

An adjourned and regular night meetings of the Board of Supervisors of Albemarle County, Virginia, was held on June 13, 2018, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. (The meeting was adjourned from June 6, 2018.) The regular night meeting was held at 6:00 p.m.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, 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 1:05 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. Closed Meeting.

At 1:06 p.m., Mr. Gallaway **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (3), to discuss and consider the disposition of real property in the City of Charlottesville related to court facilities, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to:
 1. The negotiation of an agreement for, and the possible relocation of, court facilities;
 2. A pending zoning text amendment identified as ZTA-2018-00002; and
 3. The legal authority of the County when a local emergency is declared.

The motion was **seconded** by Ms. Mallek.

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

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

Agenda Item No. 3. Certify Closed Meeting.

At 2:22 p.m., the Board reconvened into open meeting, and Mr. Gallaway **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed or considered in the closed meeting. The motion was **seconded** by Ms. Mallek.

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

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

Agenda Item No. 4. Biscuit Run Park Team Structure and Planning.

The Executive Summary forwarded to the Board states that on January 4, 2018 Governor Terry McAuliffe announced a partnership with Albemarle County to open Biscuit Run park to the public. Governor McAuliffe and the Virginia Department of Conservation and Recreation (DCR) signed a 99-year lease with Albemarle County for the property. The park will be the first of its kind in Albemarle's development area.

The lease was crafted to assure protection of the park's natural resources. A minimum of eighty percent of the park will remain forested, all sensitive natural heritage resources will be protected, and management concerns like invasive species will be addressed.

Since the Governor's announcement in January, a cross-functional team consisting of staff from Parks and Recreation, Facilities and Environmental Services, Community Development, Community Relations, Project Management Office and the County Executive Office have been organized to identify milestones for the early phase of the park.

This cross-functional team also met with DCR and Board member representation on May 23, 2018 to further discuss and plan roles and responsibilities moving forward.

The development of a master plan requires a variety of skills and expertise to ensure a well thought out and successful process. Staff proposes initial steps in building the necessary team structures and public engagement outlined below:

Steering Committee: To facilitate a community-oriented planning process, staff recommends the Board direct the County Executive to appoint the Biscuit Run Steering Committee (BRSC). The BRSC will comprise of two Board members, Assistant County Executive, Director of Parks and Rec and others as identified. The committee will work with the Community Member Work Group and the Project Team to develop recommendations to the Board for a draft and final master plan to be submitted to DCR for approval.

Project Team: comprised of staff from Parks & Recreation, Facilities and Environmental Services, Community Development, and the County Executive's Office to manage the process, provide communication to all teams and include internal subject matter expertise as the needs are identified.

Community Member Work Group: comprised of community members willing to take an active role in planning for the future uses of Biscuit Run, serve as community liaisons, and provide input and recommendations to the Steering Committee and Project Team

Consulting Services: staff requests funding for consulting services to support architectural and engineering design services for Biscuit Run Master Planning. The consultant will provide site analysis, design support for community engagement, schematic Master plan options, final cost estimates and a Final Master Plan.

In collaboration with DCR, the project team will host a Biscuit Run Community Meeting on June 19, 2018. The public will have an opportunity to learn more about the history and future of the project, review the State's site assessment and concept plan, and provide input on amenities including park access, connectivity, programming, and trails. The team plans for many strategies to receive community input to include potential focus groups, online public feedback tools, website, and the development of a Parks & Recreation Department led Friends of Biscuit Run. Staff will present a formal project plan to the Board once the teams are established but expects this process to deliver a final master plan no later than the Spring of 2019.

This support for architectural and engineering design services for Biscuit Run Master Planning will be a one-time cost of \$80,000. Funding is recommended from the existing FY 18 Parks and Recreation Department budget.

Staff recommends that the Board endorse the proposed team structure and initial planning process and also adopt the attached Resolution (Attachment A) to approve appropriation #2018091 for local government projects and programs as described in Attachment B.

<u>Appropriation #2018091</u>	<u>\$0.00</u>
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Source:	Parks and Recreation Department*	\$ 80,000.00
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*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$80,000.00 in FY 18 savings in the Parks and Recreation budget to support professional services for architectural and engineering design services for Biscuit Run Master Planning. The consultant will provide site analysis, design support for community engagement, schematic Master plan options, final cost estimates and a Final Master Plan.

(Note: Ms. Palmer returned at 2:24 p.m.)

Mr. Bob Crickenberger, Director of Parks and Recreation, addressed the Board and stated that he and Ms. Kristy Shifflett would share in the presentation. Today's meeting objective was, after review and discussions with staff, the Board endorse the proposed team structure and initial planning process and also approve appropriation #2018091 for support of the Biscuit Run Master Plan update. The meeting agenda would include the background (state Park Master Plan, Lease Agreement), proposed process and structure, proposed project timeline, and next steps.

In terms of background for state park planning, Mr. Crickenberger stated Biscuit Run was a 1,200-acre park acquired by the state in 2009, a draft concept plan created by Department of Conservation and Recreation (DCR) was completed in 2011, the Governor and DCR signed a 99-year lease agreement with Albemarle County in January 2018, and a Memorandum of Agreement and Deed of Lease were prepared and reviewed by the Attorney General and County legal staff. He explained that the agreement and lease focused on protection of the park's natural resources and requires 80% of the park to remain forested, the protection of sensitive natural resources, and management concerns such as invasive species would be addressed. He remarked that the 240-acre portion of the park that might be developed was twice the size of Darden Towe Park.

Mr. Crickenberger reviewed the timeline of what has transpired since the signing of the lease agreement. He said that in February, a cross-functional team was organized to identify next steps for the park's early phase; and from March–April, the Department of Parks and Recreation staff posted the park

property, installed a control access gate, cleared trails, and conducted a site analysis. He said that the Department of Community Development worked with Virginia Department of Transportation to review road access and natural resources. A use policy and website were developed and trails mapped in May 2018. He explained that mapping would provide information of what was currently on the ground, which they could use for future planning to determine which trails are sustainable and which are not. He related that staff, Board members, and representatives of DCR met to further to discuss planned roles and responsibilities in the future.

Mr. Crickenberger reviewed next steps, explaining that there would be a community kickoff with DCR on June 19 at the County Office Building on 5th Street. During that time, they would discuss the current state of the Master Plan, lease and deed constraints, and provide opportunities for public engagement topics such as access and connectivity, programming and amenities, trails, and other matters. He turned the presentation over to Ms. Shifflett who would outline the proposed team formation for the Board's consideration.

Mr. Randolph asked that the Board be provided with some dates when Supervisors could visit the Biscuit Run site and walk the trails with staff to be aware of the location of high-priority, preserved areas. Mr. Crickenberger agreed to do so.

Ms. Kristy Shifflett, Director of Project Management Office, described the project as exciting and said she expected a lot of community interest and input. She presented a diagram of the proposed oversight structure, including how teams would be set up and how they would work with VDOT and DCR, including DCR's approval of the final plan. She said that today they propose that the County Executive appoint a steering committee, which would develop recommendations to the Board for a draft and final master plan to be submitted to DCR for approval. Staff is recommending that the following individuals serve on the committee: Ann Mallek, Rick Randolph, Trevor Henry, Greg Kamptner, Bob Crickenberger, and Mark Graham.

Ms. Shifflett explained that a project team, comprised of staff from Parks and Recreation, Facilities and Environmental Services, Community Development, and the County Executive's office, would manage the process, facilitate community involvement, and bring in outside experts. Staff recommends the following individuals serve on the project team: Kristy Shifflett, Amy Smith, Jody Saunders, Emily Kilroy, and David Benish, and internal subject matter expertise as needed from County departments. She stated that they expect to develop a Community Member Work Group to allow members of the community to play an active role in planning and to serve as community liaisons. She noted that they expect recreational and environmental groups to be interested as well as neighboring communities and the CAC. Ms. Shifflett mentioned that they also propose establishing Friends of Biscuit Run, a group who would be invested in the property. She said they would require the services of consultants to help with architectural and engineering design, to perform site analysis, the design support of a concept plan, schematic master plan options, and cost estimates.

Ms. Shifflett said staff is proposing a timeline with summer, fall, and winter events. She said the process would begin with the June 19 kickoff meeting, followed by six to eight weeks later a subsequent community meeting. She said that during this time, they would be gathering the teams and offering public feedback on the website for tools. She stated that by the fall, they should have feedback to prepare the master plan and cost estimate phasing, with final design review by December, after which they would move forward with DCR.

Ms. Mallek remarked that her understanding was they wanted to have the plan ready in time for the DCR meeting in January, in case DCR approval was required. Ms. Shifflett confirmed this, adding that they have determined that the county does have to submit to DCR for approval, but it does not require DCR Board approval.

Ms. Mallek asked for clarification. Mr. Crickenberger responded that while approval from the DCR Board was not required, they must obtain approval from DCR staff members.

Ms. Palmer asked if it was more of an administrative approval by DCR. Mr. Crickenberger responded "yes".

Ms. Shifflett concluded her presentation by requesting the Board's endorsement of the proposed team structure and initial planning process, along with approval of appropriation #2018091 for the hiring of a consultant to support the Biscuit Run Master Plan update.

Ms. McKeel asked for confirmation that the appropriation was an \$80,000, one-time cost, which would be absorbed by Parks and Recreation. Mr. Crickenberger responded, "yes". He explained that these funds were initially earmarked for staff needs identified in the Community Recreation Needs Assessment. They did not need the entire amount so the additional funds are now available for this purpose.

Ms. McKeel **moved** that the Board adopt the proposed resolution to authorize the \$80,000 in one-time funding for architectural and engineering design services for Biscuit Run Master Plan, as requested. The motion was **seconded** by Mr. Randolph.

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

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

Ms. Palmer asked if the \$80,000 was in the budget to hire an employee and if this employee was not needed. Mr. Crickenberger clarified that there was originally \$90,000 appropriated for FY19 to hire a staff member; however, the Board gave its approval last month and there was only one pay period remaining in the fiscal year, so they only used a small portion of the money and proposed to use the offset for the Biscuit Run consulting fee.

Ms. Mallek asked if the staffing fee was already covered in the new budget. Mr. Crickenberger confirmed this.

**RESOLUTION TO APPROVE
ADDITIONAL FY 18 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriation #2018091 is approved; and
- 2) That the appropriation referenced in Paragraph #1, above, is subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2018.

**COUNTY OF ALBEMARLE
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2018091	4-1000-71011-471010-392000-1007	80,000.00	SA2018091 PR Biscuit Run Master Plan
2018091	4-1000-71011-471010-999998-1007	-80,000.00	SA2018091 PR Contingency to PR Biscuit Run Master Plan
TOTAL		0	

Agenda Item No. 5. **Work Session:** ZTA 201700001 - Transient Lodging.

The Executive Summary forwarded to the Board states that this zoning text amendment (ZTA) was initiated by the Board of Supervisors on May 3, 2017. The Board also held a work session on the ZTA on July 5, 2017 to define parameters for potential zoning changes. The Planning Commission received a briefing on this ZTA on May 23, 2017. A series of public meetings were held during September 2017 to gather input on potential ordinance changes in order to allow more opportunities for residential transient lodging.

The Planning Commission reviewed public input and discussed this topic in a series of three work sessions held on October 24, 2017, December 19, 2017, and March 20, 2018. At its April 24, 2018 public hearing, the Commission voted unanimously to recommend approval of the attached ordinance amendment. (See Attachment A.) At its May 22, meeting, the Planning Commission approved the memo in Attachment B, which provides a compilation of the different issues discussed during the meetings. Attachment B-B provides a summary of the comments from those meetings. Attachments C - J contain the staff reports and minutes for those meetings.

The following strategy is stated in the Comprehensive Plan for both the Rural Areas (Chapter 7, Strategy 4c) and the Development Areas (Chapter 8, Strategy 5e):

Study the nature and extent to which transient lodging is currently taking place and consider whether policy or regulatory changes should occur to accommodate this use. If such changes are determined to not be needed or appropriate, develop and implement a plan to bring errant operators of transient lodging into conformity with the County's regulations in a timely fashion.

The Planning Commission discussed all aspects of the current regulations and recommended that the ordinance be changed to:

1. Replace the terms and definitions for “tourist lodging” and “bed and breakfast” with “homestay.”
2. Replace the parking calculations for “tourist lodging” and “bed and breakfast with “homestay” and specify that parking must be off-street for any homestay use, including the Residential and the RA zoning district.
3. Allow rental of homestays in the RA zoning district (only) when the owner is not present (aka “whole house rental”) no more than 7 nights in a given month but no more than 45 overnight stays per year.
4. Require that homestays who rent without the owner present maintain a log of the number of days/nights rented each week and report the information to the Zoning Administrator on a monthly basis.
5. Require that homestays provide neighboring residents local contact emergency information.
6. Allow up to two guest rooms for homestays in townhouses and attached units with the owner or manager present during rental.
7. Incorporate the Short Term Rental registry provisions of Virginia Code § 15.2-983.

The Planning Commission recommended proactive enforcement of the regulations to close the compliance gap and ensure that operators comply with the regulations in the future. Attachment K contains the Zoning Administrator's recommendations and suggestions for enforcement.

Staff recommends that the Board review and discuss the ordinance changes recommended by the Planning Commission and set a public hearing date for July 11, 2018.

Ms. Rebecca Ragsdale, Senior Permit Planner, stated that Ms. Amelia McCulley and Ms. Elaine Echols are available to answer questions. Ms. Ragsdale stated that this was a work session and they would update the Board on progress since they began this discussion over one year ago. The presentation today would include background and purpose of the ordinance changes; existing and proposed ordinance; compliance and endorsement; and Board requested action (set public hearing date for July 11, 2018; advise staff of enforcement expectations). She said staff recognized the need to study transient lodging when the Comprehensive Plan was updated and are recommending the use of a replacement term, "homestays." She said they have strived to come up with a proposal for ordinance changes and a plan and recommendations for compliance, which they have done in the context of the Strategic and Comprehensive Plans in considering impacts in Development Areas, neighborhoods and Rural Area. She noted that this activity supports tourism and provides an economic benefit to those who participate.

Ms. Ragsdale presented a slide with the public process timeline:

March 8, 2017: Board directed staff to accelerate the study of transient lodging zoning provisions and to update the tax code.
May 3, 2017: Board work session and Board adopts Resolution of Intent for zoning text amendment
June 14, 2017: Tax code updates
July 5, 2017: Board work session to set parameters of zoning text amendment study
September 2017: Public input meetings on potential zoning changes
October 24 – March 20, 2017: Planning Commission holds three work sessions
April 24, 2018: Planning Commission public hearing
June 13, 2018: Board work session

She presented a slide that contained information regarding current compliance with zoning: of approximately 120 to 150 or more residential transient lodging facilities found on-line in Albemarle County: 27 percent were in the Development Areas and 73 percent in the Rural Areas, approximately two-thirds either meet or may be able to meet current regulations, about one-third did not meet or could not meet current regulations.

Ms. Ragsdale recalled that when the Board adopted the Resolution of Intent and public process, it expressed an interest to expand opportunities for tourist lodging based on requests and activity they were seeing from property owners. She said this included whole house and vacation rentals wherein the owner or manager was not present, as well as the allowance of rentals in other types of dwelling units, such as townhomes or multi-family. She emphasized that these are currently not allowed in the ordinance.

Ms. Ragsdale reviewed what the current ordinance allows and does not allow:

- rent up to 5 guest rooms inside a single family detached structure, as an accessory use.
- in development area, owner/tenant must reside in the dwelling
- in the Rural Area, rental may be in accessory structures or single-family dwelling; owner/manager must reside on parcel, one may also have a second bed and breakfast (BNB) use
- may not rent without owner/manager present (whole house rental)
- may not rent rooms in a townhouse or apartment unit
- may not rent a detached structure in the development area
- may not have weddings or special events without a special use permit in Rural Area

Ms. Ragsdale referred to the Planning Commission recommendations contained in the Board information. She said the recommendation for residential districts was to continue to allow the renting of up to five guest rooms inside a single-family detached structure, and the owner/manager must reside in the dwelling. She said the proposed changes would require that hosts provide neighbors with notice and an emergency contact and allow the rental of up to two rooms in a townhouse or single-family apartment, with the owner present.

Ms. Ragsdale next reviewed current and proposed rules for the Rural Areas. She said the recommendation was to maintain the existing regulations that permitted the rental of up to five rooms in a single-family detached structure, guest rooms may be located in accessory structures, and a second BNB was allowed if there was a second dwelling with a development right and density met for each dwelling. She reviewed the proposed changes: 1) whole house rental for up to 7 days per month and no more than 45 days/year with the requirement that a log be kept, 2) notice to neighbors required for whole house rentals. Ms. Ragsdale noted that Supervisors have the recommendation that the County adopt the provisions of short-term rental registry, which staff would call the Homestay Registration Process. She said that staff recommended that the County adopt these provisions for reasons related to the additional enforcement tools it brought, such as a three strikes provision and a \$500 fine for not registering.

Ms. Mallek remarked that she thought they had already adopted the registration. Ms. Ragsdale clarified that there was a Transient Occupancy Code update but that was not the same as the short-term rental registry. She added that this registry is very specific and it would be adopted in the Health and Safety Code section; it would not be in the Finance or Zoning codes.

Ms. Palmer asked if the \$500 failure to register fine was cumulative for each year of non-registry. Ms. Ragsdale replied that the fine was assessed per day that the homestay was registered.

Ms. Ragsdale presented a slide with a summary of recommended proposed changes:

- 1) replace the terms and definitions with “homestay” for all zoning districts. This would eliminate any reference in the ordinance to terms “accessory tourist lodging” for residential districts and “BNB” for the Rural Areas. In addition, all parking for these uses must be on the property and not use on street parking.
- 2) allow whole house homestays in the RA zoning district subject to:
 - no more than seven days in a given month but no more than 45 overnight stays per year.
 - require a log of whole house rental days and available upon request by the Zoning Administrator.
- 3) allow up to two guestrooms for homestays in townhouses and attached units with owner or manager present during the rental. (No whole house rental) in the residential zoning districts.
- 4) adopt the short-term rental provisions of the Code of Virginia into Chapter 7 of the County Code.

Ms. Ragsdale recapped the approval process, which consists of application, inspections, approval, and tax payments. She said an application was made to Community Development for a fee of \$108.00, after which Zoning conducts an inspection of the number of guest rooms, parking, and smoke detectors, followed by an inspection by the Fire Marshal to make sure there was adequate access to emergency vehicles and to identify obvious hazards in the house, and ingress and egress. She explained that the property owner must provide notice to neighbors prior to application approval and once approval has been granted, the owner must make monthly transient occupancy tax payments, keep a log of rental use that was available to the Zoning Administrator upon request, and register annually.

Mr. Dill asked what would happen if a neighbor were to object. Ms. Ragsdale explained that it was an opportunity to ask questions and get clarification and it was not proposed that an objection would result in denial of the request. The notice was provided as a courtesy.

Ms. Ragsdale presented a chart of BNB rental applications for each year from 2006 – 2018 and noted the number had been increasing. The chart indicated that 115 total applications has been received since 1985 and prior to 2014, no more than an average of two applications per year were received, and 76 percent was in the Rural Area.

Ms. Ragsdale next presented a slide that listed statistics on complaints as follows:

- 1–2 complaints per year from 2012–2015
- 12 complaints in 2017
- 4 complaints in 2018, 3 of which were in the same neighborhood
- 8 complaints involved dwelling unit types other than single-family detached.
- 6 complaints were found to not be violations

Ms. McKeel emphasized that many HOAs in the County forbid this activity, including all gated communities, and most activity occur in the older neighborhoods of the urban ring.

Ms. Ragsdale commented that all of this information she has presented is available to the public, and staff has a detailed list of where violations have been called in.

Ms. Palmer asked Ms. Ragsdale if homeowners for whom they have received complaints take things well and what her experience has been. Ms. Ragsdale responded that staff has been fairly successful. A number of Rural Area properties have applied for their permit immediately, and in development areas where they have been able to substantiate the violation, the use has been discontinued.

Ms. Ragsdale next reviewed steps to close the compliance gap. She described past zoning enforcement as reactive and not proactive, unless the Board has specifically directed staff to be proactive such as with signs a few years ago. She said staff has recognized and recommended a need to more broadly publicize information and offer workshops or opportunities for people to obtain information through online interactive tools and/or a video. Ms. Ragsdale stated that they recognize the need to look for opportunities to streamline inspections, of which there are currently four, and have processed some applications within a week. She said staff recommends a proactive approach for Phase II of compliance efforts, using the possible following avenues: a) a contract with a company to provide tracking software services to identify online listings without permits, and b) need to dedicate staff/temporary staff position. She asked the Board to provide feedback as to its expectations for the closing of the compliance gap and ongoing enforcement.

Ms. Ragsdale then presented the following summary of the Planning Commission’s discussion for which no vote or consensus was reached:

- 1) consider use of accessory structures in the Development Area.
- 2) ensure no impacts on affordable housing
- 3) annual inspections
- 4) parking limitations
- 5) regulate by number of guests, not guest rooms
- 6) explore ways to allow homestay use on family-owned properties which the family wants to retain and use periodically
- 7) consider treating rural suburban developments in the Rural Area the same as the development area when it comes to whole house rentals, parking, and use of accessory structures

Ms. Mallek expressed interest in having a future discussion on items 3, 4, 5, and 7.

Ms. Ragsdale said staff proposes that the Board authorize a public hearing for July 11, 2018 as recommended by the Planning Commission. Staff believes this was an important step before they discuss additional ordinance changes. Additionally, she said they are seeking Board input regarding the enforcement aspect.

Mr. Randolph stated that he would like to see what the cost to ensure compliance would be for the County. He said that conducting a single inspection and not following up poses a substantial risk to users of the facilities and was an abdication of the Board's responsibility to the safety and welfare of those staying in transient facilities. He referred to Attachment K (copy on file) and suggested that everyone that apply for the transient lodging license be required to provide photos of the house as a record. He pointed out that these are businesses and wondered why they do not have a home occupancy license. He said the County should be able to scan applications to determine which of the home occupancy licenses are for transient lodging occupancy. Mr. Randolph commented that the County was flying blind without this information. He emphasized his opposition to a laissez-faire compliance attitude and suggested they have a rotating schedule of home inspections to ensure the best interests of the public. It is an unacceptable risk to the public to stay in a facility that is not maintained properly, have nonworking smoke detectors, stairs in disarray, no emergency exits, etc. Verification is extremely important in ensuring the best interest of the public.

Ms. McKeel said she had emailed Supervisors a simplified, easy-to-understand, draft proposal that does not require a lot of changes and was consistent with existing ordinances for residential businesses and home occupations. She said that it makes several slight changes she believes are beneficial for older neighborhoods, areas without existing protections and without being onerous. She said it would require annual inspections by the Fire Marshal and Department of Health to be paid by the owner. She reviewed some highlights including that it makes the allowable number of guest rooms consistent in the development area and keeps with the strategic objectives of protecting quality, older neighborhoods that provide affordable housing stock that was at risk of being reduced. She said that as older people pass away, the properties are flipped to Airbnb owners who are often out of town.

Ms. McKeel stated that her proposal for the Development Area would limit the number of guests to no more than two guest rooms and up to four adults, with no more than five guest rooms with up to ten adults in the Rural Area. She said it eliminates the allowing of on-street parking to satisfy the minimum requirements and makes parking consistent with other home business uses such as accessory apartments and home occupations. She stated that her effort was to simplify yet get to the heart of the matter of what they are trying to address. Ms. McKeel stated that she would delete the manager and require the owner to reside on the parcel and also delete the minimum of 180 days in a calendar year. She said the homes would be required to be owner-occupied and only one off-street parking space per guest room in addition to the parking required for a single-family dwelling unit would be allowed.

Ms. Palmer asked if the County has an ordinance that would protect against people paving their front yard. Ms. Ragsdale remarked that the parking calculation read by Ms. McKeel and the location of parking was already covered in the existing ordinance or in what staff has recommended. She said the idea that someone would pave their yard to provide parking was a concern of the Planning Commission, and they do not have anything in the ordinance to address this as there are no setback requirements, though there was a cap on adding more parking than was required. She said there has been a suggestion that staff address this scenario in the ordinance.

Ms. Mallek remarked that these are elements the zoning clearance should approve or not.

Ms. Ragsdale reviewed some of the steps of the inspection process and clarified that home occupations are a separate use category. She said she does not think people are sneaking in Airbnb under a business license for a home occupation, though staff could look into this.

Ms. McKeel remarked that all they are trying to do was simplify the ordinance and make it easy, as the more consistent the ordinances are, the easier it was for people to follow them. She emphasized that her proposal deletes resident managers.

Mr. Randolph asked if, when an application was received from someone who was not in an HOA community and the applicant wanted to put a parking lot in the yard, the County has a way to know if they are operating transient housing. Ms. Ragsdale replied that the County does not require a permit to expand a driveway.

Ms. Randolph said this was a by-right and asked how the County could prevent this from occurring. Ms. Ragsdale replied that the staff have not studied that, and she thinks they would have to adopt something in the parking regulations since these are by-right activities and they are not currently regulating driveways.

Ms. Elaine Echols, Chief of Planning-Long Range, commented that any resident of a non-HOA community may pave any part of his front yard, and the question would be whether to change this for all residential uses or just this one. Mr. Randolph replied that he was proposing it be for this one and was not talking about wholesale alteration of the status quo. He envisions that if they impose new regulations that minimize parking then Airbnb's may decide to pave their yards. The County would be helping to alter in a dramatic way the overall character of certain communities; the County would become an accessory.

Ms. Echols said she was concerned the owners would pave over the yard first and then make the Airbnb application. She explained that they may want it to be known for the future that one cannot have a paved-over front yard and a homestay.

Ms. Mallek remarked that a two-year time delay of the pictures the County has of a house and the Airbnb being allowed to begin would probably prevent this misuse.

Ms. McKeel stated that another key part of her proposal said the owner of a parcel with a homestay shall reside on the parcel which then eliminates the 180 days in the calendar year, while simplifying things, and it was consistent with everything else they do. She asked Supervisors to review her proposals before their next meeting.

Mr. Dill said he agrees that homes should be safe, though he does not believe they need to be so adversarial in the manner in which they anticipate problems. He said that his experience has been that the kinds of people that operate Airbnb's are those that the County was encouraging to improve their lives economically, and he does not see this as a big problem, though they could adjust things as necessary. He encouraged Board members to find the right balance between encouraging constituents to seek economic opportunities and not try to put up roadblocks.

Ms. McKeel responded that that was her intent; to simplify the process as much as possible.

Mr. Randolph said he agrees with Mr. Dill and they would not have to worry about 90 percent of users; however, they should try to cover as many potential contingencies as possible when legislating so they do not alter the fabric of communities.

Mr. Dill remarked that a neighborhood might like to have more Airbnbs and decide to have common area parking at the end of a cul-de-sac, so they could all serve their customers better, and to legislate that two paved spaces are allowed for every single case would restrict people from starting Airbnb's. He expressed agreement with Ms. McKeel's comments that they have a simple, straightforward application process and look for opportunities to make this easier for some people rather than to try to solve for every possible contingency.

Ms. McKeel said that many of the challenges she was referencing are really around residential areas where there are neighborhoods with one-quarter and one-half-acre lots.

Ms. Mallek added that the Board's job was to protect the neighbors who cannot stand up for themselves. She emphasized that it was important to do it right the first time and instead wait until it is hard to get things under control.

Ms. Palmer said she would comment on Phase II enforcement, stating that she does not like the idea of very strict enforcement, as the costs to taxpayers and the issues it would create are too difficult. She said this was a very fluid, changing business, and she understand the need for inspections as it was a matter of people's health and welfare, and the owner should pay for them. Ms. Palmer recalled that when the County enforced regulations on regular rentals, they imposed taxes retroactive for three years, which concerns her a little bit as people may start and stop and she does not want to get into a punitive situation where they try to collect the transient occupancy tax. She said she could see the paving of yards happening in certain neighborhoods and she would like to see a mechanism available for neighbors impacted rather than to have the County proactively try to enforce things. Ms. Palmer expressed concern with the requirement to remove resident managers in the Rural Areas as some residents who live out of town would inherit a property and hire someone to manage the property.

Ms. Echols invited Mr. Kamptner to speak about what the County's rights are in terms of owner occupancy. Mr. Kamptner replied that under current regulations, the County allows managers to qualify for a bed and breakfast use, while for tourist lodging the owner has to reside onsite. He added that the County has discussed this previously and believes there are legitimate criteria for the particular uses.

