

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 9, 2018, at 3:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from July 5, 2018.

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 3:03 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. SP201700020 Restore'n Station (**deferred from July 5, 2018**).

Mr. Kamptner stated that staff had brought this back to consider final action on the application for a special use permit. He noted that there were two conditions for which the applicant had requested revisions, and there was consensus to amend Condition 6, pertaining to fuel pumps. Mr. Kamptner said the discussion at this meeting would therefore focus on Condition 5, which currently limits the hours of operation to 16 per day, and the applicant's request is to extend the hours so that the convenience store is only closed from 12:30 to 4:30 a.m. each day – with the fuel pumps remaining operational 24/7. He stated that at the end of the meeting on July 5, the applicant's representative, Jo Higgins, presented a compromise Condition 5 that would extend the hours for the convenience store and the front fuel pump stations but would limit the pumps at the rear canopy to be subject to the same closure between 12:30 and 4:30 a.m.

Mr. Kamptner said he had noted a consensus that the Board wanted Condition 5 to remain as it is, keeping the hours of operation to 16 per day. He stated that he had prepared a resolution that revised Condition 6 and retained Condition 5 as stated on the slide presented. Mr. Kamptner noted that Ms. Higgins had sent out her recommended condition, but he said he had not heard Board consensus supporting that compromise condition. He pointed out that this is the first point of consideration for this meeting – whether or not Condition 5 should remain as it is or whether it should be modified.

Ms. Mallek stated that her recollection was there were three people who were not in favor of expanding the hours. Ms. Palmer concurred that this was what the Board had decided at that point.

Ms. Mallek mentioned that they should have taken an actual vote at the time, but they were still waiting for proper wording.

Mr. Gallaway stated that he had not heard support for extending hours, and the credit card use at the pumps for 24/7 was what the Board had split on. Ms. Mallek responded that allowing the pumps to remain on is expanding hours.

Mr. Gallaway said that he differentiated between extending convenience store hours and having the pumps available 24 hours.

Ms. Mallek expressed that she understands the delineation, clarifying that there were at least three Board members who were not in favor of expanding the hours of the store.

Ms. Palmer stated that her recollection was that they had only changed the number of pump stations.

Mr. Randolph noted that they had gone from seven to nine.

Ms. Palmer said this was the only thing that had changed, to her recollection.

Mr. Gallaway stated that he has still been pondering the credit card piece, but even if the store hours stay current, they could still allow the credit card hours beyond that time. He said the applicant had posed the changes as four extra hours for usage, but if they leave the hours the same, it would be six hours extra. He explained that if they stayed under the current hours, they would have to close at 10 p.m. and open at 6 a.m., and allowing the credit card piece would be 24 hours – but those are two separate issues to him.

Ms. McKeel stated that this addresses any other pump station they operate at any time each day.

Mr. Gallaway clarified that he views the store hours and pump hours as two separate issues.

Ms. McKeel read the language in the proposal: "The convenience store and fuel pumps in the rear canopy station shall not operate between 12:30 and 4:30 a.m. each day, and any other pump station may operate at any time each day." She stated that the latter part of that text addresses the credit card piece.

Ms. Mallek agreed, stating that the concept came from Ms. Higgins' email, not from what she had

presented to the Board on July 5, and at that meeting they discussed the original conditions, which were directed to limiting the impact of the activity on the neighbors – which to her means cars and credit card use at the pump, with stopping/starting and headlights. She noted that this was just as much or more of an issue as the operation of the store, and she would not be in favor of having the 24-hour pump operations.

Mr. Gallaway commented that at best, the Board vote would have been 3-3.

Ms. Mallek stated that the expansion of the two pump stations allows four more users to fuel up at the same time, but she would not agree to expand the hours.

Mr. Kamptner said there was some confusion as to whether the Board would be acting on this item at this meeting or at the July 11 meeting, but either is possible because they are taking action and the public hearing is closed. He stated that while this is at the Board's discretion, hearing from the applicant's representative via email – as well as Board members – the impression was that the Board would be taking action on July 11.

Mr. Randolph stated that his position has not changed since they discussed the item on July 5.

Ms. McKeel stated that she would support the proposed compromise position, as she feels it keeps the noise away from the neighborhood as much as possible and limits the times between 12:30 and 4:30 a.m.

Mr. Kamptner said that he heard three Board members stating their support for keeping Condition 5 as it is, and the other issue is whether or not keeping Condition 5 should be tied directly to the Crozet Master Plan – and when it was discussed on July 5, Ms. Palmer had spoken to that and garnered general agreement from Ms. Mallek.

Ms. Mallek clarified that Mr. Randolph had introduced the original conditions from 2016, which also directly related to the Master Plan and the Comp Plan in terms of the impact to the neighborhood in the rural area. She said that since there were active conditions in place, it seems they should be able to rely on those.

Mr. Kamptner clarified that there was a majority that also felt there was inconsistency with the Crozet Master Plan. Ms. Mallek responded that this was the same as the chapter of the Comp Plan being discussed, noting that she is in favor of adding the pump stations to complete the infrastructure under the canopy as it exists now – which is a substantial increase.

Ms. McKeel commented that all Board members agreed on that point.

Mr. Kamptner clarified that this is Condition 6, and he distributed a version of the resolution that retained Condition 5 as it is and includes a reference in the decision to the Crozet Master Plan as a separate alternative basis in support of the Board's decision.

Ms. Mallek stated that they would take the information, read it, and vote on July 11, 2018 as planned.

Agenda Item No. 3. **Work Session:** ZTA 2017-01 Transient Lodging (aka Homestays).

The Executive Summary forwarded to the Board states that the County's Zoning Ordinance defines the rental of guest rooms for less than 30 days at a time as "transient lodging." Two forms of transient lodging are allowed in homes in districts that allow residential uses by-right. In the residential zoning districts, typically but not exclusively in the County's Development Areas, transient lodging is called "accessory tourist lodging" and in the Rural Areas zoning district, transient lodging is called "bed and breakfast". Provisions for transient lodging in residential zoning districts and the Rural Areas were added to the Zoning Ordinance in 1976, primarily to encourage residents to open their homes to visitors attending events at the University of Virginia, such as graduation. The term bed and breakfast (BnB) was added in 2012 in conjunction with other changes to add flexibility for the use in the Rural Areas. Attachment A provides a summary of current regulations.

This zoning text amendment (ZTA) was initiated by the Board of Supervisors on May 3, 2017 in response to a strategy in the Comprehensive Plan to study the nature and extent of the use in the County. The Board wanted to know if the community believed more opportunities for transient lodging should be allowed. Some Board members were also concerned with the number of non-compliant operators in the County who did not have a permit and were not paying transient occupancy taxes. The Board changed its regulations related to the transient occupancy tax in June 2017. In July, the Board held a work session to define the parameters for potential zoning changes (See table below for scope of ZTA).

A series of public meetings was held during September 2017 to gather input on potential ordinance changes. The Planning Commission reviewed public input and discussed this topic in a series of three work sessions held on October 24, 2017, December 19, 2017, and March 20, 2018. The Commission reviewed its charge from the Board, and at its April 24, 2018 public hearing, voted unanimously to recommend approval of the attached ordinance amendment that included the following:

Charge from the Board for ZTA 2017-01	Planning Commission recommendation
Consider amendments to allow transient lodging in attached dwellings such as townhomes and condominiums.	Allow rental of up to two guest rooms in townhouses only if the owner or manager is present.
Consider amendments to deal with periodic whole house rentals (rental when owner/manager is not present).	Allow limited whole house rental in the Rural Areas zoning district only. (no more than 45 days per year; no more than 7 days in any one month)

The Commission provided a summary of its discussions to the Board, which is covered in the June 13, 2018 staff report.

