked staff if there is a way to measure the economic impact from that development. Mr. Foley responded that staff has discussed having a fiscal impact study to assess it, which will be necessary to get a good sense of that.

Mr. Cilimberg said that he did not have a report from the James City example, but might be able to get that kind of information.

Ms. Mallek stated that one of the sites being considered is already owned by the County.

Ms. McKeel asked about the size of that property. Mr. Foley responded that it is approximately

36 acres.

Mr. Foley also clarified that it is the movement of the Circuit Court that requires the referendum, not the General District Court, although that could move if their ultimate plan is to move the entire complex. He mentioned there had been discussions with previous Boards regarding split courts, which had raised some concerns, but they would have to make that decision going forward.

Ms. Palmer asked if the plan would be to move the Circuit Court and eventually the General District as a phased approach. Mr. Foley responded there had never been a final plan on that, and some Board members thought there might be some ways to accommodate the difficulties of a split court, but ultimately the concept has been to move all the courts to one site, which could be done in phases.

Ms. McKeel asked how much space will be needed for the courts on the 36-acre site. Ms. Mallek responded that the Levy lot is around four acres.

Mr. Henry stated that they will only need a few acres and as part of the study they had looked at the property behind Monticello Fire Station, which is around 30 acres total with not all of that needed, but he would have to go back and reference the study for more particulars.

Ms. Palmer asked if that would be for the General District Court and the Circuit Court, and how much will be needed for parking. Mr. Henry responded that the assumption the study made was that all courts will eventually be relocated to that site, including parking of about 250 spaces that consumes a lot of the acreage.

Mr. Foley stated there are a number of questions regarding the form of that development and how the County would like it to look according to the Neighborhood Model instead of just a typical greenfield-type site, so there are a lot of decisions that need to be made about how to best utilize the site and what form of development they would want to promote there and how that might create other opportunities for economic development.

Mr. Cilimberg said that in either case they would want to at least investigate public/private opportunities, as James City County did, and a lot of the acreage Albemarle owns is available to develop and might be in a partnership arrangement with court facilities that are more urban in nature, so this is what the Board might want to investigate.

Mr. Randolph asked if there is a connection off of Route 20 to this property or if there is an intervening property. Mr. Cilimberg responded that there is a connection off of Mill Creek Drive, which goes to Route 20, and Galaxy Drive reaches Route 20 although it does cross other properties. He stated they did show the connection in the master plan for the Southern and Western neighborhoods, and they may have another connection that is more direct off of County property.

Mr. Davis noted that the County property fronts on Route 20, but the terrain there is fairly difficult and Galaxy Lane is the only existing access to the County property from Route 20.

Ms. Mallek asked if the County has access to it. Mr. Davis responded that the County has frontage on Route 20.

Mr. Sheffield asked if staff had trip generation data from the courts. Mr. Henry responded that they have an estimate in terms of daily activity and from that derived parking numbers.

Mr. Randolph asked staff if in the cost estimates they indicated might be comparable to downtown if they included the value of the sale of downtown County-owned properties in their assessment of the comparable values. Mr. Henry responded that there are variabilities on both sides, and all he talked about in this presentation is project costs. He stated that any parking the County would have to acquire would be additive, and depending on the decision as to whether all court functions are relocated, it would likely drive the cost upwards of \$50 million, but there would be opportunities for sales. Mr. Henry said those details can be worked out, but in the end the math would likely be the same for both, and the estimate in the current CIP is the downtown option. He stated that the Board had a similar discussion two years ago, with a great sense of urgency given the conditions of the downtown courts given growing security and maintenance costs, with some of the estimates including full renovation costs.

Ms. Palmer asked how the projects fare in the context of state guidelines. Mr. Henry responded that the state guidelines show the need for a certain type of parking with a downtown court location, but they also state that parking is less structured to the court and is more organic to the downtown environment. He stated that when they did their original study, Dewberry assumed the parking would be in a typical urban parking setting with some secured parking under the facility, but staff has communicated a different expectation to the City.

Ms. Mallek commented that the guidelines for the court had originally been intended to serve just downtown individuals, not a court that just happens to be downtown and is serving a 750-square-mile area of citizens who cannot walk or even take a bus there. She emphasized they need to clarify those recommendations and perhaps not scale back the parking so much.

Ms. McKeel stated that one thing that never occurred to her until a judge mentioned it to her was the increase of UVA students and their families in Albemarle County courts, and as UVA is growing the

population to be served in the courts would also grow.

Mr. Foley said the growth in the courts is the big unknown. Ms. McKeel responded that it had never occurred to her that UVA was part of that.

Mr. Foley commented that they would not want to invest \$47 million in a downtown facility and find out that growth projections are off. He stated they had allowed some extra courtrooms that seemed like they were excessive, and some of that has been negotiated away or tamped down a bit in terms of the capacity for the future if growth was faster as well as some sacrifice on that as the County has worked with the City on collocating. Mr. Foley said that even if they look at it with the maximum amount, some have questioned that it is too much to spend without having anywhere to grow in the future.

Ms. McKeel stated that she is always cautious because they often scale projects back and then realize a few years after a facility is built that it is inadequate, and they have been burned many times with decisions on scaling back buildings like schools.

Mr. Sheffield commented that the firing range is one example.

Mr. Randolph stated that she raises an excellent point, and they need to be mindful of ensuring they have adequate capacity to grow and meet future needs that they cannot predict in terms of a court system, increased levels of security, and much more guarded access into the facility. He said that he liked that staff provided three different visions of the project, and he is excited about the new urban infill development concept, but if time is of the essence and carries a cost, they have land in Mill Creek and will not need to get into extensive negotiation with a landholder as they would with a greenfield or urban infill development. Mr. Randolph stated that because they would be going in and clearing a site, the preparation for that facility might be faster than some of the retrofitting they would have to deal with because of historic structures downtown. He said the final consideration is that because they do not have to buy land, they economically can recoup the potential sale value of existing properties downtown in the court complex. Mr. Randolph stated that if they want an expedited project that allows for additional future capacity, as well as implementing a public/private partnership, then the logical site is Mill Creek. Mr. Randolph emphasized this is not because the property is in his district, but is borne of the variables of the project. He added that they do not have the ability to transport or remove a prisoner by helicopter, and they should look at that option in the future for the benefit of the police. Mr. Randolph said that he would like to see things worked out downtown, but if the parking situation does not get worked out and time pressures increase, they need to make a decision and look at a viable alternative, and what staff is presenting leads him to believe that Mill Creek has strong logic behind it.

Mr. Dill said that with greenfield sites in general, one of the Planning Commissioners stated that court complexes or county building complexes are often disappointing economic development projects because there is not much around them and court constituents are going to and from court but are not shopping, working or using other amenities in the area. He asked if staff had looked at the possible benefits of economic development of being out in the County, and if they are in a more remote location there will need to be investments in sidewalks and buildings and making it commercially available.

Ms. Mallek stated that the courthouse in Arlington County has a Metro stop now, and that is the core of that whole redevelopment around the courthouse renovation.

Mr. Dill asked where that is in relation to the original downtown and how many people are living in that area already. Ms. Mallek responded that it is not as high density as it is now, but she did not know where the original courthouse was.

Mr. Cilimberg referenced photos of the area from several decades earlier.

Mr. Foley commented that Newtown probably provides a clearer example of what can be done with a greenfield site, and that is a thriving area that is generating a lot of revenue, although every circumstance is different and staff would need to do a more site-specific analysis.

Mr. Dill stated that the infill has some complications with acquiring property and if there is already some economic development it would promote it, but to put it away from economic development in the beginning would take a while to build up there. Ms. Mallek responded that if they are talking about Mill Creek, there is a whole block across the street with shopping and offices in a more urbanized area.

Ms. Palmer asked Mr. Foley if he needs anything from the Board at this point. Mr. Foley responded that it is just an opportunity for them to provide feedback or provide any direction, and if the Board wants to wait to see how things proceed they can provide direction in the future.

Mr. Dill asked how much more capacity there would be downtown than what is currently there with the new facility. Mr. Foley responded that this is more challenging than staff can just answer off the cuff and is a huge part of the Board's decision as to direction, so they would not want to be short-sighted, and this is based on projections so they may actually question some things. He said there have been comments made that they may not need as large a facility than what the study said because of future changes in technology, but that is said about most things, and if they put this in a place of choosing a downtown location they need to make sure they make that as a well-informed decision. Mr. Foley added that staff can follow up on the capacity issue and tell the Board where things are with the original study, and how things may have changed since the County negotiated with the City as well as providing

projections on caseloads.

Ms. Palmer said they had a conversation with several of the judges and would probably want to talk with the Clerk of Court. Mr. Foley stated that the Clerk's position has been very clear. Ms. Palmer responded that his position is clear, but it might be interesting to get input on the future capacity issue since there are different thoughts from the judges.

Mr. Foley said that all of that information is in the study, but he will look to Mr. Henry to provide that.

Mr. Dill asked if they have any sense as to whether the public will support relocation of the court in which Jefferson had practiced law. Mr. Davis responded that typically the integrity of historical courthouses is maintained for other purposes such as historic courthouses, museums, etc.

Mr. Foley stated they have never assumed anything other than it would be maintained as an historic site.

Agenda Item No. 10. **Work Session:** Options to Address Blight and Building Maintenance.

The executive summary presented to the Board states that at its September 25, 2015 retreat, the Board expressed concern over aging infrastructure and blight in the County. This work session is to review two additional options to address this issue:

- 1) Spot blight abatement; and
- 2) An expanded building maintenance program.

Staff has identified two additional options for addressing unmaintained buildings and structures: spot blight abatement and an expanded building maintenance program. These options, along with a brief description of existing tools, are discussed in Attachment A. The first option, spot blight abatement, is already enabled in Virginia Code § 36-49.1:1, and would not require additional ordinance(s) for initial implementation. In order for the County to abate spot blight, a property must first be determined to be "blighted," which requires significant deterioration.

The second option would be the local adoption of the existing Virginia Maintenance Code (VMC). The VMC's maintenance standards and administrative procedures are already part of the Virginia Uniform Statewide Building Code. The VMC includes a broad range of property maintenance elements. Compared with spot blight abatement, the VMC sets a much lower threshold for County action. For example, the VMC could be used to address maintenance issues such as peeling, flaking and chipped paint (VMC § 304.2).

Staff has not yet generated a full inventory of properties County-wide that would meet the definition of "spot blight" or that would currently violate the VMC. However, from 2004-2015, County staff received 63 reports of abandoned, unsafe structures. Based on this history, staff would anticipate receiving at least five requests for service per year.

Staff polled several comparable Virginia counties about their use of the VMC (Attachment B). Because adoption of the VMC is a much more intensive effort, staff believes this option should be considered only if a spot blight program fails to provide the desired results. This incremental approach would avoid creating a more expansive program than needed. The primary advantages of a spot blight abatement program are (1) that it could be quickly started without the need for additional staff, and (2) that funding could be requested and authorized on a case-by-case basis.

With the spot blight option, no additional staff would be needed to initiate a program, but additional funding would be needed for the demolition and/or cleanup of each property that the Board declares blighted. No additional funding is being requested at this time, but appropriation requests would be needed to support any blight ordinances adopted by the Board for specific properties which require more than the amount budgeted for this purpose. With the second option, based on staffing levels in peer localities that have adopted the VMC (Attachment B), the County would require at least one additional staff member to serve as Code Official or as an inspector if the VMC were adopted locally. A detailed cost estimate would be brought forward along with any proposed ordinance that created this program. Unless/until the additional staff needed to enforce the VMC is budgeted and hired, the County's Building Official would take the lead on any spot blight abatement(s).

Staff recommends that the Board approve the implementation of a spot blight abatement program for a one year trial period with the understanding that, at the end of the trial period, staff will review with the Board the effectiveness of the program so that the Board can determine whether to continue the spot blight program, pursue adoption of the VMC, or explore other solutions.

Mr. Jay Schlothauer, Director of Building/Building Official, addressed the Board, stating that he manages building inspections for the County but is also the building official, a state position. Mr. Schlothauer stated that he was not at the Board retreat in September 2015, but there was concern expressed at that time about aging infrastructure, building maintenance and blight, and his office has compiled some research on this topic. He said his office is by far consumed with new construction and

new inspections, and they process upwards of 2,500 building permits per year, but there are three categories that are not new construction. He stated if they get a complaint from a renter of a residential property, they are mandated by the building code to respond and see if it is being maintained. Mr. Schlothauer said that although it is understood that it may not be up to current code because the code changes and is not intended to be retroactive, but his office wants to make sure it is being maintained in a safe manner for the welfare of the structure's occupants. He stated that within two years of the issuance of a certificate of occupancy for a completed building or project, if they receive a call of concern regarding that structure, they investigate and may issue a building code violation. Mr. Schlothauer said this category also includes people building without permits, which generates more complaints and is technically a building code violation.

Mr. Schlothauer stated the third category is not in the building code but is in the County code, and it requires the building official to look into unsafe buildings and structures in the County, which is aimed at unoccupied vacant structures. He said it is mostly for abandoned structures, whether it is houses, barns or sheds, and it is geared toward being a hazard to the public, not a hazard to the property owner. Mr. Schlothauer stated that something like a clubhouse for kids or a building where people are trespassing would be examples, and those are the types of people they are trying to protect. He said that with those three programs already in place, none of them are really addressing what was concerning the Board back in September. Mr. Schlothauer said that perhaps if the property is truly abandoned and truly a hazard to the public it might get there, but his office has identified two other potential options that might broaden the County's capabilities along those lines.

Mr. Schlothauer reported that the state code includes a provision for "spot blight," which includes a definition for blight and is meant to address blighted conditions on a case by case basis. He stated that the building official would go out and see if it meets the definition of blight as defined by the state code and then take action, consisting of contacting the property owner and requiring a program of remediation within 30 days. Mr. Schlothauer said if the property owner does not take steps toward remediation, the building official will become more persuasive, and after the 30 days the property owner will come before the Board, which can pass a spot blight ordinance just for that piece of property. Mr. Schlothauer stated that over the last 11 years, they have had 60 complaints based on the third category, and he anticipates this will continue to be the case although they may need additional financial resources. He said if the remediation program is mandated by the County and the property owner does not have the resources to address it, the County still has the right to move forward. Mr. Schlothauer said his office had put out a dollar figure of \$50,000 for the rectification of these properties, but there is not a big track record for this.

Mr. Randolph stated that in Attachment A, Mr. Schlothauer indicated the recommended budget for Community Development includes \$50,000 to proactively repair or demolish buildings. He asked Mr. Schlothauer to look into the 2014 Pennsylvania measure that enacts a deed and mortgage recording fee of up to \$15 plus a percentage fee up to 10% of a property sold in a judicial sale to underwrite a building demolition and rehabilitation fund, although he is not sure that Dillon Rule in Virginia will permit it. He said that rather than taxpayers having to underwrite this cost, the panel chairman indicated revenue in Schuylkill County of \$300,000 per year just for the demolition of dilapidated buildings.

Mr. Davis stated the County imposes the maximum recording fee allowed under state law, and there is no specific enabling authority to address this type of issue with funds from those types of fees. He said that in Virginia, any costs that are incurred by the County can be recouped by placing a lien on the property, which can be collected in the same way taxes are collected, so the County can either wait until the property is sold and recoup its costs at that time or take more aggressive action to force the sale of the property and recoup costs more quickly if they are not reimbursed by the property owner.

Mr. Randolph asked what the County would recover under this methodology in Virginia. Mr. Davis responded that the County would have a priority lien, just like a tax lien, and they would recoup all of the money from the sale of the property for the cost of repairs or remediation.

Ms. Palmer asked how long it would take from the time someone reports this to the time the building official decides it is a blighted property. Mr. Schlothauer responded that it takes about two weeks to get someone onsite and find out exactly where the problem is, and an inspector will go out and determine exactly what the hazard is. He stated that his office would get with the property owner and explain the problem, and it is up to the owner to come up with an abatement plan within 30 days, which would have a set deadline as to when they can fix the problem. He explained if that deadline is acceptable to the County, they would accept it and move forward, but if it is not suitable then the item can come before the Board.

Ms. Palmer asked what will happen with the properties where the owner says they are not going to do anything, or they are difficult to get in touch with. Mr. Schlothauer responded that this is a good question, and many of the severely dilapidated and abandoned properties are held in some estate, and getting ahold of the proper person is really difficult, and sometimes they do not even know they own it. He stated his office can handle the ones who say "no," but the bigger challenge is trying to reach the owners of these properties, even with sending certified letters and so forth.

Ms. Palmer asked if there is a timeline in which his office just gives up, or if the County has the ability to do something. Mr. Davis responded that if the owner is nonresponsive or cannot be located, the County can give legal notice to the owner, either by using tax records or publication, and if there is still no response, staff will bring forth an ordinance that will propose a remedy for that property. He stated at that point, Mr. Schlothauer would be instructed to go forward to correct those conditions, which can be from a

contractor securing the building in some fashion to the other extreme of demolition, and those costs will be documented and a lien will be placed on the property. Mr. Davis said the timeline will vary depending on the problem, but the intent of the spot blight ordinance is to give the property owner an incentive and a chance to come into compliance sooner rather than later, with the clear indication that the County will take action if they do not, including a timeline for the remedy.

Ms. Palmer asked if this is a court process, as some of the zoning violations can take years. Mr. Davis responded that it is not a court process, which is probably the benefit of the spot blight process, which is a County remediation process, versus the building maintenance code, which is a court process once it enters the compliance phase.

Mr. Mark Graham, Director of Community Development, said that staff has looked into this and the likely timeframe is four to six months from the time they get the complaint until they have to come to the Board and ask them to do something because of a property owner's inaction.

Mr. Dill said that he is wondering what the limits are in terms of structures and how much is visual versus dangerous, as there is a blight issue in his district with several large vehicles that have been sitting there for decades. He stated there are some things that just look blighted such as graffiti cover, and the question to him is where they will draw the line, understanding the risk of unintended consequences of lots of people complaining because they just do not like the looks of something. Mr. Schlothauer responded that he would have to study the definition of blight as noted in Attachment A and see how it goes.

Mr. Dill commented that health and safety are the concerns. Mr. Schlothauer responded that the safety part is easy, but things like peeling paint and so forth are not covered by that, and this does not address abandoned vehicles.

Ms. McKeel noted that the County has an ordinance for abandoned vehicles. Mr. Davis responded that Zoning would address those types of issues.

Mr. Dill said the situation he mentioned has gone through that and was not enforceable because it was possible for the vehicles to be used for parts.

Ms. McKeel pointed out that the County also has an ordinance for standing water, so that will address the tire situation because they hold water.

Mr. Davis said that Mr. Schlothauer will explain how the spot blight ordinance is more far-reaching in the types of application to existing structures.

Ms. McKeel noted that a lot of these structures are abandoned and empty. Mr. Davis responded that the building maintenance code can apply to both vacant and occupied buildings, and spot blight can potentially pertain to occupied buildings, but that would be more unusual.

Ms. McKeel commented that for the 40 years she has been in the urban ring neighborhoods and has seen instances that would probably fall under the third provision, such as houses with no windows and chimneys that are falling over. She stated the building officials have come out and taped them up, but then it makes them look like crime scenes, which can make people hesitate to call and report those situations.

Mr. Schlothauer stated that in an effort to protect the trespassing public, his office will even accept a chain-link fence around the house or plywood boarded up over doors and windows, which does not help the aesthetics.

Mr. Schlothauer stated the second option is to expand the building maintenance program, and said the building code in Virginia has three parts, including the new construction aspect and the building rehabilitation component, both of which are already mandatory. He stated the building rehabilitation component is not for the abandoned building purpose in question, as it just tells building officials and inspectors how to take an old building and convert it to a modern use. Mr. Schlothauer said that part three is the building maintenance code, which is about 40 pages long, and in Attachment A he has included a web address that can be accessed by putting in, "2012 Virginia Maintenance Code." He stated this changes every three years and is issued by the Department of Housing and Community Development in Richmond, and to make it effective in Albemarle County there must be a positive action by local bodies to adopt this book, and that has not been done yet. Mr. Schlothauer said that they use this book for rental complaints as it relates to safety, and his understanding is that portions of the book only can be adopted, and if they adopt the whole book they will get into things that are less safety related and more related to things like peeling paint and grass growing out of gutters, which leans more towards the blight category. He stated the action on the Board's part would be to adopt it, but after that it would be up to him to sort out with property owners. Mr. Schlothauer said that things like standing water, abandoned trucks and long grass are not addressed in this code and areas addressed by other mechanisms.

Ms. McKeel asked about raw sewage in front yards. Mr. Schlothauer responded that the Health Department would handle that.

Ms. McKeel said that it took two years for the Health Department to address that situation, which was off of Garth Road, adding that there are some unbelievable situations with which some supervisors

need help.

Mr. Schlothauer said this book is the most comprehensive way to address those things, but it may be too comprehensive.

Ms. Mallek asked if the Board can pick and choose certain elements from that book.

Mr. Davis emphasized this has only been done by one locality, and the majority opinion is that they need to adopt the entire code, and a preliminary look by his office shows that it appears to be the correct answer under existing law, although the Attorney General has not rendered an opinion on it yet.

Ms. McKeel commented that there is an expectation of common sense with the professionals handling this.

Mr. Schlothauer stated that in a query with peer localities, including the City of Charlottesville, he found that there are counties that have not adopted the Virginia Maintenance Code at all, with Spotsylvania County only adopting one chapter dealing with overcrowded residential conditions, and four localities adopting the ordinance in its entirety. He said he asked them which chapters they focused on the most, and it was exterior appearances.

Ms. McKeel said that her experience has been that they need to focus more on the spot blight, but they need to have someone other than just a neighborhood association to contact people and let them know there is a house just sitting there. She stated that her hope is that if they have some official entity contacting them and getting their attention, they could solve the situation, and they need to have some relief in the close, dense neighborhoods. Mr. Schlothauer responded that the County does that now with the situations for which they have authority, and the code would broaden those capabilities. He emphasized that it would be business as usual for his office, which always starts with a "shot over the bow" to let an owner know his vacant house is dilapidated, and then raise the stakes as they go on.

Mr. Randolph stated that Bob Garland had presented some pictures of three homes in Canterbury Hills, whereas Mr. Schlothauer has indicated that his office only gets about five such complaints per year, and he is worried about expectations in the community if the code is adopted that the County will address all of these situations. He said he is also concerned about the perception that this has been passed, but is not being enforced because the building officials are going to so many other houses, and asked if the Board is going to make a final decision on this today.

Ms. McKeel said that she hopes they are.

Ms. Mallek stated they can at least get to the first step.

Mr. Davis said the analysis by staff depends on what approach the Board will decide to take, and some of the examples pointed out by Mr. Garland and Board members probably do not reach the definition of spot blight and will not be cases that will be pursued after the initial analysis. He stated that if they go to the building maintenance code, there is no way to know how many complaints there will be for things such as gutters hanging loose, trees growing out of gutters, or paint that is down to the surface, which will cause the building department to be involved in that level of complaints and generate the need for more staff, as experienced in other jurisdictions. Mr. Davis emphasized the spot blight program will be potentially frustrating for some complainants because it will not reach the level of spot blight, such as houses with shingles off the roof.

Ms. Palmer said that what staff has suggested for one year with the spot blight program is an excellent approach.

Ms. McKeel pointed out that what they are doing is actually just following state code.

Mr. Schlothauer said the only action he needs from the Board is an acknowledgement that they want to move forward with his option one, spot blight.

Ms. Mallek stated that if the County has rules with consequences, since Mr. Schlothauer's staff is already making the effort and doing the analysis but does not have the tools needed to make people comply, she thinks if they are given a way to make people comply, there will actually be a reduction in complaints because people will know that it is enforceable. Ms. Mallek said the County has made the mistake of not tightening up rules out of fear of increased drain on staff, but she feels it may actually have the opposite effect.

Mr. Randolph said that he supports the spot blight ordinance, but suggests that Mr. Schlothauer come back to the Board in six or nine months so they can prepare for any budget impact of additional staff, etc.

Mr. Schlothauer stated this is a good idea, because if there is an underestimation on his part it will be good to reassess what they are doing.

Ms. Palmer commented that a written report should be enough in six months, and it can be put on an agenda for the future. She said if things are going as planned, a letter would be good. Mr. Schlothauer responded that the Board would at least have numbers, even if they are not all followed up

on.

Ms. Palmer asked if he just needs consensus from the Board to move forward. Mr. Davis said the Board's action will be to direct County staff to process spot blight complaints.

Ms. Mallek said she would like to mention that this is a problem in urban areas as well as rural, and Mr. Schlothauer's office had addressed a situation where a building on Clark Road had burned and was left standing.

Mr. Schlothauer said it is for both urban and rural areas.

Ms. Mallek then offered **motion** to implement a spot blight abatement program for a one year trial period with the understanding that, at the end of the trial period, staff will review with the Board the effectiveness of the program so that the Board can determine whether to continue the spot blight program, pursue adoption of the VMC, or explore other solutions. Ms. McKeel **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Recess. The Board recessed at 3:04 p.m., and reconvened at 3:14 p.m.

Agenda Item No. 11. **Work Session:** Transportation Priorities Information Session.

The executive summary presented to the Board states that staff is presenting information on previous County transportation priorities, transportation funding mechanisms, and prioritization strategies in advance of asking the Board to provide direction on transportation priorities. This is the first month of a planned series of transportation discussions following the schedule below:

- April: Provide overview/refresher and lessons learned from first application cycle under Virginia's new prioritization process. Determine if any projects should be added to or removed from the County Transportation Priorities List for the next cycle.
- May: Review prioritization strategies and review project recommendations for the Secondary Six Year Plan (SSYP).
- June: Hold a public hearing and set priorities on secondary roads.
- July - August: Obtain approval of projects for HB2 application and approval of County Transportation Priorities List

In following this schedule, on April 6, staff will seek Board input on:

- 1) Proposed project additions/removals to the County Transportation Priorities List, and
- 2) County and VDOT staff recommended projects for which to request funding in the upcoming Six Year Improvement Program (SYIP) review.

The focus of today's discussion will be on transportation funding obtained through the Virginia's Six Year Improvement Program (SYIP). This is how Virginia allocates the majority of state transportation funding for *primary* roads. Virginia House Bill 2(HB2) requires the Commonwealth Transportation Board (CTB) to develop and use a scoring process for Virginia transportation project funding selection as part of the annual review of the SYIP. While the first years' experience will be discussed as part of the presentation, the prioritization process evaluates projects using the following criteria: 1. Congestion mitigation 2. Economic development 3. Accessibility 4. Safety 5. Environmental quality and 6. Land use coordination.

In April of 2015, the Board approved the attached County Transportation Priorities List (Attachment A) for use with this process. This list is used to prioritize projects for funding requests from various funding sources. The list of priorities was derived from the following sources:

- The Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan (LRTP);
- The Thomas Jefferson Planning District Commission's (TJPD) 2035 Rural Long Range Transportation Plan (RLRP), which includes the non-MPO area of Albemarle County;
- The County's Comprehensive Plan, associated Master Plans and other allied transportation documents;
- Other projects and services identified by the public, VDOT, and/or County staff and other public agencies

The HB2 implementation process began in August 2015 and initial project scores were announced in January 2016. The CTB will use this evaluation for funding in its development of the draft Six-Year Improvement Program (SYIP) to be completed by April 2016. Staff will provide additional information at the April 6 work session, but in summary, staff's assessment of the initial HB2 process is this -- many of the highest scores belonged to projects focused on transit and carpooling (park and ride

lots), low cost projects with significant local investment, and projects with high cost/benefit ratios, including roundabouts.

