

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 15, 2020 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson, Deputy County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette K. Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order.

The Chair, Mr. Gallaway, called the meeting to order at 1:00 p.m. He said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(8), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Mr. Gallaway said the persons responsible for receiving public comment are the Board of Supervisors of Albemarle County.

Mr. Gallaway said the opportunities for the public to access and participate in the electronic meeting are posted on the Albemarle County website, on the Board of Supervisors homepage, and on the Albemarle County calendar.

Mr. Gallaway announced the supervisors and officers present at the meeting and instructed all other staff to introduce themselves later in the meeting when they spoke

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

Agenda Item No. 4. Adoption of Final Agenda.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

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

Ms. Palmer said there has been a series of very hot days now, and every year, there are problems with people leaving their dogs outside when it is hot and leaving them in cars. She said she also wanted to mention that there is a new State law that went into effect on July 1 stating that dogs in Virginia must be given adequate shelter during extreme weather, during temperatures of 85 degrees or higher, and during temperatures of 30 degrees and below. She said they must have shelter during hurricanes, tornadoes, and severe weather warnings.

Ms. Palmer said she also wanted to say that for those Board members who were not on the Board in 2018, the County adopted similar rules that were actually more stringent than the State, and that they have the legal department for the incredible job they did in working that out. She said one thing the Animal Control Officers told the Board at that time is that the State law is easier to use in prosecution in dealing with these, so it was nice to know that the State has caught up with the County's rules and regulations. She thanked the County Attorney again for the incredible work he did in 2018.

Mr. Kamptner said this was also because of others in his office.

Mr. Gallaway paused the meeting for a streaming issue.

Ms. Emily Kilroy noted that there was an issue with the Granicus recording, and not the Zoom recording. She said IT was working on the issue.

At 1:13 p.m., Mr. Gallaway apologized and said there was a portion of the meeting that was not working properly, and that it seemed that this was fixed. He said the Zoom portion of the meeting, however, and the recording were working properly. He said they have been through the Call to Order, Pledge of Allegiance, Moment of Silence, and adoption of the agenda. He said they made it through Ms. Palmer's announcements and would continue there.

Ms. McKeel said the Supervisors were being invited to a virtual visit at The BridgeLine, which is the facility the Board supports that is for individuals with traumatic brain injuries. She said she participated in the virtual visit recently and wanted to say to the Board and to the public that it was a wonderful opportunity that she enjoyed very much. She said she even had an opportunity to chat with several of

their residents.

Ms. McKeel said she had two takeaways from the visit, which is heard often in the community: transit, and affordable housing. She said one young man explained that it took him five years to find an apartment that he could afford that was within an area that served him with transit. She highly recommended the Supervisors join them for a virtual visit.

Ms. Mallek said the following day would be the second of the White Hall District COVID-19 testing, from 8:00-10:00 a.m. at the Crozet Firehouse. She said again, all the appointments were taken up in the first 90 minutes when they were offered yesterday. She said there will be another, third testing on July 30 at the Earlysville Firehouse, and that appointments will be taken on Monday of that week, beginning at 8:00.

Ms. Mallek said yesterday, she participated by phone with the EPA water group for the Small Government Advisory Committee. She said they heard an update from EPA about what has already been done and put up for final approval, and changes to the certifications for discharges into the waterways under the Clean Water Act from the 1970s. She said various more experienced people in state government asked what was in it for them, as they were being asked to approve something when they have not had a chance to discuss what the impacts will be for things which the Commonwealth are responsible for doing.

Ms. Mallek said this is typical of what she has seen over the last two years, and at the NACo meetings as well. She said the executive comes in, chops things with an axe, and expects everyone to live with it. She said it was very difficult, and there was a lot of pushback from the 15 members around the committee. She said hopefully, there will be a better result in the end, but it was very frustrating.

Ms. Mallek said she was glad to hear that the discussion for the updated maintenance code work is coming in September, though she was disappointed it was not August. She said they have more and more homes in all the districts that are similar to the one she learned about on Monday, which has been abandoned for 8 years and has ivy growing all through the insides. She said they need to look forward to not leaving their citizens in the lurch to fight for themselves and have a stronger outcome when they get together in September.

Ms. Mallek echoed what Ms. Palmer said about the heat and local groups are being encouraged to check in on their elderly neighbors. She said provided there will be cooling centers, people can reach out to friends to be able to get some of the elders in. She said it is supposed to be 100 degrees at the end of the week and awful.

Ms. Price said one of the negative impacts that everyone is facing with social distancing and remote working has been the constraints upon fully functioning internet access. She said last week, there was a good meeting with Mr. Michael Culp and the ABBA board, as well as the County and CenturyLink, who came together and had a briefing on an incredible increase and expansion of fiber optics that is going into large areas in South Albemarle County. She said it would take some time, until March or May of next year, until that is finished, but that it will see a substantial increase in availability.

Ms. Price said she has also received a number of inquiries from constituents who are working from home and find that the bandwidth is insufficient for them to be able to do their work from home. She said students will soon be facing the possibility of virtual education, which will increase the demand. She said she wanted to encourage constituents to let the Board know where the problems are so that they can focus their attention to try to get more coverage to more people.

Ms. LaPisto-Kirtley echoed Ms. Price's comments, as she has received a number of concerns from constituents regarding internet access. She said now that the schools will be doing online learning, the County needs to up their game and do whatever they can to help the internet providers and School Division ensure that children have access to the internet so the learning can continue. She said this also applies to those working from home and who have businesses.

Agenda Item No. 6. Proclamations and Recognitions.
Item No 6. a. Resolution of Appreciation for William M. Letteri.

Mr. Gallaway read and **moved** to adopt the resolution. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

Mr. Gallaway said he would give the Supervisors and others to make remarks.

Ms. Palmer said she wanted to thank Mr. Letteri very much, and that she knew there were many people who would like to say many good things about him. She thanked him for all his long years of service.

Ms. McKeel said whether it was working with Mr. Letteri many years ago, when the Letteri Brothers were installing a bay window at her house or working with him as a Supervisor and School Board representative, it has been a pleasure. She said the Board will miss him, and she hoped he would

keep in touch. She said she also hoped he would be able to travel someday.

Ms. Mallek noted how she and Mr. Letteri have been sharing produce, successes, and failures in their gardens for the past 10 years. She said she remembered clearly and fondly how they never would have made it through the recession in 2009 without all the leadership from Mr. Letteri and his providing all the complex background lectures about headroom and keeping out of trouble. She said those were lessons she has never forgotten. She said moving to Finance, which touches every single person in the in the County, involved big responsibilities for which she is grateful.

Ms. Price said, though her time working with Mr. Letteri on the Board has been relatively brief, when she was making a decision a few years ago as to where she wanted to settle down, it was in large measure because of what Mr. Letteri has done in the County that made this the attractive place that it is, which contributed to her decision to move there. She said as a resident, even more than as a Supervisor, she wanted to thank Mr. Letteri for making this the place where she wanted to be, and where she wanted her family to be. She wished Mr. Letteri good luck.

Ms. LaPisto-Kirtley said she did not get a chance to work with Mr. Letteri, but that she was surprised the other Supervisors and staff that know him well did not offer a name change. She said she thinks they should call him "Mr. Triple-A." She thanked him for everything he has done and congratulated him on his retirement.

Mr. Gallaway said his first experience with Mr. Letteri was as a School Board member, and that he always appreciated his even-keeled approach to discussing things. He said as a member of that board, and then coming off the board before the bond referendum passed, for which he was a very public advocate for the passing of that bond, he recalled and appreciated both as a School Board member, and as a citizen, Mr. Letteri's guidance through the whole process. He said Mr. Letteri was a key player in making sure everyone was informed about what it meant financially for the County, and made sure everyone was educated on it, for which he was grateful.

Mr. Gallaway said Mr. Letteri is someone who has a tremendous portfolio of skills and knowledge from which the County has benefitted immensely. He said he was thrilled the resolution noted "genuine compassion for and kindness to others," which was something he thinks was observed from anyone who has watched a meeting in which Mr. Letteri has participated.

Mr. Gallaway said Mr. Letteri's retirement was well-earned and that he hoped he would enjoy it. He said his appreciation for his service to the County and for everyone who lives there is sincere.

Mr. Gallaway handed the remarks over to Mr. Richardson.

Mr. Jeff Richardson, County Executive, said yesterday, staff held a virtual celebration for Mr. Letteri and his family, which was quite special. He said there were about 40 people who participated on the call, and that there were many well-wishes from the organization. He said he would heed the rest of his time to Mr. Walker, who has worked with Mr. Letteri for about 7-8 years, as well as Mr. Kamptner, who did not have an opportunity to participate yesterday.

Mr. Richardson said he knows Mr. Letteri knows how much he personally appreciates his willingness to work and do whatever was necessary to move the organization forward. He said Mr. Letteri was their "utility infielder" in that wherever he was put, he fit in and made it work. He said he was quiet, reserved, polite, and very caring until his last day.

Mr. Doug Walker, Deputy County Executive, said they had an opportunity yesterday to share some stories and anecdotes, and the one he shared was quite personal regarding the role Mr. Letteri played in enabling him to come to the County. He said besides Mr. Tom Foley, Mr. Letteri was the first person he interacted with as part of the interview process.

Mr. Walker said he would not share that same story but wanted to emphasize the important role Mr. Letteri played as his colleague and counterpart. He said they were both Assistant County Executives at the time. He said Mr. Letteri had been there and had an established portfolio, working on the more internal-facing functions of the County. He said he himself was coming in from outside, replacing another colleague that Mr. Letteri was quite close to. He said it is always challenging and delicate bringing in a new personality to take over an existing role, and particularly one that works so closely with the other Assistant County Executive and the County Executive, so he appreciated that.

Mr. Walker said the story he did want to tell, which emphasizes what has already been pointed out by others, was the opportunity he had to join Mr. Letteri, the Finance Director, and financial advisors to travel to New York to defend their Triple-AAA bond rating. He said this was now several years ago, ahead of a borrowing at the time. He said this involved making their case for why they should continue to be valued by the rating agencies for the AAA rating they provided. He said it is rare distinction, and these ratings are not handed out without reason. He said particularly coming out of the recession, the qualifications for AAA rating were that much more significant, and to get the AAA rating in the first place and then to retain it from multiple agencies from that point on was no small feat.

Mr. Walker said he wanted to share the commentary from the analysts, noting that some of the analysts have known the County for years because they have their own portfolio, and so there is a consistency over time. He said they also leave good notes, and so new analysts coming in are able to learn from history about what has been shared. He said the regard they immediately expressed to Mr.

Letteri at the time, and to the County as a whole, for the consistency with which the County had maintained the stability of their financial position made the job very easy.

Mr. Walker said he has been on similar trips with other localities, and he never experienced what he experienced in going there with Mr. Letteri and that team. He said this is a testament to him and to others. He said Mr. Letteri would be the first to say it was not just him, as Mr. Letteri is a humble person. He said this is the time, however, to acknowledge the significant role Mr. Letteri played in that. He said this doesn't happen by accident but takes leadership, perseverance, and persistence. He said one just doesn't get that kind of response from those analysts in situations like this. He said to say it was easy is true in the moment of that exchange, but it is only because of all the work that Mr. Letteri, his team, and others have done over the years to put the County in that position.

Mr. Walker said he wanted Mr. Letteri to know the County would do everything they could to hold onto their rating, going forward.

Mr. Greg Kamptner, County Attorney, congratulated Mr. Letteri, noting it has always been pleasurable working with him. He said his wife also sends her congratulations and looks forward when they can get together again and talk.

Mr. Letteri thanked everyone for the recognition, expressing that it meant so much for him. He said it has truly been an honor and privilege to serve the Board and the citizens of Albemarle. He said the past decade has been an exciting time, and that it was especially exciting to be among the leadership team that makes it all happen. He said the County has seen so many transitions and important improvements, and that he was proud to be a part of helping to make both the organization and community a better place to work and live.

Mr. Letteri thanked the Board in particular for its confidence and the opportunities given to him to serve both the organization and the citizens. He said he was proud of his accomplishments and, as Mr. Walker said, he didn't do it alone. He said Mr. Walker often says it is a team sport. He thanked the Board for their guidance and thanked his staff and team for helping to get the County where they are.

Mr. Letteri said for him, it has been an exciting and very rewarding career. He said being in public service is really special.

Mr. Letteri said he also wanted to thank all his colleagues and friends, both at the County and in the community, for their unwavering support and friendship over the years, which has meant so much to him. He said he hoped he will continue to see everyone in the future, as time goes on. He said he intends to stay an Albemarle County resident, as he and his wife love living there, and he was sure they would be there for some time. He said he would miss everyone and hoped to see them soon.

Mr. Gallaway said he was certain that words could not express the appreciation this Board has for Mr. Letteri's many years of service. He said they wish him well as he enjoys writing the next chapter. He said as a constituent, there are ways to participate, if Mr. Letteri decides to do so.

Resolution of Appreciation for William M. Letteri

WHEREAS, William M. "Bill" Letteri has faithfully served the County of Albemarle for over 13 years beginning in 2007 as the Director of the Office of Facilities Development, then as Assistant County Executive beginning in 2011, as Deputy County Executive beginning 2014, before his final appointment as the County's first Chief Financial Officer in 2018; and

WHEREAS, Bill shared generously with the County his significant combination of knowledge, skill, talent and experience in providing overall leadership to several operating departments, including Finance, Information Technology, Facilities and Environmental Services, Office of Management and Budget, Human Resources, Parks and Recreation and Social Services and is credited with many meaningful achievements during his Albemarle County career, including capital projects such as Meadowcreek Parkway, the Northside Library, Seminole Trail Volunteer Fire Station and County courts facilities; productive coordination with Albemarle County Public Schools, Constitutional Officers and other partner agencies; implementation of an organizational risk management program; initiation of the Broadband Task Force; completion of Access Albemarle enterprise financial information system; oversight of the County's healthcare program and reserve fund among many other successes; and

WHEREAS, Bill will always be regarded as an unwavering advocate for the financial stewardship role of county government, helping the County secure and maintain a Triple A bond rating from each of the three recognized rating agencies – a leading indicator of financial stability and the highest distinction among counties throughout the country; and

WHEREAS, Bill has been a valued public servant and a trusted colleague who appreciated the best attributes of everyone around him, utilizing those professional relationships as key ingredients for effective problem-solving

and effecting positive change for the organization and the community; and

WHEREAS, perhaps more than anything else, Bill will be forever known as a really good person whose genuine compassion for and kindness to others was demonstrated consistently in all that he said and did.