The Board held a work session on June 13, 2018 to discuss the proposed ordinance recommended by the Commission (Attachment B), along with strategies for bringing non-compliant operators into compliance and long term enforcement. Due to the complexity of the topic, the Board requested a follow-up work session and discussion of specific issues which are provided in Attachment C. Supervisor McKeel asked that the Board review the set of proposed changes from the Canterbury Hills neighborhood association (see Attachment D).

After reviewing the issues discussed by the Board at the June work session, staff believes the Board should decide on several key questions before proceeding or discussing implementation and enforcement of the proposed amendment. Only after answering these questions will staff know how to assist the Board in taking the next steps which may be to a) further restrict the use, b) broaden opportunities for the use, or c) make no changes to the existing regulations. It is important to remember that all of the residential zoning districts except the Village Residential zoning district are typically located in the Development Areas. Zoning regulations are established for zoning districts and not Comprehensive Plan areas. The series of questions to be answered at this work session are provided below:

- The current regulations allow up to **five (5)** guest rooms to be used for transient lodging in all single- family detached homes occupied by a permanent resident in both the Rural Areas zoning district and all residential zoning districts. ***Should the number of allowable guest rooms be reduced in either the Rural Areas zoning district or the residential zoning districts?***
- ***Should whole house rental (no permanent resident residing in the house at the time) be allowed in residential zoning districts under any circumstance?*** [the circumstances can be discussed later]
- ***Should whole house rental (no permanent resident residing on the property) be allowed in the Rural Areas zoning district under any circumstance?*** [the circumstances can be discussed later]
- At present, the permanent resident host may be either the homeowner or a renter. ***Should the use be restricted to just homeowners in either the Rural Areas zoning district or residential zoning districts?***
- ***Should townhouses be available for transient lodging (in residential zoning districts) under any circumstance?*** [the circumstances can be discussed later]

Once these questions are answered, the circumstances under which any of these uses are allowed, including the recommendations from the Planning Commission, can be discussed. A second work session is expected before the Board decides whether or when to set a public hearing. Staff notes that the Board may wish to receive public comment from stakeholders and the public before deciding on an ordinance amendment to take to public hearing.

The ordinance changes will not result in budget impacts. The effort to bring operators into compliance with application requirements may need additional staff resources, depending on the level of enforcement set by the Board. Staff believes that enforcement should be discussed at a future work session after the Board decides on whether to make changes to the existing ordinance.

Staff recommends that the Board answer the questions posed above to provide guidance for any recommended ordinance changes. An additional work session will be scheduled prior to any public hearing to discuss the other potential changes and the level of enforcement desired by the Board. Staff notes that if the Board wishes to make changes beyond those included in the resolution of intent adopted on May 3, 2017, which set out the charge to the Commission, then adoption of a new resolution of intent will be needed.

Ms. Elaine Echols, Chief of Long Range Planning, addressed the Board and stated that staff would like to dispense with the term “residential tourist lodging” and make it clearer, and their intent for this meeting is also to step back from the June 13 work session. She stated that the Board had a lot of questions and comments at that meeting, and staff wants to take them step by step through some yes/no questions so they can advance to the next step. Ms. Echols said the Board had asked the Planning Commission to look into whether the County should expand opportunities for whole-house rentals, with limitations, and/or other units that would be available. She noted that the Board had already received the Commission’s recommendations on that.

Ms. Echols reported that the Board’s discussion had been very similar to the Commission’s, with a lot of questions, a lot of comments, and a lot of variety in terms of perspectives on this use – with some

Board members feeling the County should further restrict existing use by reducing the number of rooms; and some Board members felt no changes should be made. She noted that the questions that arose from the Planning Commission were, "What is broken?" and "What is it that needs to be fixed?" Ms. Echols stated that some Board members believed they should loosen restrictions, some felt something needed to be done with requirements regarding notifications, inspections, and parking. She said at this meeting, staff hopes to get down to key questions.

Ms. Echols stated that in terms of the question as to whether whole-house rentals should be allowed in the Rural Areas zoning district, the Planning Commission said maybe – under certain circumstances. She pointed out that some whole-house rentals are allowed, providing an owner has a secondary unit, such as a house, on the same property, wherein all of the guest rooms up to five could be rented out. Ms. Echols noted that it is allowed now to some degree, but there are a lot of conditions in those instances. She stated that there were also issues to be addressed with the RA zoning district for small lot subdivisions, and she presented an illustration of Neighborhood 2 the Pantops Area. Ms. Echols noted the location of the Dunlora subdivision, zoned R-4, and River Run, zoned R-6 with much smaller lots. She said on the other side of the river is Key West, which could be called a small lot subdivision zoned RA, but there are also larger lots – 23 acres, 31 acres, 43 acres, etc. – such as those on Stony Point Road. Ms. Echols noted that these parcels could be 5 acres or 100, but what staff heard from the Board was concern regarding these types of subdivisions, and they had indicated a possible preference for having different regulations for that group.

Ms. Echols stated that the second question is whether different unit types should be allowed, with restrictions, and the Planning Commission had recommended townhouses but staff wants to get Board input on that, as well as other housing types. She said the third question is owner versus resident manager, and staff would review current regulations – which allow a resident manager to operate residential transient lodging (homestays). Ms. Echols pointed out that some Board members had stated they only wanted homeowners to do that, and it may be that they apply location-specific parameters.

Ms. Palmer asked if bed and breakfast properties would now be considered homestays. Ms. Echols responded that they would be under staff's proposal, and they would all be the same category name.

Ms. Palmer noted that there are bed and breakfasts now that have resident managers, so that would have to change if this aspect were changed to owner only. Ms. Echols replied that the Board would have to agree that this is how they want to apply it, and Mr. Kamptner would have to weigh in on what they can legally do with those currently operating.

Ms. Echols stated the fourth question is whether to reduce the number of guest rooms, and Board members had expressed an interest in reducing the number of guest rooms down to two, which had been requested by one residents' association. She added that the Board may want to do this just in residential zoning districts, RA zoning districts, small lot subdivisions, etc. She said staff just needs to find out yes or no from the Board, understanding they may not be in agreement.

Ms. McKeel commented that compromise is the name of the game. Ms. Echols said at the end of the work session, staff would recap what they heard and then talk to the Board about additional public input and when they might want to have that. She stated that staff feels it would be better to have this sooner rather than later, as it has been a long time since the public had an opportunity to comment – and this could be done at a work session, future meeting, public hearing, etc. Ms. Echols noted that if the Board wants to further restrict what is being done now, staff would need to provide a resolution of intent for them to adopt.

Mr. Randolph asked for clarification that staff wants a "voted response" to each of the questions posed. Ms. Echols responded that it is a yes/no and votes are not imperative, but staff needs to see if there is Board consensus or a majority in either direction. She noted that not having Mr. Dill present is a bit of a disadvantage, as that could change things.

Mr. Randolph commented that he could reach Mr. Dill if necessary. Ms. Echols presented a slide with information as to how current regulations operate, stating that now is the time for the Board to ask questions related to this.