Project funding applications for the second cycle are due in September 2016. The new HB2 process requires a significant amount of staff work for each project requested for funding, including accurate project cost estimates and preliminary/conceptual design. In an effort to get an early start on the HB2 application process for 2016, staff has consulted with VDOT, and identified and evaluated the best candidate projects from the 2015 County Transportation Priorities List and a VDOT Safety Audit that should score well when screened, reviewed, and assessed using the HB2 process. Staff recommends that up to seven (7) County projects be advanced for funding or further study. The seven (7) projects are listed in Attachment B (not listed in any priority order)

Under the new HB2 process, applications for funding of projects in the Metropolitan Planning Organization area (MPO) area can be submitted by either the MPO or the locality, but not by both entities. Some of the projects identified in Attachment B will be submitted by the MPO. Two projects listed in Attachment B need to be added to the 2016 County Transportation Priorities list. The projects are:

2. Barracks Road right turn lane improvement at Route 29/250 Bypass ramp
5. Route 649 (Profit Road) and Route 20 intersection improvements

After the presentation covering the HB2 process, if the Board concurs with the seven recommended primary road projects, staff will proceed with the necessary staff work for the 2016 SYIP submittals under HB2. If the Board desires additional information on the SYIP projects, staff will continue this discussion in May following the SSYP discussion. The focus of the May presentation is on the Secondary Six Year Plan (SSYP).

HB2 is a State-funded program, so there are no direct impacts to the County's budget from these project requests. For future years, staff notes the HB2 process may provide better scores for projects where the locality has invested in preliminary engineering and can demonstrate high return on investment projects that are "shovel ready". This can be discussed with the Board during the presentation.

Staff recommends that the Board direct staff to begin work on the applications for the seven projects recommended for submitting in the 2016 SYIP process (Attachment B). If the Board desires additional information on the projects or the HB2 process, staff will provide that information at the May work session scheduled for the SSYP.

Mr. Gerald Gatobu, Principal Planner-Transportation, addressed the Board and stated this is the first of several work sessions the Board will have on transportation planning, and this meeting will focus on House Bill 2 projects as well as lessons learned from last year's application of Virginia's prioritization process. Mr. Gatobu stated that Chip Boyles and Will Cockrell of the Thomas Jefferson Planning District Commission will also share information with the Board.

Mr. Chip Boyles of the Thomas Jefferson Planning District Commission addressed the Board and stated that he will provide a summary of the FY16 House Bill 2 process, what they have learned from that, and what to expect from the FY17 House Bill 2 process. Mr. Boyles stated that VDOT has indicated there will not be an HB2 process in FY18. He explained that when HB2 applications for FY16 began, it was anticipated there would be \$1 billion for the current round, but that ended up as \$1.6 billion applied for in two separate programs. He said the high-priority programs, which are larger projects of statewide significance, had \$833 million available for projects; and the district grant programs that divided the funds up among all of the VDOT districts in the Commonwealth had \$883 million. Mr. Boyles said the Culpeper District had just under \$55 million for local projects, and statewide there were 321 applications received by VDOT, and of those, 287 were actually scored with the others moved to different funding pots or not meeting the criteria to be scored and sent on for consideration by the Commonwealth Transportation Board. He stated of the \$1.6 billion available, there was \$7 billion in requests, which gives an idea of how competitive the funding is. Mr. Boyles said that of the \$7 billion requested, that resulted in almost \$13 billion of total project costs, meaning that about \$6 billion came from other funding sources. He stated the Culpeper District received 17 total applications.

Mr. Boyles reported that at the MPO and regional level, they looked at some of the larger projects that are the high-priority funding sources from VDOT for HB2 funds. He stated that at the MPO, they talked long and in detail about one project, Exit 118, which was one of the higher priority projects in the MPO, and he wanted to compare it to five of the projects that have been recommended to the CTB for high-priority funding. Mr. Boyles said the CTB will be making a decision in June, and noted information provided that shows the VDOT district and local government, project names, the ranking from the HB2 scoring process, and what percentage the request is of the total project cost. He stated that most of the very large projects that were recommended and provided VDOT a higher return on their state dollar investment had contributions of 50-78% coming from other funding sources, and those ranked the highest in the ranking process. Mr. Boyles stated that Exit 118 had a 282 out of 287 score and was asking for 100% of the funding, and pointed out that these are the projects that would be competing for the \$833 million for high-priority projects.

Mr. Boyles said the current status with HB2 is that the CTB expects to make awards in June and is currently going through the state and holding public hearings within each VDOT district, with the Culpeper District hearing to be held later in April with the TJPDC in attendance. He stated that in August,

next year's round of funding begins and the applications will be due in October, which is a very hurried type of process. Mr. Boyles stated the scoring criteria pertains to safety measures, including fatalities at project intersections; congestion mitigation, which is the number of people moving through an area and person hours of delay; accessibility, which is the access to work destinations and different multi-modal choices in the project location; environmental quality; economic development, which is the creation and retention of jobs; the infrastructure placed within the land use around the project area that will be used for economic development and job creation activities; and land use coordination around the same project areas. Mr. Boyles reminded the Board that not everyone can apply for funding, and MPOs and regional Planning District Commissions can apply for any of the funding except for urban development areas, and local governments as well as public transit agencies may apply for district and statewide funds.

Mr. Boyles stated the lessons learned from the HB2 process in terms of how this can be used to build better cases include the importance of starting early with cost estimates, and one of the things they can do at the MPO is to run sample scoring, so now that they have been through this once and have a spreadsheet, they can put in possible projects and see how they score. He noted that now they know what the terms "economic development" and "safety" mean in this context, and hopefully that will help in local government knowing which priority projects to submit. Mr. Boyles said that for FY17 the project applications will be due in October, and he is recommending that they start now, even for the FY19 round. He stated that another lesson learned is that you cannot make mistakes on estimated project costs, and part of the scoring is based on the return on investment to VDOT, and if they underestimate the construction costs and have to submit it as more money, the scoring is no longer valid and has to be thrown out and reassessed in the following round. Mr. Boyles said that they do not want to underestimate what their construction costs will be and want to do the work up front and be sure of design concept and costs, and noted that this process is for the MPO area and the rural areas.

Mr. Boyles reported that in terms of what is being done now, the MPO will be hosting a joint meeting of the MPO Technical Committee as well as the Rural Technical Committee in May so they can start comparing all of the projects within the region that local governments intend to apply for. He said this way they can start to get a feel for how much of the pie, especially on the district level of \$54 million, they are applying for out of the region. Mr. Boyles stated that this gives the TJPDC a good idea of projects and gives local governments a chance to compare their projects with other regional projects, and noted this will be held in May. He said when this was done last year it was very beneficial, and technical staff, as well elected officials and executives from local government, were invited to attend. Mr. Boyles stated that he would encourage local governments to begin considering funding sources for increasing VDOT's projects' return on investment, and said that localities gain a lot of ground if they contribute towards a project with local funds. He said that Northern Virginia and Hampton Roads, which both have transportation authorities, contribute huge amounts to their projects. Mr. Boyles said that for extremely expensive projects like tunnels, you must have local funding, and he feels this is an important thing for all local governments to start thinking about.

Mr. Boyles said it is also important to have constant communication with the Planning District Commission, MPO and VDOT to ensure that everyone is in sync as to what the project is. He stated that last year, because of the hurried nature of the Exit 118 project, they were not all in sync as to what the design of that project should be, but decisions had to be made because it was a very quick turnaround. Mr. Boyles stated that if everyone is talking they may be able to break bigger projects down into smaller ones to try to focus on the most important aspects first. He said it is also important to work through the TJPDC with local governments to identify the higher scoring projects, using a spreadsheet to see what will rank high and get funded, with multi-modal projects ranking high and projects that do not have a "zero" in any category also faring better. Mr. Boyles noted that Exit 118 had zeros in two of the five categories, and it is hard to bounce back from that, with the matching contributions again an important consideration. He stated that at the MPO and PDC level, they are trying to ensure incorporation of the HB2 ranking criteria in the long-range transportation plan for the MPO area, as well as the rural transportation plan for rural areas. He noted that when identifying the priority projects to ask the state for funding, they also want to know that those projects would rank very highly in this same type of ranking criteria, so they will be incorporating this into both of those plans as they continue to be updated. Mr. Boyles said the rural plan is beginning this year, with the MPO plan to begin next year.

Mr. Boyles stated this is an ongoing process, so localities must identify projects that can be applied for and approved each year, and build upon those so those are way up in a funding scenario.

Ms. McKeel said this is why they must have the right projects, and ones that are realistic.

Mr. Boyles stated there were \$1.6 billion in the last year for \$7 billion in requests, and that is about as high as it will get. He noted there will not be that much money available this coming year, and with a two-year cycle the level might be that high but not on an annual basis, and it is very important to have winnable projects.

Mr. Randolph said that regarding formation of transportation authority like the Hampton Roads Transportation Authority (HRTA), it would require an act of the General Assembly to create a similar authority. He stated that in Hampton Roads there is a \$10 inspection fee, 5% tax on automobile repairs, and grantors tax of 40 cents on every \$100 of assessed value in selling a home, a motor vehicle rental tax of 2%, a one-time vehicle registration fee of 1%, an annual vehicle registration fee of \$10, and a 2% gas tax. Mr. Randolph asked what the chances would be for the General Assembly to allow those types of taxes to be collected if a "Central Virginia Transportation Authority" were formed.

Mr. Davis responded it would be very difficult and explained that in 2008 there was a compromise bill to increase state transportation funding sources, with Tidewater and Northern Virginia being major players in that with other localities not being major players. He stated there was some increased funding in terms of how revenue was generated, but the General Assembly has been very reluctant to give that kind of taxing authority outside of Northern Virginia and Hampton Roads. Mr. Davis reported that when proposing the regional transportation commission here primarily for transit but also possible for road funding, one of the things requested was a funding source, a local gasoline tax, potential sales tax enhancement, etc., and those are very difficult concepts to persuade the General Assembly to advance. He emphasized that in the last several years, they have tried to do that for other revenue sources for the County, and it has been a tough sell.

Ms. Mallek stated that she testified at the General Assembly in committee level and got yelled at for proposing a district, adding that it was a very contentious and unpleasant day. She said that in the transportation working group in 2006-07, they talked about service districts, but it may have only been for an option in the City and is only for very specific transportation projects.

Mr. Davis responded that the only authority the County has in that regard is for service districts, whereby they can propose a tax on assessed value within a service district area, and that is one of the concepts that has been explored for local transportation project funding, if it is ever advanced.

Ms. Mallek asked if the County could do that on its own accord. Mr. Davis responded that they could do it through a transportation service district.

Mr. Randolph said they would have to tie the projects to the people they are taxing because the fee has to be linked to those beneficiaries.

Ms. Mallek stated that everyone in the whole County needs the Exit 118 intersection.

Mr. Davis said all the funds raised in a service district have to be spent within the confines of that service district.

Mr. Randolph asked Mr. Boyles what his ideas would be from multiple locations in terms of alternative sources of funding, if a service district would not be viable. Mr. Boyles responded that if the Board decided on a certain amount of their current taxing or an additional real estate tax that could be used towards transportation that is an option, although there is a question as to how it would be received politically and whether it would generate enough. He said that is one option, and if there is not an additional funding source they should perhaps concentrate on some of the smaller projects rather than going after a \$140 million project. Mr. Boyles stated that trying to determine what is the most important of the projects in one intersection or area and focusing on a lot of smaller projects may be a more successful approach, and there were a number of smaller projects funded in the last HB2 round including a \$12 million award to the City of Charlottesville that was 100% VDOT funding. He emphasized that there is a lot better chance of getting funding for the smaller projects, and the bigger projects will be very difficult.

Mr. Foley stated they have talked about service districts, but also the concept of a countywide or citywide service district where all those funds could be dedicated for a specific purpose, although it involves an extra tax.

Mr. Davis responded that it may not be able to be countywide or citywide under a service district concept, but there are transportation service districts where you can do that. He stated it is a property tax component that can be dedicated to transportation.

Mr. Foley said that typically you think about service districts around a development area or some particular area, and they cannot be completely countywide.

Ms. Mallek said that the transportation districts can be.

Mr. Davis stated there are separate transportation districts they could consider that may be able to be countywide or citywide.

Ms. Mallek said that many months ago at the MPO, they asked Mr. Proctor to come back with phasing work they had already been working on for Exit 118, and she asked Mr. Boyles if he had heard anything about that. Mr. Boyles responded that he has not heard anything more about it, but would follow up.

Mr. Gatobu stated the reason staff is before the Board today is to see input on two aspects, the proposed addition or removal from the County transportation priority list, and County and VDOT staff-recommended projects for which to review funding in the six-year secondary road fund. He said that staff reviewed these with VDOT to see which of the projects would be high-scoring, and he said that staff is coming in early to seek recommendations from the Board as to which should be put into the FY19 requests. Mr. Gatobu stated that with Exit 118, they could try to get some more information on the design aspects of it as well as some drawings. He said that projects include Rio Mills extension/connection to Berkmar Drive, Barracks Road right-turn lane improvement on Route 29 and Route 250 bypass; Route 240 and 250 intersection improvements; Route 250 and Route 151 intersection improvements; Route 649 (Proffit Road) and Route 20 intersection; and Exit 118 and Exit 124 on I-64. Mr. Gatobu stated those are

the projects identified by staff, although the Board can certainly add more. He noted that most of these are intersection improvements and smaller projects with very high safety issues. Mr. Gatobu stated that these are also coming straight from VDOT, which knows about the projects being recommended, and at a later meeting Joel DeNunzio can provide additional comments.

Mr. David Benish, Chief of Planning, stated that four of the first five projects have some funding or work associated with them, so there is the investment aspect to them that can be cited. He said that staff is encouraging a focus on projects six and seven in preparation for them to be submitted in future years, so the design work can be done, the cost is reasonable, and the projects perform well under the criteria working with the MPO. Mr. Benish stated that with the other major projects funded clearing off the slate, it would give VDOT and the County more time to accurately focus in on the scope of the project and get it as cost-worth and score-worthy as possible.

Mr. Sheffield asked if staff has a sense of why the City's projects got ranked well and got funded. Ms. Mallek responded that she does not understand, because these are inner City streets with no regional significance.

Mr. Sheffield said they are streetscape projects.

Mr. Boyles explained that intermodal and bike/pedestrian projects, as well as park and ride lots, score very well. The City's projects had a lot of bike/pedestrian facilities included, and that is what pushed them up on the list. He said most of the City's projects, except for Fontaine, are \$1 or \$2 million in scale.

Ms. McKeel stated that she spent a lot of time on the phone with Mr. DeNunzio the previous day about these, and in looking at the Barracks Road right-turn lane at Route 29 and the 250 bypass ramp, everyone recognizes the bad backups there. She said that Mr. DeNunzio's recommendation is that because of the construction projects at the Best Buy ramp, the traffic signal upgrades happening by mid-May, and changing traffic patterns that will result, he is suggesting that they need to leave it as a priority for VDOT, but would not recommend it for this round. Ms. McKeel said that Mr. DeNunzio's suggestion is to wait until the FY19 funding cycle to allow time for the other measures to work.

Ms. Mallek stated the time in between now and then would allow for donation of right of way also, which would really make a difference because it would take two years to do anyway.

Ms. McKeel agreed, stating that the timing of the other projects would allow for them to be completed and time to assess their impact.

Ms. Mallek asked if that would be to stay in the local pool of money. Ms. McKeel responded they may not need it right away and may want to prioritize something else for the next round.

Ms. Mallek asked about the HSIP money for the 151/250 interchange and sought clarification as to the funding already allocated for the intersection, which they may not know about until July. Mr. Benish responded that HSIP monies have already been programmed for this intersection for FY18, and that is for a traffic signal, but some at VDOT feel that a traffic circle may be a better and safer approach, if it can fit within that space. He stated this would add to funding to determine the best design for that and because this project already has funding assigned to it, the scoring is higher.

Ms. Mallek asked if this is the same situation with the Route 250/Harris Teeter area improvements, which already had money this year from the Meadow Creek Parkway remaining funds, and Mr. DeNunzio had told her to wait until July, but this is competitive funding, and she is concerned that they are losing the money they already have by gambling on a bigger project.

Mr. Gatobu explained that they are looking at an HSIP project for the Crozet area Harris Teeter, and there is revenue-sharing money out there already for sidewalks, and Jack Kelsey has been looking at several alternatives for measures to lower speeds. Mr. Gatobu said that he has talked with the Crozet Community Advisory Council, and he and Mr. DeNunzio and Mr. Kelsey have been working to see what they can do as part of the new Adelaide development coming in there, as well as applying for highway safety improvement project funds.

Ms. Mallek asked if this will be ready for a July 1 decision, because they have been chasing this for four years now and it was supposed to be under construction this summer. Mr. Gatobu stated that they would have to talk to the community to see what they want in terms of design at that intersection, in order to put it into an application this year.

Ms. Mallek said that there were public meetings with the design already made, which VDOT is throwing out because they have this new idea. She stated they have already looked at the roundabout there and determined that there was not enough space, in both of these locations. Ms. Mallek said the reason she is so impatient with this is because they are going back and trying the same thing again that has already been thrown out.

Mr. Gatobu stated that Mr. Kelsey has been working on a roundabout design and he can talk with him further as to whether they can get the other project they applied for HB2 funding. He said that VDOT thinks it is a good project to have a roundabout, it is just a matter of whether it can fit in that location.

Ms. Mallek said it would be a \$3 million project when they have \$1 million in cash ready to put up a stoplight that would help prevent people from getting run over as they cross the road.

Mr. Gatobu suggested going back to the people in Crozet to discuss having a roundabout put in there, if that is something they will consider, and then the County can put it in as a project for this cycle as they are within the timeframe, but need to get community consensus first.

Ms. Mallek stated the advisory council meets the third Wednesday and this is really important because people feel they have already weighed in.

Ms. Palmer asked Mr. Gatobu to comment on Morgan Butler's statement regarding the phase one and phase two of Ashwood Boulevard.

Mr. Gatobu explained that there are some connections in the Places 29 master plan, one of which is the Rio Mills extension. He stated that Rio Mills goes all the way to Route 29 now but a portion of it is not paved, and this will extend it from where it is not paved all the way to Berkmar Extended. Mr. Gatobu said this would be phase one, which is a short project staff feels can get done in this cycle. He stated that the Ashwood Boulevard extension to Berkmar would be phase two and would be another application looked at in the next two years, and you would be able to go all the way across Route 29 to Berkmar Extended. Mr. Gatobu stated this was also shown in the Places 29 Master Plan.

Ms. Mallek suggested that staff check the minutes of those community meetings, because while this was very well supported for bicycle and pedestrian connections, it was not supported for vehicular traffic. She also pointed out that the NGIC towers are not moving, and that is directly in the path of that.

Ms. McKeel stated that Ms. Mallek is correct in that the community was not supportive of vehicular traffic there.

Ms. Mallek said they do not need to debate it now, but she does not want to lose track of the history they already have.

Mr. Gatobu stated this is something they can talk with VDOT about in terms of a pedestrian connection.

Mr. Benish pointed out the extension does not foreclose on this just being a pedestrian connection or a transit connection in the future, and the Places 29 modeling does show it as an important roadway for the long-term viability of 29. He stated it is a recommendation of that transportation study because it provides access to local capacity created on Berkmar Drive to help augment the capacity on 29 North, and over the 20-year-period of traffic growth, they need to continue to utilize both roadways. Mr. Benish said he is fully cognizant of the public comment that has been provided, and it is old modeling now and needs to be updated. There was a suggestion that in the long term, east-west connections between 29 and Berkmar Drive are important to the viability of Route 29, whether it is this one or others, and that is why it is in Places 29.

Ms. Mallek said this is only a quarter-mile from Hollymead.

Mr. Dill pointed out the concern was that because this is not in a development area there is pressure to do it, and it was not because they did not want the cars going off 29, so if that could be guaranteed, that would probably change a lot of the public opinion.

Mr. Benish stated the County controls land use designation.

Ms. McKeel stated the phase one is very appealing and that should be moved on.

Mr. Benish said the Board had provided that direction during the Earlysville through-truck restriction item.

Ms. Mallek said the right of way would be the stake for the County provided by others.

Ms. Palmer reviewed they are considering putting off the Barracks Road right-turn lane improvements, projects six and seven will be considered for FY18, and Ms. Mallek needs some clarification on the 151 intersection.

Ms. Mallek stated the Harris Teeter improvement is no longer on any list, either Attachment A or B, and she wants to make sure it is somewhere.

Mr. Benish said it was an active project so they were working on it, and he believes they can receive HSIP funding without going through the HB2 process. He stated that staff would move forward with VDOT and the TJPDC to score the projects and look at the strategies for them, they just do not want to start to put effort into projects that the Board does not want them to do. Mr. Benish said that in some ways, they are going to keep Barracks Road on the list, understanding that Mr. DeNunzio may come back with a two-year strategy for these or any others the Board wants to consider.

Ms. Palmer asked if Route 250 at Ivy with Owensville Road and Dry Bridge Road are on any list. Mr. Benish responded that it is on the transportation priority list now, and the emphasis is going

on the top five or six projects, most of which are in the 250 corridor, including four intersections along Route 250 West with one of them being Owensville Road. Mr. Benish stated the ones Mr. Gatobu and VDOT have prioritized appear to be good-scoring projects and either have some funding applied to them or separate prioritization. He said that Owensville or Tilman do not appear to have reached that level, but staff has acknowledged that they need to get to them in that corridor.

Ms. Palmer asked if the only safety consideration is someone dying or a more serious accident. Mr. Benish stated the number of accidents is a threshold, but he does not know how significant incidents or fatalities weighted those scores.

Mr. Boyles said that unfortunately the way it is listed now has two criteria on safety, and they are dependent on fatalities although things may change. He stated this is the first year of a brand new program, and the CTB would be more than happy to hear comments from local governments, MPOs and PDCs as to how they can tweak certain criteria and categories, and that may be something they want to comment on as local government and MPO members.

Ms. McKeel stated if they are going to start talking about fatalities, they should talk about Garth Road.

Ms. Palmer asked if they would first start talking about that at the MPO level. Mr. Boyles responded they would, adding that there have been a lot of accidents at Exit 118 as well as many animals hit there, so that is something they could talk about at the MPO level. He stated they would most likely not apply for more than one or two projects, and the project they are looking at with more of a statewide corridor significance is the Free Bridge project. Mr. Boyles said that it seems ideal to the TJPDC, and they have been through a public engagement process with several scenarios considered as well as engineering concept drawings with cost estimates done on that project. He stated the project has a very high bike-ped intermodal type improvement and it straddles two local governments, so the TJPDC would be asking both the County and the City at the MPO level to consider it as the MPO project.

Ms. Mallek asked if that is for expansion of the current bridge, not the second bridge. Mr. Boyles responded that the preferred option that came out of the ecological study that took a year and a half to do was to widen the current bridge to add two more lanes, and then it would create a freestanding bridge for bike and ped use to keep them separate. He stated that it would also include some turning lane improvements at High Street and at Route 20, and this is a \$15-\$18 million project.

Mr. Dill said that he likes that a lot, as they are trying to do redevelopment in the area, with a new park going in there.

Ms. McKeel said she was surprised at project three regarding the widening of US29/250 to six lanes with "median and replacement railroad bridge and other bridge improvements," because Mr. DeNunzio said that VDOT was not interested in that project given the high cost of replacing a railroad bridge.

Ms. Mallek stated that it was supposed to be part of the 29 projects, but they threw it out for that reason.

Mr. Benish said this was a project that came from the MPO Long-Range Transportation Plan that was vetted through VDOT and Chuck Proctor, and what this was identifying was a long-term need based on the study done at the MPO. He said this corridor toward the end of the 20-year period is going to start to fail, so there was a recognition of the need to prepare for potential widening, and the full description shows that the comments are to just do engineering. Mr. Benish stated the idea is that if this is a long-term need, projects which include bridges that need to be replaced sooner than the 20-year period, they need to understand what the design of that widening would be so when bridges like Old Ivy Road or the railroad bridge need to be upgraded, they understand what the scope of the project is so they can acquire the right of way and design the bridges to sustain the long-term widening necessary. He said what the long-range transportation plan showed was that unless they add capacity through the City, most traffic from the east and the south would be using the bypass to go into town, not going through Route 250 East. Mr. Benish stated the study showed that the widening was pretty strategic to improve long-term capacity on Rio Road/John Warner Parkway because that was where the traffic would have to go to go north. He emphasized there was no capacity on the existing bypass in the City, and they would go around and use a more limited access roadway to go to points north. Mr. Benish pointed out that this is a very long-term project, and the intent was only to begin to design it to see what the impacts for that widening would be, and VDOT, at the long-range transportation planning level, felt that it was a very important project.

Ms. Mallek stated that she feels there is no way they should be investing anything on that stretch until after Exit 118 is fixed, because that is where the backup starts and you cannot get beyond that point, and once that is in process it makes sense, but to spend millions on planning and engineering to throw it away is not feasible. Mr. Benish responded that is how it is set up in the MPO plan, so this is only to acknowledge that they need to do design work to understand what the ultimate scope of the project will be.

Ms. Mallek said that she would feel better if the Exit 118 project also had planning and engineering, rather than having it show no funding.

Ms. Palmer asked if this is the kind of discussion that should be taking place on the MPO. Ms. Mallek responded that it will in January when they get to the long-range plan, but they also need to deal with it when they see it.

Mr. Benish said it is fine if this is lower in the Board's priority, but the regional modeling for the network indicated a need for the improvement, and the County adopts the MPO long-range plan as part of the Comp Plan, so it is a project they try to fit into the priority list. He stated that it reflects what is shown in the MPO plan, but the Board can lower it in their priorities, and he was just trying to reduce the alarm about it being an imminent construction project as it is a long-term planning project to get a handle on the scope of the improvements.

Ms. Mallek said that she understands that, and knowing about the bridge widths ahead of time is very sensible.

Mr. Benish stated all they need from staff today is the Board's general consensus, and staff has heard comments about expectations for priorities for Barracks Road, and their understanding of staff's acknowledgement that six and seven will probably be later projects. He said the basic goal here is that the Board is comfortable with staff pursuing these projects with VDOT and the MPO as they draft applications for October.

Ms. Mallek commented that she likes the fact they are doing this in several stages over several months, as it helps them to do a better job.

Mr. Gatobu said the one question he has is whether the Board would like for any other project to be added or removed, and asked that the Board let him know.

Mr. Benish stated they will have the opportunity to revisit this topic in the next several months.

Ms. McKeel asked Mr. Gatobu to provide an update on the transit bus, as people are clamoring for it. Mr. Gatobu said that he is looking at Mr. Sheffield before he starts discussing it.

