

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 20, 2019, at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The night was adjourned from March 6, 2019. The night meeting began at 6:00 p.m.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:01 p.m., by the Chair, Mr. Gallaway.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. Adoption of Final Agenda.

Mr. Randolph **moved** that the Board adopt the Final Agenda. The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

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

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

Mr. Gallaway introduced the presiding security officers, Lt. Teri Walls and Officer Laura Proffitt, and County staff at the dais.

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Ms. Palmer extended invitations to the April 4, 2019 7:00 p.m. town hall meeting hosted by the Cove Garden Ruritans at North Garden Volunteer Fire Department. She said that she and School Board member Mr. Graham Paige would be present to discuss issues related to the school, budget, and broadband.

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Ms. McKeel announced that School Superintendent Dr. Matt Haas and County Executive, Jeff Richardson, would host a town hall meeting on March 21 at 6:00 p.m. at Woodbrook Elementary School.

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Mr. Randolph announced that the 5<sup>th</sup> and Avon Citizens' Advisory Committee would meet on March 21, 2019 and discuss a resolution for a town center small area plan, to assess the best uses for County-owned land and how it would fit in with the overall pattern of residential development on Avon Street Extended.

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Mr. Gallaway said he was asked by Kim Swanson of the Albemarle County Service Authority to remind residents that the Thomas Jefferson Water and Soil Conservation District has funds available to assist property owners in the repair and replacement of failing septic systems. He noted that their website has information on how to apply.

Ms. Mallek added that they also would do an analysis of the functioning of the system.

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Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6a. Proclamation Recognizing March 2019 as Colon Cancer Awareness Month.

Ms. McKeel read and **moved** adoption of the following Proclamation Recognizing March 2019 as Colon Cancer Awareness Month:

**PROCLAMATION  
RECOGNIZING MARCH 2019  
AS COLON CANCER AWARENESS MONTH**

**WHEREAS**, Albemarle County recognizes the month of March as Colon Cancer Awareness to bring greater awareness to colon cancer and the importance of being screened; and

**WHEREAS**, colon cancer is the second leading cause of cancer death in the United States, and 1 in 20 people will develop colon cancer, and every 10 minutes a life is lost to the disease; and

**WHEREAS**, this year alone, 142,000 new cases of colon and rectal cancer will be diagnosed in America and nearly 50,000 deaths are expected; and

**WHEREAS**, a simple screening test is recommended to individuals over age 50 and those with a family history to help combat the disease, and through recommended screenings, this cancer can be caught early when treatment is most effective; and

**WHEREAS**, Albemarle County recognizes that increase screening can save lives in Albemarle County and across the country, and education and increased awareness can help inform the public of methods of prevention and the early detection of colon cancer.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, do hereby proclaim the **Month of March 2019** to be **Colon Cancer Awareness Month** in the County of Albemarle and encourage all individuals to work together to promote awareness and understanding of colon cancer and the need for screening to eradicate the disease.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Ms. Cathy Bauer, Director of Endoscopy at the University of Virginia, accepted the proclamation. She said she has been a GI nurse for 26 years, has seen a growth in detection rates and the ability to heal patients, and she encouraged everyone to have a screening.

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Item No. 6b. Proclamation Recognizing Census Awareness Day.

Ms. Mallek read and **moved** adoption of the following Proclamation Recognizing Census Awareness Day:

#### **CENSUS AWARENESS DAY**

**WHEREAS**, every ten years, Article 1, Section 2 of the United States Constitution mandates a count of all the people living in the United States and its territories; and

**WHEREAS**, the 2020 Census will address every household in the nation with a simple questionnaire with the goal of counting everyone once, only once, and in the right place; and

**WHEREAS**, data obtained by the survey will be used to help determine how approximately \$675 billion will be distributed from the federal government to state, local, and tribal governments annually; and

**WHEREAS**, up to \$2,000 of federal funding will be lost for each person not counted; as well as upwards of \$20,000 of federal funding lost every ten years; and

**WHEREAS**, a complete count requires that we bring together leaders from all communities of the Commonwealth, so that every Virginian regardless of racial, social, or economic background is counted; and

**WHEREAS**, Governor Ralph S. Northam has established the Virginia Complete Count Commission, which is comprised of 40 members to collaborate with community partners and local Complete Count Committees to ensure an accurate 2020 Census count.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, do hereby proclaim **April 1st, 2019**, as **Census Awareness Day**.

The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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Item No. 6c. Government Finance Officers Association (GFOA) Budget Award.

Mr. Curtis Doughtie, Director of Finance and Administration for the Virginia Resources Authority and President of the Virginia Government Finance Officers Association, said he was honored to be present to present the Distinguished Budget Award to Albemarle County. He said the award has been in operation since 1984 for the purpose of encouraging governments to prepare budget documents of the highest quality for the benefit of citizens and other parties with a vital interest in the budget process. He said the program has gained widespread recognition among public sector budget professionals as an important indicator of a government's commitment to be accountable to stakeholders. Documents submitted to the budget awards program were reviewed by selected members of the GFOA professional

staff and by outside reviewers with experience in public sector budgeting. He said that to be eligible, a governmental unit must publish a budget document that meets the program criteria as a policy document, operations guide, financial plan, and communications mechanism. He said that receipt of the award reflects the professionalism and commitment of numerous individuals, many hours of hard work, and a high level of dedication and leadership on the part of the Board of Supervisors. He said that the GFOA hopes the award would serve as an example and encourage others to strive for the same high standards.

Ms. Laura Vinzant, Senior Budget Analyst, Office of Management and Budget, accepted the award on behalf of the County. She said her office views the budget document as an important decision-making and communications tool for the Board, County leadership, employees, and the community. She said that the OMB was dedicated to accuracy, transparency, and continuous improvement of the process and document. She said they look forward to receiving comments from GFOA and incorporating suggestions into the document. She recognized staff who were also present in the audience: Andy Bowman, Tia Mitchell, Heather Taylor, Lori Allshouse, and Holly Bittle.

Mr. Gallaway recognized the significant achievement and said it reflects their commitment to meeting the highest principles of government budgeting. He said the Board was grateful for the standard OMB meet every day.

Ms. Mallek remarked that the budget demonstrates the Board's priorities, gives citizens the best chance to know what was going on, and was an incredibly important document.

Ms. Palmer recognized the wonderful job staff does in explaining the budget document and the time staff devotes, as well as its timely responses to questions from the Board.

Mr. Randolph noted that there are many students in the audience and pointed out that the County has a charter from the General Assembly that allows it to come into operation. He stated that the charter gives the Board of Supervisors direct control over financial management, whereas in many counties it was an elected treasurer who has control over finances and who might have a personal agenda. He stated that it was important for the County to provide the highest level of financial information to voters. He recognized budget staff as being real heroes for their work, detailed analysis and number crunching, and he noted that there are career opportunities in this field.

Ms. Palmer invited people to learn the story of how the County obtained its charter in the 1920s.

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

Mr. Tom Olivier, resident of Samuel Miller District, addressed the Board and said he represents Advocates for A Sustainable Albemarle Population (ASAP). In 2015, many nations agreed to work to contain global temperature increases, due to anthropogenic climate change, to under two degrees centigrade, preferably under 1.5 degrees. He said that with such increases, the planet's natural and human systems would experience serious but hopefully tolerable disruptions. The 2018 report of the Intergovernmental Panel on Climate Change indicated that if current emissions patterns are projected into the future, the 1.5-degree increase would arrive between the years 2030–2050.

ASAP believes the County must commit to and support bold climate actions. ASAP supports the current climate planning effort and recognizes the importance of greenhouse gas emissions in community sectors and carbon sequestration by landscape ecosystems. He noted that the 2015 natural resources chapter of the Comprehensive Plan calls for the development of a climate resilience plan. ASAP urges that the development of an adaptation and resilience plan begin on the heels of the current emission and mitigation planning. He stated that population growth has been and remains a root driver of climate change and thus ASAP proposes that ongoing assessments of local greenhouse gas emissions identify the effects of community population size changes on community emissions. ASAP also urges ongoing analysis of impacts of residential developments in the rural areas on the landscape's ability to sequester carbon.

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Mr. Peter Borches, resident of Samuel Miller District, addressed the Board and said he represents Carter Myers Automotive and 140 full-time employee owners in Albemarle County. He said he has been asked to deliver a letter signed by 40 other local businesses with nearly 3,000 employees that asks the County and City to significantly raise the priority and focus on greenhouse gas emissions and climate change. He stated that some might not expect a business person from the automotive and transportation industry to ask for a reduction in greenhouse gas emissions, although cars may represent a large part of the world's carbon mess. He said he has been disappointed with the weak goals and stance taken by Albemarle County amongst its peers. The County and City are not leaders in this area. The reduction targets established by the County are some of the lowest in the state. He remarked that they are better than this; the opportunity the County has in the coming months must not be wasted. The development of a comprehensive climate action plan should be a first step and should include an active greenhouse gas inventory from which the County could begin to establish itself as an environmentally conscious and caring community. He said it was his hope that a group of businesses asking for action on this topic would begin to break down the political baggage the term "climate change" carries, as the science was conclusive that climate change was real with greenhouse gas emissions representing a leading cause. It is time for the County to take immediate action.

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Ms. Lila Lunsford, Stella O'Connor, and Ms. Reese McCardie, 5<sup>th</sup> grade students at Peabody School, addressed the Board. Ms. O'Connor thanked the Board for trying to solve the problem of climate change and hopes they could open the Board's eyes to some suggestions as to how to reduce greenhouse gas emissions.

Ms. Lunsford said the County should lower carbon levels by 45% by the year 2030, become carbon neutral by 2050, and become green like other U.S. cities.

Ms. McCardie expressed support for solar and electric cars and buses as well as geothermal power. He noted that 75% of air pollution was from cars and said that they should stop this by making more electric cars.

Ms. O'Connor encouraged the County to conduct a biannual carbon emissions test so they would know what they are doing well and to establish a goal of 45% carbon reductions by the year 2030 and carbon neutrality by 2050.

Ms. McCardie pointed out that he spends time waiting at stop lights each morning while traveling to school and encouraged the County to adopt the use of stop light detectors to save time and the planet.

Students presented the Board with letters written by other students during the previous week's student strike for global warming. They thanked the Board for taking the time to listen.

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Ms. Sahalia Muenchechanya, Ms. Sienna Robinson, and Ms. Asha Paramar, students at Peabody School, addressed the Board and thanked the Board for addressing the issue of carbon emissions and making it a priority. They stated that the problem was worsening with every car, plane, and flickable light. They expressed support for the County to reduce carbon emissions 45% by 2030, to become carbon neutral by 2050, and to conduct biannual emissions testing to save the earth before it was too late. They stated that climate change was real and that the Board could make a real difference, with students having been ignored and unheard. They said it breaks their hearts that people would choose profits over the lives of animals and children, and expressed support for climate justice by taking drastic steps to lower their carbon footprint and to make the County a greener place.

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Mr. Asher Grunden, Mr. Eddie Stembard, Mr. Joshua O'Neill Rousseau, and Mr. David Jaffee, students at Peabody School, addressed the Board. They thanked Supervisor Randolph for attending the plastic pitch at City Space and the Board for creating emissions goals. They expressed support for a biannual emissions tests and warned of a world with rising waters, natural disasters, and no snow, unless action was taken. They expressed support for the County to become green, to have all-electric buses, wind turbines, and solar farms. They recognized Orlando for its carbon neutral by 2050 goal, Seattle for its ban of plastic straws and utensils, and Maryland for banning Styrofoam. They proposed that areas of White Hall, Keswick, Long Meadow, and the growth areas serve as sites for solar farms. They noted that it was a proven fact the polar caps are melting and that the greenhouse effect would be their downfall unless changes are made. They expressed hope that the Board would listen to them, take their concerns seriously, and make the County greener.

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Mr. John Kluge, resident of Shadwell, addressed the Board and noted that Miran Kluge was accompanying him. He said he represents some citizens who would present a letter to the Board in support of recommendations for the establishment of targets. He said their two recommendations are for the Board to target a 45% emissions reduction by 2030 and to establish biannual emissions testing. He said he works with the Refugee Investment Network, which works with governments and communities all over the world in dealing with large-scale, forced migration, attributing migration to both conflict and climate. He recognized that a city of half a million people in Mozambique was wiped off the Earth by a cyclone last week, that they are lucky not to have experienced such an event, and how this could change. He noted that his family was involved in winemaking, an industry that brought in \$1.3 billion annually in revenues to Virginia, and that to protect the integrity and growth of that industry they have to be serious about protecting the integrity of the climate. He stated that every day they are not serious about commitments to climate was a day that they rob from his daughter and her children. He said that citizens trust the Board to make the right choice.

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Ms. Susan Kruse, Executive Director of Charlottesville Climate Collaborative, addressed the Board. She recognized a widespread community desire for leaders to aim high and offer policy solutions that could accelerate emissions reductions for businesses, households, and low-income residents. She noted that 41 business leaders, 7 independent schools, and 838 citizens have signed letters calling for a 45% emissions reduction by 2030, carbon neutrality by 2050, and for biannual testing. She noted that 2008 was the last time the County measured emissions and action over the next 10 years was critical to prevent global temperatures from rising more than 1.5 degrees Celsius, which was essential to avoid the most catastrophic impacts of climate change. She noted that many individuals and businesses are already taking individual action. Carter Myers Automotive has voluntarily installed 480 solar panels that covers 93% of its utility costs. Over 200 households are participating in the home energy challenge and have collectively reduced their carbon impact by 188 tons. She said the County should support these efforts, not with just the setting of a leadership goal and an ambitious climate action plan, but through the immediate enacting of common-sense policy measures that could accelerate emissions reductions. The City of Charlottesville's Clean Energy Loan Fund has facilitated 650kW of solar development across

seven projects and for each \$1 the City invests; private industry invests \$5 in response. She urged the County to partner with the City and make this program available to businesses with a \$300,000/year investment for five years, in order to deploy 2.75 MW of solar. She urged the Board to pass a joint resolution with Charlottesville City Council to authorize and fast track implementation of CPACE. She explained that CPACE was a clean energy financing tool that ties loans to the property assessment and not the business. She stated that 2019 was an important year for climate action in the County and the next 10 years would truly determine whether or not citizens and local governments capitalize on this momentum to lead the whole community forward. She said she looks forward to working with Supervisors and staff to create a climate action plan that builds energy independence, stimulates the economy, and protects vulnerable residents and the planet.

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Mr. Kirk Bowers, resident of Rivanna District and staff member of the Virginia Chapter of the Sierra Club, addressed the Board on behalf of the County's 1,600 members with the Piedmont Group. He noted that climate change has been a top priority of the Sierra Club for a long time and its "Ready for 100" program has signed up hundreds of communities across the country to develop climate action plans. He noted that Fairfax and Arlington Counties are on the verge of passing climate change, the City of Richmond has done some work, and Albemarle was not too far behind. He recognized that the 2018 IPCC report made it clear that the country must act quickly to avoid disaster-inducing levels of climate change and that the issue was the most important facing humanity. He said that recent studies indicate greenhouse emissions must be reduced 45% by 2030 and 100% by 2050 to maintain temperatures at less than 1.5 degrees, and they have to act now. He said the Piedmont Group strongly supports the County, City, and UVA climate planning efforts, forthcoming efforts to analyze and better identify means to reduce emissions, and the investigation of means to promote greenhouse gas sequestration by landscape ecosystems. He urged the County to allocate sufficient staff time and funding to allow for rapid implementation of the forthcoming plan once it was ready. He urged the promotion of community climate resilience. He thanked the Board for its outstanding leadership in funding the Albemarle County local climate action plan.

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Ms. Colleen Keller, Executive Director of the Charlottesville Free Clinic, addressed the Board and thanked the Supervisors for renewal of funding for the dental and medical clinics. She reminded Board members that in 2015, they agreed to collaborate with the City, which has allowed the Free Clinic to renovate the interior of the dental clinic and run a walk-in clinic two days per week to serve those with emergency dental needs. She explained how her organization has benefited from being in the same building with the Department of Health, thanked the Board for continuing to advocate for the free clinic, and invited Supervisors to visit.

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Ms. Sheila Herlihy, resident of Charlottesville and member of IMPACT, addressed the Board. She noted that she works at Church of the Incarnation, which was located in the Rio Hill section of the County. She said that IMPACT was pursuing affordable housing in the community and urged the Board to prioritize the development of a sustainable housing fund of at least \$1.5 million in its 2020 budget, an increase over the currently allocated \$700,000. She stated that affordable housing funds are viewed nationally as a best practice, where every dollar could be leveraged up to 8.5 times. The Executive Director of Piedmont Housing Alliance has said that each unit of new affordable housing requires \$30,000 of local money, and housing funds are the best way to leverage this money. She said that there are 700 affordable housing funds across the country, with seven of them in Virginia. She noted that Charlottesville's fund has achieved over 1,100 interventions through the creation of 300 new units, rehabilitation of old units, rental assistance, and preservation of affordable housing. She invited the community to attend IMPACT's Nehemiah Action on April 11, where representatives from 27 congregations would speak up for the community's priorities, as reflected in the budget, and stand up for those in need of affordable housing. She concluded that housing must be addressed as a systemic issue.

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Mr. Dave Redding, resident of EcoVillage Charlottesville in the Rio District, addressed the Board. He expressed appreciation for the Board's support of CPP and for working with UVA and Charlottesville. He informed the Board that the Planning Commission approved their EcoVillage design last night, and he expressed confidence that they would obtain the Board's approval. He explained that the plan calls for 39 net-zero homes that are within an easy walk or bike ride of downtown and Fashion Square Mall and less than 100 meters from the #11 bus.

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Mr. Sean Tubbs, of the Piedmont Environmental Council, addressed the Board. He expressed his organization's support for the County's Climate Action Plan and encouraged ambition. He recalled that a prior Board decided that this was not a priority in December 2011. He urged the County to cooperate with Charlottesville, UVA, and surrounding counties to ensure that the region could meet the goals to be set. He stated that one of the best ways for the County to adapt to climate change was to continue to put a high priority on the Comprehensive Plan and to conserve open space, which would assist with mitigation and habitat protection for wildlife. He noted that Albemarle has been a leader since 1980 and has protected over 100,000 acres from development through a series of partnerships. He said PEC looks forward to the building of transportation infrastructure, including transit and pedestrian amenities, and they need to make the urban ring a place where people could choose to get around without driving. He recognized that the Board has listed climate action as its highest strategic priority in the 2020 budget, has allocated \$6 million in the CIP for connectivity projects in 2021, and has funded the Crozet-Charlottesville commuter bus this year. He added that while the government could take action, individuals could also

take steps. He said that he has made an effort to drive less and to eat less meat, which in addition to benefiting the climate are beneficial to personal health.

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Mr. Neil Williamson, of the Free Enterprise Forum, addressed the Board. He commended the comments of the students and Mr. Tubbs. He read the following quote from 1888: "People pay attention to things that are measured." He expressed support for the regular measurement of greenhouse gases as well as for figuring out how to make this a win-win. He said he attended the climate action open house on Monday night and was thrilled to hear staff talking about the realities. He recounted some examples of private enterprises that have voluntarily taken steps to reduce pollution without government mandates. He likes the idea of having fiscal models that would allow innovative work on environmentally-sensitive programming and recalled how about 10 years ago, Greene County was able to repair roofs on schools through a bonding mechanism and was able to pay for the repairs through savings on electricity. He said that in such a case, the taxpayers, schools, and environment wins. He acknowledged that County staff was analyzing the costs and impacts of hauling plastics that no one was taking anymore and decided to make the smart decision to no longer take them. He stated that the Free Enterprise Forum and businesses want to work with the Board, as they all agree that the environment needs help.

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Agenda Item No. 8. Consent Agenda.

Ms. Mallek **moved** that the Board approve the consent agenda. The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

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

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Item No. 8.1. Approval of Minutes: June 6, 2018.

Ms. Mallek had read the minutes of June 6, 2018, and found them to be in order.

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

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Item No. 8.2. Adoption of Amended Board Rules of Procedures and Adoption of Amended Board Administrative Policies.

The Executive Summary forwarded to the Board states that the Board of Supervisors considered proposed changes to its Rules of Procedure ("Rules") and Administrative Policies ("Policies") on March 6, 2019 and provided direction to staff regarding several provisions in the proposed Rules and Policies.

The attached revised draft Rules (Attachment A) and Policies (Attachment B) have been revised to incorporate the changes directed by the Board at its March 6 meeting. Staff has also made additional non-substantive stylistic and grammatical changes to ensure that the Rules and Policies are as clear and readable as possible. "Compare" versions of the Rules and Policies showing all of the revisions to the drafts are provided as Attachments C and D.

