

A regular day meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 5, 2018, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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 1:04 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. Pledge of Allegiance.

Agenda Item No. 3. Moment of Silence.

Ms. Mallek led the Board in a moment of silence. She asked everyone to think of Former President George Herbert Walker Bush and his contributions. She said that although she did not always agree with him, he was a perfect example of her father's partisanship as someone with very strong convictions who did not turn the other way when someone was in need and relished the thought of an active discussion and agree to disagree. She commented that President Bush always fought for the middle and she hopes that everyone could be inspired by his contribution.

Agenda Item No. 4. Adoption of Final Agenda.

Ms. McKeel asked that the Board have a brief discussion at the end of the meeting about the issue of illegal signage and potentially add this as a future agenda item and work with City of Charlottesville, as they need community cooperation and teamwork to address this issue. She asked that this item be added to "From the Board: Committee Reports and Matters Not Listed on the Agenda".

Ms. Mallek asked the Board's permission to add a discussion at the end of the meeting about funds from the pipeline settlement that are being held for spending on Biscuit Run planning. She emphasized that so much has changed over the past year that it was now difficult to face spending this money. She reminded the Board that 12 months ago, arrangements were made to accept the Biscuit Run land and some state money to begin opening the park to the public, at which time she was overjoyed. She noted that they were assured that strong environmental protections would be in place for pipeline construction, particularly at the stream-by-stream permit process, to be managed by the Department of Environmental Quality.

Ms. Mallek stated that they were all assured that decent and fair processes would protect landowners whose land was sought, identified by survey and purchased through the court, if sellers were unwilling to sell. She said they were told that the gas to be transported through the pipeline was essential to the economic growth of the state. None of these promises have been kept, the stream permits have been a travesty and were replaced with general permits that do not protect individual streams and wetlands along the route, and landowners have been harassed and pursued on their own property by state and county police at the direction of the state in assisting a private company. She said that destruction of property has begun without completion of the court processes for ownership.

Ms. Mallek expressed concern for residents of Union Hill in Buckingham County, whose community would be ruined with the placement of a compressor station in a location chosen because its residents have few means and little power, which she described as a social and environmental issue. She noted that the Governor has replaced Air (Pollution Control) Board members as a way to silence them before a crucial vote on the compressor station, which feels like betrayal. Four generations of her family have worked on their farm since 1959 and it would feel like the end of the world if they were to lose it, noting that some who have lost their land have held it for over 150 years. She said this money was green washing the pipeline and bribing residents to forget about neighbors who bear the brunt of the power of Dominion with the compliance of state politicians. She asked that this item be added to "From the Board: Committee Reports and Matters Not Listed on the Agenda".

Mr. Dill expressed his interest in holding this discussion.

Mr. Gallaway **moved** that the Board approve the agenda, as amended. 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.

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

Ms. Mallek introduced the presiding security officers, Officer Brian Miller and First Sgt. Matthew Powers, and County staff around the dais.

Mr. Randolph recognized Emily and Hannah Roper, twin sisters from Earlysville, for winning awards at the Virginia Folk Music Association 2018 competition. He said that Hannah won first place for female vocalist and third place for guitarist, while Emily took second place for mandolin.

Mr. Randolph mentioned the spread of the Asian long-horned tick from eastern and central Asia, Russia, the Far East, the Korean peninsula, Australia, and New Zealand. The female tick was able to produce over 2,000 eggs at a time without mating, and the disease was vector-borne and would pose a significant risk to cattle, sheep, horses, and other animals; and can successfully kill a large mature cow in a short period of time. The budget for the Centers for Disease Control was cut from \$7.17 billion in FY16 to \$5.6 billion in FY19. There was less federal capability to keep an eye on this epidemic. He noted that he has experienced tickborne illnesses twice and his first wife died as a result of four tick-related illnesses, so this was not something they want to lose sight of.

Mr. Randolph announced that he attended a meeting of the Association of Virginia Planning District Commissions on Friday, at which he learned of Virginia Housing Development Authority's "Granting Freedom" program, which offers grant assistance in an amount up to \$6,000 to those with a service-connected disability. He noted that they also offer an accessibility grant for the construction of ramps, railings, etc., for those who live in their own homes.

Mr. Randolph announced that the previous night he and Albemarle County Fire and Rescue Chief Dan Eggleston, Mr. Doug Walker, Mr. David Puckett and Mr. John Oprandy attended a facilitated discussion at Scottsville Volunteer Rescue with its board of directors and members on the issue of a staffing shortage for EMS and the ability to assure reasonable regional rescue coverage. He said that either he or one of the other attendees would report to the Board at a future meeting on the progress of the rescue squad towards meeting its goals and objectives and fulfilling its mission.

Mr. Randolph noted that although White Hall Magisterial District usually has the most permits and certificates of occupancies issued, it was the Scottsville District that had the most occupancy permits issued in the third quarter of 2018, representing 39% of the total number of units. He emphasized that he did not bring this up to laud it but to caution about added enrollment at Cale and Stone Robinson Elementary Schools.

Ms. McKeel announced that she learned from Mr. Jimmy Holland, chairman of the nonprofit Burley Varsity Club, that the club plans to apply for historic landmark designation of Burley High School. She described this development as being exciting and expects that at some point they would seek Board support. She asked that the Clerk distribute a copy of the letter to Supervisors and noted that hundreds of people recently attended the unveiling of the school's alumni wall.

Ms. Mallek encouraged Supervisors to volunteer to serve on a VACo committee, as it was a great way to improve what they could do for citizens.

Ms. Mallek asked Mr. Randolph how people could obtain information about the VHDA programs he just mentioned. Mr. Randolph responded that he would pass along this information to Mr. Richardson.

Ms. Mallek wondered if staff could put together a map of County growth hot spots.

Mr. Randolph remarked that Avon Street Extended and 5th Street represented the areas where growth was occurring.

Ms. McKeel added that the Rio area was also growing.

Agenda Item No. 6a. Proclamations and Recognitions: Virginia Green Government Challenge.

Ms. Mallek announced that Albemarle County has been awarded platinum-level certification in the 2018 Green Government Challenge, sponsored by Virginia Association of Counties and Virginia Municipal League's Go Green environmental initiative, begun in 2007. She noted that this was the 11th year the County has been awarded a certificate in the challenge, which she described as a friendly competition among local governments to encourage the implementation of specific environmental policies and practical actions to reduce carbon emissions generated by local government and the broader community. She said that cities, towns, and counties could become certified, many of these actions could save money, and the County saved \$50,000 per year from improvements made to the County Office Building.

Ms. Mallek said that local governments earn green points by implementing or adopting up to 97 action items divided into nine categories, including renewable energy and waste management. The County earned 180 green points in areas such as efficiency, land use, transportation, environmental stewardship, waste management, and community involvement. She said the County earned 25 innovation

credits for initiatives such as support for the Local Energy Alliance Program, implementation of a pest management program to reduce chemical use, and implementation of a source-separated recycling program. She thanked Mr. Andy Lowe and his staff for representing the County so well.

Mr. Andy Lowe, Environmental Compliance Officer, accepted the award and thanked the Board for its support. He noted that competitions such as this are meant to highlight areas in which communities are working and trying their best. He noted that the competition has expanded from five to nine categories and continues to evolve. It does not just involve Facilities and Environmental Services but also Community Development, Parks and Recreation, and the community as a whole.

Ms. Mallek remarked that she hopes they could revisit and discuss this in 2019 to have a fuller understanding of the integrated pest management system and safer chemical policy. Citizens relies on the County to do a certain level and they want to make sure they understand where the Board was and how things could be improved.

Mr. Lowe replied that LEAP, IPM, and source-separated recycling were all big-ticket items.

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

Mr. Sean Tubbs, Piedmont Environmental Council, thanked the Board for its decision to move forward with the jointly located General District Court, which he hopes would set the tone for City-County relations going forward. He applauded the Board for its due diligence and said that PEC was pleased with the outcome. He said that in the future, the County could take control of many different things, especially in the urban area, and he looks forward to today's discussion on drainage infrastructure and the work of Mr. Greg Harper. He noted that this issue was part of the Board's Strategic Action Plan, as was the Climate Action Plan, additional funding for urban parks and greenways, and the courts. He said he looks forward to the future when Rio/29 was transformed into something that befits Albemarle in the 21st Century.

Mr. Tubbs brought the matter of the Board of Zoning Appeals deadlocked vote on the case of Roslyn Farm zoning clearance appeal. He noted that he sent a letter about this to the Board and remarked that it was time to revisit the Zoning Ordinance to have a notification procedure so that abutting landowners would be aware of a pending decision. He noted that the farm-to-table definition was another matter he would like to see addressed.

Ms. Wendy Hayslett, resident of Hampton, Virginia, said she would like to address the matter of the confederate statue in front of the courthouse. She noted that she was the great-great granddaughter of a confederate soldier. They represent the love, honor, and respect of the boys who wore grey, including her family. The statues and monuments were put up by widows, mothers, sisters, aunts, daughters, and wives of confederate soldiers who lost a loved one; it was not about white supremacy. President Abraham Lincoln asked General Robert E. Lee to lead an army but he chose to help defend the south, along with his three sons. She emphasized that 206 U.S. Army and 300 U.S. Navy officers resigned and fought for the south and that the lives of over 300,000 boys and men were lost on the battlefield. Some soldiers were boys as young as eight years old and it was a war like no other and a part of American history, and she does not like to see people disrespect the dead. She noted that her husband's great-great uncle, Andrew Hayslett, was a member of the Virginia 58th Infantry and served as a doctor on the battlefield, and members of her family served in the Virginia 27th and 29th Infantry Units. She said she taught her kids to celebrate who they were and who they are now. She asked that should the statue come down, it be brought to a Shenandoah Valley Battlefield. She presented the Board with a petition signed by 129 people asking that the statue be preserved and expressed concern that someone would destroy the statue.

Mr. Peter Krebs addressed the Board and said he would comment on the budget. He expressed support for the Board's decision on the courthouse and remarked that it was an example of something that simultaneously preserves the rural area and the historic character of downtown Charlottesville. He spoke about the importance of off-street connections that people could use to get to stores, schools, and recreation, which unite the community, improve health, foster economic growth, reduce congestion and stress, mitigate environmental and social impacts of growth, and make the community desirable and prosperous for all. He noted that the health district's "Map to Health" assessment recommends ways to have a healthier community and lists four goals, all of which point towards better connectivity. He remarked that it was indisputable that this was an important area for the County to address and was among the highest priorities of residents. Mr. Krebs reminded the Board that last summer they held a discussion about using local spending for active transportation through a bond referendum and it was said this should be a part of the regular budget process. He said now was the time for the Board to demonstrate that it was serious. He suggested that the Board consider a liquid pool for grant matches and noted that the greatest needs seems to be at the County-City boundary as well as a link to Crozet from Rivanna Village and a need for more sidewalks in certain areas near Charlottesville. He thanked the Board for its good work.

Ms. Jalane Schmidt, resident of Charlottesville and Albemarle, addressed the Board. She said she was glad that the courts would remain downtown and expressed support for the Board's decision. Addressing the issue of confederate statues and the remarks made by Ms. Hayslett about the memories

and deaths of County residents who were honored by the statue, she reiterated that there was a place for these, such as at the UVA Confederate Cemetery, but they are not appropriate in front of a courthouse, which represents equal treatment under the rule of law. She noted that she sent a digital letter to the Board that has information from her research into the Johnny Reb statue and the understandings of those who endeavored to raise it. She remarked that some of the reasons pertained to wanting to erase the history of reconstruction and her letter shared some disturbing remarks made by speakers at the time. She pointed out that Dr. Caroline Janney, the new Director of the University of Virginia's Nau Center for Civil War History, specializes in the lady's memorial associations which came together to form the United Daughters of the Confederacy, which installed the statue and could speak on the history of the movement to install this particular statue.

Mr. Neil Williamson, of the Free Enterprise Forum, stated that the Board added an item related to activities on farms to its agenda. He said he attended yesterday's Board of Zoning Appeals meeting and noted the hard work that its members undertake to resolve difficult issues. He said he participated in the drafting of the ordinance that the Board endorsed. When talking about a zoning clearance for farm activities, his intention was to meet the terms of the ordinance without having to hire a lawyer, and the County said it wanted him to meet the terms of the ordinance and that it was a "yes" or "no" question. He said the idea of a special use permit for things that are normal and customary under state code was challenging.

Mr. Williamson stated that this case represents a true test of the County's 30-year philosophy of a hard edge between rural and development area and the idea of where and how those two meet. He noted that small area plans coming out now has the concept of transitional areas with tapering of density, and it may be time to reexamine the concept of tapering density in future discussions of the Comprehensive Plan. He said that when working through things for a zoning clearance, rather than a special use permit, they are very clear and deliberate as to what conditions need to be met and if they are met, permission was granted. He said that from the murmurings he has been hearing, they are starting to rewrite this and he wants to honor the idea of what could be done in the rural area to provide economic support for rural enterprises every day of the year.

Agenda Item No. 8. Consent Agenda.

Ms. McKeel **moved** that the Board approve the consent agenda as presented. 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. 8.1. FY 18 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 change to the FY 18 budget due to the appropriations itemized in Attachment A is \$73.06. 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) for local government and school projects and programs as described in Attachment A.

Appropriation #2018101	\$0.00
Source:	School CIP Fund*
	\$ 95,621.20

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

This request is to reconcile the Facilities and Environmental Services' Project Management Division (PMD) Internal Service Fund's FY 18 appropriated sources of revenues with the expenses incurred in FY 18.

PMD provides project management support for School, Stormwater, and General Government capital projects and for General Government projects that fall outside of the Capital budget, such as the Belvedere and Lewis and Clark projects or other administrative, non-designated CIP activities. PMD charges an hourly-based project management fee for its services to individual projects. An internal service fund was established for PMD in FY 13 to account for these expenditures and fees.

The FY 18 Adopted budget represented an initial estimate based on a projection of project management support and activities. In order to properly account for the FY 18 charges per activity and fund, this request is to appropriate \$95,621.20 of currently appropriated project management services funds from project to project within the School Division CIP fund.

Appropriation #2018102		\$73.06
Source:	Water Resources Fund fund balance	\$ 73.06

This request is to reconcile the FY 18 Debt Service funds by appropriating \$73.06 in Water Resources Fund fund balance to the General Government Debt Service Fund to to reflect actual expenditures.

By the above-recorded vote, the Board adopted the following Resolution to approve appropriations #2018102 and #2018102 for local government and school projects and programs as described:

**RESOLUTION TO APPROVE
ADDITIONAL FY 18 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2018101 and #2018102 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
2018101	4-9000-69000-464600-312366-6599	-21,316.00	SA2018101 Unplanned > Fac Develop Coordinator
2018101	4-9000-69983-466730-312366-6112	-73,816.75	SA2018101 Woodbrook > Fac Develop Coordinator
2018101	4-9000-69983-466732-312366-6599	55,061.79	SA2018101 Learning Space Modernization > Fac Develop Coordinator
2018101	4-9000-69985-466730-312366-6109	-488.45	SA2018101 Scottsville Elementary > Fac Develop Coordinator
2018101	4-9000-69985-466730-312366-6599	488.45	SA2018101 CIP Project > Fac Develop Coordinator
2018101	4-9000-69983-466731-312366-6599	40,070.96	SA2018101 School Security Referendum > Fac Develop Coordinator
2018102	3-9910-51000-351000-512050-9999	73.06	SA2018102 FY 18 Debt Service Reconciliation - #2
2018102	4-9910-95000-495000-920083-9999	73.06	SA2018102 FY 18 Debt Service Reconciliation - #2
2018102	4-1650-93010-493010-930229-9999	73.06	SA2018102 FY 18 Debt Service Reconciliation - #2
2018102	3-1650-51000-351000-510100-9999	73.06	SA2018102 FY 18 Debt Service Reconciliation - #2
TOTAL		292.24	

Item No. 8.2. FY 19 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 change to the FY19 budget due to the appropriations itemized in Attachment A is (\$27,246.29). 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 the appropriations for local government projects and programs as described in Attachment A.

Appropriation #2019049		\$0.00
Source:	Economic Opportunities Fund*	\$ 100,000.00

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

This request is to appropriate \$100,000.00 to the Economic Development Authority (EDA) pursuant to the Board of Supervisors' action at its September 12, 2018 meeting. This \$100,000.00 will be provided from the currently appropriated Economic Opportunities Fund to match the State of Virginia Jobs Investment Program (VJIP) grant program that will be governed by a performance agreement between WillowTree, the County and the EDA. An additional \$100,000.00 match will be provided from the existing EDA budget.

Appropriation #2019050		\$(27,246.29)
Source:	Economic Development Fund fund balance	\$ (27,246.29)

This request is to amend appropriation #2019021 approved by the Board of Supervisors at its August 1, 2018 meeting by decreasing the amount in the in Economic Development Fund fund balance by \$27,246.29 that was re-appropriated from FY 18 to FY 19. This appropriation will reconcile the budget for this fund based on the timing of expenditures that took place in FY 18.

Appropriation #2019051		\$0.00
Source:	Reserve for Contingencies*	\$ 64,000.00

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

This request is to appropriate \$64,000.00 from the Reserve for Contingencies to the Parks and Recreation Department for the following purposes:

- \$24,000.00 for the completion of a study for the Ivy Creek Natural Area entranceway. This study will allow the County to pursue public funding such as the State's Recreation Access Fund for further improvements.
- \$40,000.00 for monitoring, testing, and treating the Chris Greene public recreation lake for toxic algae to ensure the safety of the citizens swimming in the lake.

After approval, the FY 19 General Fund Reserve for Contingencies balance will be \$416,917.00. Of that amount, \$216,991.00 is for unanticipated expenses that may require ongoing funding and \$199,926.00 is for expenses that may require one-time funding.

Appropriation #2019052		\$0.00
Source:	Housing Fund Reserve*	\$ 325,000.00

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

This request is to appropriate \$325,000.00 from the Housing Fund Reserve to support the acquisition and renovation of Park's Edge Apartments by the Piedmont Housing Alliance (PHA) pursuant to the Board of Supervisors' action at its November 7, 2018 meeting. This funding will be reserved in the Housing Fund for PHA pending a determination of need through the Virginia Housing Development Authority's underwriting of the project.

Appropriation #2019053		\$0.00
Source:	Economic Investment Pool*	\$ 238,000.00

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

This request is to appropriate \$238,000.00 to the Economic Development Authority (EDA) pursuant to the Board of Supervisors' action at its November 14, 2018 meeting. This funding will be provided from the currently appropriated Economic Investment Pool and will be governed by a performance agreement between Perrone Robotics, the County and the EDA.

By the above-recorded vote, the Board adopted the following Resolution to approve appropriations #2019049, #2019050, #2019051, #2019052 and #2019053 for local government and school projects and programs as described:

**RESOLUTION TO APPROVE
ADDITIONAL FY 19 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2019049, #2019050, #2019051, #2019052, #2019053 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, 2019.

**COUNTY OF ALBEMARLE
APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2019049	4-1820-93010-493010-930222-1008	100,000.00	SA2019049 Transfer to EDA Fund (6850)
2019049	4-1820-99900-499000-999987-1008	-100,000.00	SA2019049 Econ Opp Fund to EDA for VJIP (9/12 BOS action)
2019049	3-6850-51000-351000-512000-9999	100,000.00	SA2019049 Transfer of Econ Opp Fund (from 1820)
2019049	4-6850-91095-491095-950029-1008	100,000.00	SA2019049 VJIP - Woolen Mills
2019050	3-1820-51000-351000-510100-1008	-27,246.29	SA2019050 Correction to #2019021 - Econ Dev Fund re-appropriation
2019050	4-1820-81050-481050-310000-1008	-27,246.29	SA2019050 Correction to #2019021 - Econ Dev Fund re-appropriation

2019051	4-1000-71011-471010-950529-7100	24,000.00	SA2019051 Ivy Creek Natural Area Entrance Way Study
2019051	4-1000-71012-471010-390000-1007	40,000.00	SA2019051 PR-Lake monitor/treat frm Rsrve Contg
2019051	4-1000-99900-499000-999990-9999	-64,000.00	SA2019051 Reserv for Conting: PR
2019052	4-1200-99900-499000-999999-1008	-325,000.00	SA2019052 Reserve to PHA for Parks Edgee
2019052	4-1200-89000-489000-563130-1008	325,000.00	SA2019052 Reserve to PHA for Parks Edgee
2019053	4-1820-93010-493010-930222-1008	238,000.00	SA2019053 Transfer to EDA Fund (6850)
2019053	4-1820-99900-499000-999954-1008	-238,000.00	SA2019053 Econ Invest Pool to EDA for Perrone (11/14 BOS action)
2019053	3-6850-51000-351000-512000-9999	238,000.00	SA2019053 Transfer from Econ Dev Fund (1820)
2019053	4-6850-91095-491095-950031-1008	238,000.00	SA2019053 Econ Invest Pool to EDA for Perrone (11/14 BOS action)
TOTAL		621,507.42	

Item No. 8.3. Perrone Robotics Performance Agreement.

The Executive Summary forwarded to the Board states that Perrone Robotics, Inc. (Perrone), based in Crozet, Virginia, was founded in 2003 and develops mobile autonomous robotics solutions.

Perrone desires to develop and launch an autonomous shuttle service for County residents in collaboration with JAUNT, Inc. ("JAUNT"), a public service corporation authorized to provide, and currently providing, transportation services in the Albemarle County, the City of Charlottesville, and Nelson County.

Before launching the autonomous shuttle service for County residents, Perrone and JAUNT have identified a need to acquire and equip a vehicle with appropriate equipment to operate autonomously, conduct a pilot program to ensure that the safety and operation aspects of an autonomous vehicle are tested and, if testing is successful, launch a three-month pilot program shuttling members of the public on one or more routes in and around Crozet with a professional safety-trained driver on board supplied by JAUNT, followed related data collection and feedback.

At its November 14, 2018 meeting, the Board adopted a resolution stating that the Board, among other things, had determined that this project will promote economic development because it may enable Perrone to expand its business and further anchor its headquarters in Albemarle County.