NOW THEREFORE BE IT RESOLVED, by the Albemarle County Board of Supervisors that Bill Letteri is hereby honored and commended for his many years of exceptional service to the County of Albemarle, Albemarle County residents, the broader community in which we live, and the entire Commonwealth of Virginia, with knowledge that Albemarle County is strengthened and distinguished by Bill's dedication, commitment, professionalism, and compassion in meeting community needs.

BE IT FURTHER RESOLVED, that a copy of this Resolution be spread upon the minutes of this meeting of the Albemarle County Board of Supervisors as a lasting, visible testament to the esteem in which Bill is held by this Board and previous Boards for his lasting legacy of community service and the tangible results from his work to make Albemarle County better for future generations.

Signed this 15 day of July, 2020

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Mr. Peter Krebs, Piedmont Environmental Council, said he was speaking that day about the Presidio project, which is on the consent agenda.

Mr. Krebs said he was not concerned about the voting matter but rather, wanted to highlight an opportunity avoid repeating an earlier mistake in a different location.

Mr. Krebs said the project site sits atop an important future bicycle and pedestrian connection that is prescribed in the brand new Pantops Master Plan. He said it would link Sentara Martha Jefferson Hospital and the Pantops community to the site of the future pedestrian bridge over the Rivanna, the new Woolen Mills development, the City of Charlottesville, and the wider community.

Mr. Krebs said the site plan does include a trail to the river, but it is at the rear of the property, without dedicated parking or specific public access. He said the only way for nonresidents to get there would be a private road that does not have a bike lane.

Mr. Krebs said as a substitute, the developer worked with the County to slice off a difficult, but apparently feasible, parcel on the site's north side. He said the idea is for the County to build something there, eventually, but that it would be challenging to do so after the fact, and the County's experience bears that out.

Mr. Krebs said this is much like what happened at 5th Street Station. He said just last month, the Board approved the second multimillion dollar grant application for the 5th Street Trails project, which should have been built as part of the shopping center, or at least put in while the ground was broken for that. He said not doing so has made retrofitting that trail extraordinarily difficult, cost millions of dollars, and is forcing everyone to wait a decade or more for a trail that should already be in place.

Mr. Krebs asked the Board to instead find a way to bring this critical connector in while shovels are in the ground for the housing development. He said he has recently seen drawings that show that it can be done, and that it is exciting. He said it will make it possible for WillowTree employees to eventually live in Pantops, for Martha Jefferson caregivers to reduce stress by walking along the river, or for Charlottesville residents to walk to work at State Farm.

Mr. Krebs said this will build on the exciting life that is happening nearby and throughout the region and will be a big win for the community's health while being in prosperity. He said it will also be good for the developer.

Mr. Krebs asked for everyone to work together to get it done.

Mr. Gallaway closed Matters from the Public.

Agenda Item No. 8. Consent Agenda.

Ms. Price **moved** to adopt the Consent Agenda as amended. Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Item No. 8.1. Approval of Minutes: February 19, 2020.

Ms. Palmer had read the minutes of February 19, 2020 (County Executive’s Budget Presentation.

By the above recorded vote, the minutes of February 19, 2020 were approved as read.

Item No. 8.2. FY 21 Appropriations.

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

The total change to the FY 21 budget due to the appropriations itemized in Attachment A is \$500,000.00. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget. An additional appropriation requested for approval at the July 15, 2020 Board of Supervisors meeting is included as part of a separate action item on the Board's regular agenda related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

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

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Appropriation #2021006 \$0.00

Source:	Reserve for Contingencies*	\$	20,174.00
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*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$20,174.00 from the Reserve for Contingencies to the Department of Social Services to establish a direct connection between the County computer systems and the State Social Services systems for seamless and efficient connectivity to support all department staff as they work remotely during COVID-19, early voting at the County Office Building on 5th Street, and future telework.

After approval of the appropriations in this attachment, the FY 21 General Fund Reserve for Contingencies balance will be \$674,092.00. Of that amount, \$144,597.00 is for unanticipated expenses that may require ongoing funding and \$529,495.00 is for expenses that may require one-time funding.

Appropriation #2021007 \$0.00

Source:	Reserve for Contingencies*	\$	120,000.00
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*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$120,000.00 from the Reserve for Contingencies to the Community Development Department for the Rio Road Corridor Study. This consultant led study will evaluate operations, safety, accessibility, and mobility on the Rio Road Corridor from Pen Park Lane to approximately Route 29. The delivered product from this study will be an existing conditions analysis of the Corridor focused on the identification of transportation issues and needed improvements. Recommended improvements will be prioritized, and conceptual designs and cost estimates provided for those needs with the highest priority. There will be a robust public involvement process included in this planning study. The focus will be on evaluating the future needs of the entire corridor to ensure that a holistic and long-term view is taken to address any single issue identified through the study. Any necessary future appropriations for construction funding to support the recommendations of this study can be re-examined following its completion through the County's budget and Capital Improvements Plan processes.

After approval of the appropriations in this attachment, the FY 21 General Fund Reserve for Contingencies balance will be \$674,092.00. Of that amount, \$144,597.00 is for unanticipated expenses that may require ongoing funding and \$529,495.00 is for expenses that may require one-time funding.

Appropriation #2021009 \$500,000.00

Source:	Economic Development Fund fund balance	\$	500,000.00
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This request is to re-appropriate \$500,000.00 in Economic Development Fund fund balance to the Economic Development Authority (EDA). This funding is from a Commonwealth Development Opportunity

Fund grant received in FY 19 pursuant to an agreement between the County, EDA, WillowTree Inc., and Virginia Economic Development Partnership Authority.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment B) to approve the appropriations for local government projects and programs as described in Attachment A:

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2021006, #2021007, and #2021009 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

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APP#	Account String	Description	Amount
2021006	4-1000-53010-453010-332130-1005	SA2021006 DSS VPN Project -Technology Licenses/Support	\$20,174.00
2021006	4-1000-99900-499000-999990-9999	SA2021006 DSS VPN Project - Reserve for Contingencies use	-\$20,174.00
2021008	3-1100-51000-351000-510100-9999	SA2021008: CARES CRF Community and Human Services and Business Grants	\$2,500,000.00
2021008	4-1100-53010-453010-700380-1005	SA2021008: CARES CRF Community and Human Services	\$1,250,000.00
2021008	4-1100-81050-481050-700380-1008	SA2021008: CARES CRF Business Grants	\$1,250,000.00
2021009	3-1820-51000-351000-510100-1008	SA2021009: Re-app COF Grant, WillowTree/EDA Performance Agreement	\$500,000.00
2021009	4-1820-93010-493010-930222-1008	SA2021009: Re-app COF Grant, WillowTree/EDA Performance Agreement	\$500,000.00
2021009	4-6850-91095-491095-950032-1008	SA2021009: Re-app COF Grant, WillowTree/EDA Performance Agreement	\$500,000.00
2021009	3-6850-51000-351000-512000-9999	SA2021009: Re-app COF Grant, WillowTree/EDA Performance Agreement	\$500,000.00

Item No. 8.3. SDP2020-23 Presidio Apartments at Martha Jefferson Hospital – Special Exception – Building Stepback Waiver.

The Executive Summary forwarded to the Board states that Collins Engineering (the Applicant) has submitted a final site plan for the Presidio Apartments at Martha Jefferson Hospital apartment complex, which is currently under review with the County (SDP202000023). The project is a by-right development consisting of five (5) three-story and one (1) four-story multifamily residential structures proposing a total of 250 dwelling units at a gross density of 12.24 du/acre. The subject property is a 20.415-acre parcel zoned PD-MC Planned Development - Mixed Commercial, and is owned by Presidio Pantops LLC. The property is subject to the Application Plan and proffers of ZMA200100015 – Martha Jefferson Hospital at Peter Jefferson Place.

As explained in the application narrative (Attachment A), the Applicant requests a Special Exception (SE) to:

- 1. Waive (eliminate) the 15-foot front stepback requirement of County Code §18-4.20 for the 4-story structure located in the center of the site (identified as “Building #3 on the exhibit in Attachment B). The building is proposed to have an overall height of 41’. The Zoning Ordinance requires a 15-foot stepback for each story that begins above 40 feet in height, or for each story above the third story, whichever is less. The stepback requirement would apply to the 4th story of building #3 along the northeast facade that faces Peter Jefferson Parkway (Attachment C, sheet 3).

The Board of Supervisors may waive this requirement in accordance with County Code §§ 18-25A.6, 18-21.4, 18-4.20, 18-8.2 (b), 18-8.5.5.2(d), and 18-33.49. Staff analysis of this request is provided in Attachment D. Based on the findings therein, staff recommends approval of this special exception request.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the special exception request to waive the 15’ front stepback requirement on the northeast façade of building #3.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment E) to approve the special exception request to waive the 15’ front stepback requirement on the northeast façade of building #3:

RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR

SDP20200023 PRESIDIO APARTMENTS AT MARTHA JEFFERSON HOSPITAL

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-25A.6, 18-21.4, 18-4.20, 18-8.2(b), 18-8.5.5.2(d), and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception for SDP 20200023 Presidio Apartments at Martha Jefferson Hospital to waive the 15' front setback requirement on the northeast facade of building #3 as identified on the applicant's building elevation exhibits.

Item No. 8.4. Facilities and Environmental Services (FES) Report (CY2020 2nd Quarter), **was received for information.**

Item No. 8.5. Albemarle Broadband Authority Quarterly Report (CY2020 2nd Quarter), **was received for information.**

Agenda Item No. 9. **Action Item:** Albemarle Agency Budget Review Team (ABRT) FY 22 Application Process.

The Executive Summary forwarded to the Board states that the Agency Budget Review Team (ABRT) was created in 1991 as a joint City/County process utilized to review funding requests received by the City and County from community non-profit agencies. Over the years, the City and County refined the ABRT process to include the use of an objective rating tool and outcome measures, updated criteria, and alignment with funding priorities and human service-related goals.

The City and County began to implement separate approaches to the human services non-profit Human Services application review process beginning in FY 20.

The County's FY 20 and 21 ABRT process continued to include volunteer citizens and County staff members on teams that reviewed and scored funding requests from human services non-profit agencies based on the County's Human Services goals. The County's ABRT reached consensus ratings for each of the program applications they reviewed. The County's ABRT process has been facilitated by the Office of Management and Budget (OMB) and the team process has been supported by a temporary employee. The County's FY 21 Budget includes \$1.67 Million in funding for ABRT community non-profit agencies.

While the County implemented a separate ABRT application review process for FY 20 and FY 21, the County continued to utilize the City's electronic application portal (Zoom Grants) to accept human services applications for County funding and utilized the corresponding joint City/County scoring instrument to rate applications.

After the adoption of the FY 21 Budget, a team of County staff from the Department of Social Services, the Office of Equity and Inclusion, the Community Development Department, and Office of Management and Budget met to review the ABRT process and to make recommendations for improvements for the upcoming year. The Team reviewed the FY 21 ABRT survey results, the ABRT-related Human Services goals, the application questionnaire, the City's Zoom Grants application submittal portal, and the corresponding scoring instrument.

Based on the review, the team has identified a number of desired improvements for the FY 22 human services non-profit agency application process that is scheduled to begin in late summer. These improvements include: 1) Recommended updates to the County's Human Services goals (Attachment A) to include a focus on equity and inclusion and to support the community's COVID-19 goals; and 2) A Recommended subscription to a County grant application software system that can be utilized for the County's Human Services application process (ABRT) as well as the County's Arts and Cultural contributions and Housing Fund grant application processes.

If these recommendations are approved, the team will amend the grant application questionnaire and scoring criteria matrix to improve alignment with the County's goals and improve efficiency prior to the FY 22 application timeline.

On July 15, staff will bring forth recommended improvements for the upcoming FY 22 ABRT process for the Board's review and approval. If approved, staff will incorporate these changes into the FY 22 application process and will bring forward an appropriation request to subscribe to an electronic application software system.

The cost for the grants application software system subscription which be utilized beginning with the FY 22 application process will be less than \$5,000 per year. The City's Zoom Grant application portal will continue to be utilized by City and the County for the remaining jointly funded City/County agency applications.

Staff recommends that the Board support their recommended changes to the ABRT-related Human Services Goals, the purchase of a County application system.

Ms. Lori Allshouse, Director of the Office of Management and Budget, said she would talk about a process that is done annually to provide funding for agencies. She said Ms. Phyllis Savides was attending with her as well.

Ms. Allshouse said staff has suggestions for improvements to the process. She said every year, they look at the processes that were done in the budget to identify future improvements. She said she would kick off the presentation and conclude it, and that Ms. Savides, Director of Social Services, would be providing information throughout the presentation.

Ms. Allshouse said the desired outcome was for the Board to hear about the adjustments they have as a recommendation for Human Service goals. She said for those who are new to the Board, it is important to identify Human Service goals for the community agencies that apply for the County's funding contributions each year. She said they have some important changes to the goals that they want the Board to look at.

Ms. Allshouse said the Board will be asked at the end of the process each year to approve funding, so it is important to have them involved in the beginning.

Ms. Allshouse emphasized that they are already talking about FY 22. She said they are currently in FY 21 and are now talking about the process for funding for next year, which will begin in July 2021.

Ms. Allshouse said the second thing they would talk about is a suggestion that a staff team has, which is a team that works very closely with the contributions, in terms of how they manage the contributions and ensure they provide good research and review of the applications to make scoring decisions that are appropriate. She said to do so, they will suggest that they have a County-managed application system. She said this would be something County-owned and would not only be used for the ABRT system, but also for other funding situations they are in, such as funding for Arts and Cultural, and future funding programs for those who are requesting housing funding.

Ms. Allshouse said she would first provide a quick background on ABRT. She said the ABRT was created back in 1991, so this was a long-term approach the County had done in coordination with the City. She said since 1991, the ABRT was a City-County process that received requests from community nonprofit agencies, then made recommendations on the scoring. She said the City and County would then make the funding recommendations based on the overall budgets of the City and the County.

