

An adjourned and regular night meetings of the Board of Supervisors of Albemarle County, Virginia, were held on April 12, 2017, Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The adjourned meeting was held at 3:30 p.m., and was adjourned from April 11, 2017. The regular night meeting was held at 6:00 p.m.

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

ABSENT: None.

OFFICERS PRESENT: Interim County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 3:32 p.m., by the Chair, Ms. McKeel.

---

Agenda Item No. 2. **Work Session:** Hedgerow Property – Discussion of Possible Capital Improvements.

Mr. Trevor Henry, Director of Facilities and Environmental Services, addressed the Board and stated that one of their divisions focuses on project management, and he will be leading the discussion of Hedgerow Park at this meeting. He mentioned that Mr. Blake Abplanalp is the Chief of Project Management, and he will be available for questions, along with Director of Parks and Recreation, Bob Crickenberger, and other staff. Mr. Henry said he will present a slide presentation providing an orientation of the park, its location as it relates to the County, programming concepts that are built into the project, and CIP funding for the project. He stated that what went into the CIP three years ago was based on a smaller concept, so part of this discussion will review the original concept and the rationale for it, existing conditions that are impacting cost estimates, the project timeline, and recommendations for next steps.

Mr. Henry reported that Hedgerow is 340 acres just south and west of the I-64/Route 29 interchange, abutting the Ragged Mountain area. He stated that the programming for Hedgerow is based on what is currently happening at Preddy Creek, and staff has updated that concept due to the heavy use Preddy Creek is experiencing, with biking, horseback riding, nature walks, etc. He stated that Preddy Creek is at capacity now, but when the project was originally conceived, it was at a smaller scale. Mr. Henry said that given the location and size of the property, staff has realized that the County needs to be prepared for higher and greater use. He presented a conceptual image produced by Parks & Recreation, which takes the Preddy Creek parking scheme and superimposes it onto the site at Hedgerow, with the assumption of 40 parking spots for regular vehicles, 6 trailer parking spots for horses, a covered pavilion or visitors center as an add-on item, and a vault restroom. He stated the current concept shows that it will use the existing entrance, which is a private entrance, and there would need to be some work done on that. Mr. Henry noted that what staff would like to propose throughout an evaluation is where this should be located as the best and least expensive option for the site.

Mr. Randolph asked if the residents at the end of the road were included within the park or on private property. Mr. Henry responded that it is private property that has a shared entrance.

Mr. Randolph asked if the land that is north and west of Hedgerow is owned by the County, as Mr. Henry had mentioned that it was part of Ragged Mountain, or if it is City-owned. Mr. Henry presented an image showing the 340 acres and noted the location of the entrance of the park.

Mr. Bob Crickenberger, Director of Parks and Recreation, addressed the Board and pointed out the location of the interstate, noting the part of the property that is City-owned at Ragged Mountain.

Ms. Mallek pointed out that it is north of Hedgerow but south of I-64. Mr. Crickenberger confirmed this, stating that the 190 acres is somewhat landlocked, and staff has had conversations with Charlottesville Parks & Recreation to open up that section also.

Mr. Randolph asked for clarification of where the City property line is and mentioned a specific location on the map presented. Mr. Crickenberger confirmed that this was the location of the property line, stating that at this scale it is difficult to determine where the actual property lines are.

Mr. Randolph commented that the idea would be to continue what would be a roadway accessing the house, for the City to lose the landlocked nature of that piece of property, with the entrance extending across County property to the City. Mr. Crickenberger said that would be the main entrance to the park and to both parcels.

Mr. Henry clarified that the connection to which Mr. Crickenberger is referring is a trail connection, not a road. He said the concept would be a short connection off of Route 29 that leads to the parking area, and the trails would then be built out from there, going out into the park itself. He stated that the work would be done through Parks & Recreation through volunteers over time, as has been done with other park projects. Mr. Henry noted that if it helps the Board, staff could come back with a clearer map showing the property lines. He explained the concept would be to access Hedgerow Park via 29 South, with a deceleration lane to be built, and a travel lane to the parking area, with spots for about 40 cars and 6 trailers, and from the parking location, people would access the trails.

Ms. Palmer asked for confirmation that the private road is not actually on Hedgerow property, as this is part of the confusion and there is an easement to access the park. Mr. Henry responded that this is correct.

Ms. Mallek noted that it is Shepherd's Hill.

Mr. Henry stated that part of what staff is proposing is a study, funded with some engineering money, to look at where the access would be best suited. He said it may be located where it currently is and have some improvements, but because of the stream on the edge of the road and some utilities, it may be better for the project itself to be in a different location, and that is the next step.

Mr. Randolph asked Mr. Henry to confirm if the fine line on the map is the property line, which shows a location lying north of the entranceway to that piece of property, going up along the entrance road and veering northwest. Mr. Henry responded that he does not have the answer to that, but staff can certainly get that information for the Board.

Mr. Randolph noted that the potential trail access is not going to go in on the road shown on the map, but would go up over the ridge or somehow skirt around it and go into City property. Mr. Henry confirmed this.

Mr. Henry reported that with the superimposing of the Preddy Creek design into the Hedgerow area, staff has done more due diligence and has met at the site with an engineer. They have also had a few meetings onsite with VDOT to get a handle on what the Route 29 work would be. He presented a slide detailing some of the constraints to be addressed and hopefully avoided as cost-saving measures, with critical slopes, floodplain, and stream buffer mitigation work, as well as potential utility line relocation. Mr. Henry said that staff is proposing a feasibility concept programming study that initiates some engineering work to look at some options and the location, leading to a recommendation from staff as to what makes the most sense from a usability and investment perspective. He referenced some pictures of the property, pointing out an image taken from the current entrance looking north and noting the location of some utility poles. Mr. Henry noted that there is a slope off of the road and a stream to the west, and those conditions would need to be accommodated with the deceleration lane. He added that depending on where the access road goes, staff is hoping to avoid moving the utility poles if they can push it further north. He pointed out the location of the existing road, noting that it would need significant improvement for public access, widening, paving, and stream-crossing work that basically bridges it.

Ms. Mallek asked why the entrance between Shepherd's Hill and the parking lot would need to be paved, noting that Preddy Creek is not paved all the way. Mr. Henry acknowledged that Preddy Creek is not paved and said that staff is not planning to pave the parking lot at Hedgerow, but due to the public access coming off of 29, VDOT would require paving up to the point of accessing the parking area for Hedgerow. He mentioned that this would be under their cost assumptions, and staff could further validate it.

Ms. McKeel asked if VDOT would require paving a certain distance in as the entrance comes off of Route 29. Mr. Henry confirmed this, stating that it would include paving the linear feet of the access road to the park, coming off of Route 29.

Ms. Mallek said the photograph shows the road coming down to Route 29, not the side road coming to the parking lot. Mr. Henry stated that staff would validate the entrance requirements, as it is one of the cost drivers. Ms. McKeel responded that the Board is trying to get a sense of the property and entrance location, prior to addressing cost implications.

Mr. Henry clarified that staff is assuming use of the private travel lane, which the County already has an access easement for, but he is recommending that they spend some engineering money to determine whether it is the best location for this project and this property.

Mr. Blake Abplanalp addressed the Board and stated that the turn coming off of Route 29 goes back about 400 feet, and they would have to widen it and take the turn in, but VDOT is requiring that the County pave the 400 feet. He stated that this is not a tremendous cost when compared to some other associated VDOT costs, such as the deceleration lane, which would require 100 feet for every 10 miles per hour of speed limit, and at that location, it is 60 miles per hour, so the lane would have to go 600 feet up the road from that entrance. Mr. Abplanalp said there is also a requirement from VDOT called a WP2 detail, and any time a deceleration lane is added, there is a requirement to go halfway out to the center and knoll the entire 600 feet and repave it, so the joint is there rather than getting underneath the paving at the shoulder. He stated the only way around it is if VDOT is paving the same year, but the schedule shows that the County would be doing it after VDOT was paving there in November 2017, so there is some potential for discussion and coordination with VDOT to time it differently. Mr. Abplanalp noted that the property line runs parallel to the road on the north side and cuts back, and that road also has culverts that need replacing, as well as a bridge that will not be acceptable. He stated that because the road is in a floodplain, there are limitations in terms of work because it makes the flooding worse, so they will have to bring the elevation up and implement measures that will reduce the amount of floodwater that can potentially go out.

Ms. Mallek asked if the County property came down to Route 29 directly for the eastern border, or if there was another property between 29 and Hedgerow. Mr. Abplanalp responded that there are easements where the County would be accessing it, but as they go north, the property moves back and

there are some properties further up in between. He said that a possible alternative entrance to the parking area would still be right on 29.

Ms. Mallek said that she had hopes any flooding would be on the County's own property, but that does not seem to be the case.

Ms. McKeel asked if staff had checked with Mr. Joel DeNunzio of VDOT about the entrance into the park, as she recalled him telling her there was money at the state level for entrances into parks, so she is trying to ascertain whether the County could use that funding. Mr. Abplanalp responded that they could apply for it, noting that he had met Dennis Seal at the property twice and got a lot of guidance from him on this matter. Mr. Seal had mentioned that the park entrance funding is a grant program, and last calendar year, there was \$8 million left in that fund that had not been utilized.

Ms. McKeel stated that Mr. DeNunzio was tapping into that fund for the Ivy Creek lane from Earlsville Road, adding that the County should go after this funding quickly for Hedgerow.

Mr. Abplanalp noted that the DEQ also has grants for access for work being done close to wetlands, to encourage environmental protection around streams.

Mr. Henry presented an image of the stream that runs parallel to Route 29 just to the west, confirming that it flows into Moore's Creek and pointing out some of the landscape features.

Mr. Henry stated that the cost estimate for Hedgerow improvements is \$1.5 million as a total base scope, including project soft costs that include design fees, project management fees, soils testing, surveying and inspections, and for this project, staff is recommending a 25% design contingency to allow some room to stay within a budget and make decisions on project design. He noted that they have separated hard cost estimates from VDOT work, and the hard cost estimates include those elements that relate to anything off of Route 29, such as grading, installation of electric as needed, the vault toilet, and other amenities, with those costs totaling just over \$500,000. Mr. Henry said the utility work and deceleration lane were costed at nearly \$500,000, so it would be beneficial for the County to access grant money to offset those costs. He added that putting the entrance at an optimum location for the site would also hopefully reduce costs. Mr. Henry noted that contingency is built in as 10% of hard costs and mentioned that the site drawing includes a pavilion/visitors center as an add-on element, which could be phased later in the project. He stated that several items in the plan are noted as having potential for reduced costs, with further due diligence and engineering work.

Ms. McKeel asked if staff is suggesting that the pavilion and utilities could be done later. Mr. Henry responded that it is the electric to the pavilion.

Ms. Mallek commented that this would be a great fundraising opportunity as a separate element, rather than sabotaging the project by making it too big at the beginning.

Mr. Randolph said that it would also be good to get a handle on how much demand there is for facility needs being assumed.

Ms. Mallek stated that she sees potential for Eagle Scout projects, such as picnic tables. She asked staff to consider doing their next assessment with and without the riding trails, stating that the terrain here is incredibly steep in many places. She said there is fairly level terrain at Preddy Creek, Buck Island, and Walnut Creek, because it is more rolling, it would probably be a better place for horseback riding. Ms. Mallek added that not having accommodations for horses at Hedgerow would possibly allow for a considerably smaller parking lot, as the extra turning radius for large vehicles requires a bigger area to be graded. She said that in terms of scope problems with floodplains and dirt disturbance, that is one change that should be costed out for its significance and potential area to be done.

Mr. Randolph agreed.

Ms. Palmer said her only concern is that Jane Heyward, the individual who gave the land was very specific about use for all kinds of recreation, and horseback riding was one of those things.

Ms. Mallek clarified that Ms. Heyward had included it as a potential use but did not require it. Ms. Mallek expressed concern that the County would lose the good in favor of seeking the perfect, which would happen if they make it so difficult they cannot move forward. Ms. Palmer responded that it could always be phased in.

Ms. McKeel agreed, and asked if the 40 parking spots were dictated by formula. She said at the Hydraulic panel meeting that had been held on April 11, VDOT had presented a video on driverless cars and how that would change design approaches in the near future. Ms. McKeel stated that they may want to consider less parking area with the Hydraulic improvements, and the Research Council and VDOT were preparing for that to happen. She emphasized that the County should realize they may not necessarily need to pave such large areas in the future. Mr. Henry responded that this was an interesting concept that he would like to explore further, but the Hedgerow project is not really accessible and you could not bike there from the City to get there, so the assumption is that to get to the park, a person would have to drive. He stated that the parking lot was sized based on what Parks & Recreation felt the demand would be, and the level of demand currently seen at Preddy Creek. Mr. Henry pointed out that the Hedgerow parking lot would not be paved, it would be gravel.

Ms. Mallek noted that it would have to be graded.

Mr. Henry stated that they could look at a phased approach and have that be part of the analysis that staff does with engineering.

Ms. Palmer said that she and her husband have been visiting all the parks around the County, and the previous Sunday had visited Sugar Hollow, with over 50 cars counted, and Mint Springs, which also had about 50 cars. She stated that it seems to her to be a lot safer to have a slightly larger parking lot anyway because of the number of kids and the amount of supplies people are carrying when they visit the parks. Ms. Palmer said that she appreciates seeing the way that people are using the parking lots. She also commented that several constituents had contacted her about doing some professional fundraising for the park, and encouraged staff to pursue this as part of their overall plan. Mr. Henry responded that Parks & Recreation is currently managing a project that has private fundraising and also has experience with the Crozet Library.

Ms. Palmer stated that she would like to be able to respond to people with a method as to how this would proceed. She noted that she has a constituent whose expertise is to build exits and deceleration lanes off of highways, and she realized that the County could not use people in this way. Ms. Mallek responded that they actually can use constituents in this way, as there has been experience in the County now of working with private groups, with \$200,000 turned into \$1.2 million at the Crozet park because of businesses that donated their work.

Ms. McKeel said that this could be part of a report back from staff on how the fundraising might unfold.

Ms. Mallek added that this would be a way to address any funding gap.

Mr. Henry presented a slide showing the cost of the base scope delineated over a timeline, and said that staff is suggesting that as soon as they could appropriate \$15,000, they could fund an engineering study to do some of the items they have discussed. He said they have a proposal from an engineer, who is ready to proceed and has visited the site. Mr. Henry stated that staff feels they could turn around some concepts and analysis, with more accurate costs, within a 45-60 day period, which would put staff back in front of the Board at the first meeting in August and enable them to move forward with decisions on the project's next steps. He said if they move right into design, staff is anticipating having documentation ready for VDOT permit reviews and stormwater management plans, with final approval slated for the first quarter of 2018, at which time they could secure bids and move into construction. Mr. Henry added that they are probably being conservative with the schedule, and part of the engineering study could help tighten up the timeframes.

Ms. Mallek asked for confirmation that they would have possible elements for fundraising by August of 2017, with some specifics available. Mr. Henry responded that as staff works with engineering and Parks & Recreation, one of the action items would be to identify elements that would translate well to fundraising.

Mr. Crickenberger stated this will always benefit Parks & Recreation by allowing them time to finish their environmental study and inventory, as well as trail design and development, with as many miles of the trails as possible opened prior to the park opening.

Ms. McKeel noted that the trails would be worked on throughout the process so they are ready to go when the construction is done.

Mr. Crickenberger said this schedule is a huge benefit to Parks & Recreation staff in that regard.

Ms. McKeel added that fundraising could be done all through this period of time.

Ms. Mallek asked if it changes the dimension of the road being built if there are not trucks and trailers entering, in addition to the parking lot modifications. Mr. Henry responded that staff would need to explore that further.

Ms. Palmer mentioned that when she was visiting Sugar Hollow recently, there were horse trailers there that had to turn around.

Mr. Henry presented information on operating costs, including capital outlay of equipment for startup costs, and one full-time, one part-time, and a gatekeeper position, with a first-year outlay of \$150,000 and recurring costs of \$80,000 in subsequent years.

Ms. Mallek asked if the gatekeeper costs were for admission or to open and close the gates in the morning and evening. Mr. Crickenberger explained that the gatekeeper would open the park in the morning, do a facility check, and then come back at night to do another facility check and lock the facility. He stated that this helps Parks & Recreation avoid sending a full-time staff member out, but if there are any issues, staff would be called and would respond.

Ms. Mallek mentioned that if there was still a car in the parking lot at dusk, there would have to be a trail sweep to find the person or persons still in the park.

Ms. McKeel asked for clarification that the gatekeeper is different from the part-time position. Mr.

Crickenberger explained that the part-time person would help support the full-time person with overall maintenance, and the gatekeeper would be paid about three hours per day for the opening and closing.

Mr. Dill commented that this could be someone who lives nearby.

Ms. Palmer asked for clarification of how people pay upon entry for swimming. Mr. Crickenberger responded that it is currently structured to just offer swimming at the regional park.

Ms. Palmer asked if there is a reason why people do not pay to swim, as they have to pay for hiking, fishing, etc. Mr. Crickenberger responded that the park entrance fee from Memorial Day to Labor Day is an attempt to offset those operating costs.

Ms. Palmer asked why people are not paying to go in to swim, as they are paying to hike and fish. Mr. Crickenberger responded that Parks & Recreation considers it a park entrance fee at that time and does not know whether people are swimming or not, so there is an across-the-board entrance fee.

Ms. Mallek noted that there is no entrance fee for the other nine months a year.

Ms. Palmer said that it is interesting to note how parks are used, as Sugar Hollow is free, and it seems there are a lot more people hiking and fishing in places they do not have to pay for, which is something the County should consider when contemplating how people use parks.

Ms. Mallek stated that this is why the County should encourage people to get an annual pass for the County parks.

Mr. Crickenberger noted that Parks & Recreation estimates about 800,000 visitors annually in all County facilities combined, and that number could possibly be even higher.

Ms. Mallek commented that not every facility has to offer every amenity, as different parks have different opportunities.