This project also may inform County staff about impacts to its long-term plans, such as the Comprehensive Plan, the Capital Improvement Plan, as well as to the future built environment in the County's Development Areas.

The Performance Agreement (Attachment A) incorporates the elements of the Term Sheet (Attachment B) reviewed and approved by the Board on November 14, 2018, with two-week adjustments to the deadlines for milestones and reporting requirements. The milestones have also been stated using more flexible language ("on or about"). To counter this flexibility, the applicable clawback provision in Section 9(A) has a definite deadline. The Performance Agreement also adds provisions that are standard in County performance agreements such as reporting obligations (Section 8), the names and addresses of contacts for notices, reports, and correspondence (Section 10), and miscellaneous provisions (Sections 11 through 17).

Approval of the Performance Agreement will require \$238,000.00 to be appropriated from the Economic Development Investment Pool to the Economic Development Authority. The appropriation request (Appropriation #2019053) is included as part of the FY 19 Appropriations request also being presented to the Board for its consideration on December 5, 2018.

Staff recommends that the Board: (1) adopt the attached Resolution (Attachment C) to approve the Performance Agreement; and (2) approve Appropriation #2019053 as part of the December 5, 2018 FY 19 Appropriations request.

By the above-recorded vote, the Board adopted the following Resolution to approve the Performance Agreement; and approved Appropriation #2019053 (set out above) as part of the December 5, 2018 FY 19 Appropriations request:

**RESOLUTION APPROVING AN AGREEMENT BETWEEN
THE COUNTY OF ALBEMARLE, THE ALBEMARLE COUNTY ECONOMIC DEVELOPMENT
AUTHORITY, AND PERRONE ROBOTICS, INC.**

WHEREAS, the Board finds it is in the best interest of the County to enter into an Agreement with the Albemarle County Economic Development Authority and Perrone Robotics, Inc. for Perrone Robotics, Inc., in collaboration with JAUNT, Inc., to develop and test an autonomous vehicle, and if testing is successful, to launch a three-month pilot program to use the vehicle to shuttle members of the public on one or more routes.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute an Agreement between the County of Albemarle, the Albemarle

County Economic Development Authority, and Perrone Robotics, Inc., to develop, test, and use an autonomous vehicle as described above, once the Agreement has been approved as to substance and form by the County Attorney.

BE IT FURTHER RESOLVED that this Resolution supersedes the related Resolution adopted by the Board on November 14, 2018.

(Note: Full copy of executed document on file in Clerk's office.)

**ECONOMIC DEVELOPMENT
PERFORMANCE AGREEMENT**

THIS AGREEMENT is made and entered into on December 1, 2018, by and among the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), the **ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "EDA"), and **PERRONE ROBOTICS, INC.**, a Delaware corporation ("Perrone"), and its successors and assigns.

Recitals

- R-1** Perrone has its headquarters in Crozet, Virginia, has created high-skill jobs in the County and has developed and is commercializing its autonomous software platform to be used in autonomous vehicles ranging from cars and sport utility vehicles to one of the world's largest mining trucks, as well as small, mobile robots for personal and professional use; and
- R-2** Perrone desires to develop and launch an autonomous shuttle service for County residents in collaboration with JAUNT, Inc., a public service corporation authorized to provide, and currently providing, transportation services in Albemarle County, the City of Charlottesville, and Nelson County ("JAUNT"); and
- R-3** Before launching an autonomous shuttle service for County residents, Perrone and JAUNT have identified a need to acquire and equip a vehicle with appropriate equipment to operate autonomously, conduct a pilot program to ensure that the safety and operational aspects of an autonomous vehicle are tested and, if testing is successful, launch an approximately three-month pilot program shuttling members of the public on one or more routes in and around Crozet with a professional safety-trained driver on board supplied by JAUNT, followed by related data collection and feedback (collectively, the "Project"); and
- R-4** The County and the EDA have determined that the Project will promote economic development because it may enable Perrone to expand its business and further anchor its headquarters in Albemarle County; and
- R-5** The County has also determined that the Project may inform County staff about impacts to its long-term plans, such as the Comprehensive Plan, the Capital Improvement Plan, as well as to the future built environment in the County's Development Areas; and
- R-6** The County is willing to transfer funds to the EDA, and the EDA is willing to transfer funds to Perrone, in the form of a grant, to support the Project, subject to the terms and conditions of this Agreement.

Terms and Conditions

The parties agree as follows:

1. **Authority.** The County is authorized to transfer funds to the EDA pursuant to Virginia Code § 15.2-1205, which enables the County to give funds to any County-created authority, and the EDA is such an authority. The EDA is authorized to transfer funds to Perrone pursuant to Virginia Code § 15.2-4905(13), which gives the EDA the power to make grants to a business for the purposes of promoting economic development.
2. **Grant.** The County agrees to appropriate a grant to the EDA in the amount of \$238,000.00 on or before December 12, 2018, or as soon thereafter as legally possible. The EDA agrees to grant the \$238,000.00 to Perrone as soon as possible after the funds are appropriated to the EDA (the "Grant").

3. **Term of this Agreement.** The term of this Agreement is from the date first hereinabove written until December 31, 2019.
4. **Purposes for Which the Grant may be Used.** Perrone may use the Grant solely for the Project, which is composed of the following elements:
 - A. **Setup and Testing Phases.** The first phases of the Project are the setup and testing phases. These phases include Perrone acquiring an appropriate shuttle vehicle, equipping the vehicle with appropriate equipment to operate autonomously, and testing the vehicle at Perrone's test track facility in Crozet. Once the safety and operational aspects of the shuttle vehicle have been tested, initial trial runs will be conducted with a professional safety-trained driver on board as supplied by JAUNT, on one or more routes in and around Crozet. The following milestones apply to these phases:
 1. Complete setup operations. On or about February 22, 2019

This milestone includes coordinating route options and obtaining insurance for the Project.
 2. Establish a broader preliminary phased plan. On or about March 7, 2019

This milestone includes meeting with UVA to discuss its future involvement, discussing future phases, and developing materials for broader rollout concepts.
 3. Complete Neighborhood Electric Vehicle ("NEV") shuttle outfitting, testing, and training. On or about March 8, 2019

This milestone includes outfitting and testing an NEV for autonomous shuttling, training ambassadors for operations, and establishing a shuttle schedule for the pilot phase.
 - B. **Pilot Phase.** The pilot phase of the Project consists of operating the NEV shuttle to transport members of the public on one or more selected routes in the Crozet area with a professional safety-trained driver on board supplied by JAUNT. The following milestones apply to this phase:
 1. Hold the NEV shuttle launch event, which begins the 92-day NEV shuttle operation period. On or about March 15, 2019

This milestone includes organizing the event for launching the shuttle for the pilot phase and holding the launch event.
 2. Complete NEV shuttle operation period. On or about June 17, 2019

This milestone includes advertising and/or publishing routes if they may change, operating the shuttle on weekdays and weekends during established hours, and collecting feedback.
5. **Project Review Phase.** Following the conclusion of the pilot phase of the Project, Perrone, the County, JAUNT, and the Entity, as defined in Section 6, will review the Project between June 17, 2019 and on or about July 1, 2019. The project review phase includes the following:
 - A. **Feedback.** Perrone, in collaboration with JAUNT and the Entity, will evaluate the feedback collected regarding the testing, adoption, and use of the autonomous shuttle, and the possibility of the future launch of additional shuttles throughout the County. The evaluation of the feedback will be shared among Perrone, the County, the EDA, and JAUNT.
 - B. **Data Collection.** Perrone, in collaboration with the County, JAUNT, and the Entity, will gather data regarding, among other things, usage of the shuttle, traffic flows and congestion, weather conditions, risk mitigation strategies, feasibility of other shuttle routes, energy usage, repair and maintenance costs, and similar data to further improve and refine transportation services in Albemarle County using autonomous shuttles.
6. **The County's Obligation.** Subject to approval by the County's Board of Supervisors, exercising its sole legislative discretion, the County will create a public service corporation or other lawful entity (the "Entity") by no later than March 1, 2019. The purpose of the entity is to provide autonomous shuttle service in the County and in the remainder of JAUNT's service area in collaboration with Perrone and JAUNT. This section shall not be construed as the County's Board of Supervisors contracting away its legislative powers and discretion.
7. **Donation of Vehicle.** Upon request by the County or the Entity, Perrone will donate the vehicle acquired for the Project to the County, or to the Entity, within 60 days after receipt of the request. For the avoidance of doubt, when such vehicle is donated, Perrone will own and retain all intellectual property rights to its MAX software platform and the hardware design for the vehicle. The MAX software and hardware design will be licensed on a royalty-free basis, not sold, in connection with the donation.
8. **Perrone's Reporting Obligation.** Perrone shall provide information regarding the Project to the County and the EDA as follows:
 - A. **Periodic Reports.** Perrone shall provide, at its expense, detailed verification reasonably satisfactory to the County and the EDA of Perrone's progress on the milestones described in Sections 4 and 5. The progress reports shall be provided within three business days before or after the following dates: February 21, 2019, March 21, 2019, April 21, 2019, May 21, 2019, June 21, 2019, and July 21, 2019. The February 21, 2019 progress report shall describe the actions taken by Perrone between the date of this Agreement and the date of the progress report. Each subsequent progress report shall identify the progress towards the milestones described in Sections 4 and 5 since the prior progress report.
 - B. **Other Information Requested by the County or the EDA.** The County and the EDA may request any other information regarding the status of the Project as either party may reasonably require.
9. **Perrone's Repayment Obligations.** Perrone shall repay all or a portion of the grant to the EDA which shall, in turn, promptly return the grant funds to the County, in any of the following circumstances:
 - A. **Failure to Launch.** If Perrone fails to timely complete the setup and testing phases as described in Section 4(A) and fails to timely complete the pilot phase by July 31, 2019 unless extended pursuant to Sections 16 or 17, with completion criteria to be reasonably agreed to by the parties in writing, Perrone shall repay the entire \$238,000.00 grant to the EDA.
 - B. **Shortened NEV Shuttle Operation Period.** For each day the NEV shuttle does not transport members of the public for two consecutive dates out of every seven-day week on the dates scheduled for the services, as agreed to in writing by the parties, during the 92-day pilot phase, not including dates on which the shuttle may be out of service for routine or emergency maintenance for any reason, including safety or weather reasons, Perrone shall repay \$2,587.00 of the grant to the EDA.

C. **Maintain Headquarters.** If Perrone fails to maintain its corporate headquarters in Albemarle County for three years after the date of this Agreement, Perrone shall repay the entire \$238,000.00 grant to the EDA. Nothing in this subsection requires Perrone to repay the grant if it opens other offices or research and development facilities outside of Albemarle County provided that opening of the new offices or research and development facilities is not done by relocating more than fifteen percent (15%) of the number of Perrone employees in Albemarle County existing on the date of the opening of such office or facility.

10. **Notices, Reports, and Correspondence.** Any notices, reports, or other correspondence required by this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return or certified mail or overnight courier package not accepted by the addressee):

If to Perrone, to:

Perrone Robotics, Inc.
5625 The Square
Crozet, VA 22932
Attention: Paul J. Perrone, Founder/CEO

If to the County, to:

Albemarle County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
Attention: Jeffrey B. Richardson, County Executive

If to the Authority, to:

Economic Development Authority
Albemarle County
401 McIntire Road
Charlottesville, Virginia 22902
Attention: Rod Gentry, Chair

Any correspondence that is not required by this Agreement may be sent First Class in the United States Mail or by email to email addresses provided by the parties.

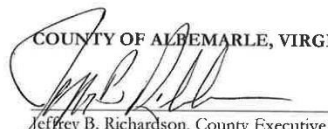
11. **Nonappropriation.** The obligation of the County to appropriate funds to the EDA as a grant as provided in Section 2 is subject to, and dependent upon, appropriations being made from time to time by the County's Board of Supervisors. Under no circumstances shall this Agreement be construed to establish an irrevocable obligation on the County to contribute the funds.
12. **Non-severability.** If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the entire Agreement is unenforceable.
13. **Entire Agreement.** This Agreement states all covenants, promises, agreements, conditions, and understandings between the County, the EDA, and Perrone regarding the EDA's grant to Perrone described in Section 2.
14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without giving effect to its principles of conflict of laws.
15. **Dispute Resolution.** If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and if the dispute is not settled through negotiation in 30 days; the parties agree first to try in good faith to settle the dispute by mediation, also within 30 days; before resorting to litigation. If the parties are unable to agree on a mediator, an experienced mediator shall be randomly selected. The mediation process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.
16. **Amendments.** This Agreement may be amended by a written amendment signed by the authorized representatives of the parties.
17. **Force Majeure.** In the event that Perrone's timely performance of Section 4(A) or 4(B) of this Agreement is interrupted or delayed by any occurrence not occasioned by the conduct of Perrone, whether the occurrence is an Act of God such as lightning, earthquakes, floods, or other similar causes; a common enemy; the result of war, riot, strike, lockout, civil commotion, sovereign conduct, explosion, fire, or the act or conduct of any person or persons not a party to or under the direction or control of Perrone or other circumstances beyond the reasonable control of Perrone, then performance of Section 4(A) or 4(B) of this Agreement shall be excused for Perrone for a period of time as is reasonably necessary after the occurrence to remedy the effects thereof.

WITNESS, the following authorized signatures:

PERRONE ROBOTICS, INC.


Paul J. Perrone, Chief Executive Officer

COUNTY OF ALBEMARLE, VIRGINIA


Jeffrey B. Richardson, County Executive

ECONOMIC DEVELOPMENT AUTHORITY
OF ALBEMARLE COUNTY, VIRGINIA


W. Rod Gentry, Chairman

Approved as to form:


County Attorney

Item No. 8.4. Board Chair Grant Application Authority.

The Executive Summary forwarded to the Board states that for the past five years, the U.S. Department of Justice (DOJ) has provided grant funds through the Edward Byrne Justice Assistance Grant (JAG) Program. As of July 26, 2018, the DOJ changed its policy and now considers the Chair of the Board of Supervisors to be the "Chief Executive of the Applicant Unit of Local Government." This is a change from previous years when the County Executive's signature was sufficient for these grant-related documents.

The County intends to apply for Edward Byrne JAG Program grants at least annually. The funding from these grants provides additional resources to the Albemarle County Police Department's Community Support Services Division to develop, often working directly with citizens, overtime projects and activities involving problem solving, crime prevention, community relationship building and safety enhancement. To comply with the DOJ, the Chair of the Board of Supervisors is required to sign the Certifications and Assurances that must be submitted with any grant application.

To ensure the County is well-positioned to apply for and accept these grants, it is important to have an efficient administrative process in place to meet the tight timetables associated with these funding opportunities. Because of potential delays caused by the timing of Board meetings, it is important that the Board Chair be authorized by the Board to execute future Edward Byrne JAG Program grant documents on behalf of the County. The Board will continue to make the final decision regarding the use of any grant funding received through the appropriation process. The Board's approval of the attached Resolution will provide authorization for the Chair (and/or the County Executive in the event the DOJ's policy changes in the future) to sign Certifications and Assurances for all future grants from the Edward Byrne JAG Program after the County Attorney approves the grant documents as to substance and form.

Signature on the Certifications and Assurances related to the Edward Byrne JAG Program grants results in the potential receipt of grant funds for its Community Policing Program each year.

Staff recommends that the Board adopt the attached Resolution (Attachment A) authorizing the Board Chair and/or the County Executive to sign Certifications and Assurances, and other documents as required for all future grants from the Edward Byrne JAG Program after the County Attorney approves the grant documents as to substance and form.

By the above-recorded vote, the Board adopted the following Resolution authorizing the Board Chair and/or the County Executive to sign Certifications and Assurances, and other documents as required for all future grants from the Edward Byrne JAG Program after the County Attorney approves the grant documents as to substance and form:

**RESOLUTION TO AUTHORIZE THE BOARD OF SUPERVISORS CHAIR
AND/OR THE COUNTY EXECUTIVE
TO SIGN GRANT DOCUMENTS ON BEHALF
OF THE COUNTY FOR EDWARD BYRNE JUSTICE ASSISTANCE GRANTS**

WHEREAS, the County of Albemarle finds it appropriate that the County pursue grant opportunities that might provide enhanced funding for important County initiatives; and

WHEREAS, grant application processes generally require that a grant application or proposal, certifications, and other supporting or related contracts or documents be submitted to complete an application or to accept grant funding; and

WHEREAS, on May 6, 2009, the Board authorized the County Executive to make grant applications and accept grants on behalf of the County to facilitate an efficient process in order to meet the tight timetables often associated with requests for proposals for grant funding or the acceptance of such funding to ensure that the County is well-positioned to apply for and receive grants; and

WHEREAS, the U.S. Department of Justice now considers the Board Chair to be the Chief Executive of the Applicant Unit of Local Government for purposes of its Edward Byrne Justice Assistance Grant Program, and therefore requires the Chair to sign certifications and assurances for grants in this Program; and

WHEREAS, the efficiency of government is further improved by delegating to the Board Chair and/or the County Executive the authority to sign Certifications and Assurances, and other documents as required for all future grants from the Edward Byrne Justice Assistance Grant Program.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the Board Chair and/or the County Executive, or his designee, to act on behalf of the County to sign Certifications and Assurances, and other documents as required for all future grants from the Edward Byrne Justice Assistance Grant Program after the County Attorney approves the grant documents as to substance and form.

Item No. 8.5. County Grant Application/Award Report, ***was received for information.***

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

The attached Grants Report provides brief descriptions of grant applications submitted and grant awards made during this time period.

This report is to provide information only. No action is required.

GRANT REPORT ACTIVITY – October 20, 2018 through November 15, 2018

Applications made during this time.

Granting Entity	Grant Project	Type	Amount Requested	Match Required	Match Source	Department	Purpose
Virginia Department of Emergency Management	2018 Pre-Disaster Mitigation Grant – Generator for Critical Facilities	Federal	\$922,020	\$307,340	Departmental CIP Maintenance Funds	Facilities & Environmental Services	This grant application requests funds to install a full-facility generator at the McIntire Road County Office Building to upgrade the two existing generators that only partially power this facility in the event of a power outage. This upgrade will allow the County to provide essential services during and following an event that causes an extended power outage.
Virginia Department of Criminal Justice Services	Edward Byrne JAG Program Fall 2018-2019: Enhancing Officer Safety during Civil Disturbance Responses	Federal	\$ 48,404	\$0	N/A	Police	This grant application requests funds that would be used to purchase needed civil disturbance response equipment and personal protective gear, including tactical first aid kits, field force team gear, and ballistic helmets and face shields.

Awards received during this time.

Granting Entity	Grant Project	Type	Amount Awarded	Match Required	Match Source	Department	Purpose
Virginia Department of Emergency Management	FY2018 Local Emergency Management Performance Grant (LEMPG)	Federal	\$25,452	\$0	N/A	Emergency Communications Center (ECC)	This grant will fund the Emergency Communication Center's public outreach, training, and exercises for the region as well as to purchase training equipment to support emergency personnel and the community.

Comprehensive Look at Potential Five Year Financial Plan Grant Impacts:

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

Byrne Justice Grants have a match of 25% in the 2nd year, 50% in the 3rd, 75% in the 4th and 100% in 5th year.

					Potential Financial Impact - Includes Five Year Plan salary assumptions				
Grant Entity	Grant Name	Designation of Current Budget Match	Expected End Date	FY19	FY20	FY21	FY22	FY23	FY24
Virginia Department of Criminal Justice Service	FY16 Byrne/Justice Assistance Grant (JAG) Law Enforcement	General Fund	6/30/2020	\$34,975 grant funds/ \$104,925 County match	\$ 144,226.95	\$ 148,657.00	\$ 153,227.39	\$ 157,942.74	\$ 162,807.84
					\$ 144,226.95	\$ 148,657.00	\$ 153,227.39	\$ 157,942.74	\$ 162,807.84

Item No. 8.6. Albemarle County 2018 3rd Quarter Building Report, ***was received for information.***

The report states that during the third quarter of 2018, 104 building permits were issued for 105 dwelling units. There was one permit issued for a mobile home in an existing park, at an exchange rate of \$2,500, for a total of \$2,500. There were no permits issued for the conversion of an apartment to a condominium.

Item No. 8.7. Albemarle County 2018 3rd Quarter Certificate of Occupancy Report, ***was received for information.***

The report states that during the third quarter of 2018, 178 certificates of occupancy were issued for 262 dwelling units. There was one permit issued for a mobile home in an existing park, at an exchange rate of \$2,500, for a total of \$2,500. There were no certificates of occupancy issued for the conversion of an apartment to a condominium.

Agenda Item No. 9. Update on Drainage Infrastructure Program.

The Executive Summary forwarded to the Board states that the Board has affirmed support for the development of a County program to adopt and proactively maintain portions of urban drainage infrastructure that lie on private property but serve a public purpose. At its April 11, 2018 meeting, the Board directed staff to “continue work to determine, through camera imaging, where grey infrastructure issues exist within the County and attempt to set aside an adequate reserve fund to be used to address maintenance and ongoing repair needs of grey infrastructure issues where such issues are identified”.

In addition, the Board’s aspirations have been made clear by the inclusion of goals related to drainage infrastructure in the both the FY17 - 19 Strategic Plan and the FY20 - 22 Strategic Plan. The FY20 - 22 Strategic Plan goal is to “determine desired levels of service for water resource protection programs based on drainage infrastructure video assessment and pilot watershed restoration program development; and recommend continuing resource requirements to fully implement those programs at varying service levels”.

Staff have largely completed the process of mapping drainage infrastructure throughout the County’s Development Areas. Infrastructure location and various attributes (e.g. dimensions and material) were obtained from construction drawings and field work. Work has recently begun within a pilot watershed to assess the condition of infrastructure following light cleaning. Specialized robotic crawlers fitted with a closed-circuit television (CCTV) camera capture video of the internal surface of the system. The resulting data are input into a GIS database and will be used to inform program cost projections and - potentially - serve as the basis of a long-term asset management program. Initial assessment findings will be presented to the Board.