Ms. Allshouse said every year, through the continuous improvement process that is done for all budget processes, staff takes a look at the process of the previous year to determine how they can improve. She said over the years, this was done all along with the ABRT process and as such, they made changes and refined. She said their focus on outcomes and performance stayed, but that other small adjustments were made along the way.

Ms. Allshouse said the Arts and Cultural applications were moved outside of Human Services. She said there was a time they were competing scoring-wise, though those two types of agencies do very different things. She said the County had already pulled their own process away for Arts and Cultural applications.

Ms. Allshouse said those were on the Board remember that the Board approved moving to a County-only process in FY 20. She said the City was reviewing things and making some adjustments, and the County saw a lot of value in the ABRT process in that it was community volunteer and staff member teams working together. She said there was a real focus on goals and outcome measures. She said they use an application process and felt good about a lot of the functions of the ABRT that the County wanted to continue on with.

Ms. Allshouse said one thing they continued to do, however, was used the City's grant application portal. She said when an applicant was going to apply for County-only funding, they would still go through a process through the City's website to access an application. She said this was something that was done in the last couple years. She said there was still a City-County joint scoring matrix in the past two years as they were changing and evolving in the program.

Ms. Allshouse said last year, the County continued its ABRT approach. She said they used all the same processes that the County feels are very important. She said there is \$1.67 million of funding in the current budget for 22 Human Service agencies. She said she would have Ms. Savides share some of the recommended changes for the year ahead.

Ms. Phyllis Savides, Director of Social Services, thanked the Board for the opportunity to present their recommendations for the FY 22 ABRT process. She said an internal team of staff from Social Services, the Office of Equity and Inclusion, Community Development, and the Office of Management and Budget have been working together, reviewing the survey instrument, Human Services goals, and the scoring instrument.

Ms. Savides said their primary goal was to increase the clarity and efficiency for both reviewers and applicants, as well as to achieve positive results through the process. She said they have updated the County's Human Services goals. She said she also wanted to inform the Board that they have received permission to obtain a new web-based grant application tool and will begin working on creating a

new application questionnaire and scoring matrix.

Ms. Savides said the application will also seek to ensure that the applicant follows all relevant policies and procedures.

Ms. Savides said the objectives for the review of the Human Services goals included an interest in collapsing redundancies, as they felt that some of the goals were duplicative. She said they wanted to prioritize a response to the post-pandemic recovery, but most importantly, they wanted to include a focus on whether or not the applicant service delivery includes an emphasis on equity and inclusion.

Ms. Savides said they wanted to make sure that their process was in keeping with the Albemarle County mission.

Ms. Savides said the next two slides listed the goals with the revised language that staff incorporated, and that also reflect a prioritization that staff wants to recommend, with the focus on equity and inclusion. She said last year, the Human Services goals were not listed in any particular priority, but for this upcoming year, staff wanted to include that.

Ms. Savides said she wanted to highlight the second bullet on the slide, that the services are aimed at building an equitable, sustainable food system, or increasing access to healthy culturally appropriate food. She said this is directly related to some of the effects of the pandemic. She said bullet 4 states that the services will address disparities in access or opportunity for youth of color.

Ms. Savides said while not the highest priority goals, the goals on the screen were still important in staff's minds, and they wanted to keep them in the overall list. She said they did not want to minimize the importance of supporting service providers that focus on reducing the achievement gap within disadvantaged students, increasing medical and dental support, and increasing mental health support.

Ms. Savides said lastly, staff wanted the Board to know that they are proceeding with a County web-based applications system, rather than using the City's system. She presented a slide listing some of the benefits staff believes having their own system will provide. She said this will allow them to ensure that the applications, such as questions and scoring criteria, will be aligned with County goals. She said another example is that having their own system will allow them to have an increased clarity for County residents regarding services provided.

Ms. Savides said before she would turn it back over to Ms. Allshouse, she would pause to see if any of the Board members have questions regarding the revised Human Services goals. She noted that Ms. Siri Russell and Ms. Stacey Pethia were also on the call, and that any of them would be happy to entertain questions.

Ms. Palmer said she did not have questions about the revised goals. She said she thinks they are great, and thanked staff for the work. She said she does think there is some benefit to the community of the County working with the City and vice-versa. She said certainly for the applicants, there has to be some ease of not having to use two systems, even though it was pointed out why this works better for the County.

Ms. Palmer asked if the City could decide to use this portal in the future, if they chose to do so, and if there could be a differentiation of goals within the system. She said she was surprised there was not that ability within the City's system and did not know how that works, although she could see why there would be. She asked what they are losing by continuing to go totally on their own, what could the community be losing or what could be the disadvantages to the community.

Ms. Savides replied that she and Ms. Russell met with Ms. Kaki Dimock, Director of Human Services at the City, and talked about how they want to continue dialoguing about the feasibility of, at some point, coming back together and having one system. She said she thinks that the feedback they have gotten from the agency applicants is that while there is a benefit to having one application portal, there was often confusion among the applicants about how to address the County goals and the City goals. She said while it is true that they will have to complete two applications, and use two different portals, there will also be an ease because it will be very clear what they need to address for County purposes versus the City.

Ms. Savides said in response to Ms. Palmer's question about whether the City could actually adopt the system that the County is pursuing, she did not see why not. She said she has not been informed that they intend to, but it certainly would be a possibility.

Ms. Palmer said she was glad to hear there is still dialogue going on. She said there are so many people who take advantage of these programs who move from the City to the County and vice-versa, so she could not help but think that continued coordination isn't better for the citizens in the long run.

Ms. McKeel said she appreciated the work. She said it has changed over time, and they are really getting it refined down now to the best place it could be. She said she liked viewing it through an equity lens. She said one of the goals is about broadband, for example, and is about connectivity in the Rural Area and poverty in the Urban Ring. She said looking at it through an equity lens in both areas is good. She said this is making their review stronger.

Ms. McKeel said she understands Ms. Palmer's point, but she does think that this strengthens the

process. She said it seems to her that Charlottesville is still struggling with where they want to be with this process, so perhaps the County clarifying and improving theirs will make it possible for the City to come back to see what the County is doing. She said she did not think this precludes or excludes the City in any way, but it does frame the process around Albemarle County, the County's strategic work, and goals.

Ms. Mallek said she is very supportive of continuing on with the County's own process and appreciates the work County staff has done on this, focusing on the needs of their own organization.

Ms. Price said she was extremely pleased with the inclusion of the equity piece of this at a higher level than she thinks, in years past, they may have had. She said she is frankly more supportive towards the County taking a leadership role than she is being combined back with the City. She said she thinks the County has its own needs they need to focus on, which is where she would prefer to see things.

Ms. LaPisto-Kirtley asked Ms. Savides if someone applies with both the City and the County, they can receive two sources of funding, or only one or the other.

Ms. Savides replied that the decisions are made in the locality. She said historically, applicants have applied for both City and County and often get funding from both jurisdictions.

Ms. LaPisto-Kirtley asked if it would not be more beneficial if the County works with the City, if possible, so that more people could get additional or increased funding. She said it seems if they have the same goals, it might be the best use of the County's and City's resources.

Ms. Savides replied that currently the City and County have different goals that the applicants need to respond to in terms of their application. She said any agency is free to apply for funding from either the City, County, or both. She said one of the primary benefits of staff's proposal is it helps them ensure that the services being provided by the nonprofit applicant are directly impacting County residents. She said historically, it has been difficult to tease that out in terms of the impacts on the unique challenges that the residents face.

Ms. Savides said the reality is that the two jurisdictions have different goals, so the applicants need to respond to both sets. She said having a separate system makes it easier for them to be able to do that. She said staff believes that this proposal will have a positive impact on the County residents in terms of ensuring that they are getting the services they need.

Ms. Mallek commented that they are going in different directions, which is why the separate program seems important to her.

Mr. Gallaway said he likes the changes and agrees with the continued approach as outlined. He said he had one comment, which was not a criticism of what was there, but that on one of the slides relative to the current pandemic, which was "response to" or "coming out of" the pandemic, in looking further ahead into FY 22, especially as it relates to grants and other organizations, if they think this will be the only pandemic or they won't have situations like this in the future, this would be a mistake. He said he wanted to make sure they are also looking at organizations that are doing things that focus on what happens if the next pandemic comes around and preparing for those types of things. He said he was not looking to wordsmith or needing a response, but it was something that stood out to him during the presentation.

Ms. Savides thanked Mr. Gallaway for the feedback. She said one of the reasons for the three top priorities is to address what is happening within the pandemic too, so it is both within and post-pandemic. She thanked Mr. Gallaway for the reminder that they also need to be preparing for what is coming next.

Ms. Allshouse thanked the Board for their thoughtful questions and comments. She presented a slide showing the timeframe. She said the Board may be in contact with people in the community or agencies, so she wanted to let the Board know the timeframe as they move towards FY 22's decision-making process. She said that month, they have already started recruiting volunteers for the community groups. She said this is a very community-oriented process, so they are recruiting volunteers to serve on scoring teams, which is underway already.

Ms. Allshouse said now that the goals are in place, they will look at the scoring matrix and make sure that it really backs up the goals, so this will be aligned more closely than it has been in the past. She said they will then prepare the materials to get ready to go out the door.

Ms. Allshouse said in September, they will be holding an application orientation for agencies who may desire to apply for funding. She said this is a good place to share with them information about the new application process, the new goals, and what it is the County is looking for.

Ms. Allshouse said the applications are usually due at the end of October to meet the regular budget process. She said at that point, when the applications come in, the teams will start. She said the goal is to have the scoring completed by the end of December.

Ms. Allshouse said staff's recommendation is that the Board supports their improvements to the Human Service goals and the new County-managed application system.

Ms. Palmer recalled that when the County first split off from the City, the County had hired part-time help to go through this. She asked who is covering this now, staff-wise, or if they were going to do something similar each year to take on an intern or someone part-time. She asked how the County is paying for that.

Ms. Allshouse replied that they have hired a temporary staff employee to assist with the process, as there is a lot of time involved in setting it up and moving it forward. She said they had the pleasure of being able to bring on the same temporary employee who worked on it last year to again work on it this year. She said moving forward, they may take a different approach, but that this is the right approach, given where they are budget-wise this year.

Ms. Palmer recalled that this cost about \$19,000 before and asked what the cost was for this year.

Ms. Allshouse replied that she did not have the exact cost in front of her, though it was similar as last year, and that she would provide it to Ms. Palmer.

Ms. McKeel said she found the changes to be very supportive.

Ms. Mallek said she knows that in the last several years, this has not been a problem but that prior, there were representatives on the committee who did the scoring and also actually received money. She said she knows staff have been very careful to not have that happen in the last couple years and wanted to remind staff how important this is to her, and likely to others, that there not be any perception of a big local organization running the show.

Ms. Price said she supported the recommended changes as well as the purchase of the County application system.

Ms. LaPisto-Kirtley said she also supports the recommendation.

Mr. Gallaway asked Mr. Kamptner if the Board needed to take a formal vote on this recommendation, or if consensus was fine.

Mr. Kamptner replied that consensus would be fine on this.

Agenda Item No. 10. **Action Item:** CARES Coronavirus Relief Fund (CRF) FY 21 Phase 1 Implementation Plan.

The Executive Summary forwarded to the Board states that, on June 1, 2020, the Commonwealth of Virginia provided an allocation of \$9,538,621 in federal CARES Coronavirus Relief Fund (CRF) monies to the County of Albemarle. The Board of Supervisors approved the County's CARES CRF Initial Implementation Plan on July 1, 2020. The funding is required to be used for qualifying expenses that:

- 1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and
- 3) are incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Guidance from the U.S. Treasury states that expenditures must be used for actions taken to respond to the public health emergency that may include expenditures incurred to allow the locality to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

The County's implementation plan, approved by the Board of Supervisors on July 1, supports the County's following Response Goals: 1) Reduce transmission to staff and public; 2) Protect people who are at higher risk; and 3) Maintain essential services, and that supports the County's following Reconstitution Goals: 1) Protect the health and safety of staff and residents; 2) Support all people and communities; and 3) Facilitate a safe transition to "normal" county operations and community economic recovery.

Five million dollars of the County's CARES CRF funding has been identified for priority programs/reimbursements in the areas of COVID-19-related Business support and Community and Human Services Emergency Relief and Resiliency programs.

Staff's recommendation is that Phase 1 of the CARES CRF Implementation Plan provide \$1.25 million in funding for a COVID-19 CARES CRF Business Grant program and \$1.25 million to support Community and Human Services CARE CRF Emergency COVID-19 Relief and Resiliency efforts.

CARES CRF Business Grant program: The forced closure of non-essential businesses as a result of the COVID-19 pandemic severely impacted small businesses in Albemarle County, particularly in the retail, restaurant, and travel-related sectors. Additionally, Federal data shows that women, minority,

and veteran owned businesses need greater access to capital. While some small businesses were able to access loans under the federal Coronavirus, Aid, Relief and Economic Security Act (CARES Act), many more small businesses are still in need of financial assistance. The purpose of the CARES Act Grant Program is to provide immediate financial resources to the small businesses that were most negatively impacted by the COVID-19 pandemic and are still in need of financial assistance.

A business grant program is the most efficient and expedient means of putting resources into the hands of the County's businesses swiftly. This type of program will help small businesses remain solvent until other resources or the ability to serve a larger number of customers becomes available.

The Albemarle County Economic Development Office reviewed Cares Relief Funding (CRF) activities across Virginia. Staff discovered that local municipalities across the Commonwealth are implementing CRF Business Grant programs to help existing businesses survive. The criteria and structure of Albemarle County's proposed grant program is based upon research of best practices of other COVID-19 related small business programs. Many other counties and cities in Virginia have established similar grant programs, including Loudoun, Fairfax, Culpepper, Fluvanna, Manassas, Arlington, and Alexandria, as well as the City of Charlottesville. Most often, these programs were tailored to fit their respective communities. After additional evaluation of Albemarle County's small business community, staff found objective and anecdotal data that the local hospitality industry was severely and negatively impacted by the COVID-19 Pandemic. As such, a cross departmental team reviewed the data and established a customized plan to ameliorate the impact of COVID-19 on any for-profit small business, while still favoring the hospitality industry, as well as women, minority, and veteran owned businesses. Details of this plan can be found in Attachment A.

