

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 9, 2017, at 2:30 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. This meeting was adjourned from August 4, 2017. The 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 (arrived at 3:43 p.m.), 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 2:36 p.m., by the Chair, Ms. McKeel.

Ms. McKeel stated that Mr. Walker is not present as he is attending another meeting, but he will be joining the Board later.

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**(Note:** Mr. Sheffield read the following Transactional Disclosure Statement and filed with the Clerk's Office: "I am employed as Executive Director of JAUNT, a regional public transportation provider owned by the City of Charlottesville and the counties of Albemarle, Fluvanna, Louisa, Nelson and Buckingham located at 104 Keystone Place, Charlottesville, Virginia, 22902, and have a personal interest in JAUNT because I receive an annual salary from JAUNT that exceeds \$5,000 annually. JAUNT is a subject matter of this agenda item and JAUNT could realize a reasonably foreseeable direct or indirect benefit or detriment as a result of any decision related to JAUNT on the date below. He then left the meeting at 2:37 p.m.)

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Agenda Item No. 2. **Presentation:** Jaunt Ridership Update.

Ms. Karen Davis, JAUNT Assistant Executive Director, reported that JAUNT has three new, larger, low-floor ARBOC buses for the 29 Express Route, which was started last year. She said the new buses have a capacity of 23 passengers compared to the previous buses with a capacity of 18. She stated that the 29 Express does not require a reservation and having the necessary capacity is important.

Ms. Davis presented a graph of ridership over the last 13 months, which showed an upward trend. She said that when the route began in May 2016 they had 56 riders, in June 2017 they had 580, and most are regular riders. She said the fare is \$1.50 each way and University of Virginia covers the fare for its employees, which make up most of the ridership.

Ms. McKeel stated that when she retired from UVA, parking cost \$1,200/year, and she commented that it was quite expensive to park.

Ms. Davis presented a slide of the 29 Express Route schedule. She said JAUNT is looking to rebrand itself beyond just ADA services so that the public will know they offer commuter services. She said they have been researching potential routes to serve high-density areas including Crozet, Scottsville, Northern Albemarle, and Lake Monticello. She next presented a map of the County with red dots representing JAUNT customers. The map showed that most passengers reside in the urban portion of the County along Route 29. She concluded her presentation.

Ms. Mallek asked if they do individual house pick up or collect passengers at central locations. Ms. Davis said they still go door-to-door in Earlysville.

Ms. Mallek commented that the vast majority of passengers require JAUNT because they have a disability, or are aging and no longer feel comfortable driving. Ms. Davis agreed that it would be difficult for some passengers to meet a bus. She said they are working on a mixed model with both door-to-door and centralized pick up locations.

Mr. Dill asked if some 29 Express riders transfer to another bus once they reach the City. Ms. Davis responded that a variety of things are happening, with some transferring to the free trolley, others walking to work at UVA, and some going to the library because it is along the route. She said there are one or two riders who bring bicycles.

Ms. Mallek noted a decline in ridership and speculated that it could be due to bad weather. Ms. Davis said various factors affect ridership, including weather and the University schedule. She said transit ridership typically quiets down in the summer, picks up in the early fall, and dips around the holidays.

Ms. McKeel asked Ms. Davis to share information on how people can obtain a schedule. Ms. Davis replied that it is available on 29express.org as well as their Facebook page and the JAUNT web page. She said they could also call to obtain this information.

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**(Note:** Mr. Sheffield returned to the meeting at 2:49 p.m.)

Agenda Item No. 3. Agency Budget and Review Team (ABRT) Background and Recommendations for the FY 19 Budget Development Process.

The Executive Summary presented to the Board states that the Agency Budget and Review Team (ABRT) is a 16 member team that reviews and evaluates community agency program requests that are made to both the City of Charlottesville and Albemarle County governments. City staff manages the ABRT process on behalf of both the City and the County. This includes issuing applications, facilitating orientations and trainings, providing technical assistance to applicant agencies, organizing and staffing team meetings, and preparing annual reports. The County provides funding to the City to support these coordination efforts. Annually, based on ABRT's evaluation and resulting scores and in consultation with County staff who work most closely with these agencies, the County's Office of Management and Budget (OMB) provides the initial funding recommendations to the County Executive. The County Executive includes the recommendations for ABRT agency funding in the Recommended Budget.

The City/County ABRT was created in 1994 and the process has evolved along the way. In 2001, the ABRT process included a focus on achieving outcomes and incorporated outcome measurement as part of the application process. In 2012, the process was comprehensively evaluated, and the application for funding became aligned with City and County priorities. In 2016, applicants began to apply for funding using an on-line application tool, and the County transferred the review of arts and cultural agency's funding requests from the ABRT to an in-house cross-departmental County team.

The County's Adopted FY 18 Budget includes \$1.47 million in contributions to agencies that have applied for funding through the ABRT process. This ABRT-related funding provides contribution to twenty-four agencies. See Attachment A for more details.

Each year, County staff review its prior year's budget development processes to identify improvements for the upcoming year. In preparation for one of the upcoming FY 19 budget process that begins later this month, City and County staff have worked together to identify ways to improve the alignment of the ABRT funding process to the City's and County's strategic plans. Our desire is to utilize a consistent approach that will be clear and understandable for both City and County applicants.

With the ABRT's on-going focus on the use of outcome metrics to measure results, the City has consulted with local Human Service agencies to identify a collective set of outcome metrics that align with the City's strategic plan. This effort resulted in the identification of 24 outcome metrics that support the City's FY 19 - FY 20 Strategic Plan. In FY 19, agencies that apply for City funding will be required to demonstrate their program's support of the City's Strategic Planning goals and objectives, as well as utilize at least two of the City's Strategic Plan's outcome metrics to demonstrate their focus on results. Additional details regarding the City's goals, objectives and outcome measures are included in Attachment B.

The County's FY 17 - FY 19 Strategic Plan includes two long-term goals that guide ABRT-related funding for the County. These long-term goals are: 1) Educational Opportunities: *Provide lifelong learning opportunities for all our citizens*, and 2) Quality Government Operations: *Ensure County government's capacity to provide high quality service that achieves community priorities*. County staff believes that in addition to these goals, specific human service-related priorities would provide additional guidance for agencies applying for County funding through the ABRT process and would support the needs of County residents. For the Board of Supervisor's consideration for inclusion in the upcoming FY 19 ABRT budget development process, the Department of Social Services (DSS) developed the following list of human services-related priority areas that support the County's Vision, Mission, and goal to "Ensure the government's capacity to provide high quality services that achieves community priorities":

- 1) Provide services that assist to improve employability and/or achieve self-sufficiency
- 2) Provide for a continuum of housing interventions with overall goal of achieving safe, affordable and permanent housing for at-risk individuals and families
- 3) Provide medical and dental support for low income individuals and families
- 4) Provide services that address needs of at-risk children and youth, and their families
- 5) Provide supportive services for victims of abuse, neglect or violence
- 6) Provide support for persons interacting with the legal or criminal justice system
- 7) Provide support for early childhood development and learning, including pre-natal support for at-risk mothers, early intervention strategies and pre-k learning
- 8) Provide support for persons with limiting conditions or different abilities, including problems with mental health.

In addition, DSS and City staff reviewed the outcomes developed by the City and Human Service agencies and aligned the County's priorities to these outcome metrics as applicable.

Although the City and County priorities remain somewhat different, the desired outcome metrics would be consistent, providing additional clarity for ABRT human service applicants. If the above-listed human services priorities were used for County funding requests, agencies would be able to readily identify one or more outcome metrics areas that their core programs could address. See Attachment C for the alignment of the County's proposed Human Services-related priorities to corresponding outcome metrics.

The current (FY 18) County Budget includes \$1.47 million in support for ABRT agencies. The budget-related impact of this request would improve the alignment of ABRT agency applications to the County's Human Service priorities. FY 19 ABRT-related funding recommendations will be based on the

applications received and will be included in the FY 19 Recommended Budget.

Staff recommends that the Board approve the human services priorities and related outcome metric requirements to provide additional guidance in the County's FY19 ABRT budget development process and greater consistency with the City's approach in this joint ABRT process. Staff further recommends that the Board consider the inclusion of human service-related priorities in the County's next strategic planning development process.

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Ms. Lori Allshouse, Director of the Office of Management and Budget, presented. She said that staff looked at processes from the prior year and tried to improve them, and she will provide background on the Agency Budget and Review Team (ABRT) process, its history, how it works, and input for FY19. Ms. Allshouse said the goal today is for the Board to approve staff recommendations and consider including human services priorities in the next strategic planning development process. She said the City of Charlottesville coordinates the process on behalf of the City and County, including an orientation session for applicants, technical assistance, acceptance of applications, coordination of the work of ABRT, and provision of an ABRT report to the City and County. Ms. Allshouse said the current adopted FY18 budget includes \$1.47M in contributions to agencies through the ABRT process and supports 24 human services agencies. She said the County provides funding for cultural and arts organizations through a different process.

Ms. McKeel noted that funding for the Charlottesville Municipal Band is an example of arts and cultural funding.

Ms. Allshouse invited Ms. Gretchen Ellis to present on the history of the ABRT process.

Mr. Gretchen Ellis, Charlottesville Human Services Planner, presented. She said this would be her 19<sup>th</sup> year managing the process, which goes back at least to 1984 when it was staff driven, and the ABRT was convened in 1994 with a mixture of employees and informed citizens. She said localities began training in how to use outcome measurement, in conjunction with the United Way, and this process was fully implemented in 2001. She said prior to that time, they looked at the number of people served by a program rather than the results of the service provided. She said they have continued to refine the process with applicants and team members and to align it with local priorities. She stated that this spring they convened applicants in three work sessions to identify outcomes and metrics that directly respond to the City and County.

Ms. Ellis next reviewed the ABRT structure, stating that it is composed of 16 members consisting of City and County staff and five residents from each locality. She said there are three subcommittees: health and safety, housing and self-sufficiency, and youth services. She said each subcommittee reviews 16-20 applications, rates them on objective criteria and conducts site visits. She praised the members of the subcommittees, particularly the citizen members, for taking their job very seriously and devoting a good deal of time to it. She said the review team makes a recommendation about which agency to fund and then the City and County leadership recommends the amounts to be included, if any, and applications would be released August 31 and due October 25. She next reviewed the criteria, which are graded on a 100-point scale: need identification and effectively addresses the need; financial benefit to the localities and/or program beneficiaries effective collaboration to decrease duplication and improve results; outreach to and engagement of underserved populations; fiscal stability; and program outcomes to ensure the program is effectively addressing strategic objectives.

Ms. Ellis said this spring Charlottesville identified outcome measures associated with their strategic plan's goals and objectives for the FY19 process. She said the City's goals were to have an inclusive city of self-sufficient residents; a healthy and safe city; and a strong, creative and diversified economy. She said they provide thorough orientation for applicants and members of the team as well as technical assistance to applicants, upon request, which she said last year involved 140 hours of assistance to 30 programs.

Ms. Phyllis Savides, Director of the Department of Social Services, stated that she will review the process they go through to identify priorities in the human services arena in order to establish consistency with what the City has done. She said the strategic plan has two overarching goals and they select two for which they will develop priorities. She identified the two goals as follows: provide lifelong learning opportunities for all our citizens, and ensure County government's capacity to provide high quality service that achieves community priorities. She noted that DSS cannot meet all the needs of the community on its own and relies heavily on assistance from non-profit organizations.

Ms. Savides next reviewed the proposed human services priorities for the FY19 ABRT process Step 1 as follows: 1) Improve employability and achieve self-sufficiency; 2) Achieve safe, affordable and permanent housing for at-risk individuals and families; 3) Provide medical and dental support for low income individuals and families; 4) Provide services that address the needs of at-risk children and youth, and their families; 5) Provide supportive services for victims of abuse, neglect or violence; 6) Provide support for persons interacting with the legal or criminal justice system; 7) Provide support for early childhood development and learning; and 8) Provide support for persons with limiting conditions or different abilities.

Ms. Savides next reviewed Step 2 – Connect the County's Human Service Priorities to Outcome Measures previously developed. She provided an example using the priority: to provide services that address needs of at-risk children and youth. She said they identified an outcome measure goal to have a

number or percentage of children in the program experience a positive parent-child interaction as measured by a standardized instrument. She said that in summary, the desire is to create some alignment between the City and County strategic plans, priorities, and outcomes, and to link priorities for the community, including how non-profit agencies can help DSS meet those.

Ms. Savides concluded her presentation with their recommendation, which is that the Board approve the FY19 ABRT process including the strategic plan human service-related priorities and outcome measures, as well as to consider including human service priorities in the County's next strategic planning development process.

Ms. McKeel emphasized that it is helpful to see Charlottesville's goals, objectives, and outcomes in the packet.

Mr. Randolph commended Ms. Savides staff for the outstanding work DSS does with very limited resources.

Ms. Mallek said the presentation mentioned how the County would be mirroring the model of the City. However, she said County citizens sometimes have very different needs. Ms. Savides replied that DSS goes through its own process to identify what they believe to be its own priorities, based on what they observe with customers and families in the community.

Mr. Dill asked how different the County and City's priorities are and if there are any that are obvious. Ms. Savides responded that she does not think they are hugely different although it is important that each community go through its own process to identify priorities so that there is some ownership.

Ms. Mallek noted that the structures are different in relation to federal and state funding which sometimes changes how they can provide services.

Ms. Palmer said she completely approves and looks forward to the strategic planning process to see Social Services play a more prominent role.

Mr. Dill said he likes the emphasis on education and observed that every issue relates to this, including educating people about health processes and providing opportunities to learn about different possibilities.

Ms. Mallek stated that "opportunity" is a very important word because there is no way to know the unknown, and nobody has an idea of what services are out there unless the department is able to find a way to get that information to people, who are often under tremendous stress.

Ms. McKeel asked if they are seeking a vote or consensus.

Mr. Kamptner said a vote would be appropriate.

Ms. Palmer then **moved** to approve the human services priorities and related outcome metric requirements to provide additional guidance in the County's FY19 ABRT budget development process and greater consistency with the City's approach in the joint ABRT process. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Ms. Mallek said she would like to hold a future discussion about the criteria used for the OMB section of analysis for arts and culture and to learn what the multiplier of the \$1.4 million County contribution to Social Services is, as she speculates it is at least ten to one. She said people want to know why they are spending this money and her answer has always been that it helps magnify the County's success.

Ms. Ellis replied that she does not have data on the multiplier effect, but will look into it and will provide it in the FY19 report. In response to Ms. Mallek's earlier question about the arts, she said tomorrow the City is convening the arts applicants for funding to go through the same exercise that human services organizations do related to how they see themselves fitting in to priorities.

Ms. Allshouse thanked Ms. Ellis for all the work she does on behalf of the City and County.

Ms. McKeel asked for and received consensus from Supervisors to approve staff's recommendation to include human services-related priorities in the next strategic planning development process.

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#### Agenda Item No. 4. Light-Emitting Diode (LED) Performance Contract.

The Executive Summary presented to the Board states that following positive responses from administrators, teachers, and students to a light-emitting diode (LED) upgrade pilot in several schools, the School Division began investigating using an energy performance contract to upgrade lighting to improve the learning environment and save energy. As a first step to determining the project's feasibility, the School Board voted on January 28, 2016 to support the request for a Back-of-the-Envelope Audit for a

division-wide LED lighting project. Subsequently, school staff worked with members of the Local Government and School Efficiency Committee to procure audits for School Division facilities through an Energy Service Company (ESCO).

An energy performance contract allows an ESCO to design and implement facility improvements while also guaranteeing the utility savings resulting from the projects. The debt service/loan repayment amount necessary to install LED lighting throughout the school system will be repaid from savings in the schools operating utility budget, thus it is expected to be cost-neutral for the life of the loan.

After procuring Back-of-the-Envelope audits, proposed projects with initial savings projections were received from four ESCOs. The firm, Ameresco, was selected and subsequently completed investment grade audits involving both energy and water use at all schools, as well as COB - McIntire, and COB - 5th Street at no cost. Ameresco has vast project experience across the country with similar projects, and in Virginia.

The School Division project scope includes LED lighting and plumbing fixture upgrades at the majority of school locations. LED lighting upgrades are included for classrooms, gymnasiums, cafeterias, and the building exteriors. Plumbing fixture upgrades include high-efficiency sink fixtures, toilets and urinals at schools served by municipal water sources. While the desired outcome for this project is improvements to the quality of lighting in instructional spaces (i.e., LED dimmable fixtures), the additional lighting and plumbing projects further support the goal by reducing the overall payback period for the project. The current project scope for schools is approximately \$7,500,000 with a projected financing term of 12 years. Improvements to County facilities were also identified, to include lighting, mechanical upgrades and system controls for a total estimated cost of \$1.3 million, however, staff recommends that any action on these improvements to County facilities be postponed until the Board makes a decision on the future use or disposition of these facilities.

The impact of the proposed projects will improve the school learning environment and reduce energy and water consumption. The proposed school projects will reduce electricity consumption by over 6,000,000 kWh and 3,700 tons of carbon dioxide emissions each year. The plumbing fixture upgrades will reduce water consumption by over 7.7 million gallons per year. The anticipated annual savings to the environment are equivalent to:

- Planting 769 acres of trees per year
- 620 cars per year being removed from the road
- Powering 469 houses per year

The past and future milestones of this proposed project, from development to possible execution, are summarized in Attachment A.

The County's Financial Advisors, Davenport and Company, issued a Request for Proposals (RFP) on the County's behalf, and received proposals on August 1st from financial institutions that were willing to provide financing for the subject energy conservation equipment. The essence of the financing options will be explained to the Board by Davenport during the meeting.

The Guaranteed Energy Savings Performance Contract is based on projected energy savings after improvements are made to School Facilities, with those savings being earmarked as the source of debt service payments.

Recommendations regarding the financing options will depend on the responses to the RFP. The County's Financial Advisors, Davenport and Company, will recommend a funding option for the Board's approval at the August 9 meeting. If, on the basis of the responses to the RFP, it would be more advantageous for the County to issue bonds directly for these improvements, then Board action will be required; alternatively, if the schools elect to finance the projects directly, then no action will be required of the Board of Supervisors.

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Mr. Bill Letteri, Deputy County Executive, stated that for the past year, the schools have been investigating the concept of energy performance contracting as a way of upgrading lighting and fixtures to the ideas of energy efficiency and to improve the learning environment. He said energy performance management or contracting means that a third party would design and implement various improvements to the school and guarantee the savings from energy savings as a way of paying back the energy improvements. He said there are a number of ways to structure and finance these agreements, and he turned the presentation over to Mr. Doug Gebhardt of Davenport and Company to review the overall process and options. He stated that no action is necessary from the Board today.

Mr. Doug Gebhardt of Davenport and Company presented. He said he will report on the bank request for proposal process to install LED lighting in various County schools, at a cost of roughly \$7.5M. He said his firm was tasked by the County and school board with obtaining financing for this project, with the goal of the energy savings paying for the debt service. He reviewed two ways to finance the project with the first being a traditional, tax-exempt loan provided by a bank. He said the second was a qualified energy conservation bond under Virginia's Green Community program. He said these bonds were subsidized by the federal government. He said the projects have already been determined to be eligible by Virginia Saves and there are additional associated costs. Mr. Gebhardt stated that they had solicited bids, with one being for just the school board and a second including both the school board and County. He said a benefit of having just the school board as a party was that it would not impact the County's debt

ratio and capacity. He said they received bids from nine institutions, which he described as being a strong result. He noted that Bank of America offered the lowest rates on both the tax-exempt and the QVCB options, and there was no impact to their rate with participation or not from the County. He said the other banks either would not bid if the County were not a party or offered a different rate.

Ms. Mallek asked for confirmation that the tax-exempt option was tax exempt to the investor. Mr. Gebhardt confirmed this.

Mr. Gebhardt presented a slide with key assumptions, outlining the security behind each of the options, project costs, and estimated costs of issuance. The next slide provided a side-by-side comparison of the tax-exempt and Virginia Saves options. He said the lowest gross interest rate under the tax-exempt option was 2.25%, no closing costs, pre-payable with penalty. He said that for Virginia Saves, the subsidy was calculated at 70% of what the published, qualified taxable credit rate is. He said that when taking into account the subsidy, the net effective rate was just over 1%.

Ms. Mallek asked for the longevity of the subsidy. Mr. Gebhardt replied that the subsidy is good for the life of the loan.

Ms. Mallek asked if this means that no matter what they do in Washington, the County will be set. Mr. Gebhardt replied that it is not guaranteed and is under the same program from which Build America Bonds are issued.

Ms. Mallek asked if it is unlikely they would get themselves in trouble if they were to go with the subsidized bond. Mr. Gebhardt replied that they conducted a break even analysis on this which was over four times the current level of sequestration. He next presented a slide with a summary of net cash-flow savings that had columns of net debt service, energy savings and net cash flow savings each year from 2019 to 2031, which were approximately \$40,000 annually. He said the County would not have to outlay funds to meet the debt service on the bonds.

Mr. Gebhardt next reviewed recommendations and rationale, stating that since there was no difference in the rate offered by Bank of America, if just the school board or both the school board and County were parties to the bond, they recommend having just the school board as a party. He said this was the lowest rate offered, would not impact the County's debt ratio, and energy savings would be sufficient to meet debt payments. He said tomorrow night they will ask the school board for permission to move forward with the application process and then come back in September for formal approval and adoption of documents. He invited questions.

Mr. Dill asked how they estimated savings for the year 2030. Mr. Gebhardt replied that Amoresco, the engineer, had estimated the savings and that there was an escalation of energy costs built in. He said he would have to defer to the engineering firm for more detail.

Mr. Dill asked who bears the risk that energy costs might be higher or lower. Mr. Gebhardt replied that under the energy performance contract, Amoresco would guarantee these levels of savings.

Ms. Mallek asked if the County would be guaranteed \$39K per year, regardless. Mr. Gebhardt confirmed this.