The overall scope and cost of the infrastructure management program will be determined by the extent of service (EOS) - to be ultimately adopted by the Board. An EOS policy would dictate what portions of the infrastructure system serve the general community and, therefore, would be appropriate for County management. For the pilot video assessment program, staff broadly interpreted the concept of “public system” to include all infrastructure conveying runoff from any public property or more than one private property. Staff will present a summary of the EOS policies of select Virginia localities. The County’s EOS policy will be the subject of future Board work sessions.

A substantial human resource component of the infrastructure management program will be obtaining the right to perform assessment and maintenance work through obtaining permissions, public easements, or other instruments granting the County right-to-work. Current assessment work is being done within private property only if the property owners grant permission to the County. Searching for existing easements and obtaining permanent, public easements to facilitate maintenance and repair work will demand significant staff or consultant time.

The FY19 Board appropriation supporting the assessment work and limited repair work is \$622,588. Staff currently estimates that an additional \$1,000,000 would be required to complete the assessment of all infrastructure located within the urban area and to address critical issues. The cost of a long-term drainage infrastructure maintenance program would depend on the EOS and will be the subject of future Board work sessions.

This work session is an opportunity to update the Board on preliminary findings of the assessment program and implications on program costs and to provide a review of EOS policies of other localities. Staff seeks:

- the Board’s support for continuing infrastructure assessment throughout the Development Areas and,
- authorization to develop a draft EOS policy for subsequent Board consideration.

Mr. Trevor Henry, Assistant County Executive, addressed the Board. He introduced Mr. Greg Harper, Chief of Facilities and Environmental Services, who he said would lead the discussion. He added that Eric Purdy, GIS Analyst for Environmental Services, would present on system work that tied in underground work, how they are connecting this to the system, and how this would drive some analytics. He reminded the Board that in April it directed staff to proceed with bridge year funding to look at different elements of the stormwater infrastructure program, including the use of underground cameras to investigate the condition of infrastructure, especially in the development area. He said that Mr. Harper would present on the results of the pilot watershed, which was a learning process. He said they would have a discussion on the extent of service, which would drive a policy decision in the future. He said they would not have a budget discussion today and are recommending financial support at the level of the current bridge funding to allow staff to continue with this important work and determine what was in the ground, and give the Board time to consider different levels and options of service.

Mr. Greg Harper stated that past infrastructure failures such as the Carrsbrook sinkhole led the County to decide to make improvements to private properties, as the infrastructure does not just serve private property but also the general public. He recalled that when discussing alternative funding mechanisms, the committee identified infrastructure management as a program gap for the County. The Board gave direction at several past meetings, the development of a program was included as number five in the strategic plan, and it allocated \$600,000 for FY19. He said a new program would be defined by level of service and extent of service, for which the Board would be asked to make a policy choice. He said the assessment of the system would determine the condition of infrastructure so that the costs to

adopt a certain level of infrastructure could be determined. He stated that most of the infrastructure was on private property and staff has not identified the locations of easements since this would take one year of staff time, adding that they made some assumptions. He said that there are likely about 1,200 private properties they would have to work with to get permission to conduct an assessment and to obtain easements from, if the County was to decide to make infrastructure improvements.

Mr. Harper said he would review the pilot project that was recently completed, including legal constraints, cost assumptions, the collection of real data on the system conditions, and testing of the procedures for collecting and analyzing data. He presented a slide with a map of the pilot area outlined and described it as 128 acres bound by Hydraulic Road, Rio Road and Fashion Square Mall. He listed the advantages to using this area of the watershed as being: a mix of residential, commercial, and industrial properties; a mix of older and newer properties; inclusion of several County stormwater facilities; the size of the area; the ability to complete projects in a reasonable amount of time; and the ability to provide an adequate amount of data. He next presented a map that indicated known pipes within the area of study outlined in black, which totaled 72,000 feet. He explained that they have identified sections of pipe that serve multiple properties, highlighted on the map in red, and included these sections, which totaled 20,000 feet or 30% of the pipes in the watershed, in the pilot. Staff sent letters to 150 property owners with requests to access.

Mr. Dill asked if permission was requested even if there was not a manhole access on the property. Mr. Harper responded that they did so under an abundance of caution.

Ms. Palmer asked how deep underground a property owner's property ran. Mr. Kamptner responded that this could depend on what was conveyed, as there may be separate mineral rights, and theoretically it could run to the center of the Earth.

Mr. Harper continued that 105 owners granted permission, 46 did not respond, and 1 owner denied permission. He said they contracted with Tri-State to do the work, and presented photographs of a vacuum truck and video camera. He explained that many pipes require cleaning with a vacuum truck before the cameras could be installed. He presented the results of the pipe assessment: 58% had no problems, 15% had minor problems, 7% had medium problems, and 20% had major to severe problems. He next presented photographs of pipe sections with examples of those with minor problems, such as infiltration at joints or yard drain tapped into the pipe. He presented photographs of pipe sections with medium level problems such as minor corrosion in a metal pipe or a fracture in a plastic pipe. Next, he presented examples of pipes with major problems including a deformed pipe and a pipe with roots grown into it. Finally, he presented photographs representing severely damaged pipes such as those that were crushed and pipes blocked by obstacles such as rocks.

Ms. Mallek asked if the machine assessed the bottom of galvanized pipes, as these rot quickly but could still be useful for 50 years if there was enough dirt. Mr. Harper explained that the camera has an articulating head and follows a joint all the way around and could look up, down, and everywhere. He next presented a slide of a graph of the results of the video assessment categorized by corrugated metal, plastic, and reinforced concrete piping.

Mr. Dill asked how old the pipes are, on average. Mr. Harper responded that they have some age data, although sometimes they could only estimate the age based on when a community was built. He said they would be looking at this, as the ability to determine the age would aid in planning for capital projects.

Mr. Randolph remarked that, in addition to determining the average age of the pipes, it would help to know national averages for problem pipes as this would enable the County to have a holistic view of what was going on. Mr. Harper responded that he thinks this was a great idea from which they could draw conclusions. He added that the extraction of good data would help them to develop a plan for capital projects.

Mr. Randolph remarked that this data would enable the County to know where to look, based on age and similar type of potential construction technique and soil conditions, for areas with a higher probability of falling within the severe to major category. Mr. Harper responded that they found that the severity of problems was probably more a function of who installed the pipe than anything else.

Ms. Palmer recalled that in her eight years serving on the Albemarle County Service Authority Board of Directors, she saw that certain materials were used by certain people at certain times, the quality of installment varied, and the conditions were dependent on the neighborhood and the time when the infrastructure was built.

Ms. McKeel remarked on how old the urban neighborhoods and infrastructure were.

Ms. Mallek asked Mr. Harper if there were different quality levels of concrete pipe. Mr. Harper responded that he did not know, though he believes that reinforced concrete has been pretty much the same over many decades.

Mr. Harper invited Mr. Eric Purdy to give a demonstration on what they found and how the process has been working.

Mr. Purdy presented a map with the watershed area of study outlined, pointing to Hydraulic Road and Fashion Square Mall. He pointed out the pipes from which they had obtained data and noted that

they were outlined in different colors. He explained that those in green were problem free, while those colored light green, yellow, orange, and red posed more severe problems. He reviewed portions of the report created by Tri-State, including diagrams of pipe sections with problems identified as well as photographs and videos.

Mr. Randolph asked if there was technology available to be able to seal a pipe without having to excavate it. Mr. Purdy responded that depending on the conditions, the pipe could be lined without disturbing the land above.

Mr. Randolph remarked that it would be useful to property owners to know how, and if a break in a culvert was found, it could be sealed. He stated that many property owners may think their yard would be torn up if a problem was found to address a pipe, and he would like to offer them reassurance, perhaps by placing information on the County's website.

Mr. Harper acknowledged that this was a good point and once the pilot watershed study was completed, they would want to follow up with property owners and have promised to provide them with data, and also want to gauge their willingness to grant easements in case the County wants to do repair work. He said that he expects that property owners would be more willing to allow this if it were explained to them that repair work would not disturb their property. He said they plan to work with the consultant to dig deeply into the data to inform cost estimates. He said they plan to bundle pilot-sized watersheds into a single project for additional work and expect that they could have this work completed within two and one-half years.

Mr. Harper defined the Extent of Service (EOS) policy as the portions of the overall drainage system that serves a public purpose and could be maintained by the County. He explained that he learned from his research of what other localities have done that there was a range of policies. He said that the Counties of Stafford and Fauquier are examples of localities that only manages infrastructure on their own properties. He said the next step up in level of service was to manage infrastructure downstream of the locality's properties, citing the City of Charlottesville as an example. The next level of service reviewed by Mr. Harper was to manage discharges from VDOT property, of which Hanover County serves as an example. He said that some communities believe that the infrastructure for residential properties should be communally managed, with the Counties of Chesterfield and Arlington being examples of this.

Mr. Dill asked how these localities deal with property owners who do not allow them onto their property. Mr. Kamptner responded that he assumes there was an easement that has already been dedicated to the locality. Mr. Harper agreed that the work could not be done without an easement.

Mr. Randolph added that he knew that in Arlington County they had an easement. Mr. Kamptner added that Arlington and Henrico counties are unique in that they oversee their roads.

Ms. Mallek asked where the element of risk management come in, because if someone refuses to allow the County to help, they could not also refuse to fix it if it failed. Mr. Harper responded that these are details they would get into over the next six months and then come back to the Board with conclusions and recommendations.

Ms. Palmer asked if a property could be condemned by the County if a particular easement was needed. Mr. Kamptner responded that they could not, although eminent domain was available for a public purpose.

Mr. Harper reviewed the final example of infrastructure service, under which localities manages and considers through drainage that convey runoff from upstream properties through another property as being public in nature, citing Fairfax County as an example. He emphasized that the question for the Board would be to determine the level of service to be offered by Albemarle County.

Ms. McKeel said it was her experience that in the older neighborhoods of the urban ring, it was homeowners dumping water onto the property of neighbors. Mr. Harper responded that oftentimes public roads are in the mix. Ms. McKeel responded that this could be or not. Mr. Harper acknowledged that a lot of problems occur because one homeowner was dumping their roof drain.

Ms. McKeel recounted how the hardwood floor in her dining room popped because the homeowner next door was dumping his gutters into her yard. She described this issue as being typical in older neighborhoods, with banks bringing stormwater down and flooding people's basements.

Mr. Kamptner noted that some projects were approved through proffers about 10 years ago during larger rezonings, and developers proffered an overlook grading plan under which the grading of the entire development was planned ahead of time.

Ms. McKeel asked what the situation was when these are not in place. Mr. Kamptner remarked that it was difficult, if not impossible, for the locality to do anything, and there needs to be an awareness by landowners. He said that under Virginia law, water was called a common enemy and every landowner was allowed to protect their property against the sheet flow of water. He said that if a landowner upstream was channeling water, then a downstream property owner whose property was damaged has a judicial remedy that takes time and money.

Mr. Harper said that they need to perhaps provide some sort of service but not assume responsibility for every issue that occurs.

Ms. McKeel remarked that she has stood on property and witnessed rivers of water running down.

Ms. Palmer expressed concern as to where they would stop.

Mr. Harper concluded his presentation with a list of next steps:

- Continue assessment
- Develop draft LOS/EOS policy options informed by cost estimates
- Use carry-forward funds to support continued video assessment work in FY20
- Future years' budget planning based on assumptions regarding condition and LOS/EOS

Ms. Mallek remarked that current expectations are that one would not dump water on a neighbor, and for redevelopments the water that passes through was supposed to be measured. She said that for homeowners there was a lack of information. She recalled an incident several years ago at The Highlands when a landowner on the steep slopes was not aware that a swale had to remain as a swale, and they filled in the space, which led to flooding of a neighbor's basement. She asked Mr. Harper if he has been able to identify more surface as well as underground things.

Ms. McKeel asked if Mr. Harper has been keeping a list of problem sites. Mr. Harper confirmed this. He said that if they could make an improvement on a property, it could help another property owner downstream, but the upstream property owner does not want the County to bother their property. He remarked that there are intricacies to this and that at some level, the County may only be able to offer guidance and not take responsibility.

Ms. Palmer noted that they have urban lakes, dams, and older residential neighborhoods in the rural area with serious drainage problems. She emphasized the need for the pilot to focus on pipes and if they start expanding to swales and ponds, it would be beyond what the County could afford. She expressed concern that property owners just beyond an urban neighborhood would wonder why the County was paying for infrastructure in an adjacent neighborhood and that it would be easier to contain the situation if they stuck with pipes. She wondered how one justified the importance of a pipe over a swale, as they could be just as important.

Mr. Harper acknowledged that he has given a lot of thought to swales and that this would be considered, as they do need to recognize that swales are part of the system. He noted that the County has invested in channel improvements in the past and would improve a channel failure within a public easement so that neighboring properties do not flood.

Mr. Henry stated that Board action was not necessary today; staff has received some good feedback. Staff has assessed about 10% of the work they need to do, this has informed their processes and procedures, and they would likely continue this as a priority in older neighborhoods with corrugated metal piping in order to extrapolate the information to cost estimates. He said the staff would come back to the Board with this information, as well as different extent of service scenarios and the pros and cons, for a discussion. He acknowledged a nodding of heads among Supervisors that indicate staff was on the right track.

Ms. Mallek asked if there was an update on the pursuit of a watershed resurrection grant, as Curry Kirkland had suggested they pursue a federal grant to get debris out of the Ivy Creek watershed. Mr. Harper responded that he does not think there has been any progress and he was not aware of any identified grant money to help property owners to remove debris from streams.

Mr. Randolph noted that the County did not qualify for state money.

Ms. Mallek remarked that this was shocking to her as there was so much debris and USDA would only help if a tree fell on a house but not elsewhere.

Recess. The Board recessed its meeting at 2:27 p.m. and reconvened at 2:45 p.m.

Agenda Item No. 10. Five-Year Financial Plan.

The Executive Summary forwarded to the Board states that each fall, the Board of Supervisors conducts long-range financial planning prior to the annual budget development process. On November 5, 2018, the Board of Supervisors and the School Board began this process and held a work session in which they gained an understanding of the County's compensation market analysis, compensation initiatives, and a long-term outlook of the County's health insurance plan. They also received a brief introduction to the Five-year Plan Revenue Assumptions and an overview of the School Division's Five-Year Financial Plan.

Long-range financial planning is an important component of the County's fiscal processes. It brings together three major components of the County's budget: Schools, General Government, and Capital. It also provides a venue for discussion regarding important longer-term priorities and creates a framework within which the next fiscal year's budget development will take place. During this work

session, the Board will receive information on five-year revenue projections, major operational and capital expenditure priorities and policies for General Government, and an initial recommendation for use of available year-end funds.

In accordance with the budget development schedule, the Board of Supervisors will have one additional work session to discuss the Five-Year Financial Plan and to receive annual budget development guidance on December 12.

Long-range financial planning connects long-range fiscal planning with strategic plans and provide an important context for the annual budget process.

Staff recommends that the Board of Supervisors and School Board provide direction to staff that will inform the upcoming budget processes.

Ms. Lori Allshouse, Director of the Office of Management and Budget, stated that Mr. Andy Bowman, Budget Manager, and Ms. Laura Vinzant, Senior Budget Analyst, would assist her in the presentation. She noted that today represents the second of three meetings on long-range financial planning with today's focus on revenues, the General Fund, and the CIP, while the December 12 meeting would focus on guidance for the FY20 annual budget process. She reminded the Board of the importance of long range planning to the County and explained that it combines general government, the school division, and the capital improvement program (CIP). She continued that it creates a framework for the annual budget development process, was a critical process for the AAA bond ratings, and that assumptions were based on best information available as of today.

Ms. Allshouse presented the following agenda for today's work session:

- Brief Recap – November 5, 2018 work session
- Five-Year look ahead: General Fund, Revenue Projections, CIP
- Balanced Two-Year Fiscal Plan
- Discussion: How well does the Plan support: High Quality Services, High Quality community, Strategic Priorities
- Next Steps

Ms. Allshouse presented the following recap of the November 5 meeting:

1. Establish Public/Private Partnerships PPEA Guidelines (January or February): and
 2. Boards adopt resolution in support of PPEA; and
 3. Further engage Economic and Community Development in High School Center One project; and
 4. For High School Center One, move forward with:
 1. Siting
 2. Design
 3. Accepting unsolicited bids
 5. Consider PPEA-P3 for future school projects
- Compensation and Benefits: Classified Employees: provide 2.3% market increase; fund pay for performance; 1% Classified scale adjustment
 - Public Safety Employees: Provide 2.3% step and increase; fund performance
 - Health Care Plan: Evaluate in house pharmacy and/or clinics; move plan year start from October to January; budget 5.4% increase in total contributions beginning January FY20
 - School Division's Five-Year Financial Forecast:
FY19 – FY20: Revenues: \$193.75; Expenses: \$191.39; Gap: \$2.36
FY20 – FY21: Revenues: \$201.42; Expenses: \$196.38; Gap: \$5.04
FY21 – FY22: Revenues: \$209.17; Expenses: \$201.58; Gap: \$7.591
FY22 – FY23: Revenues: \$217.52; Expenses: \$206.41; Gap: \$11.11
FY23 – FY24: Revenues: \$226.03; Expenses: \$211.83; Gap: \$14.2

She introduced Mr. Steven Allshouse to provide more details.

Mr. Steven Allshouse, Manager of Economic Analysis and Forecasting, presented on the General Fund revenue forecast for FY19–24. He stated that his team consults with staff across the County to get additional insight beyond the Department of Finance when creating revenue forecasts. He reviewed the tools they utilized, including trendline analysis, econometric modeling, non-statistical algorithms, as well as qualitative information including the state of the economy. Since 2013, on average the forecast amounts have been within 2-3% of the amount budgeted. He remarked that they expect General Fund revenues to increase 2-3% in the coming years, with some variation, though there are some clouds on the horizon with the global situation that might turn things flat or negative.

Mr. Allshouse noted that his Economic Indicator Reports include information about the yield curve and explained that while U.S. Government bonds generally offer lower rates for shorter maturities and vice versa, this sometimes become inverted with shorter term interest rates going above those of longer terms. He stated that lending institutions generally borrow along the shorter portion of the curve and lend at the longer-term end, and they would lose money under an inverted yield scenario and then restrict credit. He explained that in the post-war era, an inverted yield curve has been a very accurate indicator of a pending recession. He said the yield curve has been flattening and recently a portion of the yield curve

inverted with five-year treasuries yielding less than three-year treasuries; the stock market decline may have been related to this. He noted that there was currently a high level of corporate debt, as businesses have borrowed at cheap rates the past several years and there was thought that if they could no longer manage their debt this could slow economic activity. He continued that the trade situation between the U.S. and China has the potential to become serious. He said the U.S. economy looks fairly good moving forward, with local revenue in FY19 anticipated to be about .3% higher than budgeted. He added that the state outlook was also decent, as figures from Mr. David Blount, of the Thomas Jefferson Planning District, indicate that state revenues are up 2.7% in the first quarter of FY19 compared to FY18 and ahead of the 1.5% growth that had been anticipated. He added that federal revenues seem to be pretty good.

Mr. Allshouse presented a slide with a graph of actual and projected General Fund revenues for each year from FY15– FY24 and said he anticipates 2-3% in future revenue growth, though anticipation was not as strong as in previous years as things that are occurring in the global macro economy are giving him pause, although he remains cautiously optimistic.

Mr. Randolph asked Mr. Allshouse to talk about Collateralized Debt Obligations (CDOs). Mr. Allshouse explained that whenever there was an asset backing an instrument, such as a collateralized or mortgage-backed security, there was always the risk element of default, and the perception that an asset may not perform as anticipated could have a ripple effect throughout the financial markets, as occurred in 2007–2008, and could have a detrimental effect on the real economy.

Mr. Randolph remarked that this time they would have to worry about CDOs with residential debt that has been repackaged and sold, as was done with commercial debt in 2007. He recounted that he heard that 25% of Virginians were underwater, and with an increase in interest rates and a threat of recession, the CDO could be a prime indicator that things could plummet and fall apart rather quickly.

Mr. Allshouse recounted how he attended a conference recently and heard of concerns with subprime auto loans, though more recently they have been lending under stricter guidelines. He said the big takeaway from the conference was that corporate and emerging market debt are bigger issues.

Mr. Allshouse presented a graph of actual and projected real estate revenues from FY15 to FY24. He pointed out that the trend was upward, though not as fast as in previous years, with an anticipation of 3% growth in revenues for FY19 and 2.8% annual growth thereafter. He cautioned that the January 2019 reassessments have not come in yet and would not be available until January. He next presented a graph with actual and projected sales, BPOL, and food and beverage tax revenues for the period FY15 to FY24 and described these as being pretty good indicators of the strength of the local economy. He said his assumptions are that sales tax revenues would increase 2-4% per year while BPOL and food and beverage would increase by about 4%. He said that although it was difficult to forecast, he believes these were reasonable numbers.

Mr. Allshouse concluded his presentation with the following summary:

- Positive housing market, but with some headwind from rising interest rates
- Local job growth remains strong
- Local unemployment rate stays low
- Local economy looks fairly healthy moving forward, however, outlook was tempered by the possibility of a slowdown, or even a recession, sometime in the next two years

Ms. Allshouse continued her presentation with a Five-Year Financial Plan summary. She said that given the information in the revenue forecast and additional funding available in other areas, expenditures are exceeding revenues in the out years. She explained that her department's responsibility was to provide a balanced budget, which they did for the first two years.

Ms. Allshouse next presented on the FY20–24 Capital Improvement Plan. She explained that in an amendment year, they do not ask for new project requests, though they allow new requests if they address a safety issue or urgent need. She explained that this was a time when they talk about ways to streamline and improve processes, though they did make some updates to the CIP. She reminded the Board that it last amended the CIP in August 2018. She explained that the CIP includes funding for mandates and obligations, maintenance and replacement projects, courts funding, the ACE Program, Ivy Recycling Center, Center One High School improvement projects (\$600,000 student center and \$12 million for other school division projects), and \$12 million for local government quality-of-life projects.