Ms. Palmer emphasized that they are changing the name to homestay, and she assumes there was going to be a blend over time in a changing market that would not look the same in five or six years, and she was concerned they are trying to lock themselves in a moment in time. She pointed out that there are pretty dense residential areas within the Rural Area and she wonders how they would define that. She related that she has been trying to sell her mother's six-acre property located in somewhat of a residential area and has received letters from people who expressed interest in purchasing the home for Airbnb purposes. Ms. Palmer commented that she does not know how to define rural versus residential and does not want to be too strict with people who are trying to make extra money to make ends meet. She added

that she agrees with most of this in concept. She summarized that she wants to create tools to help people, if needed, but not be too restrictive.

Ms. Mallek remarked that the only way to legitimately help neighbors was to have rules that are strict enough to be enforced.

Mr. Gallaway said it does not seem like they are ready to go to a public hearing and he thought they would iron out issues at this meeting and then go to a public hearing. He said he would be happy to use Ms. McKeel's proposal as a template and come back for another work session to provide further detail, at which time he would comment on some of the details. He said that if they are going to have proactive enforcement and spend money, then that has to come up in the budget process and compete with other items. He remarked that there are items that came up in the last budget cycle that they did not fund that are higher priorities than this. He agrees that some parts of the Rural Area looks like residential areas. He acknowledged the impact of parking and contrasted a situation where 10 guests arrived by Uber and had no impact versus their arriving in 10 cars. He stressed the importance of making Albemarle an inviting place for visitors and to encourage this and find a way to help Airbnbs operate under rules that are reasonable for both the County and the operators.

Ms. McKeel stressed that she wants to simplify the ordinance and make sure Airbnbs do not impact neighborhoods in a bad way.

Mr. Randolph acknowledged that Mr. Bob Garland and Ms. McKeel have stressed the importance of affordable housing, and in his June 8, 2018 letter to the Board he said there was empirical evidence in many areas, with San Francisco as an example, where transient lodging has had a significant impact on the number of available units of affordable housing. He said the Board knows the supply of affordable units in the community does not meet the demand, and they have to balance these interests and suggested they conduct a cluster analysis to determine where Airbnb licenses are. He said that they may want to limit how many of these are in a community, as he has heard stories of entire blocks becoming Airbnbs.

Ms. Mallek remarked that they cannot tell some people they could do something and others that they cannot and would have to find another way to solve this. She added that owner occupation helps with this.

Ms. Palmer added that imposing a time limit makes the business model less inviting. She related a recent experience when she had an estate sale on her mother's property and cars were parked overnight on the cul-de-sac before the sale. She said that she was very concerned that neighbors would get upset but found they had a relaxed attitude and used this example to show how people would react in different ways to Airbnb activity in neighborhoods.

Ms. Mallek said that if they do not require owner occupation, she believes people would do whatever they want unless they believe they would be held accountable. She reviewed a suggestion she received that they establish a monthly reporting database that was available to the public and shows the number of people that stayed at a house. Addressing comments that this was an evolving situation, she remarked that life was an evolving situation and if they do not do something because it was evolving, they still would not have anything 5 or 10 years from now. She expressed support for annual inspections and detailed applications that must be signed by the owner and not by a property manager. She explained how this would improve accountability for liability so they would not have the owner and manager blaming each other. She expressed support for a suggestion that was made to list the Finance Department's tax ID number in the online advertisements for the properties, which would make it easy to identify license holders. She expressed concern with the suggestion to change the term to "homestay," as bed and breakfasts that have been in operation for many years and have created a reputation for service would be lumped together with those who have done nothing to earn this. She said she would like bed and breakfasts to have a separate classification and added that she supports a requirement for operators to have liability insurance. Ms. Mallek related that some are building new homes specifically for Airbnb purposes, so she would support granting licenses only to those who owned an existing home in the Rural Area and suggested a five-year requirement as a reasonable deterrent. She remarked that the excuse that people would not have to follow parking setbacks if neighboring buildings were further away from the boundary than required for the neighbor seems like a real infringement on the rights of the neighbor, and she preferred that this type of exclusion not be adopted. Ms. Mallek said figuring out a way to keep the parking from demolishing the front yards was really important for the neighborhood appearance and sense of community and well-being. Other than enforcement, she does not know what it means to have a mechanism to help people when there is a problem. She added that she looks forward to more discussion.

Ms. Echols asked Supervisors for their opinions about changing the limitation on guest rooms to a limitation on the number of guests. The number of available rooms could allow anywhere from 5 to maybe 15 people in a single facility. There would be a big difference if the limit was the number of people in a facility.

Ms. Ragsdale said since the Board is not ready to go to public hearing, she suggested that they keep the July 11 date for further discussion. Staff can bring back additional information, i.e., proposal from Mr. McKeel, parking, annual inspections, number of guest rooms vs. number of occupants.

Ms. Palmer said she believes the limitation on the number of rooms was the most reasonable as it allows for more flexibility.

Mr. Randolph said he supports a limitation on rooms.

Ms. McKeel explained that her proposal allowed up to 5 guest rooms and 10 adults in the Rural Area.

Ms. Echols remarked that the current regulation allows up to 5 rooms and does not regulate the number of people, and the proposal was to allow up to two rooms in townhouses and attached housing, with no restriction on the number of people. She asked the Board if there was agreement that opening up whole house rentals in the Rural Area was something they would like to change in terms of the number of days and the owner/manager requirement.

Ms. Palmer asked if this would be no more than 7 days in a given month and 45 days per year. Ms. Echols confirmed this.

Ms. Mallek commented that they do not have the resources to enforce this other than to impose large fines.

Ms. Palmer said the County places many rules on the books so if there was a problem they could respond or address complaints by neighbors, such as the spot blight ordinance, but they do not go out and look for things. She expressed support for having an owner/manager on the property.

Mr. Randolph said he thought they were all in agreement on that. He said Ms. Echols' question was whether the Board would accept whole house rentals without a manager.

Ms. Palmer said she was okay with not having a manager in the house as long as they resided nearby.

Ms. Ragsdale reiterated that it sounds like the Board would like another work session and was not ready for a public hearing. She said that with a whole house rental, an owner/manager would still have to reside on the property – and they are trying to clarify whether there would be a certain number of days per year where the owner/manager would not have to be present so the whole house could be rented.

Ms. Mallek said the question before the Board was whether they support vacation or whole house rentals without anyone around to be responsible.

Ms. Palmer said she was okay with this as long as the imposed a time restriction. She empathized with those who reside out of town and rely on rental income from Rural Area properties so they could maintain them. She said that if they restrict the number of days that rentals are allowed, then it would not be a good business model but would still enable people to keep the property.

Mr. Dill commented that there must be someone around to clean up the house in between rentals.

Ms. Mallek noted that anyone could rent a property for more than 30 days, which solves the problem with out-of-state owners.

Mr. Randolph added that if they would allow rentals without the owner onsite, the property should be adjoining.

Ms. Echols said there does not appear to be a consensus but staff has enough information to come back in July with some ideas and responses to the questions asked.

Mr. Randolph requested that when Ms. Echols come before the Board in July, she focuses on the list of items that need to be resolved rather than review the entire issue again.

Ms. Echols commented that she would be retiring from the County as of the end of August, 2018.

Ms. Mallek commented that Ms. Echols has indicated that she may be available for special projects.

Recess. The Board recessed its meeting at 4:11 p.m. and reconvened at 4:20 p.m.

Agenda Item No. 6. **Presentation:** Community Recreation Needs Assessment Final Report.

Mr. Crickenberger stated that today was the fourth presentation regarding the recreation needs assessment. He said he hopes the Supervisors have found it helpful and beneficial that the presentation was divided into segments and not presented all at one time. He said that today's focus would be on community, financial, capital, staffing needs, and strategic implementation. He noted that the Board would be sent an executive summary shortly after today's presentation outlining the findings and recommendations, and previous information shared. He then turned the presentation over to Mr. Michael Svetz with PROS Consulting, Inc.

Mr. Michael Svetz addressed the Board and said he would connect dots from the previous presentations. The new information would be about the Capital Improvement Program along with some high-level objectives. He said the 185-page final report has been delivered to the Department. He then presented the following list of key themes:

- public values the Parks and Recreation system
- parks and greenbelt trails provide community connectivity
- growth areas are underserved
- school parks are in need of renovations
- increased awareness was needed
- Parks and Recreation should play a role in economic development
- fund and maintain new parks and facilities as the County population continues to grow

Mr. Svetz said, in terms of community needs, the information was divided into two segments; the first being activities and programs. This provides a listing of experiences people are looking to get out of the County's Parks and Recreation system. Activities are listed under the categories of high, medium, and low. He commented that the activities listed under the category of high priority are those with widespread interest in the community, while those in the low category are those with more specialized interests. Corresponding facilities and amenities are needed in order to support the activities and are also listed under the categories of high, medium, and low. He said that programmatic need typically drives facility park design. He emphasized that as the Board moves forward with master planning for Biscuit Run Park, they have a fresh prioritization of what people would like to see.

The next slide entitled "Service Level Standards – Parks" provided a listing of park amenities and indoor facilities. Mr. Svetz said that neighborhood and community parks as well as sports complexes are typically the backbone of a parks system. The next category of "Service Level Standards – Outdoor Amenities," consists of outdoor athletic fields and picnic shelters. "Service Level Standards – Indoor Facilities," category includes the potential of adding two future indoor gymnasiums with a possible site in Crozet, with new school construction or a public/private partnership. He emphasized that the need was not extravagant but would likely be 30,000 square feet over the next 15 years.

The next slide entitled "Undeveloped Parks" lists the names of 10 parks with their corresponding acreage. Mr. Svetz said that the Board has the opportunity to expand park acreage through the development of existing parks. In terms of "Service Level Standards with Undeveloped Parks" there are several categories of parks in the County. He emphasized that they have the opportunity to fulfill needs through the acquisition of property that have already been donated or through parks that have already been proffered by developers.

Mr. Svetz next reviewed financial recommendations with a focus on the CIP. He presented a slide entitled "Total Cost of Ownership Financial Plan," which contained the following formula: Capital Investment + Operations and Maintenance + Lifecycle Replacement = Total Cost of Ownership. The next slide was entitled "Capital Improvement Recommendations" and contained three cost buckets. He explained that Bucket 1 was called "Sustainable" and represents maintenance and replacement to sustain the existing system and experiences. For example, playgrounds need to be replaced, tennis courts need to be resurfaced, etc. He said Bucket 2 looks at identified community needs and sought to add facilities, i.e., where they can add soft surface trails, picnic shelters, etc., without adding new parks. He explained that Bucket 3 was the visionary bucket with the development of new parks and creating a new master plan. He explained how they looked at the buckets from a timeline perspective, with the first bucket representing years 1-5, the second representing years 1–10, and the third representing years 1–15. He noted that most projects in the second bucket occurs towards the end of the period, whereas projects in the third bucket are typically carried out in years 8–10. He explained that the buckets were meant to be a flexible guide to understand how the system could be improved today and expanded in the future.

Mr. Svetz explained that development of the CIP took information from the existing CIP as well as information obtained from a park-by-park workshop, with staff that looked for opportunities to add facilities at existing parks. He said the third bucket was a culmination of the workshop, the CIP departmental submittals, and an analysis of the needs for acreage, fields, picnic shelters, and playgrounds. He said the third bucket could be summarized into four categories: playground replacement, tennis and basketball court resurfacing, ADA improvements, and assessment of the physical conditions of existing facilities. He noted that lifecycle replacement would be \$6.3 million in today's dollars. He next presented a slide with Expanded Services Projects and summarized them as soft surface trail development, access to rivers around fishing piers, and the addition of picnic shelters. The next slide listed Visionary Projects, and Mr. Svetz said the question was whether there are existing parks that have stayed the same for many years that have the opportunity to be re-master planned to meet the experiences that people would like. He said this category also includes the conversion of athletic fields to synthetic turf and implementation of the Western Park Master Plan. He said this bucket represents approximately \$67 million in today's dollars.

The next slide was entitled "Capital Improvement Summary" and listed:

Tier	Estimated Total Project Cost
Sustainable Projects	\$6,257,000
Expanded Service Projects	\$4,080,000
Visionary Projects	\$67,155,000
Total	\$77,492,000

Mr. Svetz commented that these figures are relatively modest compared to those in some other municipalities he has worked with.

The next slide contained a chart with recommended priority projects:

Asset	Project Type	Brief Description	Est. Project Cost
Systemwide	New	Greenway/Trail Development	\$2.5 million
Darden Towe	Upgrade	Athletic Field Improvements	\$ 3 million
Western Park	Upgrade	Implementation of Master Plan	\$ 4 million
River Access	New	River access improvement	\$2.5 million
Total			\$12 million

Mr. Svetz stated that he was a firm believer that as the CIP was developed, the master plan should include funding placeholders for implementation. He said he has come across systems that have 20 master plans for parks that were not implemented, and the implementation of Western Park should be the next step towards expanding the parks system since the master plan was fresh and they engaged the existing community.

The next slide listed identified funding sources:

- Bond Referendum
- County Capital Improvement Plan
- Grants
- Development of Parks Foundation
- Park Development Fees
- Other Sources: Identified in Needs Assessment document

Mr. Svetz stated that the development of a Parks Foundation would help leverage taxpayer dollars with donations as 501(c)(3)s are eligible for grant funding that government agencies are not. He said a connected but independent 501(c)(3) could expand and improve the parks system.

Ms. Mallek asked where player fees fall under funding sources. Mr. Svetz responded that these fall under park development fees and could be utilized to pay off park improvements or set aside for lifecycle replacement.

The next slide contained a chart of parks maintenance staffing needs:

Staff Position	Number	Classification	Status	Timeline
Grounds/Facility Maint. – Trails	2	Full-Time		FY 20
Grounds/Facility Maint. – D. Towe	1	Full-Time		FY 20
Grounds/Facility Maint. – Gen. Parks	2	Full-Time		FY 21
Grounds/Facility Maint. – Gen Parks	2	Full-Time		FY 22

The next slide contained a chart of administration staffing needs:

Staff Position	Classification	Status	Timeline
Business Operations Supervisor	Full-Time	New	FY 20
Administrative Asst. – Parks/Trails	Full-Time	New	FY 20
Park and Greenbelt Planner	Full-Time	New	FY 20

Mr. Svetz noted that a recreation supervisor position has recently been filled.

He then listed objectives to achieve:

- A) increase the proportion of park acres per populations through a variety of park type amenities and open space options
- B) establish connectivity between parks and greenways that was accessible by pedestrians, bikes and parks and open space in Albemarle County
- C) provide a park system offering the community a variety of parks and services that integrate environmental design, safety, emerging trends, and local culture and history
- D) adopt a new pricing policy to achieve a 60 percent cost recovery for the Recreation Division
- E) public access to blueways to ensure safety and assist boaters from trespassing on private property
- F) continue to plan, develop and operate a variety of indoor facilities that support multiple activities
- G) increase community participation in programs from 29 percent to 34 percent
- H) add, empower, and train department employees to achieve a higher level of maintenance and cost recovery
- I) pursue adequate funding to support existing parks, new parks, and other park types (total cost of ownership)

Mr. Svetz noted that by increasing the Parks and Recreation Department's cost recovery from the existing 45 percent to 60 percent would generate \$120,000 to \$150,000 in additional revenue. He commented that he thinks they have provided good recommendations and guidance that are rooted in the community's values and are financially achievable and sustainable. He concluded and invited questions.

Ms. Mallek asked Mr. Svetz if he has worked with other jurisdictions that partnered with private organizations for something like a zipline. Mr. Svetz responded, "yes", and added that Biscuit Run Park could be an example. He said the County may not be ready to take on development, operation, and ongoing maintenance of a campground and they may wish to issue a Request for Information (RFI) for a ground lease to have a private organization develop and operate the campgrounds with the County receiving lease revenue. He reviewed a second way by which the County would develop the campground and a private firm would operate it, with the County to receive a percentage of profits. Mr. Svetz stated that they have included the framework of partnership policy in the needs assessment document. He added he was involved with the Explorer Park Master Plan in Roanoke, which had the potential for private/public partnerships.

Mr. Dill asked if the \$2.5 million estimate for greenways and trails was designated to complete them. Mr. Svetz responded that it was more or less the ones that have been planned and that need to be implemented. He said there was significant opportunity with the grassroots group that was forging ahead with this. He added that this could be a good example of how a Parks Foundation could receive fundraising dollars from a partner special interest group and be earmarked for greenway development, which could be leveraged for additional dollars for grants.

Mr. Dill said the public might want to support a general environmental program to protect certain parts of a park. Mr. Svetz commented that the interest in environmental stewardship in the County and City was significant, and they would have the opportunity to either tap existing 501(c)(3)s or create their own. Mr. Dill commented that in a sense, this was a private/public partnership for preservation or natural heritage. Mr. Svetz agreed, adding that people are more likely to give money to a 501(c)(3) than to a government agency, which was a perception issue they might as well capitalize on.

Ms. Mallek added that if public funders put in a small stake, it inspires people to make up the difference, which was something that worked for the Crozet Library.

Mr. Gallaway asked if \$6.2 million was for current replacement needs. Mr. Svetz responded that it was, and it was drawn from what has been submitted to the existing CIP along with additional items identified in the parks and facilities assessment.

Mr. Gallaway noted that some of the elementary schools identified have already had their playgrounds replaced, and it was not like every elementary school needs a playground now. He questioned whether listing these under replacement needs was the right way to frame this. Mr. Svetz responded that they could be replaced as a cycle or a larger bid could be put out to receive a volume discount to replace several playgrounds at once, which would result in a new playground system that would make it a lot easier to continue to maintain. He acknowledged that funding may not be available to replace them all at once.

Ms. McKeel recalled that the School Division has an upgrade cycle for playground equipment. Mr. Crickenberger confirmed this, adding that the lifecycle for a playground was approximately 10 to 15 years, but it also depends on the location and school enrollment. He added that, working jointly with the School Division, they generally replace 2 playgrounds per year.

Ms. Mallek asked for confirmation that these projects were above the line and would be happening anyway. Mr. Crickenberger confirmed this. Addressing Mr. Gallaway's question about the \$6.2 million, he said much of this was in the capital budget and was gleaned from what was learned with the needs assessment.

Mr. Svetz added that a lot of these were ADA accessibility issues. He continued that the sustainable project bucket was mainly about the next 5 years, for which the existing CIP could serve as a guide and projects could be added to, and most of this has already been identified in the maintenance replacement category of the CIP.

Ms. Mallek commented that there are lots of opportunities for citizens to get involved with the buckets.

Agenda Item No. 7. Closed Meeting.

At 4:59 p.m., Mr. Gallaway **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
 1. to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and
 2. to conduct the annual performance reviews of the Board Clerk and the County Attorney.
- Under Subsection (3), to discuss and consider the disposition of real property in the City of Charlottesville related to court facilities, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to:
 1. the negotiation of an agreement for, and the possible relocation of, court facilities; and

2. the legal authority of the County when a local emergency is declared.
The motion was **seconded** by Ms. Mallek.

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

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

Agenda Item No. 8. Certify Closed Meeting.

At 6:03 p.m., the Board reconvened into open meeting, and Mr. Gallaway **moved** that the Board of Supervisors certify, by a recorded vote that, to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed or considered in the closed meeting. The motion was **seconded** by Ms. Palmer.

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

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

Non-Agenda. Mr. Dill **moved** that the Board **appoint** Mr. Brent Hall to the Police Department Citizens Advisory Committee, with said term to expire March 5, 2020. Ms. McKeel **seconded** the motion.

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

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

Agenda Item No. 9. Call back to Order. At 6:05 p.m., the night meeting was called to order by the Chair, Ms. Mallek.

Agenda Item No. 10. Pledge of Allegiance.
Agenda Item No. 11. Moment of Silence.

Agenda Item No. 12. Adoption of Final Agenda.

Ms. Mallek introduced staff around the dais.

Mr. Dill **moved** that the Board adopt the final agenda. The motion was **seconded** by Ms. McKeel.

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

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

Agenda Item No 13. Brief Announcements by Board Members.

Ms. Mallek announced the passing of Mr. Montie Pace, a very dear friend and a farmer from Stony Point who was a timber manager, co-founder of Stony Point Volunteer Fire Company, and an all-around wonderful guy.

Ms. Palmer announced the opening of the North Garden Farmers Market on Thursday afternoons at Albemarle Cider Works from 4:00 p.m. to 7:00 p.m., with fresh, wonderful local food. She invited people to patronize the market.

Ms. McKeel announced that there are two new murals on concrete walls on Georgetown Road and Hydraulic Road. She said they followed the same process as they did the last time, with the difference that these were paid for entirely by a private donation. She praised the participation of students from Albemarle High School and invited people to view them.

Ms. Mallek commented on the colorful walls.

Mr. Randolph reminded the public to attend the Scottsville Fourth of July parade beginning at 9:00 a.m. on July 4, 2018.

Ms. Mallek invited the public to attend the Crozet Independence Weekend Festival beginning Saturday, June 30, 2018, with a parade to begin at Crozet Elementary School, followed by fireworks.

Ms. Mallek invited the public to attend the Free Union parade beginning at 4:00 on Sunday, June 31, 2018, as well as the Earlysville parade beginning at 3:00 p.m. on July 4, 2018.

Mr. Richardson stated that the Governor of Virginia has officially announced a State of Emergency for the recent storm events that hit the Region. This announcement is a necessary step should there be any assistance from the Federal and State governments.

Ms. Mallek said the USDA office in Louisa is still compiling information about rural damage. Even if citizens intend to fix the damage themselves, she asked that they document everything. She suggested that they call or email Mr. Kory Kirkland because it is part of the amassing of information for the Federal Government to step in for landowners. The local emergency preparedness folks are also collecting information for household types of damage.

Agenda Item No. 14. Proclamations and Recognitions:

Item No. 14a. Resolution of Appreciation for Pam Moran.

Ms. McKeel read the following Resolution of Appreciation of Dr. Pamela Moran and **moved** its adoption:

Proclamation Resolution of Appreciation for Pam Moran

WHEREAS, Pam Moran has served with distinction as the Superintendent of Albemarle County Public Schools since 2006 and has been honored throughout her career with recognition as a Virginia Superintendent of the Year, as well as a gubernatorial appointee to the State Council on Higher Education for Virginia; and

WHEREAS, Pam has been a staunch advocate of student-led research, project-based learning and contemporary learning spaces that promote collaboration, creativity, analytical problem-solving, critical thinking, and communications competencies among all students; and

WHEREAS, under Pam's leadership, the County of Albemarle has set an example of excellence in education, with an on-time graduation rate of 95% and standing amongst the top 5% of all school divisions in the nation; and

WHEREAS, Pam's visionary administrative leadership has been instrumental in the development of innovative programs developing student capabilities in critical thinking, creativity, collaboration, and problem-solving, and a countywide project to bring broadband technology access to student homes and high school centers of excellence in Math, Engineering and Science, Health and Medical Sciences, and Environmental Studies; and

WHEREAS, the Board of Supervisors honors and appreciates the exemplary service of Albemarle County's first female superintendent; and

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors do hereby recognize Pam Moran's thirteen years of service as the Albemarle County School's division's chief executive and the contributions and commitment of Pam Moran.

The motion was **seconded** by Ms. Mallek.

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

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

Item No. 14b. Resolution of Appreciation for Cathy Train.

Mr. Dill read the following Resolution of Appreciation for Ms. Cathy Train and **moved** its adoption:

Proclamation Resolution of Appreciation for Cathy Train

WHEREAS, Cathy Train has displayed exemplary leadership as the President of the United Way-Thomas Jefferson Area since 1988; and

WHEREAS, Cathy's leadership and dedication to service has been evidenced in her roles on the Board of Directors of the Charlottesville Regional Chamber of Commerce, the Board of Trustees of The Miller School of Albemarle County, as Chair of the Albemarle County Police Foundation, and as president of the Albemarle Rotary Club; and

WHEREAS, Cathy has been a staunch supporter of individuals and families in the Thomas Jefferson Area community, initiating the Day of Caring to promote the spirit and value of volunteerism while increasing awareness of local agencies and schools; and

WHEREAS, Cathy's visionary stewardship of the United Way has led to the creation and continued operations of programs that support school readiness for children, self-sufficiency for families and community medical care, such as the Success by 6 Insurance for Children Project, the Initiative for Effective Nonprofits, Women United in Philanthropy, Smart Beginnings, and the Childcare Scholarship; and

WHEREAS, Cathy's commitment to service and positive influence has been felt on a global and national scale demonstrated by her successful initiation of an effort to bring the Olympic Torch Relay to Charlottesville en route to the Atlanta Summer Olympic Game, and her mobilization and coordination of local agencies, staff and volunteers to provide housing and services to the hundreds of Hurricane Katrina survivors who came to Charlottesville; and

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors do hereby recognize Cathy Train's thirty years of service to the members of the Thomas Jefferson Area community and honor her contributions and commitment to the community.

The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

Ms. McKeel commented that both ladies would retire at the end of June.

Ms. Mallek announced that the resolutions would be delivered at their retirement gathering as they were not able to be present tonight.

Ms. Mallek recognized the presence of the two presiding security officers, Officer Dana Reeves and Officer Snodgrass and thanked them for their attendance.

Agenda Item No. 15. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Marta Keane, CEO of Jefferson Area Board of Aging (JABA) and resident of Rio District, addressed the Board. She offered a heartfelt thanks to the Board for helping Mountainside Senior Living renovate its third floor to create a memory care unit. She said there are already 12 residents in the unit who are enjoying many activities including the ability to look out the window at downtown Crozet. She said they eat at a beautiful, comfortable, and homey farm table, which was made specifically for them. She said they are proud of the Music and Memory Program, in which each resident was presented with an iPod to download their favorite songs. She commented that the residents have Nerf Volleyball at 10:00 p.m., because not everybody in the dementia unit sleeps at the same time. She recognized the assistance provided by neighbors who visit. She then reviewed a recent success story of a new resident who arrived in a wheelchair and has since progressed to a walker and participated in a swimming activity at the YMCA. She again thanked the Board for its continued support.

Mr. Greg Quinn, resident of White Hall District, addressed the Board and said he would comment on the idea of having a bureaucracy for the rain tax. He stated that the administrative government, including federal, state, and local branches, has grown exponentially and he feels like due process rights under the 5th Amendment are being lost. He expressed support for water mitigation from a voluntary standpoint, but the County needs to stay out of it, regardless of so-called mandates, as federal mandates need to be erased as well. Mr. Quinn added that if the Board is going to do a zoning change that could affect property values, this was another encumbrance on the 5th Amendment and due process because it creates winners and losers. He said he supports having major changes going to a referendum and said the duty of Supervisors was to protect the minority and not the majority, adding that anything the public sees should go to a referendum.

Agenda Item No. 16. Consent Agenda.

(Discussion: Ms. Palmer had not read her assigned minutes of February 14, February 16 and February 20, 2018, and asked that they be pulled.)

Ms. McKeel **moved** that the Board approve the consent agenda with the exception of the minutes. The motion was **seconded** by Mr. Dill.

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

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

Item No. 16.1. Approval of Minutes: February 14, 2018, February 16, 2018, and February 20, 2018.

By the above-recorded vote, the Board moved the above-referenced minutes to the next meeting.

Item No. 16.2. FY 2018 Appropriations.

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

The total increase to the FY 2018 budget due to the appropriations itemized in Attachment A is \$35,621.50. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve appropriations #2018092 and #2018093 for local government programs as described in Attachment A.

Appropriation #2018092 \$35,621.50

Source: State Revenue \$35,621.50

This request is to appropriate \$21,360.00 in Technology Trust Funds from the State Compensation Board and \$14,261.50 in grant funds from the Library of Virginia to the Clerk of the Circuit Court. These funds will be used to restore and repair historical record books and reformat original records to digital images.

Appropriation #2018093 \$0.00

Source: Reserve for Contingencies* \$ 60,000.00

*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$60,000.00 from the Reserve for Contingencies to fund the Tax Relief for the Elderly and Disabled program. Actual payments exceeded total budgeted funds in FY 18 due to new program participants, applicants qualifying for a higher percentage of relief, and increases in property assessments.

After approval, the FY 18 General Fund Reserve for Contingencies balance will be \$133,379.00.

By the above-recorded vote, the Board adopted the following Resolution to approve appropriations #2018092 and #2018093 for local government programs:

**RESOLUTION TO APPROVE
ADDITIONAL FY 18 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2018092 and #2018093 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2018.