Ms. Mallek stated that she feels the on-street parking should be eliminated, and she asked if this is something the Board should vote on. Ms. Echols responded that they would not even get to that yet, and she wants to know if the Board understands the current regulations and if there are questions about how they work.

Ms. Palmer said that she does, stating that she would like to see what the village residential properties are and how expansive they are.

Ms. Rebecca Ragsdale, Senior Permit Planner, presented a map that showed the location of village residential properties, noting that staff had received the email from the Board requesting clarification of their locations.

Ms. Palmer commented that this is also helpful in terms of consistency.

Mr. Gallaway asked staff to explain the relationship between HOAs that have their own regulations and County Code, and what happens if they are in conflict with each other, as they could

implement something that is less restrictive than what an HOA has. Mr. Kamptner stated that any HOA stipulations that are more restrictive than the zoning ordinance would control that particular subdivision.

Mr. Gallaway asked what the case would be if that were reversed. Mr. Kamptner responded that the zoning ordinance would prevail, and generally whichever is most restrictive would dominate.

Ms. Mallek stated that in discussing this recently, the Board had wondered whether they would have the authority to require a certain form of contract that includes enforceability of things like insurance, and she asked staff if they had made any progress with that. Mr. Kamptner explained that as a zoning regulation, those requirements do not really have a connection to land use.

Ms. Mallek asked if they could be required in order for someone to get a business license, under the County's financial regulations. Mr. Kamptner responded that he had looked at the business license regulations and had not found anything that expanded the County's ability – but he will continue to look. He said in looking at homestay requirements from other states, he did find the insurance requirements, but not here.

Ms. McKeel suggested making a list of these things to include in the Board's legislative packet.

Ms. Palmer commented that the idea was to make the regulations even across the board, and she asked at what point in time a person would have to apply to do an Airbnb or bed and breakfast in the rural area.

Ms. Echols explained that one would need to come in and ask for a zoning clearance via application, then fill out a form and pay a fee. She stated there is a general home inspection and Health Department inspection, as well as a fire safety inspection done by the Fire Marshal. She said that once those steps are done, County staff goes out and does an inspection – and a permit for zoning clearance and the Finance Department would determine if expected earnings would trigger the need for a business license.

Ms. Palmer asked what staff would say if she were an applicant coming in to do a bed and breakfast on a two-acre lot in a rural area subdivision. Ms. Echols responded that staff would indicate that either the owner or resident manager would need to be present.

Ms. Ragsdale clarified that currently someone could run up to five guest rooms in the home or in the accessory structures, and the lot size does not matter as long as there is compliance with regulations. She stated the County has a step-by-step guide online, and once an owner receives a permit they can start offering guest rooms.

Ms. Palmer said the Board is challenged with how to let those who are compliant continue to operate, while stopping the "bad actors" from getting started. She asked how the Board would proceed with a change that eliminates the requirement for an owner or resident manager to be present, and she wonders if there is a way to have people with less than five acres go through a special process. Ms. Ragsdale responded that this is relevant to one of staff's yes/no questions and whether the Board wants a special process for those owners, adding that staff is asking the Board whether they want the neighborhoods in the rural areas to be subject to the same regulations as residential districts.

Ms. Mallek stated that this is the more restrictive approach, requiring off-street parking and other measures that provide more protection to the neighbors. Ms. Ragsdale clarified that making them the same as what is in the current ordinance would mean they could not use accessory structures nor could they have a second bed and breakfast use on the property. She said the residential neighborhoods could still rent up to five guest rooms now, regardless of their zoning district, as long as they are in the same house as the owner or resident manager. Ms. Ragsdale noted that the ordinance language says, "In a single-family dwelling used as such," and the rural areas have that additional flexibility – and staff does not specify whether that would be for smaller parcels or not.

Ms. Echols noted on a map the location of village residential property. Ms. Palmer stated that it is bigger than she expected. Ms. Echols noted the designation going through Ivy and northward.

Ms. Ragsdale pointed out that it is along Owensville Road.

Ms. Palmer said it also encompasses the Ivy Depot area. Ms. Ragsdale confirmed that it also includes the Lewis Hill neighborhood on Owensville.

Ms. Echols mentioned that there is not a whole lot in that designation, relatively speaking, but there are places in the rural area with old zoning from when they were development areas. She stated that they were identified with villages and when they got full, with most of them not having public water and sewer, the Board at the time made the decision to limit further additions in the designated rural areas.

Ms. Mallek commented that it is a lot more properties than you think.

Ms. Echols asked if there are any other questions about the regulations.

Ms. Palmer mentioned an example in which she wanted to open a bed and breakfast – now called a homestay – in the Whippoorwill subdivision, and stated that her understanding was she would have flexibility to have up to five guest rooms. She asked if there would need to be one parking space per

guestroom plus two to three spaces. Ms. Ragsdale responded that you would need seven spaces, and for the rural areas zoning district, it is already specified in the ordinance that the spaces must be onsite. She said it is zoned rural area, and currently the County does not have a regulation that addresses those neighborhoods and small lot subdivisions. Ms. Ragsdale stated that staff has proposed a specification in the draft ordinance that in the development areas, the parking must be on the lot – because currently it is permissible to allow on-street parking that abuts the lot to count towards the required parking, which raised concerns among neighbors. She noted that because of that, the Planning Commission recommended that all parking be onsite.

Ms. Echols clarified that in the rural area, it must be on the lot and cannot be on the street.

Ms. Palmer said that would mean seven parking spaces, under the current provisions.

Ms. Echols stated that before the Board moves onto the discussion about number of rooms, staff would like to determine whether they would like to allow whole-house rental in residential zoning districts and village residential – with a reminder that the Planning Commission said no. She clarified that this would mean no resident manager is required to be onsite. Ms. Echols said there are ways this can be done, and the limitations the Planning Commission discussed were in the rural area a certain number of days per year so there is a permanent resident. She emphasized that the question before them is whether there is a circumstance in which they would allow whole-house rentals in the residential zoning districts in the village residential.

Ms. Palmer pointed out that this is all development and village residential, not rural areas.

Ms. Mallek noted that they are talking about the characteristics of the small older lots.

Ms. Echols responded that she would get to that point, and she confirmed Ms. Palmer's comments. She stated that this is for areas like Dunlora and Fontana – but not Key West, because that is in a rural area.

Mr. Gallaway asked to what extent a whole-house rental in the development area is an issue currently. Ms. Echols explained that what staff heard from public input was that there was concern about it happening, but she does not know how much the County has dealt with that in terms of complaints.

Ms. Ragsdale stated there are a few from townhouse developments – which technically are not supposed to have any form of transient lodging – and the complaints in development areas typically consist of those related to properties that do not allow tourist lodging at all. She noted that these were often related to townhouses, or carriage houses in Belvedere.

Mr. Gallaway asked if the carriage house in Belvedere would not be the same as a single-family dwelling unit. Ms. Echols and Ms. Ragsdale confirmed that it is not allowed.

Mr. Gallaway commented that he is not generally in favor of whole house rental in residential districts, but he is interested in discussing the room rentals when they get to that item.

Ms. Palmer stated that she is not in favor of homestays in the development area, and her only concern is the possible burden on County government and the community if they are going to try to prevent them – and a side issue is whether there may be a way to do it in the case of unusual property that would not have such an impact.