Mr. Randolph asked why schools and the County have to pay for energy efficiency and where Dominion is in the process. He said that in California, Pacific Gas and Electric has been assisting schools with energy efficiency, and Dominion should be making a proposal and should be part of the process. He suggested that before they make changes to all the schools, they do a beta test with one school to determine the energy efficiency, and then try to obtain participation from Dominion.

Ms. Mallek asked who initiated the proposal and what sort of request for proposal was done to see what other companies were out there. She noted that a company from Georgia had contacted the County and had not been able to get in the door.

Ms. McKeel invited Mr. Dean Tistadt to respond to some of the questions.

Mr. Dean Tistadt, Chief Operating Officer for the School Division, addressed the Board. He expressed appreciation to County staff for their unbelievable support and said the project could not have been brought forward without their financial acumen. He also stated that Davenport had been a great help and praised project manager, Lindsay Snotty, for her fantastic work. He said they had initiated the project, seeking an alternative means of financing for building improvements, and that he has some background in having done this before. He said they solicited an RFP from six firms, five of which submitted proposals, and selected Amoresco. He said that normally the detailed energy audit must be paid for if the project does not go forward, but Amoresco provided this for free, regardless of whether they go forward with the project. He said that when predicting energy savings from windows, chillers, and boilers, the calculations were a bit problematic, whereas savings from light fixtures are about as clear cut as you can get, so the initiative is very low risk. He said they have the option of getting the guaranteed consumption savings and have chosen to do it for only the first 4 years of the 12-year project, as they do not believe it is necessary to pay for continued verification of the project. He said they chose a 12-year payback period, though Virginia law allows up to 20 and the average is 15. He said a shorter term was chosen because it could be difficult to predict future costs, and the assumption used was 2% annual cost increases. Mr. Tistadt said the risk lies in Dominion not raising rates as much as predicted, as their savings would then not be as great. He said they used a 2.75% assumed interest rate when building the model and a 1%

interest rate provides a \$40,000 buffer. He said they felt very comfortable in recommending this financing to the school board, and a pilot was conducted 2 years ago in 10 classrooms. He noted that students and teachers were surveyed and indicated that they preferred the quality of the LED lighting to fluorescent.

Ms. Mallek cautioned them to stay away from blue lights and go with yellow.

Ms. McKeel said it is great they did a pilot.

Ms. Mallek said she is very comfortable with the RFP.

Mr. Randolph asked if they have results from the pilot in terms of energy and efficiency savings. Mr. Tistadt said they were not able to compare, as the pilot classrooms were spread across various schools and it was not possible to measure on a classroom-to-classroom basis. He added that in addition to electricity savings, they expected to save 25% on water consumption.

Ms. Mallek asked if this is because of the heat causing the need for more air conditioning. Mr. Tistadt replied that they are changing fixtures and will reduce the flow.

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Agenda Item No. 5. Albemarle County Department of Social Services Request for New Child Protective Services Positions.

The Executive Summary presented to the Board states that in 2017, the General Assembly passed new legislation that will significantly affect the Child Protective Services' workload in two ways:

- first, local departments of social services are required to *"investigate all reports of children born exposed to controlled substances, regardless of whether the substance was prescribed for the mother, when she has sought or gained substance abuse counseling or treatment."*
- second, requires local departments of social services to respond within 24 hours to any valid complaint alleging abuse or neglect of a child less than two years old.

In order to address the burdens of meeting these mandates, the General Assembly appropriated in May 2017, additional administrative funding of \$5.4 million to assist with Family Services' increased workload. With the local match, the total allocated is approximately \$6.4 million for the equivalent for approximately 74 new Family Services Specialists positions statewide.

As stated in the Office of Health and Human Resources Governor's Budget Document, the new funding is intended to *"provide additional local staff to address an increase in child protective services assessments and investigations of substance-exposed infants as part of mandated reinvestment in child welfare services."* The budget document also states that the funding is to *"provide additional resources for local workers to handle increasing workloads for mandated activities such as child protective services, adult protective services, and adoption case management."* As Attachment A illustrates, ACDSS' most acute need is in the child protective services program (Investigations and Ongoing). The General Assembly also approved funding for a base salary increase of two percent for state-supported local staff. This new revenue funding has also been added to Albemarle County Department of Social Services' (ACDSS) base budget. Any new funding that is added to our base budget is considered permanent unless reduced through a General Assembly forced cut.

ACDSS Child Protective Services (CPS) and Family Preservation Services (FPS) are requesting to hire a full time CPS Worker and a full time FPS Worker. Together, CPS and FPS provide the continuum of Protective Services to ensure child safety, strengthen and preserve the family. CPS primarily conducts Investigations and Family Assessments while FPS primarily provides Ongoing Child Protective Services and Court Ordered Foster Care Prevention.

Changes to policy and practices, the number of CPS Referrals, number of FPS Cases and related number of clients requiring monthly visits has risen substantially in the past year resulting in workload measures that have ACDSS' staff working well beyond capacity. This has resulted in both units being unable to meet Virginia Department of Social Services (VDSS) and federally required performance standards. Failure to provide effective protective and preventive services places children at risk of serious harm, at risk of further abuse and neglect, and increases the risk of children entering Foster Care. With increased capacity, the CPS and Family Preservation Units can respond in a more timely manner to new reports of child abuse and neglect, better ensure child safety, and more effectively engage customers in effective service planning that allow children to remain safe at home and avoid the economically and emotionally costly expense of Foster Care.

With increased capacity, CPS and FPS Workers can better engage with families and provide services that not only meet the minimum standards VDSS requires, but will allow for more in-depth assessments and enhanced protective caretaker capacity. Accomplishing these goals will enable staff effectively address the risks children face at the hands of uninformed and overwhelmed caregivers and will decrease the need for Foster Care placements. Overall, the CPS and FPS units will provide quality customer services to children, their parents, and the community.

The two new full time positions will not require any new local funding to fulfill the local match. The total new and ongoing state allocation added to the ACDSS's base budget is \$141,534 per year. This includes \$98,130, specifically targeted for Family Service Specialist funding; and, \$43,404 for a two-

percent raise in FY 18. ACDSS plans to use new unrestricted Federal revenue for the local match. Federal Central Services Cost Allocation Plans (CSCAP) revenues are determined through a two-year process of auditing and VDSS review. CSCAP revenues have been coming in over budget for the past 5 years. Over the last 2 years, these funds have been over budget by approximately \$160,000 each year because of the new Medicaid match rate and the increasing costs to the County for supporting ACDSS operations. There is no current indication that these revenues will decrease. ACDSS budgeted \$320,000 for FY17 CSCAP revenues; however, the final amount was \$483,000 in May of this year. ACDSS has always budgeted CSCAP revenues conservatively and until five years ago, these revenues remained stable. The funds received in May 2017 are based on costs from the state year ending 2015. As in previous years, the remaining additional revenue will reduce the use of general funds for ACDSS' general operating budget. In FY17, the additional CSCAP revenue was used to provide the local match for the new eligibility worker funding appropriated by the General Assembly in 2016 in the same manner that ACDSS proposes with these two new positions.

See Attachment B. No additional local monies are being requested.

Approval of two DSS positions.

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Ms. Phyllis Savides, Director of Social Services, presented. She said that for the second consecutive year, they were fortunate to receive extra money from the General Assembly. She said last year they used the extra funding for eligibility staff and this year would use it for child protective services, which will experience an increased workload as a result of recently passed legislation. She said she had requested a Child Protective Services investigator and staff member, with the investigator making initial assessments and the staff member providing ongoing services, and the goal is to keep children out of foster care and reduce CSA costs. She noted that more information was provided in the executive summary and invited questions.

Ms. Palmer said it was well presented though she had trouble in understanding the units and hours of workers for workload measures. She said she would check with Ms. Savides at another time about this.

Mr. Dill asked how hard it is to hire good people and what credentials they look for. Ms. Savides replied that the minimum requirement is a Bachelor's degree in a human services field, but the preference is for candidates with Master's degrees. She said they were lucky to receive strong applicants, as they are considered to be a great agency to work for, but it is still a challenge to bring someone on board and get them trained, no matter what experience they have.

Mr. Dill asked how many families and children are served by a worker. Ms. Savides said that ideally caseloads would be around 15 families, though it is probably less than that now as mandates continue to grow.

Mr. Randolph said he was dumbfounded that the state had increased the mandate, but they had accompanied it with additional money, which was terrific to see. Ms. Savides credited the League of Social Services for this.

Mr. Randolph referred to the second page in the packet where it stated the following: "The two new full-time positions would not require any new, local funding to fulfill the local match. The total new and ongoing state allocation added to the ACDSS's base budget was \$1,543." He asked Ms. Savides what ongoing means and if there is a chance it could be eliminated next year. Ms. Savides replied that the only way it could be changed would be a forced cut by the General Assembly. She said when funding was added to the base budget it was considered to be permanent.

Mr. Randolph referred to the 2016 Annual Report Ms. Savides provided to the Board and noted two graphs on Page 8, with one referring to Children in Foster Care and the other to Finalized Adoptions. He suggested she add another graph next year showing annual caseloads for Family Preservation Services as well as one on Child Protective Services. He said this would enable Supervisors and the public to see where tax dollars are going and how they are serving a need within the community. He said the report is outstanding and very helpful.

Ms. McKeel said they hope the addition of the two positions will reduce their reliance on overtime. Ms. Savides said overtime reduction is a key factor in retaining staff, as she does not want to burn out really good people.

Mr. Dill **moved** that the Board approve the addition of two Department of Social Services positions. The motion was **seconded** by Mr. Randolph. Roll was called and the motion carried by the following recorded vote:

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

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Agenda Item No. 6. Transportation Priorities and 2017 Grant Applications.

The Executive Summary presented to the Board states that this workshop is intended to present information to assist the Board in decision making regarding transportation priorities and the submission



of grant requests for funding. With the Board's guidance provided at this work session, staff will return in October for final approval and necessary resolutions related to this year's transportation grant requests for the fall application cycle. This work session builds on the information presented at the June Work Session on Transportation Priorities. The endorsement of the County's Transportation Priorities List will also serve to guide staff in the development of the Capital Needs submissions for the FY20 Capital Improvement Plan.

The focus of today's discussion will be on transportation funding obtained through Virginia's Six-Year Improvement Program (SYIP). The SYIP is the document through which Virginia allocates the majority of state transportation funding. SYIP projects are measured through Virginia's Smart Scale process, developed to achieve the goals described in House Bill 2 (HB2 signed into law in 2014). This process requires the Commonwealth Transportation Board (CTB) to develop and use a scoring process for transportation project funding selection as part of the annual review of the SYIP. The prioritization process evaluates projects using the following criteria: congestion mitigation, economic development, accessibility, safety, environmental quality, and land use coordination.

In addition to the Smart Scale program, the state also makes funding available through Transportation Alternatives grants which focus on bicycle and pedestrian projects; the Highway Safety Improvement Program, which accepts applications for safety related improvements; and the Revenue Sharing program, which can fund any type of transportation project but requires a 50-50 match of funds between the State and the locality.

At the June 2017 Board Meeting, the Supervisors were presented with an update on transportation projects and funding opportunities. Also proposed was a methodology for prioritizing all county transportation projects through a qualitative assessment based on factors similar to the State's Smart Scale Process but also accounting for other County Strategic Goals. The Board was presented with the previously approved Transportation Priorities List from 2016 and initial recommendations to break up the projects into 1st, 2nd, and 3rd Tiers. Staff took the feedback and information presented at that meeting and further developed the qualitative assessment of projects to arrive at the proposed Tier 1 Transportation Priorities List attached. The assessment evaluated a total of 50 projects previously identified through the Master, Comprehensive, and Long Range Planning processes.

The prioritization process rated projects based on each of the five factors as described below:

- **Safety** - Based on the VDOT Culpeper District's Potential for Safety Improvements (PSI) rankings on intersections and road segments to determine if a project would improve safety. Additionally accounted for local reports of safety issues if not identified in the PSI rankings and concerns related to emergency access from Albemarle County Fire and Rescue;
- **Congestion** - Based on Level of Service measures from VDOT State Planning System (SPS) data, local reports of congestion issues, results of previous impact assessments and other planning studies projects.

These were rated on their ability to improve throughput or reduce delay on a congested corridor:

- **Economic Development** - Based on the location of a project and the relative level of ongoing or future economic development in the vicinity, or the projects ability to enhance access to freight intensive industries, intermodal facilities, or its location on a freight route. Locations of target development sites nearby were also considered as are a projects ability to attract new economic development;
- **Accessibility** - Based on an assessment of employment density using the US Census LEHD data, existing congestion levels, density of disadvantaged populations with accessibility needs and the ability of a project to improve accessibility. Projects that included transit or other multi-modal features were rated high in this measure;
- **Land Use** - Assesses projects ability to promote multi-modal or infill development, support ongoing residential development, or supporting development located within a special planning area.

Each project was ranked from Low to High for each of these factors and then all projects were ranked in priority based on those qualitative assessments.

Attachment A - FY 18 Tier 1 County Transportation Priorities displays the projects qualitative score in each of the categories and the overall rank of the top 20 projects that make up the 1st Tier of projects in the County. Further, the list provides a recommendation on advancing the project using the most applicable grant or other funding type. The following projects are recommended for grant funding for the application period in the Fall of 2017:

- **#7: Sunset Road Improvements** from Country Green Road to Yellowstone Drive - 2017 Revenue Sharing.
- **#9: Berkmar Drive Bicycle and Pedestrian Improvements** from US 29 to Hilton Heights Road – 2017 Revenue Sharing.
- **#10: Commonwealth Dr/Dominion Dr Pedestrian Improvements** from Commonwealth Circle to Dominion Dr and from Commonwealth Dr to US 29 - 2017 Revenue Sharing.
- **#12: Eastern Avenue** from US 250 across Lickinghole Creek - Fund Design and Engineering Study

- **#13: Greer Jouett Bike/Ped Improvements** from Hydraulic Rd to Greer Jouett Schools – 2017 Transportation Alternatives.
- **#14: Cale ES Pedestrian Improvements** at Avon St Extended - 2017 Transportation Alternatives.

The remaining projects in Tier 1 are recommended for advancement through future grant applications, CIP funds, or Planning Studies as described in the attached. Attachment B - FY 18 Tier 2 County Transportation Priorities Lists the Tier 2 projects in order for the Board's information.

The Board is being requested to endorse staff's recommendations to make use of County CIP funds to leverage against State funds in an attempt to advance the priority transportation projects to completion. The funding requested has been previously approved through the FY 17-21 Adopted Multi-Year CIP and the FY 18-22 Recommended Multi-Year CIP Expenditures Summary under the CIP Revenue Sharing program. The specific amount will not be known until the grant requests are finalized but will not exceed the approved amounts for the FY 17-19 period. Additional funds may be discussed to advance projects in other manners but any approval to increase funding or identify new funding will be made separately.

Staff recommends the Board endorse the recommended transportation priorities and the proposed FY18-19 grant requests. Staff is also requesting that the Board provide additional direction on the priorities in order to guide future applications for funding through grants, CIP needs, or other identified funding sources.

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Mr. Kevin McDermott, VDOT Transportation Planner, reported that his presentation is a follow up to a meeting held in June where he introduced the budget prioritization process and divided projects into tiers. He said he will present the priorities he has come up with, recommend next steps, obtain Board feedback, request an endorsement of transportation priorities, and request approval to move forward with the suggested revenue-sharing or transportation alternative grant applications, or to look at potential options to begin planning and engineering with available revenue-sharing funds.

Mr. McDermott presented a slide with the prioritization methodology and said he will describe what he did with the methodology. He said he worked with the universe of projects identified through the master comprehensive plan, long-range plans, and other priorities and recommendations, noting that they separated them into three tiers and obtained Board endorsement. He said he used a qualitative methodology to evaluate 50 projects, as they did not have the data necessary for quantitative analysis. He stated he rated the projects based on five factors used in the Smart Scale process as follows: safety, congestion, economic development, accessibility, and land use. He said his presentation listed the first 15 of these projects and noted that the next 5, which complete the first tier, are in their packet. He said the number one project is the Route 20/250 improvement project. He said he would like to work with TJPDC to reconfigure this, as last year it was denied Smart Scale funding, but they could reapply in 2018.

Mr. McDermott stated that the next project is Northtown Trail, a Neighborhood Improvement Funding Initiative (NIFI) project, which he said he would like to advance through some planning efforts. The next project he reviewed was Transit-Focused US-29 and US-29 BRT Express, which they are working on through the Hydraulic/Rio Small Area Plan. He said the next project is pedestrian improvements on 250 East, for which there were several potential funding mechanisms; the next project is pedestrian crossings of US-29 which he said they were evaluating through small area plans; the sixth project is the Berkmar to Lewis & Clark Connector, which he said they are advancing through previously identified funding and are likely to look at for the 2018 Smart Scale; the seventh project is Sunset Road improvements, which he said they may wish to look at immediately and move some funding forward. Mr. McDermott explained that it runs from Country Green Road to Yellowstone Drive by Eagles Landing. He said they were denied for Smart Scale and could look at using revenue-sharing money to do design, or look at a 2017 revenue-sharing grant though they would have to apply for the full cost of the project, which would not be inexpensive.

Ms. Palmer asked if the CIP could be used for the design and then they could figure out the best way to pay for it. She emphasized this is an area with a tremendous amount of development, very poor roads and a lot of congestion.

Mr. McDermott continued with the eighth project, which is Route 20 South improvements from the city limit to Mill Creek Drive. He said he would like to move forward with discussions with VDOT, as there are some high crash locations along the road that could make it eligible for federal Highway Safety Improvement Program (HSIP) funds. He said the ninth project is Berkmar Drive pedestrian improvements, which he said could play into what they are looking at with the small area plan, and it could be a revenue-sharing grant for 2017 or CIP funds; the next project was Commonwealth Drive/Dominion Drive pedestrian improvements, which were sidewalk projects within the strategic plan area and could be a 2017 revenue-sharing project. He reviewed the eleventh project, Library Avenue in Crozet, which he said they are working with the developer on. The twelfth project is Eastern Avenue, which he said had been a high priority for the County for some time. He said it would not score well for Smart Scale and, since it is expensive, there are not many options. He recommended they use revenue-sharing money to hire a consultant to do the design and then they could decide whether to move forward with a revenue-sharing grant for the construction or they could attempt a Smart Scale application. The next project is Greer/Jouett bicycle and pedestrian improvements, and Mr. McDermott proposed that they apply for a Transportation Alternatives grant. The next project is Cale Elementary School pedestrian improvements to obtain a crosswalk on Avon in front of the school. He said it could make a wonderful transportation

alternatives grant project and is being evaluated as a NIFI project. The fifteenth project on the list is Rio Road East improvements, which he said would make a good Smart Scale project for next year, and they will continue talking with VDOT as to how to break this out. He said he is seeking an endorsement of these priorities as well as to move forward with potential grant applications or through the CIP process.

Ms. Palmer noted that in the second tier, the third project is Old Lynchburg Road bicycle and pedestrian improvements from Duncaster Lane to Azalea Park. She said it is a very short distance that would be a small cost and they could ask the City to split the cost of design as it would link with a trail they have along Moore's Creek. She said it would enable crossing under I-64 to Azalea Park, which straddles the City/County line.

Ms. McKeel reminded the Board that TJPDC is working on a connection study and she feels they should wait until the study is completed. She asked if this area would be part of their work, noting that they have to be careful about funding projects outside of the work of TJPDC.

Mr. Chip Boyles, Executive Director of Thomas Jefferson Planning District Commission, responded to Ms. McKeel's question. He said it would be part of the regional bike/pedestrian plan. He said they are looking at the respective City and County plans and comparing what is common and then looking to open any opportunities for projects that are not already listed.

**(Note:** Mr. Walker arrived at 3:43 p.m.)

Mr. Randolph asked Mr. McDermott why Item 2, Northtown Trail, was not in the packet distributed to the Board. He praised Mr. McDermott for his recommendations and practical list. Mr. McDermott said he did not include it in the packet because he is not asking for funding, although the NIFI process is seeking funding, and confirmed that it is listed as #2 in the list of priorities.

Ms. Mallek said she loves the "dream list", but suggested they include cost amounts for projects.

Ms. McKeel asked Mr. Walker what staff is seeking. Mr. Walker replied that they are seeking Board endorsement of the recommended transportation priorities as presented or modified. He said they are also seeking endorsement of the proposed FY19 grant requests.

Ms. Mallek said she would not be able to make a decision until they are provided with the cost amounts.

Mr. McDermott asked Ms. Mallek if she would support the projects he had recommended that the Board had already approved for the revenue-sharing pool.

Ms. Palmer noted that Mr. Dermott recommended they do the design work in the CIP for Sunset Road improvements since he does not think they can obtain revenue-sharing money. Mr. McDermott confirmed that they may not have enough money in the revenue-sharing category, but they do have money in CIP funds for the design.

Mr. Randolph **moved** that the Board endorse the recommended transportation priorities and proposed FY18-19 grant requests. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

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

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**Recess.** At 4:06 p.m., the Board recessed and reconvened at 4:14 p.m.

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Agenda Item No. 7. **Presentation:** City/County Revenue Sharing Agreement.

The Executive Summary presented to the Board states that one of the tools by which cities increase their tax base and generate additional revenue is to annex the lands of surrounding counties. The lawsuits that were part of the annexation process in Virginia were often bitter. At the end of a near decade-long statewide moratorium on annexations by cities, the City of Charlottesville approached the County in 1980 to consider an alternative approach to annexation. The negotiations between the City and the County over the next two years resulted in the Revenue Sharing Agreement (the "Agreement") (See Attachment A).

The City Council and the County Board of Supervisors agreed to the terms of the Agreement in early 1982. The voters of the County approved the Agreement in a referendum in May 1982, with 63% of the voters voting in favor of revenue sharing.

The Agreement prohibits the City from initiating any annexation proceedings against the County (with an exception in the Pen Park area), and requires the City to oppose any petitions by County residents or property owners seeking to have territory annexed to the City. In exchange, the County transfers revenue each year to the City under a formula in the Agreement. To date, the County has transferred \$311,803,547 to the City under the Agreement.