**COUNTY OF ALBEMARLE
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2018092	4-1000-21060-421060-600103-1002	35,621.50	SA2018092 Restore records - digitize records
2018092	3-1000-24000-324000-568911-9999	14,261.50	SA2018092 Library of Virginia Grant
2018092	3-1000-23000-323000-230149-1002	21,360.00	SA2018092 TTF Funds
2018093	4-1000-59000-459000-579100-1005	60,000.00	SA2018093 From Reser for Contingencies
2018093	4-1000-99900-499000-999990-9999	-60,000.00	SA2018093 Tax Relief Overexpenditure
TOTAL		71,243.00	

Item No. 16.3. Resolution to Request Economic Development Access Program Funding for Avon Court.

The Executive Summary forwarded to the Board states that the Economic Development Access Program (formerly known as the Industrial Access Program) is a state-funded incentive designed to assist Virginia localities in attracting sustainable businesses that create jobs and generate tax revenues within the locality. The program makes funds available to localities for road improvements needed to provide adequate access for new or substantially expanding qualifying establishments. The program defines “qualifying establishments” as those which include manufacturing, processing, and research and development facilities, distribution centers, regional service centers, corporate headquarters, government installations or similar facilities.

The attached County policy Governing Requests for Use of Industrial Access Funds (Attachment A) was adopted in 1993 and established a policy to support project requests on a first-come, first-serve basis. Two other criteria were established: 1) All property adjoining a proposed industrial access road shall be currently zoned for industrial uses that will qualify under the state’s industrial access program, and 2) all costs and potential obligations of the program shall be borne by the applicant such that no local funds are in any way involved in such a project.

Lighthouse Instruments, LLC is requesting Economic Development Access Program Funds to construct an industrial access road to its planned development site on Tax Map Parcel 77-9.

A resolution from the locality’s governing body is one requirement of a complete application to the Virginia Department of Transportation and the Commonwealth Transportation Board for funding. The applicants have diligently pursued development plans on the parcel highlighted in Attachment B. The initial site plan was approved on April 23, 2018, while Road and VSMP plans are currently under review.

Although the zoning map in Attachment B shows Tax Map 77, Parcel 8A is zoned Highway Commercial (HC), this application would not conflict with the County’s Industrial Access Program policy. Parcel 8A was rezoned to HC from Light Industry (LI), but the proffers specifically stated that “The new HC zoning will be so structured with substantial proffering to allow the site to retain its LI character, not only in function but in design.” Therefore, it retains a zoning that allows uses that would qualify under the state’s program, which is consistent with County policy.

Pursuant to the County’s policy noted above, any costs for this project, if approved, not covered by the Program funding would be borne by the applicant.

No budget impact is anticipated. Staff time will be needed to support the applicant submitting a complete application to VDOT and the Commonwealth Transportation Board.

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

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

RESOLUTION

WHEREAS, Albemarle County desires to assist in the development of property located off of Avon Court (Route 1101), identified as Tax Map Parcel 77-9 in Albemarle County, Virginia, for the purpose of economic development; and

WHEREAS, Lighthouse Instruments, LLC has purchased property located in Albemarle County and will soon enter into a firm contract to construct its facilities on that property for the purpose of manufacturing; and

WHEREAS, this new facility is expected to involve new capital investment in land, building, and equipment of approximately \$4,885,000 and Lighthouse Instruments, LLC is expected to hire an additional 10 employees at this facility; and

WHEREAS, the existing public road network does not provide for adequate access to this facility and it is deemed necessary that improvements be made to Avon Court (Route 1101); and

WHEREAS, Albemarle County hereby guarantees that the necessary environmental analysis, mitigation, and fee simple right of way and utility relocations or adjustments for this improvement, if necessary, will be provided at no cost to the Economic Development, Airport and Rail Access Fund; and

WHEREAS, Albemarle County acknowledges that no land disturbance activities may occur within the limits of the proposed access project prior to any construction on this project as a condition of the use of the Economic Development, Airport and Rail Access Fund; and

WHEREAS, Albemarle County hereby guarantees that all ineligible project costs and all costs not justified by eligible capital outlay will be provided from sources other than those administered by the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors hereby requests that the Commonwealth Transportation Board provide Economic Development Access Program funding to provide an adequate road to the property located at TMP 77-9;

BE IT FURTHER RESOLVED that the County Executive and/or his designee(s) be authorized to act on behalf of the Board of Supervisors to execute any and all documents necessary to secure the funding sought through the Economic Development Access Program up to, but not exceeding, the full cost of the road; and

BE IT FURTHER RESOLVED that the Board of Supervisors hereby requests that the new roadway so constructed will be added to and become a part of the secondary system of state highways pursuant to Section 33.2-1509, paragraph C, of the Code of Virginia; and

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

Item No. 16.4. Public Recreational Facilities Authority (PRFA) Name Change.

The Executive Summary forwarded to the Board states that the Albemarle County Public Recreational Facilities Authority (PRFA) accepts, holds, and administers open-space land easements throughout the County under the Virginia Open-Space Land Act. At its February 22 meeting, the PRFA asked staff to explore changing the name of the Authority to the Albemarle Conservation Easement Authority (ACEA) to better describe its purpose. Because the requested name contains the word "authority," it appears permissible under Virginia Code § 15.2-5602(A). However, the name must be reflected in the Authority's Articles of Incorporation, which in turn requires Board of Supervisors' review and approval at a public hearing.

Staff has prepared the attached draft Amended Articles of Incorporation for initial review. Except for the initial recitals, the proposed new name, and the listing of current members, the draft Amended Articles largely track the Authority's existing original Articles.

Please note that under Virginia Code § 15.2-5602(B), the articles must set forth:

1. The name of the authority and address of its principal office.
2. A statement that the authority is created under the Public Recreational Facilities Authorities Act.
3. The name of each participating locality.
4. The names, addresses and terms of office of the first members of the authority.
5. The purpose or purposes for which the authority is to be created.

The Amended Articles will require members' addresses, which staff will compile and add prior to the public hearing.

If the Board wishes to consider the requested name change, staff recommends advertising a future public hearing to consider the proposed amendments to the Authority's Articles of Incorporation.

By the above-recorded vote, the Board set a public hearing for July 11, 2018 to consider the proposed amendments to the Authority's Articles of Incorporation.

Item No. 16.5. Acquisition of Conservation Easements (ACE) Ranking Order for FY18 Applicant Pool.

The Executive Summary forwarded to the Board states that pursuant to section A.1-110(G) of the ACE Ordinance, the Board of Supervisors reviews the list of parcels ranked by the ACE Committee and identifies parcels on which it desires to acquire conservation easements. Each conservation easement identified by the Board for purchase is appraised by an independent appraiser chosen by the County.

On October 31, 2017, five new applicants enrolled in the FY18 applicant class. Staff recently evaluated each of the properties from this applicant pool according to the ACE Ordinance ranking evaluation criteria. These objective criteria include: open space resources; threat of conversion to developed use; natural, scenic and cultural resources; and County fund leveraging from outside sources. Based on the results of the evaluation, staff has determined the eligibility of the properties and has ranked them in order (see Attachments A and B). Because one of the applicants (Tatum) recently withdrew her application and another (Pulliam) currently does not qualify, there are only three eligible applicants at this time. These results were presented to the ACE Committee, which unanimously approved the proposed ranking at its April 9, 2018 meeting.

The top three ranked properties scored enough points to be eligible for ACE funding. With \$946,419 of County funding available for this class (carry-over), \$250,000 from the FY18 Tourism appropriation, and \$109,893 of unused VDACS Farmland Preservation grant funds (see Attachment C), the County likely has enough funding to acquire easements on all three properties. The large carry-over resulted when four applicants from last year either withdrew their applications or declined the County's offers to purchase easements on their properties.

Based on the final ranking order and eligibility status of the current properties, the ACE Committee recommends that the Board authorize appraisals of all three eligible properties: Dollard, Walker, and Ruddock. In addition, because Mr. Pulliam may acquire some adjoining land that would push his application above the eligibility threshold, staff and the ACE Committee also would like to be

authorized to appraise his property in the event that Mr. Pulliam is able to reach the eligibility threshold. If this is unlikely to occur, an appraisal would not be ordered.

The acquisition of easements on the top three properties would eliminate 29 development rights and would protect:

- 1) 408 acres of farm and forest land
- 2) over 8,000 feet of state road frontage
- 3) almost 13,000 feet of riparian buffers
- 4) approximately 272 acres of “prime” farm and forest land
- 5) one (1) property in a drinking water reservoir watershed (Totier Creek)
- 6) two (2) properties in a Rural Historic District
- 7) one (1) working family farm.

Because no easements were acquired from last year’s ACE applicant pool, the County has \$1,306,312 to acquire new easements from the FY18 pool. This amount of funding reflects a combination of County funds (re-appropriated), VDACS Farmland Preservation grants, and funds from the FY18 appropriation. VDACS Farmland Preservation holds the County’s grant money until the County submits for re- imbursement for 50% of the acquisition, appraisal, and closing costs. Funding for the purchase of these conservation easements would come from the CIP-Community Development-Conservation budget (line-item 4 -9010-81010-481020-580409-1240). See Attachment C for additional budget information.

The ACE Committee and staff recommend that the Board:

- 1) Approve the final ranking order for the FY18 applicant pool as shown on Attachments A and B;
- 2) Authorize appraisals of the top three properties: Dollard, Walker, and Ruddock; and
- 3) Authorize an appraisal of the Pulliam property, if that application becomes eligible.

By the above-recorded vote, the Board approved the final ranking order for the FY18 applicant pool as shown by staff; and authorized appraisals of the top three properties: Dollard, Walker, and Ruddock; and authorized an appraisal of the Pulliam property, if that application becomes eligible.

Ranking Order of ACE Applicants from FY 2018

(20 points are needed to qualify for ACE Funding)

Enrollment Date: October 31st, 2017

<u>Applicant</u>	<u>Tax Map</u>	<u>Acres</u>	<u>Tourism</u>	<u>Points</u>	<u>Status</u>
DOLLARD, Laura (Scottsville)	TM 122, Parcel 17	(159.84 acres)	no	27.11	
WALKER, James H. (Red Hill)	TM 100, Parcel 23	(108.82 acres)	no	26.86	
	TM 100, Parcel 23A	(5.56 acres)			
	TM 100, Parcel 26	(20.63 acres)			
	Total	(135.01 acres)			
RUDDOCK, Cheryl (Esmont)	TM 119, Parcel 22	(112.91 acres)	no	23.04	
PULLIAM, William R. (Esmont)	TM 127, Parcel 41	(65.05 acres)	yes	<i>incomplete</i>	
TATUM, Elfriede (Barboursville)	TM 36, Parcel 37	(122.361 acres)	yes	<i>withdrawn (4/9/2018)</i>	

Notes:

- 1) Though we no longer use tourism funds (the hotel tax), tourism value is determined by the presence of specific elements from the ranking evaluation criteria that have tourism value, including: contains historic resources or lies in a historic district; lies in the primary Monticello viewshed; adjoins a Virginia scenic highway, byway or entrance corridor; lies on a state scenic river; provides mountaintop protection.
- 2) Over the last few years, easements have typically been 20-35% of appraised land value depending on location, suitability for development, and retained building and development rights.

Item No. 16.6. Virginia Stormwater Management Program (VSMP) Signing Authority.

The Executive Summary forwarded to the Board states that the Virginia Department of Environmental Quality (VaDEQ) is responsible for regulating discharge from stormwater systems resulting from development and other land disturbing activities under the Virginia Stormwater Management

Program (VSMP). On July 1, 2014, VaDEQ mandated that Albemarle County accept the responsibility for administering the VSMP within Albemarle County. The Community Development Department is responsible for ensuring that every new and existing construction project has a VSMP permit and is in compliance with the terms of that permit and Virginia code. A VSMP application must be approved as a prerequisite to the issuance of a land disturbance permit. The VSMP application must be signed by the property owner, who certifies compliance with all requirements of the approved plans and permits.

In limited circumstances when the County designs and constructs projects - building additions or new sidewalks - and is the property owner of the land being disturbed, the County acts as both permittee and permit issuer. As permittee, the County is required to submit a VSMP application. Under the current practice, the Board of Supervisors approves and authorizes the County Executive to sign these VSMP permits on a case-by-case basis.

Occasionally, a County project is located on private property on which the property owner has granted an easement to the County to complete the work. For those projects, landowners sometimes refuse to certify that the County will comply with the VSMP permit requirements because they do not have control over the project. The current requirement for the landowner to sign the application can result in extensive negotiations and significant delays or non-completion of a County project because of a requirement that makes a land owner potentially liable for County actions.

The County Attorney has determined that the County may sign and submit VSMP applications when the County is the easement holder on private property being disturbed in order to avoid these delays.

To further streamline the VSMP application process, staff recommends that the Board authorize the County Executive or his designee to sign VSMP applications on behalf of the County for VSMP projects undertaken by the County on either County-owned property or on County-owned easements on private property. This would significantly improve the efficiency and success of County project development and decrease delays which negatively impact these project's budgets and schedules.

There is no budget impact.

Staff recommends that the Board adopt the attached Resolution (Attachment A) authorizing the County Executive to sign VSMP applications on behalf of the County where the County is the property owner or the easement holder on private property.

By the above-recorded vote, the Board adopted the following Resolution authorizing the County Executive to sign VSMP applications on behalf of the County where the County is the property owner or the easement holder on private property:

**RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO SIGN
VIRGINIA STORMWATER MANAGEMENT PROGRAM APPLICATIONS
WHEN THE COUNTY IS THE PROPERTY OWNER OR
THE EASEMENT HOLDER ON PRIVATE PROPERTY**

WHEREAS, the Virginia Department of Environmental Quality requires that development and other land disturbing activities be regulated through the Virginia Stormwater Management Program (VSMP); and

WHEREAS, on July 1, 2014, the Virginia Department of Environmental Quality mandated that the County of Albemarle accept the responsibility for administering the VSMP within Albemarle County; and

WHEREAS, the VSMP requires permits for all development and other land disturbing activities within the County and the Town of Scottsville, and VSMP applications for those permits must be signed by the property owner; and

WHEREAS, there are development and land disturbing activities undertaken by the County on property owned by the County and on easements owned by the County on private property, and those development and land disturbing activities require a VSMP application; and

WHEREAS, the efficiency of County government would be improved by delegating the authority to the County Executive to sign such VSMP applications on behalf of the County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors authorizes the County Executive or his designee to sign Virginia Stormwater Management Program (VSMP) applications on behalf of the County for projects to be located on property owned by the County and on easements owned by the County on private property provided that such applications are approved as to form and substance by the County Attorney.

Item No. 16.7. Community Use of County Facilities Policy.

The Executive Summary forwarded to the Board states that since first adopting a Community Use of County Facilities Policy (the "Policy" on February 10, 1982, the Board has encouraged the use of County facilities by Local Government and the Schools Division for their activities, as well as by outside organizations and groups, as long as their activities do not interfere with County business. The Board reviewed and approved the most recent changes to the Policy on August 6, 2014.

Section 10 of the Policy pertains to the public's use of the parking lots and sidewalks at the County Office Buildings on McIntire and 5th Street. The primary purpose of the proposed amendments is to clarify the public's use of sidewalks and to expand the circumstances when both the parking lots and sidewalks may be closed for public use.

The revised Policy would reorganize Section 10 to address the public's use of parking lots and sidewalks in separate subsections.

Parking lots: Subsection 10(b) would revise the Policy for the public's use of sidewalks, retaining the policy that the parking lots are open for general public use except during County business hours and during meetings of the Board, the Planning Commission, or the School Board (subsection 10(b)(1)), and between the hours of 2:00 a.m. and 6:00 a.m. each day (subsection 10(b)(2)). The policy would be revised to authorize the parking lots to be closed to general public use when the County Executive determines that their being open at any other times would conflict with County business ((subsection 10(b)(3)) or when a state of emergency or a local emergency has been declared (subsection 10(b)(4)).

Sidewalks: The current Policy provides that sidewalks are open for general public use, but fails to distinguish between sidewalks that abut public streets and those that are internal to the County Office Building grounds. There is a significant difference between the two for both practical and First Amendment (e.g., speech and protest) purposes. Subsection 10(c) would revise the Policy for the public's use of both sidewalks that abut the public streets and those that are internal to the County Office Building grounds. Sidewalks that abut public streets are open for general public use at all times, with the only limitation being that persons on those sidewalks not obstruct ingress and egress to the County Office Building grounds. Sidewalks that do not abut public streets and are internal to the County Office Building grounds are likewise open for general public use when the parking lots are open for general public use and other times when the County Office Building is open for County business or for use by users authorized under the Policy. However, subsection 10(c) is revised to authorize the County Executive to close the internal sidewalks to general public use when he determines that their being open at any other times would conflict with County business ((subsection 10(c)(2)(i)) or when a state of emergency or a local emergency has been declared (subsection 10(c)(2)(ii)).

The proposed revisions to the Policy provide greater clarity to the general public's use of the County Office Buildings' parking lots and sidewalks. They also provide greater express control over their use when the County needs to control general public access to them, such as when the parking lots need to be used as staging areas by first responders during natural disasters or other events, and when the County needs to otherwise control general public access to the parking lots and the internal sidewalks.

There is no expected budget impact.

Staff recommends that the Board approve the attached revised Community Use of County Facilities Policy (Attachment A).

By the above-recorded vote, the Board approved the following revised Community Use of County Facilities Policy:

COMMUNITY USE OF COUNTY FACILITIES

A) Generally

1. The Board of Supervisors believes in the full and best possible utilization of the physical facilities belonging to the citizens of the County. To achieve this end, the use of County facilities for governmental, school and related activities, as well as by outside organizations and groups, shall be encouraged when these activities will not interfere with the routine business of the County.
2. Proper protection, safety and care of County property shall be primary considerations in the use of County facilities.

B) Eligible Organizations

1. The Board has classified various organizations and groups for the purposes of priority and the charging of fees.
 1. Classification
 - I. County government and School-affiliated or related groups.
 - II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veterans' or religious groups or organizations.
 - III. Profit making or Private groups, organizations, or businesses.
 2. Membership

The membership of any group or organization requesting the use of County facilities must be largely from the County of Albemarle. This restriction shall not exclude the use of certain facilities, as determined by the County Executive, by state and national organizations that have a local sponsoring division of such organization.

3. Commercial Activities
Commercial use of County property by any organization or individual is expressly prohibited.

C) Applications and Approval

1. Applications must be sponsored by reputable and established clubs, societies or organizations that can be held responsible for the payment of charges, compensation for damages to property and for use of the property in reasonable conformity with the regulations on the application.
2. The Board authorizes the County Executive or his designee to approve all applications for the use of County facilities that meet the requirements of the Board, that comply with implementing regulations the County Executive deems necessary to protect County property and that do not conflict with established business or commercial interests in the community. The County Executive shall design such application forms as are required. The completed and signed form shall be a binding agreement upon the applicant and the County.
3. No rental application will be considered more than six months prior to the desired rental date.
4. The County Executive or his designee reserves the right to cancel a rental contract up to ten calendar days prior to a scheduled rental.
5. The Lane Auditorium and COB – 5th Street Room A are available during business hours (8:00 a.m. – 5:00 p.m. Monday through Friday) only if the applicant provides shuttle bus services or off-site parking for participants of the meeting. On-site parking is not available for large meetings during business hours.
6. All activities shall end, with County facilities vacated, no later than 10:00 p.m.
7. The Lane Auditorium is not available on any day during which a local government board, commission, or other duly appointed entity is scheduled to use the facility due to the possibility of these meetings running beyond the scheduled end time.
8. Meeting rooms and Auditorium are not available on holidays, scheduled or declared, when the County Office Building is closed.
9. Reservations will automatically be cancelled when the County office buildings are closed due to inclement weather or emergency conditions.
10. County Office Buildings' Grounds, including Parking Lots and Sidewalks:
 - a. Generally. Unless otherwise specifically allowed in this policy, the Grounds of the County Office Buildings are not open for public use.
 - b. Parking. Unrestricted parking spaces in parking lots are open to the public for general parking purposes, provided that ingress and egress to any parking lot is not obstructed. Parking lots are not open to the public for general parking purposes in the following circumstances:
 - (1) When parking is not related to County or School Division business being conducted in or on County facilities during the County's regular business hours, or during meetings of the Board of Supervisors, the Planning Commission, or the School Board, or their use is in conjunction with a use in County facilities or on the Grounds by a third party authorized pursuant to this policy.
 - (2) Between the hours of 2:00 a.m. and 6:00 a.m., each day.
 - (3) When the County Executive or his designee determines that the use of any parking lot for general parking purposes at any time other than during the County's regular business hours or meetings of the Board of Supervisors, Planning Commission, or School Board interferes, or may interfere, with County business.
 - (4) When the County Executive or his designee determines to close any parking lot for general parking purposes when the Governor declares a state of emergency or when the County's Director of Emergency Managements declares a local emergency.
 - c. Sidewalks. Sidewalks abutting public streets are open for public use, provided that ingress and egress to and from the Grounds are not obstructed. Sidewalks not abutting public streets are:

- (1) Open to the public when: (i) a County parking lot is open for general parking purposes under subsection 10(b); (ii) their use is related to County or School Division business being conducted in County facilities or on the Grounds during the County's regular business hours, or during meetings of the Board of Supervisors, the Planning Commission, or the School Board; or (iii) their use is in conjunction with a use in County facilities or on the Grounds by a third party authorized pursuant to this policy.
 - (2) Not open to the public when: (i) the County Executive or his designee determines that public use of any sidewalk not abutting a public street interferes, or may interfere, with County business; and (ii) the County Executive or his designee determines to close any sidewalk not abutting a public street when the Governor declares a state of emergency or when the County's Director of Emergency Managements declares a local emergency.
- d. Veterans' Memorials. The County Executive or his designee may consider requests for the use of the area in proximity to the veterans' memorials on the Grounds by veterans' groups or organizations consistent with this policy. Such requests must be made and approved no less than 5 business days before the proposed activity.
 - e. At no time shall vehicles be parked on the lawns or pedestrian walkways.
 - f. Unauthorized users of County facilities or Grounds are subject to removal and/or prosecution for trespassing.

D) Fees (See Attachment)

- 1. The County Executive shall establish a minimum schedule of fees and may make additional adjustments in the fees. The minimum schedule and additional adjustments shall be based upon the classification of the group or organization, the facilities to be used, the size of the group, the objectives of the organization, the approximate cost to the County and the purpose for which the facility will be used.
- 2. In general, the County Office Building Rental Charges schedule (attached below) will apply.
- 3. A full rental fee shall be charged to all groups (except Classification I) when County facilities are to be used for fund raising and/or when an admission charge is levied.
- 4. All fees must be paid at least seven (7) calendar days in advance, and the sponsoring organization whose name appears on the application shall be held responsible for any and all damages to property and equipment.

E) Protection of County Property

- 1. An employee or agent of the County shall be on duty on the property at times when the facilities are in use. No equipment or furnishings may be used or moved without the consent of the employee in charge if such usage is not in conformity with the contracted agreement. The employee in charge may expel any group if said group, after ample warnings, fails to adhere to the provisions of their rental agreement.
- 2. The sponsoring organization shall be responsible for crowd control measures, including the employment of police protection when required. Such control shall be arranged in advance when deemed necessary by the County Executive or his designee.

F) Safety

- 1. Organizations and individuals using the facility shall be responsible for familiarizing themselves with the nearest exits in case of emergency evacuation. Each conference room has a Fire Escape Plan posted at its entrance which shows the primary and secondary escape routes.

G) Deposits

- 1. A cash bond or deposit may be required at the discretion of the County Executive or his designee prior to use of the property.

Lane Auditorium and COB-5th Street Room A Rental Charges

Classification	Weekday-Business Hours	Weekday-Evening
I. County/Schools*	No Charge	No Charge
II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veteran's or religious groups or organizations	\$18.00 flat fee	\$40.00 per hour
III. Profit Making or Private Groups,	\$200.00 flat fee	\$200.00-flat fee

Organizations or Businesses		
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* Departments directly supervised or sponsored by the County Executive/Superintendent or sponsored by the local office of the Virginia Cooperative Extension

The Lane Auditorium and COB – 5th Street Room A are available during business hours (8:00 a.m.-5:00 p.m. Monday through Friday) only if the Applicant provides shuttle bus services or off-site parking for participants of the meeting. On-site parking is not available for large meetings during business hours.

County Office Building Meeting Rooms Rental Charges (Other than for Lane Auditorium and COB-5th Street Room A)

Classification	Weekday-Business Hours	Weekday-Evening
I. County/Schools*	No Charge	No Charge
II. Youth agencies, educational, recreational, cultural, political, civic, charitable, social, veteran's or religious groups or organizations	\$18.00 flat fee	\$40.00 per hour
III. Profit Making or Private Groups, Organizations or Businesses	\$40.00 per hour	\$40.00 per hour

* Departments directly supervised or sponsored by the County Executive/Superintendent or sponsored by the local office of the Virginia Cooperative Extension

Additional Charges

1. Each additional room used shall incur an additional charge, pursuant to the above schedule.
2. Requests to set up additional chairs/tables shall incur a flat \$18.00 charge.
3. Any portion of a meeting scheduled past 5:00 p.m. will be subject to the applicable weekday evening rate.
4. For any event at which food is served, a \$150.00 security deposit will be charged, to be returned upon satisfactory inspection of facility.

Item No. 16.8. Albemarle County Board of Zoning Appeals Annual Report, ***was received for information.***

State Code Section 15.2-2308 requires the Board of Zoning Appeals (BZA) to keep a full public record of its proceedings and submit a report of its activities to the governing body. The 2017 BZA annual report has been provided for the Board's information (copy on file). In 2017, two appeals were heard and discussed. No variances and no special use permits were heard.

Item No. 16.9. Virginia Department of Transportation (VDOT) Monthly Report (June) 2018, ***was received for information.***

(Note: The next two agenda items were heard concurrently.)

Agenda Item No. 17. **PUBLIC HEARING: SP201700022 – Charlottesville-Albemarle SPCA Renovation and Expansion.**
PROJECT: SP201700022 Charlottesville-Albemarle SPCA Renovation and Expansion.
MAGISTERIAL DISTRICT: Rio.
TAX MAP/PARCEL(S): 04500-00-00-08600, 04500-00-00-08800.
LOCATION: 3355 Berkmar Drive, approximately 500 feet northwest of the intersection of Berkmar Drive and Woodbrook Drive.
PROPOSAL: Construct several additions to the existing CASPCA facility totaling approximately 12,500 square feet, expand and relocate outdoor area for exercise, and provide additional parking and a stormwater facility. Request includes the ability to expand the use and additional structures including a training facility without a limit on square footage on TMP 04500-00-00-08800.
PETITION: Expand existing animal shelter permitted under Section 22.2.2.13 of the zoning ordinance on a total of 8.9 acres. No dwelling units proposed.
OVERLAY DISTRICT(S): AIRPORT IMPACT AREA, STEEP SLOPES – MANAGED ZONING: C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre) and R-6 Residential - 6 units/acre.
COMPREHENSIVE PLAN: Office R&D Flex Light Industrial and Urban Density Residential in Neighborhood 1, Places29 Master Plan, Rio CAC area.
(Advertised in the Daily Progress on May 28 and June 4, 2018.)

The Executive Summary forwarded to the Board states that on April 24, 2018, after recommending approval of ZMA201700008 to rezone property adjacent to the existing SPCA property, the Planning Commission conducted a public hearing and voted 6:0 (Firehock absent) to recommend approval of SP201700022 with the conditions recommended by staff as outlined in the staff presentation. Attachments A, B, and C are the staff report, action memo, and minutes from the April 24 meeting.

This special use permit request is to expand the existing SPCA facility on its current site and to the adjacent parcel. No outstanding issues with the special use permit request were identified at the meeting, and the Planning Commission did not request any changes.

Requests were also made for special exceptions to waive/modify County Code § 18-21.7, which prohibits disturbance of a 20-foot area between commercial and residential districts, County Code § 18-4.20, which requires a 50-foot minimum side and rear setback for structures, and an exception to County Code § 18-5.1.11 (a) and (b), which deal with soundproofing confinements and the distance to the nearest agricultural or residentially zoned properties. Analysis of the requests is included in the PC staff report, and the Commission did not raise any concerns with the special exceptions. Attachments D and E are Resolutions to approve the special use permit and the special exceptions, respectively.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP201700022 and the attached Resolution (Attachment E) to approve the special exceptions.