Mr. Randolph agreed.

Ms. McKeel said that some areas are better suited to certain uses, such as horseback riding.

Mr. Henry mentioned that the operating costs he presented pertains to the FY19 impact. He presented a slide showing recommendations from staff on next steps, including a conceptual engineering study to address the site aspects discussed, as well as the potential phasing and identification of fundraising opportunities. Mr. Henry stated that the proposal is just under \$15,000, and staff will bring an appropriation back with a consent action in May and a target date of August to come back before the Board. He said this could also form the CIP process, with year one of a two-year process starting in the summer, with the Board having the opportunity to provide feedback on next steps. Mr. Henry noted that Hedgerow is not a currently funded project, although it had been requested and was ranked in the CIP, so to proceed with design they would need to talk about funding that piece of it.

Ms. Mallek asked if there is more work for staff to do to prepare the consent agenda item. Mr. Henry responded that the appropriation is already in the queue.

Ms. Mallek asked if they could put it on the Board's agenda for the following week, as there is no procurement requirement because there is already someone in house who would do it. Mr. Henry responded that they have a proposal that is under \$15,000, so they are within procurement rules, but the timing of the appropriation is going into the process now to be in time for the May meeting.

Ms. McKeel said the comments seem to indicate that the Board is interested in accelerating the project and trying to get it done as quickly as possible.

Mr. Randolph asked Mr. Henry for clarification that staff is asking the Board to find funds in the FY18 budget to cover the initial project costs of \$511,000. Mr. Henry confirmed this and said that is the issue on the table.

Ms. Mallek pointed out that removing the pavilion reduced the total by \$400,000.

Ms. McKeel said the Board is being asked at this point to authorize the conceptual engineering study, which she views as a feasibility study. Mr. Henry confirmed this.

Mr. Dill asked if any of the \$15,000 is going toward the pavilion, as it seems the Board is not interested in doing that. Mr. Henry said the pavilion would be an element of that, but the first phase would look at site constraints and elements, such as the entrance road location, with the pavilion coming into play more with the full design of the project. He stated that the feasibility stage would address at a higher level where to locate various elements.

Ms. Mallek stated that the floodplain may have potential as a mitigation bank, so the County could capitalize on that to help offset costs, and perhaps David Hannah could explore this further. She mentioned that Innisfree has a similar effort underway that has significant return potential.

Ms. McKeel commented that there have been some interesting ideas with this project and ways

to move it forward and stage some elements, with cost savings as part of that. She asked staff whether they just need Board consensus.

Mr. Kamptner suggested a motion for the Board to direct staff to proceed with the conceptual engineering study and all the steps related to it.

Mr. Dill **moved** to direct staff to proceed with the conceptual engineering study for the Hedgerow Park property and related steps. 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.

Ms. McKeel noted that the Board will be talking about this again in early May.

Mr. Walker said that staff will be looking into the next steps for the project, including ordinances for appropriation, and will be coming back to the Board in August to address the issues raised thus far.

Ms. McKeel stated that when it comes back to the Board in May, they can talk more about the trail building and how it might be done in conjunction with the design work.

---

Agenda Item No. 3. **Work Session:** Chris Greene Lake – Discussion of Uses and Permissible Activities.

Mr. Bob Crickenberger stated that after their presentation, staff will be suggesting that the Board provide a recommendation for the Chris Greene Lake property. He reported that Chris Greene Lake was built in the early 1970s, approved by the Board of Supervisors at that time as a recreational facility. Mr. Crickenberger said that at the time, the lake was considered a supplemental water supply, with the County needing to enlarge the stream flow from Chris Greene and Jacob's Run to the North Fork Rivanna intake. He stated that Chris Greene Lake was originally built as a drinking water reservoir but never put to use, and since the 1970s it has been maintained and managed as a recreational facility and is one of the County's most popular regional parks. Mr. Crickenberger stated that Chris Greene averages a vehicle count of more than 63,000 annually, with estimates that the number of visitors is higher, at least 120,000, because there would likely be more than one person per vehicle. He said that 17,000 out of that total use the summer swim program at the beach.

Ms. Mallek commented that there are also hundreds of cross-country skiers who park outside the park gates and use the property for skiing.

Mr. Crickenberger reported that there had been a study done in 2004 in which the use of Chris Greene Lake as an alternate water supply was evaluated, and from that study and due to a small yield, it was not carried any further as an analysis to be used as a water supply alternate. He said that another study conducted by the Rivanna Water and Sewer Authority in 2014 on reservoir water quality and management did not identify Chris Greene as a public drinking reservoir. Mr. Crickenberger noted that the study identified five reservoirs for which the RWSA was responsible for managing and ensuring water quality: Sugar Hollow, the Rivanna Reservoir, Ragged Mountain, Totter Creek, and Beaver Creek.

Mr. Crickenberger stated that staff's recommendation is to schedule a public hearing for May 10 to consider amending the current ordinance – Chapter 11, Parks and Recreation, Articles I, II and III. He said that consideration of such amendments would involve clarifying certain activities, including boating, swimming, etc. are allowed at a County park that is not a public water supply and establishing that Chris Greene Lake is not a public water supply reservoir.

Ms. Mallek asked if gas-powered motors are allowed on the lake currently. Mr. Crickenberger responded that they are allowed per the ordinance to be on the boat, but they are not permitted to be operated while on the water, and the ordinance also requires that the gas supply be disconnected if it is portable. He confirmed that if these changes go through, fishermen would be able to use their small trolling motors and that would not change.

Ms. McKeel asked him to explain the boating permits that have caused some confusion. Mr. Crickenberger responded that the only permits required per the ordinance were at Ragged Mountain and did not apply to Chris Greene or any of the other reservoirs. He said that staff's understanding was that the RWSA had not issued permits prior to 2004 for Ragged Mountain, so at this point permits are not required elsewhere.

Ms. McKeel asked what is causing the confusion people seem to be experiencing with the permits. Mr. Crickenberger responded that he does not have the answer to that.

Ms. Mallek commented that it could be willful neglect.

Ms. Palmer asked if this pertains to the time when they used to have permits, before the new reservoir was put in. Mr. Crickenberger responded that prior to the new construction, there were limited parking spaces at Ragged Mountain that were assigned almost like a lottery, with one-day permits issued for reservoir use.

Ms. McKeel said that she has had people question why they need permits, where to get them, why they are not enforced, etc.

Mr. Crickenberger stated that according to the current ordinance, permits are required only at Ragged Mountain Reservoir, and Rivanna is the agency that provides the permits. He said it was only recently discovered by County staff that Rivanna was not giving them out, and staff's recommendations include an ordinance change to better clarify this.

Ms. Mallek asked if this is part of what they will be looking at in May, or if it is a second step. Mr. Walker responded that this specific recommendation is for Chris Greene Lake only and its previous identification as a drinking water reservoir and regulation of activities there. He stated there is definitely a compelling need to identify the County's rules and regulations for all park properties, and there may be some policy considerations the Board would want to consider as to which activities are appropriate in which parks. Mr. Walker said that staff did not have a specific timeframe for that yet, but the work has started and there is an expectation for a work session with the Board.

Ms. McKeel reiterated that there is definitely a need for that, as people are confused. Mr. Crickenberger agreed that there needs to be clarity on that, but this first step is just to address Chris Greene Lake.

Ms. Mallek commented that they also need to address in their future work how they can better regulate the backing in of vehicles into their reservoirs, with a safer way for people to get their boats in and out without polluting the water with their cars. She stated that the other issue is how they can get better control of use of properties down to the waterline, which is not allowed but seems to be happening anyway.

Ms. McKeel asked for clarification of the motions needed from the Board. Mr. Kamptner said they were on a prior slide.

Ms. Mallek **moved** to schedule a public hearing for May 10, 2017, to consider an ordinance to amend Chapter 11, Parks and Recreation, Articles I, II and III. 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.

Ms. Mallek mentioned that her farm is one mile upstream from Chris Greene Lake, and there were three farms together that have all fenced cattle out of the water.

Ms. McKeel asked Mr. Crickenberger to share his presentation with the Board.

---

**NonAgenda.** Mr. Kamptner stated that he had just received an email that affects the Board's pending closed session discussion, and suggested that they take a brief recess.

At 4:32 p.m., the Board recessed its meeting, and then reconvened at 4:43 p.m.

---

#### Agenda Item No. 4. Closed Meeting.

At 4:44 p.m., Mr. Randolph **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: under Subsection (7), to consult with and be briefed by legal counsel and staff regarding: 1. Specific legal matters requiring legal advice about litigation related to a real estate assessment appeal because a public discussion would adversely affect the negotiating or litigating posture of the County. 2. Specific legal matters requiring legal advice pertaining to publishing and posting notices of public hearings. 3. Specific legal matters requiring legal advice pertaining to the Crozet Depot and Crozet Square properties. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Palmer, Mr. Randolph, Mr. Sheffield, Ms. Mallek and Ms. McKeel.  
NAYS: None.  
ABSENT: Mr. Dill. (**Note:** Mr. Dill returned during the Closed Meeting)

---

#### Agenda Item No. 5. Certify Closed Meeting.

At 6:02 p.m., the Board reconvened into open meeting and Mr. Randolph **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.

Mr. Dill read a Transactional Disclosure Statement indicating that during the Board of

Supervisors' closed meeting, he had disqualified himself from participating in a discussion regarding an appeal of a real estate assessment because the business entity in which he has a personal interest, Seminole Auctions, LLC, has a relationship with a affiliated business entity of the plaintiff. The property owned by Seminole Auctions, LLC is located at 2109 India Road, Charlottesville, VA 22901. He stated that he could realize a reasonably foreseeable indirect benefit or detriment as a result of the action even though the property in which his business entity has an interest is not the subject of the closed meeting discussion described above. He requested that this statement be recorded in the appropriate public records for a period of five years.

[Mr. Dill was not in the closed meeting room when this matter was discussed.]

---

Agenda Item No. 6. Call back to Order. At 6:04 p.m., Ms. McKeel called the regular night meeting back to order.

Ms. McKeel then introduced County staff and the presiding officer, Officer Chris Levy.

---

Agenda Item No. 7. Pledge of Allegiance.  
Agenda Item No. 8. Moment of Silence.

---

Agenda Item No. 9. Adoption of Final Agenda.

Ms. Mallek **moved** to adopt the final agenda as presented. Mr. Dill **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. 10. Brief Announcements by Board Members.

Mr. Sheffield stated that he will be missing the May 10, 2017, meeting, as he will be attending a transit conference.

---

Mr. Randolph reported that the clearing for Rivanna Village had begun and had created some concern among residents in the Glenmore community because of the deforestation that has occurred, although the 70-foot barrier agreed to by the applicant has been adhered to. Mr. Randolph said there are two sections to the barrier where roads will go in, and all the trees got cleared out, and that has created some controversy and consternation, although the project is moving forward and there is ongoing consultation and contact with Robinson Development, the developers.

Mr. Randolph reported that he met monthly with the chair of the Planning Commission, who lives in the Scottsville District, and the Scottsville Commissioner, and at their meeting last night there were several takeaways, including a strong feeling by the Commission and School Board that those bodies should convene when the impact assessment criteria was developed and they come up with a substitute for proffers. He stated that the school division has hired a high school consultant, who will meet again with them in the fall and October to gain their input as the concept of a new high school continues to gain momentum and focus. Mr. Randolph said the Planning Commission has asked for more detailed analysis on the impacts to schools from special use permits, particularly projected enrollment, so that can be factored into their evaluations. He stated that both bodies have agreed to share their agendas with each other in the future, and there was a very productive discussion regarding a Weldon Cooper Center report, which the Board had not received yet, with information about racial differences in Albemarle County as they relate to the schools. Mr. Randolph said the Chair of the School Board raised the matter of a referendum for a new high school occurring as early as calendar year 2018, which may be a bit ambitious but is one possible approach. He stated that the Commission and School Board will meet again in the fall to discuss the consultant's recommendations, and the Commissioners feel it is a very productive conversation and useful for both bodies.

---

Ms. McKeel commented that Mr. Dean Tistadt is working hard to figure out a better tool to use for predictions of impact, as the schools have been struggling to do that.

---

Agenda Item No. 11. Proclamations and Recognitions.

There were none.

---

Agenda Item No. 12. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Gary Edenfield of the White Hall District addressed the Board and stated that he lives in the Hickory Ridge neighborhood between Earlysville and Free Union. Mr. Edenfield said that his purpose in



speaking is to bring to the Board's attention the problem of very poor internet service in many parts of the County, which restricts quality of life and economic growth. He stated that he has lived in Hickory Ridge since 1994, and at that time there was no general internet service. He said that when the phone company offered 3.5 MPBS service, it was a big technological advance, but times have changed, and now families need online services. Mr. Edenfield noted that schools require students to have online access for homework and research, many people now work partially or fully from home, requiring modern bandwidth to meet professional obligations. He added that families also want to stream movies and music for entertainment, and the DSL service in his neighborhood and others have not been upgraded for many years and still operates at 3.5 MBPS at its best. Mr. Edenfield stated that CenturyLink's own speed tests demonstrate that the actual speed delivered to homes in the area is far below the lower limit defined in the company's customer terms and conditions. He said this has become a very serious problem for residents, and several have reached out to the phone and cable companies, but they are reluctant to improve this infrastructure due to the cost and low density of homes in the area, which affects their return on investment. Mr. Edenfield stated that the suppliers' reluctance is reinforced by their reliance on the Virginia Broadband Availability Map, which shows this area as being properly served with internet. He emphasized that this map is inherently inaccurate, as the service areas are based on census blocks, which are large and disparate geographical areas, with an entire block marked as "served" due to just a few locations within that block having true broadband service. Mr. Edenfield said the low resolution map allows suppliers to say that the entire area is served, when in fact it is not, and the map's inaccuracies also lead to skewed decisions at the state and local level regarding planning and allocation of funding through the Virginia Broadband Telecommunications Initiative. He noted that the map also shows Comcast cable at the edge of his neighborhood, when in fact it is 1.6 miles away. He stated that the County cannot directly regulate internet service providers, but he is asking the Board to recognize the importance of an up-to-date network infrastructure in the County and seriously consider the findings and recommendations of the County's broadband team and the Design Nine study, with a goal to move forward with implementing a countywide effort to bring modern internet networking to the County.

Mr. Dill asked him to clarify what neighborhood he lives in. Mr. Edenfield responded that it is Hickory Ridge.

Ms. Palmer asked if he is on County Information Technology Director, Mike Culp's, mailing list. Mr. Edenfield confirmed that he is, and agreed to share his statement with the Clerk.

---

Mr. Curt Bradley of the White Hall District addressed the Board and stated that he will also address the issue of broadband service. He stated that he lives in the Hickory Ridge subdivision, which is adjacent to the Hickory Farms subdivision, and there are a total of 65 lots in the immediate vicinity. Mr. Bradley stated that the only carrier serving this area is CenturyLink, which states on its website that they "are currently able to offer high-speed internet service...due to unexpected capacity conditions." He said that the Federal Communications Commission defines broadband to be 25 MBPS download and 3 MPBS upload speed, but the best speeds CenturyLink says it can offer in his area are 4 MBPS download and 0.5 MBPS upload, which is only 16% of the FCC standard. Mr. Bradley stated the fact is that the service can often not even achieve these unacceptable levels, and in evenings when usage is highest, his download speeds have been as low as 1.19 MB or 4% of the FC standards, which effectively is no service at all. He said this service affects his family by not providing them with reliable internet service with streaming, and his wife tries to run a consulting business out of their home, for which she depends on her computer. Mr. Bradley stated that because of their internet service, she often must leave the house in order to participate in computer-based meetings, which does not provide a good business environment in the County. He said that in reviewing their options to get reasonable internet service, they must turn to the Board as their broadband savior, and federal and state regulations grossly favor the carrier over the consumer, with the consumer having nowhere else to turn but to the Board. Mr. Bradley stated that the Board should be commended for the broadband strategy study of October 2016, and the committee recommends a significant role for government, with actions including removing barriers to private sector investment, and investing in infrastructure such as towers, which can be leased back to carriers. He said his understanding is that the Board is considering implementation of the study's recommendations, and he recommends that they move forward with all deliberate speed.

---

Mr. John Missig of the White Hall District addressed the Board, stating that he moved to the County in 2011 with his wife and six children, and he owns and operates businesses out of his home, in Las Vegas, and in California. Mr. Missig said his wife is also a full-time online college student and runs an at-home business. He stated that his family moved here to access better school opportunities than they found in Nevada, and he and his daughter suffers from dyslexia, with a son in his home having autism. Mr. Missig stated that his family, as well as his neighbors, are being left behind in a world of increasing technology and increasing dependence on internet speeds. He said this situation extends to Albemarle County Schools, where computers are provided to middle and high school students without consideration of the known connectivity challenges. Mr. Missig stated that despite complaints made over the last five years to CenturyLink, the company's response has been that they have no plans to improve the service in the foreseeable future. He said the FCC has legislation for persons with disabilities to have access to 21<sup>st</sup> Century communications, specifically with the ability to stream video, but this is often not possible for his disabled son, although it is a necessity, as it is one of his primary forms of communication and link to the world. Mr. Missig stated that the inability has a negative influence and results in meltdowns of his disability, hampering his psycho-social development. Mr. Missig said that when he initially toured the home, he was told that they have high-speed internet, and he pays for 4 MBPS speed but currently receives an average of 2.9 MBPS, with CenturyLink's terms allowing for a 15% variance in download speed, or a minimum of 3.5 MBPS. He stated that his business requires him to conduct web conferences

with businesses and team members, and he urged the Board in expediting a solution for families in Hickory Ridge and surrounding neighborhoods.