CARES CRF Community and Human Services COVID-19 Emergency Relief and Resiliency efforts: The County's Community and Human Services Emergency Relief and Resiliency Team, which includes staff from the Department of Social Services, Office of Equity and Inclusion, Information Technology, Community Development/Housing, Communication and Public Engagement, and Fire/Rescue, have been developing a plan to provide community-oriented COVID-19 emergency relief and resiliency efforts. The program is still being finalized and is anticipated to include eligible COVID-19 related emergency relief support and for households and to support non-profits' efforts to provide COVID-19 recovery efforts.

CARES CRF Compliance and Documentation Team: Prior to program execution, these programs will be reviewed and approved by the County's CARES CRF Compliance and Documentation Team to ensure that the program designs adhere to the Federal requirements associated with the CARES CRF funding allocation.

The funding in the amount of \$2,500,000.00 in revenue that will be provided from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) is recommended to be appropriated as follows: a) \$1,250,000.00 for Community and Human Services COVID-19 Emergency Relief and Resiliency efforts; and b) \$1,250,000.00 for a Business Grant Program. Appropriation of this funding is included in attachments C and D. A budget amendment public hearing is not required for this appropriation pursuant to Virginia Code §15.2-2507 because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the appropriation described in Attachment C. Staff further recommends the Board authorize the County Executive to execute all required documents, duly approved by the County Attorney, to implement the Business grant program.

Ms. Allshouse recalled that only two weeks ago, staff were in front of the Board to talk about the CARES Coronavirus Relief Fund (CRF) and the \$9.5 million that the County has received from the State, which is federal funding. She said staff had told the Board they would bring back what they are calling a "Phase 1 Implementation Plan."

Ms. Allshouse said during the last agenda item, they were talking about FY 22, and that now, they are talking about the current fiscal year (FY 21).

Ms. Allshouse said the County received \$9.5 million in federal CARES CRF monies on June 1. She said on July 1, the Board approved an implementation plan, which established four buckets of funding: County General Operations, Human Services and Community Needs, Economic Development and Business Support, and Technology and Broadband. She said those are the four general areas they were talking about and approved as the general implementation plan. She said she would talk about two of those areas.

Ms. Allshouse recalled that there was a plan staff put together that they will be nimble with, and that they will be compliance-oriented. She said this is federal funding, and the rules are changing a little as they go and as people learn more about it, so they have to keep a good eye on the compliance piece of this. She said they are systematic in their approach because they have a deadline to expend the funds by the end of December.

Ms. Allshouse said they also have to be nimble, as there may be some movements they make in the plan to meet evolving needs. She said they have to look at the time, stay very focused on this, and be mindful that they do have some staff capacity limits as they work forward.

Ms. Allshouse said there would be two speakers during the presentation. She said the reason they came forward with these two areas, noting that it was not a full funding for it but a portion of the funding that was identified in the plan for those two areas, is that they wanted to make sure that they got funding out in the community for businesses that are being challenged and for households being challenged in this current environment and pandemic. She said they did not want to hold anything up but wanted to move forward as quickly as they can, while being careful and being compliance-oriented, to get the funding appropriated.

Ms. Allshouse said the two categories include the Human Services and Community category, which Ms. Savides will share information with the Board on. She said Ms. Savides' area is still somewhat under development, and that her staff have great ideas and know what they want to do but are still putting things in place. She said the Board may not receive the details on this area that they will on the second program.

Ms. Allshouse said Mr. Roger Johnson, Director of Economic Development, will be bringing forth several slides about a program called Lift Local Business Grant Program, which is ready to go out the door.

Ms. Savides, Director of Social Services, thanked the Board for the opportunity to present the recommendations for how the County can use some of its allotted CARES funding to assist County residents who are significantly impacted by COVID-19.

Ms. Savides said, as the Board had heard during the presentation on the proposed ABRT process, staff recommends prioritizing Human Services goals relating to improving financial stability, increasing food security, and supporting housing interventions. She said staff's recommendation for the use of the CARES funding in the Community and Human Services area mirrors these goals and maximizes their support to the most vulnerable populations in the County. She said COVID-19 has resulted in significant needs within the community, and these needs are ever evolving.

Ms. Savides said staff would like to prioritize helping County resident individuals and families who need emergency financial assistance due to the impact of COVID-19. She said this assistance could come in the form of a bill payment or direct financial payment.

Ms. Savides said additionally, staff would also like to support the nonprofit agencies which specialize in providing services relating to housing, food security, and financial stability.

Ms. Savides said finally, most childcare providers are struggling to remain solvent, given the increased restrictions brought on by the pandemic. She said yet, with the upcoming modified school schedules, the need for childcare will become more critical. She said staff's recommendation is to be able to offer financial assistance to providers in order to help them stay open and provide care to these children.

Ms. Savides said staff is prioritizing support for the vulnerable populations in these three areas: housing, food security, and financial stability.

Ms. Savides presented a slide outlining the three entities to whom staff wants to offer the emergency financial assistance.

Ms. Savides said staff's intent and recommendation is to contract with an outside entity to help them administer these funds through an application and screening process. She said as she mentioned before, funds will be distributed either through a vendor payment, or an automatic deposit. She said their process will need to include all the components required to be in compliance with federal law regarding this funding source.

Ms. Savides said staff is currently working on identifying that partner entity with whom they can work to administer the funds.

Ms. Savides said she would pause to see if there are any questions regarding the use of the CARES funding for this specific purpose.

Ms. Palmer asked if with whoever the partner entity will be that the County contracts, the County is allowed to use the CARES money to pay for that. She said she assumed there was a cost associated with this.

Ms. Savides replied that at this point, staff believes they can. She said as they go through the compliance assessment checklist, they will need to confirm that. She said they are looking at some type of administrative fee, and they will need to confirm that they can use this funding for that.

Ms. McKeel said what she thought she was hearing was a Request for Proposal (RFP) going out for a vendor to handle this for the County. She asked Ms. Savides if this was what she was saying.

Ms. Savides replied yes. She said they would give the funding to the vendor, and then the vendor would create an application and screening process. She said it is similar to when the Board approved the \$150,000 that the County gave to the City Pathways Program, which went to County residents but where City staff handled the application and screening process. She said it is a similar

model, and staff wants to be able to contract with someone outside of the County to manage the application process and to also cut the checks or give the assistance.

Ms. McKeel asked if this requires an RFP process.

Ms. Savides replied that she is working with the procurement staff in Finance. She said because the administrative fee is under a certain amount, they will contact four possible vendors in the community to ask them to respond to a proposal to manage the program.

Ms. McKeel expressed that she understood, and remembered that if it is under an amount, a process follows.

Ms. Mallek said it makes her nervous when she hears of something where they are handing the funds off to an unknown agency, as the internet is now full of the latest disinfection specialists and scam artists selling everything having to do with everything needed today. She said she is much less interested in having a partner than she is having a staff person if there is an administrative cost, unless this is someone who is a proven local entity.

Ms. Mallek said she would like to hear more about who staff thinks they are, as there are some local agencies who have not done a good job locally with taking care of their own tenants, so she was not particularly interested in giving them more money. She said she is anxious about the handoff issue and looks forward to hearing more.

Ms. Price said she would echo some of what Ms. Mallek just said. She said she is not opposed to contracting with a partner entity to manage this, provided that there is accountability, that standards of conduct are imposed, and that sufficient recordkeeping exists so the County can ensure that any funds that are distributed are not based upon bias and connection and that there are objective criteria for establishing that.

Ms. Price said other than that, for the process, she had no other questions. She said she did have a minor comment, however, for staff to consider. She said they have Phases 1, 2, and 3 of reopening, and using the term "Phase 1" of the CARES funds, to her, raises the risk of people being concerned at what type of a phase of opening the eligibility may be. She asked that perhaps using a term like "step" or "stage" rather than "phase" might help avoid some of that confusion.

Ms. Price said she was reminded of the Atlanta Airport and when taking the plane train, it tells you the gates, such as A, B, and C. She said they do not use D as in "Delta" because they are afraid that passengers will be confused that only Delta flights fly out of Gate D, so they use a different word. She said she thinks it might help avoid some confusion if they don't use "Phase 1" for funding when they also have Phases 1, 2, and 3 for reopening.

Ms. Savides said she wanted to share that currently, the Planning District received some funds for rent relief and mortgage, and they are contracting with the United Way to administer those funds. She said she thinks the City is in process of negotiating with the United Way. She said this is an example of something the County might do and is one of the possible vendors. She said they are already doing that for the Planning District and for the City.

Ms. LaPisto-Kirtley said she is also concerned about using an outside agency. She said she would frankly much prefer to use County staff. She said if this is not feasible, however, she likes the idea of using someone local as long as they are good.

Ms. LaPisto-Kirtley said if they are going to use an outside agency, if the County cannot do it in-house, she wondered if it was possible to have someone from County staff work closely with this outside agency. She said the reason why she says this is that normally, when someone is working from staff, there is a buy-in into the community and County. She said when there are outside agencies, depending on where they are from, they come in, get the job done, and they leave. She said they can be very good but then, they can very boilerplate, so she is concerned about that.

Ms. Savides replied that it is a possibility that they might be offering some staff assistance to whoever works with the County on this. She said the other benefit is the idea of perhaps having one phone line for all of Charlottesville, Albemarle, and surrounding counties, which staff is looking into to make it easier for residents. She said in terms of working out the process, staff need to be absolutely clear that they get the documentation they need, that they are in compliance with the requirements, and that they establish a robust screening process.

Mr. Roger Johnson, Economic Development Director, said he would talk to the Board about working in concert with the community to lift local businesses. He said he would explain the proposed program called Lift Local Business Grant Program. He said he would provide details and give the Board the opportunity to ask any questions.

Mr. Johnson said staff built this program on a few guiding principles. He said they want this program to be compliant with the CARES Act. He said Ms. Allshouse mentioned earlier that compliance is very important to this particular part of the project in that if they do not spend the money appropriately, the County is accountable for it. He said it doesn't necessarily have to come from CARES Relief Funding but may have to come from some other source, so compliance is very important.

Mr. Johnson said they want the program to be consistent with the County's response and reconstitution goals to protect the health and safety of the public, to support all people and communities, and to facilitate community economic recovery.

Mr. Johnson said they want the program to be consistent with Project Rebound, which is for the community at large and is the Economic Development strategic plan of Albemarle County.

Mr. Johnson said they want to provide aid to all small businesses in Albemarle County, giving a preference to women, minority, and veteran-owned businesses, as well as the hospitality and tourism industry. He said he was sure items 1-3 made sense to everyone who may be listening, and that he would provide some data about the fourth bullet. He said the U.S. Department of Commerce studied access to capital, and they found that there was disproportional access to capital for minority, women, and veteran-owned businesses.

Mr. Johnson said as for why they gave preference to the tourism industry, they have a direct economic impact in the Albemarle community of over \$400 million, which does not include indirect or induced impact, such as things that hotels or employees buy, or things the restaurants that those employees eat at buy. He said there is a downstream impact that is two to seven times larger than what he just mentioned, but that for the sake of this conversation, he wanted to say that there is an over \$400 million of direct economic impact in the community.

Mr. Johnson said tourism was also the hardest-hit economic sector of the community, with their impact being drastic and immediate. He said he had some statistics to share, and that he was sure the Board had seen all the anecdotal information and certain restaurants closing down. He said in April alone, the occupancy rates for hotels were down by over 70%. He said not only that, but the rates they charge were down, so the revenue was down by over 83%, meaning that the hotel lodging areas were impacted greatly, as was tourism and all those support businesses as well.

Mr. Johnson said lastly, hospitality, tourism, retail, and restaurants had the highest percentage and largest number of layoffs of all the businesses in the community. He said this is why they, as an Economic Development team, as well as the CARES Relief Fund Economic Development Team, are proposing to target these funds, to some degree. He said what they will now call "Stage 2" (given Ms. Price's comments) may look different, and they may have other things to add, but for now, they are focusing on these areas. He said all small businesses will be eligible to apply.

Mr. Johnson said their goal is provide aid to successful businesses. He said while there are many businesses in need, they would like to make sure that the businesses they provide funding to have a great chance of survival and being successful, post-pandemic, which he would get into greater detail on as they go through the application process.

Mr. Johnson said the program includes approximately 100 grants using \$1.25 million in CARES Relief Funding to small businesses in Albemarle County. He said those eligible would-be businesses that have at least two employees, for-profit businesses, those who are operating for at least two years, those who have a current business license, those that are current on their business taxes as of March 1 of 2020, and that have a physical location in the County.

Mr. Johnson said those businesses who would not be eligible are the self-employed, meaning no employees at all; home-based businesses; banks and financial institutions; franchises (unless they are locally owned and operated); vape, tobacco, gambling, and sex-related industries; and weapons manufacturers.

Mr. Johnson said the application process itself, which may generate some conversation, based off of Ms. Savides' feedback, would be administered by the Community Investment Collaborative (CIC). He said in order to apply, businesses must provide proof that there was a COVID-related impact. He said they must disclose any other COVID-related funding, such as PPP and EIDL plans. He said they must submit their tax forms, and verification as a woman, minority, or veteran-owned business. He said they will also be asked to provide an application narrative, including changes to their business plan in response to COVID-19.

Mr. Johnson said as for the scoring and decision, the application will require both quantitative and qualitative data. He said staff has designed a scoring matrix to ensure objectivity to the extent possible. He said this is unique in that unlike loans, they would not be farming out the responsibility of scoring of grant applications. He said they would have two separate committees independently review and score the applications. He said to the extent they can keep those applications online, they will. He said they will then award the grants. He said they believe this to be very important to make sure that there is both fairness and no unintended consequences in terms of giving the funding to someone's relative in some way, shape or form.

Mr. Johnson said this is not like loans in that the grants themselves are subject to much more scrutiny. He said they want to make sure the process is defined in such a way that prevents any concerns about that particular situation.

Mr. Johnson said they will post all grant recipients online for transparency, so that everyone in the community sees who receives the grants. He said they will require all grant recipients to provide a written follow-up in the first quarter of 2021, which ensures that they complied with the use of these funds, as there are certain eligibility expenses for which they can use them, and some that they cannot, as well as

to track the progress and success of the grant program.