Ms. Allshouse next presented a slide with a list of quality-of-life local government projects and noted that it includes \$12 million for parks and bike/pedestrian projects. She explained that amending means they are moving the CIP forward by one year, would update revenues and align with the five-year planning revenues, and would make adjustments to the CIP once the updated real estate assessments come in. She said they would update assumptions related to the estimated equivalent dedicated real estate tax rate amounts. She said they have included a 1.5-cent rate increase for CY19 and the FY20 budget. She continued that they may include increases in the tax rate in the outyears. She said it includes \$4 million for Biscuit Run Park, funding to continue the stormwater program through FY20, other timing-related costs and expenditure adjustments, and consideration of an amendment year request from the school division.

Mr. Randolph asked for clarification that Ms. Allshouse indicated to the Oversight Committee that 4.2 cents would be set aside out of the positive variance and that the projection does not include any dedicated pennies to close the gap on where the CIP actually was in terms of non-constant dollar funding

reaching back to 2007. Ms. Allshouse responded that she thinks there are two things they were talking about. She said that sometimes they provide year-end money to the CIP and the CIP also receives dedicated ongoing revenues. She said that last year's model included 4.2 cents over five years. She said they would now update the model and look at updated revenues and assumptions.

Mr. Randolph asked that the Board be provided the option to dedicate a penny to the CIP because since the year 2000, the CIP has had 1.3 cents added while the County's population has grown significantly, with 14.98% added since 2009, and the school population has been growing by 118 students per year. He continued that they would fall behind in terms of the quality of infrastructure for schools, fire/rescue, police, etc., that was necessary to address the growing population.

Ms. Palmer noted that the Ivy Recycling Center would go in this spring and they discussed the possibility of getting a recycling center in the north section of the County by the following year, they have not identified a place or an amount, and she expects that in the coming months they would focus on this. She asked Ms. Allshouse to make a suggestion as to how to identify a placeholder for 2020 in the event they find a location.

Ms. Allshouse summarized the direction from the Board: take the Five-Year Plan revenue projections and departmental resource requests and balance them within a Two-Year Fiscal Plan. She presented the following framework of how this would be done:

1. Prioritize Services: Focus on two-year strategic priorities
2. Do the Important Things Well: Provide high quality services
3. Consider Past Patterns of Spending: Put all the money on the table
4. Know the True Cost of Doing Business: Identify full cost of progress
5. Provide Transparency: Recommendations based on priorities and results

She described this process as priority-based budgeting, and listed the following items that would be included in the plan:

- Provides funding to schools by formula guidelines
- Meets obligations such as revenue sharing and debt payments
- Maintains our position within competitive job market
- Focuses on optimizing business processes
- Supports Office of Equity and Inclusion efforts
- Supports existing services and agency partners
- Begins facility planning and improves building security at County Office Building
- Builds and opens new parks
- Advances the establishment of an inter-connected bike and pedestrian network
- Provides additional capacity for School Division
- Provides funding for Economic Development Fund (one-time)
- Provides additional equity funding for CIP
- Provides additional one-time/proffers funding for affordable housing

Ms. Mallek asked if the \$800,000 in proffer funds was unspecified or for affordable housing. Ms. Allshouse responded that it has a specification for housing.

Ms. Allshouse continued with strategic priorities and listed the six priorities funded within the Two-Year Fiscal Plan: Outdoor Recreational Parks and Amenities, Economic Development Program, School Space Needs, Infrastructure Planning, Aging Urban Neighborhood Revitalization, Court Complex Expansion/Upgrade. She said it was important to say that the funding level may not completely cover the priority needs over the two years but would get the list started. She said that Climate Action Planning, which was under development, does not have additional funding requested at this time. She said that Outdoor Recreational Parks and Amenities were funded by \$6 million in the CIP, including some staffing increases, though not as many as had been recommended by a study, and included \$4 million for Biscuit Run.

Under Economic Development, Ms. Allshouse said the plan included funding of \$1.8 million; under School Space Needs, funding would be \$12 million for High Schools Center One; and Infrastructure Planning would include funding for stormwater infrastructure planning and some repairs. She described this as a bridge year when some funding that was not expected to be spent in FY19 was moved forward to FY20. Under Aging Urban Neighborhoods, she indicated funding of \$6 million for bike/pedestrian improvements; under Courts Complex Expansion/Upgrade, she said an agreement was made December 3 and information would be updated. Under Rio/29 Area Redevelopment, she said the Board would hear information about the plan amendment on December 12, though there have not been additional resources provided at this point. Under Broadband Expansion, she said the authority was focused on the attainment of grants and work with the Central Virginia Electric Cooperative.

Ms. Mallek asked if the Rivanna River boat launch on Page 10 represented the Milton pullout, the launch on Berkmar, or at Brook Hill. Mr. Randolph responded that it represents Berkmar. Mr. Bob Crickenberger, Director of Parks and Recreation, clarified that it refers to the property donation they received several years ago for a boat launch on the reservoir itself, beside the water treatment plant.

Ms. Allshouse stated that immediately following this work session, they would hear about the FY18 CAFR, with more detail to follow on December 12. She explained that the Board would be presented with ways to use available year-end funds for strategic priorities and listed the following options: Economic Development Fund, Housing Fund, CIP—cash equity contribution, facility-oriented (space study—COB/McIntire future uses and police storage), water resources for FY20, other one-time

uses in the FY20 budget: revenues, such as grant matching fund, innovation fund, reserve for contingencies, and other needs such as department capital outlay.

Ms. Mallek recalled a discussion the previous year about vehicle storage for the police department and asked if this was what was referred to under "vehicle storage." Ms. Allshouse clarified that this was for a very small amount of storage and asked Mr. Henry to come forward to clarify.

Mr. Henry responded that the project she was referring to was a fuller scope request for initial design and study. He explained that this storage problem addresses storage of police motorcycles, which has been stored at a shed at the VMF facility that caught on fire. He said they have been looking to construct a shed/minor building extension at the interior parking lot at Cobb and 5th for motorcycles and specialty vehicles, and the County would eventually like to add enough space for evidence breakdown of a vehicle.

Ms. McKeel remarked that parking at the County Office Building was a big problem. Mr. Henry responded that part of the bigger project was to look at that site and to potentially add structured parking.

Ms. Allshouse listed the following items that were not included in the Two-Year Fiscal Plan:

- No additional funding to address growing service demands related to population or workload increases
- Reduces level of financial support for existing services to balance FY21
- No additional funding at this time for Broadband, Climate Action Plan implementation, or Rio/29 area redevelopment
- No additional funding to support CIP stormwater program after FY20
- No ongoing contributions to the Economic Development Fund and Housing Fund

Ms. Mallek asked for confirmation that under no additional funding to support the CIP stormwater program, this was over and above what the equivalent 1.5-cent pot of funding was, which represents .7 cents they voted for years ago and .8 cents that Community Development has been putting in. Ms. Allshouse confirmed this.

Ms. Palmer asked for further clarification. Mr. Andy Lowe, Environmental Compliance Manager, clarified that there was currently .7 cents from the real estate tax that come into the General Fund to support primarily the operations of the stormwater program; and for the CIP and stormwater the County has been in an approach of a bridge year for the current fiscal year and for the next to strategically use one-time money to fund the CIP program for the next two years. He emphasized that beyond those two years, there was no dedicated money in the CIP for stormwater programs.

Mr. Richardson stated that the Board should not be surprised, as they talked about that this year. He said they have continued to see nice revenues, have been frugal with expenditures, and have been able to buy time moving into next year. He said they could conduct camera imaging in the development area to better understand the severe issues with gray infrastructure and potential costs in order to make meaningful upgrades. He said they would then have to contemplate whether to look at a General Fund strategy or another type of dedicated funding. He stated that meaningful progress has been made since they discussed this in April and he hopes that in six to eight months they could come back and develop a plan with options to consider, with a thorough understanding of the money needed to make a meaningful impact.

Mr. Randolph said he assumes the discussion would include the viability of a service district in the development area to cover these costs. Mr. Richardson responded that they could talk about this, as well as options to consider and to begin to financially model how this would work for both commercial industry and residential.

Ms. McKeel stated that they would have to have a dedicated, consistent source of revenue for this and it has to be transparent.

Ms. Palmer recognized that there was not an allocation for broadband and asked when they should bring up the upcoming grant opportunities, as there may be more opportunity for matching funds in the next year. Ms. Allshouse responded that today, as well as the December 12 meeting, would be good times to talk about this, especially if the Board would like something for the FY20 budget.

Mr. Randolph suggested that the Board set aside \$1 million as a placeholder in their imaginations, as this might allow them to have leverage to obtain an additional \$4 million–\$5 million more, if the Governor's bill was passed by the legislature.

Ms. Palmer added that they would learn more in the near future and have talked with CVEC about opportunities, which would be on next week's consent agenda. She said the Broadband Authority may have an opportunity to bring in grant money and that what the County has set aside may not be enough to bring down more grant money.

Mr. Dill remarked that broadband could easily be a few years of intensive CIP money, whereas stormwater almost becomes a department out of the common fund and budget that would go on in the future, as they would always have to maintain it. He said, that in his opinion, this should be taken out of the CIP and included in the regular budget once they have a sense of things.

Mr. Randolph remarked that since they are taking something out, the Albemarle Broadband Authority has talked about whether it was appropriate for some capital investments associated with the extension of broadband in the County being part of the CIP. He said the question was about what was a capital improvement for the County and a strong argument could be made that both should be in or that both should be out. He commented that he looks forward to an animated and energetic discussion of this in the months ahead.

Ms. Allshouse next presented a list of ideas should revenue growth be better than projected:

- Contribute additional revenue growth per formula to the School Division and CIP/debt service
- Address department operational needs related to population and workload growth
- Dedicate ongoing funding to the Economic Development Fund/Housing Fund
- Accelerate implementation of Parks and Recreation needs assessment
- Other

Mr. Randolph remarked that once they know the amount available, it may be fun to have an exercise as to where the positive variance should go and at what level. He urged the Board to think deliberately about what their strategic priorities are and how they are funded and said it was important to maintain a contingency fund, but squirreling too much money away was probably dangerous. He pointed out that the positive variance would have been higher if the Board had not authorized the expenditure of funds mid-year when they saw revenues exceeding expenditures. He said they should be mindful of this in terms of what they have already spent, when deciding what to do with the remaining surplus.

Ms. Allshouse commented that December 12 might be a good time for this type of conversation, and she could walk the Board through the numbers and then have Supervisors express their preferences.

Mr. Dill remarked that one option available under this exercise should be to reduce the tax increase.

Ms. Mallek indicated that it would be helpful to have the costs associated with the ideas presented by Ms. Allshouse for use of surplus funds presented so they could make an informed choice.

Ms. Palmer asked why the Economic Development and Housing Funds were listed together. Ms. Allshouse explained that they were listed together with the idea of potentially receiving dedicated, ongoing funding.

Mr. Randolph said they should keep in mind that they decided this year to use EDA funding to achieve affordable housing objectives and the EDA has functioned as a conduit to support this. In addition, the EDA and Housing Funds could be complementary and work synergistically to further common goals and strategic priorities.

Ms. Mallek pointed out that when better jobs become available as a result of the economic development investment, then people would have a better chance to be able to afford to live here.

Ms. Allshouse asked Supervisors if they had any additional ideas for the use of surplus funds other than what she had listed.

Ms. Allshouse concluded her presentation with the following "In Summary":

- Five Year Financial Plan creates framework for annual budget development process
- Local economy healthy, however, potential headwinds
- Staff prepares a Balanced Two-Year Fiscal Plan
- Two-Year Fiscal Plan focuses County resources to support our high-quality services and community
- Plan includes 1.5 cent real estate tax increase in CY 19 dedicated to CIP
- CIP would require resources equivalent to additional tax rate increases in out years dedicated to the CIP and associated operating costs
- Plan does not fully address strategic plan, growing service demands, CIP, departmental requests, School Division's potential gap.

Ms. Allshouse presented questions to the Board for the priorities of High Quality Services and High Quality Community:

High Quality Services: Maintain competitive market position, formula support for School Division, additional support for CIP, business process optimization, addressing growth-related service needs, and other.

High Quality Community: Bike/Ped routes, Parks and Recreation, Affordable Housing, Economic Development, Additional funding for CIP, Other.

- Which of these areas did you expect to be supported in the FY20 budget?
- What areas require additional information?
- What may be missing?

Ms. Palmer remarked that she was under the impression that a good portion of the economic development efforts were to go toward Route 29 North, and she asked if funds could be earmarked for Rio/29.

Mr. Dill concurred with Ms. Palmer. He said that economic development, public/private partnerships, low-income housing, and transportation work together. He said he feels that when they discuss the CIP, it isolates everything to a narrow box instead of as part of an overall strategic plan. He would prefer not to have to make individual selections, as things work together.

Mr. Randolph remarked that if they had done that in this fiscal year, the EDA would not have been able to play a role in support of Willow Tree's movement out of the City to the County. He said they would not have had the funds to support Perrone Robotics' ability to expand in Crozet or to support the expansion of affordable housing in the Jack Jouett and Samuel Miller districts and moving over from AHIP. He said the danger was that once you define and designate where money was going to go, it was hard to make it fungible and move it around. He said that optimizing the flexibility of the EDA serves them well, as opportunities would crop up in all districts.

Ms. Palmer agreed with Mr. Randolph's remarks and clarified that what she was thinking when mentioning economic development was that they spend so much time on getting Rio/29 ready for development.

Mr. Gallaway remarked that this was additional funding, as they have funded everything to get it to where it was and the Comprehensive Plan amendment would come forward, and they already approved the expedited process. He acknowledged that they could hire an additional staff person to be ready to do the expedited process applications, though he thinks they already have the capacity with current funding. He said the Economic Development Fund was about diversifying revenue that come in and he was trying to figure out how this works with the strategies. He noted that if they are successful with the economic development program then different types of revenue will come in. He added that while economic development was a cost, it was also a revenue-growing strategy.

Ms. Palmer asked if since they have an economic development fund there was an area of focus to increase the income per acre of real estate. Mr. Gallaway said it seems from the way this has been presented that they are considering putting one-time funds into the economic development fund and asking if there was support to add ongoing contributions as well as to the housing fund. He remarked that the housing fund was an ongoing issue they would have to deal with and they may have to figure out how to put ongoing monies into it. He said that economic development was more flexible as they have to see what opportunities come up while housing was an issue that has to be addressed. He next addressed the issue of proffers and pointed out that with onsite proffers, there was still the potential to get monies.

Ms. Mallek commented that cash proffers are no longer allowed.

Mr. Randolph remarked that impact fees could be used to address affordable housing as a priority.

Ms. Palmer said that the Board does not have a defined policy for the housing fund; Brookdale was a tax abatement as compared with Parks Edge as a subsidy, and they have been dealing with this in a piecemeal way. She asked Mr. Richardson and Mr. Walker if they have anything to say regarding the housing policy.

Mr. Doug Walker, Deputy County Executive, responded that it was staff's expectation that as the County moves forward with the Regional Housing Study, it would also initiate work to revise the Housing Policy. He noted that a new housing planner would start in five days and would work with TJPDC to align things with the regional study.

Ms. Palmer asked if it would be reasonable to put off having an ongoing fund until staff has done more work regarding the policy and direction. Mr. Walker responded that these were choices the staff would have to make together with the Board. He said it makes sense to have a pool of money for the Board to utilize since they do not have a particular project to move forward with using operating money. He continued that they could have ongoing resources dedicated to affordable housing once they have a better understanding from the regional study and better policy guidance.

Ms. Mallek said that when they first began a focus on Rio/29, it was with the understanding that not all eggs would be in one basket and it would be ongoing projects throughout the districts, especially when what they were attempting to refocus attention would take years. She added that proof of concept would have to happen with smaller projects in other districts for the landowners there to want to participate. She said it was not something that would be solved next year by throwing money at it, and by increasing the size of the pie, this would solve revenue issues and the ability to help in places where it was needed. She pointed out that they have worked with private entities and nonprofits to leverage their efforts, and she does not think they are prepared for a dramatic policy change to have the County get into housing projects.

Mr. Gallaway agreed and stated that they do not have enough expertise to know where to direct ongoing moneys, though they are currently debating the merits of projects for one-time funding, and their learning curve should go up fast as many are focused on this.

Ms. McKeel expressed hope that the affordable housing partnership would unearth ideas.

Ms. Mallek added that they should tie in with job improvements and transit. She said that on Pages 17 and 18 under “high-quality services and community,” she would support all of the above as they are all important and they need to figure out a way to leverage them.

Ms. Allshouse said she would provide more dollar numbers when she come back on December 12 and would seek Board guidance as they prepare the FY20 budget.

Because of time issues with the School Board Chair, Mr. Richardson asked the Board take up Agenda Item No. 12, at this time. Board members concurred.

Agenda Item No. 12. Board-to-Board, November 2018, A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors.

Ms. Kate Acuff, Chair, Albemarle County School Board, presented and said she would talk about big conceptual issues, development of an anti-racism policy, school safety, and a few other items. She said the issues of racism and achievement gaps have been a particular concern of the School Board and school system for several years. She said that last summer, the Office of Community Engagement convened a group of eight students to draft a policy to present to the Board in December and they would make this presentation on December 13, followed by a work session with the School Board at Albemarle High School. She said the participating students attended the division’s 2018 summer leadership academy, where they were trained in cultural competency and recognized the significant role that racism plays in their daily lives at school. She said that the anti-racism policy committee was overseen by Mr. Bernard Hairston and led by Ms. Kimberley Dickerson, a doctoral student at University of Virginia Curry School of Education who also holds a law degree from the University of North Carolina.

Ms. Acuff stated that the group held a series of half-day workshops since August to define problems, discuss and analyze research, and to consult with division leaders, parent council, UVA policy experts, peer groups, and other school staff. In addition to the important role the group was playing in crafting division policy, the work also represented project-based experience that embraced lifelong learner competencies like data analysis, problem solving, and participation in civic life. She said the School Board fully supports involving students in the creation of the anti-racism policy since their perspective on the impact of racism, implicit bias, and neutral policies that could adversely impact particular groups of students was well informed by their own experience. She said the students provided an update on the policy development at the November 8 board meeting and would present their final policy proposal to the School Board on December 13.

Ms. Acuff stated that the policy would emphasize equity and respect for all students in the school community, and the School Board rejects all forms of racism in the school environment. She said that staff, students, and community members would share responsibility in confronting and eliminating racism. She said the school division and the committee researched policies from all over the country and learned that relatively few schools have such policies, and they would be very happy to be among those that do. She stated that they believe the policy would help address the division’s achievement gap, which remains a challenge. She said they looked at tracking and noted that students were identified for the gifted program by grades one and two, with enormous disparities by income and race, with black students representing 11% of the overall student population but only 2% of those identified as gifted, while Latinos represent 13% of students and 3% of those identified as gifted.

Ms. Acuff stated that low-income students represent about 30% of the school population but 8% of the gifted population. She remarked that this was a neutral policy unless someone believes that low-income, black, or Latinos could not be in that group, so that was something they need to explore for resolution. She said that in addition to crafting an anti-racism policy, Albemarle County Public Schools asked teachers to earn certifications in Culturally Responsive Teaching (CRT), with 17 teachers holding this certification. She explained that this culturally responsive model attempts to transform how teachers think about students’ ability and the methods by which they learn. She said that the idea was to use cultural awareness to tailor instruction to the individualized strengths and needs of every student. She stated that they need to be identifying the gifts that every student has and not use the gifted program as a way to isolate or elevate certain groups. She said they would get an update on the culturally responsive teaching program at the December 6 School Board meeting and though there are other things they are working on, they are keenly aware of the importance of tackling this and the challenges in doing so.

Ms. Acuff said that Mr. Lorenzo Dickerson, an independent film maker, Albemarle County High School alum, and a member of the staff, has been asked to put together a film presentation on the history of racism in the County since the Civil War period. She said the presentation includes some shockingly racist comments from Paul Cale, a former superintendent for 30 years, and the development of an equity checklist to look at all school policies to see if they have adverse consequences for certain groups of kids. She said they directed Mr. Matt Haas to look at the school naming policy, as it does not have an equity checklist and was not designed to align with the equity values of the school division. She stated that Mr. Haas would deliver a preliminary report at the following day’s meeting. She said they have a Request for Information (RFI) for a professional historian or archivist to assist in finding information relevant to the naming and renaming of schools.

Mr. Gallaway remarked that he attended a school of education, though he was not being prepared for teaching, and he recalled that there were classes related to culturally responsive teaching. He expressed hope that new teachers coming out of schools of education have the skills they are looking

for from a culturally-responsive teaching perspective so the County schools would not have to provide this training, as they do not have the funds to do this.

Ms. Acuff remarked that an anti-racism policy would have to have an operational aspect for it to have any teeth. She stated that cultural sensitivity was important for all staff, including bus drivers, teachers, and child nutrition representatives. She said that some orientation or selection for those skills would be great and they could be taught in professional development.

Ms. McKeel recalled that when she served on the School Board 16 or 17 years ago, they had workshops for teachers on understanding cultural diversity, under the leadership of Ms. Charlene Green, and members of the School Board also attended the workshop. She said it was a huge undertaking and they tried to train teachers to train other teachers.

Ms. Acuff noted that CRT certification was unique to Virginia and it requires the development and implementation of a project and demonstrating measurable improvement in student performance. She reminded the Board that last year they devoted funding for the micro-credentialing of teachers in urban ring elementary schools, which was working to an extent. She described this as dedicated, professional development funding for teachers in areas they identified as having a need, and they received additional stipends for this effort.

Mr. Gallaway remarked that multi-cultural education was required as part of undergraduate and graduate education programs when he was a student. He suggested they look for these skills when making new hires so the County schools do not have to undertake the responsibility for this training.

Ms. Acuff remarked that they are increasing their efforts to recruit minority teachers by going to colleges and making early offers, but finding them remains an ongoing challenge.

Mr. Randolph remarked that what Ms. McKeel was talking about that occurred two decades ago was attitudinal in nature so that the teacher would project the correct attitude. He recounted how he was recently invited by Mr. Hairston to sit in on a class at Monticello High School to observe culturally responsive teaching and that it went far beyond attitude into understanding in a nuanced manner the educational challenges of how to penetrate a cultural barrier for the student in terms of the language used, the methodology, being sensitive to differences in learning styles, and recognizing that a student may not have eaten much that day and had an attitude stemming from that. He continued that the teacher, instead of taking an authoritarian attitude, worked to move the student towards a measurable outcome. He said that this was amazing to see and described the responsibility of young teachers as having to be a cultural anthropologist and sociologist yet know methodology and content.