---

Mr. Larry Mellinger of the White Hall District addressed the Board and stated that he also lives in the Hickory Ridge neighborhood, with both he and his wife doing a lot of work from home. Mr. Mellinger stated that the bottom line is there is no competition, with no effort from CenturyLink to improve the service and little likelihood that CVEC will come by the neighborhood with its new electric poles. He said the school district's 65,000 feet for additional cable will not reach Hickory Ridge, and Comcast has shown no interest in running fiber to the neighborhood. Mr. Mellinger stated the issue with CenturyLink, as the company's annual report shows, is that its 2016 revenues declined \$400 million to \$17.5 billion, with \$794 million net profit, total assets shrinking by \$500 million, and net worth decreasing to \$13.9 million. He said that consumer business is only 7% of CenturyLink's market, so they are focusing more on big cities and high data users, with rural customers not being a priority. Mr. Mellinger stated that in October 2016, CenturyLink announced the acquisition of \$25 billion for Level 3, a large digital data media supply company that distributes Netflix and other social media services, with the deal expected to close in 2018. He said that rural consumers are obviously not in their long-term plans, and CenturyLink is clearly suffering some short-term financial stress, so these customers in Albemarle have nowhere else to go for help. Mr. Mellinger mentioned that homes in his area do not sell as well as broadband communities and are on the market longer, and suggested that the County adjust their tax rates accordingly.

---

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board and said that while the PEC applauds the goal of providing the community with additional recreational opportunities, land and open space, there was nothing in the discussion of Hedgerow about making that park accessible to bike or pedestrian traffic, and it was made clear by staff that it would only be accessible by driving to it. Mr. Werner stated that the County has a growing urban population and the Comp Plan calls for investments within the growth area, and the urban community is clamoring for recreational amenities that do not require a car for access. He said that planning and funding those growth area amenities is also a critical element of modern economic development, as these are the things that young professionals and entrepreneurs are seeking when choosing a place to live and work. Mr. Werner stated that one of the amenities that Deschutes Brewery requested from the City of Roanoke was extension of the City's riverfront trail to the site of their new plant. He said the PEC understands the enthusiasm to take advantage of the Heyward family's generous gift, but it is shortsighted to not plan for, or even recognize, the importance of making future County parks easily accessible to urban residents, and the very real correlation this has to the County's economic development goals. Mr. Werner noted that the *Daily Progress* had very recently written about the need to complete in the growth area the long-planned linear parks and bike-pedestrian corridors that would connect people to the places where they live, work and shop. He stated that there must be a commitment to implementing these existing plans, as well as a plan for how all of the parks and trails would be interconnected and accessible even without a car. Mr. Werner said this goal could not be accomplished in an ad-hoc way, because the County would miss opportunities for well-planned growth area investments that would produce very real and positive dividends for the County.

---

Mr. Neil Williamson with the Free Enterprise Forum addressed the Board, stating that he agrees with Mr. Werner regarding the need for bicycle access to County facilities. Mr. Williamson stated that in the reports from Board members, he was encouraged by the report from Mr. Randolph that the School Board and Planning Commission want to discuss proffers, but the Board has already formed a committee to look at the proffer issue. He said this committee has held no meetings thus far, although the Clerk had sent a note to the committee. Mr. Williamson stated that he implored the prior Board for a year and a half to take action on proffers, and the action this Board is taking now pertains to a law that was put into place July 1, 2016, signed by the Governor March 1, 2016 and passed both houses in February 2017. He said he does not understand what the delay is with understanding the legislation, and while the Board has a lot on its plate, it seems they would want this to move forward.

---

Agenda Item No. 13. Consent Agenda.

Mr. Randolph **moved** to approve the Consent Agenda as presented. 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.

---

Item No. 13.1. Approval of Minutes: September 29, November 17, and December 21, 2016.

Mr. Dill had read the minutes of September 29, November 17, and December 21, 2016, and found them to be in order.

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

---

Item No. 13.2. Piedmont Workforce Network CLEO Agreement.

The Executive Summary forwarded to the Board states that the Federal Workforce Innovation and Opportunity Act (WIOA) requires that Local Workforce Development Areas must re-designate their local area every two years to continue operations. Currently, the Piedmont Workforce Network (Local Workforce Development Area 6 in the Commonwealth of Virginia) includes the City of Charlottesville and the Counties of Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Louisa, Madison, Nelson, Orange, and Rappahannock. The Piedmont Workforce Network Council (the "Council"), which consists of one Local Elected Official from each of the 11 jurisdictions within the Local Workforce Development Area, is the oversight body for the Piedmont Workforce Network. The Council voted in December to remain a Local Workforce Development Area and to request re-designation from the Governor's office, and also requested that staff forward the necessary documents to the respective jurisdictions to complete the approval process.

In order to accomplish the desired re-designation, the Piedmont Workforce Network must receive signatures from all 11 jurisdictions on the Chief Local Elected Officials (CLEO) Agreement. A similar version of this agreement was signed by representatives of all jurisdictions for the initial designation period of July 1, 2015 through June 30, 2017. Background on the re-designation is provided as Attachment A. The revised CLEO Agreement reflecting the new designation period, which is July 1, 2017 through June 30, 2019, is provided as Attachment B for the Board's review and approval.

There is no budget impact associated with this item.

Staff recommends that the Board adopt the attached Resolution to approve the CLEO Agreement Amendment and to authorize the Chair of the Board to sign the Agreement Amendment.

**By the above-recorded vote, the Board adopted the following Resolution to approve the CLEO Agreement Amendment and authorized the Chair of the Board to sign the Agreement Amendment:**

**RESOLUTION APPROVING THE CHIEF LOCAL ELECTED  
OFFICIALS AGREEMENT AMENDMENT TO RE-DESIGNATE LOCAL WORKFORCE DEVELOPMENT  
AREA 6 AND TO CONTINUE TO IMPLEMENT THE WORKFORCE INNOVATION AND  
OPPORTUNITY ACT**

**WHEREAS**, the Workforce Investment Act was established in 1998 to create opportunities for job seekers to gain self-sufficiency skills and employment and to assist employers in gaining a qualified workforce that meets their current and future job demand; and

**WHEREAS**, The U.S. Department of Labor provides funding through the Workforce Investment Act to states to provide these services to job seekers and employers; and

**WHEREAS**, Workforce Investment Boards were established to, among other things, oversee the funding of these programs; and

**WHEREAS**, the County is one of 11 jurisdictional members of Local Workforce Investment Area 6 that is served by the Piedmont Workforce Network; and

**WHEREAS**, the 11 member jurisdictions entered into an Interlocal Agreement to establish the Local Workforce Investment Area and to outline the responsibilities of each locality, including the requirement that the Chief Local Elected Officials (the Board Chair or Mayor) of the 11 jurisdictions, or their designees, serve on the Piedmont Workforce Network Council; and

**WHEREAS**, the 11 member jurisdictions entered into a new two-year term Interlocal Agreement in 2015 that reflected new 2014 legislation in which the Workforce Investment Act was replaced with the Workforce Innovation and Opportunity Act; and

**WHEREAS**, the 11 member jurisdictions must re-designate Local Workforce Development Area 6 for another two-year period in order to continue to implement the Workforce Innovation and Opportunity Act.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the Chief Local Elected Officials Agreement Amendment and authorizes the Chair of the County's Board of Supervisors to sign the Agreement Amendment.

\*\*\*\*\*

**Chief Local Elected Officials Agreement Amendment**

Local Area Re-designation: PY17 – PY19

Piedmont Workforce Network

Local Workforce Development Area 6 (LWDA 6)

Effective Date: July 1, 2017

**CHIEF LOCAL ELECTED OFFICIALS AGREEMENT  
AMONG LOCAL GOVERNMENTS IN LWDA 6:**

**ALBEMARLE COUNTY**

**CITY OF CHARLOTTESVILLE**

**CULPEPER COUNTY FAUQUIER COUNTY**

**FLUVANNA COUNTY**

**GREENE COUNTY  
LOUISA COUNTY  
MADISON COUNTY  
NELSON COUNTY  
ORANGE COUNTY  
RAPPAHANNOCK COUNTY**

**Area Designation**

The localities named above agree to re-designate as Local Workforce Development Area 6 (LWDA 6) in the Commonwealth of Virginia, also known as the Piedmont Workforce Network (PWN). Each of the localities named above is a party to this Agreement.

**Purpose**

The purpose of this agreement is to reaffirm the creation of the Consortium of Chief Local Elected Officials (CLEOs) of the above-named local governments, and to set forth the process, procedures, and responsibilities for continuing to implement the Workforce Innovation and Opportunity Act (WIOA) for Local Workforce Development Area 6 (LWDA 6). The WIOA requires Chief Local Elected Officials (CLEOs) to take certain responsibilities and actions which are enumerated in this document and to appoint and form a working relationship with a local Workforce Development Board.

**Consortium of CLEOs formed**

As stated in the original WIOA CLEO Agreement effective July 1, 2015, the consortium shall be known as the Piedmont Workforce Network Council (Council) for the purpose of implementing the tasks and performing the continuous oversight responsibilities set forth in the WIOA. Each party to this Agreement authorizes its representative to participate in the consortium and designates its representative as its authorized representative for purposes of this Agreement.

**Grant Recipient**

The City of Charlottesville has been designated by the Council as the Grant Recipient of WIOA funds allocated to LWDA 6.

**Fiscal and Administrative Agent**

The Council has designated the Central Virginia Partnership for Economic Development as the Fiscal and Administrative Agent ("Agent") for WIOA funds allocated to LWDA 6. The Council shall require the Agent to make quarterly financial reports to the Council, in writing. An annual financial audit will be conducted in coordination with the Partnership's audit, according to the requirements of all OMB and federal regulations. Further duties and responsibilities of the Agent will be outlined in the Piedmont Workforce Network Fiscal and Administrative Agent Agreement.

From time to time hereafter, the Council may designate a different agent, by affirmative majority vote of members of the Council. In the event a different agent is designated, the Council shall enter into a written Fiscal and Administrative Agent Agreement with the new agent. Once approved as set forth in this paragraph, the new designation and new Agreement shall supersede the designation referenced within this document, without the need for an amendment hereof.

**Responsibility for use of funds and implementation of the Workforce Innovation and Opportunity Act:**

Under the WIOA, the final responsibility for use of the federal funds and for carrying out the tasks set forth in the Workforce Innovation and Opportunity Act rests with the CLEOs. The CLEOs, through the Council, shall enter into a contract with the Agent designated herein above, to perform certain tasks on behalf of the Consortium. Liability insurance will be provided by the Agent, with costs of such insurance to be paid out of the WIOA Administrative funds. The Council shall require that, prior to distribution of any funds under the WIOA, the Agent will obtain liability insurance satisfactory to the Council, providing coverage for each of the local governments and CLEOs forming the Consortium as additional insureds. Coverage shall be no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

**Piedmont Workforce Network Council Organization**

- The term "Chief Local Elected Official" means the mayor of a city or the chair of the Board of Supervisors of a county or another elected official, as designated by the Board of Supervisors or City Council. Documentation of the appointment to the PWN Council will be collected from each City Council or Board of Supervisors' record clerk.
- The Council shall elect a Chair and Vice-Chair from its members. One officer shall be from each Planning District.
- The Chair shall serve on the PWN Board Executive Committee.
- The Council will meet as a body, at least quarterly during each fiscal year.
- A quorum of at least 30% of the Council's members will be required for any action to be taken. No action shall be taken by the Council except at a meeting at which a quorum is present.
- Council members shall communicate the activities of the Council and Local Workforce

Development Board (LWDB) to their respective governing bodies.

### **Piedmont Workforce Network Council Responsibilities**

The duties performed solely by the Council include, but are not limited to the following:

- Designate the Grant Recipient for LWDA6;
- Designate the Fiscal/Administrative Agent, if applicable, for LWDA6;
- Accept fiscal liability for the use of WIOA funds;
- Appoint LWDB members and maintain local Board Membership Certification every 2 years;
- Accept annual A-133 audit;
- Approve annual budget submitted by the LWDB and any subsequent modifications through the fiscal/program year;
- Approve the LWDB By-laws;
- Oversee funds contributed to LWDA6 by localities in this agreement for additional projects and services in the region; and
- Any other functions, responsibilities or actions referred to within this Agreement as requiring action by the Council.

In partnership with the LWDB, the Council's responsibilities include, but are not limited to the following:

- Developing a vision and goals for the local workforce development system that are aligned with both the economic development mission(s) for the local area and Virginia Board of Workforce Development's goals
- Development of the 4-year local strategic plan to include a workforce demand plan and a plan for business engagement;
- Selection of One-Stop Operator(s) and locations, including operators of career services if the one-stop operator does not provide career services as described in Section 134 (c)(2) of WIOA;
- Selection of training providers;
- Approval of the local One-Stop Operation(s) budget;
- Conduct oversight of the local programs of youth, adult and dislocated worker activities authorized under Title I of WIOA;
- Negotiate and reach agreement on local performance accountability measures with the VBWD on behalf of the Governor;
- Any other activities as required by the Workforce Innovation and Opportunity Act, Section 107(d), or by the Governor;

### **Establishment of the Workforce Development Board**

The Council hereby establishes the Local Workforce Development Board (LWDB) for LWDA 6, which will be known as the Piedmont Workforce Network Board (PWN Board). The duties, membership composition, and staff structure will be outlined in the CLEO-Board Agreement. The membership of the PWN Board shall be determined and appointed by the Council, in accordance with the requirements of WIOA Section 107(b)(2) and Virginia Board of Workforce Development Policy 200-02 in an effort to ensure the most effective, regional participation in the WIOA implementation for LWDA 6 by all participating jurisdictions, partners, and businesses.

### **Composition of the Workforce Development Board**

#### **Mandatory Members**

- The membership composition of the PWN Board will follow the requirements set forth in WIOA law and Virginia Board of Workforce Development Policy 200-02.
- The detailed composition of the PWN Board shall be listed in the PWN Policy titled Workforce Development Board Composition.

#### **Membership Terms**

- Members of the PWN Board must be individuals with optimum policy making authority within the organizations, agencies, or entities they represent.
- Members of the PWN Board should be appointed for staggered terms.
- Private sector representatives should be an appropriate mix of small, medium, and large employers that reflect the local labor market, i.e. the business representation should reflect the industry mix in the local labor market.
- Individuals serving on the PWN Board who subsequently retire or no longer hold the position that made them eligible Board members may continue to serve on the PWN Board; however, if their membership category changes as a result of their retirement or change in employment status, the PWN Board must account for that change when evaluating overall membership composition.
- Vacancies resulting from resignations or removal of mandatory members must be filled within 90 days.

### **Local Board Appointment Process**

#### **Nominations and Selection**

- The PWN Council shall contact the appropriate entities in the local area for nominations to appoint members and/or to fill vacancies on the PWN Board from business, local educational entities, and labor representatives. The PWN Council may also design a process for nominations of individuals and other types of representation the officials would like to include on the PWN Board. Vacancies subsequent to the establishment of the PWN Board must be filled in the same manner as the original appointments.
- Private sector representatives are to be selected from individuals nominated by local business organizations (ex. Business trade associations, chambers of commerce, economic development agencies). Individuals businesses may also nominate themselves or provide nominations of other businesses to the PWN Council. Private sector representatives can include owners of businesses, chief executives or operating officers of businesses, and other business executives with optimum policy making or hiring authority (ex. Vice President of Human Resources).
- Non-mandatory educational entity representatives must be selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities including local school boards, entities providing vocational education, and postsecondary educational institutions. Labor representatives must be selected from among individuals nominated by local labor federations (or in a local area in which no employees are represented by such organizations, other representatives of employees, such as employee organizations and/or the state AFL-CIO).

For all other members, the PWN Council should consult with the appropriate groups in the local area for possible individuals to serve including:

- Representatives of community-based organizations, including organizations representing individuals with disabilities and veterans where such organizations exist in the area.
- Representatives of local economic development agencies, including private sector economic development entities.

#### Public Participation

The PWN Council must provide public notice of the intent to solicit nominations for PWN Board membership, including the process to be used for nominations and selection.

#### Sunshine Provisions

The PWN Council shall share information regarding its meetings and activities with the public subject to the provisions of the Virginia Freedom of Information Act (FOIA).

The PWN Council shall make available to the public, on a regular basis through open meetings, information regarding the activities of the PWN Council, including information regarding the Local Plan prior to submission, membership, the designation and certification of one-stop operator(s) consistent with the State Plan, and the award of grants or contracts to eligible providers of youth activities, and the minutes of formal meetings of the PWN Council.

In order to comply with (FOIA), the PWN Council shall do the following:

- Take official action and engage in deliberations only at meetings open to the public. "Official action" includes making recommendations, establishing policy, making decisions, and/or voting on matters of PWN Council business. "Deliberations" are discussions of PWN Council business necessary in order to reach decisions.
- Ensure that all meetings are held in locations accessible to individuals with disabilities and that all information is available in accessible and alternate formats.
- Give public notice of meetings in accordance with applicable state code provisions, including public notice in advance of any special meeting or rescheduled regular meeting. No public notice need be given of an emergency meeting called to deal with a real or potential emergency involving a clear and present danger to life or property.
- Ensure that votes of PWN Council members be publicly cast and, in the case of roll call votes, recorded.
- Keep written minutes of all public meetings, including date, time and place of the meeting, members present, the substance of all official actions, a record of roll call votes, and the names of any citizens who appeared and gave testimony.
- Closed executive sessions may be used according to the provisions of the Virginia Freedom of Information Act. Such sessions may be held during or after an open meeting, or may be announced for a future time. If closed session is not announced for a specific time, PWN Council members must be notified 24 hours in advance of the date, time, location and purpose of the session. The reason for holding an executive session must be announced at the open meeting either immediately prior or subsequent to the executive session.
- Official action on any matter discussed at an executive session must be taken at an open meeting.

**Shared Responsibility among Members of LWDA 6**

While the City of Charlottesville is the Grant Recipient for LWDA 6, all of the local governments named in this Agreement hereby agree to share any and all responsibility for administration and implementation of the WIOA. Nothing herein shall be construed as a waiver of sovereign immunity of or by any participating member locality.