Ms. Mallek stated that she is not in favor of homestays in the development area.

Ms. McKeel stated that she is not in favor.

Mr. Randolph stated that he is not in favor.

Ms. Echols next moved on to rural area zoning districts for small lot subdivisions, because that is closest to the development area types of uses. She stated they would need to address whole-house rental, in situations such as what are shown on the map as RA for places like Key West – and they could define this as lots of less than five acres. Ms. Echols stated that the Board should contemplate whether they could come up with parameters for these in small lot subdivisions.

Ms. Palmer stated that her answer would be the same as for the development areas, and people who are buying homes here are not expecting to have a commercial area next door – and the significant impacts it creates concerns her.

Mr. Gallaway said he would treat it the same as the growth area.

Ms. Mallek agreed.

Mr. Randolph stated that he is in favor of regulating it consistently with the development areas.

Ms. Echols said that staff will come back with some ideas as to how they would make that distinction, but at least they know the Board's standing on the matter. She stated the Planning Commission had recommended that whole-house rentals be allowed on a very limited basis in the rural areas, with a permanent resident onsite throughout the year – but up to 45 days of a year, they could

leave their house and not have an onsite presence, renting their house to anyone for no more than 7 consecutive days.

Ms. Palmer stated that they had discussed situations in which people have inherited a house and do not live there permanently – but they want to keep it in the family and rent it out. She said those people are currently operating without issues, to the County's knowledge, with a large size lot. Ms. Palmer stated one concern has been that allowing this in the rural areas might encourage people to build houses for this purpose, and asked why this would be a bad idea.

Ms. Mallek interjected that this reminds her of family subdivisions where they are required to not sell the homes for 10 years, per the code. Mr. Kamptner responded that this is exactly the distinction, as the General Assembly allows that kind of restriction to be in place for family subdivisions, but to have a requirement pertaining to someone engaging in a particular use is pushing the limits beyond the enabling authority.

Ms. Mallek said that helps guide her decision and vote, in light of the possibility that the Board could not keep houses from being built and turned into hotels.

Ms. Ragsdale reminded the Board that the construct in the ordinance now is supposed to be an accessory use to a residential use, and what they are getting into with a whole-house rental is that it should remain a primary residence with limitations – versus not allowing a whole-house rental at all.

Ms. Mallek commented that her concern about the proposal for 45 days is the unlikelihood of the County ever enforcing it – as it could become hundreds of days without anyone even knowing about it, with significant impacts to neighbors possible.

Ms. McKeel agreed, stating that she does not feel that day restrictions are practical.

Mr. Randolph also agreed.

Ms. Echols stated that staff believes it could be implemented, otherwise it could be an unlimited kind of thing. Ms. Mallek responded that it could be none at all.

Ms. McKeel said the key is having it in the right places.

Ms. Echols stated the question is that this is either residential tourist lodging – meaning someone's primary residence – or not. She said if it is not, then it would be commercial tourist lodging, and those are the two choices the Board has.

Ms. Ragsdale clarified that staff is asking what the Planning Commission recommended, as it keeps it in the accessory residential category – not the commercial category. She said the issue is whether they want an accessory to someone's residence on a limited basis or not, as there is consensus among Board members not to open it to commercial operations. She added that the Board's concerns seem to be people trying to get around the residential primary use expectation and limits in the ordinance.

Ms. Palmer stated that there would always be people who cheat, and she is in favor of allowing whole-house rentals in the rural areas, defined by a property size, and she would go along with the numbers of days suggested. She said she would like to figure out how to broaden this to include people who have inherited properties, but she also acknowledges the difficulty in drawing the line and understands staff's effort to make properties primary residential accessory use versus commercial.

Mr. Gallaway clarified that the proposal is for permanent residents, no more than 7 days per month and 45 days in a year, and he stated his support for that timeframe – providing that adequate assurance could be provided to realistically regulate it.

Ms. Mallek stated that she is a maybe for 21 acres and larger to get the homestays off the road and allow them to have space for vehicles, etc. – but she is very concerned about trying to make distinctions in ownership, as it would likely not stand up in terms of "equal opportunity under the law." She mentioned that there are lots of family cabins in the County, and many people use it to have guests and not to make money from it.

Ms. Palmer stated that she is not suggesting it be a special category, but is using it as an example in terms of people trying to utilize their properties.

Ms. McKeel stated she would be in favor of it based on lot size, but would take the days out completely.

Ms. Mallek emphasized there must be some way to prove it is someone's residence.

Ms. Echols said a permanent resident would have to be there at least half the year – 180 days – because beyond that, it would be considered commercial.

Mr. Randolph stated he is not comfortable having whole-house rentals without having someone present.

Ms. Mallek said she could agree with that easily.

Ms. McKeel also agreed.

Ms. Echols clarified that for rural area zoning districts, it sounds like a yes – with some caveats – and the possibility of going to no.

Ms. Mallek commented that there are other abilities to manage that pass the legal muster beyond what they are talking about at this point.

Mr. Randolph stated if there is a family that feels a necessity because they have to move or someone in the family has died, there is an option to rent the whole house.

Ms. Mallek said they are not requiring a year, as it could be 30 days or more.

Mr. Randolph asked why the neighbors should incur the inconvenience, even if there are some good actors among the bad actors – and this is a ground zero for university fraternities to get whole houses and have parties there. He stated he does not buy the argument that this is a financial necessity, as it is a convenience and there are options in the marketplace for someone to earn income from the rental property. Mr. Randolph said this should be the first option, and he agrees with Ms. Palmer that houses could be constructed and purchased for use as Airbnb to generate income. He emphasized that he does not want staff to be responsible for counting days on an annual basis – and the County does not have adequate staff to do this.

Ms. Palmer commented that they have rural areas with larger homes that were once sought after but now are not – possibly because of lack of internet service, aging population, or neighborhood schools closed. She stated that it seems reasonable to her to allow people to use their homes in this way.

Ms. Echols stated that regarding different unit types, the Planning Commission recommended townhouses and the Board had wanted staff to ask them to consider other unit types – with restrictions – because those were the conditions under which the Board had asked the Commission to consider it. She asked the Board if they feel different units should have the opportunity to have homestays.

Mr. Gallaway asked for clarification that they mean rooms, not entire houses.

Ms. McKeel added that this would be with the owner present.

Ms. Echols clarified it could be that, but this is a higher level question of yes or no as to whether the Board favors townhouses.

Mr. Randolph stated there are communities that have gone in, like Avinia, where there is not adequate parking for residents currently, and mixing in Airbnb would make the situation even worse. He said his concern is creating a blanket rule for all properties, which does not work for him in situations where it is “very tight,” such as with duplexes on Avon Court off of Avon Street Extended. Mr. Randolph stated they had built areas for people to park, and the road is very narrow – making it difficult for a fire truck to get through when there are cars parked on the sides. He said there are localities where this works and localities where it does not, and he cannot favor it overall for townhouses because there are situations where it would be problematic.

Mr. Gallaway stated that the parking is almost a more effective tool to regulate this than room numbers, because a person with a townhouse that is allotted a spot – either onsite or offsite, on the street or off the street – and he only has two spots total, he would have to do something with his personal car. Mr. Gallaway said he is not as concerned about the rooms, and if he has five rooms for rent but only two spots, that would limit what he would be able to do. He added that he is okay with the townhomes and the rooms, but the parking would be key for him.