Mr. Johnson said regarding the timeline of the program, if the Board approves of it, they will begin accepting interest forms online. He said these inquiry forms will create a database of businesses that are eligible. He said they will begin marketing the program, and that Ms. Kilroy and her team have been putting together an exhaustive communication program that includes social media, print advertising, amplified messaging from their partners, such as CIC and the Small Business Development Center.

Mr. Johnson said they will begin accepting real applications in late July, with a webinar explaining the process on July 27. He said they expect to score the applications in late July through early August, then make the awards as soon as practical thereafter, and disperse the funds. He said there are some restrictions in how much monies they can wire, so they cannot wire \$1 million all at once, necessarily. He said the third party will have to wire a certain amount each day, so some businesses will receive the funds a few days in advance.

Ms. Palmer said knowing that the application process will reduce people who are not able to use this money properly, and are unsuccessful, if there are people who misuse the money or go out of business and do not comply with the first-quarter 2021 follow-up, she wanted to know what the process going forward for that is. She asked if the County would try to get the money back. She asked if there is something in the contract that says they have to give the money back, and then the County has to give it back to the State.

Mr. Johnson replied that they do not know if it will be a contract or part of the application to be responsible for the business to use those funds appropriately, though there would be a claw-back provision. He said quite candidly, once they give grant money away, the likelihood of recovering that is slim to none.

Mr. Johnson said he was not sure if he could directly answer what the liability will be if someone misappropriates the funds, and how they would go about recovering that. He said he pledges to run this through their Compliance Team and get an answer for the Board.

Mr. Kamptner said this is where the County will have to be very careful, and where the administrator of these funds will have to be monitoring. He said they should be viewed as grants. He said ultimately, if the funds are not appropriately used, the County is responsible to the State, and the State to the Feds.

Ms. Mallek said Mr. Johnson mentioned the term "third party." She asked if these are the local groups who would be helping with the application. She said distributing millions of dollars is not something they want anyone to do and asked how they will handle that.

Mr. Johnson relied that the CIC is the third party who would be administering the program. He said the Board met Mr. Stephen Davis on a couple of occasions, at Board meetings. He said Mr. Davis is an existing partner agency of the County and of the Economic Development Authority and has credibility and proven worth of using the funding in an appropriate way.

Mr. Johnson also mentioned that Mr. Davis is administering programs for several other counties as well. He said he is charging the County a 3% administrative fee, which is consistent with what he is charging other counties to administer programs.

Mr. Johnson said the County will have access to all the data that includes who all the applicants were, and who received grants. He said going back to the two-party applicant scoring process, the County staff will be part of that as well. He said it would not be only outside agencies who will be supporting these particular grant applications.

Mr. Johnson said the County will have access to all the data, which they will run back through the Compliance and Review Team that the Office of Management and Budget has created. He asked Ms. Mallek if this fully answered her question.

Ms. Mallek replied that she believed so.

Ms. Price said with regard to the slide that was presented about the timeline, she was very pleased to see how quickly it looks like they will be able to take this action.

Ms. LaPisto-Kirtley asked what the percentage is for priority given to women and minority-owned businesses.

Mr. Johnson replied that there is a total score availability of 45 points. He said 5 points will be added if one is a minority or women-owned business.

Ms. LaPisto-Kirtley asked if a woman-owned business would be 50%.

Mr. Johnson replied that it can be up to 5 points if it is completely owned by a woman, minority, or veteran-owned business. He said if it were 50%, it would be 3 points, and if it were not, it would be 1 point. He said this would be a 20% rating.

Ms. LaPisto-Kirtley said she understood.

Mr. Walker asked Ms. LaPisto-Kirtley if she was asking about the percentage of qualifying as a woman-owned business.

Ms. LaPisto-Kirtley replied yes.

Mr. Walker asked Mr. Johnson to clarify what qualifies as a women-owned business.

Mr. Johnson replied that the County is asking for certification that they are minority, women, or veteran-owned businesses.

Ms. LaPisto-Kirtley asked if these would be businesses in Albemarle County, or in Albemarle County and Charlottesville.

Mr. Johnson replied that this is Albemarle County only. He said Charlottesville has approved a program where they have allocated \$750,000. He said it is a similar program, in many ways, in terms of the qualifications. He said they do not necessarily have theirs targeted at tourism, hospitality, and retail like the County does, and that any small businesses impacted may apply.

Ms. LaPisto-Kirtley said she did not know whether or not it was in staff's purview, but she wanted to know if they give consideration to businesses who are trying to comply with State guidelines regarding COVID-19.

Mr. Johnson replied that it was not part of this current program.

Ms. LaPisto-Kirtley asked Mr. Johnson if he understood what she meant.

Mr. Johnson said if it is vital to the Board, they can certainly consider that.

Ms. LaPisto-Kirtley said her thought is that it costs more money for someone to be State COVID-compliant than not, and she would think this would be given extra points as it is protecting the entire community. She said perhaps it depends on their business whether or not they come into contact with the community.

Mr. Johnson said they will have that information already as part of the application in that they are asking for the narrative in terms of the business model, how the business model has changed to respond to COVID-19, and what their future business model will be like. He said it will be part of the scoring process to determine their flexibility, but as it is currently written, they are not providing bonus points for any sort of activities of that nature.

Ms. McKeel thanked Ms. LaPisto-Kirtley for her question. She said she was not surprised that Mr. Johnson already had that taken care of, but it was a good question and very timely.

Ms. McKeel commented that whether they are talking about the Human Services and Community program that Ms. Savides talked about, or the Business Grant Program Mr. Johnson is presenting, it is important to recognize that they always feel more comfortable if staff are leading the programs and if the programs are under total control of staff. She said there is also a situation, however, where they have capacity issues with staff. She said to expect staff to take over and run these programs completely right now is probably not realistic, based on capacity.

Ms. McKeel said she, and the other Supervisors, trust staff to keep an eye on the program and make sure there is a watchful eye. She said if they want the programs to go forward in their work plan and have them under staff's control completely, they probably wouldn't be able to happen.

Ms. Palmer said she had a question about the scoring process. She said to assume one is a female and also a minority. She asked if this gets the person 10 extra points within the 45 points.

Mr. Johnson replied no.

Ms. Mallek thanked Ms. LaPisto-Kirtley for her point, as it homed in very carefully. She suggested to Mr. Johnson that since compliance with the community's and State's expectations is a given or otherwise they will never get out of this mess. She said she would hope this statement would be very affirmatively made to all participants in that number one, in order to fill out the application, they must commit that the County will not have to be chasing them about following the rules.

Ms. Mallek said this saves everyone a lot of time if people know this is what they have to do in order to be participating. She said she did not think there was anyone, other than someone who is working out in the field by themselves, who should not be complying with the mask rules, for example. She said by making it easy and putting the burden on the applicants, staff won't have to bother with it.

Mr. Johnson replied that they would certainly do this and that it was good feedback.

Ms. Allshouse said she had a few wrap-up slides. She said she heard compliance being mentioned several times along the way. She said staff has set up a Compliance and Documentation team and have been carefully moving ideas and programs in that direction first. She said this is something they need to do before they get money on the street.

Ms. Allshouse said this was the moment where the Board would vote. She said staff is requesting that the Board approve the resolution. She said as described, this is an appropriation of funding. She said staff recommends that the Board authorize the County Executive to be able to sign all the documents around the Business Grant Program.

Ms. Mallek moved the Board approve the resolution (Attachment D) to approve appropriations and allow the County Executive to sign the documents. Ms. Palmer seconded the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Ms. Allshouse said in terms of what was ahead, she had August 5 listed on the slide, but that it would likely be the middle of August, around August 19, that staff will be bringing forward further CARES appropriations. She said they are moving quickly, as they have the challenge of needing to get the funding spent by the federal government's deadline, yet they have to be careful along the way. She said staff will be bringing the Board more information mid-August.

Ms. Allshouse said they will monitor the expenditures in an ongoing way, and that they will also be reporting on the CARES funding along the way, so the Board will continue to receive updates as they move forward. She said the goal is to expend the CARES funding in the proper way by December 30.

Agenda Item No. 11. **Work Session:** Improving Stream Health in Development Areas.

The Executive Summary forwarded to the Board states that, during 2017, staff conducted a public review of the County's stream buffer regulations, culminating in a work session with the Board on December 6, 2017. Based on Board direction during the work session, staff initially developed thirteen proposals designed to improve stream health in the Development Areas consistent with the County's Growth Management Policy. The proposals are not intended to limit or hinder development in the County's Development Areas.

From October through December of 2018, staff conducted a public engagement process to receive feedback and public comment on the proposed strategies. The proposals that arose from this input were subsequently shared with the Board.

During a work session on January 9, 2019, the Board directed staff to work on nine of the initial thirteen proposals to improve stream health in the County's Development Areas. At a joint work session with the Board and Planning Commission on July 9, 2019, more detailed proposals and staff recommendations were presented and discussed. Staff was directed to develop final versions of seven of the proposals, and to make recommendations to the Board. At a Board work session on November 6, 2019, specific recommendations were presented and the Board provided further direction. Staff is now returning for an additional work session before scheduling a public hearing.

A summary report is provided as Attachment A, which includes details about the process of developing and reviewing the stream health proposals. A list of the earlier proposals is provided as Attachment B. Notes in yellow clarify and explain some of the proposals. Notes in red reflect updates since the November 6, 2019 work session.

During the July 9, 2019 joint work session, staff was directed to continue working on seven proposals outlined in the summary report (Attachment A). The Board expressed support for these proposals, though more information and further research were requested on a few.

- Proposal #1 (to implement the County's steep slope design standards when a VSMP or VESCP application is required) -- Because this proposal is being presented as a separate Zoning Text Amendment (ZTA) at the July 15, 2020 Board meeting, it has been removed from the WPO work program.
- Proposal #2 (reduce threshold for VSMP/VESCP permitting) would require amending the Water Protection Ordinance (WPO). This proposal was refined after the July 9, 2019 joint work session and again after the November 6, 2019 Board work session. Further discussion with the Board on Proposal #2 is necessary, particularly its timing due to the need for additional staff resources.
- Proposal #3 (allow temporary ESC measures in outer 50-ft of buffer with mitigation) would require a WPO amendment. The Board agreed with this proposal.
- Proposal #5 (address incremental development) would require a WPO amendment. The Board supported adopting a policy like that of Greene County, which requires stormwater to be addressed when impervious surface is added to a previously developed parcel.
- Proposal #6 (update WPO fees) would require a WPO amendment. Fee adjustments will be confirmed as a final step in this process after specific proposals are confirmed for adoption. The Board generally agreed with this proposal.
- Proposal #9 (incentivize stormwater treatment to be provided onsite and limit use of offsite nutrient credits). After the November 6, 2019 work session, staff confirmed with DEQ that use of offsite nutrient credits cannot be limited unless certain DEQ regulatory criteria cannot be met. At this point, though the Rivanna River has an approved sediment TMDL, a sediment TMDL does not qualify as a nutrient TMDL. Instead of proposing to limit use of offsite nutrient

credits, staff is proposing to refocus efforts to reduce sediment loading of streams by requiring additional measures when a sediment TMDL is approved (see proposal A3 below).

- Proposal #14 (general WPO updates) would require a WPO amendment. The Board generally agreed with this proposal.

In addition, staff previously proposed, and the Board supported, two additional WPO amendments:

Proposal A1 - Under the Erosion and Sediment Control (ESC) Program, this proposal would require two-layer perimeter control measures where land disturbances occur within 200 feet of a stream or wetland.

Proposal A2 - Under the Stormwater Management Program, this proposal would require a maintenance bond for stormwater facilities prior to release of the construction bond if the facility has not been transferred to the Property Owners Association and the developer requests to have its construction bond released.

In addition to these two amendments, staff recommends that the Board consider the following additional proposals:

Proposal A3 - To require an improvement factor of 25% for erosion and sediment control measures when projects are located within a watershed that has an approved sediment TMDL. Proposal A1 noted above could also be included in this proposal.

Proposal A4 - Revise Section 17-603(A) (Pre-existing buildings or structures in stream buffers) to clarify when and under what conditions existing buildings or structures that existed on February 11, 1998 can be replaced or expanded. This proposal has been added to help clarify the current ordinance language. Board input is requested.

Proposal A5 - Revise Section 17-604(A) (Types of structures, improvements and activities which may be allowed in stream buffer by program authority) to clarify activities necessary to allow "reasonable use" of a lot. Revisions may include eliminating the term "reasonable use" and/or including specific conditions or performance standards. This proposal has been added to help clarify the current ordinance language. Board input is requested.

Several proposals would increase staff workload, as noted in the summary report (Attachment A, Staff Impacts Table, page 7). Analysis of program fees, revenues and costs indicates the need to increase fees to recover current shortfalls. Considering the current budget projections, staff recommends adopting the proposals in two phases. Phase 1 would include proposals that can be absorbed by existing staff. Because Phase 2 would require additional personnel, staff recommends delaying Phase 2 proposals until additional staff positions to support this work can be funded.

Staff recommends that the Board confirm implementing Phase 1 proposals #3, #6, #14, A2, A4, and A5. Proposal #2 requires further direction from the Board because of proposed revisions. Staff further asks the Board to confirm delaying implementation of Phase 2 proposals #2, #5, and A3 because of the need for additional staff resources. For the proposals that necessitate additional staffing to administer and enforce, staff recommends returning to the Board after the FY2021 outlook has become clearer.

Mr. Frank Pohl, County Engineer, said he would review the proposal and status of the Stream Health Initiative in the County's Development Areas.

Mr. Pohl said the Stream Health Initiative was started by the Board and led by Mr. David Hannah starting in 2017. He said they have held many meetings since then, including public meetings, meetings with stakeholders, Board work sessions, and a joint Planning Commission/Board work session last year. He said since Mr. Hannah's retirement, he has been leading the Development Area efforts and will continue to be the lead staff person for this effort. He said the County's new Natural Resources Manager, Ms. Kim Biasioli, will pick up the torch to restart the Rural Area efforts. He said she is available at the end of the presentation to answer any questions the Board may have as they relate to that initiative.

Mr. Pohl said the proposals he will present will apply to any project requiring a Land Disturbance Permit, regardless of where they are located, such as Development or Rural Areas, even though most of the projects are typically located in the Development Area.