The Agreement continues to this day, even though the General Assembly imposed a moratorium on annexations by cities effective January 1, 1987. The moratorium has been extended multiple times since then and continues to this day.

County residents have raised complaints about the Agreement over the past year. A primary complaint has been, in essence, that the County is not receiving any benefit from the Agreement because the State-imposed moratorium on annexation remains in place. This issue, along with others, will be part of the presentation to the Board at its August 9, 2017 meeting. Attachment B is an analysis of the key sections of the Agreement.

There is no budget impact related to this presentation.

This presentation is for information only. No action is necessary.

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Ms. McKeel said the Board decided in the spring that it was time to hold a discussion on this topic as many newer County residents may not know about it.

Mr. Kamptner stated that his presentation will review annexations in general within Virginia and the City/County agreement that was entered into in 1982, as well as the resulting conflict that was created. He stated that the two key components were first, that the City would not initiate annexation proceedings to annex lands in the County and second, that the parties agreed to share revenues. He said the way it has played out is that the County has transferred money to the City in every year, for a total of over \$311 million since the agreement was entered into. He said a key issue was a statewide moratorium imposed on annexations in 1987 that still remains in effect.

Mr. Kamptner reviewed the history of annexations and explained that up until the mid-20<sup>th</sup> Century, cities were considered to be urban areas with full services and counties were looked at as rural areas with minimal services. He said a city would annex county land in order for services to be extended to areas being developed on the outskirts of the city, and courts looked at necessity and expediency. Mr. Kamptner stated that increased mobility as a result of increased automobile ownership, led to more development in unincorporated areas and urbanization. He stated that as counties urbanized, they asked the General Assembly for the authority to provide urban level services. Mr. Kamptner noted that as people moved from the city to the county in search of a lower cost of living, the cities began to shrink in population and experienced a reduced tax base. He explained that annexation became a tool to address this, as cities sought to annex areas within counties to expand the tax base, which in turn lowered a county's tax base. He said there were moratoriums on annexation imposed in the 1960's and 70's, which led to the revenue-sharing agreement.

Mr. Kamptner presented an area map showing rings of five annexations by Charlottesville through 1968, stating that a 1963 annexation included Barrack's Road Shopping Center. He discussed the unique relationship of cities to counties in Virginia whereby the cities were independent and did not share services, courts, schools, or social services. He presented a slide with the two following quotes: "The independent city structure had caused strained relationships because annexation completely divests a county of all territory and tax resources granted to a city." (Carter Glass, 2016). "How well local governments succeed in promoting the common weal depends in large part upon how they were organized and how they interact with their neighbors." County of Rockingham vs. City of Harrisonburg, 224 Va. 62 (1982).

Mr. Kamptner said that a law passed in 1979 by the General Assembly ended a several year moratorium on annexations and established a new annexation procedure effective July 1, 1980. He said it also enabled cities and counties to enter into revenue-sharing agreements in exchange for surrendering the right to initiate annexation proceedings and enabled qualifying, urbanized counties to obtain immunity from annexation from the court, including one immunity for counties having a population of at least 50,000 persons and a population density of at least 140 persons per square mile. He said the County had now reached the population density level that enabled them to qualify for immunity. Mr. Kamptner stated that after the new law was passed, Charlottesville threatened to annex approximately 10 square miles of the County's urban ring. He said a study conducted at the time indicated the County would have to increase its property tax rate from 63 cents to 90 cents per \$100 of assessed value in order to collect the same amount of revenue, were the annexation to occur. He said an alternate proposal by the City was to share sales tax revenues of the City and areas within 32 square miles of the County's urban ring. He reviewed additional requirements of this proposal including the following: creation of City/County planning commission, development of a jointly planned program to increase public housing and public assistance in the County, and the County to increase its contribution for public infrastructure. He presented a map indicating areas of the 10 square mile annexation and 32-square-mile sales tax sharing. Mr. Kamptner noted that after a period of negotiations, a revenue-sharing referendum was held and passed in May 1982 by 63% of County voters. He said the referendum was required by the Constitution of Virginia because the agreement was contracted debt.

Ms. McKeel recalled voting in favor of the agreement.

Mr. Kamptner said some citizens have questioned the validity of the agreement and a question raised was whether the County was under duress to reach agreement because of the threat of litigation. He said a contract could be deemed unenforceable if it was entered into under duress. He reviewed the state's definition of duress: "A threat of restraint, personal injury, or any wrongful act that prevents a party from exercising its free will, thereby coercing the party's consent." Mr. Kamptner stated that the County's

situation did not meet this definition, and at the time a simulation indicated the tax rate would have to increase by 10 cents, with further increases in the future. He read a quote of Tim Lindstrom in 1992 explaining how the formula for revenue-sharing was developed: "The beauty of the formula lay in the fact that it cloaked the very unpalatable reality that the County was going to be paying the City a lot of money in the seemingly neutral and scientific garb of a statistically based formula."

Mr. Kamptner said the formula considered the real estate tax base, relative populations, and relative tax effort. He said the agreement included a cap on the amount of revenue transferred so that it could not exceed 0.1% of the locally assessed value of taxable real estate. He said the cap had been imposed in 27 of 35 years. Mr. Kamptner reviewed another question about the legality of the agreement in terms of whether the transfer of County revenue to the City represents taxation without representation and said the answer was "no," because it was approved by the voters and the voters have the opportunity to elect or un-elect Supervisors who approved it.

Mr. Kamptner reviewed a third question that had been raised, as to why the County did not have a say in how the funds would be used. He said the agreement was silent on this and it was understood at the time of the agreement that the County would not have a say. He stated that this year the City would apply the majority of the revenue to capital improvements that benefit both jurisdictions. He next reviewed a fourth question raised as to why there were lower County real estate values stated in the budget as compared to what was used for the real estate tax base for calculating the annual transfer. Mr. Kamptner explained that the formula used to calculate the transfer used the fair market value of all assessed land in the County, whereas the budget was based upon the fair market value except the use value for lands under use value. He said this provides a more accurate representation of the revenue that would come in for budgeting purposes. He said he spoke with the Finance Department about the agreement and learned that the interpretation of the agreement had always been that the assessed value meant the fair market value of all assessed County property, which would make a slight difference in the annual transfer.

Mr. Kamptner reviewed Section III of the agreement, which covers prohibited annexations. He presented a slide with the following bullet points:

- The City was prohibited from initiating any annexation proceedings against the County (with an exception for Pen Park, which was owned by the City).
- The City was required to oppose any petitions by County residents or property owners seeking to have territory annexed to the City.
- The City and County acknowledged during negotiations that the General Assembly could re-establish a moratorium on annexations (which it did in 1987).

Mr. Kamptner said the temporary moratorium on annexations that took effect January 1, 1987 was intended to give the General Assembly time to work out the structural problems of local governments. He said that because of a preoccupation with state budgets, limited revenues, other issues, and the limited impact that removing the moratorium would have on cities, lifting of the moratorium had not been a state priority. Mr. Kamptner stated that a question raised was whether the moratorium caused a failure of consideration. He reviewed the basic elements of a contract: offer, acceptance, and valuable consideration. He indicated that since the County did not receive anything for its part of the bargain, it could be interpreted that there was failure of consideration, but consideration did not have to be of equal value for both parties to be considered valid, with the value received by the County being a promise that the City would not annex lands. He emphasized that the temporary moratorium had been in effect for 30 years. He presented a slide that provided an example of a failure of consideration and an example of no failure of consideration.

Mr. Kamptner reviewed another question raised as to whether the moratorium frustrated the purpose of the agreement. He stated that this considered whether the County received the benefit of the bargain. Mr. Kamptner said the key point was whether the frustration was something neither party anticipated at the time of negotiation, and both parties understood this possibility.

Mr. Kamptner reviewed Section IV: Discriminatory Taxes Prohibited. He stated that the agreement generally required that the parties implement their taxes similarly, and this provision was to prevent either jurisdiction from enacting a commuter or payroll tax unless both localities were able to impose the tax. He said another question raised related to whether the City's payment in lieu of taxes (PILOT) violated Section IV, and noted that the City imposes a tax on City and County natural gas customers of approximately 8% of the bill. The theory behind this tax was that it makes up the difference in tax revenue that the City was not collecting as there was not a separate utility providing that gas service. He said this could possibly be described as an unconstitutional, extra-territorial tax. He said the PILOT goes into the City's general fund, which was an extra-territorial tax for County residents that the City did not have the authority to impose. He said he learned of this while preparing for this presentation. He said there were localities that provide extra-territorial utility services, with Leesburg being an example, where it was found to be reasonable that a 100% surcharge on extra-territorial customers was deemed to be reasonable.

Ms. McKeel asked Mr. Kamptner if he is suggesting that they should let sleeping dogs lie. Mr. Kamptner replied that as a City gas customer, he would ask the City to return the 8% surcharge back to the utility, rather than depositing this surcharge into the General Fund.

Ms. McKeel asked if he would work on this issue. Mr. Kamptner said he could probably bring this to Charlottesville's attention.

Mr. Randolph added that the County did not have standing as it was not an aggrieved party, and a County resident would have to raise the issue or it could be raised by a group of residents in a class action suit. Mr. Kamptner agreed.

Mr. Kamptner next reviewed Section VI, Duration of the Agreement. He said there was no time limit and the .1% cap was part of the exchange for the agreement having an unlimited duration. He next reviewed Section IX, Remedy for Breach. Mr. Kamptner stated that if there were a breach, they would send Charlottesville a letter and they would have 60 days to correct the breach; if a response were not received, they could ask the court to enforce it.

Mr. Kamptner reviewed another question that had been raised as to why the County did not ask the court to invalidate the agreement, and explained that there had to be a reason to declare it invalid. He said the County has a duty to good faith and fair dealing and it entered into the agreement with voter approval. He said another question raised was related to why the agreement is not unconscionable, and presented a slide with quotes regarding what was deemed to be unconscionable: an agreement was unconscionable if it was "such as no man in his senses and not under delusion would make on the one hand, and as no honest and fair man would accept on the other." He also presented a quote indicating that, "if inadequacy of price or inequality in value were the only indicia of unconscionability, the case must be extreme to justify equitable relief." Mr. Kamptner said the courts had set a high standard for the party utilizing any of the duress claims, and they would have to establish it by clear and convincing evidence, which was one level below proof beyond a reasonable doubt.

Ms. McKeel asked for the difference of elements of duress in criminal vs. contract law. Mr. Kamptner said he had not looked into duress under criminal law.

Mr. Kamptner reviewed detrimental aspects of the agreement, with the first being that the amount of money transferred to the City was significant and affected the composite index. He noted there have been repeated efforts to get some relief on the composite index, which was a zero sum index. He said if the County obtained relief it would be taken from other localities.

Ms. McKeel stated that for years the school board fought hard to have that recognized, and the fact that it was a zero sum game was probably why it never went anywhere.

Mr. Kamptner next reviewed benefits to the County arising from the agreement, stating that the first benefit was that it had stabilized real estate tax rates. He commented that as far as he knew, there had never been a case in which land annexed by a city had been returned to a county. He said the second benefit was that it had stabilized Charlottesville's financial health, another benefit to the City was it may have kept them from having to revert to town status, which would have required the County to take over City departments and services including schools and social services. Mr. Kamptner said another benefit was that it had stabilized how the County developed. He pointed out that one way for a county to avoid annexation was to develop areas away from the urban ring as they were less desirable to annex, and the absence of this threat had allowed Albemarle to focus development within the urban ring where there was more efficient and economical delivery of services. Another benefit he reviewed was that of the benefits of regional cooperation and absence of competition between the localities. He referred to a Free Enterprise Forum study conducted this year that determined that within the 10-square-mile area the City wanted to annex in 1980, the County received \$64.1M more in local tax revenues than what it paid to the City under the agreement from 2001 to 2016. He invited questions.

Ms. Palmer asked about reversion and how it works. Mr. Kamptner replied that it could be initiated by citizen petition or action by the City Council and it is then sent to the Commission on Local Governments for review, then to a court. He said they review data on economic impacts to both localities and how services would be addressed. He said a town is part of a county's tax base, and any services the town wants to provide are paid out of an additional tax imposed on real property, meals, and other items.

Ms. Palmer asked about the population threshold of 50,000. Mr. Kamptner said the County was reaching its limit for immunity on annexation and the City was reaching its cap of 50,000 residents for being able to revert to town status.

Ms. Palmer asked if they are about to reach immunity against annexation. Mr. Kamptner said the immunities exist under state law which the County could not pursue while the moratorium was in effect. He said that assuming the agreement was not in place and the moratorium was coming to an end, the County had reached the threshold of population and population density at which it could ask the Circuit Court for an order immunizing the County from annexation.

Ms. McKeel asked what the end result would be if they did to go court in terms of the revenue-sharing agreement. Mr. Kamptner replied that this was a hypothetical situation that assumed there was not a revenue-sharing agreement.

Mr. Sheffield asked if this would take away the value of the agreement because the promise of annexation would no longer exist, adding that this could be a tipping point in defining "severe inequity." Mr. Kamptner stated that the hard reality of contract law is that the inequality had to exist at the time the agreement was entered into.

Mr. Sheffield asked if there was a written agreement of this interpretation under the definition of "assessed value" or whether it was a handshake. He said they put land use valuation into effect to

preserve a pristine, rural landscape, which the City uses to sell itself for growth, and it seems like a paradox that they ignore putting into place something to preserve the rural character. Mr. Kamptner offered to see if the Finance Department had anything in writing.

Ms. Mallek reminded the Board that in the 1980 downzoning to protect the watershed, the majority of water customers were City residents, and County landowners had already taken a hit for a benefit that went mostly to City residents.

Mr. Sheffield said that many people in the Rio District were newcomers, and upon learning of the agreement they asked where the money is allocated and why there was not an understanding of what revenues were versus the payment agreement. Mr. Kamptner explained that a key issue was what value the County got in enabling the City to thrive in the way it had been, and how the County would be adversely affected if the City were struggling.

Ms. Mallek asked if there were ever a circumstance where the City would pay the County if they were growing faster. She recalled an element of "joint benefit" that everyone had talked about when the agreement came to fruition, but said that it did not make it into the final signed document. She recalled that the second part was that someday if the County was very successful, they would be on the receiving end of this, and said she did not have enough understanding of the formula to know if that was a possibility. Mr. Kamptner said he would like to have a mathematician run scenarios that take into consideration population changes and where tax rates and assessed values have increased. He said he did not know at what point they would get down to zero and it would become a City transfer to the County.

Ms. Palmer speculated that the person who calculated the payment under the revenue-sharing agreement should be able to conduct such a calculation. She suggested that Mr. Kamptner determine how much staff time it would require to run this calculation.

Mr. McKeel agreed with Ms. Palmer.

Ms. McKeel reminded the members of the audience that the meeting would be available on podcast and video.

Mr. Randolph expressed his appreciation to Mr. Kamptner for the depth and comprehensive nature of the report. He said there had been misunderstanding about terminology and the history of the agreement and this discussion had been clarifying.

Ms. McKeel noted that she had been elected numerous times and had five opportunities to be briefed by attorneys on the subject of the revenue-sharing agreement, and they have all said that it is a contract, so they could spend money taking the issue to court, but in the end the agreement would stand.

Mr. Sheffield stated that they could not ignore that this frustrates residents, and he finds it intriguing that the City and County have not gotten together to make a solid case as to how the community is better because of this agreement. He said their job as Supervisors to explain the agreement to constituents would be much easier if they could make that case.

Mr. Randolph said the public needs to know how the agreement works, and the media did not do a good job of getting this out. He said it is a contract that has to be honored and cannot be waived, and one could not come up with magical circumstances and argue post facto that the contract was invalid and no longer applied. He said it is their responsibility as Supervisors when meeting with CACs and audiences with constituents to let them know about the agreement. He emphasized that the City did not see it as a disadvantage while County residents see the agreement as a disadvantage, and this had obscured some of the benefits that have accrued to the City through the agreement.

Ms. McKeel said that years ago when the school board was looking at the composite index, because it was a zero sum game, the City was terrified and hired a lobbyist to argue against the County in Richmond, which she understood because it was going to take money away from them. Ms. McKeel said they looked at ways to make it so that it would not be a zero sum game, but there was no way to do it. She said that someone at the staff level in Charlottesville was recognizing the frustration, but Mayor Signer was surprised that the County had heard complaints. She stated that in her conversations with City Councilors, she learned they were surprised that there were County residents who question the agreement.

Mr. Palmer said she had spoken with City Councilor, Kathy Galvin, who is well aware of it, and there was some interest on the Council level in discussing where the money went, which is one of the reasons she brought up the small project on Lynchburg Road to get this started. She said if they could figure out a way to get a small project going, they could possibly build on that and have a better dialog about how the money is used. She said this could be a place to start to show the public that this money is going to transportation, an issue that benefits both the City and County.

Mr. Randolph recalled a discussion last year with City Council when the County suggested they install signage at projects indicating the project was paid for by a revenue-sharing agreement. He said if the City was able to show where revenue-sharing funds were going, there would be a better understanding, and that public displays are necessary as most residents do not read reports.

Ms. McKeel suggested they bring the topic of revenue sharing up at the next joint meeting with City Council, though the agenda is packed. She said that perhaps someone could bring it up at the end of

the meeting.

Mr. Randolph suggested they ask the City Council to provide an update on how they are publicizing where the money is going as they requested of Council last year.

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Agenda Item No. 8. Closed Meeting.

At 5:17 p.m., Mr. Randolph **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: 1) Under Subsection (7) [as of July 1, 2017, this should be (8)], to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice pertaining to the Unite the Right and related events scheduled for August 12; and 2) Under Subsection (19), to receive information pertaining to operations, procedures, tactical planning, security plans and measures, and personnel deployments for the Unite the Right and related events scheduled for August 12, where discussion in an open meeting would jeopardize the safety of any person or the safety of County facilities and buildings. Ms. Mallek **seconded** the motion.

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

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

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Agenda Item No. 9. Certify Closed Meeting.

At 6:01 p.m., the Board reconvened into open meeting. 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:

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

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

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Agenda Item No. 10. Call back to Order. At 6:05 p.m., the Chair, Ms. McKeel called the regular night meeting to order. Ms. McKeel then introduced staff present and the presiding security officer, Lt. Terry Walls.

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Agenda Item No. 11. Pledge of Allegiance.  
Agenda Item No. 12. Moment of Silence.

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Agenda Item No. 13. Adoption of Final Agenda.

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

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

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Agenda Item No. 14. Brief Announcements by Board Members.

Ms. Palmer announced that last week she attended a public meeting of the Rivanna Water and Sewer Authority and Rivanna Solid Waste Authority in the process of developing their strategic plan. She said about 10 citizens attended and the main concerns expressed were for protection of the environment, clean water, and composting.

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Mr. Randolph stated he would share an elegy for a small business. He said it is often thought that small businesses in Albemarle face a steep hurdle with taxation, but the business he is mentioning had to close due to a lack of imagination by a property owner who failed to see a vision of an expanded facility and what it could do for an underserved community. He announced with great regret the closing the previous Sunday of Salt Artisanal Market, which had been listed on Yelp as the number one place in the County for sandwiches.

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Ms. Mallek said that COMCAST had held an information meeting this week about its Internet Essentials program, which brings basic service to low income residents, seniors, and school children. She said that Mr. Mike Culp, Director of Information Technology, had attended and is the contact for those who wish to learn more.



Ms. Mallek announced that the Farm Bureau held its annual dinner and legislative preparation meeting last night. She said Luke Longacre of the Soil and Water Conservation District had discussed a \$500,000 cost share program for urban, suburban, and rural water quality and storm water projects, and Rod Walker of the Prism reviewed how they are working to control invasive species. She said there is a large federal grant to help landowners and groups of landowners with landscape methods, and the Prism.org website had a lot of information.

Ms. McKeel asked if they could help with bamboo problems.

Ms. Mallek replied that they could. She explained that last year Delegate Steve Landes sponsored a bill that was passed by the legislature to modernize the process for listing noxious plants, and the regulatory process is in development. She said the ultimate goal is prevention of importation of plants from out of state that are invasive.

Ms. Mallek stated that Mr. Neil Williamson gave an update on the storm water process.

Ms. Mallek commended L.L. Bean for its \$2,500 donation to the local Girl Scouts Council and Stonewall Jackson Boy Scouts. She said their new store opens this weekend.

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Agenda Item No. 15. Proclamations and Recognitions:

Item No. 15a. Proclamation Recognizing August 26, 2017 as Women's Equality Day.

Ms. Mallek presented and read the proposed proclamation recognizing August 26, 2017 as Women's Equality Day. She then **moved** that the Board adopt the proclamation. The motion was **seconded** by Ms. Palmer. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**PROCLAMATION**

**WHEREAS**, this is the **97th Anniversary** of the Nineteenth Amendment to the U.S. Constitution giving women the right to vote in 1920; and

**WHEREAS**, in 1848, 169 years ago in Seneca Falls, the need was recognized and proclaimed, but after great effort there is still more work to be done to ensure reliable protection in the U.S. Constitution for women against sex discrimination in general; and

**WHEREAS**, in many other ways the tasks of providing equal opportunities to women and men, and the tasks of removing burdens which fall unjustly on women as compared with men remain uncompleted.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Albemarle County, Virginia, does hereby proclaim

**August 26, 2017,**  
as  
**WOMEN'S EQUALITY DAY**

in remembrance of all those women and men who have worked to develop a more equitable community, which acknowledges both the real similarities and the important differences between women and men, with liberty and justice for all.

Signed and sealed this 9<sup>th</sup> day of August 2017.

Ms. Kobby Hoffman, Ex-Officio President of the Charlottesville Chapter of National Organization for Women, accepted the proclamation. She remarked that the granting of the right to vote in 1920 was very symbolic, and they have made a lot of progress but still have progress to go in terms of equality, benefits, and responsibilities. She expressed appreciation for the recognition.