Ms. Palmer said she has never tried to get an Airbnb in Albemarle County, but generally rentals mention whether there is parking or not – or a renter would ask – and she agrees with Mr. Gallaway, but only with the owner present.

Ms. McKeel related an event held during the week that she had been invited to in the City for a house billed as an Airbnb – with more than a hundred people invited and shuttle buses running from Charlottesville High School to get people to it. She stated that the neighbors were extremely distressed because this was happening a lot, and there was even a security guard stopping people who were trying to avoid the shuttles. Ms. McKeel commented that if she had lived on that cul-de-sac, she would have been extremely concerned, and her idea of solving parking is not shuttle buses.

Mr. Gallaway drew the distinction that there were not 100 people sleeping there.

Ms. McKeel agreed, but said she was reminded of this incident in the context of parking problems and the way people get around them.

Ms. Ragsdale clarified that during the application review process, staff works to confirm parking and does not approve sharing – with the expectation of two spaces plus one per guest room. She stated that special events fall under another use category, and that would not be allowed.

Ms. McKeel pointed out that her example is a house being used for an Airbnb on the weekends

and during the week.

Ms. Mallek asked if there is a possibility of describing the permissions as “residential only” and “not for parties” for people who are not staying there or if it is something the landowner has to do. She said that if so, she would like to contemplate whether certain language could be included in contracts to insure that does not happen. Mr. Kamptner responded that some kind of performance standard in the zoning regulations comes to mind that might put an absolute limit on the number of people who can be in the house at any time – and they would not get into the specific terms of the short-term rental agreement.

Ms. McKeel said this is something to consider, as her example involves a house that was essentially being used for parties. Mr. Kamptner commented that the issue of parties after hours would fall under enforcement.

Ms. Mallek noted that it would be a pain to enforce, and asked if the County has any ability for bonding to help people understand the importance of these things – especially for out-of-town owners who are struggling to try to maintain order with renters.

Mr. Kamptner clarified that the short-term registry enabling authority does not have a bonding provision but does have a frequent violators provision, but that is for a whole-house rental.

Ms. Mallek asked if that provision could be applied to all homestays, as it is a way to get accountability. Ms. Echols stated that in this situation, if someone were to call in and report a weekend bed and breakfast but the house was being used commercially as a vineyard during the week, that would be a zoning violation. She said if someone calls and complains, they would follow up on that and it is not allowed under any circumstance.

Mr. Kamptner added that it would be enforced as other zoning violations are, which does require some time – and that could be frustrating to the public. He said the County has a limited number of zoning violations whereby state law allows a shortened period to go through the process.

Ms. Mallek pointed out that the ticket process really works because a \$40 ticket from the inspector could triple within a month, and that is how the Police Department works.

Mr. Kamptner said the County currently uses the ticket process just for sign violations.

Ms. Amelia McCulley, Zoning Administrator, explained that the County has expanded the ticket system and started with temporary illegal signs, then applied it to other zoning violations – so something like this violation could be applicable. Ms. McCulley emphasized that there needs to be a distinction between renting it for the purpose of an event, which is not allowed, and an occasion for which people are gathering in town and that involves a larger group. She stated they have a shorter appeal period for temporary events, with 10 days instead of 30, but they could go straight to a ticket for a fine.

Ms. Mallek stated that she had heard of using a number of people instead of a number of rooms, such as 10 people maximum, as that seems to be a tipping point. Mr. Kamptner clarified that putting a cap on the number of people addresses the special event party situation – and rooms, parking, and the total number of people allowed are parameters that could be used.

Ms. McKeel said they could limit it to two guest rooms and up to four adults in the development area, and no more than five guest rooms – up to 10 adults – in the rural area.

Mr. Randolph noted that “adults” could also mean older children.

Ms. Echols stated that the last time the Board considered this, they wanted it to be rooms and not guests – and if they are changing their minds, staff would make note of it. She said at the last meeting, she understood them to say it needs to be rooms and not guests.

Ms. Echols reiterated that she wants to get through the question of the different unit types.

Ms. Ragsdale said that Mr. Gallaway and Ms. Palmer had expressed their opinions.

Ms. Mallek stated that she is a no on both of those things, as she has concerns about the impacts when people are crowded together.

Ms. McKeel said she does not have much of a problem with it if there is an owner living there, as everything currently is owner-present. Ms. Echols responded that currently the requirement is resident manager.

Mr. Randolph stated that he is not in favor of it.

Ms. McKeel said that she would say no if just a manager is required. Ms. Ragsdale clarified that resident manager means the structure is still being used as a home, and the manager serves as a tenant/manager.

Ms. McKeel stated that she would not be in favor of that. Ms. Ragsdale said it is not a situation wherein the owner leaves and the manager is there.

Ms. Mallek mentioned wineries in her district where there are homestays and bed and breakfasts, with one person in the homestay house as the innkeeper – and the owners are the skills in the winery, which is fine with her.

Ms. Echols commented that it may be location-specific, and the question is whether it is owner only, resident manager acceptable; or whether it is location-specific. She stated that if she could get the answer to that question, she would come back and then they could talk about the location.

Ms. McKeel stated that she could agree to owner-only and location-specific under the right set of circumstances.

Ms. Echols clarified that what she thought she had heard from some Board members was that they do not believe a resident manager should be able to operate a homestay, and that only an owner should be able to operate it.

Ms. Palmer said if they have somebody who is leasing a home has a contract that says they can sublet, she wants to know if it is up the County to regulate it or the person who is leasing her the home. She stated that she feels uncomfortable with County government getting involved at that level and would like to hear from Mr. Kamptner about their role with lease agreements and the requirement to have an owner present.

Mr. Kamptner explained that the rationale when the current regulations were adopted was that if a person wanted to have this type of establishment, they needed to be either the owner or resident manager – but other than living there, there were no County-imposed provisions as to what the manager needed to be. He stated that the County could take it a step further and require a lease arrangement with the owner of the property that might provide some stability that theoretically would not exist otherwise. He said that when the regulations allowing resident managers were adopted, the County recognized the importance of having someone onsite who was responsible for controlling and managing what was happening on the property. Mr. Kamptner stated that other than the stability and responsibility, they did not really look beyond that.

Ms. Ragsdale pointed out that the supplemental regulations for bed and breakfast establishments state that “the owner or manager of the bed and breakfast shall reside on the parcel,” and the tourist lodging language was used for the dwelling areas that stipulates a single-family dwelling should be used as such.

Ms. Palmer stated that given that definition, she is okay with resident manager and owner.

Mr. Gallaway asked for a downside of having a resident manager and what the concern is. Ms. McKeel responded that a resident manager could have an office somewhere and not be onsite.

Mr. Gallaway said that his understanding of “resident” and the point of including that word means they have to live onsite – the building, the unit, or whatever the structure is – and could rent out rooms. He stated that if this were the case, he is fine with it.

Mr. Randolph stated that his problem is trying to set up different expectations than those under BNBs, with less presence, supervision, and accountability. He said he does not think this is fair to the BNBs, nor does he feel it is workable. Mr. Randolph stated that BNBs have local knowledge and give back to the community and without someone onsite, the County is losing its hospitality advantage. He emphasized that it is important to have parity in what they are setting up between the Airbnbs and real BNBs in terms of expectations. Ms. Ragsdale responded they are the same, as staff has been discussing throughout the process, and they wanted to clarify that it could be a traditional bed and breakfast – a term causing confusion, which is why they wanted to go to the term “homestay.” She said they went to the term “bed and breakfast” in 2012, but it does not apply to just traditional BNBs and could be the one-room rental where a resident manager resides there, so there is still the component of the local connection.