**Effective Dates of this Agreement**

This agreement shall take effect on July 1, 2017 and shall remain in effect until June 30, 2019.

**Amendment of the Agreement**

This agreement may be modified by a written amendment approved by a majority vote of all members of the Council, following notice of (i) the specific language of the proposed amendment, and (ii) of the date, time and location of the meeting at which the amendment will be presented to Council for a vote. Notice shall be given in writing to the CLEO of each party to this Agreement.

**SIGNATURES**

\_\_\_\_\_  
County of Albemarle

\_\_\_\_\_  
City of Charlottesville

\_\_\_\_\_  
County of Culpeper

\_\_\_\_\_  
County of Fauquier

\_\_\_\_\_  
County of Fluvanna

\_\_\_\_\_  
County of Greene

\_\_\_\_\_  
County of Louisa

\_\_\_\_\_  
County of Madison

\_\_\_\_\_  
County of Nelson

\_\_\_\_\_  
County of Orange

\_\_\_\_\_  
County of Rappahannock

\_\_\_\_\_  
Fiscal and Administrative Agent Central Virginia Partnership for Economic Development

Item No. 13.3. Resolution to accept road(s) in the Advance Mills Farm Phase 1 and Phase 2 Subdivision into the State Secondary System of Highways. (*White Hall Magisterial District*)

**By the above-recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 12<sup>th</sup> day of April, 2017, adopted the following resolution:

**R E S O L U T I O N**

WHEREAS, the street(s) in **Advance Mills Farm Phase 1 And Phase 2 Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Advance Mills Farm Phase 1 And Phase 2 Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\*\*\*\*\*

- 1) **Frays Ridge Road (State Route 1884)** from Frays Ridge Crossing (State Route 1880) to .4 miles west to cul-de-sac/end of State Maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.40 miles.
- 2) **Frays Meadow Lane (State Route 1885)** from Frays Ridge Road (State Route 1884) to .14 miles north to Frays Meadow Lane (State Route 1885), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.14 miles.
- 3) **Frays Ridge Crossing (State Route 1880)** from Frays Ridge Road (State Route 1884) to .7 miles north to existing Frays Ridge Crossing (State Route 1880), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.70 miles.
- 4) **Frays Meadow Court (State Route 1886)** from Frays Meadow Lane (State Route 1885) to .2 miles east to cul-de-sac/end of State Maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.20 miles.
- 5) **Frays Ridge Crossing (State Route 1880)** from Frays Meadow Lane (State Route 1885) to .143 miles west to Frays Ridge Crossing (State Route 1880), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.14 miles.
- 6) **Frays Meadow Lane (State Route 1885)** from Frays Meadow Court (State Route 1886) to .15 miles north to cul-de-sac/end of State Maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.15 miles.
- 7) **Frays Ridge Road (State Route 1884)** from Advance Mills Road (State Route 743) to .75 miles west to Frays Meadow Lane (State Route 1885), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2432, pages 222-2371A, and Deed Book 3130, pages 42-46, for a length of 0.75 miles.

Total Mileage – 2.48

---

Item No. 13.4. Resolution to accept road(s) in the Mountain Valley Subdivision into the State Secondary System of Highways. (*Samuel Miller Magisterial District*)

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 12<sup>th</sup> day of April, 2017, adopted the following resolution:

#### R E S O L U T I O N

WHEREAS, the street(s) in **Mountain Valley Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Mountain Valley Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\*\*\*\*\*

- 1) **Ambrose Commons Drive, Extension (State Route 1870)** from Ridgetop Drive (State Route 1874) to 2.4 miles south to cul-de-sac/end of State Maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3128, pages 589-623; Deed Book 3385, pages 603-610; and Deed Book 3491, pages 554-559, for a length of 2.40 miles.



Total Mileage – 2.40

---

Item No. 13.5. Resolution to accept road(s) in the Albemarle Health and Rehabilitation Center Subdivision into the State Secondary System of Highways. (*Scottsville Magisterial District*)

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 12<sup>th</sup> day of April, 2017, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in the **Albemarle Health And Rehabilitation Center**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in the **Albemarle Health And Rehabilitation Center**, as described on the attached Additions Form AM-4.3 dated **April 12, 2017**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\*\*\*\*\*

- 1) **Founders Place (State Route 1293)** from Mill Creek Drive (State Route 1150) to .05 miles south, four lane section, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4425, pages 154-158, for a length of 0.05 miles.
- 2) **Founders Place (State Route 1293)** from four lane section to .07 miles south, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4425, pages 145-158, for a length of 0.07 miles.

Total Mileage – 0.12

---

Agenda Item No. 14. Field School Central Sewage.

The Executive Summary presented to the Board states that on March 8, 2017, the Board approved Special Use Permit (SP201500024) with conditions to construct a private school (Field School of Charlottesville) on Tax Map Parcel Numbers 06000-00-00-06800 and 06000-00-00-068E0. The Board also approved setting a public hearing for a Central Sewerage System on April 12, 2017. This request is specifically for the Central Sewerage System.

The proposed system would consist of a sewer lateral system, collecting waste from three (3) buildings, along with a distribution box and drainfield as seen on the Concept Plan (Attachment A). The plans identify an area for a primary drainfield and two reserve drainfields.

Chapter 16 of the County Code defines a central sewerage system as a system "designed to serve three (3) or more connections". Primary users of central systems are public schools and campgrounds in the Rural Area. Though the applicant has not completed a final design for the private school layout, the applicant anticipates building three (3) separate structures on site: an academic building, a gymnasium, and a dining hall. While the three (3) building connections are for one overall use, they are considered a central system, which requires Board approval. This request does not require action by the Planning Commission.

Use of central sewage systems in the Rural Area is discouraged due to the potential of a proliferation of residential uses using a central system or the potential for uses that should be in the Development Area to locate in the Rural Area. They also have a tendency to promote development of a higher intensity. As part of any request, an applicant must provide justification (included as Attachment B).

There are several alternatives available to the applicant to avoid the need for the central system. One alternative is to provide two or three separate systems, each with its own distribution box and primary and reserve drainfield. This alternative would create a greater area of land disturbance on site because of the need to construct two or three separate primary and reserve drainfields, as well as result in a higher cost and need for maintenance by the owner.

Another alternative available to the applicant would be to limit the school infrastructure to only one or two buildings. The applicant's justification for the three building layout is to provide a campus setting for the students requiring them to transport themselves from one setting to another, which the applicant has stated is an integral part of their approach to education. If the applicant were to construct only one or two buildings, it would increase the maximum building footprint to a size much larger than the conditioned 12,000 square foot maximum size for any single building. One or two larger buildings would increase the visual and scenic impacts on the site and the school would likely be more visible from surrounding properties and the Entrance Corridor. Three smaller buildings of no more than 12,000 square feet are more in keeping with the scale and size of other Rural Area uses and will be easier to screen from surrounding properties. This alternate is only available if the SP were amended to allow buildings exceeding 12,000 square feet.

Staff reviews requests such as this for conformity with the Comprehensive Plan and for technical feasibility. The County Engineer has reviewed this request and has no objection to the design and location of the proposed system. County Engineer and Health Department approval of the final system plans and specifications will be required prior to construction. Regarding conformity with the Comprehensive Plan, staff believes that allowing the central sewerage system in this case will result in fewer impacts to scenic and natural resources and create a better site design. Usage and capacity of the sewerage system would not change for the centralized system but will allow for three smaller buildings, which will be less visually intrusive to the Rural Area and will reduce land disturbance. For this reason, staff is supportive of the request and recommends approval of the proposed central sewerage lateral system for three buildings.

There will be no direct impact to the County budget.

Staff recommends that the Board adopt the attached Resolution (Attachment C) approving the request for a central sewerage system, subject to the conditions contained therein.

Mr. Frank Pohl, County Engineer, reported that the sewage permit is associated with the Field School special use permit, but there was not proper notification and advertisement, so this hearing would cover it.

Ms. Mallek commented that the staff report was very comprehensive.

Ms. Mallek **moved** to adopt the proposed resolution to approve the request for a central sewage system, subject to the conditions contained therein. Mr. Randolph **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 TO APPROVE  
A CENTRAL SEWERAGE SYSTEM  
ON TAX MAP PARCELS 06000-00-00-06800  
AND 06000-00-00-068E0**

**WHEREAS**, on March 8, 2017, the Board of Supervisors approved the Field School of Charlottesville's request for a special use permit to construct a new private school on Tax Map Parcels 06000-00-00-06800 and 06000-00-00-068E0 (collectively, the "property"), and the application is identified as Special Use Permit SP201500024 The Field School of Charlottesville ("SP 2015-24"); and

**WHEREAS**, in conjunction with SP 2015-24, the Field School of Charlottesville requested approval of a central sewerage system to serve its private school on the property; and

**WHEREAS**, on April 12, 2017, the Albemarle County Board of Supervisors considered the Field School of Charlottesville's request for approval of a central sewerage system on the property.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for this request and all of its attachments, the information presented to the Board of Supervisors, and the factors relevant to central sewerage systems in County Code Chapter 16 and the Albemarle County Comprehensive Plan, the Albemarle County Board of Supervisors hereby approves the Field School of Charlottesville's request for a central sewerage system on Tax Map Parcels 06000-00-00-06800 and 06000-00-00-068E0, subject to the conditions contained herein.

**The Field School of Charlottesville Central Sewerage System Conditions**

1. The County Engineer and the Health Department shall approve the applicant's final plans before the central sewerage system is constructed.
2. The number of connections shall be limited to three (3) connections.

MAGISTERIAL DISTRICT: Scottsville.  
TAX MAP/PARCEL: 090A1-00-00-001D0.  
LOCATION: 387 Hickory Street.  
PROPOSAL: Amend the existing special use permit for a community center (SP201200009) to serve up to 200 children at any one time and to permit an approximately 2800 square foot modular building above the existing basketball court.  
PETITION: Community center under Section 14.2.2(1) of the Zoning Ordinance.  
ZONING: R-2 Residential - 2 units/acre.  
OVERLAYS: Entrance Corridor, Steep Slopes (Managed and Preserved).  
COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01–34 units/acre); supporting uses such as places of worship, schools, public and institutional uses, neighborhood scale commercial, office, and service uses in Neighborhood 5 of the Southern and Western Neighborhoods Master Plan.  
*(Advertised in the Daily Progress on March 27 and April 3, 2017.)*

The Executive Summary presented to the Board states that at its meeting on February 7, 2017, the Planning Commission voted 5:0:2 to recommend approval of SP201600022. Attachments A, B, and C are the Commission's action letter, staff report, and minutes, respectively.

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

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP201600022, subject to the conditions contained therein.

---

Mr. J.T. Newberry, Senior Planner, addressed the Board and stated that he will review SP 2016-022 Boys & Girls Club Southwood Expansion. Mr. Newberry stated that the request is a petition to increase the number of children permitted at any one time from 120 up to 200 children, as well as to establish a 2,400-square foot modular building at the back of the site. He said there had been two previous special use permits approved on the site, with the last one in 2012, and the Planning Commission unanimously recommended approval in early February. Mr. Newberry provided an overview of the Southwood property and said their discussion would be focusing on the eastern corner of the property at the corner of Bitternut and Hickory, noting an aerial view that showed existing improvements as well as the asphalt basketball court to the east of those structures. He referenced an overview of the concept plan, noting the location of the modular building at the northern end of the site, and pointed out the footprint of the modular building and the sidewalk that would connect it to the existing community center and some decking that wraps around the front of it and overlooks the existing basketball court. Mr. Newberry presented a view of the expanded parking area and said a parking study had determined that four additional parking spots were needed, with a retaining wall that would help support the establishment of the extra spaces.

Mr. Newberry reported that favorable factors were the same as those found in the 2012 special use permit request, which would expand the capacity for youth development services in Southwood and provide a larger community space overall; there were no unfavorable factors identified. He presented a marked-up version of the SP conditions from 2012, stating that the resolution attached to the transmittal had a clean version. Mr. Newberry said that staff is proposing the concept plan, the updated plan, and that the limit on the number of children be increased from 120 to 200. He presented recommended motions and said that Planning Department staff recommends approval and that the Board adopt the resolution in Attachment D.

Ms. McKeel opened the public hearing.

Mr. James Pierce addressed the Board and introduced Boys & Girls Club Board Members and staff members, parents of Southwood children, and 10% of total membership at Southwood Club, as well as several other supporters who were in the crowd. Mr. Pierce reported that about a year ago, they maintained a waiting list at the Club of over 100 young people, and they are now proposing to bring 100 new kids off of the waiting list and into the Club every day after school for four hours a day and all day long during the summer. He stated that the Club opened in Southwood in the year 2000 and currently serves 200 members, with an average daily attendance of more than 100 members per day, ages 6 through 18. Mr. Pierce said that the Southwood Club offers ballet activities, forest education, leadership programs, homework support, and a teen center. He stated that the goal at this meeting is to seek approval to serve up to 200 children per day at this location, by adding a nearly 3,000 square foot building on the current campus. Mr. Pierce thanked the Club's partner, Habitat for Humanity of Greater Charlottesville, for continuing to find ways to serve more kids at this particular location. He noted that the Boys & Girls Club looks forward to working more closely with the Board to serve the interests of the citizens of Albemarle County, and he introduced Craig Katarsky, a Civil Engineer with the Timmons Group.

Mr. Craig Katarsky addressed the Board and stated that the civil engineering firm Timmons Group put together the application for the Boys & Girls Club, working with Habitat for Humanity and staff to ensure what is being presented is inclusive enough for the Board to make a decision on the special use permit. Mr. Katarsky stated that the special use permit will allow the Club to serve up to 200 students during the school year and the summer, with a modular unit brought in that would expand the Club's current use on the site while Habitat's rezoning application and process is underway. He said they want to design this in a way that it can serve all members, as there is currently no ADA pathway to exit the Club

and come to the basketball court and soccer pitch. Mr. Katarsky stated that this application will provide the opportunity for an ADA ramp to be built next to the building, a modular unit of approximately 36'x76' or 2,400 square feet. He said that as part of this, he worked with Habitat to ensure they were not creating any issues for the adjacent neighbors, with tree screening planned against Mist Court and Carrier Drive on the east side, and referenced the area to be disturbed for parking, with the remainder of parking just being restriped.

Ms. Mallek asked if the new modular building will be similar to the existing one that went into service about three years ago for homework, etc.

Mr. Katarsky responded that it will be similar in style and there was a special use permit previously for increasing enrollment, and this new modular unit is about twice the size of that.

Ms. Karen David-Mejia addressed the Board and said she is a resident of Southwood and has two daughters who participate in the Boys & Girls Club. Ms. David-Mejia stated that she is present to support the Club and its expansion, noting that this is very important for families whose children are on the wait list. She said the Club helps children with their homework to do better in school, and she asked the Board for assistance with the expansion.

Ms. Hazael Garay addressed the Board and stated that she has been working in the Boys & Girls Club at Southwood for the last two years, and the wait list is too long for kids. Ms. Garay stated that the staff at Southwood is hopeful for the expansion, and she introduced several Southwood students, who spoke in support of the Boys & Girls Club expansion. She said the students use the Club to do their homework, but also play sports and participate in community programs, and she thanked the Board for their support.

Ms. Faye Giles addressed the Board and stated that her daughter, who is now 20 years old, had attended the Boys & Girls Club when she was young because there were no after-school programs available. Ms. Giles said that her grandchildren, who are now 12 and 8, attend Southwood Boys & Girls Club. She stated that without the Club, many parents cannot work because they cannot afford to go to their jobs without appropriate after-school care. She stated that she is a friend of the Club and is on the Board, and her daughter is also a friend of the Club because her children go there over the summer. Ms. Giles said it is a sad thing to turn away children from the Club, and saying "no" to the children is saying "no" to the economy and the County, so they need to do everything possible to accommodate the extra children. She stated that the Boys & Girls Club is a great organization with an invaluable impact on the County.

Ms. Joselin Mendez addressed the Board and stated that she attends Burley Middle School and has attended the Boys & Girls Club since she was 5 years old, and it is important for them to expand the Club so more children can use it for learning and fun. She stated that she enjoys coming to the Club because they go on field trips and play sports, and the staff cares about students' education and personal development.

Ms. Jhateiri Talley addressed the Board and expressed her support for expansion of the Club so that parents can go to work and have someone help care for their children.

Ms. Johana Hernandez addressed the Board and stated that her daughter "Galilea" attends the Boys & Girls Club, and she is very grateful for the Club, waiting a very long time so that her daughter could join the Club at age 6, and she is now 13. Ms. Hernandez stated that she has met many people through the Club, including "Miss Olga," who is like a second mom to her daughter and shows a strong interest in helping their family. She said that the Boys & Girls Club also feels like a family, and it is important for doors to open for other families.

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

Mr. Randolph **moved** to adopt the proposed resolution to approve SP 2016-00022, subject to the conditions contained herein. 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. Newberry expressed his appreciation to Mr. James Pierce and Mr. Craig Katarsky for their exceptional work on the project.

#### **RESOLUTION TO APPROVE SP 2016-22 BOYS AND GIRLS CLUB EXPANSION**

**WHEREAS**, the Boys and Girls Club of Central Virginia, on behalf of the Owner of Tax Map Parcel 090A1-00-00-001D0 (the "Property"), filed an application to: 1) amend a previously-approved special use permit (SP 201200009) to expand the community center use by increasing the permitted enrollment from 120 children to 200 children; 2) to permit the addition of an approximately 2,800 square foot modular building on the property to accommodate the additional enrollment; and 3) to expand the parking area, and the application is identified as Special Use Permit 2016-00022 Boys and Girls Club Expansion (SP 2016-22"); and

**WHEREAS**, on February 7, 2017, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-22 with staff-recommended conditions; and

**WHEREAS**, on April 12, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-22.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2016-22 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code § 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-22, subject to the conditions attached hereto.