Mr. Davis said that because this was unplanned, and perhaps Mr. Gatobu can provide the update by email.

Mr. Sheffield stated that he is okay with stepping out. At 4:10 p.m., Mr. Sheffield read the following Transactional Disclosure Statement: ("I am employed as Executive Director of JAUNT, a regional public transportation provider owned by the City of Charlottesville and the counties of Albemarle, Fluvanna, Louisa, Nelson and Buckingham located at 104 Keystone Place, Charlottesville, Virginia 22902, and have a personal interest in JAUNT because I receive an annual salary from JAUNT that exceeds \$5,000 annually.")

Note: Mr. Sheffield then left the room at 4:10 p.m.

Note: Ms. Palmer suggested skipping the transportation planning quarterly update.

Mr. Gatobu reported that staff has an application for a proffer amendment that has been submitted by Mr. Wendell Wood, and because of that there must be a community meeting. He stated it was suggested that the meeting take place from 1:00-3:30 p.m. and he said they need to have it at 5:30 p.m. or later, so people can attend, and the applicant is trying to find a location where they can host people during that time. Mr. Gatobu said there is at least a 90-day period by which to hear from them, and at some point there will need to be a Planning Commission meeting regarding the ordinance requirements in order to get an answer. Mr. Gatobu stated he has spoken with Mr. Kamptner about this and his one comment was that the transit has to go through area A-1 in Hollymead Town Center where Kohl's is, because that is where the proffer is generated from. He said as long as there is a stop there, there is nothing that precludes them from starting the service, as long as there is a stop in Area A-1.

Ms. McKeel stated this is an interesting interpretation of the proffer and the County needs to be careful when writing these proffers in the future, and what they do not want to do is have Mr. Wood delay this particular transit, because people are clamoring for it, and the County thought that it would be going by now.

Mr. Benish clarified that \$50,000 in County funds was set aside to begin the project, and they cannot ask for the proffer until the service is provided. He stated there is funding to begin, and it is really up to JAUNT whether they want to begin that funding knowing that there is just one year of dedicated funding set aside. Mr. Benish said that whether that future funding through the proffer is available will be subject to Board action as to modification of that proffer.

Ms. McKeel said she had spoken with Ms. Davis of JAUNT numerous times over the last month and she is very eager to get it started, with the busses ready to go.

Mr. Benish pointed out that there is nothing that precludes them from starting the service as there is the County's share of funding available for that for one year, but if there is a decision on the proffer that does not provide the dedicated funding then if JAUNT needs that funding in subsequent years, it will be a Board decision.

Ms. McKeel stated the proffer will have to come before the Board to be altered. Mr. Gatobu confirmed this is the case.

Ms. Mallek said the Board has already heard this within the last 12 months, and asked if the Board has to hear it again once a decision has been made.

Mr. Davis explained that Mr. Wood had filed a zoning map amendment requesting to change the proffer. Specifically to this proffer, it was included in an updated proffer three years ago, and at that time late in the process Mr. Wood requested to change this proffer, but it was not properly before the Board, and that particular proffer was not changed. He said that now because of the Board's initiative to use the funding for the transit service, Mr. Wood is bringing this back before them to try to change the proffer. Mr. Davis stated that as staff has said, the Board has funded the start of this and there is nothing that precludes it from going forward.

Ms. Mallek asked what the Board needs to do to get it to start.

Ms. McKeel stated that Ms. Davis has indicated there is another place for the stop, and they just need to move.

Mr. Foley said the issue of the proffer amendment was probably hanging it up, but staff will follow up with an email and let them know.

Agenda Item No. 12. **Presentation:** ~~Virginia Department of Transportation (VDOT) Quarterly Report.~~ **Removed from agenda.**

Agenda Item No. 13. **Presentation:** County Transportation Planner Quarterly Report.

The executive summary presented to the Board states that staff began providing quarterly reports to the Board regarding the County's transportation work items as part of the Transportation Presentations in October 2015. The purpose of this agenda item is to review the Community Development Department's transportation activities for this quarter and to seek Board guidance on its priorities.

The Transportation Planner's Quarterly Report (Attachment A) includes a summary of the transportation items, programs, and projects that the County's transportation planner is working on, as well as a status update on various ongoing transportation initiatives being pursued in collaboration with the Virginia Department of Transportation (VDOT). This will allow the Community Development Department to assure its work efforts are aligned with the Board's priorities.

There is no budget impact related to this report.

Staff recommends that the Board receive the Transportation Planner's Quarterly Report and advise staff as to any priority changes or new issues not included in the report.

Agenda Item No. 14. **Presentation:** Route 29 Solutions Project Delivery Advisory Panel (PDAP) Monthly Update.

(Note: Mr. Sheffield returned to the meeting at 4:16 p.m.)

Mr. Mark Graham addressed the Board and reported the cable problem that caused the phone service to be dropped had been cut by crews because they thought it was inactive, and now have developed a new protocol to avoid future problems. He stated that crews will be working at a steady pace for the next few weeks, but that will drop off dramatically, which will be the calm before the storm, with 46 days until construction begins and everything still on schedule. Mr. Graham reported that the Route 250 widening project is now in a paving phase, and he said the sound walls going up will be stained to match the one at McIntire, and that will likely happen after the project is open, the end of May or June, with the ramp slated to open on May 22.

Mr. Graham reported that the Hillsdale Drive project is out for bids, with bids accepted until mid-May, and then working through with the contract they will be ready for a notice to proceed in July. He noted that some of the utility work is being done now.

Mr. Dill asked if the project is in both the City and the County. Mr. Graham responded that it is, and said that at the corner of Hillsdale and Greenbrier is a County stormwater management facility, with the road to move from the east to the west side and the pond to be pushed over and an agreement for the County to take it back over once the work on it is done.

Ms. Mallek asked if this moves the road further away from Rosewood Village to the west. Mr. Graham confirmed that it does.

Mr. Graham reported that there are some things happening with the Route 29 widening, which is a phased project, and one of the next phases will take the southbound 29 traffic and shift it into the median area that crews have been working on. He stated this is so they can start work on the

southbound side to regrade the vertical curves and get it all leveled off, and that will happen the second half of the year to continue right up until the winter. Mr. Graham said the next phase of construction will be to shift the southbound traffic back over to the new lanes and then take the northbound traffic and shift it to the median so the same things can be done to the northbound side. He noted this will take place in the first part of 2017 through the summer of 2017, and then everything will be put back in order to be completed by October 2017.

Ms. McKeel stated that she wants to thank the PDAP committee and said that she has heard very positive comments about the sound wall, which looks much nicer than a plain concrete retaining wall.

Mr. Graham said that it will look even better once the stone façade is put in place.

Ms. McKeel asked if the crews could just come around the corner and do the retaining wall on Barracks Road. Mr. Graham responded that he asked VDOT about it, but it is outside the project boundary limit.

Ms. McKeel stated that she had asked Mr. DeNunzio about it, and he said the engineers cannot figure out a way to retrofit the panels onto the wall.

Ms. Mallek asked if the trees will be going back into the narrower median on Route 29 once the project is done. Mr. Graham responded that some kind of trees will be going in, but most of the median will be too narrow for trees larger than four inches so they will use smaller trees and shrubs, and this is part of what VDOT will be looking to the County to take over for maintenance.

Ms. Mallek asked if some of the extra widening is for the sidewalk on the east side. Mr. Graham confirmed that it is, stating that there is a 10-foot multi-use path on the east side and there will be no sidewalk on the west side until they get north of Hollymead Drive, with the sidewalk path going from the east side of the road to the west side and then up along to the Hollymead Town Center.

Agenda Item No. 15. **Presentation:** Albemarle County Service Authority (ACSA) Quarterly Report.

The following report was presented by Mr. Gary O'Connell, Executive Director, Albemarle County Service Authority:

"We appreciate the continuing opportunity to brief the Board of Supervisors on the ACSA and our work to provide safe, clean, reliable water at a good value. We provide this report as background for your April 6th meeting:

1. **Budget and Rates** – The proposed budget and rates are being finalized to present to the Board at their April 21st meeting. About two-thirds of our budget goes to pay for the wholesale water and wastewater treatment costs. Our rates continues to be below the statewide average for comparable water and sewer residential bills
2. **Drinking Water Week** – The ACSA Board has proclaimed the week of May 1-7 as Drinking Water Week. This national program is themed this year around "Your water, to know it is to love it." We hope to use the week as an educational effort to remind our residents of the vital role water plays in our lives, and the value of clean water in our community.
3. **Lead Content in Drinking Water** – Given the national discussion of water, and in particular lead in drinking water, we want to assure the Board that we have an exceptional track record of providing reliable, top quality water that meets or does better than all federal and state standards for public health, including lead and copper testing. Test results are sent to our customers each year in the Annual Drinking Water Quality Report (the current year report is on our website www.serviceauthority.org; the 2015 report will be sent to our customers in May). Several other factors assure us of clean, safe water to our customer's homes and businesses: we utilize high quality and consistent sources for our drinking water; conduct sampling of select customer's drinking water at the tap to assure lead free, and maintain corrosion control (corrosion inhibitor coats the inside of water pipes to lessen any potential corrosion). Although our water system delivers clean, safe water in lead-free distribution lines, customer-owned service lines and plumbing fixtures may contain lead materials. Our robust corrosion control practice minimizes the risk that lead from plumbing would leach into the water.
4. **Wastewater Cost Allocation** – As the Board is aware, a recent Wastewater Cost Allocation Agreement was approved that determines the cost share between the City and the ACSA for RWSA (Rivanna Water and Sewer Authority) Wastewater Treatment Project debt service payments. The agreement was to be based on metered flows in the wastewater systems to account for average day wastewater flows and peak wet weather flows. The results from the latest round of wastewater metering has been provided, and now applied to the FY 2017 RWSA wholesale wastewater debt service charges. We estimate about a \$300,000 a year cost savings to our ACSA customers as a result of this agreement and new cost sharing formula.

5. **ACSA Capital Projects Update** – This section will update some of our current Capital Improvement Projects (CIP), and share some of the new projects that are being proposed in the FY 2017 CIP Budget. Maps are included at the end of the CIP projects that are proposed for next year, which show the extent of the projects in the areas that they will serve.
- **Water Tank Maintenance Program** - This is a comprehensive, ongoing water storage tank maintenance and rehabilitation program for the eight tanks in the ACSA system. The goal is to have an ongoing review of our tanks to ensure they are kept in good condition to be able to serve the community.
 - **Key West Water Main Replacement** – More than two thirds of the installation of a replacement water main has been completed. Replacement and the addition of new fire hydrants will improve the fire service in the neighborhood.
 - **Dunlora-Key West Water Interconnect** – A companion project is a new interconnect waterline under the river that will provide additional redundancy and emergency backup, as well as improve water quality.
 - **Westmoreland Water Main Replacement** – This project is in the design and easement phase, which replaces a nearly 50 year old waterline that has recently experienced multiple water leaks.
 - **Michie Tavern Water Main Replacement** – Work is underway on the replacement waterline. Current work includes boring under Route 20 from the beginning of Piedmont Virginia Community College to the adjacent UVa Blue Ridge property. The new line will replace one that is over 70 years old.
 - **Ivy Water Main Extension** – A DEQ project to provide public water to several residences and businesses in the Village of Ivy along Route 250 west that have contaminated wells by leaking underground fuel tanks. Initial design work is underway.
 - **Berkeley Water Main Replacement** – This project replaces waterlines in the Berkeley subdivision that are failing and leaking. The lines are nearly 60 years old. Design is complete, and we are in the midst of acquiring easements to then be able to go to bid.
 - **Glenmore Water Tank Project** – This project is for system redundancy and emergency backup. The present line extends 4 ½ miles to Glenmore. The project design is complete and nearing bidding for a new water tank to serve Glenmore.
 - **Ivy Road-Flordon Water Connection** – Part of our water system reliability and redundancy projects. The waterline on the south side of the railroad is complete and in service, while the north side waterline is about to go into service.
 - **Ednam Water Pump Station Upgrade** – Another of the water system reliability and redundancy projects which will also increase the water pumping capacity. The project has been bid and a contract signed to start the work.
 - **Crozet Phase 3 Water Main Replacement** – Beginning design work to replace older waterlines in Crozet.
 - **Orchard Acres Water Main Replacement** – Older waterlines to be replaced in Crozet. Design is complete and we are now in the easement phase of work.
 - **Greenbrier Drive Sewer Replacement** – Part of the Hillsdale Drive Road Project, this short section of sewer line will be replaced. A significant cost savings by combining this sewer line replacement with the planned road project. Design work is nearly complete.
 - **Oak Hill Sewer Phase 2** – New sewer line to serve 20 homes in the Oak Hill subdivision. Community Development Block Grant funds through Albemarle County are being used to fund part of the project cost. A contractor has been selected to begin construction of this new sewer line.
 - **Camelot and PVCC Sewer Rehabilitation** – Sewer replacement, relining, and manhole repairs to reduce infiltration and inflow are needed for a well-functioning sanitary sewer.
 - **West Leigh Water Main Replacement** – Project has been phased to replace aging and deteriorating waterlines. Work has just been completed on Croydon Road and the next project underway is along Sheffield Road.
 - **Route 29 Utility Relocation** – As part of the Route 29 project, a number of ACSA waterlines have been relocated and new connections made.
 - **FY 2017 CIP Budget** – The proposed CIP is \$6.78 million for next year, with \$5.46 million for water projects and \$1.32 million for sewer projects. The new projects include the replacement of existing water mains, creating redundancy in the water system, increasing capacity at water pump stations, replacement of existing sewer mains, identifying and fixing infiltration/inflow (I/I) in our sanitary sewer system, and upgrading an existing sewer pump station; “new” below indicates a new project proposed in the FY 2017 CIP:
 - **Camelot Water Main Replacement (new)** – Replacement of nearly 50 year old waterlines that are also undersized.
 - **Scottsville Water Main Replacement (new)** – Replacement of an aging waterline along East Main Street.
 - **Pantops Sewer System Study (new)** – Sanitary Sewer System Evaluation Study to determine repairs and rehabilitations that may be needed.

- **Barterbrook Water Main Replacement (new)** – Waterline replacement of aging and deteriorating lines along Solomon Road, North Berkshire Road, and Inglewood Drive.
- **Madison Park Sewer Pump Station Upgrade (new)** – This pump station is in need of upgrading and conversion to modern operating equipment.
- **Fontana Loop Water Connections (new)** – New waterline loops at Verona Drive and Olympia Drive will create secondary water feeds for system redundancy and emergency backup to the Fontana subdivision.
- **West Woods Water Main Replacement (new)** – The project completes the waterline replacements along West Pines Drive.
- **Ashcroft Water Pump Station Improvements (new)** – This project will upgrade an existing water pump station, which will result in improved water quality.

Thank you for the opportunity to share what is going on at your water agency, the Albemarle County Service Authority.”

Mr. Gary O’Connell addressed the Board, stating that the ACSA is in the final phases of getting the budget and rates together. He reported that the ACSA’s rates are below the state average, and there was another state survey in January that showed consistently lower rates on comparable bills, and 22% less than a comparable City water and sewer bill. Mr. O’Connell noted that one penny buys 2.5 gallons of ACSA water, which is a great value, and 64% of the ACSA’s rate pays for the Rivanna water and wastewater treatment costs and associated projects. He stated the theme of the upcoming Drinking Water Week is, “Your Water: To Know It Is to Love It,” and the logo will become more prominent as the week draws near. Mr. O’Connell stated that the ACSA will be sending out a flyer with the May utility bills, and said the annual water quality report will be posted on the website, including summary information plus details of the tests. He noted there are 400,000 water tests to assure water quality done annually in the community, between Rivanna and the ACSA.

Ms. McKeel commented that a lot of people drink bottled water.

Ms. Palmer asked why that is the case.

Mr. Dill stated that he does not drink bottled water and can taste the plastic in it, and asked Mr. O’Connell if the ACSA has done testing of bottled water to see how it is better or worse.

Mr. O’Connell responded that he has seen some national tests, but has not seen a local comparison, and he has asked people if they have tested it, as he has with well water. He said that there are no requirements on the bottle as there are with other food-related products, and the sheer cost of bottled water is prohibitive. Mr. O’Connell read a statement from the ACSA’s annual drinking water quality report which states that local drinking water continues to be of the highest quality, meeting or exceeding all regulatory requirements in 2015, and other information such as source, treatment, and information on lead testing is included in the report. He noted that all information is available on the website or in paper form for those who request it, adding that lead and other contaminants are regularly tested in the system.

Mr. O’Connell reported that the Board was helpful in negotiating the wastewater cost allocation and getting that approved, and there are meters in the sewer lines for average daily use and peak wet weather, which will increase a lot as rain puts water into the sewer system. He stated that as a result of those flows being applied to the budget next year, they will save \$300,000 annually, so the agreement accomplished what was hoped and will be re-evaluated every five years.

Ms. Mallek commented this would offset the cost of the meters fairly quickly. Mr. O’Connell stated that this has identified areas within the ACSA system that need some work, one of which is Pantops, and Glenmore will also need attention.

Mr. O’Connell reported that the CIP budget is slightly larger than usual next year at approximately \$7 million, \$5.5 million of which is for water projects. He stated that new projects include the Camelot water main replacement, with the existing line being about 50 years old; the Scottsville water main replacement to replace the line there that is about 70 years old, with a section along East Main Street to be combined into one larger project; and the Pantops sewer system study. Mr. O’Connell stated they go through the drainage basins to look at the areas that drain into the sewer system, which Rivanna and the City also do, for a detailed study to try to identify the water getting into the system and figuring out how to eliminate it, which can include relining of pipes, installation of new pipes and manhole rehabilitation. He stated that other projects include Waterbrook water main replacement; replacement of the Madison Park sewer pump station; Fontaine loop water connection; Westwood water main replacement; and improvements at the Ashcroft water pump station. Mr. O’Connell stated there are maps for all of these projects and he thought it might be useful for the Board and their constituents to know exactly where projects are located.

Mr. Dill stated that he lives in Ashcroft right next to the pumping station, and crews there have been great in terms of traffic and redoing the roads, and fixing up people’s lawns. Mr. O’Connell said that he would pass that onto his staff.

Ms. Mallek commented that their supervision of contractors is also top drawer, and when problems arise the ACSA responds quickly to fix them.

Mr. Randolph said the water tank project around the East Rivanna fire district has been referred to as the "Glenmore Water Tank Project," but going to the north and east would be Rivanna Village, and it might be appropriate to think of that project as a Rivanna Village project as it will be serving the whole area there. Mr. O'Connell stated that if they are following the Comprehensive Plan, they will call it the "Village of Rivanna."

Ms. Mallek stated that just calling it "Rivanna" would work, and most people know where it is anyway.

Agenda Item No. 16. **Presentation:** Rivanna Water and Sewer Authority (RWSA) Quarterly Report.

Ms. Palmer read the following commendation recognizing Tom Frederick:

Commendation by the Albemarle County Board of Supervisors
of
Thomas L. Frederick, Jr.
Executive Director,
Rivanna Water and Sewer Authority
Rivanna Solid Waste Authority
2004-2016

With deep appreciation and gratitude, the Albemarle County Board of Supervisors, this 6th day of April, 2016, hereby commends Thomas L. Frederick, Jr., for his 12 years of outstanding service as Executive Director of the Rivanna Water and Sewer Authority and the Rivanna Solid Waste Authority. The Charlottesville/Albemarle community is stronger, and a better place to live, work and grow, as a result of Mr. Fredericks' tireless dedication to duty and principle.

During his tenure, Mr. Frederick successfully led in the development of a long range (50 year) water supply plan to secure this community's water supply future, while at the same time incorporating future environmental protection for our rivers and streams and the entire watershed upon which we depend. His prodigious accomplishments also have included improvement of drinking water quality, modernization of our waste water treatment system and implementation of an effective corrective action plan for the closed Ivy landfill. Mr. Fredericks' successes were the result of his ability to meet and exceed the highest professional standards; his unquestioned integrity; and, in his human ability to respect all points of view among the citizenry and governmental officials.

Thank you, Tom, for your remarkable service. We will remember you for the mark you have left, and we wish you, and other Communities you will serve in the future, the very best.

Ms. Palmer then stated that Mr. Frederick made one of her favorite comments at a public meeting once: "One of the problems with reporting your sewer overflows is that now you have to do something about it."

Mr. Tom Frederick addressed the Board, stating that it is an honor to be recognized by the Board. Mr. Frederick said that it would not have been possible for him to take his work to the next level without the Board, the Service Authority and the City of Charlottesville. He stated that he is a richer and more patient person, and he appreciates the comments about listening to all points of view. Mr. Frederick stated they have made tremendous accomplishments although there is still more to be done, especially with drinking water, and noted that the water supply project was started in 1979 and completed in 2014.

Ms. McKeel stated they were in such bad shape, they were surprised Mr. Frederick took the job, and the place they are in now is so far different.

Mr. Frederick reported that the RWSA Board of Directors approved their five-year capital improvement plan in February, and said that what was once a very old wastewater infrastructure was becoming world class. He stated they are still building the Rivanna Pump Station on the Moore's Creek property and still have to finish the Schenk's Branch Interceptor, as well as having to finish the odor control project, but when they get there, they will have a world-class wastewater infrastructure that the community can be proud of. Mr. Frederick stated the project will also be very environmentally friendly, and the water going into Moore's Creek is higher quality than the water coming in naturally through the stream. Mr. Frederick stated the operating budget for water and sewer was introduced at the RWSA Board's March meeting, and the Board authorized a public hearing on May 24, at which time they will hear from the public, followed by Board action. He said the Rivanna Solid Waste Authority annual operating budget will be introduced this month and has been drafted, and Mr. Graham and Mr. Henry have that draft as part of internal reviews. Mr. Frederick stated that he is hoping to schedule a public hearing for the solid waste budget May 24, and that will include the capital project for the new transfer station that the Board of Supervisors adopted in November.

Mr. Frederick reported the RSWA received bids last week for the odor control project, which are

currently under review by the engineer, and hopes to award a contract at the April RSWA Board meeting. He reminded the Board that when bids were opened the first time, they came in \$1.2 million over budget, so they regrouped and got information from the bidders on project specifics, and the new bids would save about \$700,000-\$800,000 but will still be over budget. Mr. Frederick emphasized that they have worked the project enough at this point that it is time to move on it, and it is an important project to the Belmont and Woolen Mills communities, parts of which lie in the County.

Mr. Frederick reported that Drinking Water Week is the first week of May, and the four agencies working together will do a joint celebration with a May 5 event at Ragged Mountain Reservoir, including an invitation-only event from 10:00 a.m. to 10:30 a.m., with Ms. Palmer and other officials making brief remarks along with the public unveiling of a new plaque to signify the dedication of the dam in September 2014. He stated that following that, the site will be open from 10:30 a.m. to 12:00 noon, with shuttles on Reservoir Road to reduce traffic volumes. Mr. Frederick said there will also be booths set up operated by the various entities showing all phases of water and wastewater, from the watershed to the reservoirs to the treatment plant to the pipes through the wastewater plant, returning water to the environment under very clean conditions. He stated those interested in hiking can spend that time exploring the trails that the City has built over to the new floating bridge, but the trails on the other side of the bridge will not yet be open. Mr. Frederick said that a time capsule will also be sunk in the reservoir, to be removed 10 years from now.

Mr. Frederick reported that there was an event last weekend for household hazardous waste, with record-breaking public response. He stated there were 1,195 cars coming through this year compared to 384 in spring of 2015 and 393 in spring of 2014. Mr. Frederick said that fall is usually the busier time, but even last fall the total number of cars was just 736. He stated the number of complaints received was relatively low given the volume, and Rivanna would like to plan for this level of participation being a trend, perhaps increasing the capacity to four lanes so that 16 cars at a time can come through to be serviced instead of just 9. Mr. Frederick stated they cannot do more than four lines on the Ivy site due to site restrictions, and if they decide to go farther than that they may need to consider the U-Hall parking lot or some other location for household hazardous waste events. He said they are currently focusing most of their attention now on how to make Ivy more efficient, and because more paid technicians will be needed, there may need to be conversations about increasing the budget for the household hazardous waste events. Mr. Frederick stated that he assumes the Board of Supervisors will want them to serve more citizens if they turn out, even if it requires more in the budget, so that is how Rivanna is planning to proceed. He added they are also considering longer hours on the Friday of the event, which typically runs from 2:00-6:00 p.m., perhaps starting at 9:00 a.m., and because most of the household hazardous waste received is paint they could possibly hold a separate paint-only day. Mr. Frederick suggested that they could also consider reopening the paint swap program and the collection of universal waste at the convenience center, which had once been offered at Ivy but was cut out due to budget constraints, but if they are considering expanding household hazardous waste and assuming a higher cost, they may reach the point that they are more than covering the costs saved by eliminating that regular program. He stated if they are considering reopening that service, they would want to discuss it with the City because they are currently not paying for the Ivy MUC, but are paying for the special events like household hazardous waste. Mr. Frederick noted the next household hazardous waste day will be held September 30-October 1, 2016, and asked the Board to share any additional ideas with Teri Kent.

Mr. Randolph commented that he had been discussing paint recycling with a constituent who said the current schedule of just two paint weekends is not sufficient and should be expanded, and having a dedicated set of days just for paint, perhaps on a quarterly basis, will be terrific. He stated he thought this was the tip of the iceberg in terms of people wanting to comply, and if they offer more days they would likely see an increase in the number of people using the service.

Ms. Palmer noted Mr. Frederick's comments about reopening the paint swap program as a more cost-effective alternative than expanding the household hazardous waste days, and asked him what other substances were accepted as part of the program. Mr. Frederick responded they have limited services now with just motor oil and anti-freeze, but they used to do batteries, CFLs/fluorescent tubes, mercury thermometers, but those things are only accepted now during household hazardous waste events twice per year. He said there had been an attendant to look over the paint swap program but that position was cut as part of 2011 budget cuts, and he emphasized they must be extremely careful with public self-service of hazardous materials as this can get them into trouble with regulatory agencies if it is not properly overseen, which is one of the reasons the program had to be cut out.

Ms. Mallek commented that every auto service center is required by law to take back oil and anti-freeze and batteries, and perhaps Rivanna could do some education on that to relieve their own burden as an agency. Mr. Frederick responded that he would talk to Teri Kent about a limited amount of education, stating that in another round of budget cuts they had to cut out the recycling coordinator who was doing the public education. He emphasized that due to budget constraints, they are limited in the amount of public education programs they can be doing, but perhaps the County has some opportunities for public education, and he does not want to over-promise.

Ms. Mallek commented that perhaps the solid waste committee could do some of that education, and said that even having Ms. Kent go to WINA's radio show would reach a lot of people.

Ms. Palmer asked if he would be talking about the Sugar Hollow item.