Three revised Rules are highlighted below to ensure that the wording accurately captures the Board's direction (page references are to Attachment A):

Rule 5(A)(1) (page 3): This Rule was revised to insert a sentence to require that Supervisors request that resolutions be added to the agenda at least seven days before the resolution may be considered.

Rule 5(A)(2)(b) (page 4): This Rule was revised to provide that the County Executive may add an item to the agenda by not later than 5:00 p.m. two days before the meeting at which action is required. This language tracks the same language already in the Board's Rules in Rule 5(A)(b)(1) for a Supervisor to add an item to the agenda. The revised Rule also adds an emergency provision, which states: "In an emergency, the County Executive may add an item at any time with the consent of the Chair and the Vice Chair." Finally, the revised Rule ends with the requirement that when the County Executive adds an item to the agenda (non-emergency or emergency), "he shall provide information about the item to all Supervisors as soon as practicable and prior to the meeting."

Rule 5(C) (page 5): This Rule was revised to add the requirement that the Clerk post the draft closed meeting motion, stating: "The Clerk shall promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting." Subsection (ii) is recommended to ensure that the legality of the Board's closed meeting is not subject to a legitimate challenge for failing to comply with the Rule where the Board is doing more than what is required by the Virginia Freedom of Information Act.

There is no budget impact.

Staff recommends that the Board adopt the amended Board Rules of Procedure and Administrative Policies, with any further revisions desired by the Board.

**By the above-recorded vote, the Board adopted the amended Board Rules and Procedure and Administrative Policies:**

**Albemarle County  
Board of Supervisors  
Rules of Procedure  
Adopted March 20, 2019**

**Rules of Procedure  
of the  
Albemarle County Board of Supervisors**

**1. Purpose**

- A. **General.** The purpose of these Rules of Procedure (the “Rules”) is to facilitate the timely, efficient, and orderly conduct of public meetings and decision-making, and they are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors (the “Board”).
- B. **Rules Do Not Create Substantive Rights in Others.** The Rules do not create substantive rights in third parties or participants in matters before the Board.
- C. **Compliance with These Rules.** The Rules that are parliamentary in nature are procedural, and not jurisdictional, and the failure of the Board to strictly comply with them does not invalidate any action of the Board. The Rules that implement the requirements of State law are jurisdictional only to the extent that Virginia law makes them so.

**2. Supervisors**

- A. **Equal Status.** Except for the additional responsibilities of the Chair provided in Rule 3(A), all Supervisors have equal rights, responsibilities, and authority.
- B. **Decorum.** Each Supervisor will act in a collegial manner and will cooperate and assist in preserving the decorum and order of the meetings.

**3. Officers and Their Terms of Office**

- A. **Chair.** When present, the Chair shall preside at all Board meetings during the year for which elected. The Chair shall have a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423) The Chair shall also be the head official for all of the Board’s official functions and for ceremonial purposes.
- B. **Vice-Chair.** If the Chair is absent from a Board meeting, the Vice-Chair, if present, shall preside at the meeting. The Vice-Chair shall also discharge the duties of the Chair during the Chair’s absence or disability. (Virginia Code § 15.2-1422)
- C. **Acting Chair in Absence of Chair and Vice-Chair.** If the Chair and Vice Chair are absent from any meeting, a present Supervisor shall be chosen to act as Chair.
- D. **Term of Office.** The Chair and Vice-Chair shall be elected for one-year terms, but either or both may be re-elected for one or more additional terms. (Virginia Code § 15.2-1422)
- E. **References to the Chair.** All references in these Rules to the *Chair* include the Vice-Chair or any other Supervisor when the Vice-Chair or the other Supervisors is acting as the Chair.

**4. Meetings**

- A. **Annual Meeting.** The *Annual Meeting* is the first meeting in January held after the newly elected Supervisors qualify for the office by taking the oath and meeting any other requirements of State law, and the first meeting held in January of each succeeding year. At the Annual Meeting, the Board shall:
  - 1. **Elect Officers.** Elect a Chair and a Vice-Chair.
  - 2. **Designate Clerks.** Designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board, who shall have the duties stated in Virginia Code § 15.2-1539 and any additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)
  - 3. **Establish Schedule for Regular Meetings.** Establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code § 15.2-1416)

4. **Adopt Rules and Policies.** Adopt Rules of Procedure and Policies that will apply in the calendar year, subject to amendment under Rule 12.

**B. Regular Meetings.** *Regular Meetings* are those meetings established at the Annual Meeting to occur on specified days and at specified times and places.

1. **Regular Meeting Falling on a Holiday.** If any day established as a Regular Meeting day falls on a legal holiday, the meeting scheduled for that day shall be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)
2. **Adjourning a Regular Meeting.** Without further public notice, the Board may adjourn a Regular Meeting from day to day, from time to time, or from place to place, but not beyond the time fixed for the next Regular Meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).
3. **Continuing a Regular Meeting When Weather or Other Conditions Create a Hazard.** If the Chair finds and declares that weather or other conditions are hazardous for Supervisors to attend a Regular Meeting, the meeting shall be continued to the next Regular Meeting date. The Chair's finding, and the continuation of the meeting, shall be communicated by the Chair or the Clerk of the Board (the "Clerk") to the other Supervisors and to the general news media as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code § 15.2-1416)
4. **Establishing a Different Day, Time, and Place of a Regular Meeting.** After the Annual Meeting, the Board may establish different days, times, and places for Regular Meetings by adopting a resolution to that effect. (Virginia Code § 15.2-1416)

**C. Special Meetings.** A *Special Meeting* is a meeting that is not a Regular Meeting. The Board may hold Special Meetings as it deems necessary at times and places that it deems convenient. (Virginia Code § 15.2-1417)

1. **Calling and Requesting a Special Meeting.** A Special Meeting shall be held when called by the Chair or requested by two or more Supervisors. The call or request shall be made to the Clerk and shall specify the matters to be considered at the meeting. (Virginia Code § 15.2-1418)
2. **Duty of Clerk to Provide Notice; When Notice May Be Waived.** Upon receipt of a call or request, the Clerk, after consultation with the Chair, shall immediately notify each Supervisor, the County Executive, and the County Attorney about the Special Meeting. The notice shall be in writing and be delivered to each Supervisor, the County Executive, and the County Attorney at their place of residence or business. Any Supervisors may request that the notice be delivered to him or her by email or facsimile in lieu of personal delivery. The notice may be waived if all Supervisors are present at the Special Meeting or if all Supervisors sign a waiver for the notice. (Virginia Code § 15.2-1418) The Clerk shall also notify the general news media about the Special Meeting.
3. **Contents of the Notice Provided by the Clerk.** The notice provided by the Clerk shall state the date, time, and place of the meeting and shall specify the matters to be considered.
4. **Matters That May Be Considered.** Only those matters specified in the notice shall be considered at a Special Meeting unless all Supervisors are present. (Virginia Code § 15.2-1418)
5. **Adjourning a Special Meeting.** A Special Meeting may be adjourned from time to time as the Board finds necessary and convenient to complete the business of those matters identified in the notice of the Special Meeting. (Virginia Code § 15.2-1417) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

**5. Order of Business for Regular Meetings**

- A. **Establishing the Agenda.** The Clerk shall establish the agenda for all Regular Meetings in consultation with the County Executive and the Chair. The County Executive and the Clerk shall review the agenda with the Chair and the Vice Chair prior to the meeting. The Clerk shall set the order of business as provided in Rule 5(B), provided that the Clerk may modify the order of business to facilitate the business of the Board. The draft agenda shall be provided to the Board six days prior to the Regular Meeting date.



1. **Resolutions Proposed by Supervisors.** Resolutions may be proposed by a Supervisor requesting the Board to take a position on an issue of importance to the Board. A Supervisor requesting the Board to adopt a resolution should give notice of the intent to request action on the resolution on a specified meeting date and submit a draft of the proposed resolution. The request shall be made at least seven days before the meeting at which the resolution may be considered. The Clerk will distribute the draft resolution with background information, if available, to all Supervisors. Any Supervisor may submit proposed changes to the proposed resolution to the Clerk in a redline format. The Clerk shall forward all comments received from any Supervisor to the Board. The Supervisor requesting the resolution will then coordinate with the Clerk to prepare a resolution for consideration by the Board. The Clerk shall poll the Supervisors to determine if a majority of the Supervisors supports adding the resolution to the agenda for consideration. If a majority of the Supervisors indicates support for considering the resolution, the resolution will be added to the proposed final agenda. If all Supervisors indicate support for the resolution, the resolution may be placed on the proposed consent agenda unless any Supervisor requests otherwise.
2. **Other Items Proposed To Be Added to the Clerk's Draft Agenda.**
  - a. **By Supervisors.** Any Supervisor may propose to add items, other than resolutions subject to Rule 5(A)(1), to the Clerk's draft agenda for action if notice of that item has been given in writing or by email to all Supervisors, the Clerk, and the County Executive by 5:00 p.m. two days before the date of the meeting or upon the unanimous consent of all Supervisors present. Any item that has been timely proposed and properly noticed shall be added to the end of the agenda for discussion or action unless a majority of the Supervisors present agrees to consider the item earlier on the agenda.
  - b. **By the County Executive.** The County Executive may add items to the Clerk's draft agenda for action by 5:00 p.m. two days before the date of the meeting if the item requires consideration and action by the Board at its next meeting. In an emergency, the County Executive may add an item at any time with the consent of the Chair and the Vice Chair. When the County Executive adds an item to the agenda, he shall provide information about the item to all Supervisors as soon as practicable and prior to the meeting.
3. **Proclamations and Recognitions Proposed by Citizens.** A request by a citizen to place a proclamation or recognition on the agenda must be made at least four weeks in advance of the Board meeting date. The citizen shall submit the request to advance a proclamation or recognition to the Clerk. If the request is made to a Supervisor, the person making the request will be directed to make the request to the Clerk. The Clerk will advise the person making the request of the process and submittal requirements. Upon submittal of the request, the Clerk will review the submittal for completeness and forward it to the Supervisors for review. The Clerk shall poll Supervisors to determine whether a majority of the Supervisors supports adding the proclamation or recognition to the agenda. The Clerk will advise the person requesting the proclamation or recognition whether the proclamation or recognition will be considered by the Board.
4. **Public Hearings for Zoning Map Amendments; Prerequisites.** Public hearings for zoning map amendments are subject to the following rules in order for the item to be placed on the agenda and heard by the Board:
  - a. **Public Hearing Should Not Be Advertised Until Final Documents Are Received.** The Board's preference is that a public hearing for a zoning map amendment should not be advertised until all of the final documents for a zoning application have been received by the County and are available for public review. To satisfy this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County no later than two business days prior to the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks' advance notice of the deadline.
  - b. **Effect of Failure to Timely Receive Final Documents.** If the County does not timely receive the required final documents, the public hearing shall not be advertised and the matter shall not be placed on the agenda. If the matter is not advertised, a new public hearing date will be scheduled.
  - c. **Receipt of Final Signed Proffers.** Final signed proffers shall be submitted to the County no later than nine calendar days prior to the date

of the advertised public hearing. This policy is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Supervisors at the public hearing.

5. **Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request.** Zoning map amendments advertised for public hearing shall be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as provided in County Code § 18-33.52 *et seq.*

- B. **Order of Business at Regular Meetings.** At Regular Meetings of the Board, the order of business shall generally be as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of the Final Agenda.
5. Brief Announcements by Supervisors.
6. Proclamations and Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda.
8. Consent Agenda.
9. General Business.
10. From the Board: Committee Reports and Matters Not Listed on the Agenda.
11. From the County Executive: Report on Matters Not Listed on the Agenda.
12. Adjourn.

- C. **Closed Meetings.** A Closed Meeting may be held at any point on the agenda, as necessary. Generally, a Closed Meeting will be scheduled either at the midpoint of the agenda or at the end of the agenda prior to adjournment. The Clerk shall promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting.

6. **Rules Applicable to the Items of Business on the Agenda**

- A. **Adoption of the Final Agenda.** *Adoption of the Final Agenda* is the first order of business for a Regular Meeting of the Board. The Board may modify the order of business as part of its adoption of the Final Agenda. Any changes to the Consent Agenda should be made when the Final Agenda is adopted. The Final Agenda must be adopted by a majority vote of the Supervisors present and voting. No item for action not included on the Final Agenda shall be considered at that meeting.

- B. **Brief Announcements by Supervisors.** *Brief Announcements by Supervisors* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.

- C. **Proclamations and Recognitions.** *Proclamations* are ceremonial documents or recognitions adopted by the Board to draw public awareness to a day, week, or month to recognize events, arts and cultural celebrations, or special occasions. *Recognitions* are ceremonial acknowledgements by the Board of a person for service or achievement.

- D. **From the Public: Matters Not Listed for Public Hearing on the Agenda.** *From the Public: Matters Not Listed for Public Hearing on the Agenda* allows any member of the public to speak on any topic of public interest that is not on the Final Agenda for a public hearing at that meeting. The following rules apply:

1. **Time.** Each speaker may speak for up to three minutes, provided that if the anticipated number of speakers may exceed 10, or for other reasons related to the Board efficiently conducting its business, the Chair may reduce the amount of time allowed for each speaker to speak to two minutes.
2. **Place.** Each speaker shall speak from the podium.
3. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker shall comply with Rules 6(D)(1) and 6(D)(2), shall address the Board and not the audience, and shall not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation.

- E. **Consent Agenda.** The *Consent Agenda* shall be used for items that do not require discussion or comment and are anticipated to have the unanimous approval of the Board.

1. **Questions to Staff.** Supervisors should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item prior to the Board meeting.

2. **Discussion and Comment.** There shall be no discussion or comment on Consent Agenda items at the Board meeting except as provided in Rule 6(E)(3).
  3. **Removing an Item from the Consent Agenda.** Any Supervisor may remove an item from the Consent Agenda. Any item removed from the Consent Agenda shall be moved to a specific time or to the end of the meeting agenda for further discussion or action. An item requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
  4. **Effect of Approval of the Consent Agenda.** A motion to approve the Consent Agenda shall approve those Consent Agenda items identified for action and accept Consent Agenda items identified for information.
- F. **General Business.** *General Business* includes public hearings, work sessions, appointments, and other actions, discussions, and presentations.
1. **Public Hearings.** The Board shall not decide any item before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the holding of a public hearing or consideration of the item. The procedures for receiving a presentation from the applicant and comments from members of the public shall be at the discretion of the Board. However, unless otherwise decided by a majority of the Supervisors present during a particular public hearing, the following rules apply:
    - a. **Time.** The applicant shall be permitted up to 10 minutes to present its application. Following the applicant's presentation, any member of the public shall be permitted to make one appearance for that public hearing and speak for up to three minutes on the item. Following comments by members of the public, the applicant shall be permitted up to five minutes for a rebuttal presentation.
    - b. **Place.** The applicant and each member of the public presenting and speaking shall do so from the podium.
    - c. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker shall comply with Rules 6(F)(1)(a) and 6(F)(1)(b), shall address the Board, shall speak to issues that are relevant to the item for which the public hearing is being held, and shall not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation.
  2. **Public Hearings; Zoning Map Amendments; Applicant's Documents Not Available During Advertisement Period.** If the public hearing is held without the applicant's final documents being available for review throughout the advertisement period due to the late submittal of documents, or because substantial revisions or amendments are made to the submitted documents after the public hearing has been advertised, it is the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application. In deciding whether to defer action or to deny the application, the Board shall consider whether deferral or denial would be in the public interest or would forward the purposes of this policy.
- G. **From the Board: Committee Reports and Matters Not Listed on the Agenda.** *From the Board: Committee Reports and Matters Not Listed on the Agenda* shall be limited to matters that are not substantial enough to be considered as agenda items to be added to the final agenda. Reports include routine committee reports and information updates by Supervisors. Any matters discussed during this part of the agenda may not be acted upon by the Board at that meeting.
- H. **Report from the County Executive.** The *Report from the County Executive* is a report on matters that the County Executive deems should be brought to the Board's attention and provide updates, if necessary, to the monthly County Executive's Report.
7. **Quorum**
- A. **Establishing a Quorum.** A majority of all of the members of the Board that is physically assembled is a quorum for any meeting of the Board, except as provided in Rule 7(B)(2). (Virginia Code § 15.2-1415)
  - B. **Quorum Required to Act; Exceptions.** The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415) There are two exceptions:
    1. **Quorum Not Established; Adjournment.** If a quorum is not established, the only action the Supervisors present may take is to adjourn the meeting.

2. **Quorum Not Established or Lost Because of a Conflict of Interests; Special Rule.** If a quorum cannot be established or is lost because one or more Supervisors are disqualified from participating in an item because of a conflict of interests under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*), the remaining Supervisors are a quorum and they may conduct the business of the Board.

- C. **Loss of Quorum During Meeting.** If a quorum was established but during a meeting the quorum is lost, the only action the Supervisors present may take is to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415)

- D. **Quorum Required to Adjourn Meeting to Future Day and Time.** A majority of the Supervisors present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning the meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

8. **Remote Electronic Participation**

The Board will permit a Supervisor to participate in a Board meeting through electronic communication means from a remote location, provided that:

- A. **Notification to Clerk of Inability to Attend Because of Personal Matter, Disability, or Medical Condition.** On or before the day of the meeting, the Supervisor shall notify the Chair that he or she is unable to attend the meeting due to a personal matter or that the Supervisor is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the Supervisor's physical attendance. The Supervisor must identify with specificity the nature of the personal matter.
- B. **Quorum Physically Assembled; Approval of Remote Electronic Participation.** A quorum of the Board must be physically assembled at the primary or central meeting location. The Supervisors present must approve the participation; however, the decision shall be based solely on the criteria in Rule 8(A), without regard to the identity of the Supervisor or items that will be considered or voted on during the meeting.
- C. **Duty of Clerk to Record Action.** The Clerk shall record in the Board's minutes the specific nature of the personal matter, disability, or medical condition, and the remote location from which the absent Supervisor participated. If the absent Supervisor's remote participation is disapproved because participation would violate this policy, the disapproval shall be recorded in the Board's minutes with specificity.
- D. **Audibility of Absent Supervisor.** The Clerk shall make arrangements for the voice of the absent Supervisor to be heard by all persons in attendance at the meeting location. If, for any reason, the voice of the absent Supervisor cannot reasonably be heard, the meeting may continue without the participation of the absent Supervisor.
- E. **Limitation on Remote Electronic Participation in Calendar Year.** Electronic participation by the absent Supervisor as provided in this Rule shall not exceed two Board meetings in each calendar year.

(Virginia Code § 2.2-3708.2)

9. **Conducting the Business of the Board**

- A. **Enable Efficient and Effective Conduct of Business.** Meetings shall be conducted in a manner that allows the Board to efficiently and effectively conduct its business, without actual disruptions.
- B. **Minimizing Disruptions.** To minimize actual disruptions at meetings:
1. **Speakers.** Members of the public who are speaking to the Board shall comply with Rules 6(D) and 6(F)(1), as applicable. Members of the public invited to speak to the Board during any agenda item other than From the Public: Matters Not Listed for Public Hearing on the Agenda or during a public hearing shall comply with Rule 6(D).
  2. **Persons Attending the Meeting.** Any person attending a Board meeting shall comply with the following:
    - a. **Sounds.** Persons may not clap or make sounds in support of or in opposition to any matter during the meeting, except to applaud during the Proclamations and Recognitions portion of the meeting. Instead of making sounds, persons who are not speaking at the podium are encouraged to raise their hands to indicate their support or opposition to any item during the meeting. Cell phones and other electronic devices shall be muted.

- b. **Other Behavior.** Persons may not act, make sounds, or both, that actually disrupt the Board meeting.
- c. **Signs.** Signs are permitted in the meeting room so long as they are not attached to any stick or pole and do not obstruct the view of persons attending the meeting.
- C. **Guidelines Printed on the Final Agenda.** The Guidelines printed on each Final Agenda apply during each Board meeting. The Board may amend the Guidelines from time to time without amending these Rules provided that the Guidelines are consistent with these Rules.
- D. **Chair May Maintain Order.** The Chair may ask any person whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may order the removal of that person from the meeting.