Mr. Randolph commented that he would support that.

Ms. Echols said she is hearing from the Board that as long as someone resides there permanently it is okay, and she asked if there is anything location-specific that would change their minds.

Mr. Randolph suggested that the language be “resident manager/owner.” Ms. Echols stated that regarding the number of guest rooms, in the residential districts there can currently be up to five guest rooms, and what is proposed reduces this to two rooms in residential districts.

Ms. McKeel noted that these are the areas with small lots and neighborhoods.

Mr. Gallaway said this is where the parking comes into play and if it is well-defined, it helps solve any room or person number.

Ms. McKeel responded that this is where conflict is created, because people complain about not having parking and the County does not have anyone to monitor it.

Mr. Gallaway said if the parking is not there, an owner cannot run it successfully – and if that impact is regulated, that should address the limits. He explained that the same problem would exist if they addressed it through the rooms or the people, but parking is a big impact on the rest of the neighborhood,

which is why he is focusing on it.

Ms. Palmer stated that a person from Whippoorwill subdivision had told the Board about people who came up his driveway in Uber at 2 a.m. and woke him up, then started partying again. She said that while the parking needs to be regulated, it should not in itself be relied upon. Ms. Palmer clarified that staff's specific question is whether they want to reduce the number of guest rooms.

Ms. Echols said they would address the residential zoning district initially.

Ms. Palmer explained that currently you could have a bed and breakfast in Whippoorwill with the resident manager/owner in it, with up to five rooms being rented. She stated that in the development area, she is more concerned about the number of people than the number of guest rooms, if she were to have to choose one or the other.

Ms. Echols asked Ms. Palmer if she is in favor of reducing the numbers from where they are now, which is five rooms and ten people, to something like two rooms and four people. Ms. Palmer stated that she would be comfortable with the number of rooms, given the proxy of two people per room and up to five rooms – and most people would not allow a load party if they were in the home. She added that if the parking is all off street, that would be reasonable, although it would probably be something unusual for the development area.

Mr. Randolph stated that he would like to consider four adults and no more than two children aged four and under, adding that most BNBs are set up to have young children stay in the room with children – so that would mean six people, four adults, and two children maximum. Ms. Ragsdale responded that the limits typically pertain to number of adults, and staff is not particularly concerned with the impact of children.

Mr. Randolph said that a minor could be up to 18 years of age, so a near-adult could stay in a room and that could become a lot of people total. Ms. Ragsdale stated they are starting with the number of rooms question, and staff thought the Board had indicated they did not want to get into regulating people. She said that staff is not prepared to discuss limits on the number of people, and the question is whether the Board wants to reduce the number of rooms in the development areas.

Mr. Randolph and Ms. McKeel expressed their support for a limit of two rooms in the development areas.

Ms. Mallek agreed that two rooms is fine in the development area most of the time, but she wonders if there could be exceptions in the event of a very large house.

Ms. Echols clarified that Ms. Palmer had said no and Mr. Gallaway had said it has to do with parking.

Mr. Gallaway said he understands the concern about a lot of negative behavior and impact, but nothing they are going to do will solve that. He stated that there might be owners who would jam as many people in as possible – but most often, that would not be the case. Mr. Gallaway stated that to take it to public comment, he is fine with leaving the number at five, and people can comment on their opposition or support for that level.

Ms. Echols summarized that the Board has said no to whole-house rentals in the residential districts and village residential, no in residential districts for small lot subdivisions – which still needs to be defined, and yes in the RA district – with limitations.

Ms. McKeel stated that she has no problem with whole-house rentals in the appropriate places, but they need to determine where those places are, and they cannot be in small areas.

Ms. Echols stated that most Board members want a limitation on the number of days, but has concerns as to how it will be enforced. She said that regarding different unit types, she understood three Board members to say no to townhouses and two to say yes – with parking being the key regulator.

Mr. Gallaway said he is okay with townhomes and a resident manager/owner, and he feels that parking would limit what the townhome can do.

Ms. McKeel commented that she has seen renters walk across the street to their lodging and park in her neighborhood, in the development area.

Mr. Gallaway stated that the problem there is not the BNB, because a resident living in the townhome could do the same thing, and he has issues with trying to regulate behavior through the transient lodging piece. He emphasized that the County should, as a policy, try to figure out a positive path forward, but should not try to solve every negative thing.

Ms. McKeel stated she is concerned that parking alone does not necessarily address that.

Mr. Gallaway said he is not necessarily saying that is the single piece, but if a person can only provide two parking spaces, it is limited by the number of people that can fit in those cars.

Ms. Mallek asked about people who come in an RV, as that would take up significant parking.

Ms. Echols responded that they could address that after they get through the first points. She stated that she understands there are two Board members who said no and two who said yes, and there is total agreement that having a resident manager is acceptable. Ms. Echols said that in terms of the number of guest rooms, there are three in favor of reducing the number and two who are not in favor. She emphasized that they would come back to whether the total number of guests should be regulated instead.

Ms. McKeel stated she is comfortable with five rooms in the rural area. Ms. Echols clarified that they want to reduce the number only in the development area and small lot subdivisions, but would leave that number at five for the rural area. She stated that staff will bring it back to the Board, with refinements and details, and she asked when and if they want additional input – either at the next work session, a special meeting, or the public hearing. Ms. Echols said that in June, staff had brought forth information that the Board perhaps wanted to hear from the public on before discussing it further themselves.

Ms. Mallek stated that it is well-intended and she sees both sides of it, but if there is something a bit more concrete for people to read and understand, then they can say yes or no to the specifics. She said she would appreciate having staff bring next steps and a matrix, which makes things clear, so they could have something bona fide for people to react to.

Mr. Gallaway commented that if a person has a single-family detached unit in a development area with a cottage house, they are currently not allowed to use the cottage house.

Ms. Ragsdale asked if he is talking about Belvedere and the carriage houses or the development area in general. She explained that carriage houses are not allowed to be used as transient lodging and are specifically proffered to provide accessory affordable units. She stated that carriage houses are somewhat unique and are not allowed in residential zoning districts, and they were created in the individual Neighborhood Model districts in the Neighborhood Model code of development. Ms. Ragsdale noted that, in general, the County does not allow guestrooms to be in accessory structures in other zoning districts, so if someone has space above a detached garage, that is not allowed. She stated that it had not been introduced as part of this discussion, and the Planning Commission did not recommend it, but in general those types of detached units are not permitted in other districts but are part of Neighborhood Model codes of development – offered as a way to provide affordable housing.

Mr. Gallaway said that pertains to a specific type of instance, but he wonders about situations where they are not used for that purpose – for example, a home with an accessory dwelling in a development area where an Airbnb could not be used in the accessory structure, but could in a finished basement. He stated that he expects there would be more cottage-type units in the future, and hopefully the HOA would clean up the definition for its particular neighborhood. Mr. Gallaway stated it seems to him that an accessory unit with the same resident manager onsite aspects would make sense, because offsite parking would likely exist, etc. He added that it may actually be easier for the accessory unit to be available for them.