Mr. Frederick reported that Rivanna has implemented new streamflow releases into Sugar

Hollow, which is innovative and to their knowledge is a program that no one else is doing in this way. He stated they were having to make some minor adjustments as they went along because of some unforeseen circumstances due to limited data prior to implementation. Mr. Frederick explained that last summer the Sugar Hollow Reservoir was falling quicker than anyone had anticipated, and they were gathering information from that, with some decisions made with DGIF related to the aquatic life in the reservoir itself. He noted that they did not know last year whether they were facing a one-time event or something that might recur, and after the rain event in late September they hit the 10 million gallon per day release, with this being the first spring in which they released these kinds of flows into the river. Mr. Frederick stated that the reservoir, even with the transfer line to Ragged Mountain shut off, is dropping by about three inches per day, with everything shut off except the release to the river, which has been reduced to 9.7 million gallons. He stated that for the first time this year the natural inflow dropped below 10, which was expected to happen in the summer, but they are losing about 4 million gallons per day. Mr. Frederick said this could mean a number of different things, including the possibility that there was not a full 9.7 million gallons of inflow going into the Sugar Hollow Reservoir and might instead be 5.7 or 5.8 million. He stated the other potential they need to get a handle on is seepage from cracks in the rock and other things underneath the dam, and while this may surface in the river somewhere downstream in terms of water flow, but if seepage is too high it could be an indicator of potential problems starting that can eventually cause problems with the structure of the dam.

Mr. Frederick said that on March 3 the RWSA met with DEQ because they control the permit and Rivanna is legally bound to release what they are releasing into the river now, irrespective of what they are observing in the reservoir. He stated the DEQ did agree that the RWSA could pursue collecting some data this summer that might lead to a different way of calculating natural inflow than the Mechums gauge. Mr. Frederick stated the two things the DEQ agreed that Rivanna could pursue and study for possible implementation later were use of a mass balance calculation, which involved understanding all the inputs and exits from the reservoir and measuring and solving for the real inflow coming in, which was a difficult process to explain to the public; and to install a USGS stream gauge above Sugar Hollow, either in the North Fork or South Fork Moorman's River and use that as a new indicator, changing the calculation formula. He said the DEQ has consented to the RWSA that if they are changing no other terms of the permit other than how natural inflow is calculated from one formula to another, they would probably consider it a minor permit amendment although it could take several weeks or months to process the paperwork. Mr. Frederick stated this may mean that in 2016 Rivanna will not be able to make changes to what is currently being done, but they can at least collect the data and DEQ will help with a temporary stream gauge to help determine what the flow is downstream so it can be compared to what they are releasing. He said if there is a difference, it can be calculated as "potential seepage," which needs to be tied to the reservoir level because when the reservoir level is lower the seepage is lower because there is less pressure on the water. Mr. Frederick stated this would at least enable them to plot a curve, which will help, at least, check the box that there is or is not a problem, from a dam safety standpoint.

Mr. Frederick stated that what to expect from 2016 is still uncertain, with a dry month of March and a wet January and February, at which time Sugar Hollow stayed full. He noted they have to run the Sugar Hollow pipeline when they have freezing temperatures, and it is on currently because of freeze warnings, but would likely be turned off the following week. Mr. Frederick stated the drop in Sugar Hollow may actually accelerate this week, and his best guess is that if it remains dry for the next three months, they may see conditions as low as they were a year ago, but if they get a big rain event, Sugar Hollow might refill again even during the spring and summer months. He said the USGS is scheduled to do a survey in early May, and sites are being scoped for a stream gauge, with options being pursued as quickly as possible. Mr. Frederick emphasized that he does not want to get hopes up about the pace, as there is a regulatory process behind this to get changes made, which would be at DEQ's pace and speed, so perhaps a phone call to them when the application is processed would be helpful.

Ms. Mallek said that DGIF learned a lot last year because they were providing assurances to Rivanna that everything was fine, and everyone was surprised at how bad things got so quickly. She stated that it is important not to wait too long to take action, so that the level does not drop significantly before anything is done. Ms. Mallek noted that people have been advocating for the other gauge locations for a long time, and it just has not made it yet.

Mr. Frederick reported that Rivanna had received five proposals for the Ivy Transfer Station services, which had been screened down to three, and they will be interviewing the three firms with the goal of having an engineering firm recommended for project design by the end of this month. He stated the contract agreement is under review by the City Attorney, and the City representatives on the RSWA Board have indicated that they do not want to vote on the contract until the City Attorney has completed his review.

Mr. Frederick thanked the Board for the support and the services over the years.

Ms. Mallek stated that she was impressed when Mr. Frederick stood up and told the Board that there were significant problems with the pipes in the system, and it took new eyes and a new voice to make those improvements. Ms. Mallek said she also feels that one of their very best hours was the four-boards meeting in which they tackled the chloramines issue and avoided a lot of possible problems with the water for citizens, and was very grateful.

At 5:05 p.m., Mr. Dill offered **motion** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1): 1. To consider appointments to boards, committees and commissions in which there are pending vacancies or requests for reappointments; and 2. To interview, discuss, and consider a candidate for the County Assessor position; and under subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to: 1. The negotiation of easements on the County Office Building property; and 2. The negotiation of an agreement for court facilities. Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Agenda Item No. 18. Certify Closed Meeting.

At 6:12 p.m., the Board reconvened into open meeting. Mr. Dill offered motion to that the Board certify by a recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

NonAgenda. Appointment of County Assessor.

Ms. McKeel asked Mr. Foley if he had a recommendation for the position of County Assessor.

Mr. Foley stated that it is on the recommendation of himself and all staff involved in the process that the Board appoint Peter Lynch to become the next County Assessor.

Ms. McKeel offered **motion** to adopt the proposed resolution appointing Peter J. Lynch as the County Assessor effective April 6, 2016. Ms. Palmer **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Mr. Peter Lynch addressed the Board and thanked them for the opportunity to have him serve as County Assessor, and noted the presence of his wife, Risa.

RESOLUTION APPOINTING THE COUNTY ASSESSOR

BE IT RESOLVED by the Board of Supervisors of Albemarle County, Virginia, upon the recommendation of the County Executive, that Peter J. Lynch is hereby appointed the County Assessor effective April 6, 2016 pursuant to Virginia Code Section 15.2-521.

Agenda Item No. 19. Boards and Commissions:

Item No. 19a. Vacancies and Appointments.

Due to time constraints, this item was moved to later in the meeting.

Agenda Item No. 20. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Ron Brownfield addressed the Board, stating that he is a resident of Pantops and is asking the Board for support of a pedestrian bridge over Route 250 at Pantops. Mr. Brownfield stated that he moved here four years ago with his wife, who works at Martha Jefferson Hospital, it was evident that all the businesses and other establishments are on the south side of the road. He said he does not like to drive everywhere, and 250 is a barrier for pedestrian crossing. Mr. Brownfield stated that he would like to request the County support funding for a pedestrian bridge, possibly reallocating money from road projects, and he believes there is plenty of population and businesses in the area to warrant one.

Agenda Item 21. **Presentation:** Piedmont Virginia Community College (PVCC) Annual Report.

Dr. Frank Friedman, President, Piedmont Virginia Community College, addressed the Board and

stated that Sean Moynihan, one of the four County representatives and 13 total representatives to the PVCC Board, is also present at the meeting. Dr. Friedman stated that Debbie Goodman has served both of her terms so the Board will need to appoint a new County representative, hopefully by July 1, and Sean Moynihan and Stephen Davis are finishing their first term and are eligible for reappointment for a second term, and Bruce Dotson has another year in his first term.

Dr. Friedman reported that in 2014-15, PVCC had about 7,700 students in credit courses and another 5,000 in non-credit courses, and Albemarle County accounts for about 35% of PVCC's students, with 2,654 in credit and another 1,500 in non-credit. He stated the College's enrollment has been flat over the last several years, with enrollment nationally dropping off, and when the economy is good enrollment tends to decrease. Dr. Friedman noted that PVCC has moved from the 12th largest community college in Virginia to the 9th. He said that Albemarle County graduates about 1,000 high school students, and about 20% enroll in PVCC, with that figure at 30% of those who are going onto college. Dr. Friedman stated there are about 700 dual-enrollment students each year and those students generally take two courses, with those DE students earning over 5,000 college credits last year, saving families about \$800,000 over the cost of students taking those classes at college. He noted that 1,000 Albemarle County students took at least one online course last year.

Dr. Friedman stated that Ridge Schuyler has been hired as the Dean of Community Self-Sufficiency Programs, and Mr. Schuyler brings all of his work on the Orange Dot project and other community programs to scale up that effort and give it a home and an infrastructure so those things become sustainable. Dr. Friedman said in that regard, PVCC just received a \$2 million grant from the U.S. Department of Agriculture that will enable the College to take people who are on food stamps and recruit, support and train those individuals in order to get them jobs. He stated that PVCC has also received \$600,000 for a joint project with Goodwill to train 20 people per year for jobs in healthcare, and the two programs together will help over 300 low-income, disadvantaged individuals to get them off public assistance and into self-sufficiency jobs. Dr. Friedman said in addition to that, the agreement will be signed in a few weeks for the Thomas Jefferson Adult and Career Education that does GED and ESL to come to PVCC, and superintendents in the area have wanted that to be integrated into the College system to help get skills training for jobs.

Ms. McKeel stated that this is exciting work. Dr. Friedman responded that Mr. Schuyler has done a fantastic job, but PVCC can bring in a lot more money and this provides a permanent place for his efforts in Central Virginia.

Mr. Sheffield commented that this is really significant.

Mr. Dill asked if this ties into the internet security and some of the other programs PVCC has. Dr. Friedman responded that the focus of this effort will be on short-term training, from six weeks to six months, because many individuals cannot afford to spend four years in school.

Dr. Friedman presented a draft of the 25-year master plan for the campus, stating that PVCC has been working with the architects, Grimm & Parker, noting the location of the Stultz Center, the Main Building, the Keats Science Building and the Dickinson Building. He stated the numbers on the map are the new building sites, with the next building being the Advanced Technology and Student Success Center, with planning money in the next state budget. Dr. Friedman said this would be a 45,000 square foot, \$20 million building that will support many of the new programs, with space for advanced manufacturing, labs and student support services, which are currently spread out in many different locations. He stated the goal will be for this biennium to do the design work, and next biennium to do the construction. Dr. Friedman reminded the Board that when site development work is done for community colleges in Virginia, that part is not paid for by the state and is instead paid for by the jurisdictions. He stated this cost will be distributed through a formula based upon the percentage of the enrollment that the seven jurisdictions serve, spread out over four years. He stated when PVCC comes back to the Board next year, they will want to start the four-year cycle, and reminded them that the site development work for the Keats Science Building is \$600,000.

Dr. Friedman pointed out the location of an academic building in the plan, and John Halladay of the Jefferson-Madison Regional Library had approached him about the possibility of a joint-use building that could serve community and the college, which will save land costs, and PVCC's answer was that they would be interested. He emphasized that looking at partnerships like that is something the College is very open to, noting that the Stultz Center location would be a wonderful site for a career and technical education center that can be shared by the College as well as area high schools. Dr. Friedman noted the location of a heavily wooded area behind the Dickinson Building sloping up to Avon Street and stated that the area has no academic purpose for PVCC, but they would like to make some use of it. He stated if this 17-acre parcel of land is designated in the Southern Albemarle Master Plan for multi-family housing, and the College is looking into the possibility of its real estate foundation leasing it for the development of multi-family housing in that area, with the revenue from that coming in to help with the construction of the building on site one. Dr. Friedman said that five and six are just generic building sites for whatever is next on the campus.

Ms. Mallek asked how the Chancellor's proposal for the certificate program is faring in the General Assembly. Dr. Friedman responded that the Chancellor's initiative had done well in the legislature and will get about \$20 million in funding over the course of the biennium, about half of what had been requested, and \$6 million of that will be distributed to the colleges for purchase of equipment to enable them to get into new short-term certificate programs such as advanced manufacturing or cyber-

security. He stated the rest of the money is basically tuition support for students taking non-credit classes, and right now there is no financial aid for non-credit classes, and most of the short-term training programs are non-credit courses. Dr. Friedman said the commercial driver's license (CDL) course costs about \$3,500, and under the initiative the state will pay 2/3 of the cost and the individual will pay 1/3.

Ms. Mallek asked if there is any funding available for childcare. Dr. Friedman responded there is no money for that under the Chancellor's initiative, but the Department of Agriculture grant and Health and Human Services grant both have money for childcare and transportation.

Ms. Mallek stated that one of the biggest problems with the one-stop funding is that the 40% was disallowed for the items that would enable someone to go to training. Dr. Friedman said there has been a lot of talk about financial aid for colleges and the cost of colleges, but at community colleges the additional concern is what they live on while they are going to school, so it is the living expenses that present a big problem, not the tuition, and there are no government funds to help with that.

Mr. Randolph asked Dr. Friedman what trends he is seeing at PVCC for enrollment of ex-military and veterans. Dr. Friedman responded the state budget includes over \$1 million to be distributed among the seven community colleges with the largest veterans programs, and PVCC is one of the seven, so somewhere in the neighborhood of \$100,000-\$200,000 will be provided to help them expand services for veterans, active duty and dependents. He stated at last count PVCC had about 500-600 students in the active, veteran and dependent category, with a military and veterans advisor on staff, and this will allow them to expand that program. Dr. Friedman noted this is something they worked on hard with the General Assembly and the Governor, and it received tremendous support.

Ms. Mallek asked if the advisors are career planning and helping veterans with which track to get on. Dr. Friedman confirmed they are, and said the advisors also help veterans translate their military occupational specialty and translate that into college credits so there is credit given for things they already know, which will help them move through their education faster. He stated the military advisor also helps vets maximize their GI bill and navigate through the agencies to help them get the money they deserve.

Ms. Mallek stated that her daughter took two classes per semester in her junior and senior year at PVCC and really enjoyed the interaction with older students.

Dr. Friedman mentioned the American Association of Community Colleges and Phi Theta Kappa, Coca Cola and USA Today have awarded a "New Century Scholar" recognition for 16 years, and a PVCC student will be recognized next week at the AACC convention in Chicago. Dr. Friedman stated this student is a U.S. Navy veteran with 15 years of service on a submarine and is the father of three children and has also ranked in the top 20 community college students nationally. He mentioned the award has been offered for 16 years, and 7 PVCC students have been honored over that time even though there are 23 community colleges in the state.

Agenda Item No. 22. **Presentation:** Zika Virus Update.

Dr. Denise Bonds, Health Director, Thomas Jefferson Health Department, addressed the Board, stating that she will talk with the Board about the Zika virus and how it will affect the community, stating that the virus belongs to the same family of viruses as yellow fever, Japanese encephalitis and the West Nile virus. Dr. Bonds stated that Zika is not a new virus, having been discovered in studies in Africa in 1947, and there were outbreaks in 2007, 2014, and last year with a severe outbreak in Brazil. She said the first local case was documented in May 2015, with the virus moving up the Americas as well as territories like Puerto Rico. Dr. Bonds said it is likely the virus will spread, and all of the cases locally have been contracted abroad in places where it is endemic and brought back locally, with about 660 cases as of March 30, 2016 in the U.S. as well as territories. She noted traveler-spread cases versus locally acquired in Puerto Rico, the U.S. Virgin Islands and American Samoa.

Dr. Bonds stated that Zika is typically a mild virus, with 80% of those infected not knowing they have it, developing a slight fever or very mild symptoms but not enough to warrant going to the doctor. She said one out of four people will come down with symptoms such as fever, conjunctivitis, aches and pains in joints and muscles, with symptoms lasting 2-7 days and the virus usually cleared out of the blood stream within a week. Dr. Bonds stated the typical recommendation is for those with the virus to get lots of rest, drink plenty of fluids, and take acetaminophen for any fever. She said the recommendation is also for individuals with the virus to stay indoors, so that mosquitos that bite them will not transmit it to another person, which is what happens in Brazil. Dr. Bonds stated the CDC and other researchers have concluded that the Zika virus spreads from women infected with the virus to their fetuses, and there is a very large study in Brazil to try to figure out the triggers for the development of abnormalities of babies born to mothers with Zika. She noted the most reported is microcephaly, but there are other neurological abnormalities reported in babies born to infected mothers, and some of these conditions can only be detected through CT scans and MRIs.

Dr. Bonds reported that Guillain-Barre syndrome can be caused by any number of viral infections, and the virus triggers the immune system to act against nerve cells, with symptoms ranging from muscle weakness to paralysis, with some cases of permanent nerve damage and rare instances of death. She stated it is not understood how Zika causes Guillain-Barre, but there does appear to be an association as the syndrome is being seen in countries experiencing the Zika virus outbreak. Dr. Bonds said the Zika virus is transmitted by the Aedes mosquito, and the most concerning issue is that someone developing

Zika who does not know they are affected comes home and gets bitten by an Aedes mosquito, which goes on to bite another person. She stated the evening species of mosquitos do not typically transmit Zika, and it is those that bite during the day that spread the virus, along with other diseases. Dr. Bonds said that these mosquitos lay eggs in containers of water, not big lakes or ponds, so the concern is with standing water in open rain-barrels, birdbaths that are not changed on a regular basis, and discarded tires. She presented a Zika virus distribution map and said the range has been extended up much further, with Virginia being a state with the mosquito that could potentially transmit it. Dr. Bonds stated that prevention measures include putting window screens on, using insect repellent, sleeping under a bed net, light colored clothing, and getting rid of stagnant water. She presented a list of mosquito repellents and said that DEET is the most common repellent, and it works well, but those who do not like DEET can use lemon oil or Eucalyptus.

Dr. Bonds reported there have been six cases of sexually-transmitted Zika virus, with semen appearing to be a safe harbor for the virus, typically with a male partner contracting the disease while traveling to an area that has the virus and bringing it back to a female partner. She stated that condom use is recommended for eight weeks after the return of the traveler, and throughout the entire pregnancy for a woman whose partner has been infected. Dr. Bonds stated that eight cases have been confirmed in Virginia, although it has not been an issue for the local area. She said that prevention measures include emptying standing water from containers, repairing screens so mosquitos cannot enter, and wearing repellent even during the day.

Ms. Mallek commented that it has been interesting to follow the news and see that there are new findings, such as mothers carrying the disease for 10 weeks in their blood, so everything is changing.

Dr. Bonds said this is the best information available at this time, but the news is always changing and the CDC's website is updated on a daily basis.

Mr. Randolph asked Dr. Bonds if her presentation can be made available to the public. Ms. Mallek noted that since Dr. Bonds' presentation is part of this Board meeting, the Clerk's office will post it on the Board of Supervisors website as part of the meeting documents.

Dr. Bonds stated that the CDC, Virginia Department of Health, and TJHD.org all have the Zika information posted on their websites.

Ms. Mallek mentioned that when she and her family were living in Massachusetts, they learned that taking 100 mg of Vitamin B-1 starting in the spring makes you taste bad so that mosquitos do not bite, and birds and bats also cut down on mosquito populations.

Dr. Bond reiterated the best things you can do are to empty water containers, wear repellent, and repair screens.

Ms. McKeel noted that mosquitos also stay close to where they breed and do not travel for miles and miles.

Agenda Item No. 23. Chesterfield Landing Subdivision Acceptance of Dedication of Open Space.

The executive summary presented to the Board states that Chesterfield Landing is a proposed by right subdivision on 20.926 acres located on Tax Map and Parcel Number 05600-00-00-03600, east of Crozet Avenue between Meadows Drive and Longmont Drive. The property is zoned R-1.

County Code § 18-13.4.2 allows an applicant to receive a density bonus by dedicating land to public use that is not otherwise required by law, subject to acceptance of the dedication by the Board of Supervisors prior to final approval of the plat. The bonus density allowed is provided in County Code § 18-13.4.2:

"The acreage of the land dedicated and accepted shall be multiplied by twice the gross density-standard level, and the resulting number of dwellings may be added to the site, provided that the density increase shall not exceed fifteen (15) percent."

The applicant has requested that the Board accept a dedication of open space in order to obtain the density bonus allowed by County Code § 18-13.4.2. The proposed deed of dedication is included as Attachment B.

The land proposed for dedication contains wooded area, stream buffer, flood plain, preserved slopes, and a portion of Lickinghole Creek.

County Code § 18-2.4 states that bonus factors are "intended to encourage development which reflects the goals and objectives of the comprehensive plan. To this end, bonus factors are based on development standards as recommended by the comprehensive plan."

Bonus densities are also consistent with the Development Areas section of the County's Comprehensive Plan. The expectations for the Development Areas include "[p]romoting density to help

create new compact urban neighborhoods” and “[c]ompatible infill development.” *Comprehensive Plan*, page 8.3.

The applicant proposes to dedicate 3.497 acres to the County as shown on Sheet V5 of the proposed subdivision plat and identified as “Open Space 2” (See Attachment C). Under the formula in County Code § 18 -13.4.2 for calculating the bonus density, this dedication, if accepted, would allow the number of lots within the subdivision to increase from 20 to 23.

In analyzing whether staff could recommend acceptance of the open space to the Board, staff consulted the Crozet Master Plan portion of the Comprehensive Plan. The Crozet Master Plan Chapter on Parks & Green Systems states that new parks and greenways are essential to the quality of life expected for Crozet. The Parks & Green Systems Plan shows a trail/greenway in this location. Therefore, staff believes that the proposed open space with a trail allows for a portion of a greenway and trail to be built in the area designed within the Crozet Master Plan. The applicant has worked with the Parks and Recreation Department on the location and limits of the open space dedication. Parks and Recreation staff has stated that this greenway is an important portion of the Lickinghole Creek Trail and recommends that the County accept this open space dedication.

There is no budget impact. The County will establish and maintain the public access trail and greenway across the easement with existing Parks and Recreation staff and/or volunteers.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving the acceptance of the dedication of open space and authorizing the County Executive to execute the Deed of Dedication and Easement accepting the conveyance of the open space easement to the County (Attachment B) once the County Attorney has approved the Deed as to form and substance.

Ms. Meghan Yaniglos, Principal Planner, addressed the Board, stating this is a by-right subdivision located on Tax Map 56-36, and there is also a 56-36A, with the two parcels zoned R-1 residential and located on the east side of Crozet Avenue between Meadows Drive and Davis Drive. Ms. Yaniglos stated the proposed subdivision contains a total of 25 lots on 20.93 acres, and the applicant has requested the use of bonus density factors, with three factors requested, two of which are administrative, including providing landscaping otherwise not required and providing an internal street system. She said that both of those factors together allow a 15% increase, which equates to three additional lots, and the bonus factor before the Board is dedication of open space, which requires Board approval and allows for a bonus density not to exceed 15%. Ms. Yaniglos stated the open space proposed will consist of 3.497 acres and will allow a greenway trail that is shown in the Crozet Master Plan for this area to be built, which the County otherwise could not require with a by-right subdivision plat. She noted the applicant has worked closely with County Parks & Recreation on the location and the limits of the open space dedication, and that department is recommending the County accept the open space dedication. Ms. Yaniglos said this factor would allow for an additional three lots; however, the applicant is proposing two additional lots, and staff is recommending that the Board adopt the resolution for the acceptance of open space. She mentioned the applicant is present at the meeting to answer any questions.

Ms. Mallek asked if the County’s by-right subdivision provisions have no regulations for landscaping and internal streets, because it seems like those things should be part of a normal subdivision. Mr. Greg Kamptner, Deputy County Attorney, stated this is where subdivision regulations vary from the site plan regulations, which have elements of zoning, so the County is not enabled to require landscaping as part of the subdivision plat approval.

Ms. Mallek asked if that is because of Dillon Rule authority, or because the County has not strengthened its regulations. Mr. Kamptner responded that it is under state law, and the subdivision enabling authority is very specific as to what localities can require.

Ms. Palmer asked if the property is developable if the applicant is not dedicating it to the County as open space. Ms. Yaniglos responded that more than likely it is not, because it is a water protection ordinance buffer with steep slopes and the Lickinghole Creek.

Ms. Mallek stated that the applicant cannot build on it anyway, and she is trying to determine why the County is giving away three more lots for something that cannot be developed anyway. She said that her recollection is that this is the property that came to the Crozet Community Advisory Council with 12-15 houses, and she is rather shocked that it has gone to 26 houses, but perhaps the applicant can provide some clarity. Ms. Yaniglos referenced a map provided, pointing out the location of the water protection stream buffer and preserved slopes and noting that most of the parcel the applicant wants to dedicate contains the steep slopes and the stream buffer.

Ms. Palmer clarified that the question is why the applicant is getting extra bonus spots for an area they cannot develop anyway. Ms. Yaniglos responded this was part of the applicant’s request and referenced the Crozet Master Plan, noting the location of the two parcels under review for the subdivision and the trail system shown within the master plan. She stated the applicant has offered to dedicate that piece so the County can get the trail system, which they cannot require under the subdivision ordinance.

Ms. Mallek pointed out that there is one house per acre by-right, and they would be going to 1.5 houses per acre. Ms. Yaniglos responded that it is 1.2 houses per acre under the applicant’s plan, and the recommendation for the Crozet Master Plan is neighborhood density of 3-6 units, so this proposal is

less.

Ms. Mallek asked if that was still the case after the downzoning of 2010 in which they took away the high-density provisions in that section for the rewrite of the master plan. Mr. Cilimberg stated that neighborhood density is the low density in the Crozet Master Plan.

Ms. Mallek said the land ownership is transferred to the County and the person does not pay taxes on it anymore, so that is a benefit in itself. Mr. Kamptner responded that it is conveyance of an easement, with an easement interest being conveyed to the County.

Mr. Sheffield noted if this were developed by-right without additional density, there would be fewer homes on bigger lots, so this achieves the density goal for the Crozet Master Plan.

Ms. Mallek pointed out that the greenway and critical slopes are not buildable anyway.

Ms. Yaniglos said this is true for by-right developments.

Mr. Cilimberg stated that those things could be part of larger lots though.

Mr. Dill commented that they do not necessarily have to be part of a trailway and could just be someone's backyard, so in that sense it is an advantage to the County. Ms. Yaniglos agreed.

Ms. Mallek stated that the community is looking at an additional 400 units in consideration currently for Crozet, where they have already absorbed 4,000 units since 2004. She said the community is reeling from everything coming in with all this extra density, and she is trying to figure out the reason for handing out more and more houses all the time.

Mr. Sheffield said that it was the master plan that is calling for that.

Ms. Mallek responded that it is a range, and they have been pushing towards the higher end of the range every time. She stated that if your neighborhood is next to it, the higher-density infill is difficult to absorb right next to older neighborhoods, which is why the master plan was changed in 2010 from the original version in 2004.

Mr. Sheffield asked if they could hear from the applicant even though this is not a public hearing. Mr. Cilimberg stated the actual density resulting is still going to be below what the Comp Plan calls for, which is 3-6 dwelling units per acre.

Ms. Yaniglos confirmed the actual density would be 1.2 dwelling units per acre.

Mr. Jess Achenbach addressed the Board and stated that he is representing the applicant, SM Charlottesville, LLC. He stated that he presented this to the Crozet Community Advisory Council as 24 units, and this was 25 units so it is just one additional. Mr. Achenbach said the applicant has administrative bonus density that would get them from 20 to 23 lots, which they can do on the administrative level, and they have been working with Bob Crickenberger and Dan Mahon for some time to provide this piece to the Crozet trail system. He stated that in doing that, they would like to benefit from the density bonus as outlined in the R-1 zoning district, which provides for 15% or three additional lots, but the applicant is only requesting two additional lots. Mr. Achenbach said the land is mostly in the floodplain, which is unbuildable, and while there is no requirement to dedicate it to the trail system the applicant would like to do that, but by doing so would also like to take advantage of the benefit offered.