Agenda Item No. 18. **PUBLIC HEARING: ZMA201700008 – Charlottesville-Albemarle SPCA Renovation and Expansion.**

PROJECT: ZMA201700008 Charlottesville-Albemarle SPCA Renovation and Expansion.

MAGISTERIAL DISTRICT: Rio.

TAX MAP/PARCEL(S): 04500-00-00-08800.

LOCATION: Approximately 500 feet northwest of the intersection of Berkmar Drive and Woodbrook Drive.

PROPOSAL: Rezone to match zoning of adjacent parcel containing the CASPCA facility.

PETITION: Rezone 2.53 acres from R6 Residential zoning district, which allows residential uses at a density of 6 units per acre to C-1 Commercial, which allows retail sales and service and residential by special use permit (up to 15 units/ acre).

OVERLAY DISTRICT(S): AIRPORT IMPACT AREA, STEEP SLOPES – MANAGED.

PROFFERS: YES.

COMPREHENSIVE PLAN: Urban Density Residential in Neighborhood 1, Places29 Master Plan, Rio CAC area.

(Advertised in the Daily Progress on May 28 and June 4, 2018.)

The Executive Summary forwarded to the Board states that at its meeting on April 24, 2018 the Planning Commission conducted a public hearing and voted 6:0 (Firehock absent) to recommend approval of ZMA201700008 with proffers. Attachments A, B, and C are the staff report, action memo, and minutes from the April 24 meeting.

As outlined in the staff report, the original rezoning request by the applicants sought to rezone Tax Map 45, Parcel 88 from R-6 Residential to C1 Commercial without any use restrictions to match the existing zoning of the adjacent SPCA property. Staff expressed several concerns about unrestricted C1 zoning on this parcel due to inconsistency with the Places29 Master Plan and noted the potential for incompatibility with the surrounding residentially-zoned properties in particular. Prior to the public hearing, staff provided the applicants with a list of C1 uses that highlighted which uses could be supported by staff. The list also indicated which uses were determined to be incompatible with the surrounding residentially zoned property.

At the public hearing, the Planning Commission conveyed their agreement with staff's recommendation regarding the need for a restriction of uses. After some discussion regarding which uses should be restricted, the applicants stated that they were open to prohibition of all uses except for the animal shelter use on Parcel 88. However, the proffer form submitted after the Planning Commission meeting did not prohibit all of the remaining uses in the C1 district.

Staff raised concerns with the applicant about the inconsistency between the Commission's recommendation and the proposed proffers. Although excluding incompatible C1 uses (as recommended by staff) was the intent of the SPCA, their verbal commitment to the Commission was different. Staff does not know if the Commission would have been agreeable to the currently proffered uses had the applicant requested those uses.

Nevertheless, the current request before the Board is consistent with staff's recommendation to the Commission. Therefore, staff supports the current request while also acknowledging there is a disconnect between the current proposal and the proposal considered by the Planning Commission.

Staff recommends that the Board adopt the attached Ordinance (Attachment D) to approve ZMA201700008.

Mr. J.T. Newberry, Senior Planner, reported that he would first address the rezoning application for ZMA-2017-00008 followed by SP-2017-00022, which deviates from the agenda. He presented an aerial map of the site with Tax Map Parcel 45-86, which includes the existing SPCA facility, and Parcel 45-88, which consists of 2.53 acres – currently vacant and wooded. He next presented the approved site plan for Parcel 45-86 and pointed out various features, including the entrance, parking, walking trails, outdoor exercise areas, and areas of required plantings and fencing that were part of the original special use permit approval in 2007. Mr. Newberry presented a slide with the proposed plan and noted the main changes: expanded parking areas in the front, adjacent to Berkmar Drive, and to the south, addition of a cat house, façade improvements on the east side, and additions on the north side. He pointed out an area

colored in blue which was undeveloped land on Parcel 88 that could be developed, as well as adjacent buffers for the adjoining residential areas. He reviewed some potential facilities that could be developed in the undeveloped area, including a training facility or accessory structures. He noted that existing vegetation will be used to satisfy buffer requirements.

Mr. Newberry said that staff recommended that the Board approve the rezoning of parcel 45-88 from R6, Residential, to C1, Commercial, and the amendment of the existing special use permit to allow expansion on the current parcel (TMP 45-86) and adjacent parcel (TMP 45-88), with conditions, as well as the special exception request. He presented a zoning map of the area, pointed out the parcels to be rezoned, and commented that Berkmar Drive has started to develop a more commercial character. He pointed out parcels that have been rezoned, many of them with associated proffers. He presented a Comprehensive Plan map and pointed out the area of flex/R&D/light industrial in purple shading, which he said incorporates the existing facility. He pointed out Parcel 45-88, in orange, as well as neighboring parcels, which he said represented urban density residential. He pointed out areas across the street, noted in red, which he said were for commercial and mixed-use, as well as pink areas noted for urban mixed-use. Staff found two favorable factors with no factors unfavorable: 1) C1 zoning district would enable the applicant to request a special use permit for expansions of the animal shelter; and 2) the request was in conformity with the Comprehensive Plan.

Mr. Newberry stated that staff is recommending approval of the amendment request and the special exceptions with conditions.

He next presented a staff analysis of SP 2017-00022, which listed factors favorable with no factors unfavorable: 1) the enlarged facility would help the CASPCA contribute to provide a valuable function to the community; 2) the CASPCA has operated successfully at its current location for over 15 years with no complaints; 3) most activities of the use occur inside enclosed buildings; and 4) a 30-foot vegetated buffer zone was provided between the use and the residential district adjoining to the south and west of the parcel.

Mr. Newberry provided an overview of the conditions of approval for the special permit use permit. The conditions would largely amend and refresh the 2007 conditions as follows:

1. Development and use shall be in general accord with the conceptual plan titled "Charlottesville Albemarle SPCA Rezoning/Special Use Permit Application" prepared by Timmons Groups and dated December 18, 2017, last updated April 5, 2018, as determined by the Director of Planning and Zoning Administrator. To be in accord with the Conceptual Plan, the proposed development and use shall reflect the following major elements essential to the design of the site:
 - Location of buildings and structures (not including fenced outdoor exercise areas)
 - Location of parking areas
 - No parking lots, driveways, or permanent structures within 30 feet of the property lines adjoining parcels zoned residentially
 - Dedication of right-of-way along Berkmar Drive
 - Landscaping and screening at the perimeter of the site as noted on the plan
 - A 30' buffer zone on TMP 0450000008800

Minor modifications to the plan which did not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. Additional buildings, structures, fencing, and parking may occur in the area shown for SPCA expansion in accordance with the Conceptual Plan;
3. Fundraising activities and other special events shall not occur unless a zoning clearance had been issued by the Department of Community Development;
4. Animals may be walked/or exercised outside only between the hours of 8:00 a.m. and 7:00 p.m. While animals were outside, they must be supervised and be either on a leash if outside the fenced area or contained within a fenced area if not on a leash;
5. Support facilities located on TMP 45-88 must be shown on an approved site plan and fenced to the satisfaction of the Zoning Administrator;
6. Fencing, other than for outdoor exercising areas, shall be of the same or similar material identified on the plan entitled "Charlottesville/Albemarle S.P.C.A. ZMA 2000-005, SP2000-022, revised November 6, 2007.

Mr. Newberry next reviewed the following special exception requests:

1. Special exception from Section 21.7, which prohibits disturbance of a 20-foot area between commercial and residential districts, and Section 4.20, which requires a 50-foot minimum side and rear setback for structures.
2. Special exception from both subsections (a) and (b) of Section 5.1.11 of the Zoning Ordinance.

Staff is recommending approval of both special exception requests subject to the following:

1. The installation of perimeter fencing and landscaping to enhance screening shall be the only disturbance permitted within the buffer zones.

2. On Parcel 86, no proposed building addition or new structure shall encroach closer than 40 feet to a side or rear property line, except that any fenced outdoor exercise area shall be at least 20 feet from any residential lot line.
3. On Parcel 88, no proposed structures shall encroach closer than 50 feet to a side or rear property line, except that any fenced outdoor exercise area shall be at least 30 feet from any residential lot line.
4. Prior to the issuance of a building permit, the applicant shall submit information to the satisfaction of the County Engineer and the Zoning Administrator (or their designee) that demonstrate the sound attenuation qualities of the construction materials used in the renovation of the clinic could reasonably meet the 55 decibel sound limit in Section 5.1.11(b).

There being no questions from Board members, Ms. Mallek opened the public hearing.

Mr. L.J. Lopez of Milestone Partners addressed the Board. He said he was joined by other members of the project from the Timmons Group and staff representatives of the SPCA. He said the SPCA provides employment for an average of 60 people, serves 2,700 shelter animals per year, and performed over 5,200 spay/neuter surgeries in 2017, of which 2,900 were owned pets within the community. Mr. Lopez stated that the SPCA serves at the forefront of no-kill communities, providing care to thousands of animals. The SPCA is currently in Phase 1 of a master plan implementation process formulated in 2014, for which a lot of thought and care was taken. He said that Phase 1 involves the renovation of the canine kennel, while Phase 2 and Phase 3 are for an addition to the cat house, relocation of the veterinary clinic, additional parking, and space for additional kennels. He explained that Parcel 88 would be rezoned to support Phase 5, the addition of a training facility.

As no one else stepped forward to address the Board on the matter, Ms. Mallek closed the public hearing on both the zoning map amendment and the special use permit. .

Ms. Palmer stated that she cannot wait to see the improvements and hopes they happen soon. She said the current facility was wonderful and invited others to visit, and expressed thanks to the SPCA for all they do.

Mr. Gallaway **moved** that the Board adopt the proposed ordinance to approve ZMA-2017-00008. The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

ORDINANCE NO. 18-A(3)
ZMA 2017-08 CHARLOTTESVILLE-ALBEMARLE SPCA RENOVATION AND EXPANSION

**AN ORDINANCE TO REZONE 2.53 ACRES
FROM R6-RESIDENTIAL TO C1-COMMERCIAL
FOR TAX MAP PARCEL NUMBER 04500-00-00-08800**

WHEREAS, the application to rezone 2.53 acres from R6-Residential to C1-Commercial for Tax Map Parcel Number 04500-00-00-08800 is identified as ZMA 2017-00008 Charlottesville-Albemarle SPCA ("ZMA 2017-08"); and

WHEREAS, staff recommended approval of ZMA 2017-08 with proffers; and

WHEREAS, the Planning Commission held a duly noticed public hearing on ZMA 2017-08 on April 24, 2018 and recommended approval with proffers, including the potential of more restrictive uses than recommended by staff; and

WHEREAS, on June 13, 2018, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2017-08.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the staff report prepared for ZMA 2017-08 and its attachments, including the proffers dated May 29, 2018, which include the use restrictions as recommended by staff, and the rezoning application plan entitled "Charlottesville Albemarle SPCA Rezoning/Special Use Permit Application", prepared by Timmons Group and dated December 18, 2017 and last revised on April 5, 2018 (the "concept plan"), the information presented at the public hearing, the material and relevant factors in Virginia Code § 15.2-2284, the intent of the C1-Commercial district stated in County Code § 18-22.1, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2017-08 with the proffers dated May 29, 2018 and the concept plan dated December 18, 2017 and last revised on April 5, 2018.

Original Proffers X
Amendment

PROFFER STATEMENT

ZMA No. **201700008 Charlottesville-Albemarle SPCA Renovation and Expansion**

Tax Map and Parcel Number(s): **04500-00-00-08800**

Owner(s) of Record: **The Albemarle Society For The Prevention Of Cruelty To Animals Inc**

Date of Proffer Signature: **May 29, 2018**

2.53 acres to be rezoned from R-6, Residential to C-1, Commercial

The Albemarle Society For The Prevention Of Cruelty To Animals Inc is the owner (the "Owner") of Tax Map and Parcel Number **04500000008800** (the "Property") which is the subject of rezoning application ZMA No. **201700008**, a project known as "**Charlottesville-Albemarle SPCA Renovation and Expansion**" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. Permitted uses of the property, and/or uses authorized by special use permit, shall include only the following section(s) of the Albemarle County Zoning Ordinance in effect on April 27, 2018, a copy of the section(s) being attached hereto:

22.2.1 BY RIGHT (§ 18-22.2.1)


- 3. Religious assembly use, cemeteries. (Amended 8-9-17)
- 4. Clubs, lodges (reference 5.1.02).
- 13. Nurseries, day care centers (reference 5.1.06).
- 20. Dwellings (reference 5.1.21).
- 26. Stormwater management facilities shown on an approved final site plan or subdivision plat.
- 27. Tier I and Tier II personal wireless service facilities (reference 5.1.40).

22.2.2 BY SPECIAL USE PERMIT (§ 18-22.2.2)

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

- 2. Energy and communications transmission facilities.
- 3. Hospitals.
- 5. Veterinary office and hospital (reference 5.1.11).
- 6. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
- 13. Animal shelter (reference 5.1.11).
- 14. Tier III personal wireless service facilities (reference 5.1.40).

OWNER


By: **Angie Gunter**
Title: **Executive Director**
The Albemarle Society For The Prevention Of Cruelty To Animals Inc

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ALBEMARLE COUNTY CODE

CHAPTER 18

ZONING

SECTION 22

COMMERCIAL - C-1

Sections:

- 22.1 INTENT, WHERE PERMITTED**
- 22.2 PERMITTED USES**
- 22.2.1 BY RIGHT**
- 22.2.2 BY SPECIAL USE PERMIT**
- 22.3 ADDITIONAL REQUIREMENTS**

22.1 INTENT, WHERE PERMITTED

C-1 districts are hereby created and may hereafter be established by amendment to the zoning map to permit selected retail sales, service and public use establishments which are primarily oriented to central business concentrations. It is intended that C-1 districts be established only within the urban area, communities and villages in the comprehensive plan. (Amended 9-9-92)

22.2 PERMITTED USES

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.

- a. The following retail sales and service establishments:
 1. Antique, gift, jewelry, notion and craft shops.
 2. Clothing, apparel and shoe shops.
 3. Department store.
 4. Drug store, pharmacy.
 5. Florist.
 6. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
 7. Furniture and home appliances (sales and service).
 8. Hardware store.
 9. Musical instruments.

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Zoning Supplement #103, 8-9-17

ALBEMARLE COUNTY CODE

10. Newsstands, magazines, pipe and tobacco shops.
11. Optical goods.
12. Photographic goods.
13. Visual and audio appliances.
14. Sporting goods.
15. Retail nurseries and greenhouses.
16. Farmers' markets (reference 5.1.47).
17. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
18. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
19. Drive-through windows (reference 5.1.60). (Added 3-2-16)
- b. The following services and public establishments:
 1. Administrative, professional offices.
 2. Barber, beauty shops.
 3. Religious assembly use, cemeteries. (Amended 8-9-17)
 4. Clubs, lodges (reference 5.1.02).
 5. Financial institutions.
 6. Fire and rescue squad stations (reference 5.1.09).
 7. Funeral homes.
 8. Health spas.
 9. Indoor theaters.
 10. Laundries, dry cleaners.
 11. Laundromat (provided that an attendant shall be on duty at all hours during operation).
 12. Libraries, museums.
 13. Nurseries, day care centers (reference 5.1.06).
 14. Eating establishments.

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15. Tailor, seamstress.
16. Automobile service stations (reference 5.1.20).
17. Water, sewer, energy and communications distribution facilities.
18. Public uses (reference 5.1.12).
19. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
20. Dwellings (reference 5.1.21).
21. (Repealed 4-3-13)
22. Automobile, truck repair shop excluding body shop.
23. Temporary industrialized buildings (reference 5.8).
24. Indoor athletic facilities.
25. (Repealed 5-5-10)
26. Stormwater management facilities shown on an approved final site plan or subdivision plat.
27. Tier I and Tier II personal wireless service facilities (reference 5.1.40).

(§ 20-22.2.1, 12-10-80; 6-3-81; 3-5-86; 9-9-92; 5-2-93; 9-14-93; 10-11-95; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10; Ord. 13-18(2), 4-3-13; Ord. 16-18(2), 3-2-16; Ord. 17-18(4), 8-9-17; Ord. 18-18(1), 1-10-18)

22.2.2 BY SPECIAL USE PERMIT

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

1. Commercial recreation establishments including but not limited to amusement centers, bowling alleys, pool halls and dance halls.
2. Energy and communications transmission facilities.
3. Hospitals.
4. (Repealed 8-9-17)
5. Veterinary office and hospital (reference 5.1.11).
6. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
7. Hotels, motels and inns.
8. Motor vehicle sales and rental in communities and the urban area as designated in the comprehensive plan.
9. Stand alone parking and parking structures (reference 4.12, 5.1.41).
10. (Repealed 3-2-16)

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11. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
12. Body shop.
13. Animal shelter (reference 5.1.11).
14. Tier III personal wireless service facilities (reference 5.1.40).
15. Storage/Warehousing/Distribution/Transportation

(§ 20-22.2.2, 12-10-80; 1-1-83; 6-1-83; 11-7-84; 6-14-89; 9-9-92; 6-16-99; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 13-18(2), 4-3-13; Ord. 16-18(2), 3-2-16; Ord. 17-18(4), 8-9-17)

22.3 ADDITIONAL REQUIREMENTS

In addition to the requirements contained herein, the requirements of section 21.0, commercial districts, generally, shall apply within all C-1 districts. (Amended 3-17-82; 7-10-85)

Mr. Gallaway then **moved** that the Board adopt the proposed Resolution to approve SP-2017-00022 and the proposed Resolution to approve the special exceptions, as recommended. The motion was **seconded** by Ms. McKeel.

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

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

**RESOLUTION TO APPROVE
SP 2017-22 CHARLOTTESVILLE-ALBEMARLE SPCA
(CASPCA) RENOVATION AND EXPANSION**

WHEREAS, the Owner of Tax Map Parcels 04500-00-00-08600 and 04500-00-00-08800 filed an application to renovate and expand the Charlottesville-Albemarle SPCA facility located at 3355 Berkmar Drive in conjunction with a zoning map amendment request to rezone Tax Map Parcel 04500-00-00-08800 (ZMA201700008), and the application is identified as Special Use Permit 2017-00022 Charlottesville-Albemarle SPCA (CASPCA) Renovation and Expansion ("SP 2017-22"); and

WHEREAS, on April 24, 2018, after a duly noticed public hearing, the Albemarle County Planning Commission recommended approval of SP 2017-22 with conditions; and

WHEREAS, on June 13, 2018, the Albemarle County Board of Supervisors held a duly noticed public hearing on SP 2017-22.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for SP 2017-22 and all of its attachments, the information presented at the public hearing, and the factors relevant to the use in Albemarle County Code § 18-22.2.2(13) and the factors relevant to a special use permit in Albemarle County Code § 18-33.8, the Albemarle County Board of Supervisors hereby approves SP 2017-22, subject to the conditions attached hereto.

* * *

SP-2017-00022 Charlottesville-Albemarle SPCA (CASPCA) Renovation and Expansion Conditions

1. Development and use shall be in general accord with the conceptual plan titled "Charlottesville Albemarle SPCA Rezoning/Special Use Permit Application" prepared by Timmons Groups and dated December 18, 2017, last updated April 5, 2018, (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, the proposed development and use shall reflect the following major elements essential to the design of the site:
 - location of buildings and structures (not including fenced outdoor exercise areas)
 - location of parking areas
 - no parking lots, driveways, or permanent structures within 30 feet of the property lines adjoining parcels zoned residentially
 - dedication of right-of-way along Berkmar Drive
 - landscaping and screening at the perimeter of the site as noted on the plan
 - a 30' buffer zone on TMP 04500-00-00-08800

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. Additional buildings, structures, fencing, and parking may occur in the area shown for SPCA expansion in accordance with the Conceptual Plan.
3. Fundraising activities and other special events shall not occur unless a zoning clearance has been issued by the Department of Community Development.
4. Animals may be walked and/or exercised outside only between the hours of 8:00 a.m. and 7:00 p.m. While animals are outside, they must be supervised and be either on a leash if outside the fenced area or contained within a fenced area if not on a leash.
5. Support facilities located on TMP 04500-00-00-08800 must be shown on an approved site plan and fenced to the satisfaction of the Zoning Administrator.
6. Fencing, other than for outdoor exercise areas, shall be of the same or a similar material identified on the plan entitled "Charlottesville/Albemarle S.P.C.A. ZMA-2000-005, SP-2000-022, revised November 6, 2007."

**RESOLUTION TO APPROVE SPECIAL EXCEPTIONS
FOR SP 2017-22 CHARLOTTESVILLE-ALBEMARLE SPCA
(CASPCA) RENOVATION AND EXPANSION**

WHEREAS, the Charlottesville-Albemarle Society for the Prevention of Cruelty to Animals, Inc. (the "CASPCA") submitted an application for a special use permit to expand the SPCA facility on Tax Map Parcels 04500-00-00-08600 and 04500-00-00-08800 (the "Property") ("SP 2017-22"); and

WHEREAS, the CASPCA filed a request for the following four special exceptions in conjunction with SP 2017-22:

- to modify the requirement of County Code § 18-4.20 that requires a 50 foot side and rear setbacks for structures;
- to waive the requirement of County Code § 18-21.7 that prohibits the disturbance of a 20 foot area between commercial and residential districts;

- to waive the requirement of County Code § 18-5.1.11(a) that soundproofed air-conditioned confinement structures for an animal shelter use be located at least 500 feet from a residential or agricultural lot line; and
- to waive the requirement of County Code § 18-5.1.11(b) that soundproofed confinement structures for an animal shelter use be located at least 200 feet from a residential or agricultural lot line.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared in conjunction with the application, and its supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exceptions to modify the requirement of County Code § 18-4.20 and to waive the requirements of County Code §§ 18-21.7, 18-5.1.11(a), and 18-5.1.11(b), subject to the conditions attached hereto.

* * *

SP-2017-00022 Charlottesville-Albemarle SPCA (CASPCA) Renovation and Expansion Conditions

1. The installation of perimeter fencing and landscaping to enhance screening shall be the only disturbance permitted within the buffer zones.
2. On Parcel 86, no proposed building addition or new structure shall encroach closer than 40 feet to a side or rear property line, except that any fenced outdoor exercise area shall be at least 20 feet from any residential lot line.
3. On Parcel 88, no proposed structures shall encroach closer than 50 feet to a side or rear property line, except that any fenced outdoor exercise area shall be at least 30 feet from any residential lot line.
4. Prior to the issuance of a building permit, the applicant shall submit information to the satisfaction of the County Engineer and the Zoning Administrator (or their designees) that demonstrate the sound attenuation qualities of the construction materials used in the renovation of the clinic can reasonably meet the fifty-five (55) decibel sound limit in Section 5.1.11(b).

Mr. Gallaway commented that what has just been approved turns the new tax parcel into a split zoning under C1. He said that if the Board disagrees with the split zoning, they should try to clean them up or keep them noted, as there are uses that have been proffered away that do not match the bigger parcel. He emphasized that this was not something important to the applicant, but in the long term, to get any of the uses back in a corridor that was close to or within the Small Area Plan and on the fringe of a corridor that has economic development potential, a split zoning could be problematic down the road for someone who wishes to develop this in a way that fits in with the larger parcel. He said it was the Board's responsibility to clean this type of thing up and not put it on a potential future applicant. He explained that the R6 was now C1, with proffered uses that still match what was allowed under R6 for the smaller parcel. He said the larger parcel has by-right uses that are allowed with C1 and asked Mr. Newberry for confirmation.

Mr. Newberry confirmed this, adding that the proffered C1 zoning on Parcel 88 also includes the animal shelter use, which would not be included in R6. He said that all the other C1 uses except animal shelters by Special Use Permit were removed and proffered by the applicant, in an effort to be consistent with the Comprehensive Plan.

Mr. Gallaway said he had brought this up because the Board does not want to see a lot of C1 properties with split zoning within the Development Area and he believes the Board should tidy this up rather than putting it on a future applicant.

Ms. Mallek said they could request that the County Attorney provide advice on a solution to that at some future time.

Ms. Elaine Echols remarked that the Planning Commission discussed that particular aspect and was trying to allow for a rezoning that did not detract from the recommendation of the Comprehensive Plan for urban density residential development. She noted that the Commission found that as a compromise.

Ms. McKeel added that they do not want a delay and does not want to open other disconnects, and this should come back to them pretty quickly.

Ms. Echols explained that the applicant had requested unfettered zoning because the land use plan recommended urban density residential, and when the applicant did not provide for limitations that would be consistent with urban density residential designation, the Planning Commission became concerned about consistency with the Master Plan. She noted that this was why the applicant provided proffers.