Mr. Randolph stated that following this logic, he agrees – but by doing that, they would reduce the supply of affordable housing in the community. He said that as more resident transient housing is permitted, the overall quantity of affordable housing units goes down. Mr. Gallaway responded that he understands this but wants to know who is populating the affordable units in Belvedere, versus the bigger philosophical discussion of who they want to have populate affordable housing units.

Ms. McKeel cautioned that the people who bought into Belvedere did so with the understanding those accessory structures would be rental units, but they did not buy into the possibility of short term rentals being turned over and over. Mr. Gallaway responded that this is up to the association, and this is why his earlier question of which level of enforcement takes precedent is important. He said there are a lot of HOAs that are not yet getting in this and figuring out what they want their community piece to be, but he hopes that once they do, they will understand that homes would fall under the more restrictive County requirements.

Ms. Mallek commented that this would be part of the County's education piece.

Ms. Echols mentioned that accessory units are a type of affordable housing the County has been advocating for and has never materialized into a zoning text amendment, and staff would like to discuss in the future accessory unit use as an accessory apartment. She said once they get to that conversation, they can ask the question as to whether a unit could also be available for a homestay. She said if they can hold off on that discussion until they get to the accessory apartment discussion, they will be able to give it a fair conversation.

Ms. Mallek asked if there is space over a garage in the development area, if it still could not be rented out as an apartment. Ms. Echols confirmed this. She stated that if the Board wants that to be elevated in their work program, staff could move it up – and it may enter into upcoming affordable housing discussions.

Mr. Gallaway stated that the alternative of an affordable unit over a garage is that someone might be able to take on a home and feel better paying for the mortgage if they know they have an income unit on the property – as it would make it affordable for them to live in the main house. He said for that to work for the homeowner, long-term rental is key, but if there is a gap between rentals, this could be a way to generate income in the meantime. Ms. Echols clarified that staff would bring a new resolution of intent in the next work session, which would include changing some of the regulations as they exist now – not just

expanding opportunities, but restricting them.

Ms. Ragsdale added that this would reduce the number of rooms in the residential districts, but would also introduce the concept of rural area neighborhoods being treated differently.

Ms. Palmer stated there are some people who do not support reducing the number of rooms. Ms. Echols responded that staff will figure out how to deal with that and will bring it back to the Board, noting that the next work session will be in September and at that time they can discuss the need for additional public input.

Ms. Mallek congratulated Ms. Echols on the American Planning Association's Annual Report Award and thanked her for her work. She stated she would like to find out from the County Attorney whether they are able to require posting of things like a business license on advertising, if they are not able to do a tax ID number.

Mr. Kamptner responded that in looking nationally, requiring liability insurance under zoning does not have a single case; under business licenses, there is a New York case that said no, unless it was expressly enabled. He stated that New York is not a Dillon Rule state, so under Virginia law the courts would conclude the County does not have that authority. He stated that in going through the state planning and zoning law, there are certain circumstances under which the County is authorized to bond, such as the Board of Zoning Appeals requiring a bond to ensure compliance with conditions when they approve a variance. He said the authority cannot apply that in this situation, as the General Assembly has not provided for it, but he will look at the license advertising issue.

Ms. McKeel confirmed that Mr. Kamptner is keeping the list of items for the legislative packet.

Mr. Kamptner noted that staff had met with Mr. David Blount the previous week, and he said he would be sharing with the Board another new strategy he hopes will be successful.

Recess. The Board recessed its meeting at 4:57 p.m. and reconvened at 5:04 p.m.

Agenda Item No. 4. Board of Supervisors Operating Guidelines for High Quality Governance.

The Executive Summary forwarded to the Board states that Board of Supervisors members, County Executive, and County Attorney staff participated in a two-day retreat, May 2-3, 2018; the purpose of this retreat was to enhance the ability of the Albemarle County Board of Supervisors and the County Executive's Office to work together on the successful future of Albemarle County.

The group was charged with meeting six goals during the length of the retreat:

- Foster enhanced relationships through an awareness and appreciation of the strengths and differences of fellow Board Members and those in the County Executive's Office
- Look at the impact of type and temperament on communication and decision making, and consider how this may impact the leadership of the Board and interactions of the elected body and staff
- Review the basics of the Council/Manager form of government, including the role of politics versus administration and differences in political values
- Discuss ideal roles for the Board and staff and behaviors that will lead to an effective working relationship
- Clarify expectations and guidelines that emerge for working together as a board and with staff, including how to ensure accountability
- Identify next steps

In the course of doing this work Board members and staff developed a deep understanding of the roles and responsibilities of each group and also worked to create guidelines for future operations.

The Operating Guidelines for High Quality Governance (Attachment A) were developed at the May Board Retreat with the agreement that next steps would include:

- Board review at a future work session
- Six month review to determine progress

The County Executive is bringing the Operating Guidelines for High Quality Governance to the Board at its July 9, 2018 work session for review and adoption as agreed upon at the May Board Retreat and anticipates working with the Board Chair in the scheduling of the six month review, tentatively planned for October 2018.

There is no budget impact anticipated with these guidelines.

Staff recommends that the Board adopt the Board of Supervisors Operating Guidelines for High Quality Governance as set forth in Attachment A.

Mr. Richardson reported that the Board had revisited its operating guidelines for high-quality governance during work sessions in May and had worked through a draft set of guidelines as presented.

He said that staff would like to review the nine draft operating guidelines, which had been distributed to the Board ahead of time, and is also seeking a vote from the Board. He stated that they will also revisit the guidelines in the fall to see if there are any items that need to be clarified.

Ms. Mallek read the first guideline: the County's strategic priorities will guide the work of the Board and staff and will be supported by a thoughtful priority setting process and cycle. She stated that this is a perfect example of one of the most challenging things the Board deals with, as there are many very important ideas and it is difficult to pick out the 20 they could work on in a year.

Ms. Palmer said the way this is stated is nebulous in terms of public perception.

Ms. Mallek agreed, but said that strategic priorities is another way of saying the strategic plan, which they formally adopt after lots of discussion.

Ms. McKeel said it emphasizes the strategic priorities, which come out of the Comp Plan.

Ms. Mallek read the second guideline: we will honor the will of the majority and respect the interests of minority opinions.

Ms. Palmer said this particular guideline is sort of saying "everyone be nice to each other," and she does not know what is meant by "honor the will of the majority."

Ms. Mallek stated that she was reminded of the time when she was in the minority on the Board but was charged with speaking the majority's viewpoint when out in public.

Mr. Randolph said that honoring the will of the majority is essentially the same principle as "majority rules," and honor implies respecting the will of the majority.

Ms. Palmer agreed that this is fine, as long as Board members are allowed to talk about their own opinions in public and not just express the will of the majority.

Mr. Richardson stated that as it relates to staff, they will execute on the majority opinion – but are also sensitive to the minority opinion in the event of a split vote.

Mr. Randolph stated this also gets at recognizing that when the majority makes a decision, the minority can object to the decision of the majority and express that – but actively working to undermine the majority would not be honoring the will.

Ms. Palmer stated that meeting with constituents or those who want to talk about it would afford opportunities for individual Board members to express their values and opinions.

Ms. Mallek noted that she does not feel there is censorship implied here at all.

Ms. McKeel agreed.

Ms. Mallek read the third guideline: we ensure that policy decisions and directions to the County Executive are communicated by the entire Board – where this is unclear, the County Executive will seek clarification from the Board; and no single member of the Board can provide direction on policy implementation to the County Executive.