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Agenda Item No. 16. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Phillip Fassieux of the White Hall District addressed the Board. He said he will speak about the revenue-sharing agreement. He corrected Mr. Kamptner's citation of the necessary elements of duress. He said the citation was of duress under criminal law and that the elements under contract law are as follows: wrongful or improper threat, no reasonable alternative but to accept the other party's terms, the threat actually induces the making of the contract, or other party caused the financial distress. He said the example utilizing a frustration of purpose was somewhat inaccurate and used an example of a horse as a tangible good being exchanged. Mr. Fassieux said the revenue-sharing agreement was an exchange of service, not goods, therefore the example of a horse did not apply. He said the agreement has cost County residents over \$300 million since inception, with \$15.8 million paid this year that could have funded improvements at Woodbrook Elementary School or helped to keep Yancey Elementary School open, instead of having to borrow \$33 million. He said it is bad financial management to take out a

loan while not reducing unnecessary expenses, like the revenue-sharing agreement. Mr. Fassieux called for the appointment of an independent advisory committee comprised of legal professionals for the purpose of researching and evaluating legal strategies for exiting the agreement. He added that since the County Attorney's office has supported the maintaining of the agreement, it is not in a position to be able to provide legal advice acceptable to County residents. He emphasized that it is important to not let the conversation around the merit of the agreement focus on the retrospective utility of the agreement, but it should instead look forward to its ongoing impacts on Albemarle residents. He said the threat of annexation is gone and the purpose of the agreement has become unenforceable, and he implores County officials to place the needs of County residents first and begin the courageous process of aggressively seeking relief in court.

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Mr. Harold Pilar, resident of Scottsville, addressed the Board. He complimented Mr. Kamptner for his professional and very informative presentation, but said he has some complaints. He said the idea of a statistical model that would revert payments from Albemarle to Charlottesville back to Charlottesville to Albemarle should be investigated. He said Ms. Mallek is the only one who lived through the tense times he lived through in this regard, and the Board of Supervisors did not want to spend the money to hire an attorney at the time. Mr. Pilar said part of the City's surplus includes money from the County and suggested the Board send a letter to Charlottesville asking for return of the surplus. He said the installation of a sign thanking the County did not put money in his pocket.

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Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board. He said that in conversations with elected officials and candidates for office, he suggested they identify how the agreement is benefiting both the City and County. He urged the Board to use County funds to go forward with the Cale and Greer projects and not include them in the request for TAP grants. He said the communities have already identified and prioritized these projects with the use of Neighborhood Improvement Funding Initiative (NIFI) funds, so they were not put into the TAP grant request and competing with other projects. He said they should maximize what they are seeking in TAP grants and not have them competing with other projects. He said that since 2007, TAP grants have allocated about \$20 million to Culpeper Transportation District, while Albemarle had only received about \$1 million. He said staff should be more aggressive in seeking these funds as there was \$4 in available grant money for every \$1 the County provides. He said he is emphasizing this now as the November deadline for the next round is coming up, after which time they will enter a two-year cycle and have to wait two years to ask again.

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Ms. Nancy Hunt, President of the Branchlands Property Owners Association and resident of the Rio District, addressed the Board regarding the Branchlands assisted living construction and the issue of infill development. She presented a photo of backyard flooding and a two-page listing of inspections of flooding over a four-month period. She said the flooding has been going on since last April every time it rains, and while measures have been taken they have not worked. She said she contacted Mr. Mark Graham, who sent Mr. Frank Pohl to take a look. Ms. Hunt said there was an additional infill problem as the gas line was cut during the pouring of cement for the foundation and residents of her association had to evacuate their homes and trash was not able to be picked up for a week. She said trucks did not have sufficient parking space on Branchlands Drive, and instead pull into her association's parking lot and rip up the asphalt. She said there are no flag men to direct traffic. She said that on Easter Sunday they began full construction activity at 8 a.m., and the neighborhood's issues involve construction noise, activity, and management.

Mr. Randolph asked if the area off the premises in their backyard is owned by Branchlands itself or titled to the property owners. Ms. Hunt replied it is fee simple.

Ms. Mallek commented that it is required they not have traffic coming through Branchlands.

Ms. Hunt said there is an exception when crews work on the front of the building and they have to go up this road when carrying roof trusses.

Mr. Walker indicated that he would follow up.

Mr. Sheffield suggested the Board ask staff to present a quick assessment of how they are managing urban infill dynamics.

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Mr. Lonnie Murray addressed the Board, stating that it is in Charlottesville's best interest to renegotiate revenue-sharing with the County. He pointed out that revenue paid to the City by Albemarle since 2010 has declined, despite revenues increasing by 40% as a result of suburban sprawl, as rural properties converted to subdivisions fall out of land use, so the amount paid to Charlottesville was unchanged while additional revenue was generated. He said the consequence is that they are subsidizing sprawl in the rural areas, which does not benefit either jurisdiction. He referenced an article in *Charlottesville Tomorrow* about the Jim Justice property and irresponsible logging that had occurred there as an example of people exploiting agricultural loopholes for a tax benefit or to avoid environmental regulations. Mr. Murray said this is happening across the County, and as a taxpayer he is subsidizing Mr. Justice's poor environmental practices.

Mr. Murray said the Board should be strict about the revalidation and take care that those in the

program actually deserve it. He said revalidation had reduced the number of properties in land use by 257, which had resulted in a revenue increase of \$6.2M. He said another way of reducing revenue-sharing payments is through conservation easements as properties under easements dropped in land use value. He said if they continue with the land use program, they need to tie in closely with best management practices and be sure that those who are using the program are practicing good conservation measures. Mr. Murray said their incentive program allows someone who has cleared land to convert it to pasture and grow hay. He said he had heard stories of people keeping a hay bale on their property for when the assessor comes, which is unacceptable. He stated that water runs off these properties into streams and they are exempt from stream buffers, and suggested they convert these properties to a wildlife habitat and qualify properties under this program at the same acreage they use for agriculture. He said if they are going to pay them it should be for doing the right thing and not the wrong thing.

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Mr. Sheffield asked Supervisors for consensus on asking staff to prepare a 10-year net impact of land use study.

Ms. Mallek urged that they wait until after January when the revalidation period is finished.

Mr. Dill emphasized that he receives more comments and complaints about land use and abuse than on revenue sharing and it is a real concern, for which he suggested the Board schedule a future discussion.

Ms. McKeel said they could look at the agenda and time.

Ms. Palmer said she liked the presentation on revenue sharing because it shows specifics and would like the County to have one conducted.

Ms. Mallek said she attended a meeting of the Farm Bureau the previous night, and it had been suggested that they set up a procedure with the Department of Forestry so that when they notified the County that a property did not qualify as a forestry operation the County would find this out.

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Agenda Item No. 17. Consent Agenda.

**(Discussion:** Mr. Sheffield pulled his assigned minutes of March 7, March 28 and April 11, 2017.

Ms. Mallek pulled her assigned minutes of September 7, 2016, and May 15 and May 26, 2017.

Ms. Palmer pulled her assigned minutes of April 12, 2017.

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Ms. Mallek asked that Item 17.2 be pulled until the Board can get corrected text back rather than approving it for some future edits.

Ms. McKeel said they would pull the marker from the consent agenda and some minutes for Mr. Sheffield.

Mr. Randolph said he was referring to the marker based on Mr. Walker's communication to him. He said he had originally expressed a concern about this item and then withdrew it because of Mr. Walker's communication.

Mr. Walker said another issue was raised about language in the marker in regard to the founding date, which had been suggested. He said they could discuss this with the Board now or later.

Mr. Randolph **moved** that the Board approve Item 17.1 (as read), and 17.3 through 17.5, to pull Item 17.2., as discussed. The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None

Ms. McKeel said they are talking about the historic marker at the County Courthouse and why it does not contain the County seal. Mr. Walker said the response to a question about the seal is that the seal could be added. He said there was also a question about the language on the timeline about the founding of the County.

Mr. Margaret Maliszewski, Principal Planner, addressed the Board. She said she had spoken earlier that day with Ms. Mary Joe Scala, who is coordinating revisions on the marker with the Charlottesville Historic Resources Committee. She said Ms. Scala is fine with adding "1744 Founding of the County of Albemarle," as well as the County seal, to the timeline.

Ms. Mallek said they could create a mock up and then send it to the Board for approval.

Ms. McKeel asked for consensus from Supervisors and there is agreement to follow Ms. Mallek's suggestion.)

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Item No. 17.1. Approval of Minutes: September 7 and October 12, 2016; January 17, February 17, March 7, March 8, March 28, April 5, April 11, April 12, May 15, and May 26, 2017.

Mr. Sheffield had read the minutes of October 12, 2016 and January 17, 2017, and found them to be in order.

Ms. Palmer had read the minutes of February 17, 2017 and found them to be in order.

Mr. Randolph had read the minutes of March 8, 2017 and found them to be in order.

Ms. McKeel had read the minutes of April 5, 2017, pages 1-42 (end Item #23), and found them to be in order.

Mr. Dill had read the minutes of April 5, 2017, pages 42 (begin Item #23) – end, and found them to be in order.

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

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Item No. 17.2. Revised Historic Court Square Marker.

The Executive Summary forwarded to the Board states that the City of Charlottesville's Historic Resources Committee (HRC) has been preparing a series of nine Court Square markers intended to replace the existing granite markers that have become difficult to read. As part of this effort, they have requested the Board of Supervisor's approval to replace the large, freestanding marker that was located adjacent to the Albemarle County Courthouse when the 2002-2004 renovations were completed. (Attachment A)

The intent of the new markers is to create a self-guided walking tour of Court Square that tells a more complete story of the historic buildings and activities there. The revised marker (Attachment B) has benefited from the thorough vetting of the Historic Resources Committee as well as the input of the City's Blue Ribbon Commission. Albemarle County staff has also reviewed the revised marker text.

The new marker would be installed using the existing framing, following details prepared by the architectural firm of Wolf-Ackerman. (Attachment C) Following endorsement from the Board of Supervisors, the new markers will be put in place by the fall of 2017.

No budget impact.

Staff recommends that the Board endorse the revised Court Square marker text.

**By the above-recorded vote, the Board pulled and deferred this item to another meeting.**

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Item No. 17.3. Berkmar Drive Extended - Lewis & Clark Drive Connector Road Study.

The Executive Summary forwarded to the Board states that on June 14, 2017, the Board of Supervisors adopted a Resolution approving the FY 18-23 Secondary Six Year Program. The list of projects included the Berkmar Drive Extended - Lewis & Clark Drive Connector Road Study.

The Preliminary Engineering phase of this project is funded (\$800,000), a VDOT project account has been established, and the project assigned VDOT Project # 9999-002-267 and UPC # 111736. The intent of the design scope will be to advance the project design to a level that will allow generation of a more detailed and refined cost estimate, and to better compete for funding in the VDOT SMART Scale project review process. The project will be administered by Staff and requires County and VDOT approval of a standard VDOT Project Administration Agreement (Attachment A) that outlines the County's and VDOT's project responsibilities. Once the Agreement is fully executed, VDOT will authorize Staff to begin Preliminary Engineering and Staff will then be able complete procurement of the design consultant services.

The project is fully funded by VDOT and the County will be reimbursed for the project expenditures. Therefore, an appropriation in the amount of \$800,000 will be necessary in order to procure the design services. If the Board approves the Agreement, Staff will present an appropriation request to the Board at a later date.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the Berkmar Drive Extended - Lewis & Clark Drive Connector Road Study Project Administration Agreement.

**By the above-recorded vote, the Board adopted the following Resolution to approve the Berkmar Drive Extended – Lewis & Clark Drive Connector Road Study Project Administration Agreement:**

**RESOLUTION APPROVING A  
PROJECT ADMINISTRATION AGREEMENT FOR**

**THE BERKMAR DRIVE EXTENDED – LEWIS & CLARK DRIVE  
CONNECTOR ROAD STUDY**

**WHEREAS**, the Board finds that it is in the best interest of the County to enter into an agreement with the Virginia Department of Transportation for the completion of a study for the Berkmar Drive Extended – Lewis & Clark Drive Connector Road.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the Standard Project Administration Agreement for the Berkmar Drive Extended – Lewis & Clark Drive Connector Road Study (Project Number 9999-002- 967; UPC 111736), and authorizes the County Executive to execute the Agreement on behalf of the County after its approval as to form and substance by the County Attorney.

Albemarle County  
Project 9999-002-967, UPC 111736

**STANDARD PROJECT ADMINISTRATION AGREEMENT  
State-aid Projects**

Project Number	UPC	Local Government
9999-002-967	111736	Albemarle County

**THIS AGREEMENT**, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the County of Albemarle, Virginia, hereinafter referred to as the **LOCALITY** and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the **DEPARTMENT**.

**WHEREAS**, the **LOCALITY** has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

**WHEREAS**, the funds shown in Appendix A have been allocated to finance the Project(s) and the funding currently allocated or proposed for the project(s) does not include Federal-aid Highway funds; and

**WHEREAS**, both parties have concurred in the **LOCALITY's** administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state and local laws and regulations.

**NOW THEREFORE**, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The **LOCALITY** shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the **DEPARTMENT**, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
  - b. Receive prior written authorization from the **DEPARTMENT** to proceed with the project.
  - c. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the **DEPARTMENT**.
  - d. Provide certification by a **LOCALITY** official of compliance with applicable laws and regulations on the **State Certification Form for State Funded Projects** or in another manner as prescribed by the **DEPARTMENT**.

- e. Maintain accurate and complete records of each Project's development of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for not less than three (3) years following acceptance of the final voucher on each Project.
  - f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and also include an up-to-date project summary and schedule tracking payment requests and adjustments.
  - g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if due to action or inaction solely by the LOCALITY the project becomes ineligible for state reimbursement, or in the event the reimbursement provisions of Section 33.2-214 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of state law or regulations require such reimbursement.
  - h. On Projects that the LOCALITY is providing the required match to state funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
  - i. Administer the Project in accordance with all applicable federal, state, and local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of state-aid reimbursements
  - j. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
  - k. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
  - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.

- c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
  - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with applicable laws and regulations.
  - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
- 3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
  - 4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
  - 5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its cost exceeds the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
  - 6. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
  - 7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
  - 8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of

this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination and unless otherwise agreed to, the DEPARTMENT shall retain ownership of plans, specifications, and right of way for which state funds have been provided, unless all state funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THE LOCALITY and the DEPARTMENT further agree that should Federal-aid Highway funds be added to the project, this agreement is no longer applicable and shall be terminated. The LOCALITY and the DEPARTMENT mutually agree that they shall then enter into a Standard Project Administration Agreement for Federal-aid Projects.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

Albemarle County  
Project 9999-002-967, UPC 111736

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

\_\_\_\_\_, **OF** \_\_\_\_\_, **VIRGINIA:**

\_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy  
Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Attachment**  
Appendix A – UPC 111736



Appendix A

Date: 6/22/2017

Project Number: 9999-002-967

UPC: 111736

CFDA #

Locality: Albemarle County

Project Location ZIP+4: 22911-5616		Locality DUNS# 0066022047		Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4596	
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Project Narrative

Scope:

Study Only - Connector Road from Berkmar Drive to Lewis & Clark Drive

From:

Berkmar Drive Ext.

To:

Lewis & Clark Drive

Locality Project Manager Contact info:

Jack Kelsey (434) 872-4501

Department Project Coordinator Contact Info:

Kim Cameron (540) 829-7704

Project Estimates					
	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost	
Estimated Locality Project Expenses	\$776,000	\$0	\$0	\$776,000	
Estimated VDOT Project Expenses	\$24,000			\$24,000	
Estimated Total Project Costs	\$800,000			\$800,000	

Project Cost and Reimbursement						
Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement -
Preliminary Engineering	\$800,000	Secondary	0%	\$0	\$800,000	
				\$0	\$0	
				\$0	\$0	
				\$0	\$0	
Total PE	\$800,000			\$0	\$800,000	\$776,000
Right of Way & Utilities			0%	\$0	\$0	
				\$0	\$0	
				\$0	\$0	
				\$0	\$0	
Total RW	\$0			\$0	\$0	\$0
Construction			0%	\$0	\$0	
			0%	\$0	\$0	
				\$0	\$0	
				\$0	\$0	
Total CN	\$0			\$0	\$0	\$0
Total Estimated Cost	\$800,000			\$0	\$800,000	\$776,000

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)	\$800,000
Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)	\$776,000

Project Financing						
						Aggregate Allocations
Secondary						
\$800,000						\$800,000

Program and Project Specific Funding Requirements

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 7/26/2018.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of \$800,000 (if applicable)
- This is a limited funds project. Financing of any eligible costs in excess of \$800,000 and all ineligible costs as determined by the DEPARTMENT pursuant to the DEPARTMENT's current policy and procedure in administration of the Local Administered Project manual will be borne 100 percent by the LOCALITY.

\_\_\_\_\_  
Authorized Locality Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

Revised: June 15, 2016

\_\_\_\_\_  
Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

Item No. 17.4. B2017-01389ATWR 5722 Wyant Lane Special Exceptions.

The Executive Summary forwarded to the Board states that several special exception requests have been submitted by Crown Castle USA, Inc. on behalf of SmartSky, associated with Crown Castle's building permit application to add an antenna to an existing treetop wireless facility at 5722 Wyant Lane. (See Attachment B-Location Map and Attachment C-Plans).

County Code § 18-5.1.40.a(12) allows special exceptions to waive or modify the requirements of § 18-5.1.40 for personal wireless service facilities. The applicant has requested four special exceptions:

- 1)

Waive requirements of § 18-5.1.40.b(3) - tree conservation plan
- 2)

Modify requirements of §18- 5.1.40.b(2)(a) - number of arrays
- 3)

Modify requirements of §18- 5.1.40.b.(2)(b) - antenna size
- 4)

Modify requirements of §18-5.1.40.b(2)(c) - projection of antenna beyond 18” from the existing tower

Staff analysis of the requests is provided as Attachment A.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the special exceptions, subject to the conditions attached thereto.

**By the above-recorded vote, the Board adopted the following Resolution approving the special exceptions, subject to the conditions attached thereto:**

**RESOLUTION TO APPROVE SPECIAL EXCEPTION(S) FOR  
B201701389ATWR WYANT LANE PERSONAL WIRELESS SERVICE FACILITY**

**WHEREAS**, Crown Castle, on behalf of SmartSky, filed an application for a building permit to add an antenna array to the existing personal wireless facilities tower located on Tax Map Parcel Number 07200-00-00-02100, which application is identified as building permit number B201701389ATWR - SmartSky; and

**WHEREAS**, B201701389ATWR included a request for special exceptions to waive the requirements of County Code § 18-5.1.40(b)(3) and to modify the requirements of County Code §§ 18-5.1.40(b)(2)(a), 18-5.1.40(b)(2)(b), and 18-5.1.40(b)(2)(c); and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(3) requires that the applicant submit a tree conservation plan, which may be waived by special exception; and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(2)(a) requires that the number of antenna arrays not exceed three, which may be modified by special exception; and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(2)(b) requires that each antenna not exceed one thousand four hundred (1400) square inches, which may be modified by special exception; and

**WHEREAS**, Albemarle County Code § 18-5.1.40(b)(2)(c) requires that antennas be mounted so that in no case is the farthest point of the back of the antenna be more than eighteen (18) inches from the facility, which may be modified by special exception.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, all of the factors relevant to the special exception(s) in County Code §§ 18-5.1.40, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception(s) to waive the requirements of County Code § 18-5.1.40(b)(3), and to modify the requirements of County Code §§ 18-5.1.40(b)(2)(a), § 18-5.1.40(b)(2)(b), and 18-5.1.40(b)(2)(c), subject to the conditions attached hereto.

\* \* \*

**B201701389ATWR Special Exception Conditions**

1. The antenna array and all ground equipment shall be installed as depicted on the site plan referred to as "SmartSky First Time Install", prepared by Justin Peter Linette, P. E., last revised on May 16, 2017.
2. No more than one additional antenna (array) shall be added to the existing facility;
3. No antenna authorized by this special exception shall project more than 4 feet 4 inches from the monopole structure to the back of the antenna mount.
4. No antenna authorized by this special exception shall be more than 1873 square inches in size.
5. The center line of the antenna shall not be mounted higher than 60 feet elevation as depicted on Sheet C-1 of the SmartSky First Time Install site plan, prepared by Justin Peter Linette, P. E last revised on May 16, 2017.
6. The antenna sector mount structure shall not exceed 14 feet 6 inches in width.

\_\_\_\_\_

Item No. 17.5. Solid Waste Alternatives Advisory Committee - Semi-annual Report.

The Executive Summary forwarded to the Board states that the Solid Waste Alternatives Advisory Committee (SWAAC) was established by the Board at its March 2, 2016 meeting as a standing advisory committee. The Committee's original charge emphasized public education and engagement due to a lack of dedicated staff support. The charge was revised in July 2017 to remove the emphasis on education as the lone primary focus and to clarify responsibilities and membership. The Committee is charged with developing sustainable materials management policies for consideration by the Board including those related to waste and litter reduction, materials reuse, recycling and composting, greenhouse gas reduction, waste collection and transfer operations, and waste disposal. The Committee provides semi-annual reports to the Board on initiatives and work planning and provides specific policy proposals as they are developed.

The revised Committee Charge Statement is included as Attachment A.

The Committee has met monthly since June 2016. The Committee submitted its first semiannual report in February 2017 and provided a recommendation to extend the operating hours at the McIntire Recycling Center in June 2017. The Committee's second semi-annual report to the Board is included as Attachment B. The report includes a summary of work completed during the reporting period and a summary of the Committee's priorities and goals for the next six months.

This Committee report is an update on progress and does not include any finalized recommendations having associated budget impacts.

Affirm support for the Committee's future priorities and goals.

**By the above-recorded vote, the Board affirmed support for the Committee's future priorities and goals.**

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Item No. 17.6. ZMA201500006. Shadwell Estates. *(Deferred at the request of applicant)*

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Agenda Item No. 18. **Public Hearing: Relocation of Sewer Easements in Old Trail Western Park.**

To consider conveying sanitary sewer easements across the County-owned Old Trail Western Park property (Tax Map Parcel 055E0-01-00-000H0) to the Albemarle County Service Authority. *(Advertised in the Daily Progress on July 24, 2017.)*

The Executive Summary presented to the Board states that the Albemarle County Service Authority (ACSA) has requested that the County grant easements for the installation of sanitary sewer lines across portions of County-owned property designated as Parcel ID 055E0-01-00- 000H0, located in the Old Trail Subdivision.