Agenda Item No. 19. **PUBLIC HEARING: ZTA 2018-02 - Commercial and Industrial Owned Property Not Served by Public Water.** To receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: Amend Sections 18-22.2.2, 18-23.2.2, 18-24.2.2, and 18-26.2 to remove language related to water consumption exceeding four hundred (400) gallons per site acre per day for uses not served by public water effective June 13, 2018 and stating that all uses approved pursuant to those code sections before June 13, 2018 shall remain subject to existing special use permit conditions; Amend Section 18-22.2.1 to permit as by-right uses for uses not served by public water or a central water supply system: retail nurseries and greenhouses, farmers' markets, religious assembly uses and cemeteries, clubs and lodges, fire and rescue squad stations, manufacturing/processing/assembly/fabrication/recycling uses of agricultural products provided that the gross floor area of the establishment does not exceed 4,000 square feet per site however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, storage/warehousing/distribution/transportation uses of agricultural products provided that the gross floor area of the establishment does not exceed 4,000 square feet per site however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, day care, child care, or nursery facilities, water, sewer, energy, and communications distribution facilities, public uses, temporary construction headquarters and temporary construction storage yards, dwellings as provided for in Section 18-5.1.21, temporary industrialized buildings, stormwater management facilities, Tier I and Tier II personal wireless service facilities, veterinary offices and hospitals, animal shelters, and for structures not served by public water or a central water supply system existing or vested on June 13, 2018, the by right uses in Section 18-22.2.1 for properties served by public water or a central water supply system provided the use is not an intensification of the existing use; Amend Section 18-22.2.2 to permit as special permit uses for uses not served by public water or a central water supply system: antique, gift, jewelry, notion and craft shops, clothing, apparel, and shoe shops, department stores, drug stores and pharmacies, financial institutions, florists, food and grocery stores, furniture and home appliance stores, hardware stores, musical instrument stores, newsstands, magazine, pipe and tobacco shops, optical goods stores, photographic goods stores, visual and audio appliance stores, sporting goods stores, laboratories/research and development/experimental testing uses provided that the gross floor area does not exceed 4,000 square feet however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, manufacturing/processing/assembly/fabrication/recycling uses provided that the gross floor area does not exceed 4,000 square feet however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, drive through windows, administrative and professional offices, barber and beauty shops, funeral homes, health spas, indoor theaters, laundries and dry cleaners, laundromats, libraries and museums, eating establishments, tailors and seamstresses, automobile service stations, automobile and truck repair shops excluding body shops, indoor athletic facilities, commercial recreation establishments, energy and communications transmission facilities, hospitals, hotels, motels, and inns, motor vehicle sales, stand alone parking and parking structures, body shops, Tier III personal wireless service facilities, storage/warehousing/distribution/transportation uses, and uses permitted in Albemarle County Code Section 18-18 in compliance with the regulations therein unless such uses are already provided for in Section 18-22; Amend Section 18-23.2.1 to permit as by-right uses for uses not served by public water or a central water supply system: religious assembly uses, water, sewer, energy, and communication distribution facilities, public uses, temporary construction headquarters and temporary construction storage yards, dwellings as provided for in Section 18-5.1.21, temporary nonresidential mobile homes, day care, child care, or nursery facilities, stormwater management facilities, Tier I and Tier II personal wireless service facilities, farmers' markets, schools of special instruction, clubs and lodges, fire and rescue squad stations, and for structures not served by public water or a central water supply system existing or vested on June 13, 2018, the by right uses in Section 18-23.2.1 for properties served by public water or a central water supply system provided the use is not an intensification of the existing use; Amend Section 18-23.2.2 to permit as special permit uses for uses not served by public water or a central water supply system: administrative and business offices, accessory uses and structures incidental to the principal uses provided herein where the aggregate of all accessory uses shall not occupy more than 20% of the floor area of the buildings on site such as eating establishments, newsstands, office supply and equipment sales, data processing services, pharmacies, laboratories, and establishments for the production and/or sale of optical or prosthetic appliances on sites containing medical, dental, or optical offices, central reproduction and mailing services, barber and beauty shops, and sales of goods associated with the principal use, drive through windows, financial institutions, professional offices including medical, dental, and optical offices, libraries and museums, laboratories/research and development/experimental testing uses provided that the gross floor area does not exceed 4,000 square feet per site however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, hospitals, funeral homes, energy and communication transmission facilities, uses permitted in Section 18-18 in compliance with the regulations set forth therein unless such uses are prohibited by Section 18-23, stand alone parking and parking structures, hotels, motels, and inns, indoor athletic facilities, Tier III personal wireless service facilities, storage/warehousing/distribution/transportation uses, and manufacturing/processing/assembly/fabrication/recycling uses; Amend Section 18-24.2.1 to permit as by-right uses for uses not served by public water or a central water supply system: churches, cemeteries, clubs and lodges, educational, technical, and trade schools, feed and seed stores, fire and rescue squad stations, home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services, light warehouses, retail nurseries and greenhouses, wayside stands, wholesale distribution of

agricultural products, water, sewer, energy, and communications distribution facilities, public uses, temporary construction headquarters and temporary construction storage yards, farmers' markets, stormwater management facilities, Tier I and Tier II personal wireless service facilities, storage yards, manufacturing/processing/assembly/fabrication/recycling uses of agricultural products provided that the gross floor area of the establishment does not exceed 4,000 square feet per site however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, storage/warehousing/distribution/transportation uses of agricultural products provided that the gross floor area of the establishment does not exceed 4,000 square feet per site however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, livestock sales, veterinary offices and hospitals, indoor commercial kennels, animal shelters, and for structures not served by public water or a central water supply system existing or vested on June 13, 2018, the by right uses in Section 18-24.2.1 for properties served by public water or a central water supply system provided the use is not an intensification of the existing use; Amend Section 18-24.2.2 to permit as special permit uses for uses not served by public water or a central water supply system: automobile laundries, automobile and truck repair shops, automobile service stations, building materials sales, convenience stores, clothing and fabric factory outlet sales, financial institutions, fire extinguisher and security products sales and services, funeral homes, furniture stores, food and grocery stores, hardware stores, hotels, motels, and inns, machinery and equipment sales, service, and rental, manufactured home sales and service, modular building sales, motor vehicle sales, service, and rental, new automotive parts sales, newspaper publishing, administrative, business, and professional offices, office and business machines sales and service, eating establishments, recreational vehicle and equipment sales, wholesale distribution of other than agricultural products, indoor theaters, heating oil sales and distribution, temporary industrialized buildings, indoor athletic facilities, laboratories/research and development/experimental testing uses provided that the establishment does not exceed 4,000 square feet however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, manufacturing/processing/assembly/fabrication/recycling uses provided that the establishment does not exceed 4,000 square feet however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, storage/warehousing/distribution/transportation uses provided that the gross floor area of the establishment does not exceed 4,000 square feet however the establishment may exceed 4,000 square feet per site by special exception approved by the Board of Supervisors, drive through windows, commercial recreation establishments, septic tank sales and related services, building materials sales, drive-in theaters, energy and communications transmission facilities, hospitals, nursing homes, auction houses, stand alone parking and parking structures, warehouse facilities not permitted under Section 18-24.2.1, uses permitted in Albemarle County Code Section 18-18 in compliance with the regulations therein unless such uses are otherwise provided for in Section 18-24, Tier III personal wireless service facilities, and body shops; Amend Section 18-26.2 to permit as by right uses for uses not served by public water or a central water supply system: processing of agricultural products, organic fertilizer manufacture or processing, temporary or permanent sawmills, planing mills, wood yards, collection and distribution facilities for local agricultural products produced in the Rural Area, fire, ambulance and rescue squad stations, farmers' markets conducted in a permanent structure established after May 5, 2010, farmers' markets conducted outdoors or within a temporary or permanent structure existing on May 5, 2010, Tier I and Tier II personal wireless service facilities, public uses, stormwater management facilities, water, sewer, energy, and communications distribution facilities, temporary construction headquarters, temporary construction storage yards, temporary industrialized buildings, parking structures as part of an occupied structure, dwellings as provided for in Section 18-5.1.21, fill areas, and waste areas, and for structures not served by public water or a central water supply system existing or vested on June 13, 2018, the by right uses in Section 18-26.2 for properties served by public water or a central water system provided the use is not an intensification of the existing use; and Amend Section 18-26.2 to permit as special permit uses for uses not served by public water or a central water supply system: manufacturing/processing/assembly/fabrication and recycling uses, brick manufacturing and distribution uses, chemical and plastics manufacturing or processing, dry cleaning plants, materials recovery facilities, petroleum, gasoline, natural gas and manufactured gas bulk storage, recycling processing centers, rendering plants, storage/warehousing/distribution/transportation uses, airports, heavy equipment and vehicle parking and storage yards, heliports, helistops, warehouse facilities where there may be the storage of gasoline, kerosene, or other volatile materials, dynamite blasting caps and other explosives, pesticides and poisons, and other materials which may be hazardous to life, laboratories/research and development/experimental testing uses, independent offices within structures existing or vested on or before April 3, 2014, independent offices within structures not established or not vested until after April 3, 2014, independent offices within expanded portions of structures where the expansion was not established or vested until after April 3, 2014, energy and communications transmission facilities, industrial offices, Tier III personal wireless service facilities, hotels, motels, and inns, outdoor storage, display and/or sales serving or associated with a permitted use, other than a residential, agricultural or forestall use, any portion of which would be visible from a street within the entrance corridor overlay district to which it is contiguous or from any other street within the entrance corridor, subordinate retail sales for any use permitted by right provided the use does not exceed 25% of the gross floor area of the primary industrial use, subordinate retail sales for any use permitted by right provided the use exceeds 25% of the gross floor area of the primary industrial use, supporting commercial uses provided that the use does not exceed 25% of the gross floor area of the freestanding building or multiple buildings on an industrial site, supporting commercial uses that exceed 25% of the gross floor area of the freestanding building or multiple buildings on an industrial site, stand alone parking

structures and areas, and uses permitted by-right in the Light Industry or Heavy Industry zoning districts, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.

(Advertised in the Daily Progress on May 28 and June 4, 2018.)

The Executive Summary forwarded to the Board states that this zoning text amendment (ZTA) was initiated by the Board of Supervisors with a resolution adopted on February 7, 2018. Staff mailed out informational postcards and invited affected property owners and others to a public input meeting on April 17th. The Planning Commission held a public hearing on this matter on May 8th. At that meeting they continued the public hearing to their May 22, 2018 meeting to allow additional time for study of the issue and for staff to provide additional information. On May 22, 2018, the Planning Commission voted 6:0 to recommend approval of ZTA 2018-02 with the addition of a grandfathering provision for existing or vested structures and a recommendation for a second phase of study and potential ordinance amendments.

While the Commission was supportive of a text amendment to begin addressing inconsistencies between the Comprehensive Plan and Zoning Map, they believed that additional study and solutions should be explored to address the issue in a second phase of the ZTA. Discussion included, but no vote or consensus was achieved on, the following:

- *Study of other approaches to address the issue.*
- *Study of whether supplemental regulations in Section 5 of the Zoning Ordinance should be addressed to limit scale, intensity, etc. of by-right uses or special use permit uses.*
- Additional consideration and review of the list of permitted and special permit uses, including future consideration of uses that should not be permitted on properties zoned commercially or industrially in the Rural Area of the Comprehensive Plan. While the Commission's action did not reflect it and there was no consensus among all Commissioners to amend the use tables prior to the Board public hearing, there were concerns brought up by individuals on the following uses: clubs and lodges, schools, a desire to specify that agricultural product uses must only involve local agricultural products, farmers markets, light warehousing, home and business services, eating establishments, hotels and inns, dry cleaning plants, and chemicals and plastics, manufacturing or processing.
- A place-based study of affected parcels. Not all parcels are in the same location and they all have different characteristics, with some located in former rural villages such as Earlysville and Stony Point.

The only change to the ordinance that has been made since the April community meeting and May public hearings is to add a provision that allows all by-right uses in the underlying zoning district within existing or vested structures not served by public water. Since the Planning Commission action, staff has proposed grandfathering language that addresses the Commission's concerns about sites developing to more intensive uses that would impact neighbors. The proposed ordinance limits existing or vested buildings from:

- Expanding building footprint
- Expanding parking or changing the entrance
- Adding lighting
- Adding outdoor activity or outdoor storage
- New uses that generate additional traffic

Amending the County Code to address the water consumption regulation should not result in budget impacts. The proposed amendment should save existing staff resources necessary for review under the current problematic ordinance. While this provision doesn't arise frequently, it does involve staff time from multiple County divisions and departments including Planning, Zoning, Engineering, and the County Attorney's Office.

Should the Board wish to study the matter further and implement a second phase as recommended by the Commission, staff recommends that the Board review this new priority within the Community Development work program. Because this is not currently in the work program and can be a fairly time-consuming undertaking with extensive public outreach, we are concerned that staff can not undertake this and still meet existing priority timelines. Staff recommends the Board set a work session for September 12 to define parameters (scope and process) and discuss a potential resolution of intent if further study is desired. At that time, the Board can advise staff of prioritization within the work program.

Staff recommends the Board adopt ZTA 2018-02 (recommended ordinance Attachment E).

Should the Board wish to further study this matter, as the Commission recommended, Staff recommends the Board set a work session for September 12 to define parameters (scope and process) and discuss a potential resolution of intent if further study is desired.

Ms. Mallek announced that the Board has decided not to take a vote on this topic at this meeting, as they have been working hard with staff and neighbors to understand and make improvements, and this was still in process.

Mr. Gallaway mentioned that they are still taking public comment.

Mr. Kamptner stated that he would begin by going over several legal issues. The first issue is whether the existing zoning creates vested rights which relates to whether the County has the authority to change the current zoning. He emphasized that most parcels in the planned Rural Area were rezoned under comprehensive rezoning. He stated that the case law relies on predictability, while local governments have the authority to amend their zoning regulations and zoning districts. He said there must first be a significant governmental act, which would entail an applicant applying for a rezoning, a special use permit, variance, site plan, etc. The next step would be good faith reliance on that act, with the owner incurring substantial expenses or obligations such as the hiring of consultants, obtaining financing, entering into contracts, etc., which they must diligently pursue or otherwise lose their vested right.

Mr. Kamptner reviewed the next question, which was whether the ZTA would be a piecemeal downzoning. He quoted the Greengael case from Culpeper County and reviewed the three-pronged test established by the Virginia Supreme Court. He emphasized the following language: "The downsizing reduces the permitted intensity of use or development by right, including reducing density, below that recommended and attainable in the Comprehensive Plan." He emphasized that this was a change in the text and not an amendment, though a point could be reached where the text was changed enough to be considered as a downzoning. He said that staff has tried to align the policies in the Comprehensive Plan, particularly those in the Rural Areas chapter, with uses allowed for lands within areas planned as Rural Area. He said the policies have been in place since the 1970s and have been crystalized, so the current 2015 Comprehensive Plan has a number of policies and objectives that staff applied in drafting this proposed ordinance.

Mr. Kamptner reviewed the next question of whether the ZTA was a "taking" of property. He said the word "taking" was a derivative of a word in the U.S. Constitution, and the term indicates when a legitimate state interest was advanced but regulations are so burdensome that landowners are deprived of all economically beneficial use of the property, in which case the property was being protected for a public purpose, for which the public should pay. He said that a survey of case law regarding the taking of property shows that the reduction in value has to exceed 90 percent. He mentioned a case in San Francisco where, after a change in zoning laws, a \$1 million piece of property was reduced to \$100,000 and the court said that taking had not occurred. He emphasized that even if the Board adopted the ZTA, it leaves a range of uses by-right and by special permit, and the four districts it affects ranges from having 14 to 30 by-right uses.

Mr. Kamptner reviewed the question of whether the ZTA violates due process. He explained that this was the flip side of taking, whereby the government acts in an arbitrary or capricious manner with no basis for the zoning text amendment, and this deprives the landowner of its use of the property. He said the bar set by the courts was very high because there are state remedies and anyone could challenge a zoning decision under state law. He explained that in this case, the substantive due process prong would be satisfied because the reasonable basis for amendment of the regulations was found in the Comprehensive Plan through an extensive public engagement process.

Mr. Kamptner reviewed the question of whether the ZTA treats similar parcels differently. He stated that state law requires that similarly situated parcels be treated the same and was the statutory equivalent of the constitutional principal of equal protection. He related the case of Bell v. City Council of Charlottesville wherein a zoning district required a special use permit for a particular use in one part of the district but not in the other, and the court ruled that this did not violate the uniformity requirement, as use permits by their nature could be allowed in some parts and not another. He said that staff has made a distinction as to whether or not parcels are on a public water supply or not.

Ms. Mallek asked Ms. Amelia McCulley, Zoning Administrator, to address the concept of the different approach that was being used and the true viability of these uses because of not having public water. Ms. McCulley responded that the County was currently dealing with four different zoning districts, of which three are commercial and one was industrial. In these districts properties that are not public water are subject to a limitation on water consumption of 400 gallons per site acre per day in the by-right use. She continued that if this level was exceeded, then the use was only allowed by special use permit and was no longer by-right. She said the standard does not have an agreed upon industry standard for water consumption, and it puts a landowner in the position of trying to prove something that was very difficult to prove; that their use was by-right.

Ms. McCulley explained that it was difficult to prove that a use of water was by-right and, though it was listed in the zoning ordinance as by-right, it in fact requires a special use permit. She said the County has had two appeals on this exact situation in the last year. The current effort to amend the ordinance was to be much clearer to property owners and neighbors in identifying the uses of properties that are not served by public water. In addition, there are some private central water supplies treated as if they are public. She said that properties with public water supplies were approved by the Board of Supervisors, regulated by the State Health Department, and have a set of requirements that treats them differently than private wells. She said that water consumption would be taken out as a factor regarding what uses are allowed.

Ms. Mallek commented that it becomes one of many criteria instead of the only criteria. Ms. McCulley confirmed that this was the case for the impact of water consumption on ground water under a special use permit.

Ms. Mallek asked Ms. Rebecca Ragsdale, Senior Permit Planner, if she had anything to add.

Ms. Ragsdale responded that staff had prepared a brief presentation that reviewed the timeline, the affected parcels, and went into detail about other Rural Area goals and the policy behind them. She said Mr. Kampthner had reviewed the timeline of the County's history of zoning and planning that got them to this point. She then presented the following timeline for proposed changes:

- February 7: Board adopted Resolution of Intent
- April 16: Public informational meeting
- May 8: Planning Commission Public Hearing
- May 22: Planning Commission Public Hearing
- June 13: Board of Supervisors Public Hearing

Ms. Ragsdale emphasized that they are trying to approach this unique subset of commercial and industrial-zoned properties through ordinance changes and a number of goals and Rural Area objectives. She said the objectives include water, economic vitality of the properties, and impacts to neighbors. She presented a list of four goals: 1) to provide clarity and consistency by addressing the current ordinance provision, 2) to provide by-right uses for affected properties, 3) to allow broader impacts to the Rural Area, beyond water consumption, and to neighbors to be addressed, and 4) to better align the zoning ordinance with the Comprehensive Plan.

Ms. Ragsdale next presented information on the "Zoning and Comprehensive Planning History" that listed important events from 1969–1989. She pointed out that some areas, such as Earlysville and North Garden, have previously been designated as growth areas but are no longer so. She next reviewed Rural Area concerns that staff wanted to address through the Comprehensive Plan, including impacts to scenic historic resources, traffic, and clear boundaries.

Ms. Ragsdale explained that the Comprehensive Plan calls for clear boundaries in the Rural Areas, with lower levels of service and intensity of uses than development areas, and this being why these properties are not served by public water and sewer. She said the policy was to provide water and sewer only in the development areas unless there was a health or safety issue. She summarized that commercial/industrial zoned properties not served by public water has the following characteristics: they are not consistent with the Comprehensive Plan; they are zoned commercial but do not have a water/sewer service designation; and the properties are not served by water/sewer. She next provided a map of the County with locations of the affected parcels, along with a chart with information on acreage, zoning, and the number of parcels. She noted that the list was composed of 80 parcels, 57 owners, and 300 acres – 240 of which was developed. She added that all property owners have been notified.

Ms. Ragsdale explained that the approach taken with the ordinance was entirely use-based but staff has heard from the public and the Planning Commission that the staff should possibly have taken a different approach to make sure they were thinking about other elements of zoning. She said the Planning Commission felt the approach taken does not get at the issue the way they wanted it to and it needs further study, with the addition of a grandfather provision for existing parcels or vested properties so that they address economic impacts.

Mr. Gallaway said he understood that a property on central water supply was considered to be on public water and asked if the number of impacted properties include these properties. Ms. Ragsdale confirmed that it does.

Ms. McCulley clarified that the number 80 includes some that may not be subject to the new regulations because they are on central systems. Staff is still in the process of identifying all the central systems. She added that staff knows that some of these would be treated as if they are on public water because they have central water supply systems and would not be subject to the new regulations.

Mr. Gallaway asked if 80 represented the number of properties or owners. Ms. Ragsdale responded that it represents the number of tax map parcels; with about 57 property owners since there was some common ownership.

Ms. Palmer clarified that the issue was that central water systems are treated as if they were on public water.

Ms. Mallek stated that for zoning considerations it was considered public water – but people should understand they are still wholly responsible for the central water system just as those with wells are.

Ms. Mallek opened the public hearing.

Ms. Dana Tarrant, resident of the Scottsville District in the Keswick/Boyd Tavern area, addressed the Board. Out of concern for the water supply, she expressed support for the proposed text amendment. She said that most wells in her neighborhood produce 2.5 to 4 gallons per minute, which was not considered to be very strong, according to her research. Ms. Tarrant said she recently had a hot water tank replaced and there was a layer of mud on the bottom, which concerned her, especially since in recent years they have suffered drought more than other parts of the County. She said the 400-gallon-per-day site area limit set on commercial properties was not enforceable as there was no regulation, emphasizing that underground aquifers could be easily depleted. She emphasized that she was not against any kind of commercial development but wants to see better clarification and responsible development in the County.

Mr. Mike Derdeyn, associate with Lenhart Pettit and representing Jeffrey's II, LLC, addressed the Board. He said Jeffrey's II own an affected property on Route 250 West. He thanked the Board for taking the time to further study this issue and asked the Board to consider three of his observations. He explained that the practice the County has followed was piecemeal downzoning and the courts have determined what was comprehensive or piecemeal. He said the factors listed by Mr. Kamptner was not exhaustive and all factors do not have to be met. Even if one was not reducing the intensity in a manner that differed from the Comprehensive Plan, it does not take it out of the piecemeal downzoning category. Mr. Derdeyn explained that in this case, they are taking by-right uses and putting them into a special use category – which was downzoning – and it affects an extremely small percentage of the County with just .065 percent of the County's land area. He emphasized that the proposed zoning text amendment does not actually correct the issues with water as intended. He said that by-right uses include those that are water intensive, such as plant nurseries, greenhouses, veterinary offices and hospitals, and agricultural processing facilities. He contrasted this with special uses such as antique stores and newsstands. He continued that the 400 gallons per day cited was an existing standard that could be enforced with meters and flow restriction valves.

Mr. Kevin Schuyler, resident of the Rivanna District, addressed the Board. He said he campaigned for Mr. Dill because he believes they need elected officials that are willing to work hard on complex issues and who have a strong, unwavering moral compass. He said that while he understands that there are commercial projects that some may not like, he asked if it was morally right to take rights and value from an entire class of commercial property owners to address these few situations. He asked if, though it may be practical to address an entire class to avoid a piecemeal downzoning, it was morally right – and answered that it was not. He said that it was not morally right to change the rules on those who have been planning, investing, and playing by the rules for many years. Mr. Schuyler stated that he owns a highway commercial property in the business park on Hunters Way in Shadwell with UPS, AmeriGas, an HVAC company, and a daycare center as neighbors. He said that he and his brother have been working to build a hardware store and a coffee shop, both of which are current by-right uses, and have submitted a yet-to-be approved site plan amendment. He said that he hopes the Board could find a way so that highway commercial projects could go forward as by-right. He asked that the Board not take valuable rights away from him and his family.

Mr. Morgan Butler, of the Southern Environmental Law Center, addressed the Board. He said the County's website notes that the Comprehensive Plan was its most important document regarding growth and development and was the basis for land development regulations and decisions. He said the Comprehensive Plan was the County's vision and map for future development and creates important expectations for businesses, landowners, and neighbors alike. Mr. Butler stated that the proposal before the Board seeks to remedy a longstanding problem with a set of properties with zoning directly conflicting with the Rural Area designation in the Comprehensive Plan. He stated that the commercial and industrial zoning on these properties potentially allows by-right uses that clash with the core principal of the plan, which directs more intensive development into specified growth areas while conserving the Rural Area for uses such as agriculture, forestry, and resource preservation. He said the negative consequences of this conflict has been held in check somewhat by a provision that requires a special use permit for a by-right use consuming more than a specified amount of water, though this provision has proven challenging to administer. Mr. Butler pointed out that this has often translated into confusion and consternation for the owners of the properties, as well as for the surrounding community. He said the crux of the problem was that it was hard to know what uses might occur on these parcels by-right, and this also circumvents Board oversight and public input. He stated that the proposal before the Board attempts to take a small but meaningful step towards more consistency with the Comprehensive Plan and removes the problematic water use provision, making by-right uses truly by-right and narrowing the list of by-right uses to a set that was more in line with the Rural Area designation of these parcels. He referred to the comments and recommendations provided by SELC who believes that a handful of uses proposed to be allowed by-right or by special use permit are still too intensive for these Rural Area properties. SELC asks that the Board keep these recommendations in mind as they work to finalize the proposal. He thanked the Board and staff for confronting this problem, which he said has festered for too long and has eroded the value and the public's trust and confidence in the Comprehensive Plan.

Ms. Sarah May, of the Jack Jouett District, addressed the Board, stating that her family owns property on the south side of Route 250 between I-64 and Old Trail. She said her grandfather owned a general store in Yancey Mills and she remembers a different store she used to walk to as a child, noting that these stores were a part of a historical rural community. She stated that her property was zoned highway commercial by-right, with a proposed change to a restrictive special use permit. She expressed her understanding that her tenants, under the proposed change, would have to obtain a special use permit to operate their businesses, which entails a long and expensive process with no guarantee it would be granted. Ms. May said she has heard that the process in some cases has taken over 20 months with no determination. She said the proposal would shut down small businesses, most of them mom and pop operations, as they do not have the capital or the time to spend on long, arduous processes and could instead invest in their business. She emphasized the role these small businesses play in the community to provide services and generate revenue. She added this proposal would reduce her property value. Ms. May stated that Route 250 was a natural place for traffic and business, and she recommends that the Board vote no on the proposal.

Ms. Ruth Dalsky, a 30-year-resident of the area, addressed the Board. She noted that she owns three small properties in the non-designated growth area and although they are together, two are located in Rivanna and one was located in Scottsville. She expressed support for a redefining of the proposed zoning text amendments, as area water usage was at a critical limit as a result of residential growth in the area. She said the current zoning verbiage on by-right commercial properties in this area was antiquated

and confusing, as stated by a commercial applicant in a previous zoning meeting. Ms. Dalsky said this applicant argued that the 400 Gallon Per Acre (GPA) statement did not really apply to water usage, and this confusion should compel the County to update the wording of the ordinance. She recalled that at the last meeting, commercial property owners showed concern over their property values, but she said the County must also protect residential values since homes are a major investment and may be the only investment a person would ever have. She stated that some businesses would devastate the numerous families that live in the area who are totally reliant on well water. The County was the only safety line for citizens to prevent large, commercial enterprises from destroying long-established and vulnerable rural communities that are not eligible for County water. She continued that under the text amendments, these large commercial enterprises may still apply for special use permits, which allows the County to thoroughly consider impacts on current residents and seems like a good compromise. Addressing a comment made by Mr. Derdeyn about the use of check valves to regulate commercial water use and that only a small number of commercial properties are affected, she said this was unenforceable by the County and a big deal to the families that live there.

Mr. Gordon Sutton, of Tiger Fuel Company, addressed the Board. He stated that his family was born and raised in the area, are proud members of the community, and employs over 230 at Tiger Fuel. He said he believes the zoning amendment was poorly conceived, would not achieve its intended purpose, and would be unnecessarily destructive of existing real property values. He said that if the purpose was to encourage better compliance with the Comprehensive Plan, then clear, quantifiable objectives, design, and performance standards that protect the intent should be defined. He said they should require the currently permitted by-right uses to meet those rational performance standards as a condition of their by-right use, as not all convenience stores are not undesirable uses. He said that if the County wants to avoid having a large truck stop-type store, then it should define the number of pumps, canopy size, and number of parking spaces to achieve the desired end result. Mr. Sutton emphasized that the vast majority of Bel Air and Mill Creek Market patrons love their stores and wants quick, convenient, and easy access to the services they offer. He said this type of store was a welcome addition to any rural community and creates more than 20 good-paying jobs with great benefits. He said there was an easy solution to water consumption by changing the ordinance to require flow restrictor valves. He said that County staff would have the Board members believe that the existing ordinance was problematic and could not be enforced, but the reality was that it was quite simple to demonstrate the amount of water an entity uses. Mr. Sutton added that County staff refuses to look at the data and administer the ordinance as it was written. He stated that the change from by-right to special use would destroy real estate values that have been taxed for years, and many of those who have voiced concern with the change are experienced land use attorneys that have a very different opinion than the County Attorney about whether the change constitutes proper downzoning. He urged them to consider the content of the amendment and extend the process to allow a complete and fair hearing on the merits. He addressed the audience and requested that those opposed to the amendment stand (approximately 25 members of the audience stood in support).

Ms. Pat Young, resident of Mechunk Road in the Scottsville District, addressed the Board. She said she had lived there for 30 years and was concerned about the supply of water. She said that Tiger Fuel might be fine in another section of the County but not in this Rural Area. She asked members of the audience who supported the zoning amendment to raise their hand (approximately 15 individuals raised their hand).

Mr. David Trecarreche, resident of White Hall District, addressed the Board. He thanked Supervisors for their timely responses to a recent email he sent, which demonstrates their desire for transparency and open communication with the public. He said that as a former business owner, current landlord, and resident of Albemarle, he opposes any regulation or zoning change that negatively affects commercial or residential landowners and businesses in the development of jobs. This zoning amendment violates the rights of landowners by the definition of right and wrong. He said it was not in line with the Board's desire for transparency and was an attack on a very small number of landowners. He asked Supervisors to slow down, do the right thing, and vote "No" on the proposal. He thanked Supervisors for their service.

Mr. Steven Creighton, Rivanna District, addressed the Board. He said he was speaking on behalf of his church located in the White Hall District. He said he believes that many people would be financially impacted, and he asked members of the audience who would be financially impacted to raise their hand (approximately 20 members of the audience raised their hand). Addressing the issue of precedence, he said there are likely dozens of examples where government could take an action that results in a decline in property values, yet there are thousands of precedents where government properly compensates people for actions taken that result in a decline in property values. He said he spent 25 years in the military and experienced base realignment closures where one third-party assessor would estimate the impacts on property values and the government would compensate area residents. He indicated that he would support the changes if the County could afford to compensate property owners.

Mr. Gregory Quinn addressed the Board, commenting that the administrative state could kill a mule with one paper cut, but one million paper cuts would kill a mule and a farmer could not plow his fields anymore. He said the bureaucratic administrative state was arbitrary and capricious, and this leads to properties being devalued. Mr. Quinn said that in similar cases in Virginia, residents were not compensated properly and, to use San Francisco as an example, was wrong. He asked if the County has assessed the impact on each individual property with a geophysical survey of the aquifer and if they have put out a referendum. He said he does not have a personal interest in the matter but believes this was a segue way to take away well water and property rights. He said the bureaucratic red tape to start a business was impossible. He said there was not sufficient information on each property to determine how

it would affect the aquifer. He suggested the Board read about the protection of property rights under the Declaration of Independence and the 5th Amendment to the U.S. Constitution, which was imposed on the states by the 14th Amendment.

Mr. John Nunley, County resident and owner of Better Living Components, addressed the Board. He said they are located on Proffit Road and employs 30 to 40 local residents. He said he did not receive a notice of public hearings and he believes this has been pushed along and needs to slow down. He said the County claims it was pro-business and for controlled growth, but there would be no motivation for a business to continue to reinvest if a property could not be used after the business owner sold it. He emphasized that limits on uses devalues property and asked how the County would compensate affected owners. He urged that assessments be immediately lowered by one-half and that taxes paid over the past 5 to 10 years be credited back. He urged the Board to vote "no" and to consider alternatives such as water restrictors or meters.