Mr. Dill asked if there is any particular design or look to this development. Mr. Achenbach responded that they are half-acre lots, and compared to similar subdivisions in Crozet that have homes in the \$650,000 range, these will be in the \$400,000-\$450,000 range. He stated there are not design standards for the homes, but Stanley Martin Homes will be constructing all 25 homes. He said that there is no specific look to it for the site plan.

Mr. Dill asked about environmental amenities such as solar and triple-paned glass. Mr. Achenbach replied there is no requirement for that in the applicant's site plan and it would be up to the builder.

Mr. Dill responded that he knows it was not required, he is just trying to gauge what kind of builder they are.

Ms. Mallek **moved** to adopt the proposed resolution to accept the dedication of open space for SUB-2016-00044 Chesterfield Landing. Ms. Palmer **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

**RESOLUTION APPROVING THE ACCEPTANCE OF
THE DEDICATION OF OPEN SPACE ON A PORTION OF
TAX MAP AND PARCEL NUMBER 05600-00-00-03600**

**IN THE PROPOSED CHESTERFIELD LANDING SUBDIVISION
FROM SM CHARLOTTESVILLE, LLC**

WHEREAS, SM Charlottesville, LC (the "Owner") is the record owner of Tax Map and Parcel Number 05600-00-00-03600 (the "Property") consisting of 20.926 acres and composing the proposed Chesterfield Landing Subdivision; and

WHEREAS, the Owner proposes to dedicate 3.497 acres of the Property to the County in order to receive a density bonus under County Code § 18-13.4.2; and

WHEREAS, the Board finds it is in the best interest of the County to accept the dedication of open space.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the acceptance of the dedication of open space on a portion of Tax Map and Parcel Number 05600-00-00-03600 in the proposed Chesterfield Landing Subdivision from SM Charlottesville, LLC, and authorizes the County Executive to sign the Deed of Dedication and Easement accepting the conveyance of the open space easement to the County once the County Attorney has approved the Deed as to form and substance.

This document was prepared by:
Albemarle County Attorney
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

Parcel ID Numbers 05600-00-00-03600

This deed is exempt from taxation under Virginia Code § 58.1-811(A)(3).

DEED OF DEDICATION AND EASEMENT

THIS DEED OF DEDICATION AND EASEMENT (this "Deed") is made this ____ day of _____, 2016 by and between **SM CHARLOTTESVILLE, LLC**, a Virginia limited liability company (the "Grantor"), to be indexed as Grantor, and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), to be indexed as Grantee.

WITNESS:

WHEREAS, the Grantor is the owner of a certain parcel of land located in the County, designated as Parcel ID 05600-00-00-03600, being the same parcel conveyed to SM Charlottesville, LLC by deed of record in the office of the Clerk of the Albemarle County Circuit Court at Deed Book 4670, Page 346 (the "Property"), more particularly shown on that certain plat prepared by Roudabush, Gale & Associates, dated January 21, 2016, last revised _____, 2016, and entitled "SUBDIVISION OF TAX MAP 56 PARCELS 35, 36 & 36A CHESTERFIELD LANDING WHITEHALL MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VA", a copy of which is attached hereto to be recorded with this deed (the "Plat"). Reference is made to the Plat for a more particular description of the easement conveyed herein.

WHEREAS, the Grantor desires to dedicate, grant and convey to the County, and the County is willing to accept, an easement over the Property for the purpose of allowing the County to establish and maintain a public access trail and greenway, including authorized improvements (collectively, the "Greenway"), subject to the terms and conditions stated in this Deed.

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby dedicates, grants, conveys, covenants and agrees as follows:

1. DEDICATION, GRANT AND CONVEYANCE OF EASEMENT. For and in consideration of ONE DOLLAR (\$1.00), cash in hand paid, the Grantor hereby dedicates, grants and conveys to the County and their successors and assigns (hereafter, all references to the County include its successors and assigns), with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, a greenway trail easement (the "Easement") in gross over the Property described below, restricting in perpetuity the use of the Property in the manner set forth herein:

That certain easement, shown and designated as "OPEN SPACE 2" on the Plat. Reference is made to the Plat for a more particular description of the location of the Easement.

2. PURPOSES OF THE EASEMENT. The purposes of the Easement are to establish on the Property a segment of a countywide system of greenway trails that will link people to the area's natural, recreational, cultural and commercial resources. As part of this system, the Easement will serve to protect important and/or sensitive resources, provide recreational and educational opportunities, provide an alternative transportation system, and provide an economic benefit.

3. ESTABLISHMENT AND MAINTENANCE OF THE GREENWAY. The County shall have the right to establish and maintain at its expense a Greenway within the Easement, as follows:

A. Public access trail. The County may establish and maintain, in its sole discretion, either Class A or Class B trails. The trails shall be available for pedestrians and bicyclists.

B. Improvements. The County may establish and maintain the following improvements within the Easement: (1) appropriate trail surfaces, foot bridges and associated trail structures and culverts; (2) trail markers and signs along all trails and at all points of access; (3) barriers, fences and gates to prevent motorized vehicular access into the Easement; (4) benches for the convenience and comfort of the public; and (5) all other improvements that are reasonable for a public access trail.

C. Ownership of improvements. All improvements within the Easement established by the County shall be and remain the property of the County.

D. Right to inspect, maintain and operate the greenway. The County may enter the easement to inspect, maintain and operate the Greenway as provided herein:

1. Right to disturb and maintain the Easement premises. The County shall have the right to trim, cut or remove any trees, brush or shrubbery; remove and relocate fences, structures or other obstructions; and take other similar action reasonably necessary to establish, maintain and operate an adequate and fully functioning Greenway; provided, however, that: (1) the County, at its own expense, shall restore as nearly as possible, repair and replace only ground cover disturbed, damaged or removed as a result of establishing, maintaining or operating the Greenway to the extent the restoration or replacement is consistent with its proper maintenance, operation, and use; and (2) after the County establishes the Greenway, no trees having a diameter at breast height of four (4) inches or greater shall be removed, destroyed or cut within the Easement except to protect public safety, eliminate trees that are either diseased, dying or dead, or is deemed necessary in accordance with standard arborist practices.

2. Obligation to remove trash and other debris. The County shall remove from the Easement all trash and other debris resulting from the establishment, maintenance or operation of the Greenway.

4. RESTRICTIONS ON USES AND ACTIVITIES IN THE EASEMENT. The County shall have the right to regulate and restrict the uses and activities of the public within the Easement, in its sole discretion.

5. MISCELLANEOUS PROVISIONS.

A. Easement runs with the land. The Easement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

B. Exclusivity; restrictions. The Easement is an exclusive easement. Neither the Grantor nor any person acting under the Grantor's express or implied consent shall modify, alter, reconstruct, interfere with, disturb or otherwise change in any way the land or any improvement located within the Easement; and further provided that such persons shall not construct or maintain any roadway, or erect any building, fence, retaining wall or other structure within the Easement.

C. County's right to assign. The County shall have the right to assign this Deed as its interests may require. An eligible assignee shall be one that is able to perform the terms, conditions and obligations of this Deed to assure that its purposes are fulfilled.

D. Enforcement. In addition to any remedy provided by law to enforce the terms of this Deed, the parties shall have the following rights and obligations:

1. Action at law inadequate remedy. It is conclusively presumed that an action at law seeking a monetary remedy is an inadequate remedy for any breach or violation, or any attempted breach or violation, of any term of this Deed.

2. Failure to enforce does not waive right to enforce. The failure of the County to enforce any term of this Deed shall not be deemed a waiver of the right to do so thereafter, nor discharge nor relieve the Grantor from thereafter complying with any such term.

3. No third party right of enforcement. Nothing in this Easement shall create any right in the public or any third party to maintain any suit or action against any party hereto.

E. Relation to applicable laws. This Deed does not replace, abrogate or otherwise supersede any federal, state or local laws applicable to the Property.

F. Severability. If any provision of this Deed is determined to be invalid by a court of competent jurisdiction, the remainder of this Easement shall not be affected thereby.

G. Recordation. Upon execution by the parties, this Deed shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Albemarle, Virginia.

H. Authority to accept easement. The County is authorized to accept the Easement pursuant to Virginia Code § 15.2-1800.

I. Hold harmless. The County shall hold the Grantor harmless as provided in Virginia Code § 29.1-509(E).

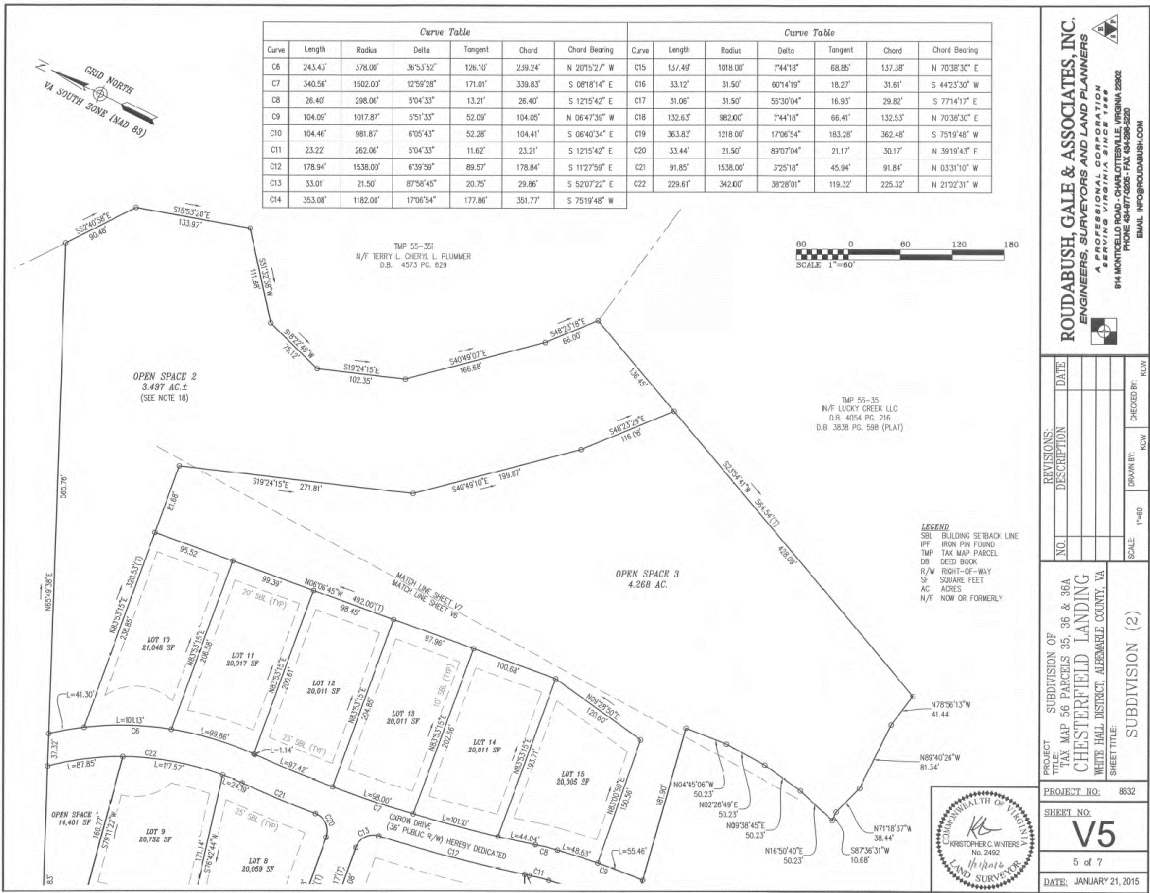
WITNESS the following signatures.

GRANTOR: **SM CHARLOTTESVILLE, LLC**, a Virginia limited liability company

By: _____
Name: _____
Title: _____

GRANTEE: **COUNTY OF ALBEMARLE, VIRGINIA**

By: _____
Thomas C. Foley
County Executive



Agenda Item No. 24. **Public Hearing:** FY 2016 Budget Amendment and Appropriations.
(Advertised in the Daily Progress on March 27, 2016.)

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

The cumulative total of the FY 2016 appropriations itemized below is \$4,268,720.14. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 2016 Budget Amendment totals \$4,268,720.14. The estimated expenses and revenues included in the proposed amendment are shown below:

ESTIMATED EXPENDITURES

General Fund	\$	-10,894.20
Special Revenue Funds		1,556,983.00
School Special Revenue Funds		2,619,196.34
ECC Funds		18,185.00
Capital Improvements Funds		85,250.00
TOTAL ESTIMATED EXPENDITURES - All Funds	\$	4,268,720.14

ESTIMATED REVENUES

Local Revenue	\$	310,256.22
State Revenue		227,359.00
Federal Revenue		1,500,514.74
Proffer Revenue		85,250.00
General Fund Balance		806,528.00
Other Fund Balances		1,338,812.18
TOTAL ESTIMATED REVENUES - All Funds	\$	4,268,720.14

The budget amendment is comprised of sixteen (16) separate appropriations as follows, eight (8) of which have already been approved by the Board as indicated below:

Approved March 2, 2016

- One (1) appropriation (#2016061) to appropriate \$300,000.00 in federal funding from the Virginia Department of Housing and Community Development (DHCD) for a Community Development Block grant to support Phase II of the Oak Hill project;
- One (1) appropriation (#2016062) to appropriate \$30,000.00 in federal funding from the Virginia Department of Housing and Community Development (DHCD) for a Community Development Block planning grant to support planning activities for the southeastern area of Albemarle County;
- One (1) appropriation (#2016063) to re-appropriate \$508,760.66 for expenditures in the Schools' Computer Equipment Replacement Fund;
- One (1) appropriation (#2016064) to appropriate \$32,303.32 to the Stormwater Management Program capital project. This appropriation did not increase the County Budget;
- One (1) appropriation (#2016065) to appropriate \$9,899.00 in federal funding to the Police Department for advanced Problem Oriented Policing (POP) training to police supervisors. \$495.00 of this appropriation is the County's match and did not increase the County Budget;
- One (1) appropriation (#2016066) to appropriate \$75,000.00 in state funding from the Virginia Department of Housing and Community Development (DHCD) for a fully funded broadband planning grant through the Virginia Telecommunication Planning Initiative (VATPI). The telecommunication plan will identify and develop elements necessary to develop a successful community broadband network;
- One (1) appropriation (#2016067) to appropriate \$850.50 in donations received to support the Sheriff's volunteer reserve programs; and
- One (1) appropriation (#2016068) to appropriate \$1,452,909.55 to the School Division.

The eight (8) appropriations requested for Board approval April 6, 2016 are as follows as follows:

- One (1) appropriation (#2016069) to appropriate \$100,000.00 in state funding for the expansion of the Virginia Preschool Initiative grant;
- One (1) appropriation (#2016070) to appropriate \$1,017,778.00 in School and General fund fund balances to the Children's Services Act (CSA) for anticipated costs and to partially restore the fund balance;
- One (1) appropriation (#2016071) to appropriate \$13,056.00 in federal funding from the Department of Criminal Justice Services to the Victim Witness Assistance Program;
- One (1) appropriation (#2016072) to appropriate \$92,500.00 to the Thomas Jefferson Planning District Commission (TJPDC) for the Route 29 Solutions Business Assistance collective marketing campaign. This will not increase the total County budget;
- One (1) appropriation (#2016073) to appropriate \$18,185.00 to the Emergency Communications Center for backup battery replacement;
- One (1) appropriation (#2016074) to appropriate \$135,250.00 for capital park projects. \$50,000.00 of the appropriation will not increase the total County budget;
- One (1) appropriation (#2016075) to appropriate \$657,526.13 to the School Division; and
- One (1) appropriation (#2016076) to appropriate \$11,250.00 to reallocate funds from the Information Technology Department to a grant fund for the Virginia Telecommunication Planning Initiative (VATPI) grant.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the FY 2016 Budget Amendment to increase it by \$4,268,720.14 and to approve appropriations #2016069, #2016070, #2016071, #2016072, #2016073, #2016074, #2016075, and #2016076 for local government and school division projects and programs as described in Attachment A.

Appropriation #2016069	\$100,000.00
Source: State Revenue	\$ 100,000.00

This request is to appropriate \$100,000.00 in state funding provided by the Virginia Department of Education for the expansion of the Virginia Preschool Initiative grant through collaboration with the United Way Childcare program through June 2016. The funds will be used for start-up and expansion such as curriculum materials and instructional supplies, classroom furniture and equipment, computers and software, staff development, planning meetings, recruitment and the student registration process

Appropriation #2016070		\$ 1,017,778.00
Source:	School Fund Balance	\$ 200,000.00
	General Fund Fund Balance	\$ 817,778.00

This request is to appropriate \$1,017,778.00 from the General Fund and the School Fund to the Children's Services Act (CSA) Fund to provide mandated services to youth requiring residential and non-residential services for FY16. The total required funding anticipated for FY16 is \$4,855,544.00, \$4,230,806.00 of which was appropriated at the beginning of FY16. This appropriation provides \$624,738.00 to meet anticipated expenditures through June 30th and \$393,040.00 towards restoring the fund balance to a goal of 15% of local share costs.

Appropriation #2016071		\$ 13,056.00
Source:	Federal Revenue	\$ 13,056.00

This request is to appropriate \$13,056.00 in federal funding from the Department of Criminal Justice Services for the Victim Witness Assistance Program. These funds will provide promotional items, print material, technology equipment and furniture.

Appropriation #2016072		\$92,500.00
This appropriation will not increase the total County budget.		
Source:	Office of Economic Development	\$ 92,500.00

This request is to appropriate \$92,500.00 from the Office of Economic Development to the Thomas Jefferson Planning District Commission (TJPDC) for the Route 29 Solutions Business Assistance collective marketing campaign. At its September 2, 2015 meeting, the Board of Supervisors approved re-appropriating the remaining FY 15 balance of \$94,000.00 in the Office of Economic Development budget to fund a collective marketing campaign as part of the Route 29 Solutions Business Assistance Program. Of this amount, \$92,500.00 needs to be allocated to the TJPDC, who will be managing the payments for the collective marketing campaign.

Appropriation #2016073		\$18,185.00
Source:	ECC Fund Balance	\$ 18,185.00

The Emergency Communication Center (ECC) requests that the County, acting as fiscal agent for the ECC, appropriate \$18,185.00 from ECC fund balance for the replacement of backup batteries. The current backup batteries are in need of replacement.

Appropriation #2016074		\$135,250.00
Source:	Proffer Revenue	\$ 85,250.00
	County Owned Parks Maint./Repl. Project*	\$ 50,000.00

*This portion of the appropriation does not increase the total County budget.

This request is to appropriate funding for park capital projects:

- This portion of the request is to appropriate \$85,250.00 in proffer revenue from the Estes Park proffer to support the Preddy Creek Park phase II capital project. This project includes the development of a bridge, trails, signage and mapping. This increase is required because bids have come in over the project's estimated budget. This brings the total appropriated budget for this project to \$171,500.00. This project is also funded with a \$69,000 reimbursable grant from the Virginia Department of Conservation and Recreation Recreational Trails Program Grant Program. The project is anticipated to be completed by August 30, 2016.
- This portion of the request is to appropriate \$50,000.00 from the County Owned Parks Maintenance/Replacement program capital project supported by tourism revenue to the Crozet Park Maintenance/Replacement and Improvement capital project. This supports parking improvements at Crozet Park and is required because the bids have come in over the project's estimated budget. This brings the total appropriated budget for this project to \$283,537. The project is anticipated to be completed by November 1, 2016.

Appropriation #2016075		\$657,526.13
Source:	State Revenue	\$ 52,359.00
	Federal Revenue	\$ 14,582.17
	School Special Revenue Fund fund balances	\$ 590,584.96

This request is to appropriate the School Division's appropriation requests approved by the School Board on March 10, 2016:

This request is to appropriate \$820.00 in state funding to the Alternative Education Fund. The mission of the Alternative Education Fund (ISAEP or Individual Student Alternative Education Plan) is to supplement existing General Equivalency Diploma (GED) services by developing specialized occupational training and employment necessary for students 16 years of age or older to become productive and contributing citizens. The Virginia Department of Education (VDOE) increased state funding for FY16 by \$820 from the original budget amount of \$23,576.

This request is to appropriate \$9,582.17 in federal funding to the Title II Grant Fund. The mission of the Title III Grant Fund is to develop the rich cultural, economic, and intellectual resources that emergent bilingual students bring to the community.

This request is to re-appropriate \$14,059.23 in the FY 15 fund balance remaining in the English Literacy/Civics Education (EL/Civics) Grant fund. The EL/Civics Grant is to incorporate civics education into adult English for Speakers of Other Languages (ESOL) classes where many participants are parents of Albemarle County students. Parents participating in their own educational pursuits, especially within a Family Literacy setting, positively affect their children's learning. There is a FY 15 fund balance in the amount of \$14,059.23 which may be re-appropriated in FY16 to pay salaries and benefits for this program.

This request is to re-appropriate \$40,661.14 in the FY 15 fund balance remaining in the Families in Crisis Grant fund. The mission of the Families in Crisis Grant is to provide an effective structure to meet the needs of homeless students, whose families are in crisis, ensuring they receive equitable access to division services. There is a fund balance in the amount of \$40,661.14 from FY15 which may be re-appropriated in FY16 to pay salaries, benefits and emergency needs to include transportation, rent, food, propane, hotel expense, and temporary after school fees to assure that students remain in a safe environment if needed.

This request is to re-appropriate \$100,000.00 in the FY 15 fund balance remaining in the Community Education Fund. The mission of the Community Education Fund is to provide quality attention, thoughtful guidance, authentic experiences and engaging activities to enhance and expand the learning of Albemarle County Students in an extended-day learning program. These programs are self-sustaining, funded entirely by the tuition and fees collected for their use. There is a fund balance in the amount of \$100,000.00 from FY15 which may be re-appropriated in FY16 to pay salaries, benefits, inoculations, educational and recreational supplies and to replace after-school programs Radios.

This request is to appropriate \$13,642.28 in Carl Perkins Grant funding. The Carl Perkins Grant provides funds to increase focus on the academic achievement of career and technical education students and strengthen the connection between secondary and postsecondary education. There has been an increase in funding of \$5,000 in federal revenue for FY16. Additionally there is a fund balance in the amount of \$8,642.28 from FY15 that may be used in FY 16.

This request is to re-appropriate \$183,674.99 in the FY 15 fund balance from miscellaneous grants. The Miscellaneous Grant fund is used to track competitive grants that are typically \$5,000 or less. The funds received are primarily from local organizations and occasionally from state or federal subsidiaries. The Miscellaneous Grants fund has an unexpended fund balance. Grantees of these funds have been encouraged to expend these balances. The funds will be used for field trip expenses, staff development, guest speakers, and to purchase educational and recreational supplies.

This request is to re-appropriate \$20,215.78 in the FY 15 fund balance remaining in the Project Graduation Grant fund. The Project Graduation Grant provides additional assistance during summer school for juniors and seniors who need to obtain verified credits in reading, writing and algebra. There is a fund balance of \$20,215.78 from FY15 that may be used.

This request is to re-appropriate \$19,934.74 in the FY 15 fund balance remaining in the Economically Dislocated Worker's Fund. The mission of the Economically Dislocated Worker's Fund is to collaborate with institutions, agencies, and businesses, when requested, to provide tutoring and classes tailored to the individualized needs of particular students. This fund has a fund balance in the amount of \$19,934.74 from FY15 which may be used to pay salaries and benefits in FY16.

This request is to appropriate \$48,289.00 in state grant funds for the School Security Equipment Grant Program. These funds will be used for the purchase and installation of security film and new door locks at Yancey Elementary, Henley Middle, Jouett Middle and Murray High schools.

This request is to re-appropriate \$203,396.80 in the FY 15 fund balance remaining in the Summer School Fund. The mission of the Summer School Fund is to offer summer programs to students in grades K-8 who fail to meet academic standards in the areas of language arts or mathematics, and to high school students in grades 9-12 (with payment of fees) who either want to replace a grade earned during the regular school session or earn required credits for graduation in support of the Division's strategic plan. There is a fund balance in the amount of \$203,396.80 from FY15 which may be re-appropriated for FY16 to pay salaries, benefits, and educational and recreational supplies.

This request is to appropriate \$3,250.00 in state funds for the Algebra Readiness program. This program provides mathematics intervention services to middle school students who are at risk of failing.

Appropriation #2016076		\$11,250.00
This appropriation does not increase the total County budget.		
Source:	Information Technology Department	\$ 11,250.00

This request is to appropriate \$11,250.00 to reallocate grants leveraging funds that are currently included in the Information Technology Department’s budget to a special revenue grant fund established for the Thomas Jefferson Planning District consulting support of the Department of Housing and Community Development (DHCD) Virginia Telecommunication Planning Initiative.

Ms. Lori Allshouse, Director of the Office of Management and Budget, stated that Virginia requires the County to hold a public hearing before amending its budget when the total amount of the funds appropriated exceeds 1% of the expenditures in the currently adopted budget. Ms. Allshouse said that the cumulative total outlined in the executive summary is \$4.3 million, and the executive summary includes 16 appropriations, of which 8 were already approved by the Board in March. She stated that she will provide additional information about Appropriation 2016-069, which is \$100,000 Virginia Department of Education grant funding that could be utilized for a number of items, however, the amount will be used for professional development and to provide up to 15 private childcare scholarships and family support. Ms. Allshouse said that after the public hearing, staff recommends approval of the FY16 budget amendment and approval of the 8 appropriations included in Attachment A.

The Chair opened the public hearing.

There being no public comment, the Chair closed the public hearing.

Mr. Kamptner noted that the revised resolution he circulated corrected the headings so that it refers to the budget, and it is also a budget amendment. He stated that in paragraph three, the reference to the other paragraph is changed from 1 to 2.

Mr. Randolph **moved** to adopt the proposed resolution to approve the FY 2016 Budget Amendment to increase it by \$4,268,720.14 and to approve appropriations #2016069, #2016070, #2016071, #2016072, #2016073, #2016074, #2016075, and #2016076 for local government and school division projects and programs. Mr. Sheffield **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

ADDITIONAL FY 16 APPROPRIATIONS

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 16 Budget is amended to increase it by \$4,268,720.14;
- 2) That Appropriations #2016069, #2016070, #2016071, #2016072, #2016073, #2016074, #2016075, and #2016076 are approved; and
- 3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2016.