Mr. Pohl said a constant theme throughout this initiative is that each proposal is intended to help improve stream health. He said staff believe the proposals are consistent with Growth Management Policies, and that there is no intent to limit or hinder development in Development Areas or to increase development pressure in the Rural Areas.

Mr. Pohl said the goals for the work session are to inform the Board of the need to implement the proposals in two phases. He said 6 of the 10 proposals do not require additional staffing and are being recommended to move forward as Phase 1 of the Development Areas initiative. He said the other 4 proposals do require additional staffing and are being recommended as a Phase 2 effort, to bring back these Phase 2 efforts when funding is available.

Mr. Pohl said the next goal is to review the Phase 1 proposals and ask the Board to direct staff to

move forward with these proposals. He said staff would also like to receive direction to return to the Board with Phase 2 proposals when staff and resources become available. He said lastly, staff would like to receive the Board's endorsement to restart the public engagement process for the Rural Areas.

Mr. Pohl said before moving onto the Phase 1 proposals, two of the proposals that are not included in either Phase 1 or Phase 2 need to be addressed briefly.

Mr. Pohl said the first is Proposal 1, which is a proposal to implement the County's steep slope design standards when a VSMP or VESCP application plan is required. He said this ZTA is being presented to the Board later that evening, so he would not speak to it further, but wanted to give the Board a quick update.

Mr. Pohl said the second one he wanted to quickly cover is the proposal that had to do with limiting use of offsite nutrient credits. He said mainly, there was an error in Attachment B that he wanted to point out. He noted that he had put a snippet of Attachment B on the slide. He said this attachment was a holdover from Mr. Hannah's presentations and that he did not modify them at all, except for the red notes. He said one thing that he missed was that it states that currently, there is not a nutrient credit bank located in Albemarle County. He said this is an error, as there is a bank currently in the County on Ivy Creek. He said it is available for nutrient credit purchases.

Mr. Pohl said the second thing he wanted to address regarding the nutrient credit issues has to do with sediment impairments versus nutrient impairments. He said as some Board members may recall, there are sediment impairments on the Rivanna River, but that those are not considered from DEQ's perspective to be a nutrient impairment. He said in June, he received written confirmation from DEQ that the sediment impairment the County does have does not allow them to restrict use of offsite nutrient credits.

Mr. Pohl said the last issue he would like to address has to do with future DEQ regulations. He said DEQ has draft regulations proposing to expand the limitations of offsite credits to include sediment-based impairments. He said he heard about this proposal sometime last year, before even coming to the November work session, and at that time, DEQ had told him that it was proposed to go to the State for a vote in December. He said those changes still have not been passed but are still being considered. He said if they are approved, staff will come back to the Board to adopt those themselves.

Mr. Pohl said he would move onto the Phase 1 proposals. He presented a summary slide to give a recap of which proposals he is proposing to be included in Phase 1. He said these do not include or require additional staff. He said he will review them individually, but to quickly summarize, Proposal 3 is regarding erosion and sediment control measures in stream buffers; Proposal 6 is program fees; Proposal 14 is to update the ordinance regarding simple updates and corrections; Proposal A2 is regarding stormwater facility maintenance bonding; Proposal A4 is regarding preexisting buildings; and Proposal A5 is regarding reasonable use for impacts to the outer 50 feet of a stream buffer.

Mr. Pohl said Proposal 3 is a straightforward proposal which refers to Section 17.603-B of the ordinance, which allows erosion and sediment control measures to be constructed within buffers without the requirement for mitigation. He said staff are proposing to require mitigation for such impacts, which will protect existing vegetative buffers and enhance or improve buffer areas not currently vegetated. He added that there are provisions or requirements to minimize impacts where they can, and to avoid them completely, if possible.

Mr. Pohl said the original intent of Proposal 6 was to address repeat erosion and sediment control violations and noncompliance. He said staff is proposing to expand this, however, to include review of all program fees. He asked to keep in mind that current inspection fees do not cover all the inspector costs, so staff believe that an escalating fee structure for repeated violations is justified. He said there are also services the Engineering Division provides that do not have fees, such as stream determinations. He said other jurisdictions do have fees for these types of services, and staff would like to include one in their fee schedule.

Mr. Pohl said the last point, which has been brought up on several occasions, is whether or not they are fees or fines. He said the point is that these are fees and are not fines. He said they are not intended to punish or fine applicants. He said the increased or escalating fee structure would be a way that the County can recoup costs, and is not intended to penalize, which is why staff believe that the escalating fee structure is justified. He said also, they have not looked at the fees since this version of the ordinance was passed in 2014, so it is time to revisit those.

Mr. Pohl said Proposal 14 includes straightforward updates that do not change the intent, meaning, or substance of the ordinance. He said these changes will not impact stream health, but it makes sense to include these updates at the same time as the other revisions. He said examples include correcting department names that have changed, occasional words or phrases that need to be revised or clarified in their meaning and revising gender references.

Mr. Pohl said Proposal A2 requires posting of a maintenance bond for stormwater facilities prior to the release of the construction bond if the facility has not been transferred to the HOA. He said this is something that was discussed that would not be a big impact to developers and would reduce risk between the time that construction is completed and the time it is handed over to the HOA.

Mr. Pohl said Proposal A4 is one that they have had issues with over the past year or longer, and

they thought they should address this while making the changes to the ordinance. He said this has not come to the Board before, so it is a new proposal added since the November meeting, as is the next proposal.

Mr. Pohl said this section applies to buildings or structures built before 1998, which is when the buffer ordinance was adopted. He said it prohibits the continuance, repair, replacement, expansion, or enlargement of such buildings or structures except as provided in two other referenced sections of the code. He said one of the sections is the Nonconforming Structures section of the Zoning Ordinance, which gets complicated to interpret and to administer. He said staff proposes to incorporate the standards from those other sections into the Water Protection Ordinance (WPO) to provide clear guidance not only to the County, but to the public.

Mr. Pohl said additionally, where expansions are currently allowed, mitigation is not required. He said staff would recommend with this proposal to require mitigation when additional impacts to the buffer are proposed, such as for an addition or expansion of a home.

Mr. Pohl said Proposal A5 is another that they did not have last year, but it has been one they have had issues with. He said the reason why is the term "reasonable use." He said it is very difficult to interpret this. He said Zoning has a very strict interpretation of "reasonable use." He said that in the Rural Areas, for instance, a single-family home is reasonable use. He said he typically needs to seek advice from the County Attorney's Office and the Zoning Administrator to help him define what "reasonable use" is.

Mr. Kamptner said he would give the Board some background on why this term creates difficulty. He said the term "reasonable use" comes in the context of constitutional takings law. He said it may be too restrictive in the context of the WPO and is a term even in takings law that is not defined. He said it would be helpful to give more clarity to that provision and move away from that particular phrase.

Mr. Pohl said he had one example of this, which was a single-family lot where the owner wanted to expand and put in a sandwich shop on their property but needed some parking. He said the parking was in the buffer area. He said this was before he began working for the County, and it was determined this was a reasonable use. He said lately, however, the interpretation of "reasonable use" has been stricter, so he would like to align the County's ordinance with what they were told back then and what he thinks it means today.

Mr. Pohl said this would not alleviate mitigation, so the County would still require mitigation, and would also have some standards, conditions, or both for those impacts. He said they would not just allow it haphazardly, and wouldn't allow it if, for instance, the building was in a floodplain or within setbacks that are not allowed. He said they would have those conditions identified more clearly.

Mr. Pohl said staff recommends the Board to direct staff to proceed with the Phase 1 proposals that he just presented; direct staff to return with Phase 2 proposals when staff and resources are available; direct staff to return if more stringent DEQ regulations are passed; and endorse restarting discussions and efforts to protect stream health in Rural Areas. He opened the discussion to comments and questions.

Mr. Gallaway said there were several items and that 60 minutes had been allotted for the work session. He said it may be prudent if a Supervisor asks a question on a specific phase, and if there are follow-up questions, a Supervisor can put it in the chat. He said he would work through one slide at a time versus jumping back and forth.

Ms. Palmer said she had several questions. She said for organization, she wondered if perhaps she should address her questions first to Phase 1, and then they could come back and do Phase 2. She said she has 4-5 questions.

Mr. Gallaway said this was fine.

Ms. Palmer thanked Mr. Pohl, noting that it has been a long time coming, and there have been years of this. She said with respect to Phase 1, she struggled over A4 and A5 and spent quite a bit of time with that, having never seen it before. She said anyone who has been on the Board for any time is very familiar with the problems that Mr. Pohl is trying to solve. She said she has many times asked for a definition of "reasonable use," and also understands A4.

Ms. Palmer said her concern is that with the other proposals they have been going on for so long with this, that these two are actually quite complicated. She said she didn't know what the staff time is in moving ahead with Phase 1, but her gut reaction was that perhaps they should fold A4 and A5 into the Rural Area portion, or even do them separately so that they do not impede the other proposals in Phase 1, knowing that they will be controversial. She said this was her question with respect to Phase 1.

Mr. Pohl said he could address that. He said it was true that there had not yet been any public input on A4 and A5. He said he could try to solicit some input, and they could include them with Phase 1 and still bring them to the Board while having an alternate resolution that would exclude them if there are a lot of issues the Board feels might still need to be addressed during the public hearing. He said alternatively, they could take them out. He said he didn't know how to judge whether the public supports this or not, as staff has not reached out to them. He said in working with some owners, however, it has been brought up as an issue regarding takings and the difficulties with the way these two sections are

written.

Ms. Palmer said she completely agrees that they need to be done, but that she didn't want them to stymie going forward with the few things they are going forward this. She said her concern was not about them being legitimate things that need to be taken care of, but that they may be more controversial than the other things they are trying to do right now. She said the coupling could be a problem.

Mr. Gallaway asked if it would be useful to go through each slide.

Ms. Mallek said she would like to go slide by slide, as it would be more organized if there are questions on individual proposals.

Ms. McKeel agreed.

Mr. Pohl presented the slide on the first proposal (Proposal 3).

Ms. Mallek said she was confused about what this really says. She asked if currently, they allow people to put features in the buffer, as she thought this had been outlawed years ago. She said the bullet says, "Current regs don't require mitigation," which is horrible. She asked Mr. Pohl to sort out where they are, adding she assumed they were trying to tighten this up. She asked if they have the option to say they are not going to disturb the buffer, period.

Mr. Pohl replied that currently, it states that temporary erosion and sediment control measures, provided it is the extent practical as determined by the administrator, shall be located outside of the stream buffer, and disturbance impacts are minimized. He said it is in a section of the ordinance that does not require mitigation. He said his thoughts for the reasons why it is not in the mitigation section is that sometimes, depending on the size of the parcel, one cannot avoid it. He said they do restrict this from happening often, and that it is not something that happens often. He said sometimes, however, these have to be put in the buffer because this is where the stream is, and they have to get to the stream. He said they are trying to tighten this up.

Ms. Mallek said the goal is a good one, but her main nightmare, which has happened multiple times, is that they demolish the greenway and the buffer in order to put in the sewer pipe. She said there is then nothing left to mitigate. She said if Mr. Pohl is trying to prevent those kinds of events, this would be a good accomplishment, from her perspective.

Ms. Mallek said as a philosophical question, there are limitations that come with a piece of property and somehow, the County expects the environment to take it on the chin just so someone can maximize the use of their square footage when perhaps, they should tone down what they are trying to do on a piece of property. She said there may be a reason why it was cheap, because of the limitations that it has. She said yet the County seems to bend over backwards to make it easier for people. She said her general uproar about the matter is that she wants there to be good standards that people will have to deal with. She said it would be much simpler for staff if there were better, stronger rules going forward.

Ms. Mallek said in 2014, they lost some buffer protections in the "technical updates." She said there were whole sections that were removed that must be put back in, as there never used to be these kinds of structures in buffers, and people were not allowed to go cutting things down. She said in the recession, everything seemed to change, so she is always trying to claw her way back to what they had 15 years ago.

Ms. Price thanked Mr. Pohl for the presentation he gave a few days earlier to give her some background on this. She said she has a general comment about there being a lot of complexities here, and that she is concerned that the County has received sufficient public input before taking action on some of the types of ZTA changes. She noted that Item 21 is a hearing on erosion protection design standards and wanted to make sure that those individuals who are most likely to be impacted or have to work within these ordinances have been given a sufficient opportunity in order to review them and give the County input before the Board takes any action to make any changes.

Ms. Price said as a general comment, she did not have any particular issues or concerns with what this particular item proposes.

Ms. LaPisto-Kirtley thanked Mr. Pohl for his presentation and said she liked what they were doing.

Mr. Pohl presented the slide for Proposal 6.

Ms. Palmer said though she didn't have any questions on this proposal, she had a follow-up about Proposal 3. She said she was reading this again, and her question was that, given what Ms. Mallek was saying, if this could be a situation where the County does not allow this but now, all someone has to do is put forward performance standards and more easily do this. She said she was concerned that they are making this more straightforward for someone to put their erosion and sediment control measures in the landward 50 feet of the buffer.

Mr. Pohl replied that they would have to look at the final version of the ordinance language, but that the intent is not to make it any easier. He said they would still include the language that was in it previously where, as determined by the administrator, the person needs to minimize and locate outside of

the stream buffer whenever practicable. He said that is the current language, and they have not had any issues with it.

Mr. Pohl pointed out that these are temporary measures, so they are typically closed out after construction is over or they are converted over to stormwater facilities.

Ms. Palmer asked if there was a definition for “practicable.”

Mr. Pohl replied that it does take some judgment by staff. He said he has never been challenged on when he or reviewers state that they need to be out of the buffers. He said he did not know if it had been a big issue, but the fact that it doesn't require mitigation is something that concerns him the most.

Ms. Palmer thanked Mr. Pohl and said she did not have questions about Proposal 6.

Ms. McKeel said she was fine with Proposal 6 and thought it was great.

Ms. Mallek, Ms. Price, and Ms. LaPisto-Kirtley concurred.

Mr. Pohl presented the slide for Proposal 14.

Ms. Palmer, Ms. McKeel, Ms. Mallek, Ms. Price, and Ms. LaPisto-Kirtley all expressed that this proposal was fine.

Mr. Pohl presented the slide for Proposal A2.

Ms. Palmer said this was a great proposal.