\* \* \*

**SP-2016-00022 Boys and Girls Club Expansion Conditions**

1. Development shall be in general accord with the concept plan titled "Southwood Boys and Girls Club Expansion" dated April 13, 2012 and the concept plan titled "Southwood Boys and Girls Club Expansion" dated January 27, 2017 (hereafter "Concept Plans") as determined by the Director of Planning and the Zoning Administrator. To be in general accord with these Concept Plans, the proposed buildings and uses shall reflect the following major elements within the site essential to the design of the site, as shown on the Concept Plans:
  - Location of buildings, uses, and structures, inclusive of the minimum setback for the structure from Bitternut Lane must be fifteen (15) feet (as approved under SP201200009)
  - Location of parking areas
  - Location of outdoor play area
2. Minor modifications to the Concept Plans which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance; and
3. The parking study is based on a maximum of two hundred (200) children. There shall be no more than two hundred (200) children at any one time served at this location of the Boys and Girls Club.

---

Agenda Item No. 16. **Public Hearing: PROJECT: SP-2016-000025. Regents School of Charlottesville.** MAGISTERIAL DISTRICT: Samuel Miller.

TAX MAP/PARCEL: 059000000023G1.

LOCATION: 3045 Ivy Road, Charlottesville VA.

PROPOSED: To omit condition #9 of SP2014-5 (the SP shall expire on Aug 13, 2017). Removing the sunset clause will allow the school more time to find a suitable location to relocate. No increase in enrollment or modifications to the school are requested.

PETITION: Chapter 18 Section 23.2.2(6) of the Albemarle County Code, which allows for School of Special Instruction.

ZONING: CO Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/acre).

OVERLAY DISTRICT(S): Entrance Corridor and Critical Slopes.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area 1 - Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots).

*(Advertised in the Daily Progress on March 27 and April 3, 2017.)*

The Executive Summary presented to the Board states that at its meeting on February 7, 2017, the Planning Commission voted of 5:0:2 (Spain, Dotson absent) to recommend approval of SP-2016-00025 with the conditions outlined in the staff report with a modified condition #9 from SP2014-5 as follows: "*SP-2014-5 shall expire on August 13, 2021*". The Commission's action letter, staff report, and minutes are attached (Attachments A, B, and C).

The staff report was slightly modified to correct two errors in information, changes can be found on Pages 3 & 4 in red. These minor changes do not modify staff's recommendation or analysis. To date, available traffic information does not indicate there is a significant traffic issue resulting from the increased enrollment previously approved. However, the assessment is based on one year and 10 months of date (or nearly two full school years).

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special use permit, subject to the conditions contained therein.

---

Mr. Christopher Perez, Senior Planner, addressed the Board and stated that this application is for SP-2016-00025 Regents School of Charlottesville, and explained that this is the Christian Aid Mission site where the school is located. Mr. Perez stated that the County has had numerous special use permits for the school previously, and the proposal was to amend condition #9 for SP-2014-0005 to eliminate the sunset clause, with no increase in enrollment proposed with this modification. He reported that the condition was placed on the special use permit for the Board to grant the school the request in 2014, and allow the County the chance to re-evaluate the approval based on traffic safety concerns and the performance of two access management strategies on the site, condition #2 and condition #3.

Mr. Perez explained that condition #2 was to reconfigure the entrance to prohibit left turns out so

that all traffic exiting the site would have to take a right-hand turn away from Charlottesville, and there have been no crashes related to the school at this entrance since the "pork chop" has been installed, so that condition has been complied with and is functioning as intended. He stated that there have been no crash "hot spots" towards the western portion where cars are doing U-turns at All Saints Anglican Church, located about a mile and a half down the road. Mr. Perez said that condition #3 to implement a van pool was also complied with, and the school currently has one van that holds 14 students, with a waiting list for that van. He noted that the applicant has decided to upgrade their situation and utilize a school bus, which will hold a maximum of 48 students and will help reduce the ingress and egress to the site. Mr. Perez stated that there have been no crashes at the entrance to the site, which is functioning as intended, and there have been no hot spots identified towards the western portion where they are doing the U-turns, with both strategies under these conditions working fine.

Mr. Perez reported that unfavorable factors include the fact that during review of the special use permit request, staff had consulted with the County's new Traffic Planner, who had mentioned a five-year timeframe used in traffic studies for VDOT and traffic engineers. He said that took this into consideration, given that the school was approved in 2014 and the timeframe of data was only 1 year and 10 months with the new entrance and turnaround, and staff felt that they needed at least 5 years to give professional guidance, based on standard practices. Mr. Perez stated that other unfavorable factors are that removing the sunset clause would allow this school to exist indefinitely onsite, and if issues arise in the future with transportation, the County would have no way to pull this back.

Mr. Perez stated that staff recommends a condition to extend the sunset clause out four years, to August 13, 2021, to give the school enough time to come back with a full five years and have some additional time to go through the special use permit request. He said that since the Planning Commission had recommended approval of this condition, the applicant requested a modified new condition, condition #10, which staff had reviewed within the last week. Mr. Perez explained that the condition kept the modified condition #9 and pushed it out to 2021, but it allows the school not to have to come back through the special use permit process, so it would be an administrative approval to expire the condition. He stated that the wording would state, "If the applicant's traffic engineer can demonstrate to the reasonable satisfaction of the Director of Planning that for a period of two years from the date of approval of SP 2016-00025 there has not been more than one left-turn angle crash that is a) due to site ingress or egress at the Regents School entrance during school activity hours, and b) determined to be specifically attributable to the Regents School use, then condition #9 shall automatically expire and become null and void at the end of the two-year period."

Mr. Perez stated that the purpose of the condition, as the school has explained, was to eliminate the need to come back for the SP, which involves a significant cost, and to provide a level of predictability so the school can begin enrollment for the next school year. He said that staff has analyzed the condition and found it to be legally enforceable and acceptable, with wording intended to keep it under administrative purview with staff so it does not have to go to the Board.

Ms. Mallek asked how this is different from any other special use permit for which there is no ability to pull it back, as they seem to be applying something that does not typically apply for special use permits. Mr. Perez responded that this condition was placed on the special use permit in 2014 by the Board, and staff's understanding was that the Board wanted to see it again to check in and see if the conditions were working properly, which they are.

Ms. Palmer said she feels the recommendation to go with five years is excellent and she is very comfortable with that, adding that she is aware that the school has been looking for another location in which to operate. She stated that the existing site is an unusual piece of property with old zoning, and this SP would go with the property, so she is uncomfortable saying that when the school moves, the County is not sure what is coming in there. Ms. Palmer said what staff has provided so far is good, and asked them to provide more details about the change.

Mr. David Benish, Chief of Planning, stated that the applicant would speak again about their recent proposal, but staff wanted to provide some feedback as to their ability to review this. He said that staff's recommendation is still for 2021, but this provides a measure in between now and then to allow for the condition to be extinguished, which the Board had wanted to impose. Mr. Benish stated that this condition is feasible, although there may be difficulty in getting some of the information verified, but that is up to the applicant to provide. He said if the Board agrees with the 2021 recommendation by staff, this proposal will allow for the interim option. Mr. Benish mentioned that staff has not seen a major safety issue at the site, and this proposal is to determine how much more information the Board wants to have to be assured of that.

Ms. Palmer said that Regents School is obviously doing things correctly, but the SP goes with the property and this is an unusual parcel with the old zoning. She added that she likes the idea of the five years, since the school is planning to move and it is uncertain as to what would take its place.

The Chair opened the public hearing.

Ms. Valerie Long addressed the Board on behalf of the Regents School and stated that there are several school administrators, board members, teachers, and families present. Ms. Long said that the school was last before the Board in 2014, when Mr. Dill and Mr. Randolph were not on the Board, but Mr. Randolph was serving on the Planning Commission. She stated that things did not go well at the Commission level, so she got involved at that time. Ms. Long reported that the school was first established in 2010 in Charlottesville at Jefferson Park Baptist Church, with seven students. She said that

in 2012, after obtaining their first special use permit, the school moved to an Ivy Road location, with the ability to grow to 60 students maximum, but the growth far surpassed their expectations, so the school came back to the County a year later and obtained an amendment to their special use permit, which allowed up to 96 persons including staff. Ms. Long stated that in 2014, the school came back to increase the enrollment to 130, which was approved by the Board with a sunset clause; in 2015, the school re-established an upper school at Jefferson Park Baptist Church; and in 2016, the school submitted a special use permit amendment to remove the sunset clause.

Ms. Long presented information on the school's enrollment trends, noting that the school had almost 130 students in the 2015-16 school year, but now that enrollment is a bit lower because the school has more students at the Jefferson Park location. She stated that this is not the ultimate location for the school, which has been actively pursuing new locations. Ms. Long noted that this has been a challenge, as a special use permit is required for almost any location, and the applicant has lost a few properties in bidding wars to other purchasers who do not need zoning contingencies, which the school does need because they must know if they will get their special use permit prior to committing to buy a multi-million dollar property. She stated that 11 of the 63 families at the school now use the van pool, and the school bought an old school bus and refurbished it, having one of their teachers get his commercial driver's license so he could drive the bus, which holds up to 48 students. Ms. Long said that a number of the students are children of employees of the school, so they are coming onsite anyway, and 17 of the 63 families participate in carpools that are separate from the bus. She noted that 7 of those families live west of the school, so they turn right and go west anyway.

Ms. Long presented a map showing the school site and the entrance, as well as an aerial photograph showing the "pork chop" median barrier that discourages people from making a left turn out of the site, which was put in place just after the 2014 Board hearing. She stated that the school hired a traffic engineer, who studied the existing traffic with the higher enrollment and look at crashes that were attributable to the school, with no issues observed. Ms. Long said the turn barrier is working very well and the van pool has expanded, with the sunset clause serving as a check-in mechanism to make sure the conditions are working. She stated that school officials have done an outstanding job in conveying to families the importance of complying with the no left-turn policy, and a culture of compliance has been established at the school, as they understand how important it is for compliance with the conditions of approval. Ms. Long presented a rendering of the school's pick-up and drop-off circulation plan, noting that cars leave the site by turning right onto Ivy Road. She also presented a picture of the refurbished school bus that just began service. Ms. Long stated that there is no evidence of any traffic issues or accidents attributable to the school site, with the modified entrance functioning and no traffic backups during drop off, and existing signals on Route 250 continue to function well, with the bus even further improving the situation.

Ms. Long stated that the applicant's primary request is to continue the special use permit, with a request to remove the sunset clause completely. She said the purpose of the three-year sunset clause was to check in and make sure the traffic mitigation measures were working well, and there were some helpful comments from Mr. Sheffield as well as then-County Attorney Larry Davis. Ms. Long emphasized that the conditions have been complied with and have worked very well, and the applicant is requesting that the sunset clause be removed, as it creates tremendous uncertainty for the school in terms of both short and long-term planning, as well as diverting the school's resources. Ms. Long said that if the Board is not willing to remove the sunset clause completely, the applicant's secondary request would be to craft this in a way that is enforceable and avoids having them come back through another special use permit process.

Mr. Jared Christophel addressed the Board and stated that he serves on the board of the Regents School. He stated that with the help of the County's planners, he spearheaded the school's first two SPs in 2012 and 2013, and staff encouraged the school to engage a civil engineering firm, which they did. Mr. Christophel stated that there are five Regents Board Members, with most of their time spent trying to find a new property for the school, with two properties currently being seriously considered. He said they like to spend their time doing that instead of spending time recapitulating the special use permit, which is expensive. Mr. Christophel said there is a sense of anxiety among students and families to have a special use permit that is up again for renewal. He stated that at the 2016 meeting, there was a lot of concern coming from the Flordan community next door to Regents, with the three-year sunset clause struck as a middle ground. Mr. Christophel said Flordan residents expressed concern that people would be taking a right-hand turn to go down Broomley Road, but the school has been a good neighbor.

Ms. Brandy Nicholson, a parent of four children who attend Regents School, addressed the Board. She stated that her oldest children started going to the school about four years ago and enjoy the school, as well as growing positively from their experience. Ms. Nicholson said the sunset clause creates a lot of stress and anxiety because of uncertainty as to whether the school will continue and where it will be, and as a parent she would request the Board agree to abolish it. She thanked staff for their suggested alternatives, and the Board for looking graciously upon the school and the children it serves.

Mr. Don Woodsmall addressed the Board and stated that he is a Regents School Board Member. He said the purpose of the sunset clause was an insurance policy to have the school come back and demonstrate they had done everything in the special use permit, which everyone agrees that they have. Mr. Woodsmall stated that it is not customary for SPs to be granted with provisions that they be re-reviewed by the Board, and the zoning considerations have made it difficult for the school to negotiate property purchases with landowners and financiers. He said it is possible that the school would still be on the same site in 10 years, and the County always has the ability to revoke a special use permit if the conditions are not followed. Mr. Woodsmall asked the Board to release the sunset clause entirely, as the

purpose was to implement a mechanism by which the County could check in and see if conditions are being followed.

Ms. Long stated that she has the minutes of the Board's 2014 meeting at which time this item was considered, and she asked attendees in support of the Regents School application to raise their hands. She noted that there were many Flordan residents at the 2014 hearing who raised concerns about the traffic and compliance with turning out of the site, but there are none at this meeting, which indicates that those objections have been satisfied.

There being no other comments from the public, the Chair closed the public hearing.

Mr. Randolph stated the reservations he had about this when he was on the Planning Commission were cautionary, but subsequent events have alleviated his concerns. He said this applicant has demonstrated that the school has been responsible and responsive, and he is comfortable with removing the sunset clause, as he does not wish to further burden the school with expenses needed for another special use permit. Mr. Randolph noted that the school has demonstrated its commitment to meeting the County's expectations and should be supported in this location, adding that he wishes them luck in finding a new site.

Ms. Mallek asked if Mr. Randolph is supporting entire removal of the sunset clause or the five-year provision recommended by staff. Mr. Randolph responded that he is supporting the five-year proposal.

Ms. Palmer asked for clarification that he is supporting staff's recommendation. Mr. Randolph confirmed that he is.

Ms. Palmer stated that she also feels comfortable with staff's recommendation, and she understands that it took a few years to fully understand the traffic issues. She said she has been driving by the school as often as possible, and has not seen people contradicting the traffic measures that were implemented.

Mr. Sheffield stated that he supports removing the sunset clause altogether, adding that he is not in favor of imposing additional financial burden on the applicant.

Ms. Mallek agreed, stating that there were no other SPs in which the Board has done this. She said she remembers the debates that went on surrounding this application, but staff has indicated that the school has met the requirements and the measures implemented have been successful. She stated that the idea behind the sunset clause was to provide one check in, not to check in every five years. Ms. Mallek said that every special use permit in Virginia runs with the land, and the Board should not say that SPs are temporary when applicants are meeting their obligations.

Ms. Palmer stated that staff has said that five years was a better number to identify when there has been a problem.

Ms. Mallek said this would be valid if there had been accidents here, but there have been none, and at the time the SP was granted, the County did not yet have a traffic engineer to sign off on this. She emphasized that the applicant has made a reasonable request.

Mr. Sheffield stated that when he first read the traffic conditions, they seemed logical, but there is nothing to hold the applicant harmless for every other external event that happens over the next five years that impacts the traffic study. He said that unless the Board can build into the SP a provision to hold the applicant harmless for external factors, which is not even technically possible, it is almost absurd to hold the applicant accountable.

Ms. Palmer asked staff to revisit why staff recommended the five-year period. Mr. Benish responded that the five years was a general standard for traffic studies as a preferred timeframe, and there was nothing specific that the transportation planner saw that led to a particular need. He stated that this condition had been set by the Board, but if they are comfortable with the information presented and feel it addresses their needs, it would be best to eliminate the condition.

Ms. Mallek stated that if they wanted a five-year standard, they should have done it in 2014, and her concern is that they are changing the rules when the game is half over.

Mr. Randolph stated that Principal Planner, Kevin McDermott, recommended a sunset clause to allow additional review of traffic over a longer period of time and access management onsite. He said the school is looking for another location and if they find one in two years, it is possible that another school that is not as responsible as Regents could come in, and the County will have granted a permanent opportunity to operate in a risky manner on an already congested road. Mr. Randolph commented that if the school were remaining on this site into perpetuity, he would agree with the elimination of the sunset clause, but that is not the situation here and it is reasonable to have it in place. He added that the Board is protecting itself and also protecting the community if another school were to come in.

Ms. Palmer commented that this is a very unusual zoning situation.

Ms. Mallek stated that it is not unique in any way in the County, and there have been many parcels that have similar uniqueness and attributes.



Mr. Sheffield noted that this is why the permits are called “special” use permits.

Ms. McKeel asked about the use of the bus, and whether it has been running for just two weeks. Mr. Perez responded that the school had previously used a van, which did not require a commercial driver, but they upgraded to a bus so they could accommodate those on a waiting list. He said they now have a trained bus driver and have been using the bus for two weeks. He also stated that the Board could extend the terms of the SP beyond the five years.

Mr. Randolph stated that he would be agreeable to that, as he is confident the school will be responsive.

Ms. McKeel agreed that she would be willing to tack on a few years.

Mr. Kamptner asked what would happen with Mr. McDermott’s analysis of the history if there were a sudden wave of accidents. He stated the concern from Board members is that this particular use could go on indefinitely, but this property is in a rural area and the Comp Plan was trying to have school facilities in the development areas. Mr. Kamptner said that a sunset clause to bring this in conformance with the Comp Plan could justify a longer sunset clause, but the applicant may be deferring capital improvements with this.

Ms. Mallek stated that this property has been used for commercial purposes since the 1960s, and it seems unfair to hold the applicant to a rural standard.

Mr. Kamptner said he is just putting out some options to consider, and he is not hearing that this use is creating traffic problems, and there are no issues with the conditions that are currently in place.

Ms. Palmer commented that she is sensitive to the issue of increased traffic along Route 250, and five years was chosen because the traffic planner felt that was appropriate, and she asked what the justification would be for 8-10 years. Mr. Perez responded that the only reason he would suggest for doing that would be to give the applicant more time to find another location.