**COUNTY OF ALBEMARLE
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2016069	3-1553-24000-324000-240283-9999	100,000.00	State Revenue
2016069	4-1553-51154-453010-567910-1005	100,000.00	United Way Day Care
2016070	3-1005-51000-351000-510100-9999	200,000.00	School Reserve Fund Fund Balance
2016070	4-1005-53010-453010-930206-1005	200,000.00	Transfer to CSA
2016070	3-1551-51000-351000-512001-9999	200,000.00	Transfer from School Fund
2016070	3-1000-51000-351000-510100-9999	817,778.00	Use of Fund Balance
2016070	4-1000-53010-453010-930206-1005	817,778.00	Transfer from DSS to CSA
2016070	3-1551-51000-351000-512016-9999	817,778.00	Transfer from Social Services
2016070	4-1551-53120-453010-581001-1005	624,738.00	CSA Mandated Services
2016070	4-1551-53120-453010-301230-1005	393,040.00	Reserve for CSA Contingency
2016071	3-1225-33000-333000-330001-9999	13,056.00	Federal Revenue
2016071	4-1225-31012-431010-350000-1003	2,660.00	Print Brochures

2016071	4-1225-31012-431010-800700-1003	3,508.00	Technology Equipment
2016071	4-1225-31012-431010-800200-1003	3,888.00	Furniture
2016071	4-1225-31012-431010-600240-1003	2,000.00	Promotional Items
2016071	4-1225-31012-431010-580000-1003	1,000.00	Miscellaneous
2016072	4-1000-81050-481050-600120-1008	92,500.00	To TJPDC for Rt. 29 Solutions
2016072	4-1000-89000-489000-562501-1008	92,500.00	Rt. 29 Solutions Collective Marketing Campaign
2016073	3-4100-51000-351000-510100-9999	18,185.00	ECC fund balance for back up battery replacement
2016073	4-4100-31040-435600-800700-1003	18,185.00	Back Up Battery Replacement
2016074	4-9010-71020-471010-950261-7100	85,250.00	Preddy Creek Park Phase II
2016074	3-9010-51000-351000-512083-9999	85,250.00	Estes park proffer for Preddy Creek Ph II
2016074	3-8578-18978-318000-189911-9999	85,250.00	Estes park proffer for Preddy Creek Ph II
2016074	4-8578-93010-493010-930010-9999	85,250.00	Estes park proffer for Preddy Creek Ph II
2016074	4-9010-72030-471010-800949-7100	50,000.00	Co Owned Parks Tourism to Crozet Parks Maint
2016074	4-9010-72030-471010-800955-7100	50,000.00	Co Owned Parks Tourism to Crozet Parks Maint
2016075	3-3142-63142-324000-240203-6599	\$820.00	Individual Student Alt Ed Plan Grant
2016075	4-3142-63142-460410-601300-6530	\$304.00	Ed & Rec Supplies
2016075	4-3142-63142-460410-800100-6530	516.00	Machinery & Equipment
2016075	3-3215-63215-333000-384365-6599	9,582.17	Title III Categorical Aid
2016075	4-3215-63215-461101-312700-6530	9,582.17	Professional Services Consultants
2016075	3-3221-63221-351000-510100-6599	14,059.23	EL/Civics Fund Balance
2016075	4-3221-63221-461101-111400-6501	1,607.08	Salaries - Other Management
2016075	4-3221-63221-461101-210000-6501	119.28	FICA
2016075	4-3221-63221-461101-221000-6501	243.00	Virginia Retirement System
2016075	4-3221-63221-461101-231000-6501	142.38	Health Insurance
2016075	4-3221-63221-461101-232000-6501	4.00	Dental Insurance
2016075	4-3221-63221-461101-241000-6501	19.14	Group Life Insurance
2016075	4-3221-63221-461101-132100-6530	11,076.96	PT/Wages-Teacher
2016075	4-3221-63221-461101-210000-6530	847.39	FICA
2016075	3-3304-63304-351000-510100-6599	40,661.14	Families in Crisis Grant Fund Balance
2016075	4-3304-63304-461101-111400-6501	7,002.00	Salaries - Other Management
2016075	4-3304-63304-461101-210000-6501	524.00	FICA
2016075	4-3304-63304-461101-221000-6501	1,000.00	Virginia Retirement System
2016075	4-3304-63304-461101-231000-6501	520.00	Health Insurance
2016075	4-3304-63304-461101-232000-6501	17.00	Dental Insurance
2016075	4-3304-63304-461101-241000-6501	77.00	VRS Group Life Insurance
2016075	4-3304-63304-461101-112100-6530	1,292.06	Salaries - Teacher
2016075	4-3304-63304-461101-132100-6530	15,000.00	PT/Wages-Teacher
2016075	4-3304-63304-461101-210000-6530	1,319.00	FICA
2016075	4-3304-63304-461101-221000-6530	357.00	Virginia Retirement System
2016075	4-3304-63304-461101-231000-6530	468.00	Health Insurance
2016075	4-3304-63304-461101-232000-6530	16.00	Dental Insurance
2016075	4-3304-63304-461101-241000-6530	280.00	VRS Group Life Insurance
2016075	4-3304-63304-461101-579001-6530	6,000.00	Housing Assistance Payments
2016075	4-3304-63304-461101-580004-6530	6,789.08	Misc. Expense for Homeless
2016075	3-3300-63300-351000-510100-6599	100,000.00	Community Ed Fund Balance
2016075	4-3300-63300-465301-115000-6521	30,000.00	Salaries - Office Clerical
2016075	4-3300-63300-465301-112100-6521	10,000.00	Salaries - Teacher
2016075	4-3300-63300-465301-119402-6521	10,000.00	Salaries - Supervisors
2016075	4-3300-63300-465301-119403-6521	5,000.00	Salaries - Special Needs
2016075	4-3300-63300-465301-159400-6521	20,000.00	Salaries - Subs
2016075	4-3300-63300-465301-210000-6521	5,500.00	FICA
2016075	4-3300-63300-465301-221000-6521	2,000.00	Virginia Retirement System
2016075	4-3300-63300-465301-231000-6521	2,000.00	Health Insurance
2016075	4-3300-63300-465301-232000-6521	2,000.00	Dental Insurance
2016075	4-3300-63300-465301-241000-6521	2,000.00	VRS Group Life Insurance
2016075	4-3300-63300-465301-242000-6521	2,000.00	Group Life Insurance
2016075	4-3300-63300-465301-311005-6521	1,500.00	Inoculations
2016075	4-3300-63300-465301-601300-6521	6,000.00	Ed & Rec Supplies
2016075	4-3300-63300-465301-800101-6521	2,000.00	Machinery & Equipment Replacement
2016075	3-3207-63207-333000-384048-6599	5,000.00	Federal Revenue
2016075	3-3207-63207-351000-510100-6599	8,642.28	Perkins Grant Fund Balance
2016075	4-3207-63207-461190-800100-6530	13,642.28	Machinery & Equipment
2016075	3-3104-63104-351000-510100-6599	183,674.99	Misc. Grants Fund Balance
2016075	4-3104-63104-460700-312500-6101	375.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-580500-6101	122.50	Staff Development
2016075	4-3104-63104-460700-601300-6101	1,000.00	Ed & Rec Supplies
2016075	4-3104-63104-460700-600220-6102	989.30	Student Snacks/Meals
2016075	4-3104-63104-460700-601300-6102	1,716.70	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6103	70.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-601300-6103	398.67	Ed & Rec Supplies
2016075	4-3104-63104-460700-420100-6104	800.00	Field Trips
2016075	4-3104-63104-460700-601300-6104	6,555.54	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6105	1,550.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-601300-6105	4,094.96	Ed & Rec Supplies

2016075	4-3104-63104-460700-601300-6106	350.00	Field Trips
2016075	4-3104-63104-460700-601300-6106	591.01	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6107	1,887.98	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6109	400.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-420100-6109	1,353.78	Field Trips
2016075	4-3104-63104-460700-601300-6109	531.03	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6110	503.49	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6111	10,219.06	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6112	1,476.25	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6113	200.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-601300-6113	19,078.29	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6114	12,347.26	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6116	200.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-601300-6116	2,550.69	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6115	1,400.49	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6117	2,991.14	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6251	458.98	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6252	7,158.47	Ed & Rec Supplies
2016075	4-3104-63104-460700-312500-6253	234.00	Prof Serv - Instructional
2016075	4-3104-63104-460700-600220-6253	4,098.79	Student Snacks/Meals
2016075	4-3104-63104-460700-601300-6253	4,351.73	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6254	4,058.97	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6301	1,000.00	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6302	16,349.48	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6303	19,801.70	Ed & Rec Supplies
2016075	4-3104-63104-460700-601300-6304	12,349.96	Ed & Rec Supplies
2016075	4-3104-63104-461101-601300-6599	22,905.15	Ed & Rec Supplies
2016075	4-3104-63104-461311-580500-6599	15,310.77	Staff Development
2016075	4-3104-63104-461311-601300-6599	1,843.85	Ed & Rec Supplies
2016075	3-3217-63217-351000-510100-6599	20,215.78	Project Graduation Fund Balance
2016075	4-3217-63217-461101-132100-6530	18,779.18	PT/Wages-Teacher
2016075	4-3217-63217-461101-210000-6530	1,436.60	FICA
2016075	3-3116-63116-351000-510100-6599	19,934.74	Econ Dislocated Workers Fund Balance
2016075	4-3116-63116-463348-132100-6530	18,518.00	PT/Wages-Teacher
2016075	4-3116-63116-463348-210000-6530	1,416.74	FICA
2016075	3-3224-63224-324000-240900-6599	48,289.00	School Security Equipment Grant
2016075	4-3224-63224-464600-800100-6530	48,289.00	Machinery & Equipment
2016075	3-3310-63310-351000-510100-6599	203,396.80	Summer School Fund Balance
2016075	4-3310-63310-461120-117200-6599	6,746.81	Salaries - Transit Aide
2016075	4-3310-63310-461120-132100-6599	30,000.00	PT/Wages-Teacher
2016075	4-3310-63310-461120-137100-6599	28,000.00	PT Wages - Bus Driver
2016075	4-3310-63310-461120-210000-6599	4,601.15	FICA
2016075	4-3310-63310-461120-420110-6599	20,000.00	School Transportation
2016075	4-3310-63310-461120-601300-6599	8,000.00	Ed & Rec Supplies
2016075	4-3310-63310-461124-117200-6599	5,000.00	Salaries - Transit Aide
2016075	4-3310-63310-461124-132100-6599	28,000.00	PT/Wages-Teacher
2016075	4-3310-63310-461124-137100-6599	20,000.00	PT Wages - Bus Driver
2016075	4-3310-63310-461124-210000-6599	3,766.38	FICA
2016075	4-3310-63300-461124-420110-6599	10,000.00	School Transportation
2016075	4-3310-63310-461124-601300-6599	3,000.00	Ed & Rec Supplies
2016075	4-3310-63310-461125-132100-6599	30,000.00	PT/Wages-Teacher
2016075	4-3310-63310-461125-210000-6599	3,482.46	FICA
2016075	4-3310-63310-461125-601300-6599	2,800.00	Ed & Rec Supplies
2016075	3-3152-63152-324000-240405-6599	3,250.00	State Revenue
2016075	4-3152-63152-463333-132100-6530	3,019.05	PT/Wages-Teacher
2016075	4-3152-63152-463333-210000-6530	230.95	FICA
2016076	3-1213-12200-412200-562500-1001	11,250.00	TJ Planning
2016076	4-1213-12200-412200-562500-1001	11,250.00	TJ Planning
2016076	4-1000-12200-412200-562500-1001	11,250.00	Transfer from IT dept budget
2016076	4-1000-93010-493010-939999-9999	11,250.00	Transfer to Grant fund
TOTAL		6,012,146.26	

Agenda Item No. 25. **Public Hearing: ZTA-2016-00001. Eligible Applicants.** To receive comments on an ordinance amending Secs. 18-33.4, Uniform procedures for owner-initiated zoning map amendments and special use permits, 18-33.5, Uniform procedures for special exceptions, and 18-34.4, Variances, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Secs. 18-33.4, 18-33.5, and 18-34.4 to allow holders of an easement to file applications for a special use permit, special exception, or variance if it pertains to a use allowed by the deed of easement or equivalent instrument, enable the Director of Planning or the Zoning Administrator, as applicable, to require an applicant to provide necessary documentation to determine eligibility to apply, require when an easement holder is the applicant that notice be provided to the lot owner within 10 days after the application is deemed complete, and allow easement holders to file an application for a special use permit or variance even though the lot owner owes delinquent taxes, fees, or charges to the county. *(Advertised in the Daily Progress on March 21 and March 28, 2016.)*

The transmittal presented to the Board states that on February 23, 2016, the Planning Commission adopted an expanded Resolution of Intent (Attachment B) and recommended approval of ZTA 2016-01 by a vote of 7:0 as recommended by staff, with one grammatical correction. The Commission also recommended that, before approving ZTA 2016-01, the Board of Supervisors be satisfied that 1) the County is appropriate in the role of interpreting private easement terms, 2) there is a clear understanding of what happens if a property owner objects to the determination that an easement holder is eligible to apply, and 3) the process for notifying an owner as provided in the proposed zoning text amendment (ZTA) (Attachment A) is acceptable. The Planning Commission's action letter, staff report, and minutes from the meeting are attached (Attachments C through E).

The staff report for the February 23, 2016 Commission public hearing (Attachment D) outlines the background and provisions of the proposed ZTA. The Commission's recommended conditions for approval are set forth below, with staff's response provided in italics.

- 1) The Board of Supervisors is satisfied that the County is appropriate in the role of interpreting private easement terms
The County Attorney's office routinely evaluates deeds between private parties, as well as articles of incorporation, operating agreements, by laws, and resolutions of private entities in order to make various decisions affecting a land use application. The easement holder will have the burden of demonstrating to the satisfaction of the County that the special use permit that it seeks would allow a use that clearly falls within the scope of the easement.
- 2) There is a clear understanding of what happens if a property owner objects to the determination that an easement holder is eligible to apply
The County is legally required to process a complete application within an established timeframe set forth in the Zoning Ordinance. An application will not be deemed complete if staff or the County Attorney's office finds any information provided by the applicant to be inadequate in satisfying the County's application requirements. A property owner who disagrees with the determination that the easement holder is an eligible applicant may have standing to appeal the determination to the Board of Zoning Appeals (BZA). Processing the application would be stayed until the BZA acts on the appeal. In the absence of an appeal pending before the BZA, once the County deems an application to be complete, any disputes between the property owner and the easement holder regarding the merits of the application are a private matter and would not halt the County's review process without the consent of the applicant.
- 3) The Board is satisfied that the process for notifying an owner as provided in the proposed ZTA is acceptable
The proposed ZTA requires that written notice be sent to the property owner(s) by mail to the address on record within 10 days after receiving the complete application. This new notification requirement ensures that the property owner(s) receives early notice that an application has been made. In addition, special use permits and variance applications require posted notice and written notice prior to the public hearing. Although special exceptions do not have the same notice requirements, staff believes that the notification to owners at the beginning of the application process will allow them to remain informed.

Staff recommends that the Board adopt the proposed zoning text amendment (Attachment A).

Ms. Mandy Burbage, Senior Planner, addressed the Board and stated that this ordinance amendment addresses an oversight from the legislative process amendments adopted in 2013, and from those amendments the definition of "owner" was defined to be the fee-simple owner of the parcel to which an application pertains. Ms. Burbage explained this inadvertently overlooked circumstances when an applicant is an easement holder seeking a permit for a use related to a deed of easement. She said that one example would be an electric utility seeking to upgrade its transmission lines and towers within an easement it holds across another property; another example would be an access easement holder seeking a setback variation for a road across another owner's property. Ms. Burbage stated that in either case, under the current wording of the ordinance the owner retains complete control of the property even though they previously sold that property right to the easement holder. She noted that to address this oversight, in January the Board adopted a resolution to amend the zoning ordinance section pertaining to special use permits and rezonings, and as they got into drafting the ordinance language, staff realized that changes were also needed to address circumstances when a special exception or variance would be needed. Ms. Burbage reported that the result was the adoption of a second resolution of intent by the Planning Commission on February 23, and at that same meeting the Commission recommended approval of the draft ordinance subject to the Board's satisfaction with three points as outlined in the staff report.

Ms. Burbage stated the first point is that the County is appropriate in the role of interpreting private easement terms, which the County Attorney's office routinely evaluates for all kinds of agreements including easements between private parties in order to make decisions affecting a land use application. Ms. Burbage noted that the easement holder has the burden of demonstrating to the satisfaction of the County that the application it seeks relates to a use that clearly falls within the scope of the easement. She stated the second point is that there is a clear understanding of what happens if a property owner objects to an easement holder applying for a special use permit or variance or special exception. Ms.

Burbage said the ordinance obligates the County to process a complete application within an established timeframe, but if a property owner disagrees with the County's determination that an easement holder is an eligible applicant, that property owner has the right to appeal the decision to the BZA, and during that appeals process the review of that application would be on hold until the BZA acts on the appeal. She added that in the absence of an appeal, once the County deems an application to be complete, any disputes between the property owner and the easement holder about the application would be considered a private matter and would not affect or halt the County's review process without the consent of the applicant. Ms. Burbage said the final point from the Planning Commission is that the owner notification process was adequate, and the ordinance proposes a new written notice requirement to the property owner sent by mail to the address on record within 10 days of the application being deemed complete, and this ensures that the property owner would receive early notice that an application has been made, and in the case of special use permits, this new notification requirement is in addition to other notification requirements, including notice of a community meeting, the sign posted on the property, the legal ad prior to each public hearing, and written notice prior to each public hearing.

Ms. Burbage stated the key provisions of the ordinance are that it enables an easement holder to apply for a special use permit, special exception or variance for a use related to that deed of easement; it does not entitle an easement holder to apply for an application for uses not specified under the deed of easement, so someone with an access easement could not apply for a special use permit to put an electric transmission line along that access easement. She stated that an easement holder cannot expand the boundaries of the easement without the owner's consent. Ms. Burbage noted that under the new ordinance language, the County is enabled to require documentation to verify that the easement holder is an eligible applicant; it does not hold the easement holder responsible for any delinquent taxes associated with the property, so that would not halt the County's review of the application; and the ordinance contains the 10-day written notice requirement to the property owner for all three application types.

Ms. Burbage said that staff's recommendation is that following the public hearing, the Board adopt ZTA 2016-0001.

Ms. Mallek suggested instead of requiring the documentation to come in with the application in order for it to be complete so staff would not have to chase after it afterwards, as this would be a smoother way to go forward and would prevent staff from doing other people's work. Ms. Amelia McCulley, Zoning Administrator, agreed, and stated that staff can make it clear in the checklist.

Ms. Mallek said she would like to know more about the allowance of changes in setback without the property owner being part of it. Ms. McCulley explained that staff was trying to give examples of the types of easements that would be held and noted that access easements are very common easements. She said there may be a case in a subdivision where there is a private road that is an access easement, and someone wants to locate it closer than what the zoning ordinance requires for setback, but they may not have the authority because it is an easement situation, so this would allow for them to apply for something within the terms of the easement. Ms. McCulley stated the better examples are related to utilities, and she emphasized the eligible applicant who is an easement holder is only eligible to the extent of their already recorded easement, and if they have the power of eminent domain but have not acquired it yet, they are not an eligible applicant. She stated if an applicant needs 100 feet of right of way but the easement only provides for 75 feet, it does not count and they would need to acquire the full easement or get the property owner's permission in addition to their name on the application.

Ms. Mallek stated the residents of Fox Mountain are very upset because they have been getting visits by someone from out of state representing Dominion Power who has been demanding rather forcefully that they sign replacement easement documents, which most of them have refused. She noted the concern is that the lines will cross streams and wetlands and even go under one person's house, and residents' great concern is that Dominion has something else planned, and they do not want destruction of their property when they are not being told what it is for. Mr. Kamptner responded that County staff will look at the easement that has been recorded and evaluate it, and as he told the Planning Commission, the easement will have to be clear, establishing the right to the particular use for which the application pertains. He said if it is not clear and they cannot provide additional documentation, the conclusion will be that they do not qualify as an eligible applicant. The County would not be deferring to the easement holder's wishes, and they have to clearly establish that they have that right for that particular use.

The Chair opened the public hearing and invited public comment.

None was offered, and the Chair closed the public hearing.

Mr. Dill offered **motion** to adopt the proposed ordinance to approve ZTA-2016-00001. Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

ORDINANCE NO. 16-18(3)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE IV, PROCEDURE, OF THE CODE OF

THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article IV, Procedure, is hereby amended and reordained as follows:

By Amending:

Sec. 33.5 Uniform procedures for special exceptions
Sec. 34.4 Variances

By Amending and Renaming:

Sec. 33.4 Uniform procedures for zoning map amendments not initiated by the county and special use permits

Chapter 18. Zoning

Article IV. Procedure

Sec. 33.4 Uniform procedures for zoning map amendments not initiated by the county and special use permits

Each application for a zoning map amendment that is not initiated by the county or a special use permit, except for those delegated by this chapter to the board of zoning appeals under section 4.15.5, shall be subject to the following:

- a. *Pre-application meeting.* A pre-application meeting shall be held with each prospective applicant (the “applicant”), and the applicant shall complete and submit information on county-provided forms before submitting an application (collectively, the “pre-application meeting”), subject to the following:
 1. *Purposes for a meeting.* The purposes for a pre-application meeting are to: (i) provide the applicant and the county a common understanding of the proposed project; (ii) inform the applicant about the proposed project’s consistency with the comprehensive plan, other relevant policies, and county regulations; (iii) broadly identify the planning, zoning and other issues raised by the application that need to be addressed by the applicant; (iv) inform the applicant about the applicable procedure; and (v) allow the director to identify the information the applicant must submit with the application, including the supplemental information delineated in subsection (c). Receiving the relevant supplemental information will allow the application to be comprehensively and efficiently reviewed.
 2. *Factors to consider in requiring meeting.* A pre-application meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, the proposed district, and other considerations he determines to be relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (c) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established for the proposed application; and (iv) whether the application raises any complex issues that create the need for the meeting.
- b. *Applications.* Each application shall be composed of a completed county-provided application form and supplemental information (collectively, the “application”) required to review and act on the application.
 1. *Who may file an application.* An application for a zoning map amendment or a special use permit may be filed by the owner, the contract purchaser with the owner’s consent, or the owner’s agent for the purpose of the zoning map amendment or the special use permit. An application for a special use permit also may be filed by the easement holder of an easement where the special use for which the permit is sought is a use allowed by the deed of easement or equivalent instrument. The director of planning is authorized to require from the applicant any documentation deemed necessary to determine that the person filing the application is an eligible applicant.
 2. *Application forms.* The director of planning is authorized to establish appropriate application forms for zoning map amendments and special use permits. The application form shall delineate the supplemental information required to be provided, as set forth in subsection (b)(3).
 3. *When supplemental information may be required; establish or amend conventional districts; amend planned development districts; obtain or amend special use permits.* For each application for a zoning map amendment to establish or amend a conventional district, to amend a planned development district, and for each application to obtain or amend a special use permit, the director of planning may require some or all of the supplemental information delineated in subsection (c) to be submitted with each application. In determining what supplemental information must be submitted, the director

shall consider the proposed use, the proposed density, the proposed district, and other considerations he determines to be relevant under sound zoning principles.

4. *When supplemental information required; establish planned development districts.* Each application to establish a planned development district shall submit all of the supplemental information delineated in subsection (c).

c. *Elements of the supplemental information.* The supplemental information is the following:

1. *Project proposal.* A narrative of the project proposal, including its public need or benefit; an application to establish a neighborhood model district shall include a statement describing how the proposed district satisfies the intent of this chapter and if one or more characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant shall justify why any characteristics cannot or should not be provided.
2. *Comprehensive plan.* A narrative of the proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area; an application to establish a neighborhood model district also shall include a narrative as to the project's consistency with the neighborhood model.
3. *Impacts on public facilities and infrastructure.* A narrative of the proposed project's impacts on public facilities and public infrastructure.
4. *Impacts on environmental features.* A narrative of the proposed project's impacts on environmental features.
5. *Proposed proffers to address impacts.* A narrative of the proffers proposed to address impacts from the proposed project.
6. *Maps.* One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions; if the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply.
7. *Conceptual plan for zoning map amendments for conventional districts and special use permits.* For an application for a zoning map amendment to establish a conventional district or a special use permit, a conceptual plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; and (ix) conceptual grading.
8. *Application plan for zoning map amendments for planned development districts.* For an application to establish a planned development district or to amend an approved application plan for an existing planned development district, an application plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; (ix) conceptual grading; (x) a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features; (xi) topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing steep slopes; (xii) the general layout for water and sewer systems; (xiii) the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas; (xiv) standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district; (xv) a conceptual lot layout; and (xvi) if the application is to establish a neighborhood model district, the location of proposed green spaces and amenities as provided in section 20A.9.
9. *Code of development in a proposed neighborhood model district.* An application to

establish a neighborhood model district shall include a code of development satisfying the requirements of section 20A.5.

10. *Parking and loading needs study in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include a parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8, and transportation demand management strategies as provided in section 4.12.12; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.
 11. *Stormwater management in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.
 12. *Traffic impact statement.* For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.
 13. *Recorded plat or boundary survey.* The most recently recorded plat of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which shall include a metes and bounds description of the boundaries.
 14. *Ownership information.* Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.
 15. *Contact person.* The name, address, telephone number and e-mail address of a single contact person for communications between the county and the applicant.
 16. *Other information.* Other special studies or documentation, if applicable, and any other information identified as necessary by the county on the pre-application comment form.
- d. *Payment of delinquent taxes.* The applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid; provided that the payment of such delinquent taxes, charges or fees shall not be required when the applicant for a special use permit is an easement holder.
- e. *Filing the application; number of copies.* The application shall be filed with the department of community development. The director of planning is authorized to establish for each class of application the number of collated copies of the application required to be filed.
- f. *Determining completeness of the application; rejecting incomplete applications.* An application that provides all of the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information shall be deemed to be incomplete and shall not be accepted.
1. *Timing of determination of completeness.* The director of planning shall determine whether an application is complete within ten (10) days after the application was received.
 2. *Procedure if application is incomplete.* The director of planning shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or email.
 3. *Effect if timely determination not made.* If the director of planning does not send or deliver the notice as provided in subsection (f)(2) within the ten (10) day period, the application shall be deemed to be complete, provided that the director may require the applicant to later provide the omitted information within a period specified by the director, and further provided that the director may reject the application as provided herein if the applicant fails to timely provide the omitted information.
 4. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment shall be provided to each owner subject to the same proffers as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.

5. *Notice to owner of application for special use permit filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a special use permit filed by an easement holder is determined to be complete, written notice of the proposed special use permit shall be provided to each owner of the lot for which the special use permit is sought as required by Virginia Code § 15.2-2204(H).
- g. *Payment of fees.* When an application is determined to be complete, the applicant shall pay the fee required by section 35.1 before the application is further processed.
- h. *Resubmittal of application originally determined to be incomplete.* Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the director of planning as provided in subsection (f)(2), the applicant may resubmit the application with all of the information required by subsections (b) and (c) for a new determination of completeness under subsection (f).
- i. *Worksessions.* For any application, the director of planning may schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, as he determines to be appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following:
 1. *Purposes for a worksession.* The purposes for a worksession are to present the proposed project to the board or the commission with the department of community development's analysis of the major issues, seek direction from the board or commission on their expectations in addressing those issues, and to allow the board or commission to receive public comments.
 2. *When applicant's consent required.* The applicant's consent to a worksession shall be required if the worksession would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- j. *Community meetings.* A community meeting shall be held for each application, subject to the following:
 1. *Purposes for a meeting.* The purposes for a community meeting are to: (i) provide interested members of the public the opportunity to receive information about the proposed project, the applicable procedure, the policies of the comprehensive plan, other relevant policies, and regulations applicable to the proposed project; and (ii) to allow the public to ask questions about the proposed project.
 2. *Factors to consider in requiring meeting.* A community meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the application would be likely to generate any public concerns because of the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and the potential impacts; (ii) any other factors deemed relevant upon applying sound zoning principles; and (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting under this subsection unnecessary.
 3. *Guidelines.* The director of planning is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process community meetings should be conducted, and how a community meeting should be conducted including, but not limited to, how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.
 4. *When applicant's consent required.* The applicant's consent to a community meeting shall be required if the community meeting would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- k. *Review of staff comments.* Upon request by the applicant, the director of planning shall meet with the applicant to review comments to the application made by county staff.
- l. *Public hearings.* Before the board of supervisors acts on a zoning map amendment or a special use permit, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.
- m. *Notice of public hearings.* Notice of public hearings shall be provided as follows:
 1. *Published and mailed notice.* Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2-2285(C); and, for zoning map amendments seeking to amend an existing planned

development district, written notice of the proposed amendment also shall be provided to the owner of each parcel within the planned development district and the substance of that notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.