10. **Motion and Voting Procedures**

- A. **Action by Motion Followed by a Vote.** Except as provided in Rules 10(B)(2) and 11(D), any action by the Board shall be initiated by a motion properly made by a Supervisor and followed by a vote, as provided below:
  - 1. **Motion Must Be Seconded; Exception.** Each action by the Board shall be initiated by a motion that is seconded; provided that a second shall not be required if debate immediately follows the motion. Any motion that is neither seconded nor immediately followed by debate shall not be further considered.
  - 2. **Voting and Recording the Vote.** The vote on any motion shall be by a voice vote. The Clerk shall record the name of each Supervisor voting and how each Supervisor voted on the motion.
  - 3. **Required Vote, Generally Required Vote for Specific Items.** Each action by the Board shall be made by the affirmative vote of *a majority of the Supervisors present and voting* on the motion; provided that an affirmative vote of *a majority of all elected Supervisors* of the Board shall be required to approve an ordinance or resolution:
    - a. **Appropriations.** Appropriating money exceeding the sum of \$500.
    - b. **Taxes.** Imposing taxes.
    - c. **Borrowing.** Authorizing money to be borrowed. (Article VII, § 7, Virginia Constitution; Virginia Code §§ 15.2-1420, 15.2-1427, 15.2-1428)
  - 4. **Tie Vote.** A tie vote shall defeat the motion voted upon. A tie vote on a motion to approve shall be deemed a denial of the item being proposed for approval. A tie vote on a motion to deny shall not be deemed an approval of the item being proposed for denial.
  - 5. **Abstention.** Any Supervisor who will abstain from voting on any motion must state that he or she is abstaining before the vote is taken and state the grounds for abstaining. The abstention will be announced by the Chair and recorded by the Clerk.
- B. **When a Motion and a Vote is or is not Required.** An action by the Board is or is not required to be made by a motion followed by a vote as follows:
  - 1. **Motion and Vote Required.** Any action by the Board to adopt an ordinance or a resolution, and any other action when a motion is required by law or by these Rules, shall be made by a motion followed by a vote.
  - 2. **Motion and Vote Not Required; Unanimous Consent.** On any item in which the Board is not adopting an ordinance or a resolution, or for which a motion and a recorded vote is not otherwise required by law, the Board may make a decision by unanimous consent. This procedure is appropriate, for example, to provide direction to County staff on an item.
- C. **Other Motions.**
  - 1. **Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Supervisor. Upon a proper second, the motion to amend shall be discussed and voted on by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both Supervisors making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.

2. **Motion to Call the Question.** The discussion of any motion may be terminated by any Supervisor making a *motion to call the question*. Upon a proper second, the Chair shall call for a vote on the motion to call the question without debate on the motion itself, and the motion shall take precedence over any other item. If the motion is approved, the Chair shall immediately call for a vote on the original motion under consideration.
3. **Motion to Reconsider.** Any decision made by the Board may be reconsidered if a *motion to reconsider* is made at the same meeting or an adjourned meeting held on the same day at which the item was decided. The motion to reconsider may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the item for discussion in the exact position it occupied before it was voted upon.
4. **Motion to Rescind.** Any decision made by the Board, except for decisions on zoning map amendments, special use permits, special exceptions, and ordinances, may be rescinded by a majority vote of all elected Supervisors. The *motion to rescind* may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Decisions on zoning map amendments, special use permits, special exceptions, and ordinances may be rescinded or repealed only upon meeting all of the legal requirements necessary for taking action on the items as if it was a new item before the Board for consideration; otherwise, decisions on zoning map amendments, special use permits, special exceptions, and ordinances shall only be eligible for reconsideration as provided in Rule 10(C)(3).

11. **Other Rules: Robert's Rules of Order Procedure in Small Boards**

Procedural rules that are not addressed by these Rules shall be governed by *Robert's Rules of Order Procedure in Small Boards*, which provide:

- A. **Not Required to Obtain the Floor.** Supervisors are not required to obtain the floor before making motions or speaking, which they can do while seated.
- B. **No Limitation on the Number of Times a Supervisor May Speak.** There is no limitation on the number of times a Supervisor may speak to a question, and motions to call the question or to limit debate generally should not be entertained.
- C. **Informal Discussion.** Informal discussion of a subject is permitted while no motion is pending.
- D. **Chair: Putting the Question to a Vote.** The Chair need not rise while putting questions to vote.
- E. **Chair: Speaking During Discussion.** The Chair may speak in discussion without rising or leaving the chair, and, subject to rule or custom of the Board (which should be uniformly followed regardless of how many Supervisors are present), the Chair usually may make motions and usually votes on all questions.

12. **Amending the Rules of Procedure**

These Rules may be amended only as follows:

- A. **Rules Eligible for Amendment.** Any Rule may be amended.
- B. **Procedure to Amend.** Any Rule eligible for amendment may be amended only by a majority vote of the Supervisors present and voting at the next Regular Meeting following a regular meeting at which notice of the motion to amend is given. Notice of the motion to amend a Rule may be made by any Supervisor. Upon a proper second, the motion shall be discussed and voted on. In deciding whether and how to amend a Rule, the Board shall consider that Rules 3, 4, 6(D), 6(F)(1)(a) through (c), 7, 8, 9(B), 10(A)(3), and 10(B)(1) address statutory or constitutional requirements.
- C. **Limitation on the Effect of an Amendment.** The Board's approval of a motion to amend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

13. **Suspending the Rules of Procedure**

These Rules may be suspended only as follows:

- A. **Rules Eligible to be Suspended.** Rules 1, 2, 5, 6, 9(A), 10 (except for Rules 10(A)(3) and 10(B)(1)), 11, and 12 may be suspended.

- B. **Procedure to Suspend, Generally.** Any Rule eligible for suspension may be suspended by a majority plus one vote of the Supervisors present and voting. The motion to suspend a Rule may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to suspend a Rule, if approved, is to make that Rule inapplicable to the item before the Board.
- C. **Suspending Rules Pertaining to Motions When There is Uncertainty as to Status or Effect.** If one or more motions have been made on an item, and there is uncertainty as to the status or effect of any pending motions or how the Board is to proceed at that point, the Board may, by a majority vote of the Supervisors present and voting, suspend the Rules in Rule 10 for the sole purpose of canceling any pending motions and to permit a new motion to be made. The motion to suspend a Rule pertaining to any pending motions may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on.
- D. **Limitation on Effect of Suspended Rules.** The Board's approval of a motion to suspend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

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(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014; 1-7-2015; 1-6-2016; 1-4-2017; 2-8-2017; 1-3-2018; 3-20-2019).

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**Albemarle County  
Board of Supervisors  
Policies  
Adopted March 20, 2019**

**Policies of the  
Albemarle County Board of Supervisors**

**1. Travel Reimbursement**

Supervisors will be reimbursed travel expenses pursuant to uniform standards and procedures that will allow Supervisors to travel for official County business purposes consistent with the prudent use of County funds as follows:

- A. **Routine Travel Expenses.** Supervisors may be reimbursed for the following routine travel expenses at the County's authorized car mileage reimbursement rate, provided there are available funds:
1. **Mileage for Board and Committee Meetings.** Mileage for travel by personal vehicle or other travel costs to scheduled Board meetings and Board committee meetings for committees to which a Supervisor is appointed, from home or work, if a work day, which is not part of routine personal travel. Travel to use the Board's County Office Building office between other personal travel or meetings, is not eligible for reimbursement.
  2. **Mileage to Prepare for Matters to be Considered by the Board.** Mileage for travel by personal vehicle or other travel costs to events reasonably necessary to prepare for matters scheduled for consideration on the Board's agenda which is not part of routine personal travel (*i.e.*, site visits, informational meetings).
  3. **Parades and Other Community Gatherings.** Parades and other community gatherings not advertised as Supervisor's town hall meetings to discuss County business.
- B. **Educational Conference Travel Expenses.** Supervisors may be reimbursed for the following educational conference travel expenses, provided there are available funds:
1. **Regional, Statewide, and National Meetings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending regional, statewide or national meetings at which the Supervisor represents the County, as approved by the Board.
  2. **Legislative or Congressional Hearings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending legislative or congressional hearings relating to official County business.
- C. **Matters for Which Supervisors will not be Reimbursed.** Supervisors will not be reimbursed for the following travel expenses:

1. **Political Events.** Travel to events which are political in nature (*i.e.*, campaigning or partisan events).
2. **Personal Expenses.** Personal expenses incurred during travel.
3. **Travel Not Part of Duties.** Other travel which is not part of the statutory governmental duties of the Board of Supervisors that are not provided for in Subsections (C)(1) or (C)(2).

D. **Implementation.** This policy will be applied and overseen in the following manner:

1. **Reimbursement Requests.** Reimbursement requests shall be made in writing on forms provided by the Clerk of the Board (the "Clerk") and shall itemize the date, number of miles of travel, and purpose of the meeting. Mileage for use of a personal vehicle shall be reimbursed at the County's authorized car mileage reimbursement rate. Other reimbursements shall be for the amount of costs expended and shall be documented by receipts for actual amounts paid.
2. **Clerk Review.** The Clerk, or his/her designee, will review all travel reimbursement requests and the Director of Finance will approve all travel reimbursement requests prior to reimbursement. No payment will be made for incomplete submissions or information.
3. **Exhaustion of Funds.** When all allocated funds for Board reimbursements have been expended, there will be no further reimbursement for that fiscal year unless the Board appropriates additional funding.

2. **Supervisors Appointed to Boards, Committees, and Commissions**

The Board appoints its members to a variety of boards, committees, and commissions to represent the interests of the Board on those bodies. It is important that the Board have confidence that its policies and positions are being reflected in that representation.

- A. **Voting Representatives.** Supervisors who are appointed to boards, committees, and commissions are required to vote on matters that come before those bodies in a manner which is consistent with the policies and positions of the Board as reflected in previously adopted resolutions or official actions of the Board on those matters.
- B. **Liaison Representatives.** Supervisors who are appointed to boards, committees, and commissions as liaisons are to act as a resource for the board, committee, or commission and are to report to the Board on the activities of the board, committee, or commission.
- C. **Alternates.** Supervisors may serve as alternates for the Board-appointed voting representatives or liaison representatives when the representative is unable to attend a meeting. The organizational documents for the board, committee, or commission must allow alternates to be appointed. Any alternate must be appointed by the Board to serve as an alternate for the particular board, committee, or commission.

3. **Boards, Commissions, and Committees**

A. **Review and Creation of Boards, Commissions, and Committees are as Follows:**

1. **Annual Report.** By October 1 of each year, all boards, commissions, and committees shall submit a report to the Board covering the prior fiscal year (July 1 to June 30) that includes the key activities that support their mission and a summary of their activities and the attendance of each appointee.
2. **Annual Evaluation.** On an annual basis, the list of active boards, commissions, and committees will be evaluated and purged of all bodies not required by Federal, State, County or other regulations, which have not met at least once during the prior 12-month period.
3. **Combining Functions and Activities.** Whenever possible and appropriate, the functions and activities of boards and commissions will be combined, rather than encouraging the creation of new bodies.
4. **Short-Term Task Forces and Ad Hoc Committees.** Any newly created task force or ad hoc committee which is intended to serve for a limited duration may be comprised of magisterial or at-large members at the discretion of the Board. The appointment process shall follow that adopted in Section 3(B) for other magisterial and/or at-large positions.

B. **Appointments to Boards, Commissions, and Committees**

1. **Appointments, Generally.** All appointments to boards, commissions, and committees based upon magisterial district boundaries will be made by the Board.



The Board will consider and/or interview candidates recommended by the Supervisor of that district.

2. **Compilation of List of Expired Terms and Vacancies.** Prior to the first regular Board meeting each month, the Clerk will provide the Board a list of expired terms and vacancies that will occur within the next 60 days. The Board will then advise the Clerk which vacancies to advertise.
3. **Advertising Positions.** When the Board advises the Clerk which vacancies to advertise, the Clerk shall, in collaboration with the County's Director of Communications and Community Engagement, distribute notice of the vacancy on any board, commission, or committee through available and appropriate media in order to reach as many citizens as possible. The advertisement shall provide a brief description of the duties and functions of the board, commission, or committee, the length of term of the appointment, the frequency of meetings, the minimum qualifications necessary to fill the position, and the Board's expectations for appointees to attend meetings and to participate in other activities of the board, commission, or committee. An explanation of the appointment process for both magisterial and at-large appointments will also be sent to all applicants.
4. **Application Content.** The application form shall request information in the following areas: (i) the name of the board, commission, or committee to which the applicant seeks to be appointed; (ii) the name, address, and other contact information of the applicant; (iii) employment; (iv) County resident status and resident history; (v) family relationship (natural or legal offspring, parent, grandparent, spouse, or sibling) to any County Supervisor or other officer, employee, or appointee; (vi) education; (vii) offices or memberships in civic, not-for-profit, and similar organizations; (viii) activities and interests; (ix) reasons for seeking to serve on the board, commission, or committee; and (x) how the applicant learned about the vacancy.
5. **Application Period.** All interested applicants will have a minimum of 30 days from the date of the first notice to complete and return to the Clerk a detailed application, with the understanding that the application may be released to the public, if requested. No applications will be accepted if they are received or, if the application is mailed through the United States Postal Service, postmarked after the advertised application deadline, however, the Board, at its discretion, may extend the deadline.
6. **Distribution of Applications.** After the application deadline has passed, the Clerk will distribute all applications received to the Supervisors before the Board meeting at which the applications will be considered. For magisterial appointments, the Clerk will forward applications as they are received to the Supervisor of that district who will then recommend his or her appointment.
7. **Interviews; Appointments Without Interviews.** From the pool of qualified candidates, the Board, in its discretion, may make an appointment without conducting an interview, or may select applicants to interview for the vacant positions. The Clerk will then schedule interviews with applicants to be held on the day of a regular or special Board meeting.
8. **Appointments Within 90 Days.** The Board will make all reasonable efforts to interview selected applicants and make appointments within 90 days after the application deadline. For Board-designated agency appointments to boards, commissions, and committees, the Clerk shall ask the agency to recommend a person for appointment by the Board.
9. **Vacancies Filled as They Occur; Exception.** All vacancies will be filled as they occur, except that vacancies occurring on a Community Advisory Council will be filled on an annual basis at the time regular terms expire unless there are more than three vacancies on that Council at the same time and more than three months remaining from the annual appointment date.
10. **Appointees Required to File Real Estate Disclosure Form.** As a condition of assuming office, all citizen members of boards, commissions, and committees shall file a real estate disclosure form as set forth in the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*) and thereafter shall file the form annually on or before February 1.
11. **Termination of Appointment for Excessive Absences.** If a member of a board, commission, or committee does not attend and participate in at least 75 percent of that body's meetings, the Chair of the body may request the Board to terminate the appointment, if permitted by applicable law, and refill it during the next scheduled advertising period. If permitted by applicable law, the Board may establish different attendance requirements and procedures to terminate an

appointment for excessive absences for a particular board, commission, or committee.

12. **Appointees to Advisory Bodies Serve at the Pleasure of the Board.** Any person appointed by the Board to an advisory board, commission, or committee serves solely at the pleasure of the Board.

4. **Supervisors Serving Without Remuneration on the Board of Trustees of Not-for-Profit Entities**

- A. **State Law.** The State and Local Government Conflict of Interests Act (the “Act”) recognizes that a system of representative government depends in part upon: (i) Supervisors representing fully the public in the legislative process; and (ii) the County’s citizens maintaining the highest trust in the Board of Supervisors. The Act establishes rules designed to assure that the judgment of any Supervisor is free of inappropriate conflicts of interest. Under the Act, a Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity, where neither the Supervisor’s nor his or her immediate family has a personal interest in the not-for-profit entity, is not required to disclose or disqualify themselves from participating in any transaction related to the not-for-profit entity.
- B. **Board Policy.** A Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity must disclose that fact at each meeting of the Board of Supervisors at which a matter pertaining to the not-for-profit entity is considered or acted upon. The disclosure should be made at the beginning of the Board meeting at which the matter will be considered.

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Item No. 8.3. Review of the Personal Wireless Service Facilities Policy, ***was received for information.***

The Executive Summary forwarded to the Board states that the Board has recently expressed some interest in considering an update of its wireless policy, presumably to be followed with changes to regulations based on those policy changes. Staff notes this is not currently part of its work program and staff is fully allocated. In anticipation of a future request, staff is providing some information that may help the Board to prioritize this against other interests.

Cell phones first became available in Albemarle County in the late 80s. The increased usage of wireless communications is well known. Many sources state that 90% of adults have a cell phone. When the County adopted the Wireless Policy in 2000, use of cell phones was largely limited to voice. Use of phones has changed dramatically from voice to data. The County has not proactively engaged the community to determine if there has been a shift in attitude toward the infrastructure that supports the current and anticipated use of phones.

Bedford County developed a telecommunications policy in 2002. As part of developing the policy, the County conducted a survey to determine what was important to the citizens. In 2012 Bedford County updated the policy and conducted a new survey. Some of the results indicate a clear shift in attitudes. -In 2002 60%+ of respondents were annoyed with cell towers. In 2012 72.5% said they do not find cell towers unsightly.

-In 2002 72% of respondents did not approve of taller towers. In 2012 75.5% said they would prefer taller cell towers as opposed to more short ones.

-In 2002 67% wanted towers of less than 199 feet. In 2012 36% said they like towers less than 200 feet.

Developing Albemarle’s Wireless Policy in 2000 involved extensive public participation and involvement in order to determine what the community attitude was towards wireless infrastructure. The policy has not been updated and the public has not been actively engaged to determine if any change in community attitude has occurred in the 18 years since the adoption of the County’s Wireless Policy.

While the Board updated the Comprehensive Plan in 2015 and the Wireless Policy is a component of the Comprehensive Plan, that policy has not been independently reviewed in 18 years. Staff believes that any consideration of changes to this policy would benefit from community outreach to determine how current community values align with the existing policy and ordinance. Following that outreach, the policy and ordinance would be evaluated by the Board to determine where modifications to the policy are needed. This would be based on the updated communities’ values, current and expected technologies and standards, and anticipated future changes in the community, consistent with other policies.

Based on similar experience with other County policies, staff anticipates this would be a significant effort, likely requiring one-half FTE of senior staff time for a period of 1-2 years and requiring a consultant be brought on board in a role similar to Bedford County’s efforts. This would be a major effort and likely require prioritizing over other initiatives and/or finding additional resources to cover the gap.

The development of the original Wireless Policy involved significant staff resources and the services of a consultant. The direct consultant cost in 1998 was \$72,250. A comprehensive review of the policy will require significant County resources. While staff anticipates a consultant could supplement and replace some of staff's effort, staff believes the management and oversight of the project would still require extensive staff resources. A detailed project plan and budget has not been developed at this time, but staff anticipates this would likely be in the range of \$50,000 - \$100,000 in consultant support and one-half FTE of senior staff for a period of 1 1/2 years.

Staff recommends that the Board consider an update of the Wireless Policy and Ordinance a part of the next work program considerations, using the above information to help guide those considerations. Should the Board desire additional information or wish to consider adding this to the current work program, staff is prepared to assist the Board in those efforts.

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Item No. 8.4. Albemarle County 2018 4th Quarter Building Report, ***was received for information.***

The report states that during the fourth quarter of 2018, 132 building permits were issued for 141 dwelling units. There were 2 permits issued for a mobile home in an existing park, at an exchange rate of \$2,500, for a total of \$5,000. There were no permits issued for the conversion of an apartment to a condominium.

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Item No. 8.5. Albemarle County 2018 End of Year Building Report, ***was received for information.***

The report states that during 2018, 661 building permits were issued for 1,075 dwelling units. There were 5 permits issued for mobile homes in an existing park, at an exchange rate of \$2,500, for a total of \$12,500. There were no permits issued for the conversion of an apartment to a condominium.

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Item No. 8.6. Albemarle County 2018 4th Quarter Certificate of Occupancy Report, ***was received for information.***

The report states that during the fourth quarter of 2018, 150 certificates of occupancy were issued for 227 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.

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Item No. 8.7. Albemarle County 2018 End of Year Certificate of Occupancy Report, ***was received for information.***

The report states that during 2018, 611 certificates of occupancy were issued for 870 dwelling units. There were 3 permits issued for a mobile home in an existing park, at an exchange rate of \$2,500, for a total of \$7,500. There were no certificates of occupancy issued for the conversion of an apartment to a condominium.

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Item No. 8.8. VDOT Monthly Report (March) 2019, ***was received for information.***

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Agenda Item No. 9. Amendment to the FY 20 Proposed Budget.