Mr. Kamptner stated that it would also return this parcel to be more consistent with the Comp Plan designation, which is rural area.

Ms. Palmer commented that 10 years is a long time.

Ms. McKeel noted that it is 2021 right now.

Ms. Mallek stated that 10 years is a long time to hold the applicant to a no accident standard.

Ms. McKeel and several others commented it is not a “no accident” standard.

Ms. Mallek said the goal would be the dissolution of the sunset clause and not forcing them out before then. Ms. McKeel responded that they are trying to find a new location anyway.

Ms. Mallek stated that they have heard from other applicants over the last five years how long it takes to find a place and go through the process, and she could agree to an administrative waiver in 10 years, but not some extraordinary requirements just for this one applicant.

Mr. Benish stated that the proposal would be to extend this for a long period of time, which would make it less likely to need the alternative condition, which contains a measure at a certain point in time that the applicant has to meet. He said there is nothing in the condition that calls for the SP to be revoked if there was an accident, it is the measure that allows for the sunset clause to be deleted if the condition is met. Mr. Benish stated that the proposal from Mr. Perez and Mr. Kamptner is in lieu of that condition, for a longer period of time.

Ms. Mallek asked if this would potentially cost the applicant another \$2,500 in 10 years if they have not found a new location. Mr. Benish confirmed that this could be the case.

Ms. McKeel reiterated that the applicant is looking for another site, but acknowledged that this could take some time.

Ms. Palmer then **moved** to approve SP-2016-00025 with the sunset clause extended to 2027.

Ms. Mallek asked if this is making it worse or better for the applicant.

Ms. Long said Mr. Woodsmall asked her to remind the Board that they have five years of traffic data, beginning in 2012, with increasing enrollment each year and no traffic accidents attributable to the school over those five years. She stated that the purpose of the sunset clause was for the Board, as stated clearly in the minutes, to see that the conditions were working. Ms. Long said the new Transportation Planner was not in that meeting and had not read the minutes, so he was not aware of the Board’s intent in imposing the sunset clause.

Mr. Sheffield noted that he had recommended three years so he would still be on the Board when the sunset clause came back for review.

Ms. Long pointed out that the Field School, which was in the rural area, recently got an SP approved without a sunset clause, and it is frustrating for applicants to be treated differently when there is no basis for it. She stated that the applicant could live with a 10-year sunset clause, which is better than 4 years, but it still requires the applicant to come back if they do not have a new site. Ms. Long said this school has spent a significant amount of its resources on this application, which they would prefer to spend on their educational mission. She stated that she does not see a reason to treat this applicant differently, and the Regents School's parcel is actually zoned commercial, unlike the Field School site.

Ms. Mallek asked if the 10-year sunset clause provision is better than the compromise that has the sunset expiring. Ms. Long responded that if condition #10 automatically expires, that would be better. She explained that the applicant's first choice would be elimination of the sunset clause, second choice would be an automatic expiration, and third would be to extend the sunset provision for 10 years. Ms. Long stated that she questions the purpose of a sunset clause when there is no traffic problem at the site.

Mr. Sheffield stated that he does not support the sunset clause, but asked if there could be stipulations on the review of the sunset clause 10 years from now that would enable the Board to determine that conditions had or had not been met. He commented that it would be possible for a staff in the future to find another reason not to continue the SP, such as stormwater, lighting, etc.

Mr. Kamptner confirmed that there could be a condition built in that would allow it to expire if something automatically had or had not happened. He also asked staff if the fact they have five years of traffic history changed their review of this. Mr. Benish responded that some of those years preceded the expansion of the school.

Mr. Kamptner stated that those years also preceded the addition of the "pork chop" traffic barrier.

Mr. Dill said he appreciates staff's efforts to do the right thing here, but this is just another layer of the County asking too much of applicants. He stated that he used to live on the cut-through road there and while it had some issues, the pace of traffic was slow and he did not think this was a seriously dangerous thing like 240 and 250 meeting at a higher speed. Mr. Dill noted that this seems like a bit of a government overreach, and the sunset clause should be dissolved.

Mr. Sheffield commented that traffic is always the number one issue raised by constituents, and if they are going to deny things because of potential traffic problems, they would have to shut down everything, as there are only a certain number of corridors.

Ms. Palmer stated that she is always concerned when there is a use so close to a stoplight, and they can only put so many lights in, and she is concerned about what would happen in the future in that spot. She said she wants to have the option of looking at the site in the future, as it is not known what would go in on this site if the school were to leave.

Ms. Mallek pointed out that this does meet the VDOT requirements for distance from the light, and with a stoplight directly east and one directly west, the traffic goes even less than 45 mph. She said that she has traveled by the property several times during school release times, and there has been no issue of traffic backing up or having problems getting out.

Mr. Randolph suggested that the sunset provision be added for 10 years, and at that time the applicant could have an administrative review, thus avoiding the SP process and cost.

Ms. Long stated that the applicant would be agreeable to that, but wants Mr. Kamptner's opinion.

Mr. Kamptner stated that figuring out the administrative review is the challenge, and they would need purely objective criteria that would be incorporated into the condition.

Ms. Long said that is what they did with the current condition, in an effort to try to avoid the problem of being held responsible for accidents in the corridor that were unrelated to the school use. She stated this is still a risky condition, and that is why it is not the applicant's first choice.

Mr. Randolph stated that the Board is looking for a pattern, not an isolated traffic incident, and said if the applicant is comfortable with creation of performance criteria, they could likely get a unanimous vote.

Mr. Dill emphasized that this idea makes it more complicated, and this just extends the uncertainty from 3 years to 10 years.

Ms. Palmer commented that the applicant probably would not be there in 10 years.

Ms. Mallek stated that the Board must consider the application at the time it is submitted, with the people involved and the facts that they have, and cannot predict what will happen in the future or hold applicants to factors that are outside of their control.

Ms. Long noted that land is not getting any cheaper or more available.

Mr. Sheffield said the school moving to another location would likely just shift this problem into another district.

Ms. Palmer asked if there are any reasonable conditions per Mr. Randolph's suggestion that could be implemented. Mr. Benish responded that the condition was developed with Mr. McDermott and the applicant's engineer in an effort to evaluate a condition that could be administratively implemented and was consistent with the Sinclair case, which provided limited abilities for staff to administratively act on legislative matters. He stated that this condition is basically a checklist for the applicant to meet, and while it would be difficult to find information to support that an accident was not attributable to the school use, the applicant has the ability to do that. Mr. Benish said this was what had been worked out to allow for an administrative action, per the Sinclair case, and if the Board wants to extend the period of time to 10 years, they could do that. He stated that the applicant, along with the Transportation Planner, may want to assess whether it is one accident or more, since it is over a longer period of time.

Ms. Mallek suggested that they include a "pattern" of accidents in the condition, such as a pattern of left-turn angle crashes, so if this has not occurred, then the clause would automatically expire. Mr. Benish responded that a pattern is not something that could be administratively applied by staff, and it has to be a specific number. He stated the condition specifically states that it must be an accident attributable to a school event with those involved in the accident affiliated with the school.

Mr. Kamptner agreed that it must be a specific number.

Ms. Mallek stated that if a person is turning from an icy road and got into an accident, that could theoretically undo the whole thing.

Mr. Dill agreed, stating that this situation would not be any different five years from now and could likely be challenged in court as to whose fault it was.

Ms. McKeel stated that she is trying to follow what the staff Transportation Planner recommended and staff concurred with.

Mr. Dill said the Board does not always agree with staff.

Ms. Mallek commented that there had been five years of data and no accidents.

Ms. Palmer stated that there had not been five years of data with this amount of students.

Ms. Mallek said it is about the same when considering how many students are riding the bus, and the worse-case scenario here is a "no" to the applicant.

Mr. Kamptner stated that another option would be for the Board to defer action so the staff could fashion a condition that would get a majority.

Mr. Sheffield said a lot is going to happen in the community in 10 years, and unless they can stop every development along Route 250, they would be holding this applicant accountable for additional traffic congestion on this road caused by other developments, and the Board is putting the applicant in an unusual situation. Mr. Sheffield said the applicant followed through with their commitments from three years ago, but now the Board is not holding up their end of this.

Ms. Palmer said that staff has said this was not enough length of time. Mr. Sheffield responded that the Board felt it was enough time four years ago.

Ms. Mallek agreed that the Board is changing the rules from what they had done previously.

Ms. Palmer asked Mr. Kamptner if they could have 10 years with automatic dissolution of the provision if criteria were met. Mr. Kamptner confirmed that they could, and said if the Board cannot reach consensus, then staff could work on conditions further so that the Board does not take a vote that results in denial.

Mr. Benish said that staff would need some direction from the Board on this, as this was a condition they imposed with some expectations, and staff would need a condition that addresses those things.

Ms. Palmer stated that she would suggest a condition that follows the existing criteria in condition #10, but for 10 years instead of 2.

Ms. Mallek asked if she is looking for 5 crashes in 10 years, rather than 1 crash in 2 years.

Mr. Sheffield said if there are 1,000 extra cars on the road by that time, this would be an extremely unfair condition.

Mr. Benish stated that this type of number, based on general growth, does not meet the standard set by Sinclair.

Ms. Palmer asked what Sinclair is. Mr. Kamptner explained that the Virginia Supreme Court ruled that zoning decisions on things such as critical slopes waivers can only be decided by the Board of Supervisors, not commissions which are not elected, and this is why the waiver and modification process was changed a few years ago so there are special exceptions acted on by the Board.

Ms. Long commented that the consensus is that the Regents School is doing a good job, but the site is zoned commercial and could be used as such for another user, but suggested that the SP would be valid for as long as the school is the occupant of the site.

Various Board members asked if this is legal. Mr. Kamptner responded that Boards in the 1980s tried this and created problems, as SPs are tied to the property and not the user. He stated that the durational limit on this proposal was implemented to allow staff time to study the traffic conditions and whether the SP should be continued or whether the conditions should be modified to deal with the left turns, which is why those types of conditions are acceptable, as it is difficult to evaluate them in advance of the use itself. Mr. Kamptner commented that the goal was to deal with that issue, but also ensure that the applicant would find a permanent location before then.

Ms. Long stated that she does not see the distinction between the SP running with the land versus running with the applicant, as contrasted to a time limit to measure whether conditions were effective, and in this situation those are one in the same, as this applicant has followed the conditions for the time they have been there. She noted that the conditions said to install the pork chop and use the van pools, which was the question raised in 2014 in terms of compliance, and the check in was provided for that purpose. Ms. Long said it is not typical to limit an SP for a user, but it is also not typical to have a sunset clause that is as restrictive as this one was, then impose it for three years, re-evaluate it, and come back having done everything only to have the rules changed. She emphasized this site is zoned commercial although it is not in the designated development area, and it is not reasonable to burden this applicant because of concerns as to who might come after them, when this applicant is following all the rules.

Ms. McKeel asked if the compromise condition is acceptable. Ms. Long clarified the condition was that the sunset clause would automatically expire if there was no more than one crash in two years attributable to the school, at the school entrance, during school hours. She stated there was a process to determine whether a crash incident report attributed that to a user.

Ms. McKeel said she would support that.

Ms. Palmer then restated her **motion** to adopt the proposed resolution, subject to the recommended conditions. Mr. Randolph **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.

#### **RESOLUTION TO APPROVE SP 2016-25 REGENTS SCHOOL OF CHARLOTTESVILLE**

**WHEREAS**, Christian Aid Mission is the owner of Tax Map Parcel Number 05900-00-00-023G1 (the "Property"); and

**WHEREAS**, the Regents School of Charlottesville ("Regents School") operates a private school on a portion of the Property; and

**WHEREAS**, Regents School filed an application to amend a condition of a previously-approved special use permit (SP 201400005) to extend the special use permit expiration date to August 13, 2021 to allow the school more time to find a suitable location to relocate, and the application is identified as Special Use Permit 2016-00025 Regents School of Charlottesville (SP 2016-25"); and

**WHEREAS**, on February 7, 2017, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2016-25 with staff-recommended conditions; and

**WHEREAS**, on April 12, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2016-25.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2016-25 and all of its attachments, the information presented at the public hearing, and the factors relevant to a special use permit in Albemarle County Code § 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2016-25, subject to the conditions attached hereto.

\* \* \*

#### **SP-2016-00025 Regents School of Charlottesville Conditions**

1. The school is limited to the existing administrative building and grounds, as shown on the concept plan (Attachment A). All parking for the facility shall be located in areas designated on the concept plan as P1, P2, P3, P6, and P7. Any additional buildings or other site changes, except for those required by the conditions of this permit, beyond those shown on the approved site plan for SDP-1992-052 titled "Christian Aid Mission Administration Building" prepared by William W. Finley and date approved July 14, 1994 require an amendment to this Special Use Permit;

2. The entrance from Rte 250 shall be reconfigured to prohibit left turns out within thirty (30) days of approval of SP-2014-00005, and the maximum enrollment shall not exceed ninety-eight (98) students in the 2014-2015 school year, and one hundred thirty (130) students in the 2015-2016 school year and any subsequent years;
3. The permittee shall implement and maintain van pools beginning with the 2014-2015 school year;
4. All students shall be over the age of two and one-half (2 ½) years old;
5. The hours of operation for the school shall be between 7:45 a.m. and 4:00 p.m., except that occasional school-related events may occur after 4:00 p.m.;
6. No food preparation is permitted onsite without an amendment to this Special Use Permit to authorize onsite food preparation;
7. The permittee shall obtain an annual fire inspection from the County fire marshal;
8. In no case shall the total number of people (students and school personnel) utilizing the school building exceed one hundred fifty (150); and
9. SP-2016-00025 shall expire on August 13, 2021.
10. If the applicant's traffic engineer can demonstrate to the reasonable satisfaction of the Director of Planning, that for a period of two years from the date of the approval of SP2016-00025, there has not been more than one left turn angle crash that is (a) due to site ingress or egress at the Regents School entrance during school activity hours; and (b) determined to be specifically attributable to the Regents School use, then condition #9 shall automatically expire and become null and void at the end of such two-year period.

---

**NonAgenda.** At 8:14 p.m., the Board recessed its meeting, and reconvened at 8:24 p.m.

---

Agenda Item No. 17. **Public Hearing: PROJECT: ZMA-2014-00006. Avon Park II.**

MAGISTERIAL DISTRICT: Scottsville.

TAX MAP/PARCEL(S): 09000000003100.

LOCATION: 1960 and 1968 Avon Street Extended. Approximately 1000 feet north of the intersection of Avon. Street Extended and Route 20, south of existing Avon Court.

PROPOSAL: Amend proffers and application plan for Avon Park II (ZMA201200004). No new dwellings proposed.

PETITION: For the 5.62 acres currently zoned Planned Residential Development (PRD), which allows residential uses with limited commercial uses at a density of 3 - 34 units/acre, amend proffers as follows: 1)modify proffer 1 to allow for multiple ways in which affordable housing may be provided including for-sale units and an option to provide cash in lieu of affordable units; 2)reduce cash proffers from \$13,913.18 to \$3,654.99 per single family attached unit and from \$20,460.57 to \$17,123.12 for each single family detached unit; 3)update the annual adjustment for cash proffers; 4)state that credit is to be given for 5 by-right units; 5)provide landscape easements and landscaping around the perimeter of the property; provide for tree removal on 3 adjoining properties, at the discretion of those owners; 6)add recreational amenities to Avon Park's park owned by the Avon Park Community Association; 7)provide a scrim fence adjacent to tax map parcel 090F00000000A1 at discretion of Avon Park Community Association. Changes to application plan include provision of an emergency access drive at the east end of Stratford Way connecting to Avon Street, extending bollards at each end of the travel way to limit use to emergency vehicles only and provide for attached units at the east end of Stratford Way with a shared parking area at the end of the street.

OVERLAY DISTRICT(S): Entrance Corridor, Steep Slopes – Managed.

PROFFERS: Yes.

COMPREHENSIVE PLAN: Neighborhood Density Residential-residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses in Southern Urban Neighborhood 4.

*(Advertised in the Daily Progress on March 27 and April 3, 2017.)*

The Executive Summary presented to the Board states that at its meeting on July 12, 2016, the Planning Commission voted to recommend approval of ZMA201400006 provided that the applicant make technical changes noted in the staff report, demonstrate that access to water exists for the neighboring properties to the south, and look into tree issues that concern property owners to the north. The Commission did not support the applicant's request to reduce the cash proffer amount because insufficient information had been provided on mitigation of impacts from this rezoning. Attachments A, B, and C are the staff report, Planning Commission's action letter, and minutes from the July 12, 2016 meeting.

With the exception of cash proffers, the applicant has addressed the Planning Commission's requested changes and all other outstanding technical issues. Regarding cash proffers, the total value of proffers in 2012 was estimated at \$371,556. For the July 2016 Planning Commission meeting, the total value was estimated to be \$97,466. Since the Commission's meeting, the applicant has increased the

total value to \$242,526. To increase proffers to the 2012 level, the applicant would need to provide approximately \$129,000 more.

Attachment D provides the applicant's justification for the reduced proffer amount. He has said that the costs to address the Fire and Rescue Department's requirement for a secondary entrance during site plan review, which was not required during the ZMA process or early site development plan review, is between \$150,000 and \$170,000. The applicant is requesting credit for the unanticipated cost. The Director of Community Development has reviewed the information in Attachment D but cannot substantiate the applicant's claim that the requirement for a secondary entrance results in significant grading costs. While Fire and Rescue's requirement for a secondary entrance came at the site plan stage, it appears the approved plan could have been modified without significant grading costs had the design not changed to increase the number of lots. (The number of units did not change.)

While staff believes that all other changes necessary for approval have been made, it cannot recommend approval of the proffers because no information has been provided to demonstrate that impacts of the units have been addressed. However, if the Board wishes to approve the application plan change and proffers, then staff recommends that the Board adopt the attached Ordinance (Attachment E) which includes the applicant's current proffers to approve ZMA201400006.