Ms. McKeel said she was very much in favor of this. She asked if this was for when a facility has not been transferred to a Homeowners Association.

Mr. Pohl replied this was correct.

Ms. McKeel asked if it has been transferred and the HOA fails for whatever reason, if there are claw-backs. She said she has heard a significant number of HOAs who have responsibilities they have not been able to maintain, for various reasons. She asked if this was covered as well. She acknowledged that she may be going down a rabbit hole but noted that she could name the subdivisions, some of which were in her district, where this happened.

Mr. Pohl replied that once the bond is released and it is turned over to a subdivision, CDD does not have jurisdiction, but the Stormwater group does have jurisdiction to require the HOA to maintain their facilities. He said the group works with the HOA to maintain their facilities and to let them know what they need to do that.

Mr. Pohl said in the proposal that was presented in November, there was a proposal to include the developer creating a small escrow to start out the HOA. He said Roanoke County requires a small escrow account to be transferred to the HOA, and that this is something Albemarle can consider and include as part of their recommendations when staff comes back to the Board.

Ms. McKeel said she was very concerned, and perhaps there are other Supervisors who are as well. She said they see this happen and ultimately, it comes back to the Board. She said she would like to consider at least having that discussion about including that to see what it would look like.

Mr. Kamptner said for newer HOAs, State law requires that the dues cover needed capital improvements. He said he wasn't sure when that law changed, but that HOAs should have a capital fund that their dues are going into, in part. He said the older community associations are problematic because what has been found through experience is that they are often not imposing collecting dues that are sufficient to cover any of their common areas in an adequate amount.

Ms. McKeel agreed. She said she is worried about the fact that the County thinks it is covered, going forward. She said she would love to have a discussion about how they could perhaps strengthen that, if possible.

Ms. Mallek asked Mr. Kamptner if the County has the authority to require that the HOA have a bond. She said she was thinking about cases where there is a high-risk facility, such as a lake in a neighborhood in Ivy, which was supposed to have \$50,000 in repairs in 2008, and they lied and didn't do it. She said it ended up just costing them \$500,000 and a huge amount of mess when it failed a couple years ago. She said she didn't know if they had the authority to do it, but she would love to help prevent these debacles because people are used to running these things on a “dollar down, dollar when you catch me” plan instead of in an organized way.

Mr. Kamptner said he would have to do some confirming research, but that he did not think they have that ability, certainly with the existing HOAs. He said he thought he knew which development Ms. Mallek was referring to, and that this particular project was 50 years old. He said one solution is having service districts as a way to deal with these that are currently private improvements and making them public improvements.

Ms. McKeel expressed that this was an interesting concept.

Ms. Mallek agreed that a neighborhood service district is interesting.

Ms. McKeel suggested a discussion about this.

Ms. Mallek said, as someone who has a private lake where no one will fix it but herself, she understands the obligation and the monstrous amount of money that it takes to keep dams functioning. She said she did not want people to think that this is some easy deal.

Mr. Kamptner said failing private infrastructure has public impacts.

Ms. Mallek agreed.

Ms. LaPisto-Kirtley said when talking about HOAs, it seems to her that there are HOAs collecting dues in different ways. She said she knows of one HOA where they collect \$5 dues a year for the maintenance of a reservoir. She said she didn't know how they could possibly do anything with that kind of money. She said it is an older neighborhood, Carrsbrook. She asked, if they are going to put limitations on HOAs, what the definition is in Albemarle of an HOA.

Mr. Kamptner replied that he didn't think the County had a definition, and that they would look to State law for the State definition. He said there are entities that predate the current community association law, and they do not have the same kind of fee structure that allows them to maintain their private facilities.

Mr. Pohl presented the slide on Proposal A4.

Ms. Palmer said she already mentioned her issues with A4 and A5, knowing that they are very important, but being concerned about rolling them into this current process as she does not want them to impede the process to get Phase 1 done.

Ms. McKeel said she didn't have a problem, if it is the will of the Board, to postpone A4 and A5, although she didn't have as good a sense of how controversial these would be. She said she certainly did not want to slow down the other parts of this work.

Ms. Palmer said her issue is decoupling them. She said she did not know what that means with respect to time but was worried about A4 and A5 dragging things down.

Ms. McKeel said she understood that. She said it makes sense to her.

Ms. Mallek said Ms. Amelia McCulley noted that these could be separated out in the action, which is what Mr. Pohl had talked about earlier. She said her concern is somewhat different here because somewhere in the 2010-2014 timeframe, remembering who was on the Board when this was done, the eastern half of the County was added to the 100-foot buffer requirements that had been in effect on the western half of the County for the watershed since 1980.

Ms. Mallek said there are not supposed to be any structures in the buffer, period, since both of those things. She said she is lacking understanding of what they are talking about here, as there should be no buildings increased in the buffer, period, or new ones built in the buffer. She said this was the whole point of not having people's chairs and grills flowing downstream in a flood and smashing into someone else's property.

Ms. Mallek said it seems like they are going backwards here, and perhaps she was totally confused, but it does not sound right. She said she was having trouble understanding what those provisions are when it says, "Except as provided in other sections of the code." She said if they are strengthening things and putting requirements into the WPO, this is great, but she is worried about what this really means and wants to make sure they are not backsliding. She asked Mr. Pohl to help her understand.

Mr. Pohl replied that this may require further discussion. He said the intent here is to define, explain, and include those exceptions in the WPO more clearly. He said there is the nonconforming section that is referenced here, and also the floodplain ordinance. He said the floodplain ordinance is clear, but he did not have a great grasp on the Zoning Ordinance for noncompliance, which is one that has been argued and brought forward as justification to be able to expand, for instance.

Mr. Pohl said he didn't know what happened in the past, but he assumed that 1998 was when the ordinance was passed. He said he and Mr. Kamptner may have to look into this to get the Board an answer.

Mr. Kamptner said this was the date when the current ordinance was created. He said there was a 1997 version that consolidated three different chapters of the County Code and was fine-tuned. He said they then came up with the ordinance in 1998. He said the 2014 amendments were the wholesale, ENS, and stormwater overhaul in order to meet the then-new State stormwater management law.

Ms. Mallek said this is when they lost a lot of the controls they had before that didn't allow tree cutting, mowing, and putting up sheds in the buffer.

Mr. Kamptner said they would have to go back and look at the history. He said he didn't recall there being material changes to the stream buffer regulations as part of the 2014 amendments other than to clarify to the extent it did in that ordinance. He said there were also changes and evolving interpretations of the stream buffer regulations, in part due to the A5 issue that Mr. Pohl has already identified, and as a result of implementing both this provision and the one that is referenced in A5.

Mr. Pohl said he wanted to address one of Ms. Mallek's comments that new structures are not allowed, and this would not change that. He said any new structures would still not be allowed, and that this does not apply to them.

Mr. Pohl said this only comes up a handful of times every year and has probably happened since he started 3-4 years ago about 5-6 times, so it is not a frequent occurrence, but they do have structures that are partially within buffers, and when there is a kitchen an owner wants to expand that is located on the back of the house, for instance, this is when he gets a lot of pushback. He said he wanted to convey these issues to the Board, to possibly allow someone a way, with mitigation to improve the buffer. He said the argument is that the land is already lawn, and the owner is willing to put into an easement or to improve the buffer in a certain area if they are allowed to expand.

Mr. Pohl said there are some things that could be offered as a required, and the additions that he has dealt with have not been big, 10 x 20 feet.

Ms. Mallek said this made a lot of sense.

Ms. Amelia McCulley said she wanted to make a couple points in clarification about this requirement. She said first of all, this wouldn't allow construction in the floodplain. She said it relates to those buildings that are built that existed as of February 11 of 1998, when someone wants to do a minor addition. She said for example, there is a house that encroaches into the buffer, and the owner wants to add a sunroom. She said under this provision, one could potentially be permitted to do it whereas otherwise, they would not.

Ms. Palmer said she had a clarifying question. She said Ms. McCulley said a "minor" addition, and she thought that it was that right now, one cannot expand or enlarge into the buffer unless it is a nonconforming structure. She said she always gets confused on the definition of that, and she knows this refers to two different sections. She asked what the definition is of a "small" improvement and asked what happens with the nonconforming buildings.

Ms. McCulley replied that this was where Mr. Pohl should speak, as he is the expert on the WPO, and she is more knowledgeable on the Zoning Ordinance. She said she was giving the example of a minor change to a building footprint where one might have a preexisting building in that buffer. She said this is a requirement that one has mitigation if they make changes.

Mr. Pohl asked Ms. Palmer to repeat her question so he could understand it.

Ms. Palmer said that Ms. McCulley mentioned a small structure, like a sunroom. She said she knows of some sunrooms that are rather big. She asked what a "small structure" is. She said she thought the way it reads now is that one cannot expand or enlarge into the buffer unless it is a nonconforming building.

Ms. Palmer said this was one of the reasons why she wanted to decouple these proposals. She said they are complicated, and she knows how complicated they will be for the public. She said she thought it was more than just a small sunroom.

Mr. Pohl replied that he didn't know if he was proposing any limitations on the expansion, be it a bedroom or a kitchen expansion. He said if they wanted to develop some type of maximum upper limit, they could do that.

Mr. Pohl said he thinks the nonconforming reference has to do with setbacks and other Zoning regulations, as well as the floodplain. He said one cannot expand if even a portion of the structure is in a floodplain. He said they would have to develop and propose some language that might clarify this for Ms. Palmer.

Mr. Kamptner said he could give some examples of what is in Section 18-6, which is the Nonconforming Structure provision in the Zoning Ordinance. He said in those situations include adding previously non-existing sanitary facilities in the house, doing repairs resulting from damage caused by factors beyond the control of the owner or occupant, doing repairs to correct unsafe conditions, and doing structural alterations that actually reduce the size of the structure. He said it could be an expansion on the landward side that is treated differently. He said it could be that there needs to be a modification to the structure to allow accessibility for someone with disabilities. He said those are the kinds of changes that are allowed in Nonconforming Structures in Section 18-6.

Ms. McKeel said she appreciated the discussion with Ms. Palmer, Ms. McCulley, and Mr. Pohl and that for her, she did not want to let the perfect be the enemy of the good. She said she was perhaps feeling more comfortable with moving forward with this now and seeing what the reaction is, as perhaps they will not have the concerns that some of the Supervisors are anticipating, especially since she believes Mr. Pohl and staff can explain it well. She said perhaps they do not need to pull these proposals

out and decouple them but be able to move forward if they are not talking about some of these major concerns.

Ms. Mallek said she was going to agree with Ms. McKeel. She said she didn't know how much time is involved in doing whatever writing or crafting is required to develop all the materials for this meeting. She said if this is a two-year process, she definitely wants to separate it, but if it is within the normal scope of things and will be marching along in the next month or so, she believes that with good examples like the ones Mr. Kamptner just provided, they will have a better understanding. She said she feels much better about it than she did before.

Ms. Mallek asked if this is where the Greene County rule would come into effect, or if it was different altogether, or stormwater only.

Mr. Pohl replied that this was something different altogether.

Mr. Pohl presented the slide for Proposal A5.

Ms. Palmer said she already made her comments about this, and that she still needed to hear from staff about the time or take the suggestion that they find out more about what the public's questions will be before they couple these things together.

Ms. McKeel said they have talked about this and that she feels comfortable with it.

Ms. Mallek said she has become more comfortable with this. She said these are things which have been prevented for decades, so no one can say they are changing everything and taking away their rights to build big houses in the buffer. She said the County hasn't allowed those in years. She said if they are doing a better job of clarifying the process, or they are strengthening things, this is her intent. She said as long as they are saying no to structures, she is happy to go along with it, as long as they have clear expectations.

Mr. Gallaway said the Board would ask their Phase 2 questions.

Ms. Palmer said she had questions, and that she was trying to remember the proposal numbers. She said there was a proposal was one of the first that Mr. Pohl suggested they do not move forward with.

Ms. Price said these were Proposals 2, 5, and A3.

Ms. Palmer said there was a proposal that talks about land disturbance and putting off reducing this. She asked which one this was.

Mr. Pohl replied that the proposal about the VESCP threshold was Proposal 2.

Ms. Palmer said when they talked about this back in 2019, one of the issues that they said was that this was complaint-driven, and they wanted to get a hook so that if someone were a bad actor, they could deal with it. She said in Mr. Pohl's materials, it says that the smaller areas would be an agreement in lieu of a plan. She said her understanding with these agreements in the past has been that they are just a form that people fill out.

Ms. Palmer said she was wondering what the inspection issues are that are associated with this. She said she understands the lack of money right now and that there are unknowns in the coming year, but she would like to understand on those smaller land disturbances how Mr. Pohl anticipates this having a staff impact on a regular basis.

Mr. Pohl replied that even though they have an agreement in lieu of, there would still be a need to address potential complaints, and also to at least visit the site once every 3 months. He said there are some standards for inspections that do need to occur on those. He said those agreements just provide the Board some level of comfort. He said those can be revoked, or the higher standard can be required if there is a project that they think requires a higher standard. He said it is a "may be allowed to use an agreement." He said typically, that will become the go-to type of permit, but if there is something that appears to be near a stream that includes critical resources, or that it is a dense project, they can require a plan. He asked if this answered Ms. Palmer's question.

Ms. Palmer replied that it does, to some extent, but not completely. She said to assume there is a fill operation, and it is a small one at 7,500 square feet. She said typically, they would be able to do that without a permit. She asked if this was correct.

Mr. Pohl replied that this was correct.

Ms. Palmer asked if, when they do this proposal, they would require a permit under that circumstance. She asked for explanation of how this process would work.

Mr. Pohl replied that he had answered this incorrectly. He said if that fill is coming from a construction project, the County does require permits now, even if it is under 10,000 square feet, as it is related to a construction activity. He said it is an offsite construction activity, so they do require them to either extend their permit, which means, to include it on the permit they already have, or to obtain a

separate permit for that activity. He said if they were under 10,000 square feet of land disturbance, the County does have a way to get to them now if they are coming from a construction activity.

Mr. Pohl said currently, if it is not related to a construction activity, then the land disturbance activity is under the threshold and does not need to have a permit.

Ms. Palmer asked if Mr. Pohl could provide an example of, going forward, something under 10,000 square feet would require staff intervention. She said when she sees an agreement in lieu of a plan, she is thinking of them filling out a form and sending it to staff. She said she was not understanding how the staff interaction with that would change. She asked for an example of where it would change.