The Executive Summary forwarded to the Board states that the Board of Supervisors has held four work sessions on the Recommended FY 20 Budget. On March 4, 2019, the Board approved a FY 20 Proposed Budget which included the County Executive's Recommended Budget and amendments made by the Board of Supervisors during the March 4 work session. The Board acknowledged during this work session, that they may continue to discuss the County's FY 20 Proposed Budget during regular Board meetings in March.

On March 6, the Board discussed an adjustment to the FY 20 Proposed Budget and directed staff to bring a proposal to the Board on March 20 to adjust the FY 20 Proposed Budget to include an increase in a currently approved FTE position in the Clerk to the Board of Supervisors Office from .75 FTE to 1.0 FTE.

Staff recommends increasing a vacant FTE position included in the Clerk's Office from .75 FTE to 1.0 FTE and to reclassify this position in conjunction with the County's Human Resources. Department.

These changes would result in an increase of \$16,632 in the Office of the Board of Supervisors.

Staff recommends that should the Board approve this position increase from .75 to 1.0 FTE, the funding will be provided from the ongoing portion of the Business Process Optimization Reserve. This adjustment would not increase the FY 20 Total County Budget. In addition, the Board of Supervisors may

amend the FY 20 Proposed Budget to include this adjustment. A Public Hearing on the FY 20 Proposed Budget is scheduled for April 9, 2019.

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Ms. Lori Allshouse, Director of the Office of Management and Budget, reminded the Board that there was a placeholder date of March 28 for a potential work session, a public hearing on April 9 for the Board's FY20 proposed budget and 2019 tax rate, and setting the tax rate and adopting the FY20 budget on April 16. On March 6, the Board discussed the potential adjustment to the FY20 proposed budget and directed staff to furnish additional information at this meeting. She said they have the option to adjust the budget to include an increase in a currently approved full-time equivalent position of a Clerk in the Board of Supervisors' office from .75 FTE to 1.0 FTE. She continued that the Board would include funding to support the Department of Human Resources' review and adjustment of this position, with the change to result in an increase of \$16,632 in that office, which staff recommends be provided from the ongoing portion of the Business Process Optimization Reserve.

Mr. Gallaway clarified that the overall budget number does not change and they would move money from the Business Process Optimization Reserve to cover this position, similar to what they did with other positions.

Mr. Randolph **moved** that the Board adopt the amendment to the proposed FY20 budget. The motion was **seconded** by Ms. Palmer.

Ms. Palmer asked if the Board was authorizing the Clerk's Office to advertise for the position since the budget was not official until July 1. The assumption seems to be that they proceed and advertise the position. Mr. Gallaway said his question was if the lapse in the current fiscal year budget as a result of the position going unfilled could cover the cost of advertising. Ms. Allshouse responded that they could work out a way to bring the new position on board this year.

Mr. Randolph remarked that realistically, it would take 90 days to advertise, interview, and make and negotiate an offer, and that the person would likely not begin until after July 1.

Ms. Mallek remarked that if the right person comes along, she hopes they would grab them right away and make whatever changes are necessary to make it happen.

Ms. Palmer said she assumes that should they hire someone quickly, they would have extra money available in the current budget to cover a month. She asked the Board if their assumption was that they should move forward and advertise for the position.

Several members expressed agreement with Ms. Palmer's assumption.

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

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

NAYS: None.

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Agenda Item No. 10. **Work Session:** Religious Land Uses.

The Executive Summary forwarded to the Board states that the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 states in part "No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a non-religious assembly or institution." This provision is known as the "Equal Terms Clause." The County permits non-religious assembly by-right for Farm Wineries, Farm Breweries and Distilleries (agricultural uses), while a special use permit is required for religious assembly use in the Rural Areas zoning district. The Zoning Ordinance must be amended in order to ensure it complies with the Equal Terms Clause. The Board of Supervisors adopted a Resolution of Intent to amend the Zoning Ordinance to address this issue on April 5, 2017 (Attachment A).

Staff's analysis examines the places of non-religious assembly allowed in the Rural Areas zoning district. For example, attendance at Farm Wineries, Farm Breweries and Distilleries of up to 200 people at a time is permitted by-right and without a site plan. Under the Equal Terms Clause, religious assembly must be permitted in an equal manner. Farm Wineries, Farm Breweries and Distilleries do have some minimal regulations for setbacks and sound. These, or more permissive regulations, may also be applied to religious assembly.

Staff will present some background information and various options (see Attachment B) as to how to address RLUIPA requirements in the Zoning Ordinance, and will request that the Board provide feedback and direction as to how it wishes to regulate religious assembly use in the Rural Areas zoning district.

Staff recommends that the Board direct staff to prepare a Zoning Text Amendment that will regulate religious assembly uses in the same manner as agricultural uses, and that will permit by right minor expansions to existing non-conforming religious assembly uses having places of assembly for 200 or more persons, with those expansions limited to picnic shelters, storage, and office space.

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Mr. Bill Fritz, Development Process Manager/Ombudsman, explained that this discussion was about the processing of a zoning text amendment to bring the County's ordinance into compliance with federal legislation. He said there are two key regulations that are important to consider. He said the first was RLUIPA, which states in part that no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with non-religious assemblies or institutions. He said this means that a religious assembly could only be regulated to the extent that the least regulated non-religious assembly was regulated. He said the State Code limits the County's ability to regulate activities associated with agritourism, which are non-religious assembly uses, including farm wineries, farm breweries, farm distilleries, and events and activities of agricultural operations.

Mr. Fritz explained that there are slightly different regulations governing the various types of agritourism in the County, and staff has reviewed each of them to determine what the least restrictive regulations are to establish a base level of regulations for religious land uses. He stated that the first was that attendance was limited to not more than 200 people, below which it was by right and not regulated. He said the second was that the County may require that five acres must be under the same ownership in order for the property to be by right. He listed requirements that the County may set as follows: require a 125-foot setback from dwellings on abutting properties, 75-foot portable toilet setback, temporary structure-intense setback equal to the minimum yard requirements, 35-foot setback from a public street, a permanent structure setback requirement may be established, and a zoning clearance may be established if a lot is less than 21 acres, with notice to abutting lots required. He noted that the County could establish regulations regarding sound, subject to the provisions of the ordinance.

Mr. Fritz stated that this represents the maximum extent to which a religious assembly could be regulated; the County may choose to regulate religious land uses the same or less restrictive than these regulations. Staff recommends that the Board direct staff to prepare a zoning text amendment to treat religious assembly and agricultural operations the same, through adoption of regulations that establishes the same setback size limits. Staff also requests the Board directs staff to work on a zoning text amendment that would permit minor expansions to existing, nonconforming religious institutions. He noted that cases of picnic shelters, storage, and office space have come along in which the application fee was greater than the cost of the structure to be installed.

Ms. Mallek asked if a setback of 100 feet from neighboring dwellings means the property line. Mr. Fritz explained that this was a parking setback of 125 feet from dwellings on abutting lot lines that are not under the same ownership, same as that for agricultural operations. Ms. Mallek remarked that this really puts a neighbor at a disadvantage and that she becomes concerned whenever they establish an ordinance that gives one person an advantage over another. She asked how this could be fixed. Mr. Fritz responded that if they were to change the agricultural operation to say that the setback was 125 feet from the property line as opposed to 125 feet from a dwelling, they could do the same for religious assembly. He stated that the two have to be at least even and they cannot make the religious assembly regulation more restrictive than the agricultural operations.

Ms. Mallek asked if building setbacks are already to the property line. Mr. Fritz confirmed that existing agricultural operations with permanent structures must meet the minimum yard requirements in the district. Ms. Mallek remarked that a neighboring house that was 100 feet away may impose parking and headlights right upon the property border.

Mr. Randolph remarked that they could always go through the special permit process under those circumstances because this was by right.

Mr. Fritz said that if a neighbor's house was 100 feet from a property line, then it would have to be set back by 25 feet.

Ms. Mallek noted her displeasure. She said they are going out of their way to fix the zero lot line issue in the urban areas, where they created an advantage for some over their neighbors with a zero lot line setback, and they are almost doing this all over again. She expressed hope that this could be fixed with a quick number substitution.

Mr. Fritz offered to pass along this suggestion to staff who are working on agricultural operations.

Mr. Kamptner remarked that Mr. Fritz's summary has provided a good state of the law. He said staff would not recommend a five-acre minimum for inclusion in how they regulate places of religious assembly, as that regulation was established to ensure bona fide agricultural activities on a property. He said in that case the law was telling them they need to look at relevant concerns with their regulations, such as onsite parking, lighting, noise, and sanitation.

Ms. McKeel remarked that it was her understanding that Phases 1 and 2 are being worked on, with Phase 1 to come in April and Phase 2 to take longer. She said it seems as if it would be better to complete work on the agricultural operations of both phases rather than pulling staff away to work on a parallel process. She recalled that Supervisors had agreed it was important to get the agricultural operations done immediately and was concerned that if they take this issue on, they would have to come back again once the work on agricultural operations have been completed. Mr. Fritz remarked that this has been on their to-do list for a long time and was part of a package of zoning resolutions of intent, and they are inconsistent with RLUIPA. He recalled that when they talked about a zoning text amendment, they also talked about how it would be a simple process to include any changes to the agricultural operations with changes to religious assembly.

Ms. Mallek asked Mr. Fritz if what he was describing was once around the block and then they would be done. Mr. Fritz responded that this zoning text amendment was very simple and if they decide to make changes to agricultural operations, it would be simple to change those for religious assembly.

Ms. Mallek expressed agreement with Ms. McKeel about prioritizing work on agricultural operations, though she does not see this as a distraction as it appears to be easy to make this correction.

Ms. Palmer said her understanding was that they are doing this to be consistent with federal law and asked what the situation was with religious land use in terms of religious schools. Mr. Fritz responded that they have processed schools as a separate special use permit application, and they would not be covered under this unless they are able to demonstrate that it was a crucial part of their religious doctrine.

Mr. Kamptner added that the County regulates private religious and non-religious schools in the same way and they are fine as far as the equal terms provision was concerned. He said there are other elements or clauses they must be mindful of such as the substantial burden and non-discriminatory clauses. He assured Board members that any application that involves a religious institution was reviewed to make sure it complies with the elements of RLUIPA.

Ms. Mallek asked if the Piney Mountain Church application, in which they planned to cut down forest to make room for an athletic field that they could rent to earn money, could be prohibited and not allowed as part of a religious application. She asked if it was written somewhere that the County has this authority. Mr. Kamptner responded that it was really what the religious institution told them and whether or not athletic events were part of their religious exercise; these are considered on a case-by-case basis.

Mr. Dill pointed out that some religious organizations make their own wine or cheese and asked if they have a way to determine what a religious mission was. Mr. Fritz responded that proposals are looked at on a case-by-case basis by the County Attorney's Office.

Mr. Kamptner reiterated that staff relies on what the religious institution tells them, and the courts have said they are not in a position to question this.

Ms. Mallek asked if there was any way to use the five-acre minimum requirements. Mr. Kamptner remarked that if the property was on a septic drainfield, needs parking, and the building complies with all setbacks, they may be of some substantial size.

Mr. Fritz said he looked at as many special use permits as he could that would fit under this and found that new facilities tended to be over five acres, while modifications of existing facilities tend to be older churches on less than five acres.

Ms. Mallek asked for confirmation that they would have performance standards. Mr. Fritz confirmed this. He said staff was seeking endorsement to proceed as directed.

Ms. McKeel remarked that if they are asked to vote, she would vote "no" because she would like the staff to complete Phases 1 and 2 before making this change.

The Board acknowledged that there was agreement for Mr. Fritz to proceed with his work.

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#### Agenda Item No. 11. Climate Action Plan Update.

The Executive Summary forwarded to the Board states that during the Board of Supervisor's FY 20-22 Strategic Plan process Climate Action Planning was prioritized. Specifically, the Board directed staff to develop/implement phase one of the Climate Action Plan to include high level goals and strategies focused around climate protection and resiliency to locally address climate change; further staff was instructed, through the budget process, to develop recommendations for near-term implementation plans following adoption of phase one climate action plan.

The Board of Supervisors approved a Resolution to Reaffirm Commitment to Support Local Actions to Reduce Climate Pollution on September 6, 2017 (Attachment A).

On June 6, 2018, the Department of Facilities and Environmental Services staff presented a proposed structure and process to develop a Climate Action Plan. On September 5, 2018, the Board authorized the Chairperson to sign onto the "We Are Still In" declaration (Attachment B).

Staff will provide an update to the Board on progress made in developing Phase I of the Climate Action Plan. Notable actions include:

- the County's first full-time Climate Program Coordinator position was hired during summer 2018
- Steering Team has been established and has met periodically since October 2018
- Coordination Team has been established and has met bi-monthly since November 2018
- Emission Sector Teams have been established and have met regularly since February 2019

- a press release was issued jointly by County, City, and UVA on February 14, 2019 announcing collaboration in community engagement and introducing a joint website ([www.ClimateActionTogether.org](http://www.ClimateActionTogether.org))
- a community Open House is planned for March 18, 2019 from 4:00 - 6:00 PM in the Lane Auditorium lobby to introduce the public to the Climate Action Planning process and to invite feedback and participation

Staff anticipates that a draft Phase I report will be completed and made available to the Board during summer 2019.

There are no budget impacts associated with this presentation of information.

Staff welcomes Board questions and feedback regarding the work done to date and the plan and timeline to complete Phase I of the Climate Action Plan.

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Mr. Lance Stewart, Director of Facilities and Environmental Services, stated that staff would provide an update on the development of the County's Climate Action Plan. He introduced Mr. Andy Lowe, Environmental Compliance Officer, and Ms. Narissa Turner, of the Environmental Services Division of Facilities and Environmental Services. He thanked Mr. Lowe, Ms. Turner, and Mr. Greg Harper for their hard work as well as many other County, school, and UVA staff who worked alongside them. He said that Charlottesville, UVA, and Albemarle have formed a coordinated effort to positively impact climate change in the larger community. He said they would provide a brief overview of the structure of the planning effort, detail ongoing efforts to engage community stakeholders and potential partners in development of the plan, and explain the community-wide greenhouse gas emissions reductions targets recommended by the plan's steering team.

Mr. Lowe noted that the Board's 2020–2022 Strategic Plan identified climate action planning as a top priority. He said they are taking a phased approach towards development of the plan, with Phase 1 involving a high-level community-wide goal with strategies to achieve reductions and which would identify immediate external and internal actions that could be taken. Phase 2 would immediately follow Phase 1 and include detailed implementation plans for each sector as well as implementation of actions that could be executed right away and plugged into future budgets. He said they would also propose future timelines to assess the progress and update the plans, as needed. The staffing strategy would include a steering team comprised of Supervisors Dill and Palmer, members of the local government and schools Executive Leadership Team, the Thomas Jefferson Planning District Commission, and UVA sustainability staff. He said that coordination team members would lead the seven sector teams within their work roles. The sector teams would work on strategies with support from the full coordination team and steering team, which would work with subject matter experts to cover cross-sector issues. He said the coordination team was responsible for community engagement.

Ms. Narissa Turner announced that February 14 marked the beginning of community engagement, with a joint press release with the University of Virginia and City of Charlottesville that announced their joint climate website to function as an information hub and outreach for citizens. She said they held an open house on Monday, March 18, which was attended by several Supervisors and solicited input from external groups and individuals to help fill out the emissions sector teams. She stated that the climate action target goals are not just for County operations but for the entire community, which was why they would seek representatives from external groups and individuals on the sector teams. She stated that the goals would be time bound, with intermediate points to check their process. She noted that they are signees to and still supports the Paris Agreement, which commits to maintaining global warming within 2 degrees Celsius, though realistically they should strive for 1.5 degrees. She said the Intergovernmental Panel on Climate Change (IPCC) was tasked with providing an explanation to the international community as to why there was a significant difference between 2 and 1.5 degrees Celsius and released its report late last year, which showed a significant difference in impacts, including loss of life, loss of ecosystems, and loss of economic resources. She said the IPCC has recommended a 45% greenhouse gas emissions reduction by 2030 and net zero emissions by 2050, and this goal would be part of the County's recommended goal.

Mr. Lowe stated that the steering and coordination teams have conducted a lot of work on building capacity to undertake this project. He said they would have emissions sector teams conduct breakout groups to research and develop strategies associated with the seven sector teams and present the public with a workable draft to obtain feedback before presenting it to the Board of Supervisors in August. He concluded and invited discussion and questions.

Mr. Randolph observed that many attendees at this meeting have made comments on climate-related issues, and it was important for the County to provide the public with information to enable them to understand how they could be part of the process to help the County achieve its goals and objectives. He recounted a recent meeting he attended at which students from six independent schools presented ideas for improving the environment and addressing plastics. He said he encouraged the students to come up with ideas as to how to reuse plastics and turn them into goods that people would want to purchase. He stated the importance of involving people on the local level, as the federal government was going in the opposite direction of denial about environmental change.

Ms. Palmer asked Mr. Lowe for his thoughts on Mr. Randolph's suggestions for engaging the public and students. Mr. Lowe responded that they could meet with parents and provide them with

additional information including information on the Local Energy Alliance Program (LEAP) and events to teach people how to compost and reuse materials.

Ms. Mallek remarked that many local agencies and nonprofits would want to participate in the educational aspect. She noted how LEAP has taught them how to make inexpensive changes to their homes, which have had huge benefits, and little things could make a big difference. She asked for assurance that they are not reinventing the wheel and repeating the work of the ELCAP process. Mr. Lowe stated that while they have modeled the process after ELCAP and are using it as a starting point, in terms of the steering, coordination, and energy sector teams, the technologies and policies have changed and programs have improved, and they are envisioning it to scale up and move out.

Ms. Palmer asked when they would go forward with CPACE. Mr. Lowe explained that they are building internal capacity as this would require going through procurement for services and requests for proposals. He said they have met with two providers and would continuously meet with Charlottesville staff to discuss implementation of CPACE, and he noted that the Governor has set a goal to establish 12 new CPACE programs over the next three years. He explained that a lot of the hurdles involves building internal capacities and systems.

Mr. Dill recognized that the County and schools represent about 4% of emissions and asked for a sense of where the County's resources were mainly going or should be going over the next 10 years. Mr. Lowe responded that the County needs to run a tight ship in terms of using renewable energy for buildings and fleet management to lead by example. He stated that the County's investments in programs may release private dollars from programs that matches users and capital investors like CPACE. The small investment made by the County in providing energy audits to homeowners could help them make informed decisions about their home infrastructure. He suggested they have a healthy mix of internal and external components.

Ms. McKeel said she applauds the efforts of County staff and remarked that it was important to involve the School Division, as the large population of students could educate their parents. She suggested that they hold a joint School Board and Board meeting to discuss the potential of having the school curriculum include a focus on the topic of renewable energy. Mr. Lowe noted that the steering and coordination teams include representatives from the schools.

Ms. Palmer said the new principal of Red Hill Elementary attended her town hall last night and she had raised the topic of composting with her. She recounted how they had Lindsay Snoddy at a SWAAC Committee meeting last year discuss collaboration with the schools on composting. Mr. Lowe noted that the School Board recently adopted a climate change resolution.

Ms. Palmer stated that climate change action transcends everything they do, including transportation, broadband, trash collection, land use, the ACE Program, and priorities.

Ms. McKeel stated that simple role modeling actions could have an impact, some of which do not cost any money.

Ms. Mallek added to Ms. McKeel's suggestion that they work with the schools. She commented on how it was the safer chemicals policy that was adopted by the schools, implemented by County staff, and could serve as a good model. She asked that PDF documents from the open house be circulated with Supervisors so they could share with constituents.

Mr. Dill said he spent most of the previous week at Martha Jefferson Hospital and observed all the energy used to run the machines as well as the waste generated by things like Styrofoam cups. He said the good news was that the hospital has signed on to the commitment to reach these goals, and the President of the hospital was very involved in conducting research on it.

Mr. Lowe added that UVA and UVA Hospital had helped shepherd Martha Jefferson.

Mr. Gallaway asked Mr. Lowe if he needed anything else from the Board. Mr. Lowe responded that he had received great direction.

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#### Agenda Item No. 12. Planning Consideration for FY 21 - 25 CIP Development Process.

Mr. Richardson stated that he communicated to Board members a week earlier that the CIP Oversight Committee had sent recommendations to the Board in January, which he has reviewed, and he asked the Board to set aside time now so he could remind them of the work done last summer in conjunction with the School Board on future planning for significant capital items within the five-year CIP and outyear tax implications. He said that Ms. Allshouse would present some slides to remind the Board of the process steps, after which he would ask the Board for direction based on the Oversight Committee recommendations.