There are two proposed easements included in the attached Deed of Easement (Attachment A). This property on which the easements are requested was conveyed to the County for use as a public park. The specific location of the proposed easements is set forth in the attached Plat (Attachment B). The sewer lines will be buried within the easements and there will be no above ground facilities. The easements will not interfere with the use of the property as a public park.

*Virginia Code* § 15.2-1800 requires that the Board hold a public hearing prior to conveyance of this interest in County-owned real property.

There is no budget impact.

Staff recommends that, after receiving public comment, the Board adopt the attached Resolution (Attachment C) approving the proposed easements.

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Mr. Andy Herrick, Senior Assistant County Attorney, presented. He said a related matter came before the Board several months earlier whereby the County had conveyed easements across the park. He said that in an ideal world, these sorts of easements would take place prior to conveyance of the property to the County, but in this case it was discovered that the easements needed to be aligned after the County had already owned the property. He said County Code requires a public hearing for conveyance of property and the matter at hand is a realignment of existing easements. He referenced Executive Summary Attachment B which showed the location off the northeastern and southeastern portions of the plat at Rowcross Drive near Old Trail Park. He stated that Mr. Bob Crickenberger of the Department of Parks and Recreation had informed him that this would not have any effect on the use of the park, and staff recommends the easements be conveyed to the ACSA after the public hearing.

Ms. Mallek asked if the property is east of the lodge. She asked for confirmation that they are staying on high ground and away from the precipice, noting that her concern is that greenways are laid out and then torn up and trees cut for a pipe to be put in the ground. Mr. Herrick replied that one extends east towards Lickinghole Creek and the other to the southeast towards the stream. He said the proposed easement is farther away from the creek towards the southern part of the plat.

Mr. Randolph asked that in future presentations Mr. Herrick present a map of the location in relation to Old Trail.

Ms. McKeel opened the public hearing.

As nobody wished to speak she closed the public hearing.

Ms. Mallek **moved** that the Board adopt the proposed resolution approving the proposed easements. The motion was **seconded** by Ms. Palmer. Roll was called and the motion carried by the following recorded vote:

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

**RESOLUTION APPROVING THE GRANTING OF  
EASEMENTS ON THE OLD TRAIL PARK PROPERTY**

**WHEREAS**, the County of Albemarle owns certain property known as the Old Trail Park and identified as Tax Map Parcel 055E0-01-00-000H0; and

**WHEREAS**, additional easements across this County-owned property are necessary for the

Albemarle County Service Authority (ACSA) to provide sanitary sewer service to the Old Trail Subdivision.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the granting of sanitary sewer easements to the ACSA, and authorizes the County Executive to sign all documents necessary to convey these easements across Tax Map Parcel 055E0-01-00-000H0 and to implement the terms and conditions thereof once they have been approved as to substance and form by the County Attorney.

**PREPARED BY:**

Albemarle County Attorney's Office  
401 McIntire Road, Suite 325  
Charlottesville, Virginia 22902

**Parcel ID # 055E0-01-00-000H0**

This deed is exempt from taxation under *Virginia Code* § 58.1-811(A)(3) and from Clerk's fees under *Virginia Code* § 17.1-266.

This **DEED OF EASEMENT** and **DEED OF VACATION**, made this 22<sup>nd</sup> day of May, 2017, by and between the **COUNTY OF ALBEMARLE**, a political subdivision of the Commonwealth of Virginia (the "County"), a Grantor and Grantee; and **ALBEMARLE COUNTY SERVICE AUTHORITY** (the "Authority"), a Grantor and Grantee, whose address is 168 Spotnap Road, Charlottesville, Virginia 22911.

**WITNESSETH:**

WHEREAS, the Authority has requested and the Grantor has agreed to grant the Authority a sanitary sewer line easement located on the County's property in Albemarle County, Virginia, and the Authority has agreed to vacate a portion of an existing sanitary sewer easement, which easements are shown on the following plat (the "Plat"):

"Sanitary Sewer Easement Plat Showing Portion of Existing Easement To Be Vacated And New Sanitary Sewer Easement To Be Dedicated To Albemarle County Service Authority Located On TMP 055E0-01-00-000H0 Old Trail Village Subdivision White Hall Magisterial District Albemarle County, Virginia" dated February 14, 2017, prepared by Roudabush, Gale & Associates, Inc., which plat is attached hereto and recorded herewith.

WHEREAS, as shown on the Plat, the proposed easement crosses a portion of the property conveyed to the County by deed recorded in the Albemarle County Circuit Clerk's Office in Deed Book 3955, page 1 (the "Public Park"); and the County is the fee simple owner of the said property as of the date hereof.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the County does hereby GRANT and CONVEY with SPECIAL WARRANTY OF TITLE unto the Albemarle County Service Authority a perpetual right of way and easement to construct, install, maintain, repair, replace and extend sanitary sewer lines consisting of pipes and appurtenances thereto, over, under and across the real property of the Grantor located in the White Hall Magisterial District of Albemarle County, Virginia, the location and width of the easements hereby granted and the boundary of the properties being more particularly described on the Plat as "CL SSE 20." Reference is made to the aforesaid Plat for the exact location and dimension of the permanent easement hereby granted and the property over which the same crosses.

The County, its successors and assigns agree that trees, shrubs, fences, buildings, overhangs or other improvements or obstructions, except as provided for below, shall not be placed within the easement conveyed herein. The County shall have the right to construct trails and related improvements ("Park Improvements") within the easement hereby granted. The County, its successors and/or assigns shall also have the right to construct other utility lines within the easement hereby granted, provided that no such lines shall be within five (5) feet horizontally of the sewer lines installed hereunder. The County shall first consult with the Authority concerning the type and location of any new trees to be placed within the easement area.

As a part of this easement, the Authority shall have the right to enter upon the above described properties within the easement for the purpose of installing, constructing, maintaining, repairing, replacing and extending sewer lines, and appurtenances thereto within such easement, and the right of ingress and egress thereto as reasonably necessary to construct, install, maintain,

repair, replace and extend such sewer lines. If the Authority is unable to reasonably exercise the right of ingress and egress over the right-of-way, the Authority shall have the right of ingress and egress over the property of the owner adjacent to the right-of-way.

Whenever it is necessary to excavate earth within such easement, the Authority agrees to backfill such excavation in a proper and workmanlike manner so as to restore surface conditions as nearly as practical to the same condition as prior to excavation, including restoration of such paved surfaces as may be damaged or disturbed as part of such excavation.

The easement provided for herein shall include the right of the Authority, with the County's prior written consent, to cut any trees, brush and shrubbery, remove obstructions, including Park Improvements, and take other similar action reasonably necessary to provide economical and safe sewer line installation, operation and maintenance. Following the removal of any Park Improvements, the Authority shall replace or restore such Park Improvements at its expense, and the Authority shall replace or reimburse to the County the replacement cost of said trees, brush, shrubbery or obstructions, including Park Improvements, if cut or removed or otherwise damaged. Any and all trees, brush, shrubbery or obstructions cut or removed by the Authority shall be disposed of at the Authority's expense at a location not within the Public Park, unless the County consents in writing to such disposal within the Public Park.

The facilities constructed within the permanent easement shall be the property of the Authority, which shall have the right to inspect, rebuild, remove, repair, improve and make such changes, alterations and connections to or extensions of its facilities within the boundaries of the permanent easement as are consistent with the purposes expressed herein.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the

Authority does hereby VACATE and ABANDON a portion of an existing sewer line easement, shown on the Plat as "Hatched Portion Of Ex. San. Sew. Esm't To Be Vacated."

WITNESS the following signatures and seals:

**COUNTY OF ALBEMARLE, VIRGINIA**

By: \_\_\_\_\_ (SEAL)  
Douglas C. Walker, Interim County Executive

**APPROVED AS TO FORM:**

\_\_\_\_\_  
County Attorney

COMMONWEALTH OF VIRGINIA  
COUNTY OF ALBEMARLE to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_  
2017, by Douglas C. Walker, Interim County Executive, on behalf of the County of Albemarle,  
Virginia.

My Commission Expires: \_\_\_\_\_

Commission No.: \_\_\_\_\_

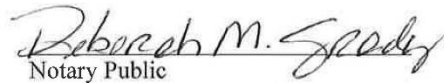
\_\_\_\_\_  
Notary Public

**ALBEMARLE COUNTY SERVICE AUTHORITY**

By:   
Gary O'Connell, Executive Director

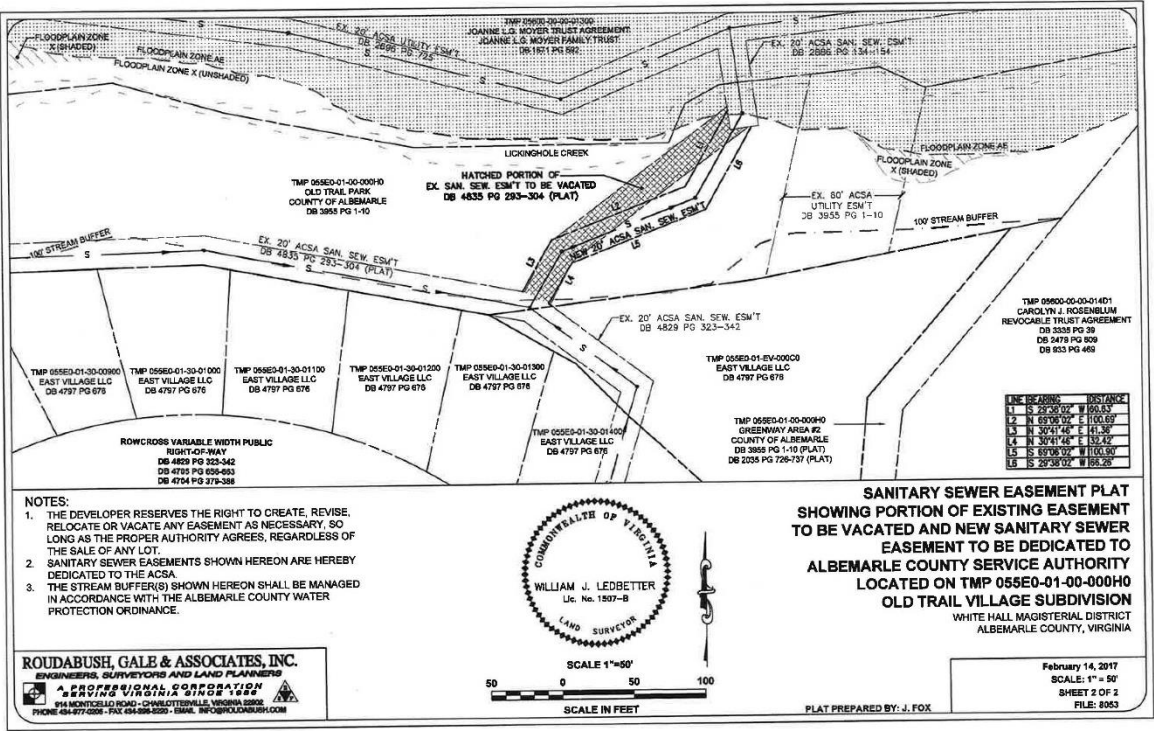
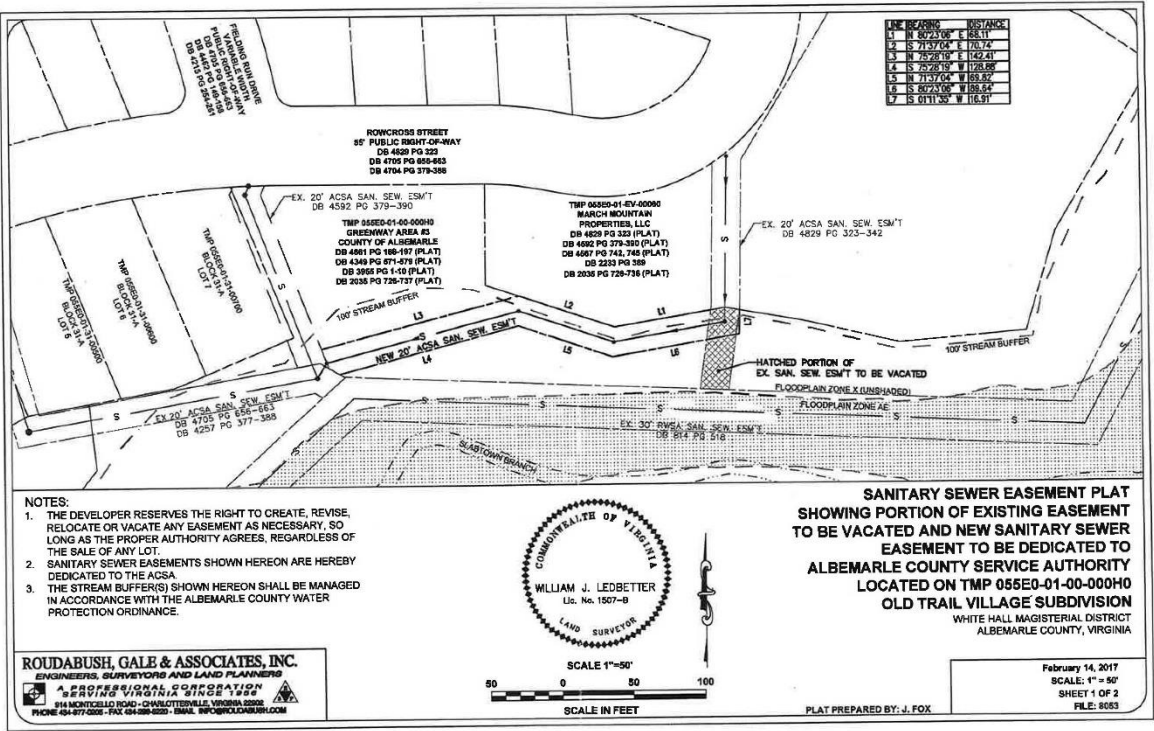
COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Albemarle to-wit,

The foregoing instrument was acknowledged before me this 23 day of may  
2017, by Gary O'Connell, Executive Director of the Albemarle County Service Authority.

  
Notary Public

My Commission Expires: 3/31/2020

Commission No.: 7173337



**Agenda Item No. 19. Public Hearing: SP201700012 – Verizon Wireless “Carters Bridge”  
(Llandaft LC Property) Tier III PWSF (Sign # 22).**

MAGISTERIAL DISTRICT: Scottsville.  
TAX MAP/PARCEL: 11200-00-00-00900.  
LOCATION: 4319 Scottsville Rd (Route 20).  
PROPOSED: Installation of a one hundred and six (106) foot tall steel monopole treetop tower with one (1) antenna array. Associated with the proposal is ground equipment which will be located within a 1,350 square feet fenced compound area and extension of an access road.  
PETITION: 10.2.2.48 Special Use Permit, which allows for Tier III personal wireless facilities in the RA Zoning District (reference Section 5.1.40).  
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).  
Entrance Corridor: Yes.  
Flood Hazard – Overlay to provide safety and protection from flooding.  
COMPREHENSIVE PLAN LAND USE/DENSITY: 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 July 24 and July 31, 2017.)

The Executive Summary presented to the Board states that at its meeting on July 11, 2017, the Planning Commission voted unanimously to recommend approval of SP201700012 with one condition.



The Planning Commission's July 11, 2017, action memo and staff report are attached (Attachments A and B).

The County Attorney has prepared the attached Resolution (Attachment D) reflecting the recommendation of the Planning Commission. Please note that non-substantive modifications have been made to the language of the condition of approval contained in the Resolution, including referring to the plan as the "Conceptual Plan".

Staff and the Planning Commission recommend that the Board adopt the attached Resolution (Attachment D).

---

Mr. Francis MacCall, Principal Planner, stated that this proposal is for a steel monopole of 106 feet in height with one flush mounted antenna, associated ground equipment, and a 1,300-square-foot lease area. He said that on July 11, the Planning Commission recommended approval with one condition. Mr. MacCall presented slides with a map of the property and said it will be adjacent to an existing facility. He stated that staff recommends approval of the resolution in Attachment D, as recommended by the Planning Commission.

Ms. Mallek noted this will be the second pole on the site. Mr. MacCall responded that they will be generally in the same area, and there is a distance from the existing pole identified in the staff report.

Ms. Mallek asked if there is already vegetation and if it will be thickened to cover up. Mr. MacCall replied that the plan is to remove three trees with no other changes.

Ms. Palmer noted the staff report indicates it is 118 feet from the back of the property and asked what is on the other side. Mr. MacCall replied that there is a large piece of rural area land, but he will have to look at GIS to determine where the actual dwelling is.

Ms. Palmer stated that there is a farm near this site.

Ms. Mallek asked if the site of the pole is well beyond its height as far as setback distance so there will not be a possible fall zone over the property line. She asked for clarification that in the future it cannot be higher than 118 feet because of that fall zone.

Ms. Palmer commented that the Bellair tower goes beyond the fall zone. Mr. MacCall replied that the setback is sufficient and that 118 feet is the maximum, unless the line were moved.

Ms. Mallek said this looks to be north of Carter's Bridge, and noted that this will be on Redlands property.

Mr. Randolph said he is pleased with the application and noted that when he was on the Planning Commission, they approved multiple towers along the 20 South corridor which were constructed mostly by Ntelos, which is now Sprint. He stated that he is glad Verizon will construct this tower and said he has repeatedly heard inquiries from residents as to when connectivity would be improved. Mr. Randolph said a Supervisor was elected in Scottsville five years ago and was committed to improving access and this has been an issue for every Supervisor for at least six to eight years.

Ms. Laurie Schweller, Attorney with LeClair Ryan, addressed the Board on behalf of Verizon Wireless. She said they are proposing a Tier 3 facility because it is in the southern Albemarle historic district, noting that this meets all the Tier 2 treetop design standards. She said that in aspects of size and color, they meet the County's desired performance standards. Ms. Schweller presented a color-coded map of the portion of the County the tower will serve, with green representing good service, yellow representing marginal service, and red indicating unreliable service. She said that even with the new tower, there will still be sections of the area with unreliable service, and she presented a slide showing where additional towers are planned to be. Ms. Schweller presented an elevation map of the tower location, a map of vegetation on the site, and the location of the three trees that will be removed. Her additional slides showed the antenna array plan and results of a balloon test, and she presented photos taken of the simulated tower from various locations.

Ms. Mallek asked why the tower appears to be higher above the trees from the view at Walton than from other views. Ms. Schweller replied that it is 8.66 feet above the reference tree and that the lay of the land affects how the tree looks from different locations.

Ms. McKeel opened the public hearing.

As no one from the public came forward to speak, she closed the public hearing.

Mr. Sheffield commented that the challenge is to provide coverage in the rural areas while being mindful of aesthetics, and noted that JAUNT utilizes cellular towers for communication. He said there are other options, but they are unreliable and require heavy maintenance.

Ms. Palmer said she is not upset by the tower and likes the shorter ones, and asked for confirmation that the pole cannot be taller than the reference tree.

Mr. Bill Fritz, Chief of Special Projects, said the State is currently reviewing the possibility of

allowing towers of a certain height by right, without the locality having the ability to regulate this. He said that what they are talking about now is a rule in the Middle Class Tax Relief and Job Creation Act of 2012 that permits a colocation, as long as it does not constitute a substantial change. He said that substantial change is defined such that a tower height could be increased by 10% or 20 feet, whichever is greater. Mr. Fritz said the antennas can stick out away from the tower, half the diameter of the tower or 20 feet, whichever is greater. Mr. Fritz noted that the relationship of the tower to the tree is considered a concealment element, and the tower cannot be expanded in height except in relation to the growth of the tree. He said they cannot use the substantial colocation provision in the federal law.

Ms. Mallek asked if there was discussion about overturning setbacks from the property line to keep a fallen tower on the property where it belongs. Mr. Fritz said there have been such discussions.

Mr. Randolph **moved** that the Board adopt the proposed resolution to approve SP-2017-00012, subject to the conditions attached thereto. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**RESOLUTION TO APPROVE  
SP 2017-12 CARTERS BRIDGE PWSF VERIZON –  
TIER III PWSF (SCOTTSVILLE)**

**WHEREAS**, Verizon Wireless filed an application for a special use permit to install a personal wireless service facility consisting of a monopole with one flush-mounted antenna array, and associated ground equipment and access, on Tax Map Parcel 11200-00-00-00900, and the application is identified as Special Use Permit 2017-12 Carters Bridge PWSF Verizon – Tier III PWSF (Scottsville) (“SP 2017-12”); and

**WHEREAS**, on July 11, 2017, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2017-12 with the condition recommended by County staff ; and

**WHEREAS**, on August 9, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2017-12.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2017-12 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 §§ 18-5.1.40, 18-10.2.2(48), and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2017-12, subject to the applicable performance standards for personal wireless service facilities in Albemarle County Code § 18-5.1.40, and the condition attached hereto.

\* \* \*

**SP-2017-00012 Carters Bridge PWSF Verizon – Tier III PWSF (Scottsville)  
Special Use Permit Condition**

1. The development of the site and any modifications to the array shall be in general accord with the plan titled “*Verizon: CARTERS BRIDGE 4319 SCOTTSVILLE ROAD*” dated 6/27/17 (hereinafter “Conceptual Plan”), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, including but not limited to all concealment elements and techniques, as shown and described on the Conceptual Plan and the following:
  - a. Color (*monopole - dark brown*) (*antennas – dark brown*) (*remote radio heads – dark brown*) (*ground equipment – dark brown*).
  - b. Location of ground equipment

Minor modifications to the Conceptual Plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

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Agenda Item No. 20. **Public Hearing: SP201700006 450 Westfield Road.**

PROJECT: SP201700006 450 Westfield Road.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL: 061W0-01-0C-00600.