Mr. James Murphy, resident of White Hall District, addressed the Board. He said that Americans have strived since the country's founding to make sure the government was of the people, by the people, and for the people. He said that staff and the Planning Commission are recommending that the Board approve the ordinance and then study and change it in the future. He read comments made by the Planning Commission and said it sounds as if the Board plans to pass the zoning amendment and then make it more restrictive in the future; he asked the Board to explain the rationale to this. He said the people elected Supervisors to run the County responsibly in a way that was of, by, and for the people – and the ordinance as written was not for the people. He asked the Board when it plans to hold a vote.

Ms. Mallek responded that before the Board takes action, a lot more work has to be done and it would be advertised again, though a date has not been set.

Ms. Rebecca Leonard, resident of Earlysville and member of Rivanna Community Church, addressed the Board. She said she shops at Earlysville Exchange and has her car fixed at the Earlysville Auto Mart, which she said are providing great service to the community. She said she was the Associate Dean for Diversity, Equity, and Inclusion at the University of Virginia McIntire School of Commerce and has formerly worked in business. She said she has read the ordinance, and it was difficult to understand. She encouraged the Board to not approve something that would create more bureaucracy. She said she was taken aback by the Planning Commission and staff recommendations to approve the ordinance and then conduct further study of specific issues. She asked the Board to consider what was fair and equitable and that it not make a blanket motion that would have individual impacts, but instead consider what was best for the community.

Mr. John Elder, owner of a data science company in the County, addressed the Board. He said his company makes predictions for organizations such as NGIC, NSA, Hewlett Packard, Anheuser Busch, etc., and has grown 20% per year. He noted that there was a Data Science Institute at the University of Virginia and that Charlottesville was becoming a data science hub. He said he was speaking to protect the zoning ordinance changes, as the language would require a business such as his to apply for a special use permit if it wanted to buy and build on an affected property or buy and expand on an existing building. He said it would have been a huge burden when his business was starting to have to spend tens of thousands of dollars and to have to wait six months or more to see if the County would approve the intended use. He related that most businesses operate on a tight budget with most money going to employees. He said his business uses very little water, makes very little noise, and does not emit pollutants.

Mr. Alec Kohr, owner of Kohr Brothers Frozen Custard, addressed the Board on behalf of his family. He said they made an investment 13 years ago and a downzoning would affect the value of their property by hundreds of thousands of dollars. He noted that they have several tenants, including Foster Fuels, which has filled a space that was vacant for 4 years. He indicated that if they ever need to sell the property, it would be difficult to find a buyer if a special use permit was required or to find additional tenants. He said his father purchased the property under highway commercial and does not feel that the amendment would be appropriate.

Mr. David Sutton expressed opposition to the proposed amendment and applauded the Board's decision to defer a decision. He referred to an email he sent to each Supervisor with a list of arguments against the zoning text amendment. He said the lynchpin of the zoning text amendment was County staff's contention that the current ordinance was difficult or confusing to enforce; that is not the case and is a red herring. He said the current zoning text was clear, precise, and easily enforced, though staff does not like the results when they enforce the existing text. Mr. Sutton stated that the proposal would remove approximately 300 acres from the County's industrial, commercial, and retail inventory. The contention that the land would be available by special use permit was not accurate, as special use permits are difficult, expensive, and time consuming to obtain, with unpredictable outcomes. He said that nobody was going to make a proposal for a piece of land that requires a special use permit to use the land. He expressed his opinion that the ordinance amendment would be a death knell to existing grandfathered businesses that are not in compliance with the Comprehensive Plan, as they would have to expand and make changes to their entrances and buildings, which would require them to obtain staff approval that they are not in compliance with the Comprehensive Plan and, if not approved, the businesses would wither and die on the vine. He urged a vote of "no" on the amendment.

Mr. Scott Knight addressed the Board and said he opposes the ordinance but recognizes the Board's effort to try to mitigate the values of some property owners with a grandfathering provision, without which some property owners would suffer catastrophic loss, though he does not believe it goes

far enough. He said that the grandfathering language mitigates the loss of some properties but not all. He cited the case of Mr. Schuyler, who addressed the Board earlier, as an example of a business owner who would be harmed and who would not benefit from grandfathering, as his plans to establish a hardware store are in the future. He added that Mr. Randy Kohr, who owns property across the street, was in the same predicament. He said that those not covered by the grandfather clause need to have some realistic and genuine uses available such as hardware and antique stores, shops, offices, and coffee shops. He reiterated that he opposes the proposed ordinance in any form. He added that those persons not covered by the grandfathering clause need to have some realistic and genuine uses available to them. Should the Board decide that it have to approve this ordinance, he asked that they accomplish it in a way that does not seem draconian to the business owners.

Ms. Jennifer Knight addressed the Board. She stated that the priorities in the ordinance seem to be unaligned with the stated purpose in the Resolution of Intent, which talks about fixing a problem with water, but the ordinance has placed an inordinate weight on conforming the uses of properties with rural zoning around them, which was not mentioned in the Resolution of Intent. She said the by-right uses left in the ordinance are water intensive and asked if the County has abandoned its commitment to groundwater protection. She asked if a flow regulator on the wells of affected properties would provide a simpler solution to an issue the ordinance was originally intended to fix, as stated in the resolution. She noted that staff and the Planning Commission have recommended approval of the ordinance and that they study and make changes in the future. She quoted the change they recommend as follows: "A place-based study of affected parcels, not all parcels are in the same location and they all had different characteristics with some located in formerly rural villages such as Earlysville and Stony Point." She said that if these 60 to 80 parcels are so different in character then it would make much more sense to consider them individually and she asked that they consider this now rather than in the future. She pointed out that the affected parcels along the US 250/I-64 interchange are very different in nature and character than some of the parcels in the further reaches of the County. She asked that the Board members consider this very carefully and that if they must pass the ordinance, they do it once rather than twice. She reiterated her opposition to the proposed amendment and asked that they find a solution.

Mr. Harold Richards, resident of Greene County, addressed the Board. He said he works, attends church, and patronizes businesses in Earlysville. He emphasized that the buildings occupied by Earlysville Auto and Earlysville Exchange occupy long vacant buildings and that, under the proposed zoning ordinance changes, if either business were to try to start up in their current location a special use permit would be required which would entail tens of thousands of dollars in costs and might not be approved. He said the Exchange was a non-profit that serves the needy and have given \$124,550 in cash donations to local food banks and other organizations since November 2014 and offers free shopping to refugees, the homeless, and families who have lost belongings in fires. He said that, while the grandfathering language protects existing buildings, it does not allow for more intensive uses than already exist. He said that the two buildings that these businesses occupy might still be vacant as the allowed uses would have been extremely limited. He expressed his opposition to the zoning text amendment and requested that, if they did pass it, they move the majority of low intensity uses to by-right and broaden the grandfathering language to offer more uses to businesses, which was essential to preserve the nature and character of the community.

Ms. Elizabeth Elder, resident of Earlysville and Chair of the Rivanna Community Church Building Committee, addressed the Board. She said her committee recently completed a major site plan amendment with the process taking years and at a cost of \$40,000 for surveying, engineering, attorney, and County fees, as well as much time devoted by herself and the committee. She explained that they undertook this process simply to obtain County permission to begin designing and seeking permits for an addition to the current building. She said the church's intended use would be by-right under the proposed ordinance, as it was under the current one. She said the special use permit process has to precede the site plan process for any use not explicitly offered by-right on any of the 80 affected properties and a special use permit would also be required for current owners or potential buyers if they wish to change the footprint or to build an addition to any current or vested structures. She read the opening paragraph of the special use permit process from the County's website and noted that there was a hyperlink to 24 pages of forms, checklists, flowcharts, instructions and questions. She said the cost to the applicant was a minimum of \$15,000 - \$20,000, with costs for larger projects at six figures, and approvals take at least six months. She described the process as extremely burdensome, with the possibility that the request may be denied, and said the site plan process would begin if the request was approved. She said the County already has regulations and processes in place to control owners' uses of their properties, and the addition of a special use permit process would be burdensome and lead to a loss of value and marketability of properties.

Ms. Jean Dalsky addressed the Board. She said that prior to retirement she was involved in the rezoning of properties in the Chicago area for a developer and was familiar with the problems the County has. She explained that the company would purchase property on speculation with the expectation that they would be able to rezone it and she encountered a similar process to what was being considered with special use permits. She said that she understands people do not like restrictions on their property but it was not a taking but just giving more control to the Planning Commission and the Board to make case-by-case decisions as to whether a property development would benefit the property owner while not harming neighbors. She said this consideration has not been properly presented and the focus of the discussion tonight has been on the business owners but not on the effects on surrounding properties that may not have enough water. She expressed support for the amendment and said a case-by-case consideration was the best benefit of the whole area.

Mr. Donny Foster addressed the Board. He said he has drilled more than 7,000 wells in the County and was glad they have tabled a decision. He calculated that a 300-foot deep well that produces one gallon per minute of water would produce 1,440 gallons a day. He said the average well in the County produces from four to six gallons per minute and these restrictions are not necessary. He said the businesses are not using as much water as may be thought and pointed out that there are water restrictors and meters that can be used.

Mr. Warren Hamms, owner of Crossroads Shopping Center in North Garden, addressed the Board. He said they opened the first building in 1994, had a water system in place controlled by the Virginia Department of Health and Department of Environmental Quality, and use a lot of water as they have about 1 million visitors per year. He emphasized that they pay a lot of taxes, employ many, and collect sales tax. He continued that they have their own sewer, wastewater, and trash and do not place any burden on the County. He requested that restrictions not be imposed and pointed out that he purchased the property under C1 zoning. He asked where people are going to shop and work, if the Board does not allow businesses in the County.

Ms. Jo Higgins addressed the Board. She said she represents several affected property owners. She said the Resolution of Intent did not hint at what has been proposed. She said that by solving the enforcement on a handful of proposed site plans, Supervisors are throwing all property owners under the bus. She said it was evident to all that the special permit process was used to control growth and to exceed the direct language in the ordinance which states the following: "Mitigation, with conditions, must relate to the proposed use." She said this has not been adhered to and asked how they would fairly evaluate a special permit when staff would always recommend not to approve because the fact the use was under the special permit list was because it has been compared to the Comprehensive Plan and deemed to not be consistent with it. She said parcels are not being treated similarly and asked how they could expect them to be if this ordinance was adopted. She said that Ms. McCulley presented that the intent was to resolve the issue of water usage enforcement. She suggested an alternative, that they insert wording that would apply to any use, and not select uses, as this would take out ambiguity. She quoted her suggestion: "Any use without a flow control valve which limits consumption to 400 gallons per acre per day was not allowed in these districts, except by special permit." She suggested they define a water flow control valve as a device calibrated to a specific flow, certified by a professional engineer, and installed by the landowner who has recorded in the land records a covenant to maintain such a valve as required in the ordinance. She emphasized that this would make it legal to require the water control valve and protects the water resource for those around the commercial uses. She said that undeveloped properties are being penalized for doing what the County preferred, not developing, while those properties that are developed are trying to be grandfathered. She asked the Board to not pass the proposal and to get back to the intent.

Mr. Mitchell Fitch, resident of Jefferson Mill Road in Scottsville, addressed the Board. He said that, while he does not want to hurt the groundwater or impact the environment, he wants to promote business as it brings jobs to the community. He said they are forcing new businesses to turn away and telling existing businesses that they do not want them to do business in the County, which would cause them to leave, resulting in an increased tax burden on individuals. He urged Supervisors to vote "No" on the ordinance.

Mr. Neil Williamson, of the Free Enterprise Forum, addressed the Board. He described the discussion as fantastic. He said he spoke with Mr. Morgan Butler about an article in the newspaper in which he said that uses that should be used should be restricted by size for their intensity of the use. He asked why they would not do this for all current, by-right uses and require a special permit if this was to be exceeded, as this would provide predictability and ensure the scale. He urged that the focus be on the goals and objectives of the Comprehensive Plan, which were not to eliminate commercial activity in Rural Areas but to provide commercial activity that supports rural uses, which include residential. He indicated that convenience stores are an important part of the community fabric. He urged that the Supervisors focus on size and scope and create predictability for property owners to achieve the goals of the Comprehensive Plan and water use and allow and consider special permits on a case-by-case basis. He expressed appreciation to staff for all their work, thanked Supervisors for pausing, and encouraged them to work deliberatively.

Mr. Greg Duncan, resident of Keswick, addressed the Board. He said that he submitted a letter to the Board yesterday and had received several responses. He said he has heard several speakers today indicate that if a business was to start up today the process would be easy, but if they were to start after passage of the proposed ordinance the process would be cumbersome. He said it was his understanding that, in areas not served by County water, the County and staff have taken the position that a special permit was required every single time and, if this was the case, property owners would be in no different posture tomorrow than they were today.

Mr. Roger Perkins, owner of Earlysville Auto, addressed the Board. He commented that, while the discussion has been about water, nobody has mentioned the quality of water. He said Earlysville needs public water, which has been promised for a long time. He said the Fire Department does not have water, the water in Walnut Hills was not good, and he has not used water in his business for 37 years. He said a water system with a meter was installed as they were entitled to it. He urged the Board to investigate water quality.

Ms. Mallek closed the public hearing.

Ms. Mallek asked staff if there were clarifications they wish to make.

Ms. Palmer addressed the concern of a speaker tonight about grandfathering and what would happen if he were to sell his property. She said it was her understanding that it goes with the property and not the owner and asked staff to comment on this. She also addressed the concern of another speaker that they were adding water restrictions and asked staff to comment on this.

Ms. McCulley responded that the staff drafted language that would provide for grandfathering within a structure or outdoors and lawfully existing or vested, provided that no external change or intensification of use occur, which may include but was not limited to, increasing the square footage, expanding or changing an entrance to the parcel, adding outdoor lighting, adding outdoor activity or storage on the property, provided that maintenance and changes in signage are not external changes, as recommended by the Planning Commission. She said she would talk about the difference between grandfathering and non-conformity. She explained that when a new zoning regulation was passed and there are existing uses then, under state law, they may continue unimpaired and could become non-conforming uses, for which there are many limitations. She said they are often limited to the then existing use. She explained that grandfathering goes beyond that as it allows the use that exists on the date an ordinance was adopted but could also change to another, different use, within the allowed uses. She said that, in discussions with the Planning Commission, it was important that it not be an unfettered grandfathering as there was a stopping point at which it must be evaluated and must then either comply by being a special permit use or it was a by-right use.

Mr. Kamptner addressed Ms. Palmer's question about grandfathering and said the grandfathered provisions would attach to the land and not to the owner.

Ms. Mallek asked for clarification that a new business could move into an existing structure without requiring a special use permit. Ms. McCulley said that was correct. She added that the staff have heard a lot about property values and have considered what a reasonable way to accommodate this while serving a higher value to those who have already built or created and improved businesses on their property, which was what grandfathering did. She said there needs to be an outer limit of intensification of use that would trigger it to be reviewed again.

Ms. Mallek commented that a simple zoning clearance would determine this. Ms. McCulley agreed.

Ms. Palmer added that the idea this was somehow linked to imposing water restrictions was a misunderstanding. She asked Ms. McCulley to address a question raised as to whether most properties under 400 gallons per day would require a special use permit process. Ms. McCulley agreed, adding that properties that qualified for the grandfathering provision were entitled to more by-right uses than they would be under the current regulations with water restrictions. She explained that they have considered whether the new use of an existing structure would result in increased water usage and if not, they are likely to approve the use. She said that with vacant raw land on which something would be built, it would be difficult to prove that the use would not consume more than 400 gallons per day without mechanical devices. She emphasized that mechanical devices are problematic, as it was staff's understanding that they cannot be used to make something a by-right use, and if a business reached the 400-gallon-per-day limit, she wondered if it was realistic to expect that it would close by hitting their threshold.

Ms. Palmer remarked that the idea behind this was that a business would not have to prove this for new projects.

Ms. Mallek said that anyone with existing special permit conditions would continue with those. Ms. McCulley confirmed this.

Addressing a comment made about grandfathering and that some properties would be included and others would not, Mr. Gallaway asked if those not included would be those without current structures. Ms. McCulley replied that it would be those that do not have current uses. She explained that the initial writing of the grandfathering referred just to structures, though it was realized that some uses do not involve structures. She noted that if there were no structure or activity on the land it would not be grandfathered. She added that one must typically have something already established in order to be able to grandfather it.

Mr. Gallaway asked if there were any additional consequences for a landowner under nonconforming use. Ms. McCulley asked Mr. Kamptner to comment. Mr. Kamptner commented that nonconforming uses are inconsistent with current zoning, and the theory behind the principle was that they protect the owner's investment. He added that the government wants this use to end at some point and thus imposes restrictions on expansion and alterations to the structure. He said that if there was a violation of a restriction, the use then becomes an illegal use – but these situations are rare.

Ms. McCulley said that if a nonconforming use cease for over two years, it was considered to be abandoned and could not be restarted, while grandfathering was not under a time limit for the right of a use.

Ms. Mallek remarked that grandfathering provides the ability to expand, build, and repair.

Mr. Dill said it seems as if they do not have the capacity to evaluate how things might be valuable to the owner. He asked if they offered anything like providing an estimate of taxes to property owners. Mr. Kamptner replied that he would have to check with County Assessor, Mr. Peter Lynch.

Ms. Palmer remarked that one knows the value of a property at purchase. Ms. McCulley said she could not address the opportunity cost to a property owner for the time devoted or the cost to hire a consultant or engineer, but the cost to apply for a special use permit was generally \$2,150 plus an additional fee to advertise and provide notice to neighbors, which could add another \$500.

Ms. Palmer said this was very different from the numbers they are hearing.

Mr. Randolph asked if the fee covers the cost of County staff time devoted to a special permit. Ms. McCulley replied that it does not.

Mr. Randolph remarked that the fee does not cover costs and was a way to demonstrate a good faith commitment to carry through with the process.

Ms. McKeel noted that there was a huge gulf in the numbers. Ms. Ragsdale replied that projects are different from one another and some require an impact study for which the applicant must hire consultants, which explains the varying costs mentioned by applicants.

Mr. Kamptner added that there are also land-carrying costs while the process was carried out.

Ms. Mallek remarked that the County should seek to provide certainty and avoid complicating things with a list of unfeasible uses.

Mr. Gallaway pointed out that for a parcel without a structure, it was difficult to prove that a 400 gallon-per-day use would not be reached, as there was nothing to put the water meter on, which results in the need for a special permit.

Mr. Gallaway stated that he reviewed the minutes of two recent meetings of the Planning Commission and learned that they asked for things or planned to have conversations that never happened. He expressed interest in discussing some theoretical pieces that could have an impact on property values.

Mr. Randolph suggested that they create a committee with representatives from the Planning Commission, Board, staff representation, the general community, and the environmental community, to review available options. He said the committee could review performance measures, as recommended by Mr. Neil Williamson. Mr. Randolph said he heard from this meeting's discussion that there was great value to having an adaptable and flexible regime that was responsive to the unique character of each location and that addressed more than just the issue of water. He suggested that they hold a joint Planning Commission/Board of Supervisors meeting at which both bodies could take votes.

Ms. McKeel said they could establish objective criteria for staff to apply.

Ms. Palmer expressed concern about the timing of a joint Board and Commission meeting. She asked if the meeting would occur after the committee did its work. Mr. Randolph replied, "yes".

Mr. Gallaway relayed a conversation with Mr. Bruce Dotson of the Planning Commission, who said there could be commonality in certain locations, such as with old villages, for which they could find a common answer. He added that he would like this idea to be explored.

Ms. Palmer agreed that they should look at commonalities among properties and look at the unique characteristics of properties, while maintaining the underlying vision of the Comprehensive Plan in terms of rural versus urban areas.

Mr. Dill expressed concern with the length of the process and remarked that property values may decline further under the uncertainty as to how the Board would decide.

Ms. Mallek replied that there are existing rules under which to operate.

Ms. McKeel said the Board is not talking about this taking a long timeframe, but must think about staff's work plan.

Ms. Palmer invited Mr. Mark Graham to address the Board regarding how a delay in making a decision would affect the work plan.

Mr. Mark Graham, Director of Community Development, addressed the Board and stated that if a committee was formed, they could expect it to take a year to year and one-half to make a recommendation, as it was a problem with many layers that would become increasingly complex before it could be resolved. He suggested that if they limit considerations to existing uses and how to regulate water for new uses without deliberating land use questions, it would become simpler.

Ms. McKeel remarked that she thought it would be in the best interest of property owners to have this resolved quickly.

Mr. Dill said he likes the suggestion to look at properties with existing buildings, as a property owner's investment was much higher than with vacant land.

Ms. Mallek added that they clarified today that most properties with an existing structure would not require onerous burdens.

Mr. Dill remarked that 4,000 square feet was by-right if it was for agricultural waste products, while other categories such as retail requires a special permit. He asked if these other categories would be by-right if they were less than 4,000 square feet. Mr. Graham said this was an example of a land use question.

Mr. Randolph proposed that he get together with Ms. McCulley to try to flesh some of this out and bring it back.

Ms. Ragsdale said this was what the staff had suggested in the report for further study, to get the Board's feedback as to what it was interested in. She said they would need to do some scoping, set parameters, and discuss the process for establishment of a committee or work group. She said they could return before the Board in July and would confer with the County Executive and Clerk as to scheduling.

Mr. Gallaway questioned the need to form a committee, as the Planning Commission has been working on this for some time and could put together a list of priority issues for the Board to discuss and could provide input to drive the continued process.

Ms. Palmer, Ms. McKeel, and Ms. Mallek expressed their agreement with Mr. Gallaway.

Mr. Kamptner suggested that the Board consider a motion to indefinitely defer action on the ZTA and direct staff to continue its work, as discussed.

Ms. McKeel **moved** that the Board indefinitely defer action on ZTA-2018-02 and to direct staff to continue its work. The motion was **seconded** by Ms. Palmer.

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

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

(Recess. At 8:55 p.m., the Board recessed and then reconvened at 9:06 p.m.)

Agenda Item No. 20. **PUBLIC HEARING: VDOT Six-Year Secondary Road Construction Program.** To receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2018/19 through 2023/24 in Albemarle County, and on the Secondary System Construction Budget for Fiscal Year 2017/18.

(Advertised in the Daily Progress on May 28 and June 4, 2018.)

The Executive Summary forwarded to the Board states that the purpose of this public hearing is to receive input on the proposed Virginia Department of Transportation (VDOT) Secondary Six Year Program (SSYP), FY 19-24 (Attachment A). The SSYP is the funding program for the maintenance and construction of secondary roads based on the County's Transportation Priority List and the Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads, and reflects available State road funding allocated to the County. The Board held a work session on Transportation Priorities for Smart Scale and the Secondary Six-Year Plan on April 4, 2018. Attachment B is the Executive Summary from that work session and Attachment C is the Report on the Secondary-Six Year Plan Priorities and Recommendations from that Work Session. Based on the recommendations and discussion at the April 4th work session, the Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads was updated and is included as Attachment D. The only changes were removing completed projects and advancing the remaining projects up the list.

VDOT staff has provided a draft of the FY 19-24 SSYP (Attachment A) that is based on the direction provided by the Board at its previous work session. The available funding for the FY 19-24 SSYP would be used to address the priority projects the Board has supported. The Rio Mills Connector remains the top priority and Telefee funding dedicated to this project will make up the balance to complete it beyond the Smart Scale funding.

The top paving projects derived from the Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads are included in the current and future year expenditures. The ongoing engineering and design of the Connector Road between Berkmar Drive Extended and Lewis & Clark continues to be funded through FY 19. The County is seeking funding for construction of this connection through multiple potential funding sources with \$2,081,597 in Secondary Plan funds available to help offset or leverage the costs of construction. If these funds are not needed for the Berkmar to Lewis & Clark Connector they can be shifted to other projects. An additional \$349,831 has been added to a Traffic Services line item in FY24 that is derived from Telefee funds and can at any point be redirected to any Secondary Road project as needed.

The Final FY2019 Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads is also included as Attachment D for the Board's approval. This reflects any changes recommended at the April 4th Work Session.

The SSYP is for the expenditure of State/VDOT secondary road construction funds allocated to the County and does not require the expenditure of County funds except to the extent that any project may also utilize revenue sharing funds or otherwise necessitate County resources in support of the project.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment E) approving the FY19-24 Secondary Six Year Program (SSYP) and authorizing the County Executive to sign the SSYP.

Staff also recommends that the Board vote to approve the Final FY19 Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads (Attachment D) for the record.

Mr. Kevin McDermott, Transportation Planner, addressed the Board and referenced Attachment B (copy on file) in the Board's packet, which he said was the Executive Summary from the April 4 meeting, which he included as background information. He clarified an error in the Executive Summary that listed the Barracks Road project as a left turn instead of a right turn lane.

Mr. McDermott said the Secondary Six-Year Plan (SSYP) allocates funding for construction, maintenance, and improvement of roads in the state secondary system and was updated and approved by the Board of Supervisors annually. He stated that as part of the Plan: 1) approximately \$575,000 available in FY 19 funds that must be appropriated to paving unpaved roads; 2) an additional \$350,000 was available in FY 19 Telefee funds which could be used for a broader array of projects; and 3) VDOT has included surplus funds from previous projects funded out of the old Secondary Road Fund into this plan to be used as the County directs.

He then reviewed the previous Board direction as follows:

April 4, 2018 SSYP Work Session

- directed staff to continue to move forward with previously identified top paving priorities: Keswick Road, Preddy Creek Road, Patterson Mill Lane, segment of Dick Woods Road;
- requested out year Telefee funds to be held in reserve for future projects to be identified; and
- continue to retain funds in the SSYP to support the development of the Berkmar to Lewis & Clark Connector.

Mr. McDermott stated that \$800,000 was put into a study of the Berkmar to Lewis & Clark Connector, for which they have completed 60 percent of the design and would look to multiple grant opportunities. He said there was an additional \$2 million left to assign to other projects.

Mr. McDermott then summarized the following FY19-24 SSYP:

- Rio Mills Connector – provides matching funds out of Telefee allocation combined with Smart Scale funds for fully funded project.
- Keswick Drive & Preddy Creek Road – paving project fully funded in FY 18 but remains until project was completed and closed out.
- Connector Road Study: Berkmar Drive to Lewis & Clark Drive – utilizes surplus funds to advance a high priority transportation project with the intent of preparing for a Smart Scale grant this year.
- Patterson Mill Lane & Dick Woods Road – initial funding in FY 18, fully funded in FY 19, proposed work beginning Summer 2018 and completed Spring 2019.
- Remaining out-year paving projects – SSYP funds projects in the order they occur in the County's Priority Paving list.
- Connector Road Construction – identifies future funds acquired through the surpluses to be put towards a Smart Scale grant for construction.

Ms. Palmer asked for confirmation that there should be construction activity on Patterson Mill Lane this fall, as constituents have inquired about progress of this project. Mr. McDermott confirmed this and explained that the project was delayed since it has not been fully funded. He said there would be preliminary work this fall with additional work in the spring.

Ms. Palmer said when a project is delayed or postponed for a year, does staff have a process in place to contact constituents. Mr. McDermott responded that staff does not have a process in place and does not send out a general notification. He added that after working with VDOT during the past, he does not expect that problem to occur again.

Ms. Mallek expressed concern that the Rio Mills Connector keeps being delayed. She asked if work would occur between the quarry and Berkmar, which was supposed to have been done in 2016 with the use of \$5 million from the Rio Mills project, which was to build a \$1 million road, and laminate for this had already been provided. She said that this was the savior for the disaster of cancelling the process for truck prohibition, but none of that has happened. Ms. Mallek commented that the County was told at that point they could not impose a \$200 fine and the alternative road for gravel trucks to avoid using Earlysville Road has not happened, and the County would now have another four years added on.

Mr. McDermott confirmed this and said he does not know what all of the funding sources are, but they are setting aside money in the Six-Year Plan to complete the road, for which the balance of funding was received in the last Smart Scale cycle. He said that a VDOT team was conducting design and survey work.

Mr. Randolph defined "outyear" for the benefit of the public and said it means that funding would not occur this year but over the next five years. Mr. McDermott confirmed this and emphasized that funding figures for outyears are only estimates.

Ms. Mallek asked if costs shown in the priority paving list in Attachment D (copy on file) are updated or if they represent five-year old data. Mr. McDermott replied that these are general estimates that are also in the draft plan.