Ms. Allshouse presented a summary of the 10 meetings the Board has held, beginning in January 2018 when the committee recommended the consideration of a bond referendum, during discussion in the development of the CIP. She reminded the Board that it held a joint work session with the School Board on September 27 to discuss the County's debt capacity and affordability challenges, ways for the two Boards to address capital needs in the future, public-private partnerships, and public-private education act projects, among various items. During the Board's café discussion with the School Board,



they agreed to increased dialogue to share visions, expectations, and CIP requests and timelines as early as possible in the process. She said they also discussed increased communication of financial plans and acknowledged that School Board requests are needs based while the Board of Supervisors was required to balance the budget. She said they discussed areas of commonality and talked about how there may be areas where it was better to do things separately.

Ms. Allshouse stated that they discussed economic development, information sharing, building trust, and listening. She said they are now in the FY20–24 CIP process and she recounted that the Board met with the School Division on November 5 and discussed compensation, healthcare, and the schools' long-range financial plan. She recognized that this was a CIP amendment year process, which means that new projects would not come in unless they are urgent or emergencies, and it would be a year to just adjust the CIP. She reminded the Board that the Oversight Committee met and presented the findings and recommendations mentioned by Mr. Richardson. She said the FY20 budget development process was underway for the period of January–April, including the FY20–24 CIP, and includes a capital budget within the proposed budget.

Ms. Allshouse presented a slide with a list of FY20–25 CIP recommendations made by the Oversight Committee, which includes a recommendation to hold an annual joint meeting with the Board, School Board, and remaining Oversight Committee members in May or June. She noted that it also included a recommendation to conduct a shared strategic visioning session to allow both boards to learn what the capital needs are for local government and for schools, clarify and publicize shared priorities, discuss ways to prioritize projects in the CIP and consideration of possible revenue fluctuations, including possible downturns or unexpected growth, and to consider the re-conception of how the County approaches planning for capital and operating budgets.

Mr. Richardson said staff recommends that the Board agree to follow the recommendations of the Oversight Committee and consider a May or June shared visioning discussion with the School Board to discuss the FY20–24 CIP and to consider needs that are not recognized in it. He suggested that this Board focus on five to seven-year CIP planning where they see tax rate implications, and then confer with the School Board. Mr. Richardson urged the Board to recognize differences between 2018 and 2016, as he believes they are doing more now in the CIP, and they need to keep an eye on capacity which is tied to the tax rate and affordability. He invited Board discussion.

Ms. Mallek said she was struck by the expenditure assumptions in the report. With regard to the \$36 million for modernization of schools, it was hotly debated and determined years ago that this would be \$6 million per year to enable supervisory staff to manage and carry out projects in manageable chunks; however, she noted that the CIP Committee has decided to put this all into one year. She asked why this was done and asked what the financial impact would be to return it to what it was. She remarked that they do not have \$12 million in projects ready to go, and it was not sensible to encumber \$6 million of extra money in a year when it was not ready. Ms. Allshouse noted that the school modernization projects were programmed for \$6 million annually over six years. She said the Oversight Committee asked to put this together into one number versus two and they put it in FY21, not FY20, as the School Division has not yet made a decision as to the scope, so it has been programmed for year two so that there could be further conversation about it. The funds are in there as a placeholder. Ms. Mallek responded that she feels better and stated that the County should not hand over funds until projects are laid out and properly designed. Ms. Allshouse added that should the schools come up with a decision midyear, it would be brought before the Board.

Mr. Randolph remarked that at this time last year, they were at loggerheads with the School Board, though he thinks they have moved beyond that now and there was greater understanding of the commonality that they are both in this together and must devise solutions to address the growth of the County, which affects both the schools and general government.

Ms. Mallek recounted that at her town hall meeting, residents expressed concern with high densities in the growth areas. She said they believed the County was overshooting its growth potential, which would lead to further problems. She commented that the answers they came up with during discussions 20 years ago may not be appropriate today.

Ms. McKeel added that the County has not provided the infrastructure in the CIP to keep up with growth, and they should look at infrastructure in the older neighborhoods.

Ms. Palmer remarked that there are newer neighborhoods without infrastructure. She said the schools need more money than the Board have to give, so they have to prioritize for the Board.

Ms. McKeel recognized that the School Board now has its own attorney with experience in some offerings such as the PPEA, and she suggested that he attend the joint meetings.

Mr. Kamptner acknowledged that his office has reviewed the draft PPEA guidelines that would be coming before both boards and they are seeking the insight of the School Board attorney.

Mr. Gallaway pointed out that the schools' long-range planning committee was already working, would put things before the Board in June and July, and would make a determination in August. He said the School Board could begin to have a sense of where the Board of Supervisors was and have a different angle than in the past once they prepare their priorities for the committee process. He asked Mr. Richardson if he needed anything more from the Board.

Mr. Richardson responded that he needs to understand that should they be successful in scheduling a meeting with the School Board in May or June, they would not start their biannual CIP Oversight Committee process until after the meeting was held. He said that if they roll out the biannual CIP process, it could lead everyone involved to think they have capacity at the level they have had in the past. He urged that this be reconsidered, given the commitments that have been made from 2016 through 2019, and that they not hold an open call for projects from the community. He remarked that should there be interest in holding a Fall 2020 bond referendum, the time to begin planning for this 18-month process was this summer, as there would be a significant amount of work required.

Ms. Mallek expressed concern that more large building projects would be brought forward, yet they still have not discussed the \$40 million they would need for the courts. They need to be very deliberative about where they are going.

Ms. Allshouse commented that they model in five-year increments and impacts of debt payments could go outside of this period. Ms. Mallek stated that they have not yet collected the money to pay for the courts project and they should not hold a referendum to pay for other projects when they have not yet determined how they would pay for the courts.

Mr. Dill added that he thinks the climate change initiative would affect everything and perhaps this should be part of this summer's discussion. He pointed out that new buildings would have to be heated and cooled forever, and this should be taken into consideration in their decision making.

Ms. McKeel agreed with Mr. Dill and remarked that it was a great idea to have this discussion with the School Board. She said she toured Center One this week and recommends that other supervisors tour the school.

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Agenda Item No. 13. Closed Meeting.

At 3:16 p.m., Mr. Dill **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider appointments to the Albemarle County Economic Development Authority for which there are pending vacancies or requests for reappointments; and
- Under Subsection (3), to discuss and consider the acquisition of real property for a public sidewalk and related improvements in the Jack Jouett Magisterial District, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board; and
- Under Subsection (6), to discuss and consider the investment of public funds in an affordable housing project in the northern portion of the Scottsville Magisterial District and infrastructure improvements in Crozet where bargaining is involved and where, if made public initially, would adversely affect the financial interest of the County; and
- Under Subsection (7), to consult with legal counsel and briefings by staff members pertaining to litigation between the Board and Global Signal Acquisitions, where consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the County and the Board; and
- Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to:
  1. The County's duty to maintain and repair real property that it owns in the Scottsville Magisterial District; and
  2. A pending zoning map amendment and the law pertaining to conditions; and
  3. The terms and status of a possible agreement with a volunteer rescue squad.

The motion was **seconded** by Ms. Palmer. Roll was called and the motion carried by the following recorded vote:

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

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**NonAgenda.** Mr. Richardson asked the Board if they would like to continue to hold a work session on March 28, as this date was set aside, if needed. He said it was his assumption that this time could now be released as they are no further budget matters for discussion.

Supervisors indicated they do not see a need for an additional work session and the date could be released.

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(Note: Mr. Dill left the meeting at 6:00 p.m.)

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Agenda Item No. 14. Certify Closed Meeting.

At 6:07 p.m., Ms. Palmer **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing

the closed meeting were heard, discussed, or considered in the closed meeting. The motion was **seconded** by Ms. Mallek.

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

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

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Agenda Item No. 15a. Boards and Commissions: Vacancies and Appointments.

Mr. Randolph **moved** that the following appointments/reappointments:

- **reappoint**, Mr. David Shreve to the Economic Development Authority, as the Jack Jouett District representative, with said term to expire January 19, 2023.
- **reappoint**, Mr. Donald Long to the Economic Development Authority, as the At-Large representative, with said term to expire January 19, 2023.

The motion was **seconded** by Ms. Mallek. Roll was called and the motion carried by the following recorded vote:

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

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Mr. Gallaway announced that Mr. Dill had left the meeting to attend to a family emergency.

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

Ms. Jane Pudhorodsky, resident of Rio District and member of Church of the Incarnation and Co-President of IMPACT, addressed the Board. She said IMPACT seeks action by the County to address affordable housing, specifically to help seniors. She said that many seniors live on a fixed income with limited or no ability to increase their income due to decreased physical and mental abilities as well as age discrimination. She said seniors have an increased need for medical and other services, and proximity to these services was a priority. She said the lack of affordable, accessible units and rising rents have created an ongoing stress of frequent moves for many seniors. Prioritizing the needs of seniors does not mean that others would not have their needs met but shows respect for those that have worked their entire lives, cared for others, and now need care in return. She said IMPACT has heard that the Board was awaiting the results of the housing assessment and strategies to address the need. Research has shown that housing funds are one of the best practices used throughout the country, and Virginia and could lead with leveraging of 8.5 times the dollars invested. Last year, three Supervisors agreed to work towards development of a plan that would create guidelines for the fund developed last year that would prioritize seniors and housing gaps for others. She requested that the Board assign a member of staff and \$1.5 million now to the housing fund in order to address needs.

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Mr. Tom Eckman, resident of Rivanna District, addressed the Board. He pointed out that affordable housing was not one of the Board's nine strategic priorities and questioned their commitment to it. He commended the Board for its work with Southwood but noted that many units would not be ready for a long time. He listed benefits of a housing fund: it could be used to buy land and donate it to a developer to build senior housing, to obtain public grants, to provide money at 0% interest, and to provide money for rent vouchers. He stated the importance of having someone assigned to develop affordable housing. He said the City of Charlottesville's housing fund has made 1,100 interventions for new units, rehabilitation, and rental assistance, and has created 300 new units since 2007. He recounted that the needs assessment determined that there were 9,820 residents struggling in the urban ring and 3,300 in the City, which equals 6,520 residents of the County who are struggling. He commended Charlottesville for allocating \$8.5 million on housing and working towards adding \$1 million to its flexible housing fund out of an overall budget of \$188 million. He said the County needs to be proactive and invest \$1.5 million in the housing fund.

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Mr. Eric Macallan, resident of Jack Jouett District, addressed the Board. He expressed concern with the volume and speed of traffic in Earlysville, especially along Buck Mountain Road between Earlysville General Store and Broadus Wood Elementary. He recounted that 10 years ago, the Board responded to his request and reduced the speed limit to 35 MPH, though this has had no effect and probably has made it worse. He estimated the speed of most cars at 50–60 MPH, even with the flashing lights at Broadus Wood Elementary. He asked Supervisors to take whatever steps they could to reduce the speed and suggested there be more police presence, rumble strips, and other modalities.

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Ms. Nancy Carpenter, resident of Charlottesville, addressed the Board and cited the crisis in affordable housing and stated that they need to be strategic. She recognized that the Board was awaiting the results of a needs assessment. She suggested the County adopt the City's SRAP (Supplemental Rental Assistance Program), which has been very successful, though it was still often difficult for City

residents to find housing in the City with their vouchers and they have to cross boundaries to find housing within the inner urban ring. She expressed hope that the Board and Council would work together in housing and transportation since housing was a regional issue. She recognized that the federal and state governments are not going to fulfill the need and noted that President Trump's 2020 budget eviscerated a lot of housing funds, such as CDBG and home funds, eliminated operating costs for PHA's public housing agencies, and decimated the Housing Choice Voucher Program. She expressed hope that Congress would restore funding and noted that funding may never be restored to pre-sequestration levels. She noted that seniors, the disabled, and families with children are among several protected classes under the City's Human Rights Commission. She said that some pay 60% or more of their income for housing.

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Ms. Valerie Long, resident of White Hall District, addressed the Board and said she would offer comments on a memo from Mr. Bill Fritz about the wireless policy, which was listed under the "For Your Information" section of the consent agenda. She said the memo reminds the Board that several months ago, there was discussion and consensus about the need to revisit the 19-year-old wireless policy. She encouraged the Board to have a discussion on the policy, as there were rapid changes in wireless technology, and it has become more of an essential need for people. She recognized that broadband was a high priority for the School Division, Department of Economic Development, and the Board; national carriers are rolling out 5G in large cities, and she hopes 5G would come to the County by this fall. She said the wireless ordinance was out of date and federal regulations continue to evolve. She noted that new regulations that address small cells became effective in January, which would be very helpful with regard to 5G. She offered to work with the Board to provide perspectives from the wireless community.

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Agenda Item No. 17. **PUBLIC HEARING: ZMA201800006 3223 Proffit Road.**

**PROJECT:** ZMA201800006 3223 Proffit Road.

**MAGISTERIAL DISTRICT:** Rivanna.

**TAX MAP/PARCEL:** 032A0020000200.

**LOCATION:** 3223 Proffit Road.

**PROPOSAL:** Rezone property to allow for a higher density residential development.

**PETITION:** Rezone 7.29 acres from the RA Rural Areas district, which allows for residential uses at a density of 0.5 units per acre, to the R-15 Residential zoning district which allows residential (15 units/acre). A maximum of 109 dwelling units is proposed at a gross and net density of 14.9 units/acre.

**ZONING:** RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).

**OVERLAY DISTRICT:** AIA- Airport Impact Area; Managed Steep Slopes.

**PROFFERS:** Yes.

**COMPREHENSIVE PLAN:** Urban Density Residential - residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses in the Hollymead-Places 29 Master Plan.

*(Advertised in the Daily Progress on March 4 and March 11, 2019.)*

The Executive Summary forwarded to the Board states that at its meeting on January 29, 2019, the Planning Commission (PC) voted unanimously to recommend approval of ZMA201800006 with the proffer statement and concept plan revisions outlined in the staff report. The Commission's staff report, action letter, and unofficial minutes are attached (Attachments A, B, and C).

At the Planning Commission meeting, staff recommended approval of the proposed Zoning Map Amendment application. The proposal is consistent with the future land use and transportation recommendations specified in the Places29 Master Plan.

A citizen commented during the public hearing that providing a buffer and preservation area on the eastern side of the proposed Block B open space would strengthen the application. The citizen contended that preservation of large existing trees in this area would provide visual and environmental benefits. The Planning Commission agreed.

The Planning Commission voted to recommend approval of the requested rezoning, provided that the proffer statement and concept plan be revised in accordance with the PC staff report suggestions and public comments. The applicant has provided a revised concept plan which incorporates a 25' wide undisturbed buffer, and an additional 25' minimally undisturbed buffer in order to address these recommendations (Attachment D). The applicant has also provided a revised proffer statement which is consistent with the staff recommended revisions outlined in the PC staff report (Attachment E).

Since the Planning Commission public hearing, the locations of the primary entrance into the development and the restricted emergency access driveway have been switched in order to meet Virginia Department of Transportation (VDOT) standards for sight distances along Proffit Road. VDOT staff has verified that the revised entrance locations meet the minimum requirements for sight distances. No other aspects of the development layout or details have been changed, and therefore the application does not need an additional review by the Planning Commission.

Staff recommends that the Board adopt the attached Ordinance to approve ZMA201800006 3223 Proffit Road (Attachment F).

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Mr. Cameron Langille, Senior Planner, stated that the property was located at Tax Map/Parcel 032A0020000200, measured 7.29 acres, has a single-family detached home, and the remainder of the property was wooded. The property was zoned RA, Rural Area, and located within the Airport Impact Overlay and Managed Steep Slopes Overlay Districts. The application proposes to rezone the parcel to an R15 residential zoning district and includes a concept plan with the road network, general block layout, and includes a proffer statement that calls out certain items that would be committed to in full. He presented a map of the property and surrounding area, noting that it was approximately 900 feet east of the Route 29/Proffit Road intersection, and the house was located in the southwest quadrant of the property. He said the land to the north of the property was undeveloped and part of the future North Pointe development; across from the parcel on the south side of Proffit Road lies the Lighthouse Christian Preschool, Maple Grove Christian Church, and a single-family home; to the east lies the Full Gospel Assembly of Charlottesville Church; and to the west lies Southern States Cooperative retail store. He presented a zoning map and pointed out various features.

Mr. Langille presented the Places 29 Master Plan future land use map and pointed to the area of urban density residential and said the primary use called for within this classification was 6–34 residential dwelling units per acre, including single-family detached and apartments. He said that 44 units would have to be developed to meet the minimum density requirement, and 109 would be the maximum. He presented a concept plan drawing and pointed to Blocks A and B. He explained that Block B was proposed for open space or recreational amenities, while Block A would be the location of residential uses. He said the plan calls for one full access entrance to the development off Proffit Road, as well as an emergency access way for fire trucks, to include bollards. He said the applicant has offered to proffer road improvements along Proffit Road, including installation of curb and gutter followed by a 10-foot-wide planting strip for trees and a six-foot sidewalk.

Mr. Langille said the applicant proposes to dedicate land to widen the public right-of-way in accordance with the Places 29 Master Plan. He said that staff recommends approval. The proposal was consistent with the future land use designation called for by the Places 29 Master Plan; it meets all the requirements specified for Places 29 Master Plan transportation improvements; and the application meets 11 of the 12 neighborhood model principles, with the 12th principle it did not meet not being applicable to this request. He said that Proffer #4, shown in the staff report, has been added since the Planning Commission public hearing and proposes to create a buffer in the open space block to protect some trees behind one of the adjacent parcels that has intrinsic value to the residents. He said that staff suggests some revisions to the wording of the proffers that were brought to the Planning Commission, and the applicant has complied with these recommendations. He concluded and invited questions.

Ms. Mallek asked if staff has a recommendation about the true target density, as the range of 6–36 was fairly big. Mr. Langille responded that staff does not suggest a range but said that in order to comply with the Places 29 Master Plan future land use, there would have to be a minimum of 44 units, with the maximum being 109. He explained that if rezoning to R15 was approved, that would be the most they could do to comply with the densities of the ordinance.

Ms. Mallek asked for confirmation that the density ratio would only apply on the useable five acres, and staff would not count the 2+ acres in the open space north of the stream. Mr. Langille confirmed this.

Mr. Randolph asked what the County was prohibited from doing in terms of protection of the intermittent stream. Mr. Langille responded that the stream does not have a buffer around it and was not subject to all the requirements of the Water Protection Ordinance. He said there are certain limitations that could be done with crossings, streets, and structures, though he cannot give a complete rundown and would defer to the County Engineer.

Mr. Kamptner added that the Water Protection Ordinance protects intermittent streams via stream buffers if they are in a water supply protection areas or in the rural areas; this parcel is located in the development areas.

Mr. Randolph asked for confirmation that since there are no stream buffers here and it was outside the ordinance, there was no level of protection afforded to the intermittent stream. Mr. David Benish, Chief of Planning, confirmed this, though this was not considered to be an intermittent stream and was not subject to stream buffers, but the applicant was setting it aside in open space.

Ms. Mallek asked if someone has ground-truthed the maps to be correct, as many perennial streams are shown as intermittent on GIS. She noted that several people have inquired about this, which was why she was asking. Mr. Langille responded that he cannot say for certain that an Engineering Division staff member went there, but they sent the application to the County Engineer to review.

Mr. Randolph urged the Board to consider the importance of buffering an intermittent stream, as they could have a marshy environment because of the soils present and would absorb water and reduce the amount of down flow. He stated that if they do not protect intermittent streams and require buffering, it increases the likelihood of rain events as the water volume was increased and go somewhere downstream.

Mr. Gallaway opened the public hearing and invited the applicant to address the Board.

Mr. Don Franco, with Roudabush and Gale, and speaking on behalf of the applicant, addressed the Board. He stated that the 109-unit density was capped as a result of the traffic study, which said that

major improvements such as turn lanes would be required if the number of units was greater than this number. He confirmed that Mr. Dave Hirschman has investigated the swale/stream and his report to Engineering showed that it was determined not to be an intermittent stream.

Ms. Mallek remarked that if it was not intermittent then it must be perennial. Mr. Franco explained that the swales do not meet the definition of a stream. He said they have put in open space and expect to have some type of stormwater management in and around the area to make sure they do not create problems off-site. He said that, depending on what goes there, the density, and whether or not pedestrian connections are desired with North Pointe, it would be left natural.