LOCATION: 450 Westfield Road PROPOSAL: Motor vehicle sales and rental.

PETITION: Motor vehicle sales and rental under Section 22.2.2(8) of the Zoning Ordinance.

ZONING: C1 Commercial which allows retail sales and service; residential by special use permit (15 units/ acre).

OVERLAYS: Entrance Corridor, Airport Impact Overlay, Managed Slopes.

COMPREHENSIVE PLAN: Urban Mixed Use in Neighborhood Center which allows commercial, retail, and employment uses with supporting residential (3-20 units/acre).

(Advertised in the Daily Progress on July 24 and July 31, 2017.)

The Executive Summary presented to the Board states that at its meeting on June 20, 2017, the Planning Commission voted 6:0 (Firehock absent) to recommend approval of SP201700006 with the conditions recommended by staff.

The request is for a special use permit to allow motor vehicle sales and rental at the site of an existing vehicle maintenance and repair shop. Section 22.2.2 of the zoning ordinance requires a special use permit for motor vehicle sales and rental in C-1 Zoning.

The County Attorney has prepared the attached Resolution (Attachment A) reflecting the recommendation of the Planning Commission. Please note that non-substantive modifications have been made to the language of the conditions of approval contained in the Resolution, including referring to the plan as the "Layout Plan" and inserting the date of August 9, 2020 as the date that is three years from the Board's approval date.

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

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Ms. Rachel Falkenstein, Senior Planner, reported that the purpose of the public hearing is a request for a special use permit to allow motor vehicle sales and rentals in the C1 zoning district. She said the property is at Westfield Road, located about 400 feet from Route 29. She said the property is not visible from the Route 29 entrance corridor and the Comprehensive Plan calls for urban, mixed-use development, and the site is currently an auto repair shop. She said the applicant has not proposed any significant changes to the site and will use the existing facility and parking area to add the additional use of motor vehicle sales. He said minor changes proposed are curbing and striping in the parking lot and landscaping along Westfield Road. She presented a diagram of the property, which indicated where the vehicles for sale will be located. Ms. Falkenstein said staff found three favorable factors and did not find any unfavorable factors for the request. She said the Planning Commission held a public hearing on June 20 and recommended approval with two conditions, which are listed and described on a slide.

Ms. Mallek asked what is in the proposed parking area now. Ms. Falkenstein replied that it is an existing parking lot that has not been maintained and they will add curbing and striping. She said it is currently being used for parking and repair of cars.

Ms. McKeel opened the public hearing.

Mr. Justin Shimp addressed the Board. He said he is the Engineer and it is a straightforward project to clean up the parking lot, add some landscaping, and start selling cars.

Mr. Dill asked if there was a change of ownership or just a change of use. Mr. Shimp replied that the person renting the property is going to sell cars on the property.

Ms. Mallek asked if it will be a different business from the auto repair shop. Mr. Shimp confirmed that it will be.

Mr. Sheffield asked if different people will be operating the business or if it is just two different businesses under the same operator. Mr. Shimp said he thinks sales and repair will be different people.

There being no other public comments, Ms. McKeel closed the public hearing.

Mr. Sheffield **moved** to adopt the proposed resolution to approve SP-2017-00006, subject to the conditions attached thereto. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

#### **RESOLUTION TO APPROVE SP 2017-06 450 WESTFIELD ROAD**

**WHEREAS**, the Applicant submitted an application for a Special Use Permit to permit the sale and rental of motor vehicles in conjunction with the vehicle maintenance and repair shop, and the application is identified as Special Use Permit 2017-06 450 Westfield Road ("SP 2017-06"); and

**WHEREAS**, on June 20, 2017, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2017-06 with staff-recommended conditions; and

**WHEREAS**, on August 9, 2017, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2017-06.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for SP 2017-06 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 §§ 18-22.2.2(8) and 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2017-06, subject to the conditions attached hereto.

\* \* \*

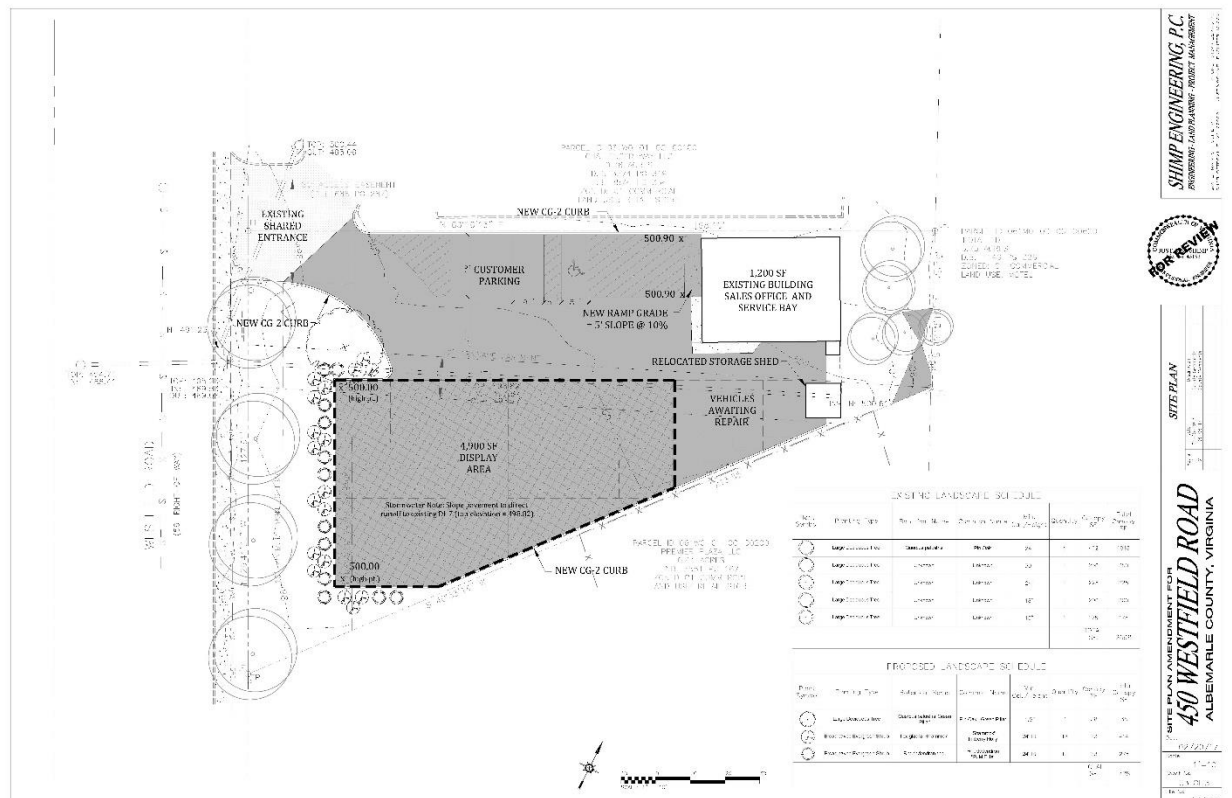
**SP-2017-06 450 Westfield Road  
Special Use Permit Conditions**

1. Development and use shall be in general accord with the following revised plans prepared by Shimp Engineering, Sheet C3 (3 of 3 in special use permit plan set) dated May 15, 2017 (hereinafter "Layout Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Layout Plan, development and use shall reflect the following major elements as shown on the Layout Plan:

- a. Location of proposed parking and display areas; and
- b. Landscaping and screening along Westfield Road

Minor modifications to the Layout Plan that do not otherwise conflict with the elements listed above, may be made to ensure compliance with the Zoning Ordinance.

2. The use shall commence on or before August 9, 2020 or the permit shall expire and be of no effect.



**Agenda Item No. 21. Public Hearing: ZTA2017-04. Farmers Market.**

To receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: amend Section 18-5.1.47 to establish sketch plan regulations for farmers' markets that address access, on-site parking, outdoor lighting, signage, and minimum yards; amend Sections 18-10.2.1 and 18-10.2.2 to establish farmers' markets as a by-right use in the Rural Areas zoning district; amend Sections 18-12.2.1 and 18-12.2.2 to establish farmers' markets as a by-right use in the Village Residential zoning district; and amend Section 18-35.1 to establish that fees for farmers' markets are matters considered by the zoning administrator or other officials rather than fees for a special use permit.

(Advertised in the Daily Progress on July 24 and July 31, 2017.)

The Executive Summary presented to the Board states that at its meeting on July 11, 2017, the Planning Commission voted unanimously to recommend approval of amendments to the Farmers' Markets site plan submittal requirements. At that meeting the Planning Commission also voted unanimously not to support allowing Farmers' Markets as a by-right use in the Rural Areas and Village Residential districts.

The Planning Commission recommended approval of the amendments to the Farmers' Markets site plan submittal requirements. The Commission was satisfied that the changes will allow the County to require necessary information on a site plan without placing an undue burden on applicants. Staff and the Planning Commission recommend that the Board adopt the attached ordinance, which amends the site plan submittal requirements only (Attachment E).

The Commission did not believe that it was necessary to amend the ordinance to allow Farmers' Markets as a by-right use in the Rural Areas and Village Residential districts. The Commission did state that it may be appropriate to consider this change in the future if the need arises. During any evaluation of a change in the ordinance a wide variety of issues should be considered including: changes to vendor definitions to insure that only products produced in Albemarle are sold, hours, days of the week, size of structures, number of vendors, size of the lot used, number of parking spaces, lighting, screening and a number of other issues. None of the issues identified by the Commission have been evaluated by staff or

considered by the public. Staff and the Planning Commission do not recommend adoption of the ordinance to allow Farmers' Markets as a by-right use in the Rural Areas and Village Residential districts (Attachment F).

If the Board wishes to amend only the site plan submittal requirements, staff recommends that the Board adopt version 1 of the proposed ordinance (Attachment E).

If the Board wishes to amend the site plan submittal requirements and to allow Farmers' Markets as a by-right use in the RA and VR districts, staff recommends that the Board adopt version 2 of the proposed ordinance (Attachment F).

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Mr. Bill Fritz, Chief of Special Projects, reported that the zoning text amendment includes two components; one to modify the site plan submittal requirements to allow a sketch plan instead of a full site plan, and the second to make farmers markets by right in the RA and VR districts. He said the Planning Commission held a public hearing on July 11 and unanimously recommended approval of the amendments to the site plan submittal requirements and unanimously recommended denial of changes to make farmers markets by right. He said any discussion to make farmers markets by right should cover a wide variety of issues to ensure the markets do not create adverse impacts. He said the Planning Commission believes the current special use permit process is appropriate.

Mr. Fritz said the current requirement is that a site plan must be submitted for a farmer's market. He said a site plan is a highly engineered document and the applicant can request a special exception to allow less information to be shown. He said the request was reviewed by the full Site Review Committee, and then staff prepared a recommendation which was presented to the Planning Commission and Board of Supervisors. Mr. Fritz stated that use of a sketch plan allows for a more appropriate fit between the scale of the project and the content of the plan, and instead of starting with everything and working backwards, the applicant would work with staff and then prepare a plan with sufficient, but not excessive information. He said the plan would be part of the special use permit review process reviewed by the Planning Commission and Board of Supervisors, which is a much more efficient review process and one the County has experience with. He said the sketch plan process will allow a small market that is making use of an existing entrance and parking area to have a very simple plan, while a large one with new entrances and parking areas will have an engineered plan approaching or equaling the level of detail required for a site plan. Mr. Fritz commented that it is about getting the right information based on the scale and location of the project. He stated that the Planning Commission did not support making farmer's markets by right and staff agreed. He said the fee structure will not change from the current \$527 plus a fee of \$108 plus postage for each notice over 50 notices with no fee for publishing the legal ad for proposed locations without an existing commercial entrance or adequate parking. He said the fee is \$118 plus the notice fee for locations with an adequate existing entrance and parking.

Mr. Kamptner asked if the Commission had discussed "by right with performance standards". Mr. Fritz said the Commission felt the existing special use process is working, and performance standards will be part of any change to make it by right as there would be a way to address potential adverse impacts. He said they felt a discussion about this would have to involve a broad range of people. He said they were not opposed to doing this at some time in the future but did not feel it was appropriate at this time.

Ms. Mallek commented that three out of the five markets in the Whitehall District are in fields with a historic break in the fence and have been successful. She said to expect a vendor to pay \$500 is out of the question and this seems like a big step backwards. She said it cost \$75 for the Earlsville Market to get started nine years ago, and customers are happy that on Thursday afternoons they can get something on the way home. She said everything now is focused on the building of monstrous buildings or structures over 1,500 square feet, whereas the reality is people are showing up with a pop-up tent once or twice a week to sell stuff they are raising and they have been welcomed by the people nearby. She suggested they consider different ways to do this and that anything by right would be de minimus, reversible, and not have new structures which would be an easy delineation. She said she does not know why they have to go to Encyclopedia Britannica level here.

Mr. Fritz noted that in the cover letter of the staff report, he tried to identify what the Planning Commission discussed and offered to review them. He said they considered changes to vendor definitions to ensure that only products produced in Albemarle were sold and changes to the hours, days of the week, size of structures, number of vendors, size of lot, number of parking spaces, lighting, screening, and additional issues. He said the Commission identified a number of things they would want staff to address and potentially put into performance standards before the use was made by-right.

Ms. Mallek said that in her opinion they should not be making a comparison to City Market for little, five truck markets in the countryside. Mr. Fritz said they do have language and a motion prepared if the Board chooses to make it by-right.

Ms. Palmer said an application fee for a market in North Garden was \$118, and it was in the middle of a field with an entrance and parking, though it took long to accomplish, with the bulk of the money going to advertising the notices. She expressed support for performance standards although she understands where the Planning Commission and staff are coming from on performance standards. She commented that the North Garden application process was confusing.

Mr. Fritz commented that they do not get many of these types of applications and there is confusion about whether the site plan or special exception fees apply. He said they now have answers for

future applicants.

Mr. Dill said the farmers market on Route 29 in Hollymead took a year to open in terms of obtaining permits, signage requirements, and permission from the landowner. He inquired as to whether there is a fast track process. Mr. Fritz replied that there are two ways, with one being to develop performance standards for a by-right use and the second being to make the special use permit process faster than normal.

Ms. Palmer said the people who submitted the North Garden application were happy with the way it worked out, and Scott Clark and other staff's good work helped them understand the process.

Ms. Mallek commented that as far as signage, everything has been addressed. Mr. Fritz agreed.

Ms. McKeel asked if there is concern that these will get too large. Mr. Fritz agreed there is concern that since there is no limitation, there is not a way to prevent a large one from occurring on a very small lot adjacent to a residential property.

Ms. Palmer said there could be worries about a flea market developing. Mr. Fritz said part of the discussion was reopening the question of what qualified one to be a vendor at the farmer's market, so that only products made in the County were sold.

Mr. Dill recalled that some years ago, a constituent was attending an Amish auction in the valley that had products from Pennsylvania and other areas of Virginia, which took away business from local people. He asked who would determine if the products are from Albemarle. Mr. Fritz said this is the type of thing that makes performance standards more complicated, and they can rely on good faith and respond to complaints, or have a form or affidavit.

Ms. Mallek said the original vendors at a market are concerned about its survival and are very careful about the quality of people they have. She said it is not the County's job to provide certainty and that the organizer should make sure people are doing the right thing. Mr. Fritz agreed that there had been self-regulation.

Ms. McKeel opened the public hearing.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board and strongly encouraged them to have a discussion about a sketch plan. He said the discussion about the potential to have produce police is silly, and he is not sure it can legally be a requirement that every fruit sold in a by-right farm market has to be from the County. He expressed support for allowing a few people to get together to go to the end of their driveway to sell produce and not be bothered. He said a sketch plan makes sense if you are going to be selling things, and suggested they make it by right for the farmer and adjacent property owner so they can combine their efforts.

Mr. Justin Shimp addressed the Board, stating that there would be a great benefit to make some level of a farmer's market by right. He described the process he went through to obtain a permit, which included a mandatory pre-application meeting before the submittal that covered about a six-week period. He suggested a zoning clearance process with performance standards and said it is reasonable to expect that these things can get large and spiral out of control so there needs to be a limit, but he has never seen a negative impact from 5 or 10 farmers getting together. He said he would also comment on the Albemarle County restriction, noting that he lives in Nelson County and farming crosses county lines, so it might be a good thing for a market in North Garden to allow in vendors within a certain area, including farms in a neighboring county. He suggested a five vendor limit with a zoning clearance fee.

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

Ms. Mallek expressed support for Part 1 of the sketch plan.

Ms. Palmer and Ms. McKeel expressed support for Mr. Shimp's suggestion that they not exclude nearby farmers from another county.

Ms. Mallek emphasized that they should limit the area, as other areas of the state have a different climate. She gave the example of farmers from Hanover County selling jam before it had come in season locally, then by the time local farmers had it available everyone had already purchased it.

Ms. Palmer asked what type of permit is required for trucks that park and sell produce out of gas stations and convenience store parking lots.

Ms. Amelia McCulley, Zoning Administrator, came forward to respond to Ms. Palmer's question. She explained that if a property is zoned commercial, it is easy to set up something with a simple zoning clearance; whereas if it is zoned rural area, they allow a gathering of less than three vendors to sell products on or off the farm. She said that three or more vendors constitutes a farmers' market.

Ms. Palmer asked for confirmation that she and her neighbor could sell at the end of the driveway without a permit. Ms. McCulley confirmed this.

Mr. Kamptner interjected to clarify that the definition of "locally grown" at farm stands is Albemarle County and abutting counties, although it does not apply to farmers markets. He said that staff can look

into this further.

Ms. Palmer **moved** that the Board adopt the proposed ordinance to approve ZTA2017-04. Mr. Randolph **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Ms. McKeel asked Mr. Fritz where he will go from here. Mr. Fritz replied that he has a meeting scheduled with Ms. McCulley tomorrow to discuss the zoning text amendment process and priorities and how to work this in to what we have got. He said he assumes the Board would like to have interested people invited to provide comment or, alternatively, they could hold a work session with the Board.

Ms. Mallek said she prefers a work session.

Mr. Dill said they should make it easy for casual kinds of things. He noted that some markets have become elitist gourmet brunch areas rather than real farmer's markets.

Mr. Fritz offered to hold a work session.

### **ORDINANCE NO. 17-18(3)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

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

#### **By Amending:**

Sec. 5.1.47 Farm Stands and Farmers' Markets

### **CHAPTER 18. ZONING**

#### **ARTICLE II. BASIC REGULATIONS**

##### **5.1.47 FARM STANDS AND FARMERS' MARKETS**

Each farm stand and farmers' market shall be subject to the following, as applicable:

- a. Zoning clearance. Notwithstanding any other provision of this chapter, each farm stand or farmers' market shall obtain approval of a zoning clearance issued by the zoning administrator as provided by section 31.5 before the use is established as provided herein:
  1. *Application.* Each application for a zoning clearance shall include a letter or other evidence from the Virginia Department of Transportation establishing that it has approved the entrance from the public street to the proposed use and a sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the use; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this section and this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated.
  2. If the zoning administrator requires information on the sketch plan or mitigation measures that the applicant objects to the applicant may appeal the requirement to the board of supervisors by submitting a written request for appeal to the clerk of the board of supervisors within ten (10) days after the date of the zoning administrator's request. In acting on an appeal, the board shall consider the recommendation of the zoning administrator and all other relevant evidence. The board may approve or deny the request. In approving a request on an appeal, the board may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

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**(The next two items were heard concurrently:)**

#### **Agenda Item No. 22. Public Hearing: ZTA 2016-00006. Housekeeping.**

To receive comments on its intent to adopt of the following ordinance changes to the Albemarle County Code: Amend Section 18-35.5 to waive the zoning text amendment or special use permit fee for a nonconforming use which possesses an Albemarle County business license and has operated continuously at the same location for at least fifteen years and has paid all real estate, business license, and personal property taxes related to such use; Amend Section 18-32.6 to clarify that specifications for recreational facilities comply with Sections 18-4.16-4.16.3; Amend Sections 18-4.15.3, 18-4.15.5, 18-4.15.8, 18-4.15.9, 18- 4.15.10, and 18-4.15.11 to amend the definition of advertising vehicle, to establish criteria for a sign permit exemption for qualifying advertising vehicles, to prohibit certain advertising vehicles from displaying signs, exempt certain advertising vehicles from maximum sign number, area, height, and minimum sign setback regulations in Sections 18-4.15.9, 18-4.15.10, and 18-4.15.11, and prohibit certain advertising vehicles in all zoning districts that do not meet the criteria in amended Section 18-4.15.5; Amend

Section 18-5.1.11 to remove duplicative language concerning commercial kennels and veterinary and animal hospitals and to clarify the maximum decibel level from all confinements; Amend Section 18-5.1.20 to clarify that underground storage tanks and loading facilities served by the public water supply are not subject to a 100 foot lot line setback applicable to above ground storage tanks and loading facilities; Amend Sections 18-3.1 and 18-5.8 to clarify that the term industrialized building encompasses the term temporary nonresidential mobile home and replace the term temporary nonresidential mobile home with the term temporary industrialized building; Remove condominiums as a by-right or special permit use in Section 18-20B.2; To amend Sections 18-3.1, 18- 10.2.1, 18-10.2.2, 18-12.2.1, 18-13.2.1, 18-14.2.1, 18-15.2.1, 18-16.2.1, 18-17.2.1, 18-18.2.1, and 18-19.3.1 amend the definition of group home, delete the definition of home for developmentally disabled persons, establish group homes as a by-right use in the Rural Areas zoning district, and remove the term homes for the developmentally disabled from the Albemarle County Code; Establish a thirty-five foot maximum structure height in cluster developments located in the R-1, Residential, zoning district; Amend Section 18-22.2.2 to remove fast food restaurant as a use authorized by a special use permit; Amend Section 18-23.2.2 to remove research and development activities and medical or pharmaceutical laboratories as a use authorized by special use permit; Amend Section 18-21.7 to permit commercial zoning district construction activity without a buffer zone when the construction activity occurs in a commercial zoning district across the street from a residential or rural areas zoning district; Amend Section 18-3.1 to establish a definition for temporary family health care structures and to establish Section 18-5.1.62 to establish regulations for temporary family health care structures; Amend Sections 18-30.3.5, 18-30.3.15 and 18-30.3.17 to amend the definition of accessory structure in the Flood Hazard Overlay District, establish regulations for accessory structures located in the floodplain, and establish a variance process for accessory structures larger than 200 square feet but not exceeding 600 square feet to locate in the floodplain; Amend Section 18-30.3.11 to establish a definition of fine grading and to permit flood control, stormwater conveyance, and environmental restoration projects in the floodway and floodway fringe if the projects do not change the base flood plain elevation or horizontal limits to the flood plain; Amend the maximum height regulations to clarify setback requirements in Sections 18-18.8, 18-17.8, 18-19.7, 18-21.4, and 18-20.8.4; Amend section 18-3.1 to add the definition of religious assembly use; Amend sections 18-3.1, 18-4.12.6, 18-5.1.27, 18-10.2.2, 18-12.2.2, 18-13.2.2., 18-14.2.2, 18-15.2.2, 18- 16.2.2, 18-17.2.2., 18-18.2.2, 18-19.3.2, 18-20.3.2, 18-20B.2, 18-22.2.1, 18-23.2.1, 18-24.2.1, and 18- 30.2.5.1 to replace the term church with the term religious assembly use; Amend Section 18-4.19 establishing new infill and non infill setback and setback requirements; and Amend Section 18-4.20 establishing new setback and setback requirements; Amend Section 18-10.2.2 by removing the reference to adjunct cemetery; and Amend the maximum height regulation in section 18-26.4 to clarify setback requirements and remove a reference to standard ratios. *(Advertised in the Daily Progress on July 24 and July 31, 2017.)*

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Agenda Item No. 23. **Public Hearing: STA 2016-03. Housekeeping.**

To receive comments on its intent to adopt of the following ordinance changes to the Albemarle County Code: Amend Section 14-403 to clarify that each lot in a subdivision shall have frontage on an existing or proposed public or private street. *(Advertised in the Daily Progress on July 24 and July 31, 2017.)*

The Executive Summary presented to the Board states that on September 27, 2016, the Planning Commission adopted resolutions of intent to amend the Zoning and Subdivision Ordinances. These amendments are updates, clarifications and corrections to improve the regulations for the public as well as to improve their administration. While these amendments are comprehensive in scope, they better implement existing regulations and are not intended to be substantive changes that alter policy or create new requirements. At its meeting on June 20, 2017, the Commission voted unanimously to recommend adoption of ZTA 2016-06 and STA 2016-03.