Mr. McDermott concluded by stating that staff recommends the Board approve the draft SSYP and approval of the FY19 priority list for secondary road improvements.

Ms. Mallek opened the public hearing.

Mr. Ron Hahn, resident of White Mountain Road, addressed the Board. He said he purchased his house 43 years ago and was told his road was on the Six-Year Plan. He asked Mr. McDermott why his road keeps dropping further down the list. He said that in 2007, he inquired as to how much money has been spent on this road and nobody would tell him, but he contacted Senator Creigh Deeds and finally got some answers. Mr. Hahn stated that it was impossible to get fire trucks up the road and said he has received a letter from the Fire Department about it. He said he had read an estimate in 2007 that it would cost \$3,000 per mile for a typical gravel road, with annual costs of \$8,000, and he noted the road was just over 2.5 miles long. He described the road as a dust bowl and a nightmare, and that he has spent 23 years coming before the Board and feels like he was wasting his time. He said he has heard that some residents do not want the road to be paved.

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

Ms. Mallek remarked that it was hard when neighbors cannot agree.

Ms. Palmer said it was a dilemma and it has been suggested that roads that are not likely to be paved for a long time be removed from the list. For the road in question, she said she was provided with a ballpark estimate of the cost to pave it and said Mr. McDermott was going to get back to her. She said she recently received strongly worded letters from three households and one phone call requesting that the road not be paved. She said she has been contacted by residents of two households who request that the road be paved. Ms. Palmer emphasized that it would take seven years before the work would be done even if it were at the top of the list.

Mr. McDermott responded that White Mountain Road has some funding in the sixth year of the draft six-year plan and would be fully funded next year, which means it would be seven years until the road could be paved. He said that in 2017, two road projects were moved up the list, including a segment of Dick Woods Road. He said that prioritization was based on daily traffic. He noted that once a project moves to the top of the list, VDOT sends notification to property owners adjacent to the road to offer the opportunity for public comment, through which they are then able to determine the level of support or opposition.

Ms. Mallek commented that she likes the former method whereby a paving project has to have community support before it gets on the list, while under the current policy they place projects on the list at the request of one person without determining community support.

Mr. McDermott clarified that in order to get on the paving list, a formal written request demonstrating some level of support was required. He said the level of required support was not defined, although when people ask, he suggests that at least 50% of residents express support. He said that since this was not defined, he could not restrict what get on the list. He advised the Board that it has the ability to amend this policy to require a defined level of support.

Ms. Mallek proposed 75 percent support. She suggested that they send letters to residents along White Mountain Road to ask if they support paving.

Ms. Palmer agreed, stating that it was VDOT's policy to pave roads to reduce maintenance costs and they have provided funding for this, with pressure on localities to use it.

Ms. McKeel commented that if they cannot find a use for this money, she has several roads in the urban ring that desperately need to be paved.

Ms. Palmer agreed with Ms. Mallek's suggestion to send letters to residents requesting feedback.

Mr. Gallaway asked what the nature of the opposition was. Ms. Palmer replied that the main concern was that people walk on the roads and know that traffic speeds would increase and more people would use the road if it was paved, as it was a connector.

Mr. Gallaway remarked that there are pros and cons and it was the Board's responsibility to make a decision, as they do with other matters. He noted that they have funds available that could only be used for this and asked if VDOT would proceed until all the roads are paved. Mr. McDermott responded that there are enough projects on the list to last 10 to 12 years, with more likely to be added.

Ms. Palmer remarked that some people buy property because it was on a dirt road, and she posed the question of whether it was up to VDOT or the citizens who live on them to determine if they would be paved.

Mr. Dill asked if safety issues are considered. Mr. McDermott replied that he collects crash data and uses this as a secondary consideration after traffic counts. He said that paved roads are generally safer due to stopping distances and control.

Ms. Palmer added that people drive faster on paved roads, and asked Mr. Joel DeNunzio to comment.

Mr. Joel DeNunzio, VDOT Resident Engineer, addressed the Board and stated that it was not possible to say whether gravel or paved roads are safer without a site-specific plan. He said they look to have spot safety improvements when needed and agreed that paved roads offer better braking distances. Addressing the question of what happens when all the roads are paved, he said the allocation of funding was based on the number of miles of unpaved roads, which used to be about 200 in Albemarle County and currently involve a rate of two to two and one-half miles per year. He said that it used to be that unused unpaved road funds could be used for other projects, but the County would then irretrievably lose the eligibility mileage for the unpaved road fund. He believes that once all the roads are paved, the funds would disappear.

Ms. Palmer said that paving roads changes the rural nature and some of the unpaved roads are used for running.

Mr. Gallaway reemphasized that there should be other criteria to consider when determining whether to pave a road besides just the level of support of residents.

Ms. Palmer asked Mr. McDermott if easements are still required. Mr. McDermott responded that because it was a rural rustic road list, it could be improved without having to acquire a right-of-way.

Mr. Randolph remarked that gravel roads are more attractive for cycling, as bicycles are now set up with disc brakes and cyclists are seeking out gravel roads for safety reasons to avoid distracted drivers.

Ms. Palmer surveyed the Board for support to see if there was any opposition to her working with Mr. McDermott to send a letter to residents of White Mountain Road. There was no opposition to this and she said she would proceed with drafting a letter.

Ms. Palmer **moved** that the Board adopt the proposed Resolution approving the FY19-24 Secondary Six-Year Program (SSYP) and to authorize the County Executive to sign the SSYP. The motion was **seconded** by Ms. McKeel.

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

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

RESOLUTION TO APPROVE THE SECONDARY SYSTEM SIX-YEAR PROGRAM (FY 19-24)

WHEREAS, Virginia Code § 33.2-331 provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary System Six-Year Program; and

WHEREAS, the Board has previously agreed to assist in the preparation of this Program, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Program (FY 19-24), after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

WHEREAS, local and regional representatives of the Virginia Department of Transportation recommend approval of the Secondary System Six Year Program (FY19-24); and

WHEREAS, the Secondary System Six Year Program (FY19-24) is in the best interest of the County and of the citizens of the County

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby approves the Secondary System Six-Year Program (FY19-24) and authorizes the County Executive to sign the Secondary System Six-Year Program (FY 19-24); and

BE IT FURTHER RESOLVED, that the clerk of the Board shall forward a certified copy of this resolution to the District Administrator of the Virginia Department of Transportation.

Mr. Gallaway **moved** that the Board approve the Final FY2019 Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads. The motion was **seconded** by Ms. McKeel.

REGULAR PAVING PROJECTS IN PRIORITY ORDER (HIGH TO LOW)									
Current Priority	Route Number, Road Name	Location From - To	Length (mi)	Funding Status	Most Current Traffic Count	Year of Count	crash data	Year Project placed on Priority List	Description/Comments
18	843 Rio Mills Road	Rt. 29 - Rt. 743		In VDOT'S/P	700	2012	4	2003	Staff request. Series Deter. Area provides access to quarry, provides thru road, connection to primary road (Rt. 29). Recommended in Comp. Plan and LRTP. Will need reevaluation upon completion of Connector Road.
19	828 Horseshoe Bend Road	Rt. 601 - Dead End		Not Funded	210	2006		2004	Public request. At current ranking due to traffic count.
20	761 Berry Creek Road	Rt. 822 - County Line		Not Funded	160	2006		2005	Public request. At current ranking due to traffic count.
21	882 Broad Ave Road	Rt. 837 - current paved sections		Not Funded	160	2006			Public request. At current ranking due to traffic count.
22	888 Burdick's Creek Road	Rt. 250 - Rt. 635		Not Funded	140	2006			Public request. At current ranking due to traffic count.
23	840 Gilbert Station Road	Ashleigh Way Dr - paved section		Not Funded	120	2006			(Previously Founding Creek Rd)
24	899 Hungrytown Road	Rt. 633 - Dead End		Not Funded	90	2006		2006	Public request. At current ranking due to traffic count.
25	800 Stony Point Pass	2.5 miles west - Rt. 20		Not Funded	80	2006			School transportation request
26	834 Spring Valley Road	Rt. 633 - Rt. 635		Not Funded	80	2006		2007	Public request. At current ranking due to traffic count.
27	883 Shelton Mill Road	Rt. 751 - Dead End		Not Funded	70	2009		2007	Public request. At current ranking due to traffic count.

UNPAVED ROADS SECTIONS REMOVED BY BOARD OF SUPERVISORS									
	Road Name/No.	Location From - To	Length	year removed	Most Current Traffic Count	Year of Count	Crash Data	Year Placed on Priority List	Description/Comments
	867 Catterton Road	Rt. 601 to east of Rt. 676							
	862 Bleak House Road	Rt. 685 to Rt. 680		2010					
	837 Dick Woods Road	Rt. 691 to Rt. 758		2014					
	785 Blenheim Road	north and south of Rt. 713		2012					
	871 Ballards Mill Road	Rt. 609 - Rt. 674		2017	260	2006		2007	School transportation request
	874 Sugar Ridge Road	Rt. 614 - Rt. 673		2017	180	2006			Public request. At current ranking due to traffic count.
	871 Wesley Chapel Road	Rt. 609 - Rt. 601		2017	100	2006		2007	School transportation request
	878 Decos Lane	Rt. 676 - Rt. 614		2017	160	2006			Public request. At current ranking due to traffic count.

Agenda Item No. 21. **PUBLIC HEARING: Ordinance to Approve the Charlottesville Area Convention and Visitors Bureau Agreement.** To receive public comment on its intent to adopt an Ordinance to Adopt and Approve an Agreement to Operate a Joint Convention and Visitors' Bureau between the County of Albemarle, Virginia and the City of Charlottesville, Virginia for the funding and operation of the Charlottesville-Albemarle Convention and Visitors' Bureau. (Advertised in the Daily Progress on May 28 and June 4, 2018.)

The Executive Summary forwarded to the Board states that the City of Charlottesville and the County have jointly funded and undertaken the operation of a joint convention and visitors' bureau since 1979 for the purpose of promoting the Charlottesville-Albemarle area as a tourist destination and site of convention facilities. The Charlottesville-Albemarle Convention and Visitors' Bureau is currently funded and operated pursuant to a July 1, 2004 agreement between the City and the County.

In December 2017, the Board and the City Council notified the CACVB to terminate the current agreement, effective June 30, 2018.

The December 19, 2017 Notice of Termination from the Board to the CACVB not only stated the reasons for terminating the current agreement, but also established the framework for the new CACVB that would be established by the proposed Agreement to Operate a Joint Convention and Visitors' Bureau (the "Proposed Agreement") (Attachment A). The significant provisions in the Proposed Agreement are:

1. **Organization:** The organization of the CACVB would be changed so that would be led by an Executive Board composed of County and City representatives (3 representatives each), a representative from the University of Virginia, and two representatives from the local tourism industry. The Executive Board also would have four non-voting members. The current Management Board, which currently leads the CACVB and whose membership are primarily representatives from the local tourism industry, would become the Advisory Board. The Advisory Board would act in an advisory capacity to the Executive Board. Those persons currently serving on the Management Board would continue to serve on the Advisory Board until their term expires. Reappointments and vacancies would be filled by the Executive Board.

2. **Services and Performance Measures:** The current agreement delineates the services to be provided by the CACVB and the performance measures to be applied. The Board believed that the services provided under the current agreement, and how they were implemented by the CACVB, had not kept up with the ongoing evolution in tourism, and that new tourism markets were not being explored. In addition, the Board was concerned that the performance measures in the current agreement were no longer the correct metrics to measure the success and value of the CACVB. The Proposed Agreement will continue those identified services and performance measures, but only until the Executive Board adopts a new range of services and performance measures.

3. **Employees:** Under the current agreement, employees of the CACVB are City employees. The Proposed Agreement would make CACVB employees employees of the County beginning on or before January 1, 2019. County and City staff are working on the employment and benefits issues related to the transfer for the remaining CAVB employees to continue to serve on the Board until a successor is appointed. Any persons hired on and after July 1, 2018 to serve the CACVB would be County employees.

4. **Fiscal Agent:** The City is the fiscal agent under the current agreement. The County would become the fiscal agent under the Proposed Agreement on or before January 1, 2019. As fiscal agent, the County will assume a range of services for the CACVB, including accounting, human resources and payroll, information technology, procurement, and legal services. The County will also provide insurance to the CACVB.

The final language for the terms pertaining to employees and fiscal agency is still being worked on at the time this executive summary is being written. A final draft agreement will be provided before the Board meeting.

The City Council is expected to consider approval of the agreement on June 18, 2018.

The County, as the CACVB's fiscal agent, will be entitled to 2% of the CACVB's funding level, the rate of which is unchanged from the current agreement. Based on the CACVB's FY19 Budget, that amount is estimated to be \$37,551 in FY19 (per the Office of Management and Budget). Staff estimates that the provision of insurance coverage to the CACVB will cost approximately \$1,500 per year, and that the additional legal services and support of other County staff can be provided with the existing staffing levels.

Staff recommends that the Board adopt the attached Ordinance (Attachment B) approving the final draft Agreement to Operate a Joint Convention and Visitors' Bureau.

Mr. Kamptner stated that his focus would be on the primary issues: The Executive Director, the Interim Executive Director, and the Fiscal Agent. He said the agreement in place was entered into on July 1, 2004. A decision was made by City Councilors and Supervisors to send a letter to the Charlottesville-Albemarle Convention and Visitors Bureau (CACVB) to terminate the agreement, effective June 30, 2018. He said they would need enabling legislation to allow one Councilor and one Supervisor to sit on the governing body of the organization. He indicated that the reason for the termination was due to a desire to restructure the organization, expand services provided, and change the CACVB's performance measures. He explained that the new agreement would provide more flexibility. Mr. Kamptner said that state law requires a public hearing for issues dealing with joint exercises of powers. He explained that the only substantive change to the ordinance would allow the County Executive to make non-material changes, in addition to signing the agreement, noting that this would allow for wordsmithing.

Ms. McKeel asked if the City Attorney has also reviewed the proposed agreement. Mr. Kamptner responded that they have and anything of substance should be resolved.

Mr. Kamptner presented the 11 sections of the agreement and then provided an overview of the following sections:

- Section 1: Re-establishes and re-authorized the CACVB
- Section 2: The purposes of the CACVB
- Section 3: The organization of the CACVB
- Section 4: Funding of the CACVB
- Section 5: The permitted and prohibited uses of funds, goods, and services
- Section 6: The duration of the agreement
- Section 7: Performance
- Section 8: Designation of property when the agreement ends
- Section 9: Disposition of property when the agreement ends
- Section 10: Liability
- Section 11: Miscellaneous

Mr. Kamptner indicated that he would review the highlighted sections, which he described as fairly standard provisions carried over from the existing agreement, with language updated and improved. He then presented a slide with highlights of Sections 1, 2, 4, 5, 6, 9, 10 and 11:

- Section 1: Re-establishes and re-authorized the CACVB
- Section 2: The purposes of the CACVB
 - Promote the "resources and advantages" of the County, City, and region

- Promote tourism and travel, marketing of tourism or initiatives to attract travelers to the County and City, increase occupancy at lodging properties, and generate tourism revenues

Section 4: Funding the CACVB

- The funding formula would be the same as under the 2004 agreement
- Each party provides equal to 30% of transient occupancy tax revenue collected in the most recent fiscal year, based on a Transient Occupancy Tax (TOT) rate of 5%, even if either locality increases the TOT rate

Section 5: The permitted and prohibited uses of funds, goods, and services

- Revenues received by the CACVB must be used for its authorized purposes
- Revenues may not be used for any partisan political activity or to support or oppose any candidate for office

Section 6: The duration of the agreement

- The agreement was effective July 1, 2018 and remains in effect until terminated by either party, by mutual agreement, or by either party not appropriating funds

Section 9: Disposition of property when the agreement ends

- Personal property is the joint property of the County and City for disposition
- Proceeds of disposition pro-rated between the County and City in accordance with the ratio of the amount provided by each party to the CACVB, subject to criteria in the agreement

Section 10: Liability

- Liability for damage to third parties related to the CACVB and persons employed to provide services to the CACVB are shared by the County and City to the extent not covered by the CACVB funding or liability insurance proceeds

Section 11: Miscellaneous

- Materials produced by the CACVB were property of the County and City and copyrightable by them
- "Boilerplate" provisions pertaining to amending the agreement, severability of provisions, applicable law, and others

Mr. Kamptner said a significant change has been made to "Section 3: Organization":

Executive Board

- Serves as the CACVB's governing body
- 9 voting members and 4 non-voting members
- Voting members are 3 County representatives, 3 City representatives, 2 tourism industry organization representatives (1 each selected by the County and City) and 1 UVA representative
- Non-voting members are the Executive Director, Chair of the Advisory Board, a representative from the Chamber, and a representative from the Jefferson Foundation

Advisory Board

- Serves in an advisory role to the Executive Board
- 7 voting members from the tourism industry and local business community
- Current members of the CACVB's Management Board would continue as members of the Advisory Board until their term expires, then the Executive Board would appoint each seat as it becomes open

Executive Director

- Appointed by Executive Board
- Executes the programs and services identified by the Executive Board, recommends an annual budget, executes contracts on behalf of the CACVB, prepares reports and other documents, and recruits, hires, and manages CACVB staff
- The CACVB does not currently have an Executive Director

Section 7: Performance

- The 2004 agreement established the required return on investment, performance measures, and performance indicator, and they never changed
- The proposed agreement authorizes the Executive Board to adopt a new required return on investment, new performance measures, and new performance indicators
- To allow the Executive Board time to adopt new performance measures and requirements, the performance measures and requirements in the 2004 agreement would continue to apply until then

Section 8: Designation of Fiscal Agent

- The City was the fiscal agent for the duration of the 2004 agreement
- Under the proposed agreement, the City would continue as the fiscal agent until December 31, 2018, and on January 1, 2019, the County would become the fiscal agent
- Fiscal agency services include: Payroll Services, Liability Insurance, Legal Services, Procurement Services, Contracting for Annual Audits
- The fiscal agent receives a 2% fee for providing the services, which was the standard in County-City agreements

- Under the 2004 agreement, all persons working for the CACVB were City employees
- Current CACVB employees continuing at the CACVB after July 1, 2018 would become County employees on January 1, 2019 when the County becomes fiscal agent
- Any person hired to work for the CACVB on and after July 1, 2018 would be County employees and working under the County's personnel policies

Mr. Kamptner said that Mr. Anthony de Bruyne, Chair of CACVB Board, would sit in the UVA seat on the Executive Board and provide more flexibility. If the Board wants the County Executive and Director of Economic Development to attend the meetings, they could direct these officers to do so and not designate others to serve in that stead.

Ms. Mallek commented that in the past, designees ended up being so far down the chain that they could not make a decision, which completely disables the ability of the committee to work. She added that the Board would have to see how this evolves. Mr. Kamptner said the agreement could be amended if it proved to be a problem.

Mr. Randolph noted there were terms and term limits for the Advisory Board but not for the Executive Board appointments, and he expressed a preference to have a term limit so that a Board member or City Council member does not serve in perpetuity. He said this would avoid a member taking an institutional perspective and would offer an infusion of new members, which could be beneficial. Mr. Kamptner replied that this would be up to City Council and the Board of Supervisors to decide. He noted that there are term limits for the 2 tourism industry organization representatives.

Ms. McKeel commented that the Advisory Board makeup has not changed much but has a new place within the organizational chart. Mr. Kamptner agreed.

Mr. Kamptner reviewed efforts to find an Interim Executive Director, which has not been successful so far. The current agreement has been broadened to provide for the eventual appointment. Effective July 1, 2018, the Executive Board would have the ability to appoint the interim and final director.

Ms. McKeel commented that they are addressing this matter now so that work would continue.

Regarding the transition of CACVB employees from the City to the County, Mr. Kamptner explained that they would be held harmless so they would not lose benefits or pay – and the agreement recognizes that the County would keep them whole to the fullest extent practicable. He acknowledged that the County's retirement system is different from the City system; the County is under the VRS and the City has its own retirement plan.

Ms. Mallek asked what would happen if an interim was hired before July 1, 2018. Mr. Richardson commented that this was not likely, and it was his understanding that the current Interim Executive Director was still on staff and would work until July 5, 2018.

Ms. Mallek said that at their last meeting, the plan was that January 1, 2019 would be the latest turnover date but it could be as early as September, and Mr. Bill Letteri had said they could do this in six weeks. She was concerned over this delay and its effects on procurement. Mr. Kamptner reiterated that the Executive Board would be in place on July 1, 2019 and that may resolve some of the issues.

Mr. Richardson said the City requested the date of January 1, 2019 though he expressed the County's preference that it be done sooner.

Ms. McKeel stated that it was important to have the Executive Board in place by July 1, 2019 and that any new employees come under Albemarle County. Mr. Richardson confirmed that this was in the agreement.

Ms. Mallek expressed a preference for the agreement to be worded "on or before January 1, 2019" rather than "on January 1, 2019" to give them the ability to push things along.

Ms. McKeel asked Mr. Kamptner if the wording suggested by Ms. Mallek presented a problem in their discussion with the City. Mr. Kamptner responded that they would propose it. Ms. Mallek reiterated that anyplace in the agreement where it refers to December 31, 2018 needs to add "on or before" as an option.

Ms. Mallek opened the public hearing.

As no one stepped forward to address the Board, the public hearing was closed.

Mr. Randolph **moved** that the Board adopt the proposed ordinance dated June 13, 2018, approving the final draft Agreement to Operate a Joint Convention and Visitors' Bureau, as amended. The motion was **seconded** by Ms. McKeel.

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

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

ORDINANCE NO. 18-A(2)

**AN ORDINANCE TO ADOPT AND APPROVE AN AGREEMENT
TO OPERATE A JOINT CONVENTION AND VISITORS' BUREAU
BETWEEN THE COUNTY OF ALBEMARLE, VIRGINIA AND
THE CITY OF CHARLOTTESVILLE, VIRGINIA FOR
THE JOINT FUNDING AND OPERATION OF
THE CHARLOTTESVILLE-ALBEMARLE
CONVENTION AND VISITORS' BUREAU**

WHEREAS, the County and the City are each enabled by Virginia Code § 15.2-940 to "expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality"; and

WHEREAS, the County and the City are each enabled by Virginia Code § 15.2-1300 to jointly exercise the authority granted to them pursuant to Virginia Code § 15.2-940; and

WHEREAS, the County and the City entered into an agreement on July 1, 2004 for the joint funding and operation of the Charlottesville-Albemarle Convention and Visitors Bureau ("CACVB") to promote the resources and advantages of the County and the City; and

WHEREAS, the July 1, 2004 agreement was terminated by the County and the City, and the termination's effective date is June 30, 2018; and

WHEREAS, the County and the City desire to continue the joint funding and operation of the CACVB to promote the resources and advantages of the County and the City as provided in the agreement attached hereto as Attachment A.

NOW, THEREFORE, BE IT ORDAINED THAT the Agreement to Operate a Joint Convention and Visitors' Bureau between the County of Albemarle, Virginia and the City of Charlottesville, Virginia pertaining to the joint funding and operation of the Charlottesville-Albemarle Convention and Visitors' Bureau is hereby approved, and that the County Executive is hereby authorized to execute the Agreement on behalf of the County of Albemarle after it is approved as to form by the County Attorney.

This ordinance shall be effective immediately.

AGREEMENT TO OPERATE A JOINT CONVENTION AND VISITORS' BUREAU

THIS AGREEMENT is entered into this 28th day of June, 2018, by and between the County of Albemarle, Virginia (the "County") and the City of Charlottesville, Virginia (the "City"). This agreement may be referred to as the "CACVB Agreement" and "this Agreement." The County and the City may be referred to collectively as the "Parties."

RECITALS

- R-1** The County and the City are each enabled by Virginia Code § 15.2-940 to "expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality"; and
- R-2** The County is enabled by Virginia Code § 58.1-3819 to expend Transient Occupancy Taxes collected by it (amounts in excess of two percent of the total five percent authorized to be collected) solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with tourism industry organizations, including representatives of lodging properties located in Albemarle County, attract travelers to the County, increase occupancy at lodging properties, and generate tourism revenues within the County; and
- R-3** The County and the City are each enabled by Virginia Code § 15.2-1300 to jointly exercise the authority granted to them pursuant to Virginia Code § 15.2-940, and they desire to enter into an agreement with one another to continue to jointly fund and operate the local convention and visitors' bureau; and
- R-4** The County and the City desire to promote the resources and advantages of the County and the City, and to do so through the Charlottesville-Albemarle Convention and Visitors' Bureau as provided in this Agreement.

STATEMENT OF AGREEMENT

The County and the City agree to the following:

1. Convention and Visitors' Bureau Established and Authorized.

The Charlottesville-Albemarle Convention and Visitors Bureau (the "CACVB") is re-established and re-authorized.

2. Purpose of the CACVB.

The purpose of the CACVB is to promote the resources and advantages of the County, the City, and the region pursuant to the terms and conditions of this Agreement, including marketing of tourism, as well as marketing of initiatives that: attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County.

3. Organization of the CACVB.

The CACVB shall be organized to have an Executive Board, an Advisory Board, an Executive Director, and staff serving the CACVB.

A. **Executive Board.** An Executive Board is hereby established, and its composition and powers and duties are as follows:

1. **Composition.** The Executive Board shall be composed of the following nine voting members and four non-voting members:
 - a. One member of the County Board of Supervisors.
 - b. One member of the Charlottesville City Council.
 - c. The County Executive or his designee.
 - d. The Charlottesville City Manager or his designee.
 - e. The County Director of Economic Development or his designee.
 - f. The City Director of Economic Development or his designee.
 - g. The Executive Vice President of the University of Virginia or his designee.
 - h. One tourism industry organization representative appointed by the Board of Supervisors for a two-year term; no person serving under this appointment may be appointed to more than four consecutive two-year terms, exclusive of time served in the unexpired term of another.
 - i. One tourism industry organization representative appointed by the City Council for a two-year term; no person serving under this appointment may be appointed to more than four consecutive two-year terms, exclusive of time served in the unexpired term of another.
 - j. The Executive Director of the CACVB (non-voting member).
 - k. The Chair of the Advisory Board (non-voting member).
 - l. A representative of the Chamber of Commerce (non-voting member).
 - m. The President or Chief Executive Officer of the Thomas Jefferson Foundation or his designee (non-voting member).
2. **Appointments to the Executive Board.** The members of the County Board of Supervisors and the Charlottesville City Council who shall serve on the Executive Board shall be appointed by their respective governing bodies for terms determined by the respective governing bodies. The County Board of Supervisors and the Charlottesville City Council may appoint alternates to attend any meeting(s) that the regular appointee cannot attend. An alternate attending a meeting in place of the regular member may vote on behalf of the Board or Council at any such meeting.
3. **Powers and Duties of the Executive Board.** The Executive Board shall:
 - a. **Adopt a Strategic Plan.** Adopt a strategic plan for the CACVB that is consistent with the purposes of the CACVB.
 - b. **Adopt By-laws.** Adopt by-laws, which shall include procedures and rules for electing a chair, a vice-chair, the conduct of its meetings, and regulating the business of the Executive Board.
 - c. **Adopt Policies and Plans.** Adopt any policies or plans consistent with the purposes of the CACVB and that may provide direction to the CACVB.
 - d. **Marketing Strategies, Performance Measures, and Indicators.** Approve general marketing strategies and programs, and establish performance measures and indicators.
 - e. **Hold Meetings; Quorum; Voting.** Hold a regular meeting at least once every two months. Each meeting shall be conducted in compliance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). Four voting members of the Executive Board physically present at the meeting shall constitute a quorum. The Executive Board shall act only by a majority vote of those voting members present and voting at a lawfully held meeting.
 - f. **Adopt a Budget.** Adopt a budget for the CACVB's operations and activities each fiscal year.
 - g. **Contracts.** Acting through its Executive Director, arrange or contract for (in the name of the CACVB) the furnishing by any person or company, public or private, of goods, services, privileges, works or facilities for and in connection with the scope of Section 2 of this Agreement, above and the administrative operations of the CACVB and its offices. The contracts may include any contracts for consulting services related to tourism marketing and to promoting the County, the City, and the region.
 - h. **Appoint the Executive Director; Performance; Termination.** The Executive Board shall appoint the Executive Director, who shall serve at the pleasure of the Executive Board, and evaluate the Executive Director's performance each year. If the CACVB does not have an Executive Director or an interim Executive Director on July 1, 2018, until the Executive Board appoints an interim or permanent Executive Director, the County shall provide an employee currently on its payroll to serve as an interim Executive Director for the CACVB, commencing July 1, 2018 and continuing only until such time as the newly constituted Executive Board has appointed an interim or permanent Executive Director.
 - i. **Offices.** The CACVB shall provide regular staffed visitor services at one location within the City of Charlottesville and one location within the County of Albemarle. Additional locations may be approved by the Executive Board. The Executive Board shall approve the location and terms and conditions for purchasing or leasing any CACVB office(s), and may, by recorded vote or resolution, authorize the Executive Director to execute any required instrument pertaining thereto.
 - j. **Official Seal.** Establish and maintain an official seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it, or in any other manner reproducing it.