Ms. McKeel described culturally responsive teaching as being the second or third generation of what they are doing and added that it was a huge undertaking.

Ms. Acuff recounted how she recently attended one of Mr. Hairston's weekend conferences and had assumed that she would gain an understanding of how kids learned best, but it was a matter of looking at your own biases through your own cultural lens.

Ms. Acuff next addressed the issue of school safety. She said the Virginia General Assembly was working on issues of school safety as a result of school violence around the country. She noted that legislators visited schools last year and House Speaker Kirk Cox announced that the House Select Committee on School Safety has finalized its report and recommendations. She said that although some of the focus has been on the hardening of facilities, there have been a focus on the importance of funding mental health prevention efforts. She said the committee recommended that the General Assembly realign the roles of school counselors to ensure they spend the majority of their time providing direct services, including emotional, behavioral, and career life counseling guidance, rather than testing and course selection. She noted that Albemarle has added two positions for mental health during the last budget cycle with the use of local funds. She recalled how Delegate Steve Landes remarked that counselors are already trained in these areas but are not being utilized correctly.

Ms. Acuff stated that the committee supports funding for new school-based positions such as testing coordinators in order to relieve counselors of this burden and allow counselors to counsel. She said they recommend the establishment of a suicide hotline to provide students with access to real-time counseling and to report threats of violence, and funding for 44 student resource officers across the state. She stated that the most important objectives identified by 4,500 respondents to the most recent annual budget survey were student health and wellness and physical safety and security. She said they have started a regular school safety review under the direction of Mr. Nick King in which each school would undergo a review every three years, which includes review of data, a safety walk, review of crisis management practice standards, and a tabletop exercise of different emergency situations. She next reviewed the results of the annual teacher budget survey. She said that attracting and retaining high quality teachers was identified as the top goal for County residents, with 80% expressing support for prioritization of teacher pay. She said that although Albemarle continues to receive a substantial number of applications for teaching positions, there was a statewide shortage that was expected to grow. She remarked that fewer students are studying education and that attrition rates for existing teachers have declined.

Mr. Randolph remarked that this was the same with police and fire/rescue.

Ms. Acuff noted that applications are down by about 20% from what they were in the past, which was enough to be concerning. She said that science and special education are the areas that are harder to fill.

Ms. Acuff continued that the legislative budget committees would meet next week to review school funding, and Mr. Haas would present his funding request to the School Board on January 17, 2019. She said that Jack Jouett School was named as an AVID demonstration school for its high-quality work; very few of the 6,000 schools around the country has this designation, with only three in Virginia. She explained that the AVID program identifies students who would be the first in their family to attend college and provide them with additional support.

Ms. McKeel said that the Board met with legislators the previous day and Mr. Gallaway identified an article that Mr. David Blount had sent to legislators about full funding. She said the legislators wanted to know the deficit Albemarle has incurred under the school funding formula. Ms. Acuff responded that the funding deficit was about \$650 per student multiplied by 14,000 students, which was more than \$60 million lost over the past decade. She remarked that most of this has been made up by the County.

Ms. Palmer asked if the figure was inflation adjusted. Ms. McKeel said this was the question posed by legislators. Ms. Acuff responded that she did not know if it was inflation adjusted and offered to find out.

Mr. Gallaway remarked that although the state does not fully fund SOQs, including school safety and mental health services, the schools have experts in social and emotional education and he applauded Mr. Nick Smith for his work with the social/emotional program. He said that all the fine arts teachers were experts in social emotional learning and intelligence and expressed support for providing more financial support to these teachers.

Ms. McKeel noted that she served on the Equity and Diversity Committee for the school system and received a copy of the Albemarle County Public Schools Equity Policy Checklist, referred to earlier by Ms. Acuff. She said the checklist ensures that policies are looked at through the lens of race, class, gender, and special capacities for students. She believes that the County should also look at its committees through this lens, as some committees lack gender or race diversity. She said she has passed the checklist on to Ms. Lettie Bien and suggests that she also look into this.

Ms. Acuff explained that the checklist was developed by an official from the University of Virginia, who took them through a facially-neutral exercise, and when looking at the checklist, one realizes that it was not neutral after all. She said that the checklist has not been formally adopted by the schools yet, though they are using and revising it, and she expects it to eventually be approved as a school policy.

Ms. Mallek commented on the success of the recent meeting between leaders of the School Board and Board of Supervisors. She said they discussed workforce development, strengthening the program at CATEC, and bringing back the ROTC program.

Ms. Acuff added that the ROTC program would also be expanded to surrounding communities.

Agenda Item No. 11. FY18 Comprehensive Annual Financial Report (CAFR).

Mr. Bill Letteri, Chief Financial Officer, stated that under State Code, Virginia localities are required to submit a Certificate of Achievement for Excellence in Financial Reporting (CAFR), which reports information on revenues, expenditures, and the changes in the fund balance. They are also required to undergo an audit by an independent accounting firm, which has the responsibility to ascertain the extent to which statements are accurate in all material respects and fairly represent the financial position of the County. He then recognized the efforts and accomplishments of County staff in preparing financial statements and in assisting with the lengthy audit process: Ms. Lisa Breeden, Ms. Cecelia Barber, Ms. Tammy Critzer, Mr. Daniel Green, Ms. Tisha Yerdonne, Mr. Jonathan Cairns, Ms. Vickie Malanthy, Mr. Barry Charlie, Ms. Valerie Smith, and Ms. Susan Worrell. He noted that for the twenty-third consecutive year, the County has been awarded the CAFR. He thanked the Board for its support and guidance throughout the year and said the award would not be possible without the policies set by the Board and its fiscal discipline. He also thanked the County Executive's office for its guidance and support. He then introduced Mr. David Foley, Partner with Robertson, Farmer, & Cox, to present on the results of the audit.

Mr. David Foley presented and stated that he met with the Audit Committee the previous week to review the details of the report and would present highlights today. He explained that the report contains four sections: Introduction, Financial, Statistical, and Compliance, and was presented in three main pieces. He said that they verified that the financial statements were presented in accordance with generally accepted accounting principles and would review the County's internal controls, as well as compliance with federal requirements for the spending of federal grants.

Mr. Foley stated that his firm issued an unmodified opinion on the County's financial statements, which he said was the cleanest opinion an auditor could give. This means the financial statements have been prepared in accordance with generally accepted accounting principles. He referenced Page 199 of the report, which was the first page of the compliance section and reviewed internal controls over financial reporting. He said the report was clean with no significant deficiencies or material weaknesses. He next reviewed the third report, which he said reports on the County's compliance with major federal

grant programs. He said that all three audit reports were clean, with no significant deficiencies or material weaknesses. He provided a brief overview of the CAFR and noted that the financial section includes various statements on the County and School Board funds related to balance sheet and income statement items as well as notes to the financial statements, including notes on the County's policies in preparing them. He said the statistical section provides tables of statistics over a 10-year period. The compliance section includes two auditor's reports and a schedule of federal programs, as well as a summary of the whole report. He recognized the tremendous amount of work put in by County staff to prepare for the audit.

Ms. Mallek remarked that the report shows that staff was meticulous every single day and she said she was grateful for their work.

Mr. Richardson recognized the good work of County staff, including Mr. Letteri and Ms. Breeden.

Mr. Randolph recognized the wisdom of the Board in 1932 when it adopted the charter and moved financial management out of an elective office and under the control of the Board of Supervisors, which allows them to have absolute assurance in the integrity and quality of financial figures, with "no political shenanigans."

Returning to the Five-Year Financial Plan discussion, Mr. Richardson stated that between the Board meetings of December 5 and 12, Ms. Allshouse and Mr. Letteri would refine the year-end one-time money that could be allocated so staff could present the Board with options to consider on December 12. He asked for Board direction as to whether they would like staff to send them something before the meeting.

Ms. McKeel and Ms. Mallek asked that he do so.

Mr. Richardson reiterated that staff would refine the number of the year-end unencumbered fund balance and make a list of CIP, one-time funding options tied back to the Strategic Plan.

Ms. Allshouse offered to provide a spreadsheet that walks from the Board from the CAFR to available year-end funds prior to the December 12 meeting.

Mr. Gallaway asked if department capital outlays include one-time expenses to cover onboarding of new positions. Ms. Allshouse confirmed this and used the example of a patrol car for a new police officer hire. She said they consider one-time capital outlays to be an appropriate use for year-end funds.

Agenda Item No. 13. Closed Meeting.

At 5:04 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 discuss and consider appointments to boards, committees, and commissions in which there were pending vacancies or requests for reappointments; and
2. to discuss and consider the temporary assignment of persons within the County Executive's office.

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.

Agenda Item No. 14. Certify Closed Meeting.

At 6:00 p.m., Mr. Gallaway **moved** that the Board certify that to the best of each member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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. 15a. Boards and Commissions: Vacancies and Appointments.

Mr. Dill **moved** that the Board make the following appointments/reappointments:

- **appoint** Mr. Logan Kendle to the Acquisition of Conservation Easements Committee, with said term to expire August 1, 2021;

- **appoint** Mr. Francis Caruccio to the Fire Prevention Board of Appeals/Local Board of Building Code Appeals, with said term to expire November 21, 2022;
- **appoint** Ms. Anna Posner to the Pantops Community Advisory Committee, with said term to expire June 30, 2019; and
- **appoint** Mr. Chris Scharnbeck to Places 29 (North) Community Advisory Committee, with said term to expire August 5, 2020.

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. 16. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Tom Olivier, resident of the Samuel Miller District, addressed the Board and said he was speaking for ASAP. He said that ASAP wants to thank the Board for its decision to keep the courts downtown. He said he would talk about the ENABLE economic development proposal and wants to be clear that ASAP supports economic development planning as an essential activity for the County and that there are many aspects to the ENABLE plan that they like and support, including support for local economic diversity, entrepreneurship, and organic development of the local economy. There are also some elements in the plan that need to be regarded carefully, such as the recruitment of new industries from the outside, which could bring many hidden costs and represent a net loss to the County. He remarked that public/private partnerships are often painted as an opportunity for cheap money for infrastructure projects but oftentimes have not worked out that way. He noted that his organization's concerns for these two aspects were outlined in a handout he distributed to the Board and asked that they look at them.

Mr. Matthew Christensen, resident of Rio District, addressed the Board. He said he was not able to attend the breakfast with legislators yesterday, though he understood that it went quite well. He said he would address the issue of the contextualization of statues. He said the reason he was not able to attend the breakfast was because he attended the trial of Mr. James Fields, who came to Charlottesville from Ohio to rally around the statues, spouted off about Adolph Hitler and posted memes of plowing into protestors. He said that there was only one context for these statues, hatred and evil, and there should not be any kind of monument or praise for these men. He noted that in Germany the swastika was not permitted to be displayed because of World War II and the Holocaust, and evil has been done under that banner. Mr. Christensen said they have started to use the Confederate flag instead because they know and understand that it was meant as a symbol of hate, evil, white supremacy, and racism. He stated that there was no contextualizing these statues but only taking them down. He said he was glad to hear that Mr. Toscano has pre-filed a bill and he hopes it would go through. He said statues have been taken down in other places around the country and reiterated that they should not be contextualized.

Mr. Gary Grant, resident of Earlysville, addressed the Board. He said that on November 30, 2018, a male juvenile being transported from Texas to a detention facility in Shenandoah escaped from his private security escorts while traveling through the Charlottesville airport. Residents of Earlysville want to know why an alert was not provided to the public through social media applications or local news media at the time this occurred and until the escapee was recaptured. He noted that residents receive emergency notifications about weather and road problems, as well as school closings and delays. He said he heard that local law enforcement personnel were told not to alert residents about the incident and that local airport officials were not told in advance that the detainee would be brought through the airport. He noted that the detainee had neither a tracking device nor handcuffs and that it was personnel in the control tower that noticed him walking around security fences. Additionally, he said he heard that the private security officials assigned to the detainee were not in good enough physical condition to recapture him. The detainee knocked on the doors of three of his neighbors. He said that he does not place blame on local law enforcement but asked the Board, as elected representatives, to obtain a complete and accurate report of what happened that day and inform the public why it was not notified that day in real time.

Mr. Sean Tubbs of the Piedmont Environmental Council addressed the Board. He said that his organization was not opposed to the Project ENABLE plan but has concerns with some of the changes between the October and December drafts. He addressed the definition of "controllable barriers," newly added to the draft since the November meeting, and read it as follows: "The County's administrative policies and processes that are discretionary in nature, not regulatory." He said this phrase appears under Goal 2 of Objective 1 and suggests that the objective be further amended to read as follows: "Improve efficiency by removing and reducing any redundant or unbeneficial controllable barriers." He said he would add an extra layer of protection to say exactly what the County was trying to go for there. Mr. Tubbs read the definition for "desired businesses" as it appeared in the October draft: "Such an entity was one that was not consistent with the Comprehensive Plan." He said this definition has been deleted and the word itself has been deleted from Goal 3, Lead the County's Effort to Accommodate Business. He indicated that inclusion of the word "desire" would emphasize the purpose of the plan. He said there was also language in Goal 3, Objective 2, about the new evaluation of land inventory and he asked when the last evaluation was conducted.

Mr. Tubbs next addressed what he felt were good aspects of the plan, such as the name change of the Delta Strike Force to Rapid Response Team and the removal of its description from the glossary that it “moves at the speed of business,” as they still need to ensure that public scrutiny was placed on these activities, especially those conducted behind closed doors. He asked that the Board stay in contact with the City of Charlottesville regarding the Broadway Blueprint to make sure the uses are compatible. He echoed what Mr. Olivier said earlier about public/private partnerships and that the Board should exercise caution, as he was aware from his experience in another job that the parties could eventually become hostile. He said this should be weeded out as a potential possibility when the Board develops guidelines, as it could cost taxpayers millions of dollars.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board. He addressed the issue of Project Enable and the comment made by Mr. Sean Tubbs about the speed of business. He said that sometimes government moves very slowly, which was probably a good thing. He said that Project Enable has diligently worked through the process, and it was good but does not go far enough. He asked that the Board not throw out the good for the perfect and expressed the full endorsement of Project Enable by Free Enterprise Forum. He said he was happy to see economic development at the forefront for Albemarle County.

Agenda Item No. 17. Project Enable (Economic Development Strategic Plan).

Mr. Roger Johnson, Director of Economic Development, presented. He introduced Mr. J.T. Newberry as co-presenter. He said that before he begins the presentation, he would address some comments made during matters from the public. He clarified that they are not recruiting new businesses to the community and that their goal was to grow their own businesses as the primary strategy. Addressing the issue of public/private partnerships, he said he has divided them into two categories, with one being those that are for a public good and the other being those for infrastructure. He said they are focusing on those that provide a public good or placemaking activity. He said they are asking the Board to endorse the foundational work for the economic development strategic plan, known as Project ENABLE. He said they would talk about their intent to clarify, for the Board, some of the language and to provide alternate language for consideration.

Mr. J.T. Newberry presented a brief overview and summary of Project ENABLE. He recalled that in July, the Board endorsed the project’s process and schedule, after which staff worked with community partners, internal and external stakeholders, and informed boards such as the Economic Development Authority and Planning Commission and solicited public feedback in order to develop goals and objectives. The initial draft came before the Board on November 7, 2018 and changes were made in response to Board feedback. He said they added the word “collaborate” to the definition of “partner” in the glossary, added a definition for “agribusiness,” and changed the title of the cross-departmental Delta Strike Force to the Rapid Response Team. He said staff felt they had captured the consensus of the Board to change phrasing under Goals from “non-rural land” to “growth area” and had alternative language for consideration. He continued that they added the public schools as a key partner for developing an entrepreneurial ecosystem. He said they are excited to support the new Office of Equity and Inclusion and would lead the promotion of opportunity zones. He said they eliminated two strategies: to measure and evaluate key factors, and to create a marketing campaign, as a result of Board and public feedback at the November meeting. He then presented a slide with the following list of the seven goals:

- Goal 1: Strengthen existing business retention and/or expansion to help existing businesses be successful.
- Goal 2: Improve the business climate
- Goal 3: Lead the County’s readiness to accommodate business
- Goal 4: Seek private investment to further the public good
- Goal 5: Educate the community and enhance the visibility of economic development
- Goal 6: Lead external efforts to create strategic partnerships with economic development institutions
- Goal 7: Partner to expand efforts to build the County’s tourism sector

He said that Mr. Johnson would now discuss prioritization.

Mr. Johnson presented the following slide with Priority 1: Focus on Growing Our Own Business

- a. Strategic Partnerships, Innovation and Entrepreneurship
- b. Primary Business/Target Industry Retention and Expansion
- c. Site Readiness

He remarked that the community was filled with intellectual capital, which they would find a way to tap into. He said he was excited to report that conversations have begun with the University of Virginia, UVA Foundation, Central Virginia Partnership for Economic Development, and Charlottesville Office of Economic Development around putting together a cohesive plan so that anyone in the community could create an idea on the back of a napkin and create a full-fledged business without leaving the community. They have learned they do not have enough sites to accommodate businesses that are currently in the community and want to make space to be able to retain them.

Mr. Johnson then presented the following slide with Priority 2: Attract Private Capital

- a. Public/Private Partnerships
- b. Policy Development

He said they would consider policies the community was willing to accept instead of having them come forward on a case-by-case basis, and would include grants and incentives.

He then listed the following additional priorities:

3. Improve Business Climate
4. Educate the Community
5. Tourism

Mr. Johnson stated that he would spend a moment discussing how Rivanna Station fit into the plan. He said the defense industry would incorporate NGIC or Rivanna Station and the County would provide support to these organizations, which would include meetings with representatives of the businesses to ask them how they are doing, determine if there are issues with the community they could help with, and offer customized solutions if there are. He said they would also assist with site readiness in case an existing business wants to grow. He said that under the category of agribusiness, they plan to convene representatives from wineries, cideries, and other alcohol-producing businesses to see if they wish to export products outside of the area and bring money back to the community.

Mr. Johnson presented the following slide of Goal 3, Objective 2: Focusing on the Growth Areas
Objective 2: Represent economic development interests in County and institutional partners' planning processes

Strategies:

- Partner with Department of Community Development to increase the inventory of land available for business in the growth areas
- Partner with Department of Community Development to evaluate the sufficiency of land inventory designated in the Comprehensive Plan for commercial and industrial uses in the growth areas
- Partner with Department of Community Development to examine privately held and County-owned property that could be rezoned for business in the growth areas.

Mr. Johnson explained that they could replace growth areas with development areas, if the Board so chose. He noted that comments have been made that different words could have different meanings depending on the audience, and the intent of the language for one of the strategies under this goal was to increase job-producing opportunities within the growth area, not to expand the growth area. He said the intent of the language that addresses an inventory of land for commercial purposes was to remain within the growth area, as there may be a way to re-designate land so that commercial activity could have a better opportunity to be successful, and they would partner with Community Development to do that. He said the third strategy was to look at privately owned and County-owned property to see if there was a higher and better use for economic development purposes within the growth area.

Ms. Palmer asked Mr. Johnson if he could change the wording to clarify the intent rather than have to explain it and have Board members remember. Ms. Mallek said she was happy with the existing wording in the introduction that explained the overall intent of the Comprehensive Plan, though the insertion of the word "existing" would resolve any lack of clarity.

Ms. Palmer remarked that a few extra words in the document should make things clear.

Mr. Kamptner asked why "growth area" was used in place of "development area," as it may not be intuitive to someone reading the Comprehensive Plan that the growth area was the same thing as the development area. Mr. Walker stated that "growth area" was the term used in conversations by the Board at the last meeting, and they had second thoughts about it, which was why the alternative language referenced the development areas, as defined within the Comprehensive Plan.

Mr. Kamptner said he thought it was a legacy term that had been removed from the Comprehensive Plan. He suggested that they place an asterisk the first time the word was used and a footnote that explained that the two words have the same meaning.

Ms. Mallek asked if members were in favor of an asterisk phrase and a change from growth area to development area. Ms. Palmer and Mr. Gallaway expressed agreement.

Mr. Gallaway said he would restate that this was not a land use policy.

Ms. Palmer asked Board members if they accepted insertion of the word "re-designate." Mr. Randolph and Ms. Mallek acknowledged their agreement.

Mr. Johnson reviewed next steps: County and Economic Development staff would continue with project work, business retention expansion efforts, policy work, Broadway Blueprint, site readiness work, Rapid Response Team, and management of grants and incentives. He concluded and asked for Board endorsement.

Ms. McKeel **moved** that the Board adopt the Project ENABLE Plan (copy on file in Clerk's office). 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.

Agenda Item No. 18. **APPEAL:** Route 29 LLC Appeal of Zoning Administrator's Determination of Proffer Violation.

The Executive Summary forwarded to the Board states that Hollymead Town Center A1 (ZMA 2005-15) was originally rezoned to Planned Development Mixed Commercial on September 12, 2007. The rezoning was amended by Route 29 LLC twice: on January 12, 2011 with ZMA 2010-014 and most recently with ZMA 2012-005 on December 11, 2013. The relevant proffer was provided with the original rezoning and was not changed with the two amendments. Proffer #4 of ZMA 2012-005 states: "*Public Transit Operating Expenses - Within thirty days after demand by the County after public transportation service is provided to the Project, the Owner shall contribute \$50,000 cash to the County to be used for operating expenses relating to such service, and shall contribute \$50,000 cash to the County each year thereafter for a period of nine (9) additional years, such that the cash contributed to the County pursuant to this Proffer 4, shall total Five Hundred Thousand Dollars (\$500,000). The cash contribution in years two through ten shall be paid by the anniversary date of the first contribution.*"

Public transit service was established to the site on May 2, 2016 and is ongoing. The service is operated by JAUNT. On May 20, 2016, Rebecca Ragsdale, Senior Planner, requested payment of the first \$50,000 cash contribution be made payable to the County by June 20, 2016 (Att B). Subsequent to this, Route 29 LLC filed litigation relating to the transit proffer to seek relief. On May 7, 2018, Rebecca Ragsdale requested payment of \$150,000 be made by June 18, 2018 to satisfy the three proffer payments that are past due (Att C). On August 7, 2018, the Zoning Administrator issued Route 29 LLC an official determination of violation (NOV) for failure to pay the transit proffer (Att A). On September 6, the appellants filed this appeal (Att E).