Mr. David van Roijen, resident of Samuel Miller District, addressed the Board. He said that for Block B it does not sound like there was any dedication this was a permanent conservation area and it could be boundary-adjusted to the North Pointe project and used in their acreage. He asked if the applicant was saying that this would be permanent open space. Mr. Franco responded that he does not think what has been proposed was technically doable. He said it would have zoning on it and the zoning dictates open space, and while it was not a permanent easement, in order to do an adjustment added to North Pointe, the County would have to do a rezoning of that parcel and probably North Pointe to have that happen. He said it would have to go through a legislative action in order to be developed residentially.

Mr. Kamptner added that as the site was developed, the site plan or subdivision plat would have to comply with the zoning, which shows Block B as undisturbed.

Mr. Gallaway closed the public hearing.

Mr. Gallaway said he has a question from the Planning Commission meeting minutes around the item that was taken out from the volunteer proffers. He asked for confirmation that the applicant had originally proposed 15% affordable housing and the question came up as to why this was being struck by the Planning Commission. He said that Mr. Andy Herrick had explained that under Virginia Code 15.2-2303.4, the proffer was deemed unreasonable because it could not be specifically attributable to the proposed development, and, therefore the proffer could not be accepted.

Mr. Kamptner confirmed this and the guidance his office has given the Board was that the language of the 2016 statute requires specific attributability and a level of certainty. He said this was the only residential rezoning the County had under the 2016 statute, and there was no study to support the need for affordable housing caused by this particular project. In addition, the proffer language was not workable anyway, and since it did not meet the specifically attributable standard, County staff made the call to not include that proffer. He noted that localities are punished even if they accept a proffer that was deemed to be unreasonable, which in this case was defined as not being specifically attributable to the impacts of the rezoning.

Mr. Gallaway noted that the Rio District Planning Commissioner, Mr. Bruce Dotson, stated that even though affordable housing was a local and regional concern that many jurisdictions are dealing with, yet they have an action by the State that prohibits the County, even when a private developer wants to give it to the County. He remarked that the State has tied their hands and they could be punished with a lawsuit for accepting it. He asked Mr. Kamptner if this was a fair statement. Mr. Kamptner agreed and said the 2016 legislation was supported by some localities and opposed by some in the development community, but they recognized that it swung the pendulum too far in one direction. He said there would be a further revision to the legislation that would allow owner applicants to opt in to the pre-2016 rules that were in place, effective July 1.

Mr. Gallaway asked for confirmation that as of July 1, if a developer wants to offer a proffer and opt into the prior law, the County could accept this. Mr. Kamptner confirmed that the applicant could opt in and it was not up to the County to determine which course they would follow.

Mr. Gallaway stated that this law demonstrates why it was important who was elected to state government, and there would have to be advocacy to make sure the General Assembly does not handcuff localities from dealing with issues the County deems to be priorities.

Ms. McKeel added that this was the reason why the Board has supported impact fees, as they are a fairer way of recognizing the impact of development, though this has not gone anywhere in the legislature.

Mr. Gallaway remarked that he believes the proffer law and impact fees would continue to be debated in the General Assembly. He asked citizens to put pressure on elected representatives so that they could address affordable housing.

Mr. Gallaway referred to Attachment C, which contains the minutes of the Planning Commission meeting. He said that Commissioner Julian Bivins gave examples of localities that have used the special use permit process for streetscapes and other items. He suggested the Board take up a discussion on ideas offered by Mr. Bivins.

Mr. Randolph then **moved** that the Board adopt the proposed ordinance to approve ZMA201800006 3223 Proffit Road. The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

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

# AN ORDINANCE TO AMEND THE ZONING MAP FOR TAX MAP AND PARCEL 032A0-02-00-00200

**WHEREAS**, the application to rezone 7.29 acres from RA Rural Areas to R-15 Residential for Tax Map Parcel 032A0-02-00-00200 is identified as ZMA 2018-00006, 3223 Proffit Road (“ZMA 2018-00006”); and

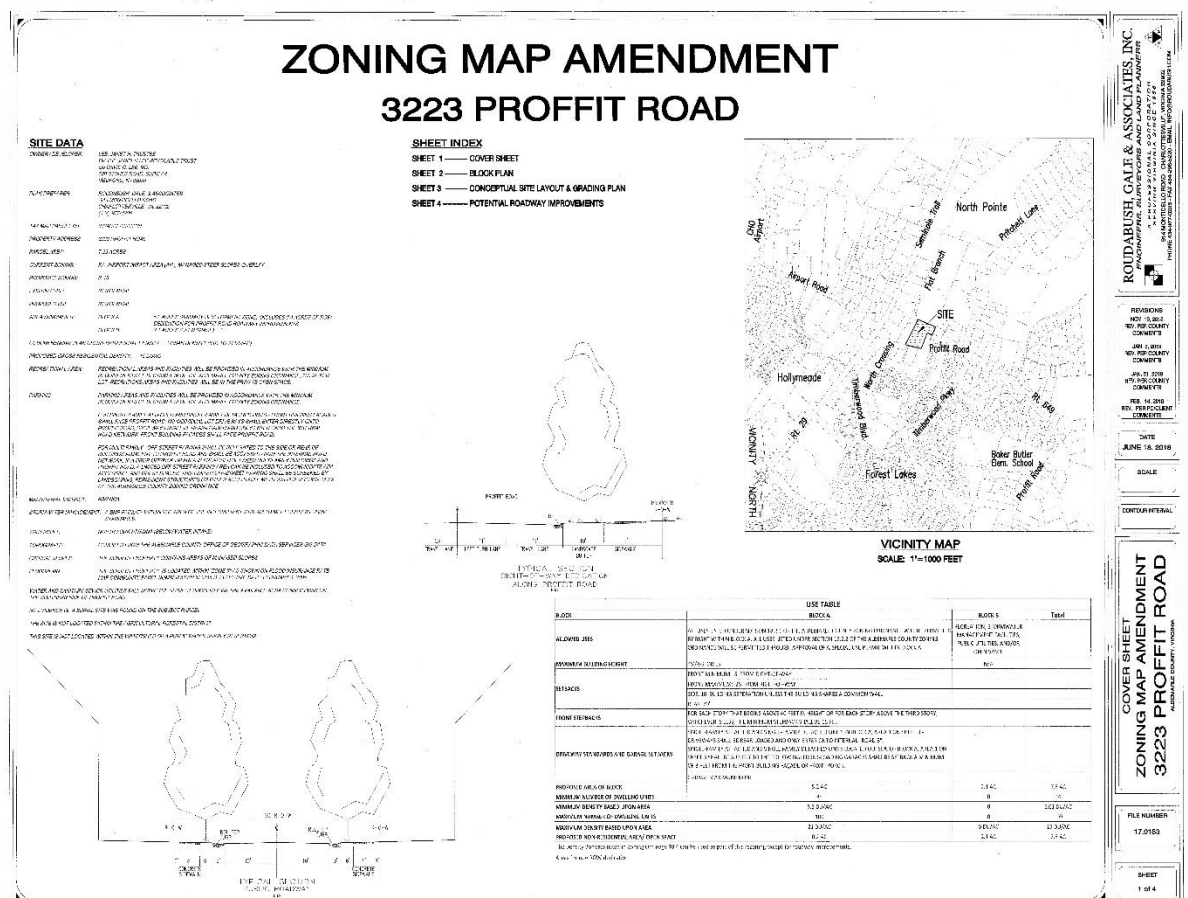
**WHEREAS**, staff recommended approval of ZMA 2018-00006, provided recommended revisions were made to the proffers and the concept plan; and

**WHEREAS**, on January 29, 2019, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2018-00006, with provisos; and

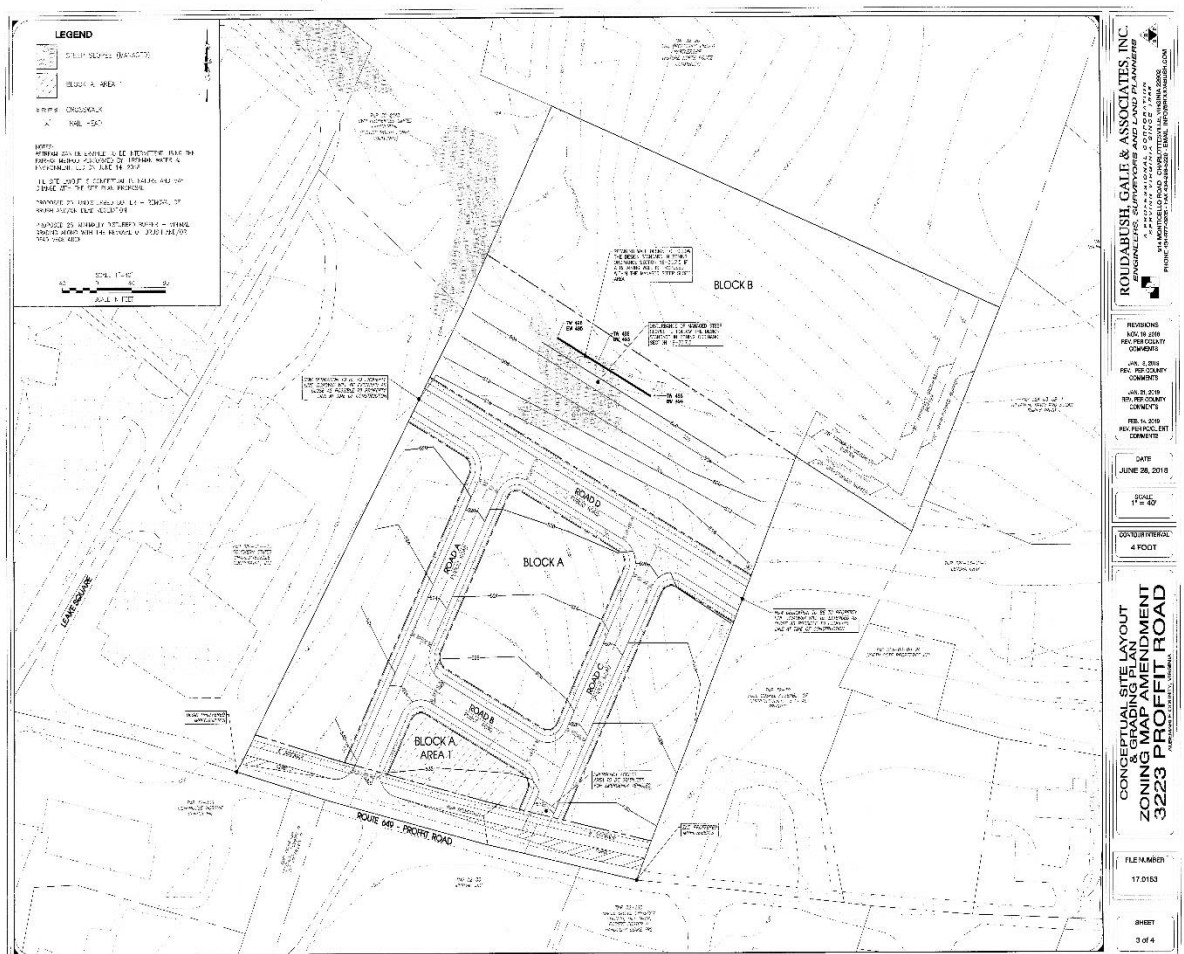
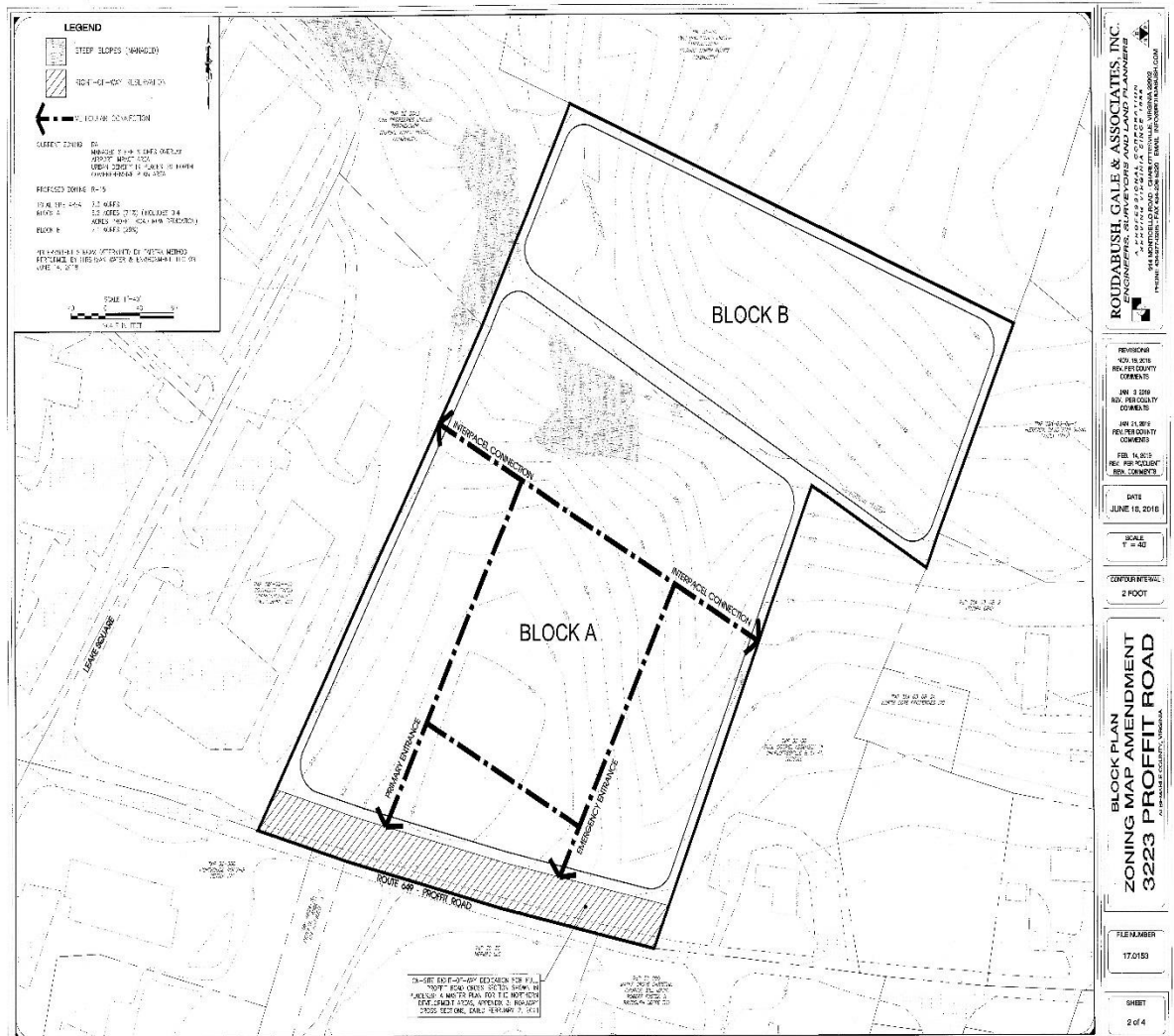
**WHEREAS**, subsequent to the Planning Commission meeting, the applicant voluntarily submitted revised proffers and a revised concept plan, which staff believes address the issues raised by staff, the Planning Commission, and the public; and

**WHEREAS**, on March 20, 2019, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2018-00006.

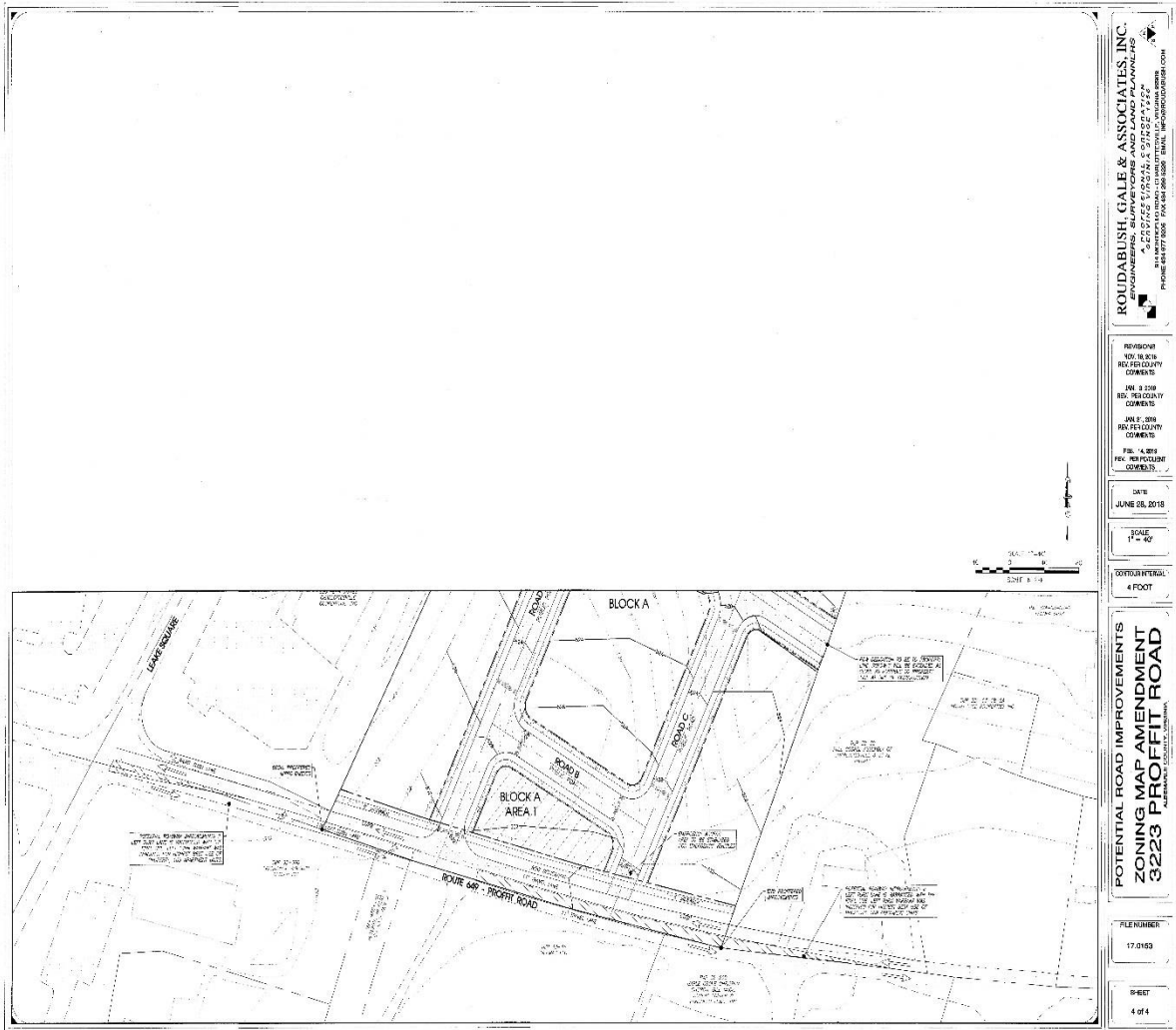
**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2018-00006 and their attachments, including the proffers and the concept plan, the information presented at the public hearing, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2018-00006 with the proffers dated February 14, 2019, and the concept plan entitled “Zoning Map Amendment – 3233 Proffit Road”, prepared by Roudabush, Gale & Associates, dated June 28, 2018, last revised on February 14, 2019.











Original Proffers   X    
Amendment           

### PROFFER STATEMENT

ZMA No. **201800006 – 3223 Proffit Road**

Tax Map and Parcel Number(s): **032A0-02-00-00200**

Owner(s) of Record: **JANET H. LEE, TRUSTEE, THE JANET H LEE REVOCABLE TRUST**

Date of Proffer Signature: February 14, 2019

7.3 acres to be rezoned from RA to R-15


**JANET H. LEE, TRUSTEE, THE JANET H LEE REVOCABLE TRUST**, is the owner (the "Owner") of Tax Map and Parcel Number **032A0-02-00-00200** (the "Property") which is the subject of rezoning application ZMA No. **201800006**, a project known as "**3223 PROFFIT ROAD**" (the "Project").