2. *Posted notice.* Notice of the public hearing before the commission and the board of supervisors on each application shall be posted, as follows:
 - a. *When sign must be posted.* The sign shall be posted by the zoning administrator at least twenty-one (21) days before the commission's public hearing on the application and shall remain posted until the board of supervisors has acted on the application or the application has been withdrawn.
 - b. *Where sign to be located.* The sign shall be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and shall be so placed as to be clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall be erected in the same manner as above for each abutting street; or (ii) if the area of the parcel(s) to be used if the application was granted is confined to a particular portion of the parcel(s), a sign erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application shall be deemed to grant consent to the zoning administrator to enter the parcel(s) to erect the signs.
 - c. *Content of sign.* Each sign shall state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.
 - d. *Maintaining the sign.* The applicant shall diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the commission or the board of supervisors to defer action on an application until there is reasonable compliance with this subsection.
 - e. *Ownership of sign; violation for removing or tampering with sign.* Each sign is the property of the board of supervisors. It shall be unlawful for any person to remove or tamper with any sign, except the applicant performing maintenance required by this subsection or the zoning administrator.
 - f. *Effect of failure to comply.* If the requirements of this subsection to post notice are not complied with:
 1. *Prior to action by board.* The board of supervisors may defer taking action on an application if it finds that the failure to comply with this subsection materially deprived the public of reasonable notice of the public hearing.
 2. *Action not invalid.* No action on an application shall be declared invalid solely because of the failure to post notice as required by this subsection.
- n. *Time for decision.* Each application shall be acted on as follows:
 1. *By the planning commission.* An application shall be acted on by the commission within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval unless the applicant requests or consents to the ninety (90) day period being extended.
 2. *By the board of supervisors.* An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
 3. *Tolling.* The period in which action is required by the commission or the board of supervisors shall be tolled during any period in which the applicant has requested that the review of the application be suspended or the public hearings or action thereon be deferred or continued.

4. *Referral.* The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board of supervisors is within twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
- o. *Recommendation by commission.* The commission shall either recommend approval of the application as proposed, approval subject to changes being made prior to action by the board of supervisors, or disapproval. For any application for a zoning map amendment, the commission's recommendation also should include its recommendations on proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception requested by the applicant under section 8.2. For any application for a special use permit, the commission's recommendation should include its recommendations on the proposed conditions.
- p. *Action by the board of supervisors.* The board of supervisors may either approve or deny the application, or defer action to allow changes to be made prior to final action by the board. In approving an application for a zoning map amendment, the board may accept the proposed proffers as provided in section 33.7. In approving an application for a special use permit, the board may impose conditions as provided in section 33.8.
- q. *Intensification of use classification prohibited without additional notice and hearing.* No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).
- r. *Withdrawal of application.* An application may be withdrawn, or be deemed to be withdrawn, as provided herein:
 1. *Request to withdraw by applicant.* An application may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the commission or the board of supervisors. An applicant may not submit an application that is substantially the same as the withdrawn application within one (1) year of the date of withdrawal unless the body considering the application at the time of withdrawal specifies that the time limitation shall not apply.
 2. *When application deemed withdrawn.* An application shall be deemed to have been voluntarily withdrawn if the applicant requested that further processing or formal action on the application be indefinitely deferred and the commission or the board of supervisors is not requested by the applicant to take action on the application within one (1) year after the date the deferral was requested. Upon written request received by the director of planning before the one (1) year period expires, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. Upon written request received by the clerk of the board of supervisors before the extension of the deferral period granted by the director expires, the board of supervisors may grant one additional extension of the deferral period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. The timely receipt by the clerk of the extension request shall toll the expiration of the extended deferral period until the board acts on the request.
- s. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.
- t. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

((§ 33.2, 12-10-80) (§ 33.4, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.5, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.6, 12-10-80) (§ 33.7, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8, 12-10-80, 6-19-96) (§ 33.8.1, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8.2, 12-10-80, 6-19-96) (§ 33.8.3, 12-10-80, 6-19-96); §33.4, Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (5), (7), (B).

Sec. 33.5 Uniform procedures for special exceptions

Each application for a special exception shall be subject to the following:

- a. *Matters requiring a special exception.* Notwithstanding any other section of this chapter:
1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board of supervisors, provided that no special exception shall be required for the development and construction of residential dwellings at the use, height and density permitted by right in the applicable district as provided by Virginia Code § 15.2-2288.1.
 2. Any requirement for a decision by the commission required by this chapter shall be considered and acted upon by the board of supervisors. For the purposes of this section, a decision by the commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any variation or exception provided in section 32.
- b. *Application.* Each application for a special exception shall be made as provided by, and include the information required by, the applicable section of this chapter authorizing the waiver, modification, variation or substitution.
1. *Who may file an application.* An application for a special exception may be filed by the owner, the contract purchaser with the owner's consent, or the owner's agent for the purpose of the special exception, or by the easement holder of an easement where the waiver, modification, or variation for which the special exception is sought pertains to a use allowed by the deed of easement or equivalent instrument. The director of planning is authorized to require from the applicant any documentation deemed necessary to determine that the person filing the application is an eligible applicant.
 2. *When application deemed officially submitted.* An application shall be deemed to be officially submitted when the applicant has submitted all of the required information as determined by the director of planning.
- c. *Public hearings.* Before the board of supervisors acts on a special exception that would increase by greater than fifty (50) percent the bulk or height of an existing or proposed building within one-half mile of an adjoining locality, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.
- d. *Notice to owner of application for special exception filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a special exception filed by an easement holder is determined to be complete, written notice of the proposed special exception shall be provided to the owner of the lot for which the special exception is sought as required by Virginia Code § 15.2-2204(H).
- e. *Notice of public hearings.* Notice of public hearing before the commission and the board of supervisors on an application for which a public hearing is required under subsection (c) shall be provided as required by Virginia Code § 15.2-2204(C).
- f. *Time for decision.* Each application for a special exception shall be acted on by the board of supervisors within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.
- g. *Recommendation by planning commission.* For those applications considered by the commission, the commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the board of supervisors, or disapproval. The commission's recommendation should include its recommendations on the proposed conditions.
- h. *Action by the board of supervisors.* The board of supervisors may either approve the application, deny the application, or defer action to allow changes to be made prior to final action by the board. In approving the application, the board may impose conditions as provided in section 33.9.
- i. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

(§ 33.5, Ord. 12-18(7), 12-5-12, effective 4-1-13; § 31.8, Ord. 12-18(1), 2-8-12)

State law reference – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

Sec. 34.4 Variances

An application for a variance shall be considered by the board of zoning appeals (the "board") as follows:

- a. *Who may file an application.* An application may be filed by any owner, tenant, the easement holder of an easement where the use for which the variance is sought is a use allowed by the

deed of easement or equivalent instrument, government official, department, board or bureau (the "applicant"). The zoning administrator is authorized to require from the applicant any documentation deemed necessary to determine that the person filing the application is an eligible applicant.

- b. *Application.* Each application shall be composed of a completed county-provided application form required to review and act on the application. The application may pertain to one or more lots owned or occupied by the applicant. The zoning administrator is authorized to establish an appropriate application form. The application form shall require the applicant to provide the following:
 - 1. *Criteria to establish right to a variance.* Information pertaining to the criteria to establish the right to a variance in subsection (i).
 - 2. *Payment of delinquent taxes.* Satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid; provided that the payment of such delinquent taxes, charges or fees shall not be required when the applicant for a variance is an easement holder.
- c. *Filing the application; number of copies.* The applicant shall file the application with the department of community development. The zoning administrator is authorized to establish for each class of application the number of collated copies of the application required to be filed.
- d. *Determining completeness of the application; rejecting incomplete applications.* An application that provides all of the required information on the application form shall be determined to be complete and be accepted for review and decision. An application omitting any required information shall be deemed to be incomplete and shall not be accepted.
 - 1. *Timing of determination of completeness.* The zoning administrator shall determine whether an application is complete within ten (10) days after the application was received.
 - 2. *Procedure if application is incomplete.* If the application is incomplete, the zoning administrator shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or email.
 - 3. *Effect if timely determination not made.* If the zoning administrator does not send or deliver the notice as provided in subsection (d)(2) within the ten (10) day period, the application shall be deemed to be complete, provided that the director may require the applicant to later provide the omitted information within a period specified by the director, and further provided that the zoning administrator may reject the application as provided herein if the applicant fails to timely provide the omitted information.
 - 4. *Resubmittal of application originally determined to be incomplete.* Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the zoning administrator as provided in subsection (d)(2), the applicant may resubmit the application with all of the information required by this section for a new determination of completeness under this subsection.
 - 5. *Notice to owner of application for variance filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a variance filed by an easement holder is determined to be complete, written notice of the proposed variance shall be provided to the owner of the lot for which the variance is sought as required by Virginia Code § 15.2-2204(H).
- e. *Payment of fees.* When an application is determined to be complete, the applicant shall pay the fee required by section 35.1 before the application is further processed.
- f. *Transmittal of information.* The zoning administrator shall promptly transmit the application and accompanying maps, plans or other information to the secretary of the board. The zoning administrator shall also transmit a copy of the application to the commission, which may send a recommendation to the board or appear as a party at the hearing.
- g. *Procedural requirements prior to the hearing.* The following procedures apply prior to the board's hearing on the application:
 - 1. *Scheduling the hearing on the application.* The board shall schedule a reasonable time for the hearing that will allow it to make a timely decision as provided in subsection (k).
 - 2. *Notice of the hearing.* The board shall give notice of the hearing as required by Virginia Code § 15.2-2204, provided that when giving any required notice to the owners, their agents or the occupants of abutting lots and lots immediately across the street or road

from the lot that is the subject of the variance, the board may give such notice by first-class mail rather than by registered or certified mail. Notice of the hearing also shall be posted as provided in section 33.4(m)(2).

3. *Contact by parties with board members.* The non-legal staff of the board of supervisors, as well as the applicant, landowner, or its agent or attorney, may have *ex parte* communications with a member of the board prior to the hearing but may not discuss the facts or law relative to the application. If an *ex parte* discussion of facts or law in fact occurs, the party engaging in the communication must inform the other party as soon as practicable and advise the other party of the substance of the communication. Prohibited *ex parte* communications do not include discussions that are part of a public meeting or discussions prior to a public meeting to which the applicant, landowner, or his agent or attorney are all invited. For the purposes of this section, the “non-legal staff of the board of supervisors” is any staff who is neither an attorney in the county attorney’s office nor appointed by special law.
4. *Sharing information produced by county staff.* Any materials relating to an application, including a staff recommendation or report furnished to a board member, shall be available without cost to the appellant or any person aggrieved as soon as practicable thereafter, but in no event more than three (3) business days after the materials are provided to one or more board members.
- h. *Procedural requirements at the hearing.* The following procedures apply at the board’s hearing on the application:
 1. *The right to equal time for a party to present its side of the case.* The board shall offer an equal amount of time in a hearing on the case to the applicant and the county staff.
 2. *Burden of proof.* The applicant has the burden to prove by a preponderance of the evidence that his application meets the definition of a variance in Virginia Code § 15.2-2201 and the criteria in subsection (i).
- i. *Criteria to establish basis to grant a variance.* The board shall grant a variance if the evidence shows: (i) that strict application of the terms of the ordinance would unreasonably restrict the utilization of the property; or (ii) that granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance; and all of the following:
 1. *Good faith acquisition and hardship not self-inflicted.* The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
 2. *No substantial detriment.* Granting the variance will not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
 3. *Condition of situation not general or recurring.* The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
 4. *Use variance prohibited.* Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property.
 5. *Special use permit or special exception not available.* The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this chapter when the application is filed.
- j. *Factors not to be considered.* The board shall not base any decision on the merits of the purpose and intent of any relevant provision in the zoning ordinance.
- k. *Time for decision.* The board shall schedule a reasonable time for the hearing on an application so that it may make its decision within ninety (90) days after the date the application was deemed to be complete. This ninety (90) day period is directory, not mandatory.
- l. *Action by the board; vote required to grant variance.* The concurring vote of three (3) members of the board is required to grant a variance.
- m. *Conditions on variance.* In granting a variance, the board may impose conditions, as follows:
 1. *Nature of conditions.* The board may impose reasonable conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest.
 2. *Guarantee or bond to ensure compliance.* The board also may require that the applicant

provide a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

3. *Conditions deemed to be essential and nonseverable.* Except as the board may specify in a particular case, any condition imposed on a variance shall be deemed to be essential and nonseverable from the variance itself and any condition determined to be invalid, void or unlawful shall invalidate the variance.
- n. *Effect of granting variance; expansion of structure.* The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and this chapter; however, any structure permitted by a variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under this chapter. If an expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.
- o. *Withdrawal of application.* An application may be withdrawn, or be deemed to be withdrawn, as provided herein:
 1. *Request to withdraw by applicant.* An application may be withdrawn upon written request by the applicant. The written request must be received by the board prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the board. An applicant may not submit an application that is substantially the same as the withdrawn application within one (1) year of the date of withdrawal unless the board, at the time of withdrawal, specifies that the time limitation shall not apply.
 2. *When application deemed withdrawn.* An application shall be deemed to have been voluntarily withdrawn if the applicant requested that further processing or formal action on the application be indefinitely deferred and the board is not requested by the applicant to take action on the application within one (1) year after the date the deferral was requested. Upon written request received by the zoning administrator before the one (1) year period expires, the zoning administrator may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the nature of the application, the complexity of the review, and the laws in effect at the time the request for extension is made. Upon written request received by the secretary of the board before the extension of the deferral period granted by the zoning administrator expires, the board may grant one additional extension of the deferral period determined to be reasonable, taking into consideration the size or nature of the application, the complexity of the review, and the laws in effect at the time the request for extension is made. The timely receipt by the clerk of the extension request shall toll the expiration of the extended deferral period until the board acts on the request.
- p. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.
- q. *Judicial review.* Any action contesting a decision of the Board under this section shall be as provided in Virginia Code § 15.2-2314.

(§ 34.4, 12-10-80; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 15.2-2204, 15.2-2286(A)(4) and (B), 15.2-2308, 15.2-2308.1, 15.2-2309, 15.2-2310, 15.2-2312, 15.2-2314.

Agenda Item No. 26. **Public Hearing: ZTA-2016-00002. Proffers.** To receive comments on an ordinance amending Secs. 18-33.4, Uniform procedures for owner-initiated zoning map amendments and special use permits, 18-33.7, Owner-initiated zoning map amendments; authority to accept proffers, and 18-35.1, Fees, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Secs. 18-33.4 to authorize the Board of Supervisors to reduce certain application and process requirements that apply to applications for zoning map amendments (rezonings) if the application is only to amend existing proffers that do not affect use or density, 18-33.7 to reflect the changes to Sec. 18-33.4, and 18-35.1 to establish a new reduced fee of \$457.00 for applications for rezonings to amend existing proffers that do not affect use or density if the Board reduces application and process requirements. The proposed fee is authorized by Virginia Code § 15.2-2286(A)(6). (*Advertised in the Daily Progress on March 21 and March 28, 2016.*)

The executive summary presented to the Board states that Virginia Code § 15.2-2302 authorizes the Board to waive the requirement for a public hearing when an applicant for a rezoning seeks only to amend existing proffers that do not affect use or density. County Code § 18-33.7(f) implements Virginia Code § 15.2-2302 by allowing applications to first come to the Board to allow it to decide how the application may be processed: (1) by referring the application to the Planning Commission for a recommendation, either with or without a public hearing as determined by the Board; or (2) by considering the application without a recommendation of the Planning Commission, either with or without a public hearing. On January 6, 2016, the Board adopted a Resolution of Intent to consider amendments to the County Code pertaining to the application and procedural requirements, as well as the fees, for such

rezoning applications, as authorized by Virginia Code § 15.2-2302. (See Attachment A) On March 8, 2016, the Planning Commission held a public hearing on the proposed zoning text amendment (ZTA), recommended approval of ZTA201600002 as recommended by staff (Attachment B2), and further recommended that the Board adopt the attached draft policy for considering requests for a simplified application process for rezonings to amend proffers that do not affect use or density (Attachment C).

Although the Board may waive the requirement for a public hearing when an applicant for a rezoning is seeking only to amend existing proffers that do not affect use or density, County Code § 18-33.4 still requires an applicant for such a rezoning to comply with a number of requirements that apply to all rezoning applications, including: (1) a pre-application meeting, unless it is waived by the director of planning; (2) submitting a complete application in the requisite number of copies; (3) paying the applicable fee for a rezoning (the current fee regulations do not distinguish this type of application from any other rezoning application); (4) holding a work session, if required by the director of planning; and (5) holding a community meeting, if required by the director of planning.

Some applications to amend proffers that do not affect use or density may be minor, technical, and/or noncontroversial, and a further simplified application process could be warranted in the Board's discretion.

Thus, amendments to County Code § 18-33.7 are included in the attached proposed ZTA that allow the Board to waive certain procedural requirements (pre-application meetings, work sessions and/or community meetings) and certain application requirements. In addition, County Code § 18-35.1 is proposed to be amended to establish a separate fee for this class of zoning map amendment. Based on a review of rezonings to amend existing proffers since 2010, the following are the type of amendments that, under certain circumstances, may have been eligible for the Board to consider waiving certain procedural and application requirements:

- Phasing of public improvements, particularly roads
- Change to character of public improvements
- Removal of certain public improvements (E.g., interparcel connection)
- Timing/sunset for public improvements/cash
- Change to cash proffer amounts
- Timing of requiring certain uses based on other uses (E.g., commercial square footage based on residential units)
- Change to private amenities (E.g., trail, tot lot)
- Phasing of development
- Change to form/character of development
- Change in location of features of development

While each eligible request would be reviewed on a case by case basis, to be consistent and objective in determining whether or not to grant a request for a simplified application process there are certain factors staff feels would be important for the Board to consider in each case:

- Was the proffer as originally provided **material** to the approval of the original rezoning? *(In describing the significance of the original proffer to the associated rezoning, staff recommended "essential" rather than "material" to the Planning Commission. By definition "essential" implies "the utmost importance", while "material" implies "real importance". In recognition that some proffers proposed for amendment may not have been "essential" to the original rezoning, but were nonetheless important, staff now recommends using "material".)*
- Does the proffer amendment have a potential impact on adjacent properties not anticipated with the original rezoning?
- Has development already occurred within the rezoned area for which current residents/businesses would have relied on the proffer or for which the proffer amendment would materially affect them?
- Is there a general public interest in the proffer as originally accepted that would be materially affected by the requested amendment?

In processing such eligible requests, staff will provide the Board an analysis and recommendation regarding factors relevant to its consideration of the requests. As previously noted, it is envisioned that such requests would be minor, technical, and/or noncontroversial, and will allow for the ultimate Board decision to be made at a single meeting. Should this not be the case for a particular request, it may be an indication that a full review process is needed for that request.

Staff also feels that, procedurally, the Board should consider all such requests on its regular agenda as, in consideration of the above noted factors, the Board will need to decide its expectations for the processing of the requests, including: the appropriate level of public engagement, whether Planning Commission and/or Board public hearings will be required and whether the Board's ultimate action on the proffer amendment will be part of its consent agenda or regular agenda.

Because ZTA 2016-01 regarding eligible applicants also includes proposed changes to County Code § 18-33.4 and is on the Board's agenda for a public hearing prior to the public hearing for this ZTA 2016-02, staff is providing two versions of the proposed zoning text amendment. Attachment B1 incorporates the proposed ZTA 2016-01 language in the event that ZTA 2016-01 is adopted prior to this

ZTA; and Attachment B2 does not incorporate the proposed ZTA 2016-01 language in the event that ZTA 2016-01 is not adopted prior to this ZTA.

Since 2010, there have been an average of approximately two (2) rezoning applications per year that might have qualified for Board authorization of alternative application and procedural requirements. While the number of rezoning applications for which the Applicant is seeking this authorization could increase as a result of the adoption of this ZTA, assuming each would be relatively straightforward and would allow for Board decision at a single meeting, the budget impact of these changes is not expected to be significant. Those that are authorized should require significantly less time for staff to review than would be necessary under the current requirements. The proposed application fee reflecting this reduced staff review time is \$457, the same fee that exists for Special Exceptions, which are similarly only typically subject to review by the Board, normally on its consent agenda. The standard rezoning application fee is between \$2,688 and \$3,763, depending on the acreage of the land subject to rezoning.

If the Board adopts ZTA 2016-01 regarding eligible applicants prior to its consideration of this ZTA, staff and the Planning Commission recommend that the Board adopt the proposed ZTA (Attachment B1) and the policy for considering requests for a simplified application process for rezonings to amend proffers that do not affect use and density (Attachment C).

If the Board does not adopt ZTA 2016-01 regarding eligible applicants prior to its consideration of this ZTA, staff and the Planning Commission recommend that the Board adopt the proposed ZTA (Attachment B2) and the policy for considering requests for a simplified application process for rezonings to amend proffers that do not affect use and density (Attachment C).

Mr. Wayne Cilimberg stated this is a follow-up to some changes that have been made in the legislative process component of the zoning ordinance as it pertains to zoning map amendments and legislative reviews, which followed the work of a Development Review Task Force. He explained there were several changes enacted in the interest of trying to accomplish goals that were identified by that task force and ultimately the Board of Supervisors in terms of what they would want to try to accomplish in each of their legislative reviews. Mr. Cilimberg said this was intended to address the interests applicants have in clarity, consistency and predictability, information staff felt was necessary to make a review, and information the public would want to see, all having the interest in reliable decision-making timeframes. He stated that in December of 2012, the amendments adopted by the Board enacted some of the newest procedures, including the community meeting process, the requirement for pre-application meetings, and the possible waiver of a public hearing for proffer amendments that did not affect use or density. Mr. Cilimberg noted that it still required compliance with requirements that were being enacted as part of that amendment, so there is still the need for a pre-app meeting, a community meeting, full application and full fee.

Mr. Cilimberg said that in January 2016, the Board passed a resolution of intent to consider amendments that provide a simplified process for those proffer amendments that do not affect use or density, and in March the Planning Commission recommended approval of amendments to accomplish that. Mr. Cilimberg stated that in this simplified process, there is now the possibility of waiving some of the requirements that are typical of a normal rezoning, including public hearings at the Commission or Board level and procedural requirements, and enacting a lower fee of \$457, which is the same fee for special exceptions. He said these would be case by case reviews by the Board, decided by the Board, for potentially eligible types of proffer amendments, and staff provided a list of the types of amendments that would potentially be eligible. Mr. Cilimberg said that staff also introduced the idea, for consistency's sake, of having the Board consider factors when making their determination: was the proffer as originally provided material to the approval of the original rezoning; does the proffer amendment have a potential impact on adjacent properties not anticipated with the original rezoning; has development already occurred within the rezoned area for which current residents/businesses would have relied on the proffer or for which the proffer amendment would materially affect them; and is there a general public interest in the proffer as originally accepted that would be materially affected by the requested change. He noted these are factors for consideration that the Board would consider in any particular application that comes before them, and anyone wanting to make the application that would qualify as a proffer amendment not covering use or density would be brought to the Board and would come to them at a regular meeting for their decision as to whether they would allow for any of the potential waivers or modifications to how the procedures are undertaken for that particular application.

Mr. Cilimberg stated that the Planning Commission has recommended adoption of the ordinance amendment, which is Attachment B-1, along with the policy for considering requests for a simplified application process as reflected in Attachment C.

Mr. Sheffield asked if Mr. Cilimberg is saying that the Board would take two actions. Mr. Cilimberg responded that one would be for the ZTA itself and the other would be on that policy.

Ms. Palmer stated the policy would follow that request and would always come to the Board. Mr. Cilimberg explained that staff would be determining the eligibility of the application, and if the application is considered eligible it would come to the Board and they would make the determination as to whether they would allow for the simplified process.

Mr. Sheffield commented that he does not know if they would need that policy as much as those are questions the Board should pose to itself, versus an administrative matter done by staff before it

comes to the Board. Mr. Cilimberg responded that it is up to the Board, and the Planning Commission felt it was important to consider and chose to recommend it.

Mr. Sheffield said that it sort of defeats the purpose of making the process more streamlined to amend the proffers.

Ms. Mallek said that in order to make a staff report, the Board would know what the questions are going to be in order to be prepared.

Mr. Sheffield stated that he does not understand the need to have this as a policy and gatekeeping by staff. Ms. Mallek responded that her concern is having different rules for different people, and the more they can write things down in careful deliberation the more assurance it provides.

Ms. Palmer said that in reading the Planning Commission minutes, she took away that they were very interested in making sure the Board knew the criteria they were supposed to be making the decision on, and they wanted to make sure the Board got that information.

Mr. Cilimberg stated that the Commission had also asked how the Board handled the special exception changes made in the ordinance several years ago, and that was a combination of a text amendment and a policy handled by the Board, so they saw this as being similar.

Mr. Sheffield said the way he is reading it is that if an applicant fails one of the four policy factors, it would not come before the Board. Mr. Cilimberg responded this was not correct, and those are just factors staff would look at and advise the Board on.

Mr. Randolph commented that the conditions presented to the Planning Commission and what is before the Board are outstanding, and he appreciates all the work staff put into this.

Ms. Palmer stated that it is made very clear, and if she were to get one of these applications it would be helpful to have this information for the process.

Mr. Cilimberg said they may decide that even if a proffer amendment did not necessarily get a yes answer, it should still come before the Board as a direct consideration because it is a fairly straightforward decision to make, and this just means they are all being consistently looked at and evaluated so the Board can make a judgment about it.

Ms. Mallek stated that one of the harder things to answer clearly is whether something is material to the approval of the original rezoning, especially when their 10 years or so have gone by, and what came to mind was the transit matter discussed earlier that has posed some difficulty in terms to getting the proffer executed.

Mr. Cilimberg emphasized this is only for amendment of existing proffers that are not use or density-related, not new proffers.

Ms. Mallek asked how she would interpret the transit proffer as an example. Mr. Cilimberg responded that it would be a proffer potentially eligible for the expedited review because it is an amendment to an existing proffer that is not a use or density proffer, and staff would go back and analyze that as part of the information they would provide to the Board.