The draft text amendments relating to updated terminology for nursing homes, rest homes and similar facilities were deferred to become part of a future set of housekeeping amendments to the Zoning Ordinance. The deferral will allow additional time to confirm the current terminology with practitioners in this field.

Staff and the Planning Commission recommend that the Board adopt the attached Zoning and Subdivision text amendments (Attachments A and B).

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Ms. McCulley addressed the Board and said that with ordinance amendments, it is important to take the time to address the public purpose served, and these are comprehensive amendments that are many in number. She said the County has a periodic need to update, correct, and clarify regulations, and takes note of problematic wording. She emphasized that the longer the time between minor administrative amendments, the longer the list, adding that they waited too long between amendments, but need to get this done and will take measures to avoid this in the future and the recodification effort will assist in this. She said she will review the broader context of the amendments and there are a number of ordinance amendments on the to-do list, many are on the work plan, many are part of the strategic plan initiatives, and others are part of 20 separate resolutions of intent approved by the Board on April 5, 2017. She said she will distill the ordinance work into a few categories to simplify the presentation.

Ms. McCulley explained that the first category is housekeeping, which are not changes to policy or development expectations but intended to clarify intent or address state or federal charges before



recodification. She said that recodification is reformatting of the entire zoning ordinance, and there are numerous amendments that will occur first that are for the purpose of reorganization and consolidation. Ms. McCulley stated that every zoning district has a list of uses allowed by right by special use permit. She said Mr. Kamptner will do an ordinance amendment prior to recodification that puts those uses in a chart that would be easy to use. She said this is an example of minor amendments prior to recodification. She said several are substantive, and impact stakeholder groups requiring substantial public engagement. She said she has listed three categories of amendments that will require substantial public engagement: Rio/29 Small Area Plan implementation; a general category with possible changes to the use category in the Rural Areas for swim, golf, and tennis facilities; and an economic development strategic plan and modernizing County Code to have uses that are in the modern age and much easier to review. She reviewed the housekeeping amendments and said she will delve into two areas: the floodplain and neighborhood model setback.

Ms. McCulley stated the broad discussion of the comprehensive amendment is to correct and update terms. She said the word "church" is no longer appropriate and the new term is "religious assembly use," which they propose to use in place of church. She said there are three amendments that are mandatory as a result of changes in the state code, and there have been areas that have been problematic for both staff and people using and trying to understand the ordinance. Ms. McCulley provided an example in the R-1 zoning district where there is one provision for a maximum 30-foot height, which staff believes to be a typo because everywhere else in R-1, R-2, R-4, R-6 and R-8 there is 35 feet given as the height for structures. She next reviewed some amendments relating to the floodplain, stating that the County currently allows fine grading by right and has had discussions as to its definition. She stated that the amendment clarifies this as balanced cut and fill with no changes to the base floodplain elevation or the horizontal limits of the floodplain. She said it also codified a consistent administrative best practice to allow stormwater conveyance in the floodplain as a by-right use, adding that the controlled release of stormwater is much preferred over other measures that can cause erosion.

Mr. Dill said it seems like a policy change, which he agrees with, though she described them as not being significant. He used stormwater conveyance as an example. Ms. McCulley replied that it is something that has consistently been allowed as an interpretation of other language without having expressed language, which is why they do not consider it to be a policy change.

Ms. Mallek asked about specific performance standards for by-right stream crossings and how they can avoid sending inspectors to check on things when there are no rules to enforce. Ms. McCulley replied that it currently is an allowance and not making a new provision for that by-right stream crossing, but clarifying what it applies to.

Ms. Mallek commented that there are no performance standards for the County's recent adventure.

Ms. Palmer asked what the recent adventure was.

Ms. Mallek responded that on Sunday morning, heavy equipment was used off Clark Road, which goes through a stream and up a hill to the other side, and there had not been any consultation nor permits, which had upset the neighbors. She said she called County Engineer, Mr. Frank Pohl, to have him send out an inspector, and it took VDOT four days to check on the layout, which consisted of a curve, steep slope, and water above one of the only remaining pristine rivers in the County, the Dawes River. She said eventually, seven days later, they installed a very small pipe. She said the number one offense was the fact that it was "do first and fix later."

Mr. Frank Pohl addressed the Board and explained that the person doing work at Clark Road claimed a farm exemption, which is why the County could not enforce VSMP and stream regulations. He said the owners are claiming they are creating pasture on the property.

Ms. McKeel asked if this is what they ultimately did. Mr. Pohl confirmed that it was.

Ms. McKeel said they made a cul-de-sac and they were all for sale. She described it as a "never never land" and "wild west." Mr. Kamptner stated that part of that would relate to the stream buffer regulation amendment to detach stream buffer regulations from the E&S regulations.

Mr. Pohl said they have talked about this as it was in the WPO ordinance and have discussed having it as an overlay district.

Ms. Mallek said this involves tax dollars with all the time to fix storm water issues created by bad actors. She expressed the hope they could very carefully and methodically find a way to do a better job with rules so they do not have such a mess to clean up later. Mr. Pohl said this change would only add one because it was single-family dwellings and the intent had always been for a dwelling.

Ms. Mallek commented that this was only if there was no alternative way to do it. She said it was implicit in one of the regulations that they should avoid crossing a stream if there was a high and dry way to do this. Mr. Pohl said a lot of rural properties have streams for a building lot and this would allow this by right, without having to obtain a special use permit.

Ms. Palmer said this is not a change, as they have always been able to do that. Mr. Pohl said there have been problems in which they serve more than one lot or dwelling, and this change would eliminate the ambiguity.

Ms. Palmer asked if an owner is allowed to build up or reroute a stream to allow vehicles to get over, or if it just has to be a ford over the stream. Mr. Pohl replied that people build fords and if the grading exceeds limits, they must apply for a permit. He said that if it would impact a floodplain, a permit is required.

Ms. McCulley added that bridges and culverts that go beyond serving an individual dwelling, or rerouting a water course, would not be something that is by right.

Mr. Randolph asked if within the next six to nine months she would bring any recommended code changes regarding additions to existing places of worship in the rural area, and if they would be by right with performance standards. Mr. Kamptner said they are looking to make existing places of religious assembly by right, sanctuaries of up to 200 people. He said this corresponds with the places of assembly for other types of activities in the district, and there should be some recodification within one year.

Ms. Mallek asked if this would involve existing or new permits, and asked if performance standards, such as site plans, would be eliminated or if just the special permit process would be taken away. Mr. Kamptner replied that it will apply to both existing and new permits, and it is related to federal law, to come into full compliance. He confirmed her remarks about performance standards.

Ms. McCulley said the next area of focus is setbacks, and stated that the original neighborhood model setbacks were adopted over two years ago and staff has found some things that need revision. She said an unintended rule sets a maximum front setback for lots abutting the interstate, which would be corrected because it does not make sense. Ms. McCulley presented a slide listing several neighborhood model setback changes, emphasizing that they are not changing setbacks or step backs, but are simply clarifying their applicability and how to measure them. She presented a slide with two non-substantive corrected ordinances and reviewed a subdivision text amendment, which clarified that lot frontage is required on an existing or proposed public or private street.

Ms. McKeel opened the public hearing for both ZTA 2016-00006 and STA 2016-03.

As nobody wished to speak, she closed the public hearing.

Mr. Randolph **moved** that the Board adopt the proposed Zoning text amendment to approve ZTA-2016-00006, dated August 9, 2017. The motion was **seconded** by Ms. Palmer. Roll was called and the motion carried by the following recorded vote:

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

#### **ORDINANCE NO. 17-18(4)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedures, are hereby amended and reordained as follows:

#### **By Amending:**

Sec. 3.1	Definitions
Sec. 4.12.6	Minimum Number of Required Parking Spaces For Scheduled Uses
Sec. 4.15.3	Definitions and Qualifications
Sec. 4.15.5	Permanent Signs For Which A Sign Permit Is Required; Signs Exempt From Obtaining A Sign Permit
Sec. 4.15.8	Prohibited Signs And Sign Characteristics
Sec. 4.15.9	Maximum Sign Number, Area, Height, And Minimum Sign Setback In The RA, MHD, VR, R-1, R-2, R-4, R-6, R-10, R-15, And PRD Zoning Districts
Sec. 4.15.10	Maximum Sign Number, Area, And Height, And Minimum Sign Setback In The PUD, DCD, And NMD Zoning Districts
Sec. 4.15.11	Maximum Sign Number, Area, And Height, And Minimum Sign Setback In The C-1, CO, HC, PD-SC, PD-MC, HI, LI, And PD-IP Zoning Districts
Sec. 4.19	Setbacks and Stepbacks In Residential Districts
Sec. 4.20	Setbacks and Stepbacks In Conventional Commercial and Industrial Districts
Sec. 5.1.11	Commercial Kennel, Veterinary, Animal Hospital
Sec. 5.1.20	Sale or Storage of Petroleum Products Including Kerosene, Gasoline, And Heating Oil
Sec. 5.1.27	Temporary Events Sponsored By Local Nonprofit Organizations
Sec. 5.8	Temporary Nonresidential Mobile Homes
Sec. 10.2.1	By Right
Sec. 10.2.2	By Special Use Permit
Sec. 12.2.1	By Right
Sec. 12.2.2	By Special Use Permit
Sec. 13.2.1	By Right
Sec. 13.2.2	By Special Use Permit

Sec. 13.3	R1 Area and Bulk Regulations
Sec. 14.2.1	By Right
Sec. 14.2.2	By Special Use Permit
Sec. 15.2.1	By Right
Sec. 15.2.2	By Special Use Permit
Sec. 16.2.1	By Right
Sec. 16.2.2	By Special Use Permit
Sec. 17.2.1	By Right
Sec. 17.2.2	By Special Use Permit
Sec. 17.8	Height Regulations
Sec. 18.2.1	By Right
Sec. 18.8	Height Regulations
Sec. 19.3.1	By Right
Sec. 19.3.2	By Special Use Permit
Sec. 19.7	Height Regulations
Sec. 20.3.2	By Special Use Permit
Sec. 20.8.4	Height Regulations
Sec. 20B.2	Permitted Uses
Sec. 21.4	Height Regulations
Sec. 21.7	Minimum Yard Requirements
Sec. 22.2.1	By Right
Sec. 22.2.2	By Special Use Permit
Sec. 23.2.1	By Right
Sec. 23.2.2	By Special Use Permit
Sec. 26.4	Structure Height
Sec. 30.3.5	Definitions
Sec. 30.3.11	Permitted and Prohibited Uses and Structures
Sec. 30.3.15	Construction Standards
Sec. 30.3.17	Variances
Sec. 32.6.2	Contents of a Final Site Plan
Sec. 35.5	Pre-existing Use Fee Waiver

**By Adding:**

Sec. 5.1.62	Temporary Family Health Care Structures
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**CHAPTER 18. ZONING**

**ARTICLE I. GENERAL PROVISIONS**

**3.1 DEFINITIONS**

...

*Cemetery:* Any land or structure used or intended to be used for the interment of human remains, either by earth – burial, entombment in a mausoleum, inurnment in a columbarium, or a combination thereof. The sprinkling of ashes or their burial in a biodegradable container on religious assembly use grounds, or their placement in a columbarium on religious assembly use property, is not a cemetery.

...

*Group home:* A residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside with one or more resident or nonresident staff persons and which is licensed by the Virginia Department of Behavioral Health and Developmental Services or other licensing authority. For purposes of this definition “mental illness or developmental disability” shall not include current illegal use of or addiction to a controlled substance as defined in Virginia Code § 54.1-3401.

...

*Industrialized building:* A combination of one or more sections or modules, subject to state regulation, and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. For purposes of this definition, a manufactured home is not an industrialized building.

...

*Religious assembly use:* A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

...

*Temporary family health care structure:* A transportable residential structure providing an environment facilitating a caregiver’s provisions of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one (1) occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of

daily living as defined in Virginia Code § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than three hundred (300) gross square feet in area; (iv) complies with the applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code, as amended; and (v) is not placed on a permanent foundation.

...

**ARTICLE II. BASIC REGULATIONS**

**SECTION 4. GENERAL REGULATIONS**

...

**4.12.6 MINIMUM NUMBER OF REQUIRED PARKING SPACES FOR SCHEDULED USES**

...

*Religious assembly use:* In the development areas identified in the comprehensive plan, if the area of assembly seats more than one hundred persons, one (1) space per three (3) fixed seats or per seventy-five (75) square feet of area of assembly, whichever shall be greater; if the area of assembly seats one hundred persons or fewer, one (1) space per four (4) fixed seats or per seventy-five (75) square feet of area of assembly, whichever shall be greater. In the rural areas identified in the comprehensive plan, the number of proposed spaces shall be shown in a parking study submitted by the religious assembly use; the number of required spaces shall be determined by the zoning administrator, who shall consider the recommendations in the parking study, traffic generation figures either known to the industry or estimated by the Institute of Transportation Engineers, peak parking demands, and other relevant information. Nothing herein requires the parking study to be prepared by a transportation engineer.

...

**4.15.3 DEFINITIONS AND QUALIFICATIONS**

*Advertising vehicle.* The term “advertising vehicle” means a motor vehicle, trailer or semitrailer (collectively, “vehicle”) that has a permanent or temporary sign affixed, painted on or placed upon it, including a sign that alters the vehicle’s manufacturer’s profile; provided that a temporary sign affixed to an employee’s private vehicle during his or her working hours is not an advertising vehicle.

**4.15.5 PERMANENT SIGNS FOR WHICH A SIGN PERMIT IS REQUIRED; SIGNS EXEMPT FROM OBTAINING A SIGN PERMIT**

Each permanent sign is subject to the following:

...

- b. *Signs not required to obtain sign permit; subject to all other applicable requirements.* Each permanent sign classified in this subsection may be erected, altered, replaced, or relocated without first obtaining a sign permit, provided that it complies with all applicable requirements of this section 4.15 and the following:

...

2. *Advertising vehicles.* Advertising vehicles that are:
- (i) in operating condition;
  - (ii) displaying valid license plates;
  - (iii) displaying an inspection decal that is either valid or has not been expired for more than sixty (60) days;
  - (iv) used as transportation for the business; and
  - (v) parked in an approved parking space or parking area that serves the business, or temporarily parked at another business to actively receive or provide goods or services, such as to load or unload goods, provide on-site services, receive vehicle maintenance and repair, or obtain food for the driver and passengers.

**4.15.8 PROHIBITED SIGNS AND SIGN CHARACTERISTICS**

Notwithstanding any other provision of this section 4.15, the following signs and sign characteristics are prohibited in all districts:

...

- c. *Certain sign types.* Signs that are:

...

2. Advertising vehicles that are not permitted under, section 4.15.5(b)(2).

**4.15.9 MAXIMUM SIGN NUMBER, AREA, HEIGHT, AND MINIMUM SIGN SETBACK IN THE RA, MHD, VR, R-1, R-2, R-4, R-6, R-10, R-15, AND PRD ZONING DISTRICTS**

...

b. In addition to the signs in the table, the following signs may be erected;

. . .

2. *Advertising vehicles.* Advertising vehicles that are permitted under section 4.15.5(b)(2).

**4.15.10 MAXIMUM SIGN NUMBER, AREA, AND HEIGHT, AND MINIMUM SIGN SETBACK IN THE PUD, DCD, AND NMD ZONING DISTRICTS**

. . .

b. In addition to the signs in the table, the following signs may be erected;

. . .

2. *Advertising vehicles.* Advertising vehicles that are permitted under section 4.15.5(b)(2).

. . .

**4.15.11 MAXIMUM SIGN NUMBER, AREA, AND HEIGHT, AND MINIMUM SIGN SETBACK IN THE C-1, CO, HC, PD-SC, PD-MC, HI, LI, AND PD-IP ZONING DISTRICTS**

. . .

b. In addition to the signs in the table, the following signs may be erected;

. . .

2. *Advertising vehicles.* Advertising vehicles that are permitted under section 4.15.5(b)(2).

. . .

**4.19 SETBACKS AND STEPBACKS IN RESIDENTIAL DISTRICTS**

The following shall apply within the R-1, R-2, R-4, R-6, R-10, R-15, PRD, and PUD districts:

Infill: Setbacks	
Front-Minimum	Closest setback of an existing main building within 500 feet in each direction along the same side of the street fronted
Front-Maximum	None
Garage-Minimum	Front loading attached or detached garage: Whichever is greater between the closest setback of an existing main building within 500 feet in each direction along the same side of the street fronted or 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way  Side loading garage: Closest setback of an existing structure within 500 feet in each direction along street fronted
Garage-Maximum	None
Side-Minimum	10 feet, unless the building shares a common wall; provided that in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, Rural Areas, or the Monticello Historic district, any dwelling unit that exceeds 35 feet in height shall be set back 10 feet plus one foot for each foot the dwelling unit exceeds 35 feet in height
Side-Maximum	None
Rear-Minimum	20 feet
Rear- Maximum	None
Infill: Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Side and Rear	None
Non-Infill: Setbacks	
Front-Minimum	5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way
Front-Maximum	In the R-1 and R-2 districts: None In the R-4, R-6, R-10, and R-15 districts: 25 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; none, on any lot, including a corner lot, abutting a principal arterial highway or interstate
Garage-Minimum	Front loading garage: 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way

	Side loading garage: 5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way
Garage-Maximum	None
Side-Minimum	None; see Non-Infill Building Separation
Side-Maximum	None
Rear-Minimum	20 feet
Rear- Maximum	None
Non-Infill:Building Separation	
Minimum	10 feet, unless the building shares a common wall; provided that in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, rural areas, or the Monticello Historic district, any building that exceeds 35 feet in height shall be separated from any other building by 10 feet plus one foot for each foot the building exceeds 35 feet in height
Side-Maximum	None
Non-Infill: Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Side and Rear	None

1. Whether a site is an infill or non-infill development, and the minimum and maximum setback, shall be determined by the zoning administrator as an official determination provided to the owner.
2. Any minimum setback and any minimum building separation for a side yard, may be reduced by special exception.
3. The maximum front setback for a non-infill development shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation steep slopes, perennial and intermittent streams, stream buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building shall meet the maximum setback.
4. The maximum front setback for a non-infill development may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
5. The minimum 15 foot stepback applies to all buildings on the property and may be reduced by special exception.
6. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this section shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
7. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

...

**4.20 SETBACKS AND STEPBACKS IN CONVENTIONAL COMMERCIAL AND INDUSTRIAL DISTRICTS**

Setbacks and stepbacks shall be provided as follows:

- a. *Conventional commercial districts.* The following shall apply within the C-1, CO, and HC districts:
- |                       |  |
|-----------------------|--|
| Setbacks              |  |
| Front-Minimum         | 10 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; for off-street parking or loading spaces, 10 feet from any public street right-of-way   |
| Front-Maximum         | 30 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way, provided that this maximum setback shall not apply to any structure existing on June 3, 2015 and to any structure depicted on an approved final site plan that is valid on June 3, 2015 as having a front setback greater than 30 feet; none, on any lot, including a corner lot, abutting a principal arterial highway or interstate |
| Side and Rear-Minimum | If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary.  |

	If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.
Side and Rear-Maximum	None
Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Side and Rear	None

1. The maximum front setback shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation, steep slopes, perennial and intermittent streams, stream buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building shall meet the maximum setback.
2. The maximum front setback may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
3. Any minimum setback may be reduced by special exception.
4. The minimum 15 foot stepback may be reduced by special exception.
5. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this subsection shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
6. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

b. *Conventional industrial districts.* The following shall apply within the LI and HI districts:

Setbacks	
Front-Minimum	10 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; for off-street parking or loading spaces, 10 feet from any public street right-of-way
Front-Maximum	None
Side and Rear-Minimum	<p>In the LI district, if the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no portion of any off-street parking space shall be located closer than 30 feet from the district boundary.</p> <p>In the HI district, if the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 100 feet from the district boundary; and (ii) no portion of any off-street parking space shall be located closer than 30 feet from the district boundary.</p> <p>If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.</p>
Side and Rear-Maximum	None
Stepbacks	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Front	
Side and Rear	None

...