B. Advisory Board. A seven-member Advisory Board is hereby established, and its composition and powers and duties are as follows:

1. **Composition.** The initial membership of the Advisory Board shall be composed of those members of the Management Board appointed pursuant to the July 1, 2004 Agreement and whose terms have not expired as of June 30, 2018. The initial Advisory Board members shall continue to serve as members of the Advisory Board until their terms expire under their appointment (the "Holdover Term"). Thereafter, the Executive Board shall appoint each member to the Advisory Board as provided in subsection 3(B)(2), as each Holdover Term expires.
2. **Appointments to the Advisory Board.** The Executive Board shall appoint persons to serve on the seven-member Advisory Board as follows:
 - a. **Qualifications.** Any person appointed to the Advisory Board shall have experience or expertise in the local tourism industry ("stakeholders").
 - b. **Terms and Term Limits.** Each appointment to the Advisory Board, other than to fill a vacancy during an appointee's term, shall be for a two-year term. No person may be appointed to more than four consecutive two-year terms in an appointed seat, exclusive of time served in the unexpired term of another.
 - c. **Filling a Vacancy.** The Executive Board may fill a vacancy according to procedures set forth within its duly adopted bylaws and procedures. An appointment to fill a vacancy arising during an unexpired appointee's term shall be only for the remainder of the unexpired term. In making appointments to the Advisory Board, the Executive Board shall ensure that the Advisory Board always contains at least three (3) County stakeholders and at least three (3) City stakeholders.
 - d. **Holdover.** Any member of the Advisory Board whose term expires may continue to serve on the Advisory Board until a successor is appointed.
3. **Powers and Duties of the Advisory Board.** The Advisory Board has the following powers and duties:
 - a. **Meetings; Quorum; Voting.** The Advisory Board shall hold a regular meeting at least once every two months. Each meeting shall be conducted in compliance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). Four members of the Advisory Board physically present at the meeting shall constitute a quorum. The Advisory Board shall act only by a majority vote of those members present and voting at a lawfully held meeting.
 - b. **Advisor to the Executive Board.** The Advisory Board shall serve as an advisor to the Executive Board. This duty includes, but is not limited to, making recommendations to the Executive Board pertaining to marketing strategies and performance measures and performance indicators.
 - c. **Reports.** Prepare and provide reports to the Executive Board pertaining to matters within the scope of Section 2 of this Agreement.
 - d. **Committees.** Establish committees to research and provide reports to the Advisory Board on issues pertaining to promoting the resources and advantages of the County, the City, and the region.

C. Executive Director. The position of Executive Director is hereby established. The powers and duties of the Executive Director are as follows:

1. **Promotion.** Promote the resources and advantages of the County, the City, and the region pursuant to the terms and conditions of this Agreement, the Strategic Plan, and other policies and plans adopted by the Executive Board within the scope of Section 2 of this Agreement, subject to the following:
 - a. **Services Provided Until Executive Board Directs Otherwise.** Beginning July 1, 2018, and until the Executive Board directs otherwise, the Executive Director and the persons hired to provide services for the CACVB shall provide the services identified in **Attachment A**, incorporated by reference herein.
 - b. **Services Identified by the Executive Board to be Provided.** When the Executive Board identifies different or additional services to be provided by the CACVB, the Executive Director and the persons hired to provide services for the CACVB shall provide those services. The different or additional services may include, but are not limited to, expanding destination packages focusing on the arts, wineries, breweries, and distilleries; promoting heritage and cultural tourism and including this area's African-American heritage; promoting agritourism; promoting outdoor recreational tourism for activities such as hiking, bicycling, kayaking, and canoeing; and developing and promoting events and activities related to the arts, local resources, and local businesses.
2. **Budgeting.** Recommend an annual budget to the Executive Board.
3. **Contracting.** Execute contracts on behalf of the CACVB; perform the duties of purchasing officer on behalf of the Executive Committee, subject to compliance with Albemarle County procurement ordinances and procedures. The Executive Director shall procure all goods and services in compliance with the County's procurement laws and procedures, or may delegate procurement responsibilities to the County's purchasing agent.
4. **Reports.** The Executive Director shall provide to the Executive Board any reports required by this Agreement or requested by the Executive Board.
5. **Distribute the Budget and Provide a Balance Sheet.** The Executive Director shall provide the CACVB's adopted annual budget to the County and the City and a balance sheet showing the CACVB's revenues and expenditures for the prior fiscal year and the fund balance, if any, from the prior fiscal year. The budget and the balance sheet shall be provided by December 31 each year.
6. **Employees.** The Executive Director shall recruit, hire, and manage persons to be employed to perform services for the CACVB, subject to Section 8 of this Agreement.

4. Funding the CACVB.

The CACVB shall be funded as follows:

- A. **Funding Cycle.** The County and the City agree to fund the activities and responsibilities of the CACVB during each Fiscal Year (July 1 through June 30 of each calendar year) in which this Agreement remains in effect, beginning with the Parties' Fiscal Year 2019.
- B. **Funding Levels.** Subject to Subsection 4(F), the County and the City shall provide funding for the CACVB in each Fiscal Year in an amount equal to 30 percent of its Transient Occupancy Tax revenues collected by it in the most recent Fiscal Year ("Actuals"). This specified percentage and obligation is based on, and specifically limited to, a Transient Occupancy Tax of five percent in each locality. If either the County or the City enacts a Transient Occupancy Tax greater than five percent, that Party's funding obligation under the formula in this subsection is not changed by the increase in the tax rate for the Transient Occupancy Tax.
- C. **Payments to the Fiscal Agent.** Annual funding provided pursuant to Subsection 4(B) shall be delivered by the Party that is not the Fiscal Agent to the Party that is the Fiscal Agent in equal quarterly payments, payable on July 1, October 1, January 1, and April 1 each year, due upon receipt of an invoice from the Fiscal Agent.
- D. **Budget.** The budget prepared and recommended by the Executive Director, shall be presented to the Executive Board, and the recommended budget shall use the Actuals provided by the County and the City and referenced in Subsection 4(B), and any other revenue sources. Following receipt of a recommended budget from the Executive Director, the Executive Board shall take action to approve an annual budget, no later than May 1 each calendar year.
- E. **Documenting Costs.** All costs incurred and expenditures made by the CACVB in the performance of its obligations under this Agreement shall be supported by payrolls, time records, invoices, purchase orders, contracts, or vouchers, and other documentation satisfactory to the County and the City, evidencing in proper detail the nature and propriety of the costs. Records shall be maintained in accordance with Virginia law. Upon request by either the County or the City, the Executive Director shall allow City or County officials to inspect the documentation and records pertaining in whole or in part to this Agreement, or the Executive Director may, if acceptable to the requesting party, provide reports summarizing information within CACVB's records.
- F. **Appropriations.** Notwithstanding any other provisions of this Agreement, the County's and the City's obligation to fund the CACVB is expressly contingent upon the availability of public funds derived from Transient Occupancy Tax revenues and the annual appropriations of those funds thereof by the Parties. The City's appropriations of funds for the promotion and advertisement of the City are and shall be further subject to the provisions of Section 21 of the City's Charter.

5. Permitted and Prohibited Uses of Funds, Goods, and Services by the CACVB.

The CACVB shall expend revenues and use its funds, goods, and services only as follows:

- A. **Purposes for Which Tax Revenues May be Spent.** Revenues appropriated by the County and the City to the CACVB shall be expended only for the purposes for which their respective Transient Occupancy Tax revenues may be spent, as may be governed by state enabling legislation, the City's charter, and local ordinances.
- B. **Prohibited Use of Funds, Goods, and Services for Political Purposes.** The CACVB shall not expend its funds, use its materials or property, or provide services, either directly or indirectly, for any partisan political activity, to further the election of, or to defeat, any candidate for public office.

6. Duration of this Agreement; Termination.

This Agreement shall be effective on July 1, 2018 and remain in effect until it is terminated by the Parties, or either of them, as follows:

- A. **Termination by One Party.** Either the County or the City may terminate this Agreement by giving at least six months' written notice to the other Party.
- B. **Termination by Mutual Agreement.** The County and the City may mutually agree to terminate this Agreement under any terms and conditions they agree to.
- C. **Termination by Non-appropriation.** If either the County or the City fails to appropriate funds in the amount required to support its obligations under this Agreement for a subsequent fiscal year, then this Agreement shall automatically terminate at the end of the then-current fiscal year.

7. Performance.

The performance of the CACVB shall be measured as follows:

- A. **Until New Performance Measures and Performance Indicators are Adopted.** From July 1, 2018, until the Executive Board adopts new performance measures and performance indicators, the CACVB shall:
 - 1. **Return on Investment.** Meet a return on investment ratio of 7:1 annually that is based on seven dollars of total direct visitor expenditures for every one dollar of funding provided to the CACVB by the County and the City pursuant to the formula in Attachment A.
 - 2. **Performance Measures.** Measure performance using the specific measures in Attachment A.
 - 3. **Performance Indicators.** Track the performance indicators identified in Attachment A.
- B. **Adopted Performance Measures and Performance Indicators.** When the Executive Board adopts a new required return on investment, new performance measures, and new requirements to track performance indicators, the CACVB shall meet and perform those new measures and requirements.

- C. **Audits.** The County and the City may, at their option, request an independent audit of the CACVB's books and records. The cost of the audit shall be shared equally by the County and the City.

8. **Fiscal Agent Designation; Services.**

The County and the City will provide the following fiscal services for the CACVB:

- A. **Fiscal Agent.** The City will continue to serve as Fiscal Agent for the CACVB through December 31, 2018. Effective January 1, 2019, the County shall serve as Fiscal Agent for the CACVB. The Fiscal Agent shall be entitled to a fee of two percent of the Actuals referenced in Section 4(B) as compensation for acting as Fiscal Agent. This fee may be deducted from the Fiscal Agent's funding contribution pursuant to Section 4 each year.
- B. **Insurance.** The County will provide liability insurance coverage to the CACVB.
- C. **Legal Services.** The City Attorney will continue to provide legal services to the CACVB through December 31, 2018. Commencing on January 1, 2019, the County Attorney shall provide legal services to the CACVB, provided that representation does not create a conflict of interest under any rules of professional responsibility or other ethical rules of conduct. In the event any such conflict arises, the County Attorney shall so advise the Executive Board, so that the Executive Board may make necessary arrangements to obtain legal services. If the County Attorney anticipates any such conflict(s), he shall advise the Executive Board prior to January 1, 2019.
- D. **Other Services.** The County shall act as the CACVB's accounting and disbursing office; provide personnel administration services; maintain personnel and payroll records; provide information technology services; provide procurement services and maintain purchasing accounts and monthly statements; and contract for annual audits. Personnel administration shall include the matters referenced in paragraph E, following below.
- E. **Personnel Administration.** The employment of the Executive Director and any other persons hired to perform services for the CACVB are subject to the following:
1. **County Employees.** Any Executive Director or other person hired on or after July 1, 2018 to perform services for the CACVB shall be hired as an employee within the County's personnel and payroll systems.
 - a. **Transition of Employees Hired Prior to July 1, 2018.** Effective January 1, 2019, or as soon thereafter as the County and the City have created and funded an Employee Transition Plan, any person who was hired prior to July 1, 2018 to perform services for the CACVB shall be transitioned to become an employee of the County and shall be classified within the County's pay system and shall be paid in accordance with the County's payroll system and policies and its personnel policies. Until January 1, 2019, all such employees shall remain within the City's personnel/payroll system.
 - b. **Pay and Benefits for Transitioning Employees.** Within their Employee Transition Plan, the City and the County shall provide benefits and funding, as necessary to assure, to the fullest extent practicable, that no employee will lose pay or retirement benefits as a result of making the transition from City to County employment. With respect to retirement benefits, it is the intention of the Parties to keep each person transitioning from City to County employment whole, and to ensure that they neither lose retirement credit for time employed nor monetary contributions made to the City's retirement plan.
 2. **Duty Owed to Both the County and the City.** The Executive Director and any other persons hired to perform services for the CACVB owe a duty of good faith and trust to the CACVB itself as well as to both the County and the City as the localities which provide public funding for the CACVB.
- F. **Sooner Transfer of Fiscal Agency.** Notwithstanding the January 1, 2019 date for fiscal agency to transfer from the City to the County as provided in this section, fiscal agency may transfer sooner if the County and the City have created and funded the Employee Transition Plan as provided in subsections 8(E)(1)(a) and (b) and the County and the City are otherwise prepared for fiscal agency to transfer.

9. **Disposition of Property Upon Termination or Partial Termination.**

Upon the expiration or earlier termination of this Agreement, all personal property of the CACVB shall be and remain the joint property of the County and the City for disposition, and the proceeds of disposition shall be pro-rated between the County and the City in accordance with the ratio of the amounts provided by each of them to the CACVB: (i) as capital contributions since 1979; and (ii) as contributions of operating funds during the 10 years preceding the date of termination, as compared with the aggregated contributions of the County and the City during that same 10-year period.

10. **Liability.**

Any liability for damages to third parties arising out of or in connection with the operations and activities of the CACVB and any persons employed to provide services for the CACVB shall be shared jointly by the County and the City, to the extent that any liability is not covered by funding within the CACVB's budget or liability insurance proceeds, and only to the extent that the County and the City may be held liable for damages under the laws of the Commonwealth of Virginia.

11. **Miscellaneous.**

- A. **Ownership of Materials; Copyright; Use.** Any materials, in any format, produced in whole or in part pursuant to this Agreement are subject to the following:
1. **Ownership.** The materials are jointly owned by the County and the City.

2. **Copyright.** The materials are copyrightable only by the County and the City. Neither the CACVB, the Executive Board, nor any of its members, the Advisory Board, nor any of its members, the Executive Director, any CACVB employee, nor any other person or entity, within the United States or elsewhere, may copyright any materials, in any format, produced in whole or in part pursuant to this Agreement.
3. **Use.** The County and the City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared by or for the CACVB pursuant to this Agreement.
- B. **Amendments.** This Agreement may be amended in writing as mutually agreed by the County and the City.
- C. **Assignment.** The CACVB shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of the County and the City.
- D. **Severability.** If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect the validity or enforceability of any other part of this Agreement.
- E. **Entire Agreement.** This Agreement contains the entire agreement of the County and the City and supersedes any and all other prior or contemporaneous agreements or understandings, whether verbal or written, with respect to the matters that are the subject of this Agreement.
- F. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia.
- G. **Approval Required.** This Agreement shall not become effective or binding upon the County and the City until it is approved by ordinances of the Charlottesville City Council and the Albemarle County Board of Supervisors.

IN WITNESS WHEREOF, and as authorized by duly adopted ordinances of the Albemarle County Board of Supervisors and the Charlottesville City Council, the County and the City each hereby execute this Agreement as of the date first above written, by and through their respective authorized agents or officials:

CITY OF CHARLOTTESVILLE, VIRGINIA

By: Maurice Jones
City Manager

Approved as to Form: L. Fabiano
City Attorney

COUNTY OF ALBEMARLE, VIRGINIA

By: Jeff B. Kuhl
County Executive

Approved as to Form: Jeff B. Kuhl
County Attorney

Attachment A

A. Services

The CACVB shall perform the following services for the benefit of the County and the City in a satisfactory and proper manner, as they determine:

1. **Meeting Booking and Sales.** The CACVB shall respond to inquiries, provide information to the public, and as part of its convention marketing efforts, shall aggressively promote the bookings and sales of sites within the City and the County for regional, national, and international conventions, trade shows, and corporate meetings.
2. **Convention Services.** The CACVB shall provide customary convention services to those clients who have booked their convention or meeting through the CACVB. All other conventions or meetings will be serviced on an availability basis. The particular services to be provided depend upon the agreement between the CACVB and the meeting planner at the time of booking and other requests, which may be made in the course of servicing the convention or meeting. Customary convention services may include but are not limited to the following:
 - a. Assistance in promoting attendance.
 - b. Visitors guides and appropriate literature.
 - c. Shuttle bus coordination.
 - d. Attraction and itinerary scheduling.
 - e. Dining and restaurant scheduling.
 - f. Bonded registration.
 - g. Tourism information tables.
3. **Tourism.** The CACVB shall promote tourism within the County and the City. Strategies may include but are not limited to: visitor information services; attendance at industry and travel/trade, consumer, planner, hotel and attraction conferences and meetings; and responses to phone inquiries, advertising, public relations, promotions, and packaging. The CACVB will oversee the operation and maintenance of at least one visitor center within the City and at least one visitor center in the County.

4. **Reports.** The CACVB shall advise the County and the City advised of its activities and accomplishments, and shall deliver the following reports:
- a. The CACVB shall provide to the Parties an annual marketing/operational plan (“Marketing Plan”) submitted annually on or before December 31 each year, which includes at a minimum: situation analysis, measurable expected outcomes, data driven rationale for strategies, and budget reflecting strategies.
 - b. The CACVB shall provide to the Parties quarterly reports of the following: (i) program performance, including a comparison of the CACVB’s performance during the quarter with the performance goals set forth in sections B, C and D; and (ii) tracking report of the performance measures listed in section C; and (iii) an expenditures report, accounting for dollars spent for marketing, promotion, publicity, and advertisement, shown by category. The quarterly performance reports shall be submitted to the Parties within 30 days after the end of each quarter that this Agreement is in effect.
 - c. On or before September 1 each year, the CACVB shall provide to the Parties an annual report of the outcome of the contract performance measures for the previous year. The Parties will review the annual report no later than October 1 and determine compliance with the return on investment. The Parties will provide these findings to the CACVB.
 - d. When requested by either or both Parties, the CACVB shall provide statements, records, reports, data, and any other information, pertaining to matters covered by this Agreement.

B. Calculating “Direct Visitor Expenditures”

The term “direct visitor expenditures” shall refer to the following sum:

Group room revenue [(Group Room Nights Booked) x (ADR*)] plus [(# of delegates/ visitors) x (# days spent in City/ County) x (ADE**)]	\$ _____
Leisure inquiries (consumer and trade) [(room nights generated) x (ADR*)] plus (# of visitors) x (# days spent in City/County) x (ADE**)]	\$ _____
Direct Visitor Expenditures	\$ _____
Off Season Adjustment Add 20% to direct expenditures in off-season (off-season shall be November, December, January and February of each year).	\$ _____
Total Direct Visitor Expenditures	\$ _____

*ADR = Average Daily Rate (calculated annually by CACVB based on research)
**ADE = Average Daily Expenditure (excluding room rate) (calculated annually by CACVB, based on research, excluding room rate)

C. Performance Measures

Performance Measures shall be utilized to indicate the performance of the CACVB. These measures will be used to calculate the total economic expenditure for inclusion in the formula set forth within paragraph A, above:

Performance Measures	Tracking Mechanisms	Target
1. ROI (total direct expenditures ÷ \$ invested)	ROI Formula	7:1
2. Room nights booked for meeting groups	CACVB tracking, Through Sales Department Software programs	Determined by CACVB via marketing plan Supported by research/rationale
3. Group tour definite bookings	CACVB tracking	Determined by CACVB via marketing plan
4. Leisure inquiries converted (consumer and trade)	Conversion Analysis	
5. Destination awareness (trade and consumer)	Contract with outside resource	Supported by research/rationale
6. Coop Resources Raised (in kind, marketing, alliances)	CACVB tracking	Equal to 25% of total marketing budget
7. Media Coverage (scope, demographics, reach)	Clipping Service	Determined by CACVB
8. Overhead expenditures*	CACVB budget	Reduce by 5% annually toward goal of <30% of total budget

*calculations include Finance and Administrative divisions plus support costs for the Executive division

D. Performance Indicators

CACVB will track certain performance indicators to monitor the performance of the local tourism industry, using the method described below.

Performance Indicators	Tracking Mechanisms
1. Economic Impact of Tourism (Annual basis)	Visitor Profile and VTC Statistics
2. Transient Occupancy Tax Collections	City and County Records
3. Occupancy	Smith Travel Research Reports
4. ADR	Smith Travel Research Reports
5. Length of Stay (Annual basis)	Visitor Profile
6. Per-Person expenditure (Annual basis)	Visitor Profile
7. Attraction Attendance	Compilation from Industry Records

Agenda Item No. 22. **PUBLIC HEARING: Compensation of Board of Supervisors.** To receive comments on its intent to adopt an ordinance to amend Chapter 2, Administration, of the Albemarle County Code, to amend Section 2-202, Compensation of board of supervisors, to increase the compensation of the members of the Board of Supervisors by an inflation factor of 2% effective July 1, 2018 from \$16,265.00 per annum to \$16,590.00 per annum.
(Advertised in the Daily Progress on May 28 and June 4, 2018.)

Mr. Kamptner stated that the proposed ordinance would increase the salary of Supervisors by two percent, effective July 1, 2018, equivalent to \$325/year raising their compensation to \$16,590.

Ms. Mallek opened the public hearing.

Mr. Bucky Walsh, resident of White Hall District, addressed the Board. He explained that he opposes the motion to approve the ordinance, not because Supervisors do not deserve more money but because it does not accomplish the reasonable goal to compensate Supervisors fairly. He admitted that he was very fiscally conservative. He said that he has casually reviewed the amount of time Supervisors spend on their job and it was like a full-time job. The average County citizen cannot aspire to serve on the Board of Supervisors because they cannot afford to serve on the Board. He explained that he wants a Supervisor who was not motivated by the pay but by the spirit of public service and an interest in the community, who are not salaried Supervisors but citizen Supervisors. He suggested that the Supervisors conduct an analysis of how much time they spend on their duties and determine what a reasonable rate of compensation would be so that serving on the Board could be something any County resident could aspire to, regardless of their economic station. He said that one should not have to be an old, retired person to stand for this job.

Ms. McKeel said they need a variety of people on the Board, including young people.

There being no other persons coming forward to speak, Ms. Mallek closed the public hearing.

Ms. Palmer asked Mr. Kamptner to explain what would be involved to conduct an analysis of compensation. Mr. Kamptner responded that the Board was locked into the inflation rate under one procedure while a second allows them to decouple compensation from the inflation rate. He said that an ordinance would have to be adopted by a certain date prior to it becoming effective, and he offered to provide Supervisors with a memo that outlines the procedure.

Mr. Dill asked if there has ever been a study comparing Albemarle to other counties.

Ms. Palmer said they received comparative salaries and discussed this before, though there has not been Board support to make a change.

Ms. Mallek said VACO has this information.

Mr. Randolph reminded the Board that he voted against a pay increase for 2 consecutive years as he believes it was inappropriate for them to vote themselves a pay increase. He suggested that the Board task three former County Supervisors to a compensation committee that would make recommendations. That approach would take it out of the hands of current Supervisors.

Ms. McKeel responded that it would be Human Resources that would normally study compensation as it does with County staff.

Mr. Dill asked if a compensation increase could be set to take effect for a future Board.

Ms. Mallek said there would have to be an intervening election before it could take effect.

Ms. Palmer said that 3 Supervisors have to be up for election. She added that someone previously asked if Supervisors could decline to receive a pay increase that was passed by vote, and they were told this would be problematic.

Mr. Dill **moved** that the Board adopt the proposed Ordinance to amend the County Code 2-202 to increase the compensation of the members of the Board of Supervisors by an inflation factor of 2%, effective July 1, 2018, from \$16,255 to \$16,550 per year. The motion was **seconded** by Ms. Palmer.

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

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

Ms. McKeel and Ms. Palmer suggested that the previous email provided by the former County Attorney be forwarded to Board members.

Mr. Gallaway commented that if they were to establish a process to review compensation, the elected School Board should be included as their pay was even lower.

ORDINANCE NO. 18-2(3)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, ARTICLE 2, BOARD OF SUPERVISORS, 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 2, Administration, Article 2, Board of Supervisors, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained by amending Section 2-202, Compensation of the Board of Supervisors, as follows:

Chapter 2. Administration

Article 2. Board Of Supervisors

Sec. 2-202 Compensation of the Board of Supervisors.

The Board of Supervisors' compensation is as follows:

- A. *Salary.* The salary of each member is \$16,590 per year, effective July 1, 2018.
- B. *Stipend for the chairman.* In addition to the salary, the chairman shall receive an annual stipend of \$1,800.
- C. *Stipend for the vice-chairman.* In addition to the salary, the vice-chairman shall receive a stipend \$35 for each Board meeting chaired.

(6-13-84; 5-8-85; 5-14-86; 7-1-87; 7-6-88; 6-7-89; Ord. of 6-13-90; Ord. of 8-1-90; Ord. of 8-7-91; Ord. of 7-1-92; Ord. No. 95-2(1), 6-14-95; Ord. No. 98-2(1), 6-17-98; Code 1988, § 2-2.1; § 2-202, Ord. 98-A(1), 8-5-98; Ord. No. 99-2(1), 5-5-99; Ord. No. 00-2(1), 6-7-00; Ord. 01-2(2), 6-6-01; Ord. 02-2(2), 5-1-02; Ord. 03-2(1), 6-4-03; Ord. 04-2(1), 6-2-04; Ord. 05-2(1), 6-1-05; Ord. 06-2(1), 6-7-06; Ord. 07-2(1), 6-6-07; Ord. 08-2(2), 6-4-08; Ord. 11-2(1), 5-4-11; Ord. 12-2(1), 5-2-12; Ord. 13-2(1), 5-1-13; Ord. 14-2(1), 6-4-14; Ord. 15-2(1), 6-3-15; Ord. 16-2(1), 6-1-16; Ord. 17-2(2), 6-7-17; Ord. 18-2(2), 4-11-18)

State law reference -- Va. Code §§ 15.2-1414.1, 15.2-1414.3.

This ordinance shall be effective on and after July 1, 2018.

Agenda Item No. 23. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked Mr. Richardson if it would be a viable option to have ongoing work sessions to be attended by representatives from the Planning Commission, Board, and staff to review the issue of water consumption. She offered Mr. Richardson some time to get back to her on this.

Agenda Item No. 24. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said he would provide an update on the Equal Justice Initiative, reporting that he, Ms. Mallek, Ms. McKeel, and a staff member attended a meeting on June 8, 2018 at Woods Crossing with representatives of the initiative and staff of Farmington Country Club to discuss the memorialization scheduled for July 7, 2018. The event organizers plan to appear before the Board on July 5, 2018 to talk about a resolution for the memorialization. He said they have requested logistical support for the July 7 event and would meet with public safety officials this week to discuss it. Mr. Richardson said that organizers expect to have the participation of County officials, and he would meet with them on Thursday, June 14, 2018 and report back to the Board.

He reminded them that there would be a community pilgrimage to the National Memorial For Peace and Justice in Montgomery, AL. He stated that County staff are in discussion with representatives of the library staff about having several librarians and teachers participate. He expressed support for providing some small but meaningful financial support for the trip, for which he said there are funds available in the County administrative budget. He estimated that the cost would be less than \$15,000 and the County would benefit from educational and exhibit opportunities in the schools and libraries. There will also be an open opportunity for some County staff and/or Board members to participate in the Montgomery trip. He pointed out that teachers are off for the summer and could earn continuing education credits through their participation. He noted that if any Supervisors wish to participate, it would be a six-day commitment.

Ms. Mallek asked that Mr. Richardson keep in mind that the teachers and librarians might have a preference about the 6-day versus the 2 or 3 day because they may also want to do quick visits in six other places.

Mr. Richardson said that Drs. Schmidt and Douglas, the event organizers, would appear before the Board on July 5, 2018 and during the interim he would update the Board through email.

Agenda Item No. 25. Closed Meeting. *(if needed)*

There was no need for an additional closed meeting.

Agenda Item No. 26. Adjourn to July 5, 2018, 1:00 p.m., Lane Auditorium.

At 10:35 p.m., Ms. Mallek adjourned the meeting to July 5, 2018 1:00 p.m. Lane Auditorium.

Chairman

Approved by Board
Date 05/01/2019 Initials CKB