A commuter bus run by JAUNT on behalf of Charlottesville-Albemarle Transit (CAT) constitutes "public transportation service." That is the trigger for the transit proffer payment. All other contentions the appellant makes are more appropriate considerations as amendments to the proffer. Proffer amendments are processed through a rezoning application rather than an appeal. These and other considerations have been discussed with the appellant although a proffer amendment has not been fully pursued.

Mr. Greg Kamptner, in his role as Deputy County Attorney, sent a letter to the appellant's attorney, Mr. Pete Caramanis, stating that the transit proffer had been triggered because "JAUNT provides 'public transportation service' within the meaning of Proffer 4." His letter further stated "Unless, and until, Proffer 4 is amended, it is an enforceable obligation of Route 29 LLC. Failure to comply with the proffer will be a zoning violation. Amending Proffer 4 would have to be accomplished through the rezoning process and ultimately be subject to approval by the Board of Supervisors" (Att D).

Proffers are intended, among other things, to provide mitigation of impacts and public benefits without increasing the financial burden on the locality. The owner's failure to meet its proffer obligation results in a \$50,000 revenue loss per year, or \$500,000 over the 10-year life of the proffer.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to deny Route 29 LLC's appeal and to affirm the Zoning Administrator's August 7, 2018 determination.

Ms. Amelia McCulley, Zoning Administrator, stated that Virginia Code states that proffer appeals must be heard by the governing body. She said the appellant would speak first and she would follow.

Mr. Pete Caramanis, representing Route 29 LLC, addressed the Board. He said he hopes that tonight would provide clarity and a productive path forward to resolve this longstanding matter. It has become clear to the appellants, from comments made publicly and conversations with the County Attorney and Zoning Administrator, that the County expects them to come forward with another proffer amendment application, which was not their understanding. They had expected to have some informal conversations to get clarity as to what kind of proffer amendment that would be favorably received. He explained that since the appellants know what the Board was looking for, they quickly proceeded on that path and have a preapplication meeting scheduled for December 10, 2018 with a plan to file an amended application. It appears that staff and the County are more willing to engage in a conversation knowing that there was an application pending.

Mr. Caramanis said that they have not ignored the issue and had floated some ideas to the County Attorney in August but just received feedback this morning. He said it has never been their desire to have the courts resolve this and they expect to have conversations and to find middle ground but before these conversations could occur they were sent the invoice for the first proffer, which they took as a sign that the County did not want to engage in those conversations, which he now realizes was wrong. He remarked that both his firm and the County have taken actions in response to misunderstandings of the intentions of the other over the past several months. He asked that the Board defer ruling on the appeal until the proffer amendment was filed by the January deadline and have the chance to make its way back to the Board. If the Board were to affirm the decision of the Zoning Administrator, it would require his clients to file legal papers to protect their rights. He offered to respond to any questions and reiterated his request that the matter be deferred.

Ms. McCulley passed out a revised resolution and a copy of the proffer page to Supervisors. She presented a zoning map of Hollymead Town Center, noted that it consists of several different rezonings, and pointed out the area subject to this appeal. She explained that the appeal was to a notice of zoning violation, dated August 7, 2018, for failure to pay a total of \$150,000 as proffered for transit operating expenses. She presented a slide with Proffer #4 under ZMA 2012-05. She explained that this proffer

dated back to the original rezoning in 2007 and once triggered, the proffer called for an annual payment of \$150,000 for 10 years and a total of \$500,000 paid towards transit operating expenses. She said the cash payment was triggered by the establishment of public transportation service on May 2, 2016, which consisted of a commuter bus run by JAUNT on behalf of Charlottesville/Albemarle Transit. She said JAUNT was established to provide public mass transit services as provided in the resolution that authorized its formation. She said the JAUNT service was continuous and ongoing. She referred to Attachment D of the Board's report, which was the letter dated December 1, 2015 from Mr. Greg Kamptner acting in his role as Deputy County Attorney.

Ms. McCulley said that Mr. Kamptner had stated two things that were important to the matter before the Board: 1) failure to comply with the current proffer constitutes a zoning violation; 2) amending the proffer was accomplished through a rezoning process subject to approval by the Board. She said the County requested payment on two occasions and no payment has been made. Subsequent to the first payment request, Route 29 LLC filed litigation to seek relief. She said that the most recent request was for the three past due payments to be delivered by June 18, after which an official determination of a zoning violation was sent. She said this was not a case of proffer interpretation because the language was very clear and explicit, but was a case of the appellant contending that the proffer should not be enforced as written. She stated that the appellant's contentions were appropriate considerations for an amendment of the rezoning proffer rather than an appeal, and she noted that an application has been submitted in the past and withdrawn. She remarked that payment for public transit was not unique to this project. Ms. McCulley said that staff recommends that the Board adopt a revised resolution to deny the appeal and affirm the Zoning Administrator's August 7, 2018 determination of violation, unless the Board choose to defer the item. She asked Mr. Kamptner to explain the revisions to the resolution.

Regarding the history of this case, Mr. Kamptner said that three decisions have come out of Ms. McCulley's office. He said these include the letters sent in May 2016 and May 2018, and the notice of violation issued in August, 2018. The two original letters sent in May 2016 and May 2018 were enforcing the proffer. The letters request the landowner's obligation to make the \$50,000 payment, neither of which were appealed to the Board of Supervisors. The section of the statute that brought this appeal to the Board tonight also applies to those letters of 2016 and 2018. Without the landowner exhausting the administrative remedies, to consider zoning decisions, many of the underpinning facts are no longer subject to dispute. He explained that the resolution has been modified to incorporate the failure of the two letters to be appealed and to incorporate the public transportation services provided by JAUNT.

Mr. Caramanis remarked that one of Ms. McCulley's comments was that the interpretation of the proffer was not in question and he disagrees with this. He said he wants to be clear that they are not saying the proffer itself could never be enforced, but whether the JAUNT bus has a sufficient nexus to be able to be the trigger for the proffer.

Ms. Palmer asked Mr. Caramanis what he would consider to be a trigger for the proffer. Mr. Caramanis responded that it would be one that addresses impacts created by this development. He said the JAUNT bus addresses commuting and the impacts from the development of this block do not result in the need for a commuter bus. This proffer was not intended to address all the impacts of Hollymead Town Center; instead limited to Block A1, which is Kohl's.

Mr. Randolph asked Mr. Caramanis if he would subscribe to a doctrine whereby government should defer to the wishes of the proffer holder to determine terms and conditions in which the proffer should apply, even though this agreement was signed between willing parties in 2012, and he was asking six years later to allow the client to determine how the proffer should be used. Mr. Caramanis responded that this was not what he was saying at all but was stating that every proffer, when triggered, has to be reviewed for that particular situation and whether it was applicable under those facts.

Mr. Randolph remarked that when people sign a contract, they usually think through the implications and obligations, and the client was well aware that there was going to be a trigger that would come into operation at a future date. He pointed out that the County has met its obligations and responsibilities under the agreement and asked why the applicant should not be asked to do the same. Mr. Caramanis responded that it was a matter of interpretation and he was not suggesting that the proffer change. He said they came forward as the JAUNT route was being contemplated to explain that it was not something they considered to be a trigger for the proffer. He noted that the original proffer was signed by another developer and included a revision to the proffer, which was supported by the Planning Commission, and then it was determined that, because of the way it was advertised, the Board could not address its interpretation. He stated that because of this, Mr. Wood was faced with a choice to either accept the one he needed to get the Kohl's development done, keep this one and amend it later, or lose the Kohl's development. He remarked that this has been discussed for many years.

Ms. McKeel asked if the Planning Commission deal with proffers. Mr. Kamptner responded that they do so at the rezoning stage, before the application comes to the Board.

Mr. Caramanis reiterated that they are not seeking reinterpretation of the proffer tonight but to have a few months to be able to file the proffer amendment to allow them to have a back and forth as to what was an appropriate proffer for this situation.

Ms. McKeel asked if he was objecting to the location of the stop at Kohl's. Mr. Caramanis responded that it was always contemplated for there to be a stop at Kohl's. He said he mentioned Kohl's because the block at Hollymead Town Center to which this applies was the section where the Kohl's building was located.

Mr. Kamptner referenced the first paragraph on Page 2 of his December 2015 letter, which touches on how the County interpreted the proffer and made three points: 1) JAUNT provides a transportation service, 2) there was a transit stop within the project area for Hollymead Town Center Area A1, and 3) Proffer #4 does not restrict or further refine what public transportation services means.

Mr. Randolph asked Mr. Caramanis what other public transportation system he would have preferred if not JAUNT. Mr. Caramanis reiterated that their objection to enforcement of the proffer has nothing to do with it being JAUNT, but the issue was that it should address the impacts on the block of Hollymead Town Center for which the proffer applies.

Mr. Gallaway asked why the prior proffer amendment application was not followed through on. Mr. Caramanis responded that there was a lot surrounding that application. They filed the application, had a community meeting and received positive feedback. The planner assigned to the application moved onto something else and it was left to some additional folks on the Planning staff to write the staff report, which was very negative. His client then deferred the application for the purpose of trying to have conversations to make sure it was understood what his client was asking for. They then received the invoice for the proffer before any of these conversations occurred, and they took this to mean that nobody wanted to have a conversation. They attempted to reach out many times since then to try to have a conversation to determine what the application should look like to be well received.

Ms. Mallek remarked that it was the statutory definition of the process and not a reaction from a particular staff person that caused that to happen.

Ms. McKeel recalled that JAUNT and the County requested that a stop be placed in the development itself, and they were not allowed to do this nor has JAUNT been allowed to put up a sign to identify the stop.

Mr. Kamptner remarked that within the parking lot of A1, Proffer 3 requires that a bus shelter be installed, though there was no easement set aside to make it clear that it was open to the public so the transit stop set up by JAUNT was within A1 but on the Town Center Drive sidewalk.

Ms. McKeel said she does not think VDOT has an easement on that public road.

Mr. Kamptner speculated that there may not be enough right-of-way to put up a full shelter.

Mr. Dill remarked that Mr. Caramanis' client was twice sent a bill that it did not pay, nor did they come before the Board to dispute it, so the County has sued. He suggested they go to court and figure it out. Mr. Caramanis expressed understanding with Mr. Dill's remarks. He said the lawsuit was not brought by the County but by his client to contest this, though it was not their goal to determine this in court.

Ms. Mallek pointed out that this was the agreement under which his client received the rezoning. Mr. Caramanis remarked that they keep trying to reach an agreement to resolve this but they are not being welcomed to the table to talk about it. He reiterated that his client wants to find a proffer that could actually work for everybody. He said he was at a loss as to how they could expect to have this conversation if no one would engage them on this topic.

Ms. Mallek responded that the appeal process was not the process the statute offered for his predicament and he needs to do the amendment process, of which the applicant was informed a long time ago, just like he knew what the bills would be a long time ago, and it was part of the approval for the rezoning.

Mr. Caramanis said that if it were clear the proffer was applicable to this particular situation, that would be a different story, and this was what was out there for interpretation.

Mr. Randolph responded that some in the community lambasted the Board as they wanted it to produce greater efficiency and be more effective in time management and more responsive, yet Mr. Caramanis has come in with an issue that basically said that if they permitted the applicant to do this, then every landowner in the County that has voluntarily and consciously agreed to a proffer could come back to the Board and request a discussion because they do not feel something was satisfactory for them. Mr. Randolph added that the Board would deal with zoning appeals at every meeting and have to redo what has already been agreed to in a contractual agreement.

Mr. Gallaway asked Mr. Caramanis for confirmation that his request was for the Board to defer the decision on the appeal and do the proffer amendment application with a date restriction. Mr. Caramanis responded that they want to defer the request to see the proffer amendment process through and assures the Board it would be filed by the January deadline, noting that the preapplication meeting has been set.

Mr. Gallaway expressed a willingness to grant the request.

Mr. Kamptner responded that they are already in litigation.

Ms. Mallek remarked that it would not change anything.

Ms. McKeel remarked that the appellant knew the proffer was there when he bought it from the original developer.

Mr. Randolph **moved** that the Board adopt the proposed resolution to deny Route 29 LLC's appeal and affirm the Zoning Administrator's August 7, 2018 determination. 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.

(**Note:** The adopted resolution is set out below:)

**RESOLUTION DENYING ROUTE 29 LLC'S APPEAL AND AFFIRMING
THE ZONING ADMINISTRATOR'S AUGUST 7, 2018 DETERMINATION**

WHEREAS, on December 11, 2013, the Albemarle County Board of Supervisors approved ZMA 2012-005 Hollymead Town Center A1 with proffers; and

WHEREAS, Proffer 4 requires the contribution of \$50,000 cash per year to the County for a period of ten years and a total cash contribution of \$500,000 to be used for operating expenses relating to public transportation service to Hollymead Town Center; and

WHEREAS, Proffer 4 requires the first payment to be made within thirty days after demand by the County after public transportation service is provided to Hollymead Town Center, and payments two through 10 to be made by the anniversary date of the first contribution; and

WHEREAS, public transportation service was established to the Hollymead Town Center on May 2, 2016 and is ongoing, and on May 20, 2016, the first \$50,000 contribution was requested in writing to be paid to the County by June 20, 2016; and

WHEREAS, Route 29 LLC did not make the payment, and filed suit against the County seeking relief from the requirements of Proffer 4; and

WHEREAS, on May 7, 2018, the first three contributions of \$50,000 each, or \$150,000, was requested in writing to be paid by June 18, 2018, and Route 29 LLC did not make the payment; and

WHEREAS, on August 7, 2018, the Zoning Administrator issued a Notice of Official Determination of Violation to Route 29 LLC for failure to pay the amount due pursuant to Proffer 4; and

WHEREAS, Route 29 LLC appealed the Zoning Administrator's August 7, 2018 determination to the Board as provided by Virginia Code § 15.2-2301, asserting that Proffer 4 should have been previously amended and should still be amended.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared for the Appeal of the Zoning Administrator's Determination and all of its attachments, and the information presented at the Board of Supervisor's December 5, 2018 meeting, the Albemarle County Board of Supervisors hereby denies Route 29 LLC's appeal and affirms the Zoning Administrator's August 7, 2018 determination that Route 29 LLC is in violation of Proffer 4 because public transportation service is provided and Route 29 LLC has failed to make three annual \$50,000 contributions to the County for a total of \$150,000, and has thereby failed to satisfy Proffer 4 accepted in conjunction with ZMA 2012-005.

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

Agenda Item No. 19. **Public Hearing: ZTA 2018-06 – Entrance Corridor – John Warner Parkway and Rio Road.** To receive comments on its intent to recommend adoption of an ordinance that would amend Section 30.6.2, Boundaries of the District, of Chapter 18, Zoning, of the Albemarle County Code, to add both (a) State Route 2500 (John Warner Parkway) (the "John Warner Parkway") and (b) State Route 631 (Rio Road) between the Norfolk Southern Railway tracks and the John Warner Parkway, as arterial highways upon and along which an entrance corridor overlay district is established, and to add the date of adoption of this ordinance as an "applicable reference date." Development on parcels within an entrance corridor overlay district is subject to design review as provided in Albemarle County Code § 18-30.6.
(*Advertised in the Daily Progress on November 19 and November 26, 2018.*)

Agenda Item No. 20. **Public Hearing: ZMA 2018-09 – Entrance Corridor – John Warner Parkway and Rio Road.** To receive comments on its intent to recommend adoption of an ordinance to amend the zoning map, which is part of Chapter 18, Zoning, of the Albemarle County Code, to establish an entrance corridor overlay district (Section 30.6 of Chapter 18 of the Albemarle County Code) upon each parcel sharing a boundary at any point with (a) State Route 2500 (John Warner Parkway) (the "John Warner Parkway") or (b) State Route 631 (Rio Road) between the Norfolk Southern Railway tracks and the John Warner Parkway ("Rio Road East"), on the date of adoption of this ordinance and ZTA-2018-006, and upon each parcel within 500 feet of the right-of-way of the John Warner Parkway or Rio Road

East that does not share a boundary at any point with the John Warner Parkway or Rio Road East, respectively, on the date of adoption of this ordinance and ZTA-2018-006. Development on parcels within an entrance corridor overlay district is subject to design review as provided in Albemarle County Code § 18-30.6. This proposed amendment would not affect the general usage and density range authorized by the applicable underlying zoning district regulations for each parcel. The general usage and density range of the land use designations in the comprehensive plan within the proposed John Warner Parkway and Rio Road East Entrance Corridors are as follows: (1) neighborhood density residential (residential, 3-6 units/acre, and supporting uses such as religious institutions, schools and other small-scale non-residential uses); (2) urban density residential (residential, 6.01-34 units/acre, and supporting uses such as religious institutions, schools, commercial, office and service uses); (3) urban mixed use in centers (retail, residential, commercial, employment, office, institutional, and open space); (4) institutional (civic uses, parks, recreational facilities, and similar uses on County-owned property); (5) public open space (recreation and open space uses); and (6) privately owned open space/environmental features (privately owned recreational amenities and open space; floodplains, steep slopes, wetlands, and other environmental features).

(Advertised in the Daily Progress on November 19 and November 26, 2018.)

The Executive Summary forwarded to the Board states that at its meeting on October 30, 2018, the Planning Commission voted to unanimously adopt (6:0 Keller absent) to recommend adoption of both the Zoning Text Amendment and the Zoning Map Amendment.

The Federal Highway Administration reclassified the John W. Warner Parkway as an arterial street in 2016, making the Parkway eligible to be classified as an entrance corridor and to be added to the Entrance Corridor Overlay District (County Code § 18-30.6). Rio Road from Route 29 to the Norfolk Southern Railway tracks was designated an Entrance Corridor in 2005. The segment of Rio Road between the tracks and the Parkway is now also classified as an arterial street. Adding this segment to the Entrance Corridor Overlay District would make the corridor continuous. Designation of these roads would automatically apply Entrance Corridor Overlay zoning to adjacent parcels and property within 500' of the right-of-way, providing for Architectural Review Board review of new development as outlined in County Code § 18-30.6.

Staff recommends that the Board adopt:

1. The proposed Zoning Text Amendment (Attachment D).
2. The Ordinance to approve the Zoning Map Amendment (Attachment E).

Ms. Margaret Maliszewski, Principal Planner, explained that they would consider the possibility of adding the John Warner Parkway and a portion of Rio Road East to the entrance corridor overlay district. On July 11, 2018, the Board adopted a resolution of intent for these additions and the parkway was reclassified as an arterial street in 2016. She said this classification was one of the two state enabling legislation criteria for a local entrance corridor designation. The other criterion was that the proposed street must represent a significant route of tourist access to the locality or to designated historic sites within the locality or adjoining the locality. She presented a map of the parkway and surrounding area and noted that it connects Rio Road East from Route 29 North to downtown Charlottesville. She noted that Charlottesville has historic sites and thus the parkway qualifies under that criterion. Rio Road from Route 29 to the railroad tracks was designated an entrance corridor in 2005, and the segment between the tracks and the parkway was now classified as an arterial street. She said that adding this segment to the overlay district would make the corridor continuous from Route 29 to the City/County line.

Ms. Maliszewski stated that the designation of these roads would apply entrance corridor overlay zoning to adjacent parcels and to property within 500 feet of the right of way. She presented a diagram to demonstrate how parcels are included in the overlay, noting that parcels adjacent to the street are included to the full depth of the parcel, while those not adjacent are included up to 500 feet from the right-of-way. She said that being in the entrance corridor overlay means the property was subject to review by the Architectural Review Board, and the review was intended to ensure that new development along the corridor was compatible with the historic architecture of the area. She said that the addition of the corridor serves the public by maintaining the visual integrity of the street and compatibility with historic character, which enhances the quality of life in the County. She presented a map of the proposed overlay addition, noting that it picks up some properties that are exempt from ARB review, which are primarily single-family detached residences. She said that adding the parkway as an entrance corridor would maintain all the standard exemptions. She explained that the Board would consider both a zoning text and a zoning map amendment, which would occur with a change in the language of the ordinance, which was included in the staff report.

Ms. Maliszewski noted that on October 30, 2018, the Planning Commission unanimously recommended the adoption of both the zoning text amendment and the zoning map amendment. She said that staff recommends adoption, presented the proposed language of the motion, and offered to answer questions.

Mr. Kamptner informed the Board that the two public hearings could be combined.

Ms. Mallek opened the public hearing on both requests.

Mr. Neil Williamson, of the Free Enterprise Forum, stated that Ms. Mallek recently commented on the use of antique automobile tags for vehicles that are used every day, which was not intended by the legislature. He asked how many entrance corridors the legislation intended to create and how many was enough. He pointed out that the County would have 23 of them, though they have not fixed the Code for those that are illegal. He said that the Board had a resolution of intent in February to fix the Code, though it was pulled from the agenda. He said they now have the opportunity to expand the broken entrance corridors but are not going to "fix the leaking toilet". He urged the Board not to expand when there are already problems with the Code. He acknowledged that this road was probably an entrance corridor but there are so many problems with other entrance corridors that the Board needs to fix them first.

Mr. Gallaway noted that the corridor runs through his district and expressed his support for its expansion beyond the railroad tracks.

With no further comments from the public, Ms. Mallek closed the public hearing.

Mr. Gallaway **moved** that the Board adopt the proposed ordinance to approve ZTA 2018-06 Entrance Corridor John Warner Parkway and Rio Road. 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.

(Note: The adopted ordinance is set out below:)

ORDINANCE NO. 18-18(6)

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

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

By Amending:

Sec. 30.6.2 Boundaries of the district.

Chapter 18. Zoning

Article III. District Regulations

Section 30. Overlay Districts

.....

30.6 Entrance Corridor Overlay District - EC (Added 10-3-90)

30.6.1 Purpose and Intent

The purpose of this section 30.6 is to implement the enabling authority in Virginia Code § 15.2-2306(A) by identifying those arterial streets and highways found to be significant routes of tourist access to the county and to designated historic landmarks, structures or districts within the county or in contiguous localities, and to require that the erection, reconstruction, alteration or restoration of structures, including signs, on parcels contiguous to those streets and highways as provided herein, be architecturally compatible with those historic landmarks or structures.