**SECTION 5. SUPPLEMENTARY REGULATIONS**

...

**5.1.11 COMMERCIAL KENNEL, VETERINARY SERVICE, OFFICE OR HOSPITAL, ANIMAL HOSPITAL, ANIMAL SHELTER**

Each commercial kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:

- a. Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than five hundred (500) feet to any agricultural or residential lot line. For non-soundproofed animal confinements, an external solid fence not less than six (6) feet in height shall be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator;
- b. For soundproofed confinements, no such structure shall be located closer than two hundred (200) feet to any agricultural or residential lot line. For soundproofed and nonsoundproofed confinements, noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels;
- c. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.
- d. In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the public health and welfare. To these ends the commission and board may require among other things:
  - Separate building entrance and exit to avoid animal conflicts;
  - Area for outside exercise to be exclusive from access by the public by fencing or other means.

. . .

#### **5.1.20 SALE OR STORAGE OF PETROLEUM PRODUCTS INCLUDING KEROSENE, GASOLINE, AND HEATING OIL**

The sale or storage of petroleum products, including kerosene, gasoline, and heating oil, in excess of six hundred (600) gallons shall be subject to the following:

- a. The sale or storage of the petroleum products shall satisfy the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Prevention Association.
- b. No storage tanks and loading facilities shall be located closer than one hundred (100) feet from any lot line. Notwithstanding the foregoing, underground storage tanks and loading facilities on sites served by the public water supply shall not be subject to the one hundred (100) foot lot line setback.

. . .

#### **5.1.27 TEMPORARY EVENTS SPONSORED BY LOCAL NONPROFIT ORGANIZATIONS**

This provision is intended to regulate for purposes of public health, safety and welfare, major events such as agricultural expositions, concerts, craft fairs, and similar activities which generally: attract large numbers of patrons; may be disruptive of the area; and occasion the need for planning in regard to traffic control, emergency vehicular access, health concerns and the like. The provision is not intended to regulate such minor events as religious assembly use bazaars, yard sales, bake sales, car washes, picnics and the like which generally are not disruptive of the area and require only minimal logistical planning; nor is it intended to permit permanent amusement facilities. Each such event shall be sponsored by one or more not-for-profit organizations operating primarily in the county and/or the city of Charlottesville.

. . .

#### **5.1.62 TEMPORARY FAMILY HEALTH CARE STRUCTURES**

Each temporary family health care structure shall be subject to the following:

- a. Temporary family health care structures shall be a permitted accessory use in any single family residential district on lots zoned for single family detached dwellings if the structure (i) is used by a caregiver in providing care for a mentally or physically impaired person; and (ii) is on property owned or occupied by the caregiver as his residence. For purposes of this section, "caregiver" and "mentally or physically impaired person" shall have the same meaning as defined in Virginia Code § 15.2-2292.1.
- b. Any person proposing to install the structure shall first obtain a zoning clearance.
- c. The structure must meet the following requirements:
  1. Only one (1) such structure shall be allowed on a lot. The structure shall comply with all setback requirements that apply to the primary structure.
  2. The applicant must provide evidence of compliance with this section to the county one year after the date of installation, and every year thereafter, as long as the structure remains on the property. Evidence of compliance shall include inspections by the county of the structure at reasonable times.
  3. The applicant must comply with all applicable Virginia Department of Health requirements.



- 4. No signage advertising or otherwise promoting the existence of the structure shall be permitted anywhere on the property.
- 5. The structure shall be removed within thirty (30) days after the mentally or physically impaired person is no longer receiving, or is no longer in need of, the assistance provided for in this section.
- 6. The zoning administrator may revoke any zoning clearance granted hereunder if the permit holder violates any provision of this section, in addition to any other remedies that the county may seek against the permit holder, including injunctive relief or other appropriate legal proceedings to ensure compliance.

...

**5.8 TEMPORARY INDUSTRIALIZED BUILDING**

A temporary industrialized building may be authorized by the zoning administrator provided the industrialized building is necessitated to provide additional space for employees, students or other people and is to be an activity area as opposed to being employed for storage purposes or equipment which could be accommodated in an accessory structure. Such industrialized building shall be located on the same site as the main established use for which additional space is needed. In the event of the expansion of the main permanent structure, the industrialized building shall be removed within thirty (30) days of issuance of a certificate of occupancy for the permanent structure. Temporary industrialized building permits shall be subject to the following conditions: (Amended 12-5-90)

- a. Administrative approval of site development plan after submittal to site review committee; (Amended 12-5-90)
- b. Albemarle County building official approval;
- c. The applicant and/or owner of the property shall certify as to the intent for locating the industrialized building at the time of application;
- d. Skirting to be provided from ground level to base of industrialized building within thirty (30) days of the issuance of a certificate of occupancy.

**ARTICLE III. DISTRICT REGULATIONS**

**SECTION 10. RURAL AREAS DISTRICT, RA**

...

**10.2.1 BY RIGHT**

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

...

- 32. Group home (reference 5.1.07).

...

**10.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the RA district, subject to the applicable requirements of this chapter:

...

- 15. (Repealed 8-9-17)

...

- 35. Religious assembly use

...

**SECTION 12. VILLAGE RESIDENTIAL - VR**

...

**12.2.1 BY RIGHT**

The following uses shall be permitted by right in the VR district, subject to the applicable requirements of this chapter:

...

- 12. Group home (reference 5.1.07).

...

**12.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the VR district, subject to the applicable requirements of this chapter:

...

15. Religious assembly use.

...

SECTION 13. RESIDENTIAL – R-1

...

13.2.1 BY RIGHT

The following uses shall be permitted by right in the R-1 district, subject to the applicable requirements of this chapter:

...

11. Group home (reference 5.1.07).

...

13.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted by special use permit in the R-1 district, subject to the applicable requirements of this chapter:

...

10. Religious assembly use.

13.3 AREA AND BULK REGULATIONS

Area and bulk regulations within the R-1, Residential, district are as follows:

REQUIREMENTS	STANDARD LEVEL		BONUS LEVEL	
	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	0.97 du/acre	0.97 du/acre	1.45 du/acre	1.45du/acre
Minimum Lot Size	45,000 sq ft	30,000 sq ft	30,000 sq ft.	20,000 sq ft
Minimum frontage: public, private	120 feet	100 feet	100 feet	80 feet
The minimum and maximum yards, including those for garages, and minimum building separation, shall be as provided in section 4.19.				
Maximum Structure height	35 feet	35 feet	35 feet	35 feet

SECTION 14. RESIDENTIAL – R-2

...

14.2.1 BY RIGHT

The following uses shall be permitted by right in the R-2 district, subject to the applicable requirements of this chapter:

...

11. Group home (reference 5.1.07).

...

14.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted by special use permit in the R-2 district, subject to the applicable requirements of this chapter:

...

12. Religious assembly use.

...

SECTION 15. RESIDENTIAL – R-4

...

15.2.1 BY RIGHT

The following uses shall be permitted by right in the R-4 district, subject to the applicable requirements of this chapter:

...

13. Group home (reference 5.1.07).

...

15.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted by special use permit in the R-4 district, subject to the applicable requirements of this chapter:

...

12. Religious assembly use.

...

**SECTION 16. RESIDENTIAL – R-6**

...

**16.2.1 BY RIGHT**

The following uses shall be permitted by right in the R-6 district, subject to the applicable requirements of this chapter:

...

- 6. Group home (reference 5.1.07).

...

**16.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the R-6 district, subject to the applicable requirements of this chapter:

...

- 12. Religious assembly use.

...

**SECTION 17. RESIDENTIAL – R-10**

...

**17.2.1 BY RIGHT**

The following uses shall be permitted by right in the R-10 district, subject to the applicable requirements of this chapter:

...

- 6. Group home (reference 5.1.07).

...

**17.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the R-10 district, subject to the applicable requirements of this chapter:

...

- 14. Religious assembly use.

...

**17.8 HEIGHT REGULATIONS**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.19.

...

**SECTION 18. RESIDENTIAL – R-15**

...

**18.2.1 BY RIGHT**

The following uses shall be permitted by right in the R-15 district, subject to the applicable requirements of this chapter:

...

- 6. Group home (reference 5.1.07).

...

**18.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the R-15 district, subject to the applicable requirements of this chapter:

...

- 14. Religious assembly use.

...

**18.8 HEIGHT REGULATIONS**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five

(65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.19.

...

**SECTION 19. PLANNED RESIDENTIAL DEVELOPMENT - PRD**

...

**19.3.1 BY RIGHT**

The following uses shall be permitted by right in the PRD district, subject to the applicable requirements of this chapter:

...

- 10. Group home (reference 5.1.07).

...

**19.3.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the PRD district, subject to the applicable requirements of this chapter and provided that no separate application shall be required for any such use as shall be included in the original PRD rezoning petition:

...

- 6. Religious assembly use.

...

**19.7 HEIGHT REGULATIONS**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.19.

...

**SECTION 20. PLANNED UNIT DEVELOPMENT - PUD**

...

**20.3.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted by special use permit in the PUD district, subject to the applicable requirements of this chapter and provided that no separate application shall be required for any such use as shall be included in the original PUD rezoning petition:

...

- 6. Religious assembly use.

...

**20.8.4 HEIGHT REGULATIONS**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.19.

...

**SECTION 20B. DOWNTOWN CROZET DISTRICT - DCD**

...

**20B.2 PERMITTED USES**

The following uses shall be permitted in the DCD, subject to the regulations in this section:

...

- C. *By right uses; public and civic.* The following public and civic uses are permitted by right:

- 1. Religious assembly use.

...

**SECTION 21. COMMERCIAL DISTRICTS - GENERALLY**

...

**21.4 HEIGHT REGULATIONS**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.19.

...

**21.7 MINIMUM YARD REQUIREMENTS**

...

- c. *Buffer zone adjacent to residential and rural areas districts.* For the purpose of this subsection, a buffer shall not be required when a commercial zone is across a street from a residential or rural area district. No construction activity including grading or clearing of vegetation shall occur closer than twenty (20) feet to any residential or rural areas district. Screening shall be provided as required in section 32.7.9. The board of supervisors may waive by special exception the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case upon consideration of whether: (i) the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design; (ii) minimum screening requirements will be satisfied; and (iii) existing landscaping in excess of minimum requirements is substantially restored.

...

**SECTION 22. COMMERCIAL – C-1**

...

**22.2.1 BY RIGHT**

The following uses shall be permitted in any C-1 district, subject to the applicable requirements of this chapter. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

...

- b. The following services and public establishments:

...

3. Religious assembly use, cemeteries.

...

**22.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted in the C-1 district only by special use permit approved by the board of supervisors:

...

4. (Repealed 8-9-17)

...

**SECTION 23. COMMERCIAL OFFICE - CO**

...

**23.2.1 BY RIGHT**

The following uses shall be permitted in the CO district, subject to the applicable requirements of this chapter:

...

4. Religious assembly use.

...

**23.2.2 BY SPECIAL USE PERMIT**

The following uses shall be permitted in the CO district only by special use permit approved by the board of supervisors:

...

12. (Repealed 8-9-17)

13. (Repealed 8-9-17)

...

**SECTION 26. INDUSTRIAL DISTRICTS - GENERALLY**

...

**26.4 STRUCTURE HEIGHT**

Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet. The minimum setback requirements for any story that begins above forty (40) feet in height or for each story above the third story, whichever is less, in height shall be as provided in section 4.20.

...

SECTION 30. OVERLAY DISTRICTS

30.3 FLOOD HAZARD OVERLAY DISTRICT - FH

...

30.3.5 DEFINITIONS

...

*Accessory structure:* An accessory structure, as defined in section 3.1, is a non-residential structure having a footprint that does not exceed two hundred (200) square feet.

...

30.3.11 PERMITTED AND PROHIBITED USES AND STRUCTURES

The uses and structures permitted by right and by special use permit, and the uses and structures expressly prohibited, in the flood hazard overlay district are as follows:

Use or Structure	Regulatory Floodway	Floodway Fringe
<b>Agricultural, Natural Resources, and Recreational Uses and Structures*</b>		
Agricultural uses, limited to field crops, pasture, grazing, livestock, raising poultry, horticulture, viticulture and forestry; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted agricultural use; provided that no accessory structures having habitable space are permitted	N	BR
Recreational uses including, but not limited to, parks, swimming areas, golf courses and driving ranges, picnic areas, wildlife and nature preserves, game farms, fish hatcheries, hunting, fishing and hiking areas, athletic fields, and horse show grounds; provided that no primary or accessory structures are permitted under this classification	BR	BR
Structures accessory to a permitted recreational use; provided that no accessory structures for human habitation are permitted	N	BR
Sod farming	SP	SP
Topsoil, sand, and gravel removal	SP	SP
<b>Flood and Water Related Uses and Structures*</b>		
Flood warning aids and devices, water monitoring devices, and similar uses	BR	BR
Flood control, stormwater conveyance, or environmental restoration projects which: (i) are designed or directed by the county, a soil and water conservation district, or a public agency authorized to carry out flood control or environmental restoration measures; or (ii) are reviewed and approved by the department of community development in accordance with the Water Protection Ordinance and with no changes to the base floodplain elevation or horizontal limits to the flood plain.	BR	BR
Dams, levees and other structures for flood control or for the public drinking water supply	SP	SP
Engineered structures, including, but not limited to, retaining walls and revetments made of non-natural materials such as concrete which are constructed along channels or watercourses for the purpose of water conveyance or flood control	SP	SP
Water related uses such as boat docks and canoe liveries	SP	SP
Hydroelectric power generation (reference 5.1.26)	SP	SP
<b>Public Utility and Telecommunications Uses and Structures*</b>		
Electric, gas, oil and communications facilities, including poles, lines, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding tower structures	BR	BR
Water distribution and sewage collection lines and appurtenances owned and operated by the Albemarle County Service Authority, but excluding pumping stations and holding ponds; public water and sewer transmission lines, main or trunk lines, and interceptors, but excluding treatment facilities and pumping stations, owned and/or operated by the Rivanna Water and Sewer Authority	BR	BR
Pump stations for water or wastewater, including power supply and control devices, holding ponds and other appurtenances	SP	SP
Electrical transmission lines and related towers; microwave and radio-wave transmission and relay towers	SP	SP
Tier I and Tier II personal wireless service facilities that are attached to an existing structure	N	BR
Tier III personal wireless service facilities	N	N
<b>Stream Crossings and Grading Activities*</b>		
Stream crossings for a driveway serving only one single-family dwelling and pedestrian trails, including, but not limited to, pedestrian and multi-use paths that are within county-owned or operated parks and greenways, and any footbridges necessary to cross tributary streams, watercourses and swales, that: (i) meet the applicable requirements of sections 17-406 and 17-604; (ii) demonstrate, in a floodplain impact plan, to the floodplain administrator's satisfaction, that construction of the crossing will have no impact on the elevations or limits of the floodplain; and (iii) will serve one dwelling unit that could not be accessed by any other means.	BR	BR
Bridges, ferries and culverts not serving single-family dwellings	SP	SP
Grading activities in compliance with the Water Protection Ordinance; provided that it is demonstrated, in a floodplain impact plan that the grading will have no impact on the elevations or limits of the floodplain and further provided that any cut or fill shall be only to level areas for playfields, correct erosion problems, build trails, or other fine grading activities which will have no impact on the floodplain. For purposes of this provision, fine grading is defined as a balanced site (cut/fill) with no changes to the base floodplain	N	BR

elevation or horizontal limits to the floodplain.		
Grading activities, including cut or fill, in compliance with the Water Protection Ordinance, but for which the floodplain administrator determines will or may cause the base flood elevation to rise or the horizontal limits of the floodplain to expand	N	SP
<b>Miscellaneous Structures*</b>		
Aircraft landing strips; provided that structures other than the landing strip, aircraft parking, and aircraft storage are prohibited	SP	SP
Fences	BR	BR
Structures accessory to uses permitted by right in the regulatory floodway, excluding structures having habitable space; provided that any such structure permitted shall be flood-proofed and anchored per section 30.3.15.	N	SP
Structure having habitable space, including any manufactured home, regardless of the structure's proposed use, whether it qualifies as a dwelling unit, and whether it is a primary or accessory structure	N	N
<b>Storage as a Primary or Accessory Use*</b>		
Storage of gasoline, kerosene and other petroleum products	N	N
Storage of flammable liquids, dynamite, blasting caps and other explosives	N	N
Storage of pesticides and poisons and other similar materials	N	N
Storage of machinery and motor vehicles except as accessory to a use allowed by right or by special use permit	N	N
Storage of junk	N	N

...

30.3.15 CONSTRUCTION STANDARDS

The following standards shall apply to any structure authorized under section 30.3.11 within the flood hazard overlay district, and its special flood hazard area zones:

...

- G. *Accessory Structures.* Accessory structures in the floodplain shall comply with the non-residential structure requirements in section 30.3.15 or, if not elevated or dry flood-proofed, shall:
  - Not be used for human habitation;
  - Be limited to no more than 200 square feet in total floor area;
  - Be constructed with flood damage-resistant materials below the base flood elevation;
  - Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  - Be anchored to prevent flotation;
  - Have electrical service and mechanical equipment elevated to or above the base flood elevation;
  - Shall be provided with flood openings which shall meet the following criteria:
    - There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
    - The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
    - The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
    - Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

...

30.3.17 VARIANCES

The board of zoning appeals is authorized to consider and act on applications for variances, subject to the following:

...

- D. *Factors to be considered.* In considering a variance application under this section, the board of zoning appeals shall consider the following factors in addition to those in section 34.2:
  - Accessory structures.* Accessory structures within the floodplain that are greater than two hundred (200) square feet but not greater than six hundred (600) square feet and do not

...

meet all of the requirements for non-residential structures in section 30.3.15 must secure a variance before a permit is issued. The structure must comply with the accessory structure criteria in section 30.3.15. No variance shall be granted for an accessory structure exceeding six hundred (600) square feet.

## **ARTICLE IV. PROCEDURE**

### **SECTION 32. SITE PLAN**

...

#### **32.6.2 CONTENTS OF A FINAL SITE PLAN**

Each final site plan shall contain the following information:

...

- I. *Recreational facilities.* Specifications for recreational facilities that comply with sections 4.16-4.16.3.

...

### **SECTION 35. FEES**

...

#### **35.5 PRE-EXISTING USE FEE WAIVER**

If an applicant applies for a zoning text amendment or special use permit, the applicable fee shall be waived provided that the zoning administrator finds the following conditions are met:

- a. The use applied for does not conform to the zoning prescribed for the district in which the use is situated;
- b. A business license was issued by the county for the applied-for use; and
- c. The holder of the business license has operated continuously in the same location for at least fifteen (15) years and has paid all real estate, business license, and personal property taxes related to the use.

---

Mr. Randolph then **moved** to adopt the proposed Subdivision Text Amendment to approve STA-2016-03. Mr. Dill **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

### **ORDINANCE NO. 17-14(1)**

AN ORDINANCE TO AMEND CHAPTER 14, SUBDIVISION OF LAND, ARTICLE IV, ON-SITE IMPROVEMENTS AND DESIGN, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 14, Subdivision of Land, Article IV, On-Site Improvements and Design, is hereby amended and reordained as follows:

#### **By Amending:**

Sec. 14-403 Lot Frontage

### **Chapter 14. Subdivision of Land**

#### **Article IV. On-Site Improvements and Design**

##### **Sec. 14-403 Lot frontage.**

Each lot within a subdivision shall have frontage on an existing or proposed public or private street; provided that this requirement shall not apply to any lot that would be created from the subdivision of a parcel where two (2) or more dwellings existed on the parcel on October 14, 2009 and one existing dwelling would be located on each lot created.

((§ 18-30 (part): 8-28-74; 9-5-96)(§ 18-36: 8-28-74; 9-5-96); §§ 18-30, 18-36; § 14-504, Ord. 98-A(1), 8-5-98; § 14-403, Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 10-14(1), 2-10-10)

**State law reference**--Va. Code § 15.2-2241(3).



Ms. Mallek reported that she had a citizen suggestion concerning dog licenses and rabies certificates. She explained that veterinarians are required to send vaccination records to the County, but the County does not keep them. Ms. Mallek said the citizen had suggested to her that they photograph the records or obtain them digitally in order to be able to match them. She encouraged staff to not use a lot of ink and not use colored ink to save taxpayer money.

Mr. Randolph said that Mr. Bob Fenwick of City Council informed him that the Planning Commission is talking about Belmont Bridge and reengineering of the project from the current two lanes to one lane, each way. He said he informed the CAC leaders of Fifth and Avon about it. He said it would have been nice to have someone from the City Planning Department to let the County know the City Planning Commission was about to finalize things. He said the proposal reduces the bridge from four lanes to two.

Agenda Item No. 25. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 26. Closed Meeting. *(if needed)*

At 8:14 p.m., Mr. Randolph **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, under Subsection (7) [as of July 1, 2017, this should be (8)], to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice pertaining to: 1) activities on a preservation tract in a rural preservation development; and 2) a performance agreement for which economic opportunity funds were provided. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**Certify Closed Meeting.** At 9:10 p.m., the Board reconvened into open meeting, and Mr. Dill **moved** that the Board certify by 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. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 27. Adjourn to August 15, 2017, 6:00 p.m., Room 241.

At 9:11 p.m., Ms. McKeel adjourned the Board meeting to August 15, 2017, 6:00 p.m., Room 241.

Chairman

Approved by Board
Date 11/01/2017
Initials CKB