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

The property shall be developed in general accord with the Zoning Map Amendment prepared by Roudabush, Gale & Associates, dated June 18, 2018 revised February 14, 2019 and shall reflect the following major elements as shown and noted on the plans:

1. The internal street network grid and interparcel connections between the subject parcel and TMPs 03200-00-00-03000 and 032A0-02-00-001B0;
2. Right-of-way reservation and associated improvements along Proffit Road;
3. A minimum of 44 total dwelling units shall be developed on the property.
4. A 25' Undisturbed Buffer and an additional 25' Minimally Disturbed Buffer in Block B adjacent to TMP 32A-03-0B-2 and TMP 32A-03-0B-4 as shown on the Conceptual Grading Plan:
  - a. Undisturbed Buffer allows for the removal of brush and/or dead vegetation.
  - b. Minimally Disturbed Buffer allows for minimal grading and/or the removal of brush and/or dead vegetation.
5. Garage Setbacks - Single-family attached and single-family detached units located outside of Block A, Area 1 as shown on Sheet 3 shall be subject to the following: front-loading garages shall be setback a minimum of 3 feet from the front building façade or front porch.
6. Parking Standards – The following standards shall apply to uses located within Block A, Area 1 as shown on Sheet 3 of the plans:
  - a. For single-family attached and single-family detached units — Front building facades shall face Proffit Road. No individual lot driveways shall enter directly onto Proffit Road; driveways shall be rear-loaded and only enter onto "Road B". Front building facades shall face Proffit Road.
  - b. For multi-family - off-street parking shall be relegated to the side or rear of buildings adjacent to Proffit Road and shall be accessed from the internal road network. If a drop-off/pick-up area is proposed between multifamily buildings and Proffit Road, a limited off-street parking area can be included to accommodate ADA accessible and guest spaces. This limited off-street parking shall be screened by landscaping, permanent structures or other acceptable methods per Section 32.7.9 of the Albemarle County Zoning Ordinance.

OWNER

  
By: **DAVID C. LEE**

Title: **TRUSTEE**

**JANET H. LEE, TRUSTEE, THE JANET H LEE REVOCABLE TRUST**

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Agenda Item No. 18. **PUBLIC HEARING: CPA201800006 Birdwood.** To review and act on proposed amendments to portions of the Southern and Western Urban Neighborhoods Master Plan. The proposed amendments involve sections of the Plan which directly relate to the Birdwood property (identified as Tax Map Parcel #07500-00-00-06300), including the "Future Land Use" section and the "Other Areas of Importance" subsection. This Comp Plan Amendment process follows the recent completion of the Birdwood Area B Study, which was formally endorsed by the Planning and Coordination Council (PACC) on September 20, 2018. (Advertised in the Daily Progress on March 4 and March 11, 2019.)

The Executive Summary forwarded to the Board states that at its meeting on February 12, 2019, the Planning Commission (PC) conducted a public hearing to review and make recommendations on proposed amendments to the Southern and Western Urban Neighborhoods Master Plan (S+W Master Plan). The staff report and attachments from the February 12 PC public hearing are provided as

Attachments (Attach.) A through F. Attach. G and H are the minutes and action memo from the February 12 public hearing.

Recommended amendments to the existing S+W Master Plan (Attach. D) would include modifications to the "Future Land Use: Other Areas of Importance" section as well as minor updates to the "Existing Land Uses: Institutional" section. These proposed amendments (shown with "Track Changes" in Attach. E, and shown with "clean" formatting in Attach. F) relate to the University of Virginia (UVA) Foundation's proposed project to rehabilitate and reuse the historic Birdwood Mansion and Grounds. This proposed project, and other elements of the Foundation's Birdwood Master Plan, were formally endorsed by the Planning and Coordination Council (PACC) on September 20, 2018 as the "Birdwood Area B Study." (Attach. B) This CPA was initiated through a Resolution of Intent adopted by the PC. (Attach. C)

The proposed CPA language has previously been reviewed by the PC and Board of Supervisors (BOS) at work sessions conducted on November 13, 2018 and January 16, 2019, respectively. Please note that this CPA, if adopted, would amend the S+W Master Plan so as to formally identify the proposed reuse of the Birdwood Mansion as an appropriate land use. All other detailed project-specific reviews of potential impacts related to the proposed "Birdwood Mansion and Grounds" project, as well as possible measures to mitigate reasonably anticipated potential impacts, should and will occur separately during the ongoing review process for the UVA Foundation's zoning map amendment application (ZMA201800014, which is currently under review – deferred).

As noted above, the PC conducted a public hearing on February 12, 2019 and voted to recommend approval, by a vote of 6:0, to the Board of Supervisors adoption of the proposed CPA language. Staff recommends that the Board follow the PC's recommendation and adopt the CPA Resolution (Attach. I).

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Mr. Tim Padalino, Senior Planner, presented. He said he would provide background information on the planning process as well as on the property itself, describe proposed amendments to the Master Plan, briefly address the separate review process for the proposed Birdwood Mansion and Grounds Project, and conclude with staff recommendations. He said the planning process originated in 2018 with UVA and the UVA Foundation's completion of a property-wide Birdwood Master Plan, with this plan used as the basis for the Birdwood Area B Study, the product of collaboration between UVA Foundation and County staff. He said the Planning and Coordination Council (PACC) endorsed the concepts in the Area B Study in September 2018. The County initiated this CPA process concurrently through a Planning Commission resolution of intent, and County staff drew upon elements of the PACC-endorsed Area B Study to craft the proposed Comprehensive Plan amendments to the Southern and Western Neighborhoods Master Plan. He said the process included work sessions with the Planning Commission and the Board as well as a public hearing. He said the Commission recommended approval of the CPA on February 12.

Mr. Padalino stated that Birdwood was a 540-acre property in the development area, owned by the UVA Foundation and within Area B, which makes it subject to the City/County/University joint planning agreement. He said the Future Land Use Plan designates the majority of Birdwood for institutional land uses and noted that there are parks and green spaces on the undeveloped portion. He said that under the proposed Comprehensive Plan Amendment, these designations would remain unchanged and the CPA would primarily involve amendments to the text in the "Future Land Use Plan Other Uses of Importance" subsection, which highlights the Birdwood property and contains detailed recommendations and guidelines about appropriate future land uses. He presented a slide with the text of the proposed CPA and explained that this would update and expand the description of the Birdwood property to include a summary of new land uses and permanent improvements, such as UVA varsity sports projects and the new permanent connector road, which provides vehicular interconnection with the Boar's Head Resort. He said the amendments would also identify the proposed reuse of the mansion and grounds as an appropriate future land use, provided that the rehab and reuse were done in context-sensitive ways that do not compromise the historic integrity or jeopardize the property's listing on the State or National Registry of Historic Places.

Mr. Padalino presented a small diagram and explained that this would be amended to depict the new permanent vehicular interconnection and allude to conceptual opportunities for potential future bike/pedestrian sections, shared-use paths, or other potential modes of connectivity to the south. He said the general intent was to update the vision for this other area of importance in the Southern and Western Master Plan and to reflect the main concepts contained in the Area B Study previously endorsed by PACC. He clarified that the CPA would establish the Birdwood Mansion Project as an appropriate future land use at a conceptual level only and a thorough, detailed review of the project would need to occur separately, which was already underway. He presented a diagram of the two concurrent but separate review processes, this long-range planning process and the CPA before the Board tonight, and a separate zoning map amendment process. He noted that project-specific details for the Birdwood Mansion and Grounds Project would be evaluated and reviewed in full detail during the ZMA review process, which would include historic preservation, transportation, and other critical details. He said it would also be subject to subsequent site plan reviews and likely a Water Protection Ordinance Plan requirement.

Mr. Padalino said staff recommends that the Board follow the Planning Commission's recommendation to adopt the CPA resolution to amend the Southern and Western Urban Neighborhood Master Plan. He concluded and invited questions.

Ms. Palmer asked Mr. Padalino to address the concern of a constituent that there could be residential uses on other parts of the property. Mr. Padalino pointed out that the proposed CPA language would maintain a placeholder for potential future longer range uses in development that are not contemplated at this time and not part of the Birdwood property-wide master plan or the Area B Study. He said that considering this was a 544-acre property within the development area, there was language saying that any future development or uses would be subject to a Comprehensive Plan Amendment process and the accompanying public engagement process.

Ms. Palmer remarked that Bellair residents have been concerned for years that eventually Canterbury Road would be the connection and there would be traffic, though there would have to be a Comprehensive Plan Amendment for this to happen. She said she was happy they have gotten to the point that they would no longer have to come back every time they need to make a little change on Birdwood.

Mr. Gallaway opened the public hearing and invited the applicant to speak.

Ms. Valerie Long, on behalf of UVA Foundation, addressed the Board. She introduced Mr. Fred Missel and Ms. Elise Kruse from the UVA Foundation. She expressed their team's appreciation to Tim Padalino, Andrew Gast-Bray, and other County staff for their guidance, expertise, and support along the way. She noted that they have worked with staff to develop language that works and matches the plan endorsed by PACC. She said they have a pending rezoning application that would come before the Board in a few months to use the mansion and grounds for hospitality uses.

As no one else came forward to address the matter, Mr. Gallaway closed the public hearing.

Ms. Palmer **moved** that the Board adopt the proposed resolution to approve CPA201800006 Birdwood. The motion was **seconded** by Ms. McKeel. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

ABSENT: Mr. Dill.

Ms. McKeel asked representatives of the UVA Foundation for a construction timeline as she would like to respond to constituent calls about the mud and construction, particularly around the lake and golf course. Mr. Fred Missel responded that the schedule shows the golf course would be completed by next spring, weather permitting. He added that they would begin sodding in a few months and most or all of the golf course would be sodded by the fall.

#### **RESOLUTION TO APPROVE CPA 2018-00006 BIRDWOOD MANSION AND GROUNDS**

**WHEREAS**, the Birdwood Property is located on Tax Map Parcel 75-63, and within Area B as identified in a 1986 planning agreement between the University of Virginia, the City of Charlottesville, and Albemarle County, which requires the University and the County to work together on the master plan for the Property; and

**WHEREAS**, the University of Virginia Foundation completed a master plan for the Birdwood property in 2018, and developed the Birdwood Area B Study in close coordination with the County's Community Development Department to inform future uses on the Property; and

**WHEREAS**, the Albemarle County Planning Commission adopted a Resolution of Intent on April 10, 2018 to initiate a Comprehensive Plan Amendment to the Southern and Western Urban Neighborhoods Master Plan pending the completion of the Birdwood Area B Study; and

**WHEREAS**, the Planning and Coordination Council endorsed the concepts in the Area B Study on September 20, 2018; and

**WHEREAS**, on February 12, 2019, the Albemarle County Planning Commission held a duly noticed public hearing on CPA 2018-00006, at which it recommended approval of CPA 2018-000006; and

**WHEREAS**, on March 20, 2019, the Board of Supervisors held a duly noticed public hearing on CPA 2018-00006.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, and for the purposes articulated in Virginia Code § 15.2-2223, the Albemarle County Board of Supervisors hereby approves CPA 2018-00006 and amends the "Existing Land Use" and the "Future Land Use – Other Areas of Importance" sections of the Southern and Western Urban Neighborhoods Master Plan, which is part of the Albemarle County Comprehensive Plan, as shown on Attachment F of the staff report, attached hereto and incorporated herein.

\*\*\*\*\*

**CPA-2018-00006 Birdwood – Staff Report Attachment F**  
**Southern and Western Urban Neighborhoods Master Plan**

**Existing Land Uses: Institutional** (page S+W 16)

*Existing:*

UVA represents the largest institutional use in the Western Neighborhood. In addition, there are several large office complexes related to UVA that include the Fontaine Research Park, the University Health Sciences Foundation, the Kluge Children’s Rehabilitation Center, and the University Development offices.

*Proposed:*

UVA and Birdwood represent the largest institutional uses in the Western Neighborhood. In addition, there are several large office complexes related to UVA that include the Fontaine Research Park, the University Health Sciences Foundation, the “Ivy Mountain” redevelopment of the former Kluge Children’s Rehabilitation Center, and the University Development offices.

**Future Land Use – Other Areas of Importance** (pages S+W 44-45)

*Existing:*

**Figure 27: Birdwood Golf Course Property**



1. The **Birdwood** property (Figure 27), currently owned by the UVA Foundation, is the University’s golf course. It is shown for Institutional uses. It is affiliated with the adjacent Boar’s Head Resort, which is also owned by the UVA Foundation. Encompassing over 500 acres, the property is in **Area B** and includes an 18-hole golf course as well as a historic mansion. Dependencies are present near the entrance to the property. The golf course is available to students, faculty, and the general public. The mansion provides a venue for small University related events.

In the future, this large property may serve a more intensive function than it does presently. Possible considerations include, but are not limited to, a mixed-use area near the entrance and residential uses for other parts of the property

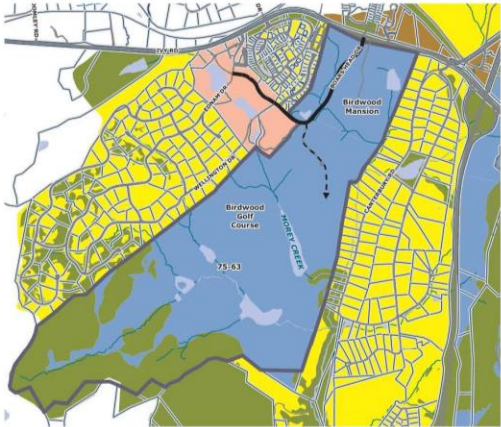
not designated as a part of the Parks and Green Systems. Before further development of the property occurs, an amendment to the Future Land Use Plan for the Southern and Western Neighborhoods will be needed.

The historic mansion and important dependencies should be retained in any future development. An interconnection to the Boar’s Head property should be provided. Pedestrian connections to nearby residential developments should also be considered.



*Proposed:*

**Figure 27: Birdwood Property**



1. The historic **Birdwood** property (Figure 27) encompasses over 540 acres in the Development Area. The property, which is owned by the UVA Foundation, is also located in Area B. Birdwood is designated for Institutional future land uses.

The 18-hole Birdwood Golf Course is used by the University's varsity golf programs, and is also available for use by students, faculty, guests at Boar's Head Resort, and the general public. In October 2018, a new facility for UVA Golf opened at Birdwood and an extensive renovation of the 18-hole Birdwood Golf Course was initiated for improved play and to incorporate a new par-3 short course. The Birdwood property is also

designated for use by the University's varsity tennis programs, with a UVA Tennis facility permitted in proximity to the adjoining Boar's Head Sports Club. The uses and improvements at Birdwood will be increasingly affiliated with the adjacent Boar's Head Resort, which is also owned by the UVA Foundation, and which also hosts UVA varsity sports in the Boar's Head Sports Club and McArthur Squash Center. A new interparcel connection was constructed in 2018 to better facilitate vehicular and pedestrian movement between these two affiliated properties.

The Birdwood property also includes the historic Birdwood Mansion, which is listed on the National Register of Historic Places and the Virginia Landmarks Register. This 14-acre historic site includes the Birdwood Mansion, several contributing dependencies, and the surrounding historic landscape. In the past, the mansion has provided a venue for small University related events. The historic mansion, the surrounding historic landscape, and important dependencies should be carefully retained in any future development.

The PACC-endorsed Birdwood Area B Study includes near-future plans for the Birdwood Mansion, dependencies, and surrounding grounds to be rehabilitated and repurposed for University-related events, other special events associated with the adjoining Boar's Head Resort, and other hospitality and short-term lodging uses. Such planned reuse of the Birdwood Mansion would bring a new era of utility and vitality to this historic site that is currently vacant, provided that it is done in a context-sensitive way that does not compromise the historic integrity of the buildings or landscape, and does not jeopardize its listing on the state or national register.

In the long-range future, portions of this large property could potentially serve a more intensive function than it does presently. Possible considerations include, but are not limited to, a mixed-use area near the entrance; additional University-related institutional, athletic, and/or hospitality uses; and/or residential uses for other parts of the property not designated as a part of the Parks and Green Systems. Before Birdwood could be further developed in ways that are not contemplated in this Master Plan or contained in the PACC-endorsed Birdwood Area B Study, an amendment to the Southern and Western Urban Neighborhoods Master Plan would be needed.

Future use and development of the property should include pedestrian and bicycle connections to nearby residential developments as well as to the Boar's Head Resort. A future connection providing vehicular, bicycle, and/or pedestrian access between Birdwood and the Centers envisioned at Morey Creek and Fontaine Research Park is also important; further study would be required to determine the most feasible alignment and the most appropriate mode(s) of travel. Additionally, future use and development of Birdwood should endeavor to accommodate the planned Three Notch'd Trail – a shared-use path envisioned as a commuter and recreational connection between Crozet and Charlottesville.

The Parks and Green Systems portion of the Birdwood property, which adjoins the Ragged Mountain Natural Area – a County-designated Important Site for biodiversity – should continue to be preserved as an undeveloped sanctuary for biodiversity and as a valuable resource for outdoor recreation in a pristine natural setting within the Development Area.

**Agenda Item No. 19. PUBLIC HEARING: 19-03(1) – Agricultural and Forestal Districts.**

Ordinance to amend Division 2, Districts, of Article II, Districts of Statewide Significance, of the Albemarle County Code, to review the Hardware AFD, and to make corrections to the Hardware AFD regulations to identify all those tax map parcels within the district, as specified below:

- a) **AFD 2017-02 Hardware AFD – District Review.** The proposed ordinance would amend Section 3-218, Hardware Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of March 20, 2024, to identify TMPs 86-16F1 and 86-16F2 as being in the district (these parcels were created by subdivision of another parcel in the district), to identify TMPs 88-3M, 88-3R, 88-3T, 88-3U, 88-3V, 88-6A, 88-20A, 88-20B, 88-20C, 88-20D, 88-20F, 88-23, 88-23E, 88-23F, 88-24, 88-24A, 88-24B, 88-26B, 88-29, 88-40, and 88-42 as being in the district (these parcels were inadvertently omitted from the district in Ordinance 17-03(1), adopted on December 13, 2017), and to remove TMPs 86-14, 86-16E, and 88-26B, as well as any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance.

The review of the district will be reduced from once every ten years to once every five years, so that the next review of the district after the current review will occur prior to March 20, 2024 (the "next review").

A condition to continuation of this district is that the Board of Supervisors may modify the district during its next review by removing parcels with no development rights that cannot be further divided to create one or more parcels less than 21 acres in size, but which qualify for open-space use valuation because of their being in the district.

*(Advertised in the Daily Progress on March 4 and March 11, 2019.)*

The Executive Summary forwarded to the Board states that localities are enabled to establish agricultural and forestal districts (AFD's) under the Agricultural and Forestal Districts Act (Virginia Code § 15.2-4300 et seq.). AFD's serve two primary purposes: (1) to conserve and protect agricultural and forestal lands; and (2) to develop and improve agricultural and forestal lands. Land within an AFD is prohibited from being developed to a more intensive use, other than a use resulting in more intensive agricultural or forestal production, without prior Board approval. In addition, the County is prohibited from exercising its zoning power in a way that would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the Agricultural and Forestal Districts Act unless those restrictions or regulations bear a direct relationship to public health and safety (Virginia Code § 15.2-4312).

**District Reviews** Virginia Code § 15.2-4311 requires the periodic review of AFD's to determine whether they should continue, be modified, or be terminated, unless the Board determines that review is unnecessary. During the review process, land within the District may be withdrawn at the owner's request by filing a written notice with the Board any time before the Board acts on the review. The Board has set a 10-year review period for all AFD's of statewide significance in the County and an eight-year review period for the AFD of local significance in the County. In addition, Virginia Code § 15.2-4311 requires that the Board conduct a public hearing on AFD reviews, and that they also be reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations. The Advisory Committee and the Planning Commission reviewed the following request and recommend renewal of the Hardware AFD for ten years. The October 24, 2017 staff report to the Planning Commission is attached (Attachment C).

**Hardware AFD** The Hardware AFD is generally located between North Garden in the south and Dick Woods Road in the north, along and to the west of US29, and is undergoing its periodic 10-year review. Two landowners submitted requests to withdraw a total of three parcels (TMPs 86-14, 86-16E, and 88-26B) consisting of a total of 309.22 acres from the District.

The Hardware AFD, which was created in 1987 and currently includes 42 parcels and 3,383 acres, primarily consists of forest and pasture land. There are currently ten parcels in the District under conservation easement, and 1,121 acres being taxed at conservation-easement rates. In addition, 1,946 acres are being taxed at use value rates, as follows: (1) 470 acres devoted to agricultural use; (2) 730 acres devoted to forestry use; and (3) 746 acres devoted to open-space use. There are 40 dwellings in the District. Conservation of this area will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, mountain resources, critical slopes, and wildlife habitat. With the withdrawal of TMPs 86-14, 86-16E and 88-26B, the District would include 39 parcels and 3,074 acres.