---

Ms. Elaine Echols, Principal Planner, addressed the Board, stating that staff will provide a presentation on the project, with the applicant requesting an opportunity to speak with them about the cash proffer policy prior to holding the public hearing. She stated that the applicant would like to get some input from the Board, and this would not prohibit anyone from having the opportunity to speak.

Ms. Echols stated that this is a request to amend the proffers and application plan for the previously approved ZMA 2012-0004, and the property is located on Avon Street south of the City of Charlottesville. She said there are two houses on the property, 1960 and 1968 Avon Street Extended, and it is next door to the existing Avon Park I development. Ms. Echols stated that the current development is PRD and is in the entrance corridor, and the proposed change would not change the zoning district. She said the property has been rezoned several times: in 2007 from R-1 to R-6; and in 2012 from R-6 to PRD, to change the mix of units. She said that in 2014 the applicant came in to get a site plan approved, but there were several things that needed to be changed in order for it to be approved, including the addition of an emergency access way, so there was a decision made by the applicant and for other reasons that the plan would be revised, with a request for modification of the plan.

Ms. Echols presented the site plan showing Avon Park I, with the rezoning approved to allow a road to extend to the adjoining property with two turnarounds on either end. She stated that there were townhouses proposed with this particular location, but when the applicant could not get adequate parking for those townhouses along the road, due to VDOT requirements, he decided to pursue a modification of the plan whereby the hammerhead shape became a cul-de-sac, with an emergency access way added on one end. Ms. Echols said the townhouses are now in a different area on the site plan and the road has been extended further down the hill, but there is no difference in the number of units, it is the same 32 units, and they are just being distributed differently across the property. She stated that in addition to the changes to the plan, the applicant has asked for some amendments to the proffers, with the 2012 proffers still active pertaining to 15% affordable units, which the applicant is still planning on doing. Ms. Echols noted that at the Planning Commission meeting, there was some involvement with Habitat for Humanity, but that is no longer the case, so the affordable units will now be in the townhouses or accessory apartments within those units as they were before. She stated that the provisions for over lot grading did not change, and additional erosion and sediment control changes to limit impacts during construction are not changing.

Ms. Echols said what has changed is the amendment to the proffer amounts, and the applicant is also providing more landscaping and commitments in the proffers for both screening and landscaping on adjoining properties. She stated that the applicant is trying to address the potential of having trees on adjoining properties affected by the grading by offering to remove trees on adjoining parcels if the owners request that, up to five feet over the property line. She stated that Avon Park I has a set of amenities, which Avon Park II would like to use, but the applicant is augmenting and improving them. Ms. Echols noted that there had been numerous conversations with the homeowners association about this, as well as about landscaping and screening, and there is also a proffer for a temporary fence to screen the site during construction. She pointed out that the only outstanding issue between this meeting and the Planning Commission meeting had to do with the proffer. Ms. Echols stated that the proffer in 2012 was close to \$14,000 per unit for attached units, and the applicant is proffering about \$3,650 per unit for attached units. She said that for detached units, the applicant is a lot closer to what was proffered in 2012, and he is proffering approximately \$17,000.

Ms. Echols reported that staff has been asking for more information on how the impacts would be mitigated when this went to the Planning Commission and when this was submitted, and the applicant sent a letter addressing the additional costs incurred by the redesign. She stated the letter was the only information staff had been given, and they could answer questions about those changes in the context of the plan. She said the plan itself and all the proffers, except for the cash proffers, were consistent with the recommendations by the Commission and staff. Ms. Echols stated the unfavorable aspects are that the cash proffered in 2012 was voluntary and was reasonable at the time, but the applicant has said that this is now a different owner for the property, but staff has no additional information to evaluate how the impacts are being mitigated.

Ms. Echols stated that staff cannot recommend approval of Avon Park II due to the cash proffer and not having enough information about those impacts, but the applicant is seeking guidance from the Board on the proffers after he explains why the proffers he is offering are sufficient. She said when they get to the time in this particular part of the meeting when they talk about motions for approval, they have a motion to approve this with the ordinance in the packet; if the Board chooses to deny the request, staff asks that the Board provide reasons for the denial of the rezoning. Ms. Echols offered to answer questions on the project itself.

Ms. McKeel asked if there are any questions from the Board at this point on the project. There were none. Mr. Kamptner stated that the applicant wants to provide information to the Board and get their feedback.

Mr. Beau Dickerson addressed the Board and stated that he is the applicant. Mr. Dickerson said the plan has been through three different submissions, and his hope is to speak to the Board on the subject of fairness in terms of how the government and public should interact on good faith and precedent, as well as speaking specifically on impacts. He stated that in 2008, when Vito Cetta had the plan, a single-family lot was \$145,000 and no one was buying that plan; in 2011, Mr. Dickerson indicated he wanted to buy the plan but needed single-family detached with a revised pricing structure. He stated that in 2012, Mr. Cetta took the plan through and everything was good, with Claudette Grant indicating that there were a lot of comments but nothing insurmountable. Mr. Dickerson said that parking was the biggest issue and would have caused the affordable housing unit tenants to walk quite a long way. He stated that at the time, Linda Connor was the HOA president and said the neighborhood would really like the townhomes at the bottom of the hill. Mr. Dickerson said that it would only add four or five months, so he agreed as he was working through the plan.

Mr. Dickerson stated that at the last minute, Fire/Rescue said they needed an emergency access unless the units could have sprinkler systems. Mr. Dickerson said the access was for Avon I, not Avon II, as that development did not have 43 units. He stated that he cannot figure out how this plan has gone through three submissions and Fire/Rescue signed off on the 2008 ZMA with no access. Mr. Dickerson said that he went ahead and put in the access road, with the plan from the top of the cul-de-sac to the top of the access road dropped by four feet, which is a significant amount of earth to move. He stated that the retaining walls now need to be put in and a significant amount of landscaping would be required because of the curve coming through the entrance corridor. Mr. Dickerson said he understands the need for proffers and Mr. Randolph has commented to him that development does not pay for itself. Mr. Dickerson stated that over time, it does. He said the 2008 and 2012 plans did not have the stormwater quality that they will have with the new plan, with the previous plans having water running downstream and eventually into the James River. He stated that he is putting \$200,000 into a stormwater system to clean water before it gets into streams.

Mr. Dickerson said the numbers of \$3,650 and \$17,000 were arbitrary in the sense of specific units, and he was trying to convey that in 2012, there was a total proffer amount of \$505,000 minus the credit of five by-right units, which would have equaled \$100,000, for a total potential proffer amount of \$405,000. He stated that he is now trying to meet that same number at \$405,876, but is also adding a stormwater system that far surpasses the system that would have been in place in 2012 and 2008, as well as adding an emergency access, which at some point would likely be used by future development to the south of this property.

Ms. McKeel asked if the Board has questions, and asked Mr. Kamptner to comment on this issue.

Mr. Kamptner responded that he can answer any questions and has his own questions for staff. He asked staff about the requirement for emergency access that arose from Fire/Rescue's review, and asked if it was a requirement as part of the development of the site as opposed to the rezoning of the site.

Ms. Echols stated that Mr. Graham may want to assist with this, and said that she is reviewing comments from Fire/Rescue, which stated that "a second means of emergency access was requested in an earlier meeting with Mr. Cetta in 2013; the second means of emergency access needs to be added for this development."

Mr. Mark Graham, Director of Community Development, stated that if this were being done as a by-right subdivision, there would also be the requirement for the second access, as the fire code was not looking at this from the perspective of a zoning change where more units were potentially being added to the property, they were just looking at it as the proposed use as shown on the plat.

Mr. Kamptner asked if the word "request" meant that Fire/Rescue was imposing a requirement or a request, under the Fire Prevention Code. Mr. Graham responded that because the comment came up as part of a plan review, it was not a request, it was a requirement.

Mr. Kamptner asked for clarification of the stormwater management requirements. Mr. Graham responded that those were related to the Virginia Stormwater Management Program and pertains to state requirements, which are imposed by the County.

Ms. Palmer asked if the Fire/Rescue access requirements were valid before or if they were a change in procedures over the last few years. Mr. Graham responded that for whatever reason, it was not required until they got to a certain point in the planning when Fire/Rescue realized they needed to have that access.

Ms. Palmer asked if that is unusual. Ms. McKeel pointed out that it was required for Out of Bounds a few years ago.

Mr. Randolph noted that Out of Bounds had occurred after that.

Mr. Graham stated that the requirement is typical, and he is not sure why it did not get caught until now.

Mr. Randolph said he was present at the site review meeting when this came up, and with the Planning Commission review of Mr. Cetta's application, Mr. Randolph was the sole vote against this application. He stated that his reasoning was that there was not, under the Neighborhood Model, another road of access into the community, which he felt was essential from a public safety standpoint because the only ingress and egress was through Avon Park I. He stated that if something were to happen in Avon Park I, the Avon Park II community would be completely removed and there would be no way to get a safety vehicle in the development. Mr. Randolph said the Commission recommended approval and the Board approved the application. He stated that in site review, a member of Fire/Rescue looked at the plan and said it was not going to work because they needed an assured additional access to the facility. Mr. Randolph said the condition was approved at that point, with Mr. Cetta's engineers present. He explained that a second group of engineers came in, and he went to that site review also, but that application did not move forward, and it may have been at that point that Mr. Cetta decided to sell the property to Mr. Dickerson. Mr. Randolph said that this is the third site plan on this particular location in a period of five years. He noted that the other issue that arose was the hammerhead shape road configuration and concern that fire engines could not turn around in those spaces, which led to a reconfiguration of the plan.

Ms. Mallek stated that the western hammerhead was backed up to a slope, so the developers would have to carve out a huge amount of area to get it to work. She said she had also wanted the secondary access right-of-way, and she was told it was too hard to do. Ms. Mallek stated that the road was absolutely essential, because 320 cars per day going past the original corner for these units was very burdensome on the original residents.

Ms. McKeel noted that there was also a request from the applicant regarding proffer amounts.

Mr. Randolph clarified that the applicant would like to get a sense from the Board as to whether they would adhere to the original proffer amounts or agree to the lower amounts the applicant was proposing at those point, for the reasons he stated. Mr. Randolph suggested that the Chair call the question as to whether the Board would consider the lower amount.

Mr. Kamptner stated that calling the question at this point is not taking a vote, it is discussing in an effort to get consensus.

Ms. Palmer commented that the proffers were never dependent on whether there were accesses or anything else, they were just the amounts appropriated at that time with the County's formula.

Mr. Kamptner confirmed this, stating that the proffer policy stipulated addressing five areas of impacts: transportation, schools, parks and recreation, libraries, and public safety. He stated that the applicant is asking for credit for the emergency access and the new stormwater management facility, as required under the ordinance.

Ms. McKeel asked if there is precedent for this situation. Ms. Mallek responded that the Board has had people ask.

Mr. Kamptner stated that applicants have asked, and the Board has handled rezonings that were approved prior to July 1, 2016 and the Board's repeal of the cash proffer policy by asking the applicant to establish that the reduced proffer amounts address impacts to an equivalent degree. He said that up until now, they have not had that kind of information, and the impacts were those resulting from the rezoning, the increased density, increased traffic, impacts on schools, etc.

Ms. Palmer said that she is not inclined to change it and is inclined to leave the proffers as they are.

Mr. Randolph agreed, stating that since ending the proffer policy, the Board has not agreed to change the proffers that were legally entered into by a party with the County.

Mr. Kamptner noted that the Board has had three or so requests.

Ms. Mallek added that the change of ownership did not change the obligation of the proffers, which were essentially affidavits as part of the rezonings as the Board voted on them in their earlier approvals, so she does not see a compelling reason to change them. She noted that credits in the past have not been applied to improvements on the site that were going to be required for the development to happen, such as stormwater management and access roads.

Mr. Kamptner pointed out that those things are the cost of development as opposed to addressing the impacts of the rezoning.

Ms. McKeel commented that they are kind of the cost of doing business.



Mr. Dill said the only contradiction to that is that the proffers, when they were done, did not require stormwater management, and now as a community benefit, the County is requiring the applicant to pay more for something that was not required before. He stated that the proffers were intended to offset some additional costs, and the applicant is taking those on. Ms. Mallek responded that it may cost more, but changes in state rules do not have anything to do with the applicant's obligation to the County for the rezoning.

Mr. Dill stated that this changes the whole milieu.

Mr. Kamptner emphasized that the proffers are designed to address the impacts resulting from the rezonings, and the credits that the Board has given in the past, and the type that were contained in the prior cash proffer policy, were not credits granted for the required improvements in order to meet the subdivision or site plan regulations. He stated that the bottom line is that the cost of development has increased because of state changes in stormwater management requirements.

Mr. Dickerson clarified that he is asking for a credit in that the plan is wildly different from an engineering standpoint because of the access road, and he is mitigating impacts because of the stormwater requirements, but he is not asking for credit for that. Mr. Dickerson said he is asking for credit for the five by-right units and the cost of dropping the entire site four feet because of the need to accommodate the access road.

Mr. Kamptner asked staff how the five by-right units have been factored into the staff analysis. Ms. Echols responded that they have already been taken care of, and the request is for a cash proffer amount to address the applicant's cost to modify the plan. She stated she is not sure that staff would come to the same conclusion as the applicant that all of the grading costs in this plan were the result of the second means of access.

Ms. McKeel confirmed that the Board is in unanimous agreement to keep the original proffer amounts.

Mr. Kamptner said that he heard a consensus.

Ms. Echols stated that the next question is whether or not the applicant would modify his proffers to be in keeping with the 2012 proffers, and if so, they would need to take a short break to modify them before the public hearing.

Ms. Palmer said there are some other items to discuss while the applicant reworks the proffers.

---

**NonAgenda.** The Board recessed its meeting at 8:57 p.m. and reconvened at 9:04 p.m.

---

Ms. Echols commented that this is not the typical process for this type of review, and she thanked the Board for accommodating the approach.

Mr. Kamptner stated that there were three revisions to the proffers: the affordable housing proffer was amended to provide some flexibility, so it now states that the owner will provide a minimum of six affordable dwelling units; the per-unit cash proffer amounts have increased from \$3,645.99 to \$13,913.18 for each attached townhome and condominium unit that is not an affordable unit; the per-unit cash proffer amount for single-family detached dwelling units is now \$20,460.59.

The Chair then opened the public hearing.

Mr. Beau Dickerson, again, addressed the Board and stated that he is a small developer with five employees, and this project would be accomplished by all local contractors. He asked the Board for their support of the project.

There being no other comments from the public, the Chair closed the public hearing.

Mr. Randolph **moved** to adopt the proposed Ordinance to approve ZMA-2014-0006 which includes the applicant's proffers as revised and updated on April 12, 2017. 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.

**ORDINANCE NO. 17-A( )**  
**ZMA 2014-00006 AVON PARK II**

**AN ORDINANCE TO AMEND THE PROFFERS**  
**AND APPLICATION PLAN APPROVED WITH**  
**ZMA 2012-00004 FOR TAX MAP PARCEL NUMBER 09000-00-00-03100**

**WHEREAS**, the application to amend the proffers and application plan that were approved with ZMA 2012-00004 for Tax Map Parcel Number 09000-00-00-03100 is identified as ZMA 2014-00006, Avon Park II ("ZMA 2014-06"); and

**WHEREAS**, ZMA 2014-06 proposes to amend the proffers and application plan that were approved with ZMA 2012-00004 to: 1) address the conditions related to parking and emergency access that were imposed with the approval of the initial site plan related to SDP2014-00024; and 2) reduce the cash proffer amounts; and

**WHEREAS**, staff recommended approval of ZMA 2014-06 provided that technical revisions were made to the proffers and the application plan; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on ZMA 2014-06 on July 12, 2016, and recommended approval with the exception of the reduction of cash proffers, conditioned on the applicant making the staff-recommended revisions, demonstrating that access to water exists for the neighboring properties to the south, and investigating three issues that concerned property owners to the north regarding screening, recreational amenities, and erosion and sediment control; and

**WHEREAS**, subsequent to the Planning Commission public hearing, the applicant made all of the recommended revisions to the proffers and the application plan, with the exception of the cash proffer amounts, and addressed the Planning Commission's other conditions of approval noted above; and

**WHEREAS**, on April 12, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2014-06;

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2014-06 and its attachments, including the application plan dated February 10, 2015 and last revised on May 24, 2016, and the proffers dated March 27, 2017, the information presented at the public hearing, the material and relevant factors in County Code § 18-33.6, Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2014-06, with the application plan dated February 10, 2015 and last revised on May 24, 2016, and the proffers dated March 27, 2017.

\* \* \*

Original Proffers: 11/21/13  
Amendment: ~~3/27/17~~

4/12/17

### PROFFER STATEMENT

ZMA No. 2014-00006 Avon Park II

Tax Map and Parcel Number: 09000-00-00-03100 (D.B. 3786 P.G. 060)

Owner of Record: **BELLEVUE REAL ESTATE, LLC**

Date of Proffer Signature: March 27, 2017

**Proffer Statement** for 5.262 acres to be rezoned from Planned Residential District (PRD) to Planned Residential District (PRD)

Bellevue Real Estate LLC, a Maryland Limited Liability Company, is the owner (the "Owner") of Tax Map and Parcel Number 09000-00-00-03100 (the "Property") which is zoned as Planned Residential Development (PRD) subject to rezoning application ZMA No. 2014-00006, a project known as "Avon Park II" (the "Project") and the application plan (the "Plan") entitled, "Avon Park II Zoning Map Amendment Plan, created by Roudabush, Gale, and Associates February 10, 2015, last revised May 24, 2016. This current proffer statement (the "Proffer Statement") supersedes the proffer statement dated November 21, 2013 pertaining to ZMA-2012-00004 and the application plan entitled, Avon Park II Zoning Map Amendment Application Plan prepared by Pohl Engineering, LLC, dated August 20, 2012, last revised 10/25/13.