The comprehensive plan provides that scenic resources contribute to the community's desirability as a place to live, enhance and protect property values, and contribute to the overall quality of life for the county's residents. The comprehensive plan also acknowledges that scenic resources are important to visitors as well as the county's residents, and that visitors to the Blue Ridge Mountains and the county's rural historic structures gather a lasting impression of the county as they travel the county's scenic roadways. The significant routes of tourist access within the entrance corridor overlay district provide access to the county and to many of the county's historic landmarks, structures and districts including, but not limited to Monticello, the home of Thomas Jefferson, which is on the World Heritage List administered by the United Nations and a National Historic Landmark, Ash Lawn-Highland, the home of James Monroe, the University of Virginia, whose Rotunda is on the World Heritage List and a National Historic Landmark, and whose academical village is on the World Heritage List, a National Historic Landmark and a National Register Historic District, and the county's eight historic districts on the National Register of Historic Places, including the Southwest Mountains Rural Historic District and the Southern Albemarle Rural Historic District.

The entrance corridor overlay district is intended to implement the comprehensive plan's goal to preserve the county's scenic resources because they are essential to the county's character, economic vitality and quality of life. An objective of this goal is to maintain the visual integrity of the county's roadways by using design guidelines. The entrance corridor overlay district will ensure that development is compatible with the county's natural, scenic, historic and architectural resources by providing for review of new construction along the identified significant routes of tourist access by an architectural review board under design guidelines promulgated by that board and ratified by the board of supervisors.

(§ 30.6.1, 10-3-90; Ord. 10-18(5), 5-12-10)

30.6.2 Boundaries of the District

The entrance corridor overlay district is established upon and comprised of those parcels contiguous to significant routes of tourist access, regardless of the underlying zoning district or the existence of other applicable overlay districts, as provided in section 30.6.2(b) as follows:

- a. *Significant routes of tourist access.* The following arterial streets and highway are found to be significant routes of tourist access and are hereinafter referred to in section 30.6 as “EC streets”:
 1. U.S. Route 250 East (Richmond Road).
 2. U.S. Route 29 North (Seminole Trail).
 3. U.S. Route 29 South (Monacan Trail).
 4. Virginia Route 20 South (Monticello Avenue and Scottsville Road).
 5. Virginia Route 631 (5th Street and Old Lynchburg Road) from Charlottesville City limits to Route 708 (Red Hill Road) and Virginia Route 631 (Rio Road West) from U.S. Route 29 North (Seminole Trail) to Route 743 (Earlsville Road). (Amended 11-14-90, 4-12-00)
 6. U.S. Route 250 West (Ivy Road and Rockfish Gap Turnpike).
 7. Virginia Route 6 (Irish Road).
 8. Virginia Route 151 (Critzers Shop Road).
 9. Interstate Route 64.
 10. Virginia Route 20 North (Stony Point Road).
 11. Virginia Route 22 (Louisa Road).
 12. Virginia Route 53 (Thomas Jefferson Parkway).
 13. Virginia Route 231 (Gordonsville Road).
 14. Virginia Route 240 (Three Notch'd Road).
 15. U.S. Route 29 Business (Fontaine Avenue)
 16. U.S. Route 29/250 Bypass.
 17. Virginia Route 654 (Barracks Road). (Added 11-14-90)
 18. Virginia Route 742 (Avon Street). (Added 11-14-90)
 19. Virginia Route 649 (Airport Road) from U.S. Route 29 North (Seminole Trail) to Virginia Route 606 (Dickerson Road). (Added 4-12-00)
 20. Virginia Route 743 (Hydraulic Road and Earlsville Road) from U.S. Route 29 North (Seminole Trail) to Virginia Route 676 (Woodlands Road). (Added 4-12-00)
 21. Virginia Route 631 (Rio Road) from U.S. Route 29 North (Seminole Trail) easterly to the Norfolk Southern Railway tracks. (Added 11-2-05)
 22. Virginia Route 631 (Rio Road) between the Norfolk Southern Railway tracks and Virginia Route 2500 (John W. Warner Parkway).
 23. Virginia Route 2500 (John W. Warner Parkway).
- b. *Parcels contiguous to EC streets.* Parcels contiguous to EC streets are:
 1. *Parcels sharing boundary with an EC street on reference date.* Each parcel that had a boundary that was shared at any point with the right-of-way of an EC street on one of the following applicable reference dates: (i) on October 3, 1990 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(1) through (16); (ii) on November 14, 1990 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(17) and (18); (iii) on April 12, 2000 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(19) and (20); (iv) on November 2, 2005 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(21); and (v) on December 5, 2018 for those parcels sharing a boundary with an EC street identified in section 30.6.2(a)(22) and (23) (hereinafter, the “applicable reference date”).
 2. *Parcels not sharing boundary with an EC street.* Each parcel within five hundred (500) feet of the right-of-way of an EC street that did not share at any point a boundary with the right-of-way of an EC street on the applicable reference date.
- c. *Extent of overlay district.* The overlay district extends across the entire width of each parcel contiguous to an EC street. The overlay district extends to the depth of each parcel as follows:
 1. *Parcels sharing boundary with an EC street on reference date.* If the parcel shared a boundary with an EC street on the applicable reference date as provided in section 30.6.2(b)(1), the overlay district extends to the full depth of the parcel.
 2. *Parcels not sharing boundary with an EC street.* If the parcel is within five hundred (500) feet of an EC street and did not share a boundary with an EC street on the applicable reference date as provided in section 30.6.2(b)(2), the overlay district extends to a depth of five hundred (500) feet from the right-of-way of the EC street.
- d. *Effect of subsequent change to parcel boundaries.* The subdivision, boundary line adjustment, or any other change to the boundaries of a parcel after the applicable reference date shall not reduce the area subject to this section 30.6 without a zoning map amendment that changes the boundaries to the entrance corridor overlay district.

(§ 30.6.2, 10-3-90; 11-14-90; 9-9-92; Ord. 00-18(4), 4-12-00; Ord. 01-18(3), 5-9-01; Ord. 05-18(9), 11-2-05; Ord. 10-18(5), 5-12-10)

Mr. Gallaway **moved** that the Board adopt the proposed ordinance to approve ZMA 2018-09 Entrance Corridor John Warner Parkway and Rio Road. 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.

(**Note:** The adopted ordinance is set out below:)

ORDINANCE NO. 18-A(6)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA, BY AMENDING THE ZONING MAP TO EXTEND THE BOUNDARIES OF THE ENTRANCE CORRIDOR OVERLAY DISTRICT

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that, pursuant to the authority contained in Virginia Code § 15.2-2280, *et seq.*, including the purposes of zoning ordinances in Virginia Code § 15.2-2283 and the material and relevant factors for establishing zoning districts set out in Virginia Code § 15.2-2284, the zoning map is hereby amended to extend the entrance corridor overlay district to those lands shown on the maps attached hereto as Exhibit A, which Exhibit is incorporated herein by reference.

This ordinance shall be effective immediately.

Agenda Item No. 21. **Public Hearing: ACSA201800002, Christian Aid Mission Request for Sewer Service.** To receive comments on its intent to amend the Albemarle County Service Authority Jurisdictional Area to provide Sewer Service to TMP 05900000023G1, Christian Aid Mission property (200 Bob Finley Way). The property is located on the corner of Ivy Road (north side) and Broomley Road. Staff is recommending a limited service designation "to the existing structures, except that places of worship, one private school, and other uses permitted in the Rural Areas (RA) zoning district, which may be located in new buildings and served by public sewer."

(Advertised in the Daily Progress on November 19 and November 26, 2018.)

The Executive Summary forwarded to the Board states that the applicant is requesting ACSA Jurisdictional Area designation for sewer service to a 12+ acre parcel. The parcel is located on the north side of Ivy Road (Rt. 250 West). Broomley Road is located on the east side of the parcel, CSX Railroad is located to the north, and Charlottesville Volvo and the Korean Community Church are on the east side of parcel. The parcel is designated Rural Area in the County's Comprehensive Plan and is located in the South Fork Rivanna River Reservoir water supply watershed. The property is zoned CO, Commercial Office and has been zoned and developed commercially since the early 1970s. The property is designated in the ACSA Jurisdictional Area for Water Service Only and is connected to public water (Attachment A).

The applicant's request (Attachment B) describes the development and uses on the parcel, and includes conditions related to the septic system. In summary, the site contains the following:

- the "office buildings" which now house the Canaan Christian Church and Koinonia Christian Church;
- a guest house that can accommodate up to 26 overnight guests;
- a building which now houses a private school (Regents School); and
- a garage building with one apartment unit.

The site is served by Four (4) septic and drainfield systems. The Virginia Department of Health (VDH) has determined that one of the three systems is failing (Attachment C). VDH has also determined that there is insufficient area on the property for a replacement drainfield due to a combination of the level of development (buildings and parking), the presence of steep slopes, and the recent deposit of soil/fill material on the property from the Broomley Road bridge replacement project. VDH has determined that the second septic system appears to be operating properly; however, its associated drainfield is located under a parking area, which is not a desirable location for a drainfield and can affect the lifespan of the system. The third system shows early signs of failing, with indications that some drainfield lines may not be accepting water. The fourth system serves the building containing the private school and is functioning adequately.

The Community Facilities chapter of the Comprehensive Plan includes Strategy 9a regarding the provision of public water and sewer service, which states: "Continue to provide public water and sewer in jurisdictional areas." The explanatory text following Strategy 9a is provided below, and the specific criteria for the provision of public water or sewer service to the designated Rural Area is underlined.

"Water and sewer jurisdictional areas ensure the County's Growth Management Policy, Land Use Plan, and Develop Area Master Plans are implemented by guiding the direction of public utility placement.

The areas also permit these services to be provided in a manner that can be supported by the utility's physical and financial capabilities. The jurisdictional areas are those portions of the County that can be served by water or sewer service, or both, and generally follow the Development Areas boundaries.... The boundaries of the Development Areas are to be followed in delineating jurisdictional areas. Change to these boundaries outside of the Development Areas should only be allowed when: (1) the area to be included is adjacent to existing lines; and (2) public health and/or safety is in danger."

Strategy 9a addresses the fact that public water and sewer systems are a potential catalyst for growth, and that capacities need to be efficiently and effectively used and reserved to serve the Development Areas. Continued connections of properties in the Rural Area should be the exception, as the further extension of lines into the Rural Area will strain limited water resources and capacity and may be catalyst for growth inconsistent with the recommendations of the Comprehensive Plan.

Health/Safety - Based on information provided by the applicant and VDH, staff opinion is that this request meets the health and safety criteria of the policy. There is a failing septic system, and one beginning to show signs of failing. There does not appear to be a viable private, on-site solution. No replacement drainfield area is available on the property. An alternative central system would likely be designed to have surface water discharge to a nearby stream, which is in a reservoir water supply watershed. The central system would need to be privately maintained and operated. The County Comprehensive Plan also discourages the use of central utility systems in the Rural Area and should be used only in "cases where use of central water or sewer systems can solve the potable water and/or public health or safety problems of existing residences. Private central water and/or private central sewer systems should be approved only after all other alternatives have been exhausted. (P.12.32)."

Adjacency of Existing Sewer Line - Regarding the criteria for adjacency to an existing line, the nearest ACSA gravity sewer main terminates at a manhole adjacent to Rt. 250 West at the entrance of Kirtley Lane and adjacent to the Volvo dealership, which is approximately 600 feet from the Christian Aid Mission parcel. Gravity sewer will not flow from the Christian Aid Mission property to this ACSA sewer line. This connection would require a private grinder pump to reach this public manhole and off-site easements would also be required. The adjacent Volvo dealership has connected similarly at the same location. Gravity service is preferred over pumped lines because of: 1) the greater potential for pump systems to fail due to power outages and breakdowns, and; 2) the higher level of maintenance necessary for a pumped system over the long-term life of the facility; this would be a private line and the responsibility for maintenance would be the property owner's. In 2008, the Board amended the then ASCA Jurisdictional Area conditional sewer service designation requiring the warehouse building site behind the Long Term Acute Care Hospital building (current site of the Ivy County Fire-Rescue Station) be served by gravity sewer. That amendment was approved because installing the pumped sewer line would prevent the loss of approximately 30 trees, mostly mature white pines, along the Northridge parking lot. These trees would have been removed with the installation of a gravity line.

The County has not established a specific standard for adjacency in applying this policy. In most circumstances where service is granted, the utility lines are adjacent to or on the property in question, located on the adjacent parcel, or across the street from the property in question. There have been exceptions, including the approval of sewer service to the Café No Problem/the Galleria Restaurant site at the intersection of Rt. 250 and Three Notched Road (Rt. 240) east of Crozet, the provision of sewer service to the Whittington development on Old Lynchburg Road, and the provision of water service to the Key West Subdivision, where the distances from existing lines exceeded the distance in this request. This policy has been applied on a case-by-case basis based on the circumstances of each case.

Staff opinion regarding this request is that the best method of providing sewer service to this site to address the immediate and long term public health issues and minimize potential environmental impacts to the water supply watershed is to provide public sewer to this site.

Level of Service Provided - Generally, when properties located in the Rural Area are added to the ACSA Jurisdictional Area, the service provided to those properties is limited to the existing structures or uses consistent with the land use recommendations of the Comprehensive Plan. In this immediate area there is a mix of service designations. In 1984, the Board of Supervisors granted water service and conditional sewer service to parcels to the east of this site, including the properties containing the Long Term Acute Health Care, Northridge, and Moeser building sites (Tax Map 59, Parcels 23B, 23C, 23C1, and 23D), provided those sites could be served by gravity sewer. This action preceded the current policy, which was established in 1989. The adjacent Volvo dealership site was granted full sewer service in 2012. The allowance of a full service designation was based on the relatively small size of the parcel (2 acres) and the existing level of development of the site (almost fully developed with a highway oriented retail use). The Christian Aid Mission parcel is a 12+ acre parcel and has greater potential to develop more intensively under the CO, Commercial zoning. That development would be inconsistent with the recommendations of the Comprehensive Plan.

Staff recommends that the sewer service be *limited to the existing structures, except places of worship, a private school, and other uses permitted in the Rural Areas (RA) zoning district may be located in new buildings and served by public sewer*. This designation would not limit the existing uses on-site to the existing structures. New buildings containing these uses could be constructed on-site and served by public sewer. Other uses consistent with the RA zoning district could be allowed within those parcels, if the existing church and/or school use ceases, and vacates the buildings/site. This limitation would be consistent with County policies and practices and the Comprehensive Plan land use recommendations for this area, but would allow greater flexibility for existing uses to stay and expand on the site.

If this request is approved, there will be no budget impact to the County. The property owner will bear the cost of the water connection.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the request.

Mr. David Benish, Chief of Planning, presented. He said the request was to provide sewer service to the Christian Aid Mission property on Ivy Road. The property was served by water, designated rural area in the Comprehensive Plan, zoned commercial office (CO), and was a 12-acre parcel. He presented a map of the property and surrounding area followed by a topographic map. He noted that the topography of the site creates difficulties in providing replacement septic fields and pointed out critical slopes. He next presented an aerial photograph of the property and noted that it consists of four buildings, which are all utilized and served by four septic systems. Two of the systems are showing signs of failure, of which one was failing, and the two others are functioning adequately. He said the Department of Health has indicated there are not adequate drainfield replacement areas due to topography, including the location of materials on site and the amount of impervious surface. He described the existing systems as sub-standard in size to current state standards and the new replacement drainfields would have to be much larger than the existing systems. He said this was why the existing functioning systems cannot be used to augment the buildings with the failing systems. He explained that a central system would be an alternative should public sewer not be provided. He noted that County policy discourages central utility systems in the rural area, except when there was a health, safety, or welfare issue or there was no alternative, and was specific to residential properties for this exception.

Mr. Benish explained that jurisdictional areas are generally used to enforce the policies of the land use plan, which discourage growth in the rural area. He remarked that the extension of services to the rural area could be a catalyst for growth, which was why the policy had been established in the way it is, to limit the extension of services. He said that, based on the findings of the Health Department and the site conditions, staff believes it meets the criteria for a health and safety issue, though he acknowledged the findings are not as definitive on this site as they have been for other sites. He noted that the second criterion that must be met was proximity to an existing line. He said the property was approximately 600 feet from the nearest Service Authority line and would require the use of a grinder pump in order for the system to function. He remarked that these pumps are subject to a higher level of maintenance and complications. He said they do not have a clear policy on what adjacency is, though they have approved cases in which there was a similar distance to the nearest line when they involve health and safety issues. He said that staff believes the best short and long-term approach to address the conflicts on this site was to provide service. He continued that, typically, when service was extended to the rural areas it was limited to existing structures or uses so that development that was not consistent with the land use policy was not fostered by the extension of service. In this case, staff recommends service be limited to existing structures. With the exception of places of worship and the private school, a new structure could be built and be served by utilities for those uses. He then presented a slide that listed 16 uses that are permitted in the CO district and consistent with the rural area district.

Mr. Benish reiterated that staff recommends that limited sewer service be granted to existing structures except for places of worship, a private school, and other uses permitted in the rural areas zoning district, which may be located in new structures and served by public sewer.

Ms. Mallek asked why the two distinguishing uses are in a separate category for not being held to the existing building requirement. Mr. Benish responded that, due to the age of the buildings and the location on the site, those are the two existing uses on the property, and the intent of this action was to permit the service to those uses and allow flexibility for these uses to be located in different buildings.

Ms. Mallek asked for confirmation that they are restricted in the same way but may rehabilitate their buildings if they choose to. Mr. Benish confirmed this. He added that the school was subject to a special use permit in either zoning district and has conditions that limit its use.

Ms. Mallek asked if it would be necessary or helpful to place a condition that requires future rebuilt buildings to be within the 648-foot elevation circle at the top of the hill, where they are now. She wondered if this may already be covered with the restriction that has been put in. Mr. Benish responded that if the current or a future property owner wants to use the property for other CO uses they are pretty much restricted to those existing buildings and that, under this condition, if a new building was to be constructed and served, it would have to have one of those uses. He said this was likely to be more of an engineering issue with the Service Authority as to how the site was served as the topography of the site limits its ability to be developed.

Ms. Palmer remarked that if they limit it to the paved area there was enough pavement for a big building.

Ms. Mallek opened the public hearing.

Mr. Steven Blaine, representing the Christian Aid Mission, presented. He noted that a number of Christian Aid Mission representatives are in the audience, including Ms. Cynthia Finley, wife of Dr. Finley, its founder. He described Dr. Finley as an extraordinary man who began his work for God, speaking and traveling with Reverend Billy Graham and who developed a special rapport with international students which led to the primary mission, which was to develop and fund indigenous missionaries throughout the world. He said they have helped develop over 400 native missionaries for over 60 years, particularly in

economically disadvantaged countries, who have engaged tens of thousands of people and spread the gospel in 100 countries. He said the organization employs about 46 people locally, with most working at the office on 5th Street at the I-64 interchange, after many of them had to move out of the location at Ivy Road as a result of the inadequate septic system.

Mr. Blaine said they have considered the option of reconsolidating all staff at the Ivy Road location if the septic system could be expanded. He described the need to connect to public sewer as paramount as the Health Department has indicated and it would give Christian Aid Mission the option to redesign and consolidate their facilities to one location, thus reducing the cost burden of maintaining two locations. He acknowledged that the approach recommended by staff would preclude consideration of this option, which would prolong the uncertainty of their situation and continue the expensive burden of maintaining two locations. He said they also hosted and sponsored refugees at the guest house at the Ivy Road location, which could accommodate 26 overnight guests, as well as visiting missionaries from around the globe who come for training and fellowship. He explained that since the drainfield problems began occurring, they have not been able to accommodate more than a dozen guests overnight.

Mr. Blaine stated that the Board recently extended the special use permit for Regent School, which Christian Aid Mission supported by providing below-market rent. He said the school has experienced healthy growth but does not have the capacity to expand, largely because of the sewer limitations. He continued with the third mission of the organization, which was to foster churches that serve new immigrants to the area, which they do at the Canaan Christian Church, which serves Hispanics, as well as the Korean Community Church. He said the Canaan congregation has had to suspend services at Ivy Road due to the serious health concerns including effluent in the children's playground. He said that Christian Aid Mission has asked to be treated the same as other nonreligious landowners similarly situated. He presented a map from the Comprehensive Plan of the property and surrounding area and pointed out the development area and its proximity to the subject property. He next presented a map that showed zoning classifications of the properties along Ivy Road and contiguous to the subject property and pointed out that the classification permits offices and commercial uses.

Mr. Blaine presented a map of Albemarle County Service Authority service areas with areas in purple served by water and sewer and areas in green served by water only. He said their site was served by water but not by sewer. He said the non-religious commercial/office properties are allowed full sewer service while the Korean Church and Christian Aid Mission are not, along with Ivy Nursery. He next presented a topographic map and addressed comments that it was a 12-acre parcel and that there could be unlimited development if service was granted. He pointed out that the site has very steep topography, and includes an easement to provide stormwater support for the church property. He said it was fairly impervious as to what could be developed and was comparable in size to the Volvo property. He pointed out that Volvo has no use limitations. All of these properties have practical limitations by size and topography and he does not think it is right to make a distinction between this property and the Volvo property.

Mr. Blaine said that the staff report indicates that the lift and grinder pump was a preference to avoid but yet they have done that in the case of the fire station. He said the fire station set a precedent as was similarly situated and on the same corridor, though he understands it was permitted to save some trees. He expressed understanding with the County's policy, which was created to protect water supply and watersheds and noted that since 1977, the County has adopted a number of modern, targeted approaches to deal with stormwater runoff and pollution. The stormwater management program was beefed up in 2014 to control stormwater runoff, pollution from construction, and post-construction, under which, if the property was redeveloped, the site plan regulations would require mitigation to control the quality of the water, rather than just the flow. He reiterated that they want to be treated like other property owners similarly situated and they believe the limitation was unnecessary and prejudicial. He invited questions.