The Hardware AFD is the first AFD coming to the Board after the Board's adoption of the comprehensive amendments to Chapter 3 (Agricultural and Forestal Districts) of the County Code on November 7, 2018. One of the new factors to be considered during AFD review is:

"Whether any parcel has one or more development rights that would allow the creation of one or more parcels less than 21 acres in size; in considering whether to include any parcel in a district, the policy of the County is to not include any parcel determined to have no development rights and cannot be further divided to create one or more parcels less than 21 acres in size." *County Code § 3-201(F), made applicable to district reviews by County Code § 3-204(E)(3).*

The Board's direction on November 7 was to reduce the review interval from once every 10 years to once every five years. This is addressed in County Code § 3-218(C). The Board's further direction was to provide that, during its next review of the district, the Board would consider modifying it by removing parcels with no development rights as described in the quoted text above, but which qualify for open-space use valuation because of their being in an AFD. This condition is included in County Code § 3-218 as well. It does not bind the Board to act in any particular way when the Hardware AFD is reviewed in 2024. It does, however, provide notice to affected landowners and the public.

Notice of this Hardware AFD review was mailed to all Hardware District landowners as required by State law. The notice included that when the Board next reviews the Hardware District in 2024, it will consider modifying the district by removing parcels with no development rights, but which qualify for open-space use valuation because of their being in the district.

There is no budget impact.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A) after the public hearing.

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Mr. Kamptner noted that an ordinance, which would replace the one in the Board's packet, was being handed out. He explained that under state law, landowners in an agricultural/forestal district during review may withdraw their parcels, as a matter of right, up until the time of the public hearing, and the County has received one request after the ordinance was published.

Mr. Scott Clark reported that the district was established in 1987 and since then has been reviewed several times, most recently in 2017. He said they have received a few withdrawal requests as part of the review process, as the review period was the one time when one could withdraw by-right. He said that two of the requests were received before the previous hearing on the matter and there was a change to the withdrawal on Tax Map 88, which originally requested to withdraw the entire 159 acres but now has been reduced to a request to withdraw a 2.9-acre parcel and leave the remainder in the district. This week staff received a request to withdraw 73-39C7, which consists of approximately 19 acres, leaving the district with about 3,210 acres.

Mr. Clark stated that the Agricultural/Forestal Districts Advisory Committee voted 9-0 to recommend renewal of the district, subject to a review of parcels in the district without development rights. He said the Planning Commission voted to recommend renewal of the district and had originally requested that it be able to further review the removal of districts; however, rather than going back to the Commission, the Board directed staff to directly investigate processes for how the County might review and possibly remove parcels without development rights that are in the open space use evaluation category during district reviews. He said they found 11 parcels in the district enrolled in open space use valuation that do not have development rights and of the 11, one was created legally from a larger parcel that was already in the district and one was part of a pair of adjacent parcels that were added together; the other one has a right.

Mr. Clark said that after several work sessions about parcel removal were held, the Board directed staff to implement a plan to renew districts in this situation for a five-year period rather than for the usual 10 years. He said they also agreed to notify landowners in the case that those landowners are in open space use valuation, but have no development rights, that their parcels may be removed at the end of the five-year review period and they have the option to withdraw from the open space use valuation now to avoid rollback taxation and fees if the parcels were removed at the end of the five-year period. He said that staff recommends that the Board adopt the ordinance distributed tonight continue the Hardware District for five years. He noted that the amendment includes the requested withdrawals and staff would provide the requested notification to landowners that have parcels without development rights but that fall within the open space tax category, to let them know of their tax options and to prepare for possible removal in five years. He concluded and invited questions.

Ms. Palmer recalled that at a prior meeting Mr. Clark had explained that a distinction could be made between properties that came into this district without development rights and those that came in as open space versus the two properties he identified, one which was in the district and lawfully went through the process of family division and ended up in open space without development rights, and the other that came in as a double parcel. She asked if he recommends that the letter be sent to everyone in the same way, or if he would make the distinction between those. Mr. Clark responded that their understanding was that the same letter would be sent to all 11, with the expectation that they would probably hear from all of them and have to explain to them individually what their situations are. He said he does not know that he has heard Board consensus that all 11 landowners would be treated equally five years from now, although he feels they need to be informed equally.

Ms. Palmer asked for confirmation that the Board could send separate letters to those who entered the district with no development rights and came into open space and choose not to send letters to those who went through the process who had a larger property and made the division lawfully within the district. She stated that these landowners acted lawfully and did not do anything the County did not allow them to do and now they are going back in time and saying that they have to get out. She said she understands that the majority of the Board feels they made a mistake when they let them go into open space without any development rights.

Mr. Kamptner responded that there was not a legal reason why they could not send separate letters. He pointed out that the language in the motion, "subject to the condition" was part of the notice that was published and sent to landowners within the district who are on notice that in five years when the district comes up for review, the Board may decide to remove these parcels. He stated that it was up to the discretion of the Board as to what would be done at the next review, and by sending a letter to those two property owners, it gives them the opportunity to plan for this possibility. He pointed out that the language in the review section of the County Code refers back to the more generic language that it was the Board's policy to not include any parcels in the district that were less than 21 acres and that have no development rights, without making those kinds of distinctions.

Ms. Palmer remarked that this was going forward. Mr. Kamptner responded that the review section refers back to that section so the underlying policy was applied, not only when land was coming into the district, but from when the ordinance was last amended in November that any future review would also include this consideration.

Ms. Palmer pointed out that the notice listed three choices for landowners and they did not know if the Board would make the decision in five years to: start paying taxes now to avoid rollback in five years; to try to get the parcel into land use; or to put the land in conservation easement. Ms. Palmer noted the letter indicates that a property with no development rights was not particularly attractive for



easement holders. She remarked that there was a lot of ambiguity in the letter and it feels wrong to her; they are putting people in a state of limbo, and the Board does not know what it would do in five years.

Mr. Randolph recalled the conversation the Board had about moving from 10 years to 5 years, and they reached consensus on 5 years because they wanted a higher degree of accountability and assurance about the status of the land. He said he does not see ambiguity in terms of where the Board was going and what the new five-year policy was. He remarked that five years was plenty of time for landowners to prepare and to plan for family succession and good actors should not find this to be problematic.

Ms. Palmer remarked that the letter to property owners' states, "the Board would consider removing the parcels in open space" and does not say that it would, as Mr. Kamptner advised them that they cannot say what a Board would do in five years.

Mr. Randolph stated that the Board consensus was to move to five years.

Ms. Palmer stated that it could be 10 years if there are not ones that they are considering taking out. She asked Mr. Clark for confirmation that, if they review a district that has a property that does not have development rights and was in open space, those would go to five years and if it does have development rights, the Board would go to 10 years. She stated that this was where the ambiguity comes in because the people do not know if the Board would remove the property or not. Mr. Clark confirmed this.

Ms. Mallek remarked that they should assume the Board would, as the Board has made the decision to change the new admission standards to avoid the runaround to get land use based on checking the box for an ag/forestal district, which was never supposed to be the case to begin with. She expressed hope that they would take this as a certainty and use the five years to get there or to come out of land use.

Mr. Clark pointed out that the districts permits division of parcels 21 acres and greater and do not specify that by doing so, one was removing the landowner from the district.

Ms. Mallek added that this was because they did not have a stipulation about protecting the viability of the land use access. She said this started with revalidation when people were trying to make it easier and it ended up being a disaster. She asked if the two parcels would have different options at the end of the time for which they are notifying them. Mr. Kamptner remarked that all 11 landowners have the option to make the case five years from now as to why they should be allowed to remain in the district, which would be at the legislative discretion of the 2024 Board.

Ms. Palmer commented that going forward, they should not have people do this anymore, although not retroactively when they have played by the rules and gone through the system.

At this time, Mr. Gallaway opened the public hearing.

Mr. David Van Roijen, resident of Samuel Miller District, addressed the Board. He said that none of these districts would have been formed had the landowners known that they would lose their land use if they could opt in to the 21-acre lot. They formed the districts to conserve land for agricultural districts, farming, and forestry but wanted the right to be able to build a house, and the County required 21 acres for this. He said that to turn around and remove those with 21 acres and no development rights would guarantee that nobody would join these districts in the future.

Mr. van Roijen read his letter to the Board as follows:

"Dear Members of the Board of Supervisors,

I'm here tonight concerning the review of the hardware agricultural and forestal district. Some of you may know that I served on the committee for many years and I am acutely aware of why the districts were formed and some of the problems thereof. Last year I spoke to two of you about the districts and was alarmed that those individuals really did not understand the purpose of the districts but thought that they were real estate tax avoidance schemes. As you may remember, a couple of years ago I stood before the Board and encouraged each of you to meet with your ag/forest districts in your sectors and, to my knowledge, none of you have nor have any of your preceding Supervisors. This makes it hard to represent those individuals and landowners. Tonight, I believe you are here to approve the Hardware District for a period of five years and you are aware that the staff and the committee spent the last 10+ years trying to get the districts to a ten-year renewal time frame and now they are undoing a lot of work. Further, I'm concerned with the desire of the Board to throw out members of the agricultural districts because they have no development rights. The districts were not formed by the landowners because of development rights, rather a desire to preserve the land and rural character of the County. Members of the districts agreed not to create lots smaller than 21 acres in accordance with County guidelines. Over the years often a family member with a farm might want to build a house and, to abide by those rules, a 21-acre lot was created and the house was built and the farm continued as if the lot lines were not there. The County forced the creation of large lots on farms and now wants to penalize those individuals. This was wrong. I also realize that the Board and previous Boards admitted lots with no development rights and I was on that committee and did it and Ms. Mallek's mother did it and lots of people have done it and you all approved it. This may be wrong in your eyes now but I believe the desire to raise tax revenues has blinded you to what was fair and correct. You have every right to deny any new parcel into the districts,

but the purpose of those districts was to create a cohesive area in which agriculture and forestry were viable and that in time the owners would ultimately place a full conservation easement on their properties.”

Mr. van Roijen requested that the Board renew the district since they are so late in renewing it, not pass this amendment, give it the full 10 years for the benefit of staff, and then have a public hearing where everybody would fully understand what they are trying to do.

Mr. Richard Keeley, resident of Samuel Miller District, addressed the Board. He said that he owns 2 of the 11 lots and just became a member of the district two or three years ago and has been in agricultural zoning since 1999 when he first moved to the County. He said he put his property in a USDA pollinator program, during which one commits to grow native grasses and wildflowers for a period of three years. He said he spent a lot of time, money, and effort but did not cut hay, and therefore did not qualify for those three years. He said he contacted the County Assessor, learned that he needed to be in open space, confirmed it with a Supervisor, and chose to join the ag district to be in open space. He said he had no idea of any of these circumstances, such as the 21 acres, and that they presumed he was trying to beat the tax while he was trying to use the property in the proper manner and still does. He suggested that the Board find a way not to deny what a landowner could do but encourage them to utilize open space in an appropriate manner. He said he has seen quail on his property for the first time in many years, which he thought was great. The Board should not discourage him from doing what he is doing.

Mr. Gallaway closed the public hearing.

Ms. Mallek remarked that Mr. Keeley was speaking about how they got into this with the Agricultural/Forestral Committee, as they were trying to find other ways to get investments in stewardship for all of the various land uses. She said she agrees completely with the programs that the Soil and Conservation District brought forth that has 3 to 10 to 25-year time periods for those, with cost shares for any number of different pollinator programs. She said the Assessor has worked on this and these are all really good ideas going forward to distinguish those who are interested in stewardship, as opposed to people who just want to mow it and not do anything.

Ms. Palmer noted that she was not around when this decision was made on open space, but when she looks at the difference between growing hay that require a lot more fertilizer versus open space, and if there was a way to encourage open space use and a proper land use management plan or continuing education credits, and they are preserving the land and soils for agricultural use, it seems that was the main purpose. She reiterated that she does not want to retroactively change the rules on people, especially for those who came to the County and followed the rules, though she was perfectly okay with doing this going forward.

Mr. Kamptner stated that the letter correctly reflects the Board’s direction because they do not know what action the Board would take in 2024. The ordinance in place today may not be in place in 2024.

Ms. Palmer remarked that they would have to do this with every district, and Mr. Clark has expressed that he was not sure what the requirement would be of staff time. Mr. Clark said they would do the same process for each one. There are three or four districts awaiting review, which would come before the Committee, Planning Commission, and Board in the near future. He said that some of the districts may be small enough so they would not have this situation, while other districts are quite large and would take a lot of time to do rights determination on some of the parcels.

Mr. Randolph **moved** that the Board adopt the proposed Ordinance distributed to the Board, subject to the condition that the Board may modify the district during its next review by removing parcels with no development rights that cannot be further divided to create one or more parcels less than 21 acres in size but which qualify for open space use valuation because of their being in the district. The motion was **seconded** by Ms. Mallek.

Ms. Palmer added that she thinks the Board is doing something wrong by not differentiating the properties.

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

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

NAYS: Ms. Palmer.

ABSENT: Mr. Dill.

#### **ORDINANCE NO. 19-3(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, 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 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3-218 Hardware Agricultural and Forestal District

## CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS

### ARTICLE II. DISTRICTS OF STATEWIDE SIGNIFICANCE

#### DIVISION 2. DISTRICTS

##### **Sec. 3-218 Hardware Agricultural and Forestal District.**

The district known as the “Hardware Agricultural and Forestal District” was created and continues as follows:

- A. *Date created.* The district was created on November 4, 1987.
- B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:
  - 1. Tax map 72: parcel 51C.
  - 2. Tax map 73: parcels 38, 41A, 41B1, 41B2, 42, 42A, 43, 44.
  - 3. Tax map 74: parcels 6H, 6N, 26, 28, 28B.
  - 4. Tax map 75: parcels 4A, 5.
  - 5. Tax map 86: parcels 16, 16A, 16C, 16D, 16F, 16F1, 16F2, 16H, 27, 27A.
  - 6. Tax map 87: parcels 10, 13A1, 13A2, 13E (part consisting of 89.186 acres), 16A.
  - 7. Tax map 88: parcels 2A, 3M, 3R, 3T, 3U, 3V, 6A, 20A, 20B, 20C, 20D, 20F, 23, 23E, 23F, 24, 24A, 24B, 26B (part), 29, 40, 42.
  - 8. Tax map 99: parcels 10 (part), 29, 52, 52B.
- C. *Review.* The district is reviewed once every five years and will next be reviewed prior to March 20, 2024.

(Code 1988, § 2.1-4(h); § 3-214, Ord. No. 98-A(1), 8-5-98; Ord. 00-3(2), 7-12-00; Ord. 07-3(2), 9-12-07; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 10-3(3), 12-1-10; Ord. 12-3(1), 7-11-12; Ord. 13-3(1), 12-4-13; Ord. 14-13(2), 11-12-14; Ord. 15-3(1), 12-2-15; § 3-218, Ord. 18-3(1), 11-7-18)

Ms. Mallek challenged the Board to use the next year to find ways to incorporate these improvements, stewardship, stormwater, water quality, and other ways for the open space to earn its keep, in which case this issue would not be an issue anymore.

Ms. Palmer said they need to develop a list of things that people must do to make open space so that someone with a 21-acre lot who wants to stay in open space and in the ag/forestry district could remain. She said her impression was that they are trying to get rid of 21-acre lots that are in open space.

Ms. Mallek remarked that this was certainly not her point of view, as there are agriculture and horticulture ways to qualify for land use that would eliminate this issue.

Ms. Palmer asked Mr. Peter Lynch if there was a list of what people could do to stay in the open space category. Mr. Peter Lynch, County Assessor, addressed Ms. Palmer’s question. He said that to qualify as open space, a property must be under either an open space use agreement or in an agricultural/forestal district. He noted that there are other ways to qualify in the program, such as active agricultural, horticultural, or forestry uses.

Ms. Palmer once again asked if there was a list. Mr. Lynch responded that they do not currently have other ways to qualify in open space.

Mr. Clark said that he believes they would have to get a state-level change to allow different methods of qualification. There are a lot of opportunities to find other good qualifying methods for people to use that incentive for conservation work on their land.

Mr. Lynch added that for pollinator habitat, there was a way to qualify with bees but not with the habitat itself and there are ways to qualify under agriculture but not open space.

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Agenda Item No. 20. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Randolph asked Ms. Mallek to share her perspective on several issues, i.e., an email Board members received regarding Chris Greene Lake and pollution from Jacobs Run, and Little Discovery School. He asked what she thinks was dynamically happening, as there was an allegation made about

her farm being the primary source of pollution that was contributing to algae blooms in Chris Greene Lake. He noted that there are many other properties upstream and downstream that may have also contributed. He said he would like to have a discussion about whether they should have an update on the status of Chris Greene Lake as he believes that there was to be follow up studies conducted by the Department of Parks and Recreation on the source of pollution. Ms. Mallek responded that upstream landowners, including herself, received a letter saying that good stewardship could prevent things like this. She said she has asked the Department of Environmental Quality and County staff to test her property. She noted that she paid for water testing of her lake at the upstream entrance before the May 29 flood, which eradicated any of that evidence as being reasonable. She said that they have four streams come into her lake and they drain about 1,500 acres. It was a very large watershed. The soil in the western part of the County was subject to erosion, and poor management such as overgrazing of grass and mowing the grass too short on lots with homes on steep slopes means the water then goes down into the streams. She said that properties near streams would benefit from a detailed study. She said the DEQ was doing a project on the North Fork of the Rivanna River, mostly focused on tributaries in southern Greene County but also looking at Jacob's Run. She said she asked DEQ to conduct tests on her property but they have not chosen to take that scientific approach.

Mr. Randolph asked Ms. Mallek who the letter was from. Ms. Mallek responded that it was from Facilities and Environmental Services staff. She said she hopes they are gathering statistics and feedback from this correspondence. She said that it was complicated and it took 25 years to do fence-outs because of the expense, and so all her streams were buffered, though soil travels a long way, and temperature and rainfall are impactful. She remarked that she does not remember toxic blooms occurring in the previous 30 years and hopes that a scientist would be able to determine where it was coming from.

Ms. Palmer recalled that prior to the Crozet interceptor they had horrible algae blooms in the South Fork.

Ms. McKeel added that she saved a Washington Post article about a plague of algae blooms in the Florida gulf coast. She read the following quote from the article: "We do not have an algae problem in Florida. We have a nutrient problem in the state. The only way to stop the algae blooms was to stop the nutrients from polluting the water."

Mr. Randolph added that the nutrients are phosphorus and nitrogen.

Ms. Mallek remarked that it took five years for the state to implement the restriction so phosphorous was taken out of the bags of fertilizer, and she hopes this would have an impact in the same way that taking it out of detergents in the 1980s did to help water quality.

Ms. Palmer added that it was not taken out of machine dishwashing detergent.

Ms. Mallek recalled that the NACo Environmental Committee has handouts about algae all over the country.

Mr. Randolph noted that Supervisors received an email about Little Discovery School and asked Ms. Mallek to update the Board.

Ms. Mallek responded that she heard from staff and the Church Pastor that they have agreed to plans for planting shrubbery and a fence; she offered to find out more about shrubbery planting. She said the school was in operation and seems to be well-received.

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Ms. Mallek asked if they should put discussion of the wireless policy on a future agenda. Mr. Gallaway remarked that it would probably be best to bring this back for discussion.

Ms. McKeel said she would like to have it as an agenda item but not tonight when they are all tired.

Ms. Palmer asked if they are putting this off because they expect the State to pass laws that would take away anything the County do. Mr. Kamptner responded that he does not know; everyone can see the regulatory trends.

Mr. Doug Walker, Deputy County Executive, said staff would be glad to bring this back for discussion.

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Mr. Gallaway suggested the Board obtain the minutes from the Earlysville meeting that addressed Chris Greene Lake.

Ms. McKeel said she would like to see the minutes.

Ms. Mallek commented that the minutes are very general.

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Agenda Item No. 21. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said that he attended a community celebration on the opening of the Yancey Community Center on March 9, which was hosted by the County and the Yancey Advisory Panel. He said the event included an outdoor ceremony with comments by alumni and former staff and ceremonial spreading of mulch around a new sign at the entrance of the school. He said they estimate that 200 people attended the event, including several Board members, representatives from 20 nonprofits, and Department of Social Services and Fire/Rescue personnel. He recognized the contributions of Ms. Siri Russell, Mr. Michael Freitas, and staff from several County departments.

Ms. Palmer recognized that Dr. Denise Bonds of the Department of Health was there. She described the event as absolutely amazing.

Mr. Richardson recognized the Department of Health as a critical partner.

Agenda Item No. 22. Adjourn to March 28, 2019, 3:00 p.m., Room 241.

At 7:50 p.m., the Board adjourned its meeting to April 3, 2019 1:00 p.m., Lane Auditorium.

Chairman

Approved by Board
Date 09/18/2019
Initials CKB