Mr. Sheffield stated the outcome would be the same, and the Board could decide that they are not going to amend the proffer, so instead of making that applicant go through a long process to get a "no," they can go through a short process to get a "no." He added that the applicant is just getting their answer more quickly, and if the Board needs more information they would be punting it back to the Planning Commission to have another public hearing and go through the whole process. Mr. Sheffield stated he feels that it is an advantageous thing to the County because there are rezonings that have been sitting around for almost 10 years now, and the world of development has changed. He said that he did not want them to lose out on an opportunity because it took them a year to consider an amendment to a proffer that is small. Mr. Sheffield emphasized this does not negate the Board from being able to say "no" to a proffer amendment.

Mr. Foley pointed out that this was articulated well when the Board asked staff to do this, and staff has come up with a good set of conditions.

Ms. McKeel emphasized that it still has to come to the Board.

Mr. Sheffield stated that was his concern about the policy and he did not want staff to be the first checkpoint in directing an applicant to start over.

Mr. Cilimberg clarified that in an exploratory pre-application meeting, staff would advise as to whether they felt it was an application that would be eligible, and then the applicant could still choose to request to have the Board consider it, and staff would bring it forward to the Board.

Ms. Mallek asked how the fee proposal would work. Mr. Cilimberg responded that the fees are not paid until the applications are made and accepted, so the Board would be deciding in advance of any fees that would be paid and would determine whether the application would go through the normal

process at the much higher fee or the expedited \$457 fee process that goes directly to the Board.

Ms. Mallek said that staff would be doing up-front work without the fee. Mr. Cilimberg responded that staff is doing up-front work now in terms of pre-apps.

Mr. Foley commented that it is hoped this process would save money in the long run.

The Chair opened the public hearing.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board, stating that he had spoken with Morgan Butler of the Southern Environmental Law Center about this and their read on the legislation that was just passed is that this would not apply, and these would be amendments. Mr. Williamson stated the last point in the legislation indicates that it would have to be a full rezoning and would not apply in this case. He emphasized that he did not think this would ever be used, as the Board has set the bar too high, and he is curious as to how much time they really think will be saved, because if there is a question as to whether a proffer is material to an application being approved, he wonders why they would accept it as a proffer. Mr. Williamson said that proffers are intended to mitigate the issues coming forward with a development, and he would anticipate that most, if not all, proffers are material to the overall approval. He added that proffers create a barrier for approval, and he thinks that every Board that has served would want more public input and buy-in, and would be kicking pretty much everything back to the Planning Commission to go through the regular process. Mr. Williamson said he is curious as to how they would get the majority of a Board to accept a proffer that is not material to the approval that they want to say yes or no to, through a shorter process. He encouraged them to try it and said that staff feels they will get two applications per year, which seems to be shooting high in his opinion.

There being no further public comment, the Chair closed the public hearing and placed the matter before the Board.

Mr. Sheffield asked if this is as flexible as possible without amending the state statute, given the new proffer law. Mr. Cilimberg stated that the new law will affect all new applications after July 1. Mr. Sheffield responded that he was referring to the 2012 legislation.

Mr. Cilimberg clarified that the County put it in the ordinance based on an earlier change in state legislation that allowed the process to occur. He stated that Mr. Williamson's point is if there are too many tests to go through the process, he is questioning whether they even will, but the reality is having the Board evaluate each one as they come forward and making a decision on them. Mr. Cilimberg emphasized that Mr. Sheffield had made a really good point in that some may be "no" in the decision but "yes" in the process, and the enabling legislation as reflected in the amendments has provided that capability to decide.

Mr. Randolph **moved** to adopt the proposed ordinance approving ZTA-2016-0002.

Mr. Sheffield commented that he still has reservations about solidifying the policy of these tests and he does not know if it is a necessary extra step, and it is fine for staff to bring them forward, but to formalize them in a policy seems to take it one step further than needed, and it confuses what they are trying to do.

Ms. Palmer said that she kind of likes it.

Mr. Sheffield **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

ORDINANCE NO. 16-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article IV, Procedure, is hereby amended and reordained as follows:

By Amending:

Sec. 33.4	Uniform procedures for owner-initiated zoning map amendments and special use permits
Sec. 33.7	Owner-initiated zoning map amendments; authority to accept proffers
Sec. 35.1	Fees

Chapter 18. Zoning

Article IV. Procedure

Sec. 33.4 Uniform procedures for zoning map amendments not initiated by the county and special use permits

Each application for a zoning map amendment that is not initiated by the county or a special use permit, except for those zoning map amendments subject to alternative application and procedural requirements authorized by the board of supervisors under section 33.7(f) and those special use permit applications delegated by this chapter to the board of zoning appeals under section 4.15.5, shall be subject to the following:

- a. *Pre-application meeting.* A pre-application meeting shall be held with each prospective applicant (the “applicant”), and the applicant shall complete and submit information on county-provided forms before submitting an application (collectively, the “pre-application meeting”), subject to the following:
 1. *Purposes for a meeting.* The purposes for a pre-application meeting are to: (i) provide the applicant and the county a common understanding of the proposed project; (ii) inform the applicant about the proposed project’s consistency with the comprehensive plan, other relevant policies, and county regulations; (iii) broadly identify the planning, zoning and other issues raised by the application that need to be addressed by the applicant; (iv) inform the applicant about the applicable procedure; and (v) allow the director to identify the information the applicant must submit with the application, including the supplemental information delineated in subsection (c). Receiving the relevant supplemental information will allow the application to be comprehensively and efficiently reviewed.
 2. *Factors to consider in requiring meeting.* A pre-application meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, the proposed district, and other considerations he determines to be relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (c) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established for the proposed application; and (iv) whether the application raises any complex issues that create the need for the meeting.
- b. *Applications.* Each application shall be composed of a completed county-provided application form and supplemental information (collectively, the “application”) required to review and act on the application.
 1. *Who may file an application.* An application for a zoning map amendment or a special use permit may be filed by the owner, the contract purchaser with the owner’s consent, or the owner’s agent for the purpose of the zoning map amendment or the special use permit. An application for a special use permit also may be filed by the easement holder of an easement where the special use for which the permit is sought is a use allowed by the deed of easement or equivalent instrument. The director of planning is authorized to require from the applicant any documentation deemed necessary to determine that the person filing the application is an eligible applicant.
 2. *Application forms.* The director of planning is authorized to establish appropriate application forms for zoning map amendments and special use permits. The application form shall delineate the supplemental information required to be provided, as set forth in subsection (b)(3).
 3. *When supplemental information may be required; establish or amend conventional districts; amend planned development districts; obtain or amend special use permits.* For each application for a zoning map amendment to establish or amend a conventional district, to amend a planned development district, and for each application to obtain or amend a special use permit, the director of planning may require some or all of the supplemental information delineated in subsection (c) to be submitted with each application. In determining what supplemental information must be submitted, the director shall consider the proposed use, the proposed density, the proposed district, and other considerations he determines to be relevant under sound zoning principles.
 4. *When supplemental information required; establish planned development districts.* Each application to establish a planned development district shall submit all of the supplemental information delineated in subsection (c).
- c. *Elements of the supplemental information.* The supplemental information is the following:
 1. *Project proposal.* A narrative of the project proposal, including its public need or benefit; an application to establish a neighborhood model district shall include a statement describing how the proposed district satisfies the intent of this chapter and if one or more characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant shall justify why any characteristics cannot or should not be provided.
 2. *Comprehensive plan.* A narrative of the proposed project’s consistency with the

comprehensive plan, including the land use plan and the master plan for the applicable development area; an application to establish a neighborhood model district also shall include a narrative as to the project's consistency with the neighborhood model.

3. *Impacts on public facilities and infrastructure.* A narrative of the proposed project's impacts on public facilities and public infrastructure.
4. *Impacts on environmental features.* A narrative of the proposed project's impacts on environmental features.
5. *Proposed proffers to address impacts.* A narrative of the proffers proposed to address impacts from the proposed project.
6. *Maps.* One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions; if the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply.
7. *Conceptual plan for zoning map amendments for conventional districts and special use permits.* For an application for a zoning map amendment to establish a conventional district or a special use permit, a conceptual plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; and (ix) conceptual grading.
8. *Application plan for zoning map amendments for planned development districts.* For an application to establish a planned development district or to amend an approved application plan for an existing planned development district, an application plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; (ix) conceptual grading; (x) a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features; (xi) topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing steep slopes; (xii) the general layout for water and sewer systems; (xiii) the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas; (xiv) standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district; (xv) a conceptual lot layout; and (xvi) if the application is to establish a neighborhood model district, the location of proposed green spaces and amenities as provided in section 20A.9.
9. *Code of development in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include a code of development satisfying the requirements of section 20A.5.
10. *Parking and loading needs study in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include a parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8, and transportation demand management strategies as provided in section 4.12.12; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.
11. *Stormwater management in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.

12. *Traffic impact statement.* For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.
 13. *Recorded plat or boundary survey.* The most recently recorded plat of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which shall include a metes and bounds description of the boundaries.
 14. *Ownership information.* Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.
 15. *Contact person.* The name, address, telephone number and e-mail address of a single contact person for communications between the county and the applicant.
 16. *Other information.* Other special studies or documentation, if applicable, and any other information identified as necessary by the county on the pre-application comment form.
- d. *Payment of delinquent taxes.* The applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid; provided that the payment of such delinquent taxes, charges or fees shall not be required when the applicant for a special use permit is an easement holder.
- e. *Filing the application; number of copies.* The application shall be filed with the department of community development. The director of planning is authorized to establish for each class of application the number of collated copies of the application required to be filed.
- f. *Determining completeness of the application; rejecting incomplete applications.* An application that provides all of the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information shall be deemed to be incomplete and shall not be accepted.
1. *Timing of determination of completeness.* The director of planning shall determine whether an application is complete within ten (10) days after the application was received.
 2. *Procedure if application is incomplete.* The director of planning shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or email.
 3. *Effect if timely determination not made.* If the director of planning does not send or deliver the notice as provided in subsection (f)(2) within the ten (10) day period, the application shall be deemed to be complete, provided that the director may require the applicant to later provide the omitted information within a period specified by the director, and further provided that the director may reject the application as provided herein if the applicant fails to timely provide the omitted information.
 4. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment shall be provided to each owner subject to the same proffers as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.
 5. *Notice to owner of application for special use permit filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a special use permit filed by an easement holder is determined to be complete, written notice of the proposed special use permit shall be provided to each owner of the lot for which the special use permit is sought as required by Virginia Code § 15.2-2204(H).
- g. *Payment of fees.* When an application is determined to be complete, the applicant shall pay the fee required by section 35.1 before the application is further processed.
- h. *Resubmittal of application originally determined to be incomplete.* Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the director of planning as provided in subsection (f)(2), the applicant may resubmit the application with all of the information required by subsections (b) and (c) for a new determination of completeness under subsection (f).
- ii. *Worksessions.* For any application, the director of planning may schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, as he determines to be appropriate considering the nature of the approval requested, the acreage

affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following:

1. *Purposes for a worksession.* The purposes for a worksession are to present the proposed project to the board or the commission with the department of community development's analysis of the major issues, seek direction from the board or commission on their expectations in addressing those issues, and to allow the board or commission to receive public comments.
 2. *When applicant's consent required.* The applicant's consent to a worksession shall be required if the worksession would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- j. *Community meetings.* A community meeting shall be held for each application, subject to the following:
1. *Purposes for a meeting.* The purposes for a community meeting are to: (i) provide interested members of the public the opportunity to receive information about the proposed project, the applicable procedure, the policies of the comprehensive plan, other relevant policies, and regulations applicable to the proposed project; and (ii) to allow the public to ask questions about the proposed project.
 2. *Factors to consider in requiring meeting.* A community meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the application would be likely to generate any public concerns because of the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and the potential impacts; (ii) any other factors deemed relevant upon applying sound zoning principles; and (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting under this subsection unnecessary.
 3. *Guidelines.* The director of planning is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process community meetings should be conducted, and how a community meeting should be conducted including, but not limited to, how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.
 4. *When applicant's consent required.* The applicant's consent to a community meeting shall be required if the community meeting would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- k. *Review of staff comments.* Upon request by the applicant, the director of planning shall meet with the applicant to review comments to the application made by county staff.
- l. *Public hearings.* Before the board of supervisors acts on a zoning map amendment or a special use permit, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.
- m. *Notice of public hearings.* Notice of public hearings shall be provided as follows:
1. *Published and mailed notice.* Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2-2285(C); and, for zoning map amendments seeking to amend an existing planned development district, written notice of the proposed amendment also shall be provided to the owner of each parcel within the planned development district and the substance of that notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.
 2. *Posted notice.* Notice of the public hearing before the commission and the board of supervisors on each application shall be posted, as follows:
 - a. *When sign must be posted.* The sign shall be posted by the zoning administrator at least twenty-one (21) days before the commission's public hearing on the application and shall remain posted until the board of supervisors has acted on the application or the application has been withdrawn.
 - b. *Where sign to be located.* The sign shall be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and shall be so placed as to be clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall be erected in the same manner as above for each abutting

street; or (ii) if the area of the parcel(s) to be used if the application was granted is confined to a particular portion of the parcel(s), a sign erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application shall be deemed to grant consent to the zoning administrator to enter the parcel(s) to erect the signs.

- c. *Content of sign.* Each sign shall state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.
- d. *Maintaining the sign.* The applicant shall diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the commission or the board of supervisors to defer action on an application until there is reasonable compliance with this subsection.
- e. *Ownership of sign; violation for removing or tampering with sign.* Each sign is the property of the board of supervisors. It shall be unlawful for any person to remove or tamper with any sign, except the applicant performing maintenance required by this subsection or the zoning administrator.
- f. *Effect of failure to comply.* If the requirements of this subsection to post notice are not complied with:
 - 1. *Prior to action by board.* The board of supervisors may defer taking action on an application if it finds that the failure to comply with this subsection materially deprived the public of reasonable notice of the public hearing.
 - 2. *Action not invalid.* No action on an application shall be declared invalid solely because of the failure to post notice as required by this subsection.
- n. *Time for decision.* Each application shall be acted on as follows:
 - 1. *By the planning commission.* An application shall be acted on by the commission within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval unless the applicant requests or consents to the ninety (90) day period being extended.
 - 2. *By the board of supervisors.* An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
 - 3. *Tolling.* The period in which action is required by the commission or the board of supervisors shall be tolled during any period in which the applicant has requested that the review of the application be suspended or the public hearings or action thereon be deferred or continued.
 - 4. *Referral.* The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board of supervisors is within twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
- o. *Recommendation by commission.* The commission shall either recommend approval of the application as proposed, approval subject to changes being made prior to action by the board of supervisors, or disapproval. For any application for a zoning map amendment, the commission's recommendation also should include its recommendations on proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception requested by the applicant under section 8.2. For any application for a special use permit, the commission's recommendation should include its recommendations on the proposed conditions.

- p. *Action by the board of supervisors.* The board of supervisors may either approve or deny the application, or defer action to allow changes to be made prior to final action by the board. In approving an application for a zoning map amendment, the board may accept the proposed proffers as provided in section 33.7. In approving an application for a special use permit, the board may impose conditions as provided in section 33.8.
- q. *Intensification of use classification prohibited without additional notice and hearing.* No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).
- r. *Withdrawal of application.* An application may be withdrawn, or be deemed to be withdrawn, as provided herein:
 - 1. *Request to withdraw by applicant.* An application may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the commission or the board of supervisors. An applicant may not submit an application that is substantially the same as the withdrawn application within one (1) year of the date of withdrawal unless the body considering the application at the time of withdrawal specifies that the time limitation shall not apply.
 - 2. *When application deemed withdrawn.* An application shall be deemed to have been voluntarily withdrawn if the applicant requested that further processing or formal action on the application be indefinitely deferred and the commission or the board of supervisors is not requested by the applicant to take action on the application within one (1) year after the date the deferral was requested. Upon written request received by the director of planning before the one (1) year period expires, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. Upon written request received by the clerk of the board of supervisors before the extension of the deferral period granted by the director expires, the board of supervisors may grant one additional extension of the deferral period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. The timely receipt by the clerk of the extension request shall toll the expiration of the extended deferral period until the board acts on the request.
- s. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.
- t. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

((§ 33.2, 12-10-80) (§ 33.4, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.5, 12-10-80; Ord. 03-18(2), 3-19-03) (§ 33.6, 12-10-80) (§ 33.7, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8, 12-10-80, 6-19-96) (§ 33.8.1, 12-10-80, 6-19-96; Ord. 01-18(6), 10-3-01) (§ 33.8.2, 12-10-80, 6-19-96) (§ 33.8.3, 12-10-80, 6-19-96); §33.4, Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (7), (B).

Sec. 33.7 Owner-initiated zoning map amendments; authority to accept proffers

The board of supervisors is authorized to accept proffers pursuant to Virginia Code § 15.2-2303 in conjunction with owner-initiated zoning map amendments as follows:

- a. *Purpose.* Proffers are conditions that are intended to provide for the protection of the community that are not generally applicable to land similarly zoned. Accordingly, proffers are reasonable conditions that are in addition to the regulations provided for the district under this chapter.
- b. *Form.* Proffers shall be in writing and in a form that is approved by the county attorney. The director of planning is authorized to provide applicants with a proffer statement form.
- c. *Timing of submittal.* Proffers, signed by the owner of all parcels subject to the zoning map amendment, shall be submitted to the department of community development prior to the public hearing before the board of supervisors on the proposed public hearing. The director of planning is authorized to establish written guidelines that require signed proffers to be submitted a reasonable period of time prior to the public hearing so as to allow the county and members of the public a reasonable period of time to review the proffers.
- d. *Amendments to proposed proffers after public hearing has begun.* The board of supervisors may accept, in its sole discretion, amended proffers once the public hearing on the zoning map amendment has begun if it concludes that the amended proffers do not materially affect the

overall proposal. If amended proffers are submitted after the public hearing is closed, the board may accept, in its sole discretion, the amended proffers after holding another public hearing.

- e. *Effect of proffers once accepted.* Once proffered and accepted by the board of supervisors in conjunction with an approved zoning map amendment, the proffers shall continue in effect until a subsequent zoning map amendment changes the zoning of the parcel(s) subject to the proffers; provided that the proffers shall continue in effect if the subsequent zoning map amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- f. *Subsequent amendments to proffers.* Once accepted by the board of supervisors in conjunction with an approved zoning map amendment, proffers may be amended by an owner-initiated zoning map amendment. An application to amend proffers shall be subject to the procedures under section 33.4, provided that if the proposed amendment solely pertains to amending proffers that do not affect conditions of use or density and, following consultation with the director of planning, the applicant submits a request to the clerk of the board of supervisors before filing an application for a zoning map amendment under section 33.4(b):
 1. *Waiver of requirement for public hearings.* The board of supervisors may waive the requirement for a public hearing by the commission or by the board of supervisors, or both, and the associated notice requirements, as otherwise required under section 33.4; and, if the board waives the requirement for a public hearing by the commission, it also may waive the requirement for a recommendation from the commission.
 2. *Waiver of procedural requirements.* The board may waive one or more of the procedural requirements in subsections 33.4(a), (i), and (j).
 3. *Waiver of application requirements.* The board may waive any supplemental information which may otherwise be required to accompany an application under subsections 33.4(b)(2) and (c), and determine the number of copies of the application that must be filed.

(§ 33.7, Ord. 12-18(7), 12-5-12, effective 4-1-13 (§ 33.3, 12-10-80; 4-4-90; Ord. 07-18(1), 7-11-07) (§ 33.3.1, 12-10-80; 4-4-90)

State law reference – Va. Code §§ 15.2-2296, 15.2-2302, 15.2-2303.

Sec. 35.1 Fees

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

- a. Zoning text amendments: \$1,075.00
- b. Zoning map amendments:
 1. Less than 50 acres; application and first resubmission: \$2,688.00
 2. Less than 50 acres; each additional resubmission: \$1,344.00
 3. 50 acres or greater; application and first resubmission: \$3,763.00
 4. 50 acres or greater; each additional resubmission: \$1,881.00
 5. Deferral of scheduled public hearing at applicant's request: \$194.00
 6. Amendments submitted under section 30.7.6: (i) because the slopes are not steep slopes: no fee; (ii) to change any slope's designation from preserved to managed or to remove steep slopes from the steep slopes overlay district: any application fee under subsections (b)(1) through (5).
 7. Amendments solely pertaining to proffers that do not affect use or density, when the board of supervisors authorizes alternative application and procedural requirements under section 33.7(f): \$457.00.

Motion was then offered by Ms. Mallek to approve the proposed Board policy for considering requests for a simplified application process. Ms. McKeel **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: Mr. Sheffield.

Board Policy for Considering Requests for a Simplified Application Process for Rezonings to Amend Proffers That Do Not Affect Use or Density:

- Staff will consider the eligibility of each rezoning application to amend proffers in which the Applicant is requesting a simplified application process in accordance with Albemarle County Code § 18-33.4(f).
- The Board will consider all eligible requests for a simplified application process on its regular agenda.

- To be consistent and objective in determining whether to grant a request that is eligible for a simplified application process, the Board will consider the following factors relevant to the proposed proffer amendment:
 - Was the proffer as originally provided material to the approval of the original rezoning?
 - Does the proposed proffer amendment have a potential impact on adjacent properties not anticipated with the original rezoning?
 - Has development already occurred within the rezoned area for which current residents/businesses would have relied on the proffer or for which an amendment to the proffer would materially affect them?
 - Is there a general public interest in the proffer as originally accepted that would be materially affected by the requested amendment?
 - It is the Board's expectation that proposed proffer amendments will be minor, technical, and/or noncontroversial, and will allow for ultimate Board decision at a single meeting?
 - In consideration of the above noted factors, the Board will determine the following regarding the processing of such eligible requests:
 - Whether to waive Planning Commission and/or Board of Supervisors public hearing(s)
 - Whether to waive certain procedural requirements
 - Pre-application meetings
 - Work sessions
 - Community meetings
 - Whether to waive certain application requirements
 - Whether its ultimate action on the rezoning application to amend proffers will be considered as part of its consent agenda or regular agenda
-

Agenda Item No. 27. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Sheffield stated that in looking at the court options, they looked at the options of infill, greenfield and downtown, and asked Mr. Foley if he could provide a cost estimate for economic impact study for the infill and greenfield options, because if it ever comes up he would like to have an estimate in mind of what money they would need to find or allocate to do that.

Mr. Randolph said that a range would be good, as it would be difficult for them to come up with an exact figure.

Mr. Foley agreed.

Ms. Mallek stated the One-Stop Center on Hydraulic Road runs out January 1, 2018, and they are looking at other possibilities. She said the state has indicated they no longer want to hold leases anymore and is looking to localities to offer space for their amalgamated job training and service agencies, and she asked Board members to provide any ideas about available space and office buildings so she can pass it on to their lease committee. Ms. Mallek said they would need 15,000 square feet of space, and currently they are paying for more than they need so they are hoping to downsize when the lease expires. She noted this was put together on a very quick basis by the Kaine administration, and the local One-Stop was the first in the state to open, making it a guinea pig in terms of figuring out how to get these agencies to work together, share databases, and do their reporting properly. Ms. Mallek noted that this is part of the state's Workforce Investment Act and pass-through dollars locally for job training.

Agenda Item No. 28. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that staff would be prepared to review the Ivy MUC agreement with the Board in closed session at their meeting the following week, and the goal is for the Board to be in a position where they feel comfortable approving it.

Mr. Foley reported that staff is working toward the May strategic priorities worksession, a process of setting priorities that would lead them to a two-year financial plan and annual budget, which will help narrow things down. He stated that staff would lay out this process more clearly in the final budget work session the following week, and he will be following up with Board members individually to get their perspectives on the existing strategic plan and priorities in an effort to make this a document that is much more effective in setting priorities and moving the County forward. Mr. Foley noted this was the top priority as identified by the Board in their retreat from six weeks ago, and this would allow them to tie dollars to the work they want accomplished. He stated that this would also drive a change to his report so they can stay focused on the things they want to get accomplished.

Ms. Mallek asked if staff would be providing a list of topics to rank. Mr. Foley responded that they would, and would try to implement a creative approach to set priorities, such as the school's use of poker chips with different values to weight specific items.

Ms. Palmer asked if staff had thought any more about a retreat on fire and rescue services. Mr. Foley responded that they have and are working it into the process over the course of summer and fall so

they can get some direction with the two-year financial plan.

At this time the Board went back into Closed Meeting.

At 7:55 p.m., Mr. Dill **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 consider appointments to boards, and commissions in which there are vacancies or requests for reappointments; and under subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to: 1. The negotiation of easements on the County Office Building property. Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Certify Closed Meeting.

At 8:25 p.m., the Board reconvened into open meeting. Mr. Dill **moved** that the Board certify by a recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Note: The Board then returned to Agenda Item No. 19. Boards and Commissions:

Item No. 19a. Vacancies and Appointments.

Ms. McKeel **moved** to make the following appointments/reappointments:

- **appoint**, Mr. David Storm to the 5th & Avon Community Advisory Committee to fill an unexpired term ending September 30, 2017.
- **appoint**, Mr. David Powell to the Agricultural and Forestal District Advisory Committee with said term to expire April 17, 2020.
- **appoint**, Mr. Donald Long as the joint City/County member to the Joint Airport Commission and Airport Authority with said terms to expire December 1, 2018.
- **appoint T**, Mr. Dean Eliason, Mr. James King, Mr. Kostas Alibertis and Mr. Martin Violette to the Crozet Community Advisory Committee with said terms to expire March 31, 2018.
- **appoint**, Mr. Timothy Kunkel to the Crozet Community Advisory Committee with fill an unexpired term ending March 31, 2017.
- **reappoint**, Mr. David Stoner, Ms. Kim Guenther, Ms. Leslie Burns and Mr. Phillip Best to the Crozet Community Advisory Committee with said terms to expire March 31, 2018.
- **appoint**, Mr. Jonathan Hernandez to the Places 29 (RIO) Community Advisory Committee to fill an unexpired term ending September 30, 2017.
- **appoint**, Ms. Claudette Greene and Mr. Xavier Jackson to the Police Department Citizens Advisory Committee with said terms to expire March 5, 2018.
- **reappoint**, Ms. Bonnie Brewer, Mr. Richard Hewitt and Mr. William Walsh to the Police Department Citizens Advisory Committee with said terms to expire March 5, 2018.
- **appoint**, Ms. Lynda White to the Village of Rivanna Community Advisory Committee with said term to expire March 31, 2018.
- **reappoint**, Ms. Betsy Baten, Ms. Cynthia Burton, Ms. Dorothy Martin and Mr. Neil Means to the Village of Rivanna Community Advisory Committee with said terms to expire March 31, 2018.

Ms. Mallek **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Agenda Item No. 29. Adjourn to April 12, 2016, 6:00 p.m., Lane Auditorium.

At 8:27 p.m., Ms. Mallek **moved** to adjourn to April 12, 2016, 6:00 p.m. Ms. Palmer **seconded** the motion.

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

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Mr. Dill, Ms. Mallek and Ms. McKeel.
NAYS: None.

Chairman

Approved by Board
Date 06/01/2016
Initials TOM