Ms. Courtney Palumbo, Head of Regent School, addressed the Board. She said they started inhabiting the property in September of 2012 and are capped at 150 students, largely because of the sewer system. She said they had a special use permit in place to move to a permanent location, though they have seen these deals fall through in the past. She said they have bifurcated the school with one-half of the students at Jefferson Park Baptist Church.

Mr. Melvin Bueso addressed the Board. He said he was on the board at Canaan Christian Center where they have been for 12 years. He cited the drainage field problem and the foul smell and said they sometimes have to rent a toilet.

Ms. Sarah Simba from Democratic Republic of the Congo and seeking asylum in the United States addressed the Board. She said she does not know how she would have made it without the help of Christian Aid Mission. She said that when she applied for asylum in 2013, she was not allowed to work to support herself, had used up her savings, and was living under the care of a generous friend. She said she received an offer to volunteer at the Mission in October 2014 and did so while hoping to receive permission to work. She said she was offered housing at an Ivy Road guest house when Mission officials heard of her story, and she was extremely thankful and blessed that she could move. She said it has been her refuge while working through the asylum process and she has witnessed others being helped during her time there including overseas scholars, missionary families, and so forth. She said she has been a witness to all the greater good the Mission has been able to provide, not only to the diverse local community in Charlottesville but also globally. She said the Mission tackles the most difficult mission and humanitarian work around the world and was a great asset to Charlottesville, Albemarle, Virginia, and even the United States.

Mr. Jeffrey Bowman, resident of Samuel Miller District, addressed the Board. He said that for almost 30 years, he has been familiar with the uses of the property, including the school, two churches, and the guest house. He said the property owner provides a lot of good service to the County and urged the Board to grant full sewer service.

Mr. Dill said he was trying to get a sense of the potential growth on the property, as he understands the Regents School and the church would expand and the staff on 5th Street would relocate if the issue are addressed. He speculated that although sewage would not be a problem, there could be traffic problems and other issues.

Mr. Blaine said they do not have a plan and could not formulate one without the sewer connection. He said they would be subject to the bulk restrictions of the zoning ordinance, subdivision ordinance site plan as the other properties to the east are subject to them. He continued that if they did wish to expand, they would have to come up with a program that fit within the regulations, which was no different than any other commercially zoned property along the corridor that was similarly situated.

With no other comments from the public, Ms. Mallek closed the public hearing.

Ms. Palmer remarked that the property was in the rural area and there was a lot of stale zoning, and they are seeing the creeping of pieces of property along Route 250 West and East. She acknowledged the health aspect and said she supports extension of the sewer to the property, though she was concerned about how they would contain this as well as the impact of traffic on Broomley Road and on Route 250 during periods of high traffic. She proposed that they hear from staff or the County Attorney as to how to restrict expansion of private schools while allowing church activity. She indicated that she does not expect church activities to add to traffic as much as the private school. Mr. Benish responded that the simplest approach, if she was comfortable with places of worship, was to stop the recommendation there to limit service to existing structures except for places of worship.

Mr. Kamptner said he would clarify places of worship to be places of religious assembly to match the use classification, as this was broader and should encompass the activities that the Christian Aid Mission has on the site.

Mr. Benish asked if this use would allow for the offices. Mr. Kamptner responded that the administrative offices associated with the place of religious assembly would be included within that use. Mr. Benish remarked that he thought Ms. McCulley had found a determination that the guest cottage requires a special permit, so it may not have been associated with the religious activity. He said they may need clarification on this.

Ms. Palmer asked if he needs clarification from the Board or from Ms. McCulley. Mr. Benish said he assumes it was associated with the religious activity and apparently there was a decision that it was different than that. He said that the guest cottage may not be associated with religious assembly but the offices would.

Ms. Palmer noted that the lodge was an existing use now and they should be able to hook up. Mr. Benish responded that under this language, it would be only to that existing structure and they may need to clarify that.

Ms. Palmer asked for confirmation that they are only using 12 of the guest rooms and this could be expanded to 26 if they hooked up to sewer service and used the building to its full capacity. Mr. Benish confirmed this.

Ms. Palmer asked what the process would be for the school to expand should sewer service be extended. Mr. Benish responded that they would be limited to the existing structure for the purposes of service to the site. He said that under the special permit if they want to exceed 150 students, an amendment would be required and they would look at all the conditions.

Ms. Palmer noted that Mr. Benish's motion would allow the church to expand beyond its current footprint. Mr. Benish agreed, stating that under the jurisdictional area designation, the use was limited to the existing structures, though the Board could update the jurisdictional area based on a special use permit.

Mr. Gallaway asked for confirmation that if there was not drainage or sewer and none of this was in front of them and they wanted to expand, they would do the same and the special use permit has nothing to do with the sewer connection. Ms. Mallek and Mr. Randolph confirmed this.

Mr. Kamptner asked Mr. Benish if it could be clarified how the guest houses related to the decision the Board was making. Mr. Benish responded that his presumption was that cottages are an associated use of the religious activity, though it appears from research that there was a decision that it was a nonconforming use and requires a special permit, which implies to him that it was not an associated church activity and was considered as a separate dwelling unit use that requires a special permit under CO zoning.

Ms. McCulley stated that this was based on a 20-year-old letter she had found in which the Deputy Zoning Administrator had written about the use. She said that a residence associated with a place

of religious assembly was one thing, but other types of housing has not been determined to be a typical accessory use.

Ms. Mallek asked what their options are to say it was here and working. She said that to her it was no different from a parsonage.

Mr. Kamptner stated that for purposes of this action, the question was whether or not the guest houses are limited to their existing structures or whether they could be placed in new structures.

Ms. Mallek asked for clarification that if they are using the building for existing uses, there was no issue. Mr. Kamptner confirmed this as they would not lose nonconforming status because they would be getting public sewer.

Ms. Palmer summarized that they could hook up to the public sewer, continue to use the building up to 26 units, and would be able to use the entire building if the Board voted on this.

Mr. Kamptner noted that 20 years ago, the guest houses were used in a particular way, and it would be helpful to know how the guest houses are being used today as this may warrant a reevaluation of that determination as they may be using it differently now.

Mr. Benish said it sounds like it was acceptable to the Board for the religious assembly to be in a new structure. He continued that the question was what falls under that category that they may need to know to clarify what the condition was. He said staff could come back, bring a condition and further vet the dwelling unit situation so the staff could address it in a condition.

Ms. Mallek asked if this was necessary if what they are proposing was to continue the same use in the same building they have now, in which case they could just go with it. Mr. Kamptner said the Board could condition it to include the guest house, if it chose to, and let the zoning determination be made independent of this.

Mr. Blaine said the applicant could stipulate that this was a nonconforming use, which means it could remain, and if it was an expanded use, it must conform to current zoning regulations. If the Zoning Administrator determines the use requires a special use permit, the County has the purview of controlling it. He said the Board was trying to regulate a piece of land using a sewer designation. He pointed out that when Northridge came through, the Board did not say it would let them connect to the sewer if they had 200 beds, but if they had 205 beds, it would not let them connect. He explained that this represents how this was disparate treatment and the discussion was proving his point. He said his client wants unlimited service.

Ms. Palmer commented that Northridge was a different situation. She added that she likes Mr. Kamptner's suggestion, and would look to him to ensure she makes the correct motion.

Mr. Randolph said it was important for the Board to be mindful to contemplate whether for a church with a residential building, overnight guests are in a housing situation or an educational situation. He said they are going a bit too far into the weeds to provide flexibility because if they permit them to have up to 26 rooms in the existing structure, they are connected and the primary use was residential, this still provides flexibility to periodically use it for a school purpose. He said they would not be setting up an Airbnb on the site. He said he was comfortable with this and with everything the Board has carefully worked out.

Ms. Palmer said that the present owner may not always be the owner of the property and they have to consider what could happen in the future.

Mr. Kamptner proposed the following amended condition: "The limited sewer service on TMP 59-23G1 shall be limited to the structures existing on December 5, 2018, provided that the limitation on sewer service to the existing structures does not apply to places of religious assembly and guest houses, which may be located in new buildings on TMP 59-23G1 served by public sewer."

Ms. Palmer then **moved** that the Board adopt the proposed resolution, subject to condition, to approve the request to amend the Albemarle County Service Authority jurisdictional area for sewer service to a 12+ acre parcel, as amended, and just stated by the County Attorney. 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.

(Note: The adopted resolution is set out below:)

**RESOLUTION TO APPROVE
ACSA201800002 CHRISTIAN AID MISSION
FOR TAX MAP PARCEL 05900-00-00-023G1**

WHEREAS, the owner of Tax Map Parcel 05900-00-00-023G1 (TMP 59-23G1) has requested an amendment to the Albemarle County Service Authority (ACSA) Jurisdictional Area to include TMP 59-23G1 for limited sewer service, and the application is identified as ACSA201800002 (ACSA 2018-02); and

WHEREAS, on December 5, 2018, the Albemarle County Board of Supervisors held a duly noticed public hearing on ACSA 2018-02.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the staff report prepared for ACSA 2018-02 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to the ACSA Jurisdictional Area in Chapter 12.1, Community Facilities, Strategy 9a, of the Albemarle County Comprehensive Plan, as well as the Comprehensive Plan's Growth Management Policy and Land Use Plan, the Albemarle County Board of Supervisors hereby approves ACSA 2018-02 as authorized by Virginia Code §§ 15.2-2111 and 15.2-5111, subject to the condition attached hereto.

* * *

ACSA201800002 Christian Aid Mission Condition

1. The limited sewer service on TMP 59-23G1 shall be limited to the structures existing on December 5, 2018, provided that the limitation on sewer service to the existing structures does not apply to places of religious assembly and guest houses, which may be located in new buildings on TMP 59-23G1 served by public sewer.

Recess. The Board recessed its meeting at 8:16 p.m. and reconvened at 8:29 p.m.

Agenda Item No. 22. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Item 22a. Agricultural Operations.

Ms. McKeel said that she, Ms. Mallek, and Ms. McCulley have discussed work around agricultural operations. It seems to them that there needs to be changes to the regulations that would provide consistency and standardization with wineries, breweries, and distilleries. She proposed that they draft a resolution of intent to address consistency and have staff work on this. This would probably include a definition of farm-to-table, standardization of the use of the 13 criteria required for finding of devoted to the bona fide production of crops, animals, and fowl, require notice to neighbors, nighttime curfews, increased setbacks, and eligibility of grown acreage. She invited Ms. McCulley to comment.

Ms. McCulley said they made revisions to farm wineries, breweries, and distilleries on January 18, 2017 after a lot of work and roundtables. She said that many of the items mentioned by Ms. McKeel are in the zoning text amendment that brought all three of those uses under the same regulatory scheme. She said that agricultural operations were approved in November 2014, but not brought under the same umbrella, even though there are many reasons why it would make sense for consistency.

Ms. McKeel added that they are trying to rectify that and it also includes cideries.

Ms. Palmer asked for the time commitment. Ms. McCulley recommended that it be done in two phases as some of this was very simple, i.e., adding language that was already in the ordinance for these activities, while some was much more complex and involves more assessment and discussion with stakeholders, like farm-to-table or the 13 criteria and how to apply them. She said a draft resolution would be presented to the Board in January and placed on the consent agenda for action, after which staff could begin working on it, and the next step would be the Planning Commission.

Ms. Mallek asked for examples of what would be in the easy category and what would be in the harder category. Ms. McCulley responded that what she was calling Phase 1, or the easy category represents things in the ordinance for farm wineries, breweries, distilleries and cideries, such as setbacks, parking, port-o-johns, curfews for outdoor amplified music, neighbor notice for zoning clearances, and minimum onsite planted acreage. She reviewed the items she thinks was more complicated, such as how to apply the 13 criteria if that becomes an ordinance amendment and a new definition of farm-to-table.

Ms. Palmer asked for confirmation that Phase 1 items would go to the Planning Commission. Ms. McCulley confirmed this.

Mr. Dill remarked that they have spent so much time in the past on wineries and distilleries that he was concerned about all the work staff would have to do. He asked Mr. Richardson to comment on the amount of staff time that would be required.

Ms. McKeel remarked that Ms. McCulley has been saying that these are things she thought needed to be done.

Ms. McCulley said she recommends that Phase 2 be considered in the context of the work program and existing Board priorities under the Strategic Plan and other commitments.

Mr. Richardson said he agrees 100%.

Ms. Mallek said she was confused again because the minimum considerations for a zoning clearance are things in addition to being in land use, but the 13 criteria are in Phase 2. Ms. McCulley responded that the 13 findings devoted to the bona fide production of crops, animals, and fowl exists, but

how to apply them was the devil in the details and was complex. They are doing research to see what they could learn from what has been done with ACE. She said it calls for information but does not tell you how to consider the information in hand to decide if it was a legitimate bona fide agricultural use.

Mr. Randolph clarified that for Phase 2, Ms. McCulley was talking about the implications and looking at the specifics of how they would apply the Code in all circumstances. He said a roundtable would have to occur with all these participants.

Ms. Mallek remarked that when staff investigates a zoning clearance, she wants to make sure they know more detail about what they are supposed to do and what they are supposed to consider.

Ms. McCulley clarified that they are looking at multiple things, but as a result of recent discussions and looking anew at how to best apply those findings, staff wants to confer with ACE and others who have figured out how to use that information. She said they could do this without a zoning text amendment as soon as they figure out how best to apply them.

Ms. Mallek addressed the issue of the zero lot line. She said that what this means was that currently for new development projects, there was a zero lot line allowance for an accessory structure, meaning that the first person who got there got to put their garage right up to the property line, which typically took away 10 feet of property for the other person who did not get there first. She described this as being grievously unfair and said she hopes they could quickly fix this to go back to the standard setback. She said this was occurring in the newer neighborhoods, particularly in Old Trail and other developments in Crozet, where adjacent property owners are having to allow their neighbors to access their property in order to maintain their structure. She would like staff to figure out a way to put this in a notice of intent.

Ms. McCulley explained that this has arisen out of the neighborhood model setback amendments that brought buildings closer to property lines and to the street. She said the examples mentioned by Ms. Mallek resulted when there was no minimum side setback but there was a separation minimum. She agreed that whomever went first could get as close as they want and impose conditions and limits on the adjacent property owner. She said this does not always appear on the plat. One of the ideas is instead of having a separation, there be a minimum that was still consistent with the neighborhood model, urban form development.

Mr. Kamptner offered to present this as a separate resolution at the January 9 meeting.

Ms. Palmer asked what staff would have to do to prepare after the resolution was passed. Ms. McCulley responded that it depends on how extensive it was; the amount of public engagement was what takes the majority of the time. She said that multiple groups of stakeholders and forums for engagement extends the time commitment for staff. She said they often suggest an engagement plan for the Board to obtain their input. She indicated that the extent of public engagement was up to the Board and pointed out that for Phase 1 items, there was already an existing regulatory scheme they are trying to be consistent with, so they do not necessarily need an engagement beyond informing people that there are pending zoning text amendments.

Ms. McKeel asked for assurance that they would not be changing the regulations for farm wineries and breweries but that they are making agricultural regulations consistent with what they already have. Ms. McCulley reassured that they are not. She confirmed that it would take staff time, though it would not detract from work on Rio/29 and very high-level priorities of the Board. She estimated that it would entail three public meetings.

Item No. 22b. Illegal Signs in the Right of Way.

Ms. McKeel raised the issue of illegal signs that pops up in the right of way, which are illegal under the ordinance. She sees them in the median strip on Barracks Road and recently saw 25 of them. She speculated that those putting up the signs are not aware of where the City and County lines are, and although she has been told the City and County ordinances are similar, they are being handled differently in terms of enforcement. She suggested that the County reach out to the City and work together to make the quality of life better for both. She wondered if they might put it on the agenda for the next joint meeting or first have the two staffs talk. She commented that people see them and then think they are acceptable, so if they have a policy to enforce, it would help to cut the number down.

Ms. Mallek said that new businesses that want to advertise are vulnerable to owners of sign companies who might tell them that they could put up these signs. She remarked that "House for Sale" signs are exempted, as these have their own category.

Ms. Palmer said that she and Mr. Randolph, who serve on the Albemarle Broadband Authority, have asked that an agreement with CVEC be placed on the consent agenda for next week. She said this would help them obtain VATI applications and grants. She said that an issue like this would typically be a subject of Board discussion but they need to get this done quickly, which was why they asked that it be placed on the consent agenda.

Ms. Mallek addressed the comments made by a citizen earlier about the juvenile runaway. She said she happened to see many police vehicles around the airport and down side streets. She then texted Police Chief Lantz to offer to share any information in her newsletter. She said that information was released after the prisoner was brought into custody. She asked Mr. Richardson to discuss the issue with Chief Lantz to see if there are ways to keep people better informed.

Item 22c. Biscuit Run Funding.

Ms. Mallek asked the Board if there was interest in having a discussion about Biscuit Run funding on another day. She asked Mr. Kamptner to find out if there are alternatives for the County to direct it from CACF to someone more directly affected by the pipeline.

Mr. Randolph said the Board should consider the relationship with the state if it does this, as it was given by the Governor with the recommendation of the Director of Conservation Resources and the Board would be altering an agreement.

Ms. Mallek remarked that the agreement was based on different promises and realities than they have today.

Mr. Randolph stated that he would hate to have the County develop a reputation of reneging on contracts and agreements.

Ms. Palmer asked Mr. Kamptner to comment on the ability to control grant money if the County was not going to use it for what it was being awarded for. Mr. Kamptner responded that the money was not yet in the County's possession and he does not have an answer now.

Ms. McKeel said it could go back to the state.

Mr. Dill speculated that perhaps it could be used by another locality as part of the regional park system they created or something like that. He continued that Nelson County considers it as competition to its tourist business and does not want the park to develop.

Mr. Randolph stated that Fluvanna, Charlottesville, and Nelson decided not to participate financially, though this does not mean their residents would not use the park and that the park does not have a regional benefit. He pointed out that the goal of the park was to meet a regional audience.

Mr. Dill pointed out that the representatives of those people have not been consulted, and in the case of Nelson County, he has heard they do not want to participate as they consider that it would hurt them.

Mr. Randolph responded that just because they would not participate financially does not mean their residents would not use the park, and it could be regional without anybody else putting money in. He pointed out that if the state provides financial support to the County for facilities and open the park, then part of the goal was to meet a regional need for which residents could benefit.

Mr. Dill asked if Mr. Randolph was representing their residents. Mr. Randolph responded that he represents Albemarle County with regional elected members of the General Assembly seeking legislative support for funds to enable Biscuit Run to have a range of facilities and infrastructure that would be attractive on a regional basis.

Ms. Palmer asked Ms. Mallek if she would turn down the money if there are no way to transfer it. Ms. Mallek responded that it makes her grievously uncomfortable that they are being paid off to be silent and not stand up and protect neighbors. She said that a similar situation occurred with the James River transmission lines where money was handed out to those who complained in order to silence them. She said she asked the Governor, Suzette Dentzler, and others why they could not follow their own rules and laws and do what they promised, which was to do the proper environmental things and protect people in the court system instead of taking their land and destroying it before even getting a court decision that it was adjudicated properly. She said the permits have not even been offered and they have destroyed hundreds of acres and destroyed people's lives. She remarked that if that was happening here, everyone would be at the barricades in a second, which was probably why they decided not to come here.

Ms. Palmer pointed out that if they are to turn down the money, they would be making a statement about the pipeline, and the Board decided a few years ago not to weigh in on it. She said that now that things have turned out more differently than many of them expected, they would be making a very loud statement in turning down \$5 million for a park they have already agreed to do, and they would then have to charge constituents \$5 million in property taxes.

Ms. Mallek responded that there may be other benefactors who would come forward to help to make up the difference.

Mr. Dill added that there could be ways to get \$10 million and use it for the park but also make a separate commitment to the communities most directly affected to help them in some way.

Ms. Palmer said they could make an independent stand on the pipeline that does not have anything to do with this, adding that there might be legal issues involved with giving money directly to Nelson County.

Mr. Dill characterized it as a moral and ethical issue, nor does he want to throw \$5 million down the drain.

Mr. Randolph said that this did not come from Dominion but was part of negotiated, environmental mitigation money that Dominion turned over to Commonwealth of Virginia for the Commonwealth and therefore the Governor and his appointed departmental directors are to determine, using specific criteria, that it could only go to counties that are in close proximity to where the pipeline was going. He said a second criterion was that in the facility where it was going for parks or preservation of land there would have to be a preservation or conservation element for which the money would provide an extra umbrella of protection. He pointed out that Albemarle was involved in negotiations last fall just when the money came in, so the Governor's office kindly thought about the pots of money available to draw on at the end of an administration. He said they looked at a number of different pots and are trying to find different grant sources and he misunderstood the dollar amount discussed by the Director of DCR, Mr. Clyde Christman. He said this was the best they could do because the only readily available source of funds that did not have to go through the General Assembly was the mitigation money. He said it was clearly spelled out by Mr. Christman that if Albemarle was to turn down the money, DCR would give it to another county. He acknowledged that this was something that was difficult for representatives of Nelson County to accept, but the fact of the matter was the County has a park project for which the Governor was interested in signing off on and getting it open as a County park. It could open as a County park much sooner than as a state park, and it works for both parties. He reiterated that the money did not come from Dominion but through the Governor's office and under a fair criterion they qualified for and there was no special deal. He acknowledged that it was convenient for the state to offload something for which they would not be able to provide the level of maintenance the County could provide.

Ms. Mallek agreed that back then it was a completely different situation and said she only raised this because of the atrocities that has happened over the last 12 months. She said she understand and agrees with the Board's choices 12 months ago and was still excited about the park and the way it has been planned. This has happened before in other places and other counties, and she does not want to look back when her grandchildren ask her why the Board allowed it to happen.

Ms. Palmer remarked that if the Board turn down the \$5million, the pipeline was still going through.

Ms. Mallek responded that it still had not been approved.

Agenda Item No. 23. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 24. Adjourn to December 12, 2018, 3:00 p.m., Lane Auditorium

At 9:12 p.m., the Chair adjourned the meeting to December 12, 2018, 3:00 p.m. in Lane Auditorium.

Chairman

Approved by Board

Date 08/07/2019

Initials CKB