Board members expressed that there is nothing controversial there.

Ms. Mallek read the fourth guideline: Board members do not want their interactions with and requests to staff members to negatively impact their productivity – staff members should use judgment and explain the resources that would be required to respond to Board requests; and if a policy issue is going to affect workload or a policy decision, it should come through the County Executive's Office.

She stated this does not mean the County Executive gets to veto it, it means he gets to manage it in terms of how much in resources a project needs.

Ms. Palmer said that for clarity, Board members do not want their interactions with and requests to staff members to negatively impact productivity – and the word "staff" should be before productivity.

Mr. Gallaway commented that when Board requests rise to a certain level, the County Executive needs to clarify to the whole Board what is going on. He said he also likes the idea that they are using resources instead of a specific metric, as something could take extra time but would be okay as long as it does not derail a department.

Ms. Mallek read the fifth guideline: when a Board member sends a communication to a staff member, it should be copied to the department director and the appropriate member of the County Executive's Office. Urgent matters will be clearly labeled in the subject line.

She stated this is very important so that people can be kept in the loop.

Ms. McKeel said this stems from a discussion that many Board members answer their emails on weekends and do not necessarily want to have staff respond on weekends – but other than urgent items,

the expectation is for response on weekdays.

Ms. Palmer commented that the “reply all” in email is often unnecessary, as that can impact productivity.

Ms. Mallek noted that using “reply all” is a detriment to the FOIA process.

Mr. Gallaway said this in no way limits them as Board members, and it is not dictating that things have to be done by email – but it does help to keep departments in the loop so they are not blindsided by information.

Ms. Palmer stated they should strive for a balance, and sometimes Board members will have a long back-and-forth conversation with a staff member for an item that does not involve others.

Mr. Richardson said these are good rules of thumb, which helps staff track issues they are working on to make sure they do not fall through the cracks.

Ms. Mallek emphasized that staff should ask how to proceed if Mr. Richardson is not included and the Board forgot, and this is especially important for new staff.

Mr. Gallaway stated that if this is something the Board is dealing with and it is a priority, he does not necessarily see the need to copy everyone – but if it is a new item being introduced, it is important for everyone to be copied on it. He added that it also helps to measure workloads.

Ms. Mallek said that having things shared helps avoid redundancy and repetition.

Mr. Kamptner stated that eventually everything does get shared, but at some point the broader issue would be coming to the Board.

Ms. Mallek read the sixth guideline: to assure maximum productivity, the Board should do Board work and the staff should do staff work and provide progress reports.

Ms. Palmer commented that there had been a situation a few years earlier with respect to the trash that required her to get involved, and she does not like the idea of being restricted in all cases so it would be helpful to have some language added.

Ms. Mallek asked Ms. Palmer if she feels this guideline, as written, is restricting her ability to do research on the outside.

Ms. Palmer responded that she does, stating she had been criticized for going to the DEQ and talking about a specific issue – which she considered research. She said it is nebulous to her as to what constitutes “Board work” and “staff work.”

Mr. Randolph asked if other Board members had been aware she had been talking to the DEQ.

Ms. Palmer responded that she did not recall, but felt that they probably had been, and said the DEQ meeting was research on how the system works.

Mr. Randolph said if an occasion like that arises again, perhaps the appropriate way to handle it would be to let the Board Chair know and also let someone in the County know she is planning to talk to someone at the staff level at DEQ.

Ms. Palmer responded that it was not really at the staff level, as she had been researching how the state worked on a specific item – not just for the County. She added that she would like to figure out a way to broaden the language prior to voting on it.

Mr. Gallaway stated that short of a legal or ethical issue, this does not restrict a Board member’s ability, and he feels the criticism of Ms. Palmer had been misguided. He said the Board has an obligation when they ran for office as to what their rights and responsibilities were, and if it does not cross ethical or legal bounds, he does not see what the issue would be.

Mr. Richardson said the line is not a clear demarcation, but at the Board’s strategic retreat, they discussed their role as policymakers and governing board, as well as the day-to-day operations of the County Executive’s Office and staff. He stated the idea in general was that the Board members would be focused in their role as policymakers, and staff would maintain its role in day-to-day operations.

Ms. Palmer stated she would like to add that to make it clearer.

Mr. Richardson suggested the language reflect that the Board do policymaking and the staff do operations and implementation.

Ms. Palmer said that works for her.

Ms. McKeel commented that policy is determined by the Board as a whole, not by individual Board members.

Mr. Randolph stated the reason for this item was the perception that Board members were overstepping their role and getting down into the weeds with staff-related issues and trying to push certain options to be recommended.

Ms. Mallek read the seventh guideline: we ensure that we work with a careful and unified voice when we are dealing with other jurisdictions or units of government, including both the Board and the County Executive.

She commented that the Board has been doing a very good job with that aspect.

Ms. Palmer stated that she is doing well with the staff leadership, but this item troubles her because she does not want to give up her ability to vote in a way she feels is appropriate in the context of her own ethics. She said she feels Board members should be able to vote their conscience on issues, and other than that, working with a unified voice is perfectly reasonable.

Ms. Mallek asked if it would be helpful to use the word “negotiating” in place of “dealing.”

Mr. Gallaway commented that he does not understand Ms. Palmer’s concern, as this guideline is addressing business done after the vote – with the Chair speaking for the Board as a whole, so there is no misrepresenting from the minority in terms of negotiations or dealing. He said that while they would never lose their ability to state their opinions, the Board vote unifies the process going forward.

Ms. Palmer stated she has no problem with that, but she recalls the situation where she and several other Board members voted in a situation on the courts that was criticized because it was perceived to influence a negotiating position. She said she does not want this to constrict the ability of Board members to vote the way they feel they need to.

Board members agreed to leave the term as “dealing.”

Mr. Randolph commented that this item speaks to majoritarianism and not working actively behind the back of the Board.

Ms. McKeel agreed that the idea is to work as best you can as a group.

Ms. Mallek read the eighth guideline: we are responsible for our districts, the entire County, and the region; therefore, we should give our best efforts to work for the benefit of all.

There were no comments or issues raised with this item.

Ms. Mallek read the ninth guideline: when a Board member has a concern regarding staff performance, we go directly to the County Executive in a timely manner so that it can be addressed.

There were no comments or issues raised with this item.

Mr. Gallaway stated that it does not relate directly to this item, but pertaining to concerns raised by a constituent, if they are going to advertise something as a work session and take action on it, at the very least public comment should be allowed.

Ms. Mallek asked if there should be a difference drawn between a public hearing for a legislative change and a Board policy that talks about how they function among themselves.

Mr. Gallaway responded that he would not suggest that everything has to go to public hearing in individual pieces, but if there is a held meeting where the Board would take action, they could at least allow a public comment section. He stated that this allows anyone who does want to speak to do so, so this is just a process piece for him.

Agenda Item No. 5. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. McKeel distributed an article on Chesterfield County’s bond purchasing process.

Agenda Item No. 6. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 7. Closed Meeting *(if needed)*.

There was no need for a Closed Meeting.

Agenda Item No. 8. Adjourn to July 11, 2018, 2:00 p.m., Lane Auditorium.

At 5:38 p.m., with no further business, the meeting was adjourned to July 11, 2018, 2:00 p.m.

Chairman

Approved by Board
Date 11/07/2018
Initials CKB