Pursuant to Section 33 of the Albemarle County Zoning Ordinance (Chapter 18 of the Albemarle County Code), the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property. These conditions are proffered as a part of the PRD zoning applicable to the Property and the Owner acknowledges that the conditions are reasonable. Each signatory below signing on behalf of the Owner covenants and warrants that it is an authorized signatory of the Owner for this Proffer Statement.

#### 1) AFFORDABLE HOUSING *maximum of 32*

The Owner will provide ~~six~~ (6) affordable housing units within the Project in the form of for lease or for sale affordable dwelling units (the "Affordable Dwelling Units" or "Affordable Units"). Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will, subject to the terms and conditions of this proffer condition, incorporate Affordable Units as described herein, and the aggregate number of such lots or units designated for Affordable Units within each subdivision plat and site plan shall be referenced in such subdivision plat or site plan.

a) There shall be a maximum of 32 dwelling units on 30 lots in the development. The Affordable Dwelling Units shall be comprised of one or more of the following unit types:

1. Single family townhomes OR
2. Units that will be constructed and maintained as two-family dwellings as defined in the Virginia Uniform Statewide Building Code.

*of max 32*

The Owner or his successor in interest reserves the right to achieve six (6) Affordable Dwelling Units utilizing the above mentioned unit types alone or in combination as outlined below. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the Property. The current Owner or subsequent Owner shall create units affordable to households with incomes less

than 80% of the area median family income (the "Affordable Unit Qualifying Income"), such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed 30% of the Affordable Unit Qualifying Income; provided, however, that in no event shall the selling price of such Affordable Units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs provided that the selling price will be equal to or less than the Albemarle County affordable housing home price. This home price will increase or decrease per year based on Albemarle County's designated affordable home pricing. All financial programs or instruments described herein must be acceptable to the primary mortgage lender. The value of Seller-paid closing costs shall be excluded from the selling price of such Affordable Dwelling Units.

- i) For-Sale Affordable Units - All purchasers of for-sale Affordable Units shall be approved by the Albemarle County Office of Housing (the "Housing Office") or its designee. The Owner shall provide the County or its designee a period of one hundred twenty (120) days to identify and pre-qualify an eligible purchaser for the Affordable Units. The 120-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than 90 days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this one hundred twenty (120) day period, the Owner shall have the right to sell the Unit(s) without any restriction on sales price or income of purchaser(s); provided, however, that any Units(s) sold or leased without such restriction shall nevertheless be counted toward the number of Affordable Units required to be provided pursuant to the terms of this proffer. If these Units are sold, this proffer shall apply only to the first sale of each unit. Nothing herein shall preclude the then-current Owner/builder from working with the Housing Office prior to the start of the notification periods described herein in an effort to identify qualifying purchasers for Affordable Units.
- b) County Option for Cash in Lieu of Affordable Units. If at any time prior to the County's approval of any preliminary site plan or subdivision plat for the subject property which includes one or more for-sale Affordable Dwelling Units, the Housing Office informs the then-current owner/builder in writing that it may not have a qualified purchaser for one or more of the for-sale Affordable Dwelling Units at the time that the then-current owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Twenty Four Thousand Three Hundred Seventy Five Dollars (\$24,375.00) in lieu of each Affordable Unit(s), then the then-current owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the Unit(s) that were originally planned to be Affordable Dwelling Units, and the then-current owner/builder shall have the right to sell the Unit(s) without any restriction on sales price or income of the purchaser(s). For the purposes of this proffer condition, such Affordable Dwelling Units shall be deemed to have been provided when the subsequent owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the Affordable Units(s) will be available for sale.

## 2) CASH PROFFER

- a) The Owner shall contribute cash to the County in the following amounts for each dwelling unit constructed within the Property that is not an Affordable Dwelling Unit. The cash contribution shall be used only for capital improvements in the form of public facilities (i.e., schools, public safety, libraries, parks or transportation) located within the Scottsville magisterial district of the County and no funds shall be used for capital improvements to any public facility existing as of the date of this Proffer Statement, such as a renovation or technology upgrade, that does not expand the capacity of such facility. The cash contribution shall not be used for any operating expense of any existing or new facility such as ordinary maintenance or repair. The cash contribution for each individual dwelling unit shall be paid to the County after completion of the final building inspection and prior to issuance of a certificate of occupancy for the

individual unit. The cash contribution for each dwelling unit shall be based upon the type of the dwelling unit and in the amount set forth for each type of dwelling unit as follows:

- Dollars*
- Thirteen thousand nine hundred thirteen and 9/10 \$13,913.18 For each attached town home/condominium unit that is not an Affordable Dwelling Unit.*
- i) ~~Three Thousand Six Hundred Forty Five Dollars and 99/100 (\$3,645.99)~~ for each attached town home/condominium unit that is not an Affordable Dwelling Unit.
- 20,460.57 Dollars Affordable unit.*
- ii) ~~Seventeen Thousand One Twenty-Three Dollars and 12/100 (\$17,123.12)~~ for each single family detached dwelling unit. *Twenty thousand four hundred sixty and 5/10.*
- iii) Zero Dollars (\$0.00) for each Affordable Dwelling Unit. *for each single family detached dwelling unit.*
- b) Annual Adjustment of Cash Proffers: Beginning January 1, 2017, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Costs Index (the "MSI"). In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the preceding calendar year, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.
- c) The applicant will receive a cash proffer credit from Albemarle county for the number of dwelling units permitted under the prior by-right zoning of the Property (Tax Map and Parcel Number 09000-00-00-03100), which would yield five (5) single family detached homes.

### 3) LANDSCAPE EASEMENTS

- a) The Owner shall obtain a variable width landscape easement behind lots 1-7 on Tax Map and Parcel Number 090F0-00-00-000A1 (owned by the Avon Park Community Association) as shown on the Plan. The owner shall install plants within the proposed easement as per the final approved landscape plan during the first fall planting season after the adjacent retaining wall is installed but prior to the issuance of the certificate of occupancy for the seventh completed dwelling unit located on lots 1 through 7. There shall be no obligation on the Owner to install landscaping on the adjoining property if permission from the impacted property owner is not obtained.
- b) The Owner shall install plants within the proposed 10' landscape easement shown on page 5 of the Plan at the rear of lots 8-10 prior to the issuance of the certificate of occupancy for the 3rd completed dwelling unit located on lots 8-10.
- c) The Owner shall install plants within the proposed 10' landscape easement shown on page 5 of the Plan at the rear of lots 13-15 prior to the issuance of the certificate of occupancy for the 3rd completed dwelling unit located on lots 13-15.
- d) The Owner shall install plants within the proposed 10' landscape easement shown on page 5 of the Plan at the rear of lots 16-22 prior to the issuance of the certificate of occupancy for the 7th completed dwelling unit located on lots 16-22.
- e) The Owner shall install plants within the proposed 10' landscape easement shown on page 5 of the Plan at the rear of lots 23-26 prior to the issuance of the certificate of occupancy for the 3rd completed dwelling unit located on lots 23-26.

- f) The Owner shall install plants as shown on Page 9 of the Plan within the proposed 20' private drainage and landscape easement shown on page 5 of the Plan at the rear of lots 28-30 prior to the issuance of the certificate of occupancy for the 3rd completed dwelling unit located on lots 28-30.
- g) The Owner shall install the off-site plants along Hathaway Street at the entrance to the Avon Park 2, as shown on page 9 of the Plan, development during the first fall planting season after the base coat of asphalt is installed on the road.

#### 4) EROSION AND SEDIMENT CONTROL

The Owner shall provide additional erosion and sediment control measures beyond the standard regulatory requirements stated in the Virginia Erosion and Sediment Control Handbook (VESCH) applicable on the date of approval of this Proffer Statement. These additional measures shall consist of the following:

- a) Silt Fencing (VESCH Standard 3.05):
  - i) Contributing drainage area to non-wire reinforced silt fence shall be reduced from one quarter (0.25) acre per 100 feet of silt fence length to two-tenths (.20) per 100 feet of silt fence. Contributing drainage area to wire reinforced silt fence shall not exceed one quarter acre per 100 feet of silt fence; and
  - ii) Maximum contributing drainage area to non-wire reinforced silt fence from minor swales or ditch lines shall be reduced from 1 acre and no greater than 1 cfs to 0.8 acre and no greater than .08 cfs. Maximum contributing drainage area to wire reinforced silt fence from minor swales or ditch lines shall be 1 acre and no greater than 1 cfs; and
  - iii) The height of any silt fence shall be a minimum of 24 inches above the original ground surface and shall not exceed 34 inches above ground elevation; and
  - iv) Post spacing for non-wire-reinforced silt fence shall be reduced from a maximum 6 feet apart to a maximum 5 feet apart. Post spacing for wire reinforced silt fence shall be reduced from a maximum 10 feet apart to a maximum 8 feet apart.
- b) Temporary Diversion Dike (VESCH Standard 3.09):
  - i) The maximum allowable drainage area to a temporary diversion dike shall be reduced from five (5) acres to three (3) acres.
- c) Temporary Sediment Trap (VESCH Standard 3.13):
  - i) Maximum total contributing drainage area shall be reduced from three (3) acres to two (2) acres; and
  - ii) The storage volume requirement shall be increased by a factor of 1.2.
- d) Temporary Sediment Basin (VESCH Standard 3.14):
  - i) A temporary sediment basin shall be provided where the total contributing drainage area exceeds two (2) acres; and
  - ii) The permanent pool and dry storage volumes shall be increased by a factor of 1.2.

**6) ADDITIONAL TREE REMOVAL**

The owner shall identify the location of the trees located at the rear of tax map parcels identified as 090F0-00-00-000A2, 090F0-00-0F-04200, 090F0-00-0F-04300, and 090F0-00-0F-04400. If trees are located within 5' or less of the property line the owner will remove the trees on those adjoining existing properties. Tree removal will be subject to the existing property owner's written approval permitting the Owner, the owner's subcontractors, and/or employees, of Avon Park II property to come onto the property and remove the trees.

**7) ALLOWED USES**

The use of the Property shall be limited to those uses allowed by right under section 19.3.1; and the use allowed by special use permit under section 19.3.2(7) of chapter 18, Zoning, of the Albemarle County Code, Zoning Supplement #91 dated 6-3-15 and in effect on the date of approval of this Proffer, copies of which are attached hereto and incorporated herein as Attachment A.

**8) RECREATIONAL AMENITIES**

The Owner shall provide and install the following recreational amenities in the existing "park" on Tax Map and Parcel Number 090F0-00-00-000A1 (owned by the Avon Park Community Association). These amenities are at the request of the Avon Park Community Association Board and will be installed upon issuance of the 24th Certificate of Occupancy.

- a) A 40' x 50' fenced dog park area with two small benches.
- b) Two (2) additional play structures for older children in the existing tot lot area.

**9) OVERLOT GRADING**

The Owner shall submit an overlot grading plan (hereinafter the "Grading Plan") meeting the requirements of this proffer condition with the application for each subdivision of the Property. The Plan shall show existing and proposed topographic features. The Grading Plan shall be approved by the County Engineer prior to approval of an erosion and sediment control plan related to said subdivision. The land area within the subdivision shall be graded as shown on the approved Plan. No building permit shall be issued for any dwelling on a lot where the County Engineer has determined the lot grading is not in general conformance with the approved Plan. The Grading Plan shall satisfy the following:

- a) The Grading Plan shall show all proposed streets, building sites, setbacks, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer condition.
- b) The Grading Plan shall be drawn to a scale not smaller than one (1) inch equals fifty (50) feet.
- c) All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be designed to assure that surface drainage can provide adequate relief from the flooding of dwellings in the event a storm sewer fails.
- d) Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These



steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1) unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.

- e) Surface drainage may flow across up to three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots.
- f) No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.
- g) All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site
- h) The Grading Plan shall demonstrate that for each dwelling unit, an area at least ten (10) feet in width abutting the primary dwelling entrance facing the street not be served by a stairway, has grades no steeper than ten percent (10%) should the primary dwelling entrance facing the street be less than ten (10) feet from the Lot's property line, then this grade requirement shall only extend to the area between the entrance and the lot line. This graded area also shall extend from the primary entrance to the driveway or walkway connecting the dwelling to the street.
- i) Any requirement of this proffer condition may be waived by submitting a request for special exception with the Plan. If such a request is made, it shall include a justification for the request containing a valid professional seal from a PE, LA or LS type B. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree.
- j) In the event the County adopts overlot grading regulations after the date this Proffer Statement is approved, any requirement of those regulations that is less restrictive than any requirement of this proffer condition shall supersede the corresponding requirement of this proffer condition.

**9) SCRIM FENCE**

A Scrim Fence shall be installed along the Avon Park 1 property line at the rear lots 1-9 shown on the Plan on the owner's property or, if granted permission by the owner of lot 090F0-00-00-000A1 to protect the plantings and provide existing residents an additional visual screen during construction. The height of the screening material shall not exceed 6 feet and will be installed immediately following the grading of lots 1-9.

**OWNER**  
**Bellevue Real Estate, L.L.C.**



Name: Beau Dickerson Title: Managing member of LLC  
Tax Map and Parcel Number: 09000-00-00-03100

Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked for an update on the broadband map. She also asked for a schedule on the proffer committee.

Mr. Randolph stated that there is an expectation that every federally designated area for broadband would be addressed immediately, but the challenge would be to try to find, once the broadband authority is created, partners that are willing to work where they had an economic incentive or rationale to be operating. He said that for locations in the County where there is the least amount of economic incentive for an ISP to be working with a broadband authority, they will probably be the last areas to receive broadband unless the authority is empowered by the Board to create opportunities for mini cell towers, which would allow for hopscotching. Mr. Randolph stated that the real objective here is to find willing partners who will cooperate with the broadband authority and expand the access. He said the comments about CenturyLink were accurate, and it would be nice to find another ISP operator that wants to come into the County and try to compete, but Verizon also wants to compete where the money is, which is in the urban ring. He stated that Wall Street is calling the shots because companies have to demonstrate a return on investment to shareholders. Mr. Randolph said that Mike Culp is well aware of where the significant coverage areas are, and there are three locations in the County where money would be available to partner with an ISP. He noted that it does not cover the whole County but it is a start, and they would need to appeal to the patience of the community to understand that they are not in a position where the County is putting up towers and infrastructure, but is instead looking for partnerships so that impact on taxpayers is minimized. Mr. Randolph stated that they are hopeful that Ting will continue to move out of the City.

Ms. Palmer stated that if they are going to do anything, it would take money on the County's part, so they need to make that decision. She said Mr. Mike Culp has indicated that he will be in a better position to secure grants and partnerships if there is some money behind it. Ms. Palmer stated that the broadband planning report stated that if they want to put the dark fiber in and get someone to come in and run it, it would cost about \$30 million. She stated that she and Mr. Randolph had met recently with Nelson Cable, which affirmed that cost estimate. Ms. Palmer said the residents of Hickory Ridge have likely spoken with Mr. Culp, but they did not know all the places CenturyLink was going, and a lot of her constituents who had been poorly served are now served by the \$900,000 investment from CenturyLink. She mentioned that there were at least 10 houses in that neighborhood, and she was interested to hear the price quoted from CenturyLink of \$100,000.

Ms. Mallek stated that there are 65 houses and a lot of those people are able to pay. She said her

question is where things stand with the map, because several years ago they were told that this was the most important thing to address, otherwise they cannot package the different underserved locations.

Ms. McKeel asked Mr. Walker to get back to the Board on the map. She also asked him to provide an update on the proffer committee.

Ms. McKeel said she is interested in having an agenda item on revenue sharing, factual information for the community, and she wants to make sure they are in agreement to have a public discussion. She stated that she had a request from Mr. Randolph and Ms. Palmer to sign off on a TJPDC letter in support of a grant to help push forward established plans for multi-modal paths connecting the Southern Development Area.

Ms. Palmer said that she had suggested giving Board members time to look at it.

Mr. Sheffield stated that he had read it.

Mr. Randolph said that he want the Board to be aware of the concern in neighborhoods, such as Mill Creek and Foxcroft, about public access on this trail, as those communities want to be sure there are opportunities for consultation and public discussion within the HOAs. He stated that he and Pam Riley were invited to a meeting by a member of the Foxcroft HOA, and there were some very angry residents who were concerned because of the possibility of public access on a trail behind the development, without any consultation from those homeowners. Mr. Randolph said he assured them there would be plenty of opportunity for discussion and input, and he cautioned Rex Linville about that, but Mr. Linville did not understand that perspective. He stated that Ms. Riley had a clear understanding of this because residents were truly concerned, and the Board needs to make it very clear that the County is not putting public trails in people's backyards. Mr. Randolph said it is important for them to convey that this is being done by the TJPDC and PEC, not the County, and it does not mean that the trail construction would be expedited.

Ms. Palmer said she has been hearing for years that public concern was one barrier to this moving forward, and asked if it could go on the consent agenda at their next meeting and be pulled for comments.

Mr. Randolph agreed, and said it is important to get that message out to the public.

---

Agenda Item No. 19. From the County Executive: Report on Matters Not Listed on the Agenda.

There were no other matters.

---

Agenda Item No. 20. Closed Meeting *(if needed)*.

There was no need for a closed meeting.

---

Agenda Item No. 21. Adjourn to April 18, 2017, 2:30 p.m., Room 241.

At 9:24 p.m., Ms. Palmer **moved** to adjourn to April 18, 2017 at 2:30 p.m. in Lane Auditorium.

Mr. Sheffield pointed out that there is a Commonwealth Transportation Board meeting prior to that, at 9:00 a.m. at the Boars Head Inn.

At 9:25 p.m., Ms. Palmer amended her motion to **move** to adjourn to April 18, 2017 at 9:00 a.m. at the Boars Head Inn in Charlottesville. The motion was **seconded** by Ms. Mallek.

Mr. Kamptner noted that after the CTB meeting, Board members would need to recess to their 2:30 p.m. meeting.

Roll was then 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 09/13/2017
Initials CKB