Mr. Pohl replied that this comes up most frequently for minor or major amendments to a site plan when adding onto a structure, and where that structure in the disturbance to build that structure is under 10,000 square feet. He said this is where he sees this most coming into play.

Ms. Palmer asked how things would change under this, and about inspection. She said now, if one did a site plan change that was under 10,000 feet, staff's inspectors would not have to go out and reinspect, and it would just be done. She asked if with this change, the inspector would have to go out again.

Mr. Pohl replied yes. He said currently, if it is under 10,000 square feet, they do not need a permit or plan approval, so staff would not even inspect it at all unless there were a complaint. He said staff would then talk to them at that point about what they should be doing. He said staff doesn't have any authority under the permit because they do not have a permit for that size of an activity.

Mr. Pohl said if they did have an agreement in lieu of, one thing they could do is that prior to the CO or issuance of a foundation inspection, it would require staff to inspect to make sure ENS measures are in place. He said this is something staff have been talking about internally, and that he has been speaking to the Building Official on how to improve ENS measures on smaller structures, or even on single-family homes.

Ms. Palmer said Mr. Pohl had answered her question well. She said she was thinking the agreement in lieu of a plan really wasn't adding to the inspections, which is what she had been confused about. She said clearly, that was not the case.

Ms. McKeel said she felt comfortable with the staff recommendations at that point.

Ms. Mallek said her only concern was that she would like this proposal to be back in Phase 1, only because the possibility of disaster is so great in the one they have now. She said they have numerous examples going on where things are not inspected because the requirements are so lax in certain sizes, resulting in streams getting wrecked and enormous buildings being built that the County may not be able to control. She said they have not gotten control of the erosion and sediment control.

Ms. Mallek said her concern is to try to get this as a very high priority rather than not being able to do this again for 3-4 years, as it has been 5-10 years as they have been discussing this. She said they are so close to the finish line now that she is very concerned about punting it to Phase 2.

Ms. LaPisto-Kirtley asked relating to Ms. Mallek's question when staff anticipates Phase 2 coming in.

Mr. Pohl replied that this would depend on the budgeting outcome. He said he understands there is a budget analysis plan in place that the Board has been discussing with OMB, which is a 6-3-3 analysis. He said it would depend on that outcome.

Ms. LaPisto-Kirtley asked if they were talking about years or months.

Mr. Doug Walker, Deputy County Executive, said the work that the Board will be doing with staff that fall when they have an idea of revenue projections heading into the latter half of the fiscal year that they just entered into will help inform everyone on what initiatives they can pursue. He said until then, unless they have a good idea about anticipated funding from a profile with these new initiatives, they are not able to offer suggestions. He said their intent is to move forward as quickly as they can. He said they recognize the Board's interest in moving forward also and wanted to make sure they are not overcommitting the program with funding that is not adequate support.

Ms. LaPisto-Kirtley said she supports staff's recommendations.

Ms. Palmer said she was wondering how much more work staff has to do on the wording of this proposal for the land disturbance reduction. She asked if there is any work that could continue, with the idea that they cannot hire anyone until they have the budget worked out.

Mr. Pohl replied that he already has draft language prepared. He said he would like to further discuss this.

Ms. Palmer asked what process there would be for the language Mr. Pohl has already prepared to be distributed or brought to the public.

Mr. Pohl replied that the process would be to begin this again once the staffing resources became available. He said he has not developed another process to initiate that review.

Ms. Palmer said she didn't know what staff requirements there were for the review, but to Ms. Mallek's point, if there is anything that can go forward, given the staff availability, this would be a wonderful thing and could be a high priority when the Board discusses it in the fall. She said her only request at this point would be if Mr. Pohl could comment on that now or bring it back to the Board later as an idea.

Mr. Pohl said he would defer his comment to later.

Mr. Gallaway said this was a proposal that staff needed additional time and resources to come back. He said it was clear they are stating that for the ones in Phase 1, they can get moving on and get done, but that the others were ones that needed additional time to do. He said resources are time, at this point, and will be budgeted time.

Ms. Palmer agreed, and said she wasn't sure how much of it was the hiring of the people versus getting the wording done.

Mr. Gallaway said he was fine with having Phase 2 proposals return. He said the Board was past the allotted meeting time on this, and that staff needed direction to proceed with Phase 1.

Ms. McKeel **moved** that the Board direct staff to proceed with Phase 1 proposals.

Ms. Palmer commented that there was a suggestion by Mr. Pohl that when he puts out A4 and A5 and if he finds that there are a lot of questions and public discussion, he will consider coming back to the Board and separating those.

Mr. Gallaway said it was appropriate to include as part of this.

Ms. McKeel agreed this was part of the discussion.

Ms. Palmer **seconded** the motion.

Mr. Pohl said his understanding was that these do not need motions, and that it is just a concurrence.

Mr. Gallaway said he had already confirmed that with Mr. Kamptner and that they would go forward with the motions.

Mr. Pohl apologized.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Ms. McKeel asked if another motion was needed.

Mr. Gallaway said he didn't think there needed to be motions bullet-by-bullet for the rest. He said the first motion was for Phase 1, and that another motion could be made for the remainder of the recommendations.

Ms. McKeel moved the Board direct staff to return with Phase 2 proposals when staffing resources are available; direct staff to return if more stringent DEQ regulations are passed; and endorse restarting discussions and efforts to protect stream health in the Rural Areas. Ms. Mallek seconded the motion.

Ms. Mallek said she had one point to add. She said when people are thinking about public engagement, there were 2.5 years of public engagement with stakeholder groups already done on this whole process, which they can all be brought up to date with some homework. She said they were not at all starting from scratch on this second phase.

Ms. McKeel said she was also going to make that same point.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Recess. The Board recessed its meeting at 4:02 p.m. and reconvened at 4:13 p.m.

Agenda Item No. 12. **Discussion Item:** Legislative Update and Priorities.

The Executive Summary forwarded to the Board states that each year the Board considers and approves its legislative priorities. The Board then meets with the County's local delegation from the General Assembly to discuss these priorities and submits them to the Thomas Jefferson Planning District Commission (TJPD), the Virginia Association of Counties (VACo), and the Virginia Municipal League (VML). Other initiatives are sometimes added prior to the General Assembly session.

Attachment A is a summary of the bills adopted by the General Assembly in 2020 that may have the greatest interest to the Board, including those that were the Board's 2020 legislative priorities. Following is a brief summary of those Board priorities and how they fared:

- Allowing In-kind resources for volunteer firefighting and emergency service providers: HB 343/SB 465 adopted. See Attachment A, Section 8(B).
- Regulating carrying specified loaded weapons in public areas: Failed; alternative legislation in SB 35/HB 421 adopted. See Attachment A, Section 4(A).
- Local control of war monuments and memorials: SB 183/HB 1537 adopted. See Attachment A, Section 4(B).
- Equal taxing authority for counties: HB 785/SB 588 adopted to put counties closer on par with cities' taxing authority. See Attachment A, Section 10(A).
- Increasing the minimum tree canopy to be preserved during development: HB 1624 would have expanded current enabling authority and it was continued to 2021; another bill regarding preserving trees in Chesapeake Bay Preservation Areas was adopted. See Attachment A, Section 3(B).
- Biscuit Run funding: A budget amendment would have provided \$5,000,000 the first year and \$5,000,000 the second year from the State to the County to develop Biscuit Run Park; this amendment was not included in the adopted biennial State budget.

Turning to the Board's 2021 legislative priorities, this is the first of three anticipated Board discussions to develop its priorities for the 2021 General Assembly session.

In addition to seeking authority to impose impact fees on development to offset its impacts on public facilities, several legislative priorities have been suggested by Supervisors or staff over the past several months:

- Speed monitoring devices: Expand the authority to use speed monitoring devices, which under new law may be used in school crossing zones and highway work zones
- Civil penalties: Expand the authority to use civil penalties instead of criminal punishment for local violations
- Carryover: Expand the authority to allow carryover of appropriated funds for multi-year capital projects, which are currently expressly enabled only for grants
- Notice of public hearings: Authority to publish notices of public hearings on locality websites; current law requires notices to be published in a newspaper of general circulation and bills to allow notices to be published on locality websites have repeatedly failed
- Community services: Require the State to provide financial support for community services

Staff will provide more information about each of these items at the Board's July 15 meeting.

There are no specific, identifiable budget impacts.

Staff recommends that the Board review the list of legislative priorities that have been suggested, identify those that have preliminary Board support, and recommend any changes and additions.

Mr. Greg Kamptner, County Attorney, said he was also appearing virtually with Mr. David Blount, who could answer questions the Board may have.

Mr. Kamptner presented a slide showing the outline of the what the proposed schedule will be over the next three months, with the target of having their meeting with the local legislative delegation in October. He said two years ago, the County met with them in late November to early December, and last year, they met in early September. He said they are trying to find the best time, late summer or early fall, to meet with the delegation.

Mr. Kamptner said some of the issues he would present were ones the Board was familiar with. He said the first two bullets were staff capacity and County revenues, and that these have an impact on the types of initiatives that are being considered. He said from staff's standpoint, if the Board can keep in mind that with all the items, these are issues that are recurring.

Mr. Kamptner said there was also a productive year for the General Assembly, and so there is a backlog not only of the Enabling Authority, but that the County has obtained over the past 2-3 years still to be implemented. He said there will be a lot of new legislation that he would cover momentarily.

Mr. Kamptner said the 2021 General Assembly session will be a short session. He said they do anticipate a cap on the number of bills that each member will introduce. He asked Mr. Blount if this could still be expected.

Mr. Blount replied this was correct.

Mr. Kamptner said looking at the Board's 2020 legislative priorities and recognizing that some of these were items that the Board piggybacked with other localities, or the Board supports sorting the priorities, there was some information that staff were still getting up to speed on such as the Equal Taxing Authority for counties and a new director of the Chamber, as well as other new personnel. He said although this was a Board priority, they recognize that they were not leading the charge.

Mr. Kamptner said there were many Board priorities that were addressed. He said with the impact fees, there was a bill that was introduced that died in committee, which was a carryover from the prior year. He said this is still an ongoing initiative Statewide. He said for Ms. Price and Ms. LaPisto-Kirtley, they would touch on the impact fees when they get to the Board's priorities for 2021.

Mr. Kamptner said he would quickly go through the new Enabling Authority. He said these are items that are also in the Executive Summary of the staff report and in Attachment A, Legislative Update. He said these are all items that if the Board is interested in implementing, for the most part, they require new ordinances, as well as some study leading up to those ordinances. He said if the Board has any questions about these, for the purposes of time, he will quickly go through them, and they will certainly be revisiting these over the next 2-3 months.

Mr. Kamptner said the Board will also recognize some of these as being items that have either been considered as legislative priorities, or at least included in their Position and Policy Statements. He said the first one is an example of that, with a tax on disposable plastic bags.

Mr. Kamptner said there are a couple of big pieces of legislation that were adopted that staff are already looking at, focusing on the Collective Bargaining Bill. He said this has an effective date of May 1, 2021. He said his office is already doing some background research for Human Resources as to how that may come to be. He said the Board will either be adopting an ordinance, or groups of County employees may request the Board to proceed. He said this is one that is coming over the next year.

Mr. Kamptner said the Local Taxing Authority was a big piece of legislation that focuses on four areas of taxing authority for the County. He said the admissions and cigarette taxes will now be available. He said the one caveat he included in the Legislative Update is that there is a 2001 opinion from the Attorney General, and where things stand now with that opinion is that it will affect their ability to impose taxes on UVA-related events. He said the admissions tax would be 10%, and cigarette tax maximum would be 40 cents per pack.

Mr. Kamptner said for Food and Beverage tax, the rate has increased for the County to 46%, and the Transient Occupancy Tax can go beyond the current 5%, but three of those cents will still be devoted to tourism.

Mr. Kamptner said the Board and County Executive's Office have received a request from the Virginia Loggers Association related to a tax exemption. He said there is a bill pertaining to the threshold for the Business License Tax that the Board can consider as well.

Mr. Kamptner said for the benefit of the new Supervisors, he would provide some information about the impact fees. He said they are expected to continue to be a Board priority. He said impact fees are seen to be a replacement for cash proffers on residential development. He said the big difference between proffers and impact fees is that the impact fees would be calculated and imposed on all residential development, and not just on homes that go through the rezoning process.

Mr. Kamptner said the current structure diminishes and eliminates the incentive for localities to proactively rezone property to match its Comprehensive Plan, and it also eliminates the incentive for developers to continue to pursue by-right development to escape the proffer.

Mr. Kamptner said what the community ends up with is development occurring on land under zoning that may have been replaced for at least 40 years, as the current Zoning Ordinance, with amendments, has been in place since 1980. He said a number of those zoning designations have effectively been in place and though the terminology may have changed, the type of zoning designation may have been in place since 1969. He said the impact fees would present a significant change in the way the County develops.

Mr. Kamptner said this is a multiyear, Statewide initiative pursued by localities. He said the Board may know the latest on the High Growth Coalition. He said he looked for some fairly recent information from the coalition and did not see anything about where things are right now.

Ms. Mallek said she has not heard anything from Mr. John McGlennon in several months, but that they could find out.

Mr. Kamptner said impact fees were a carryover, and that this has been an important priority for the Board for the last few years. He said the few priorities that he will bring up in the next few slides are ones that Supervisors have identified over the last several months. He said sometimes, the idea that something should be a legislative priority to the Board may have been little more than a one-sentence statement, but that he captured these in his notes, although he certainly had not captured everything, at this point.

Mr. Kamptner said in terms of photo speed monitoring devices, the County does have new enabling authority that year that authorizes State and local law enforcement agencies to use photo speed

monitoring devices in limited circumstances. He said he believed it was Ms. Mallek who wanted to use these more broadly. He said in speaking with Mr. Blount, they have seen it happen before where the General Assembly adopts the legislation and expect that they would want to see how this new authority works before they may be willing to consider expanding it.

Mr. Blount said this one has been a long road getting to where they are, and there was a lot of resistance in prior years to the General Assembly doing anything. He said it was just two years ago that the then-chairman of the Transportation Committee was able to get a pilot project bill put through that was basically for State police only in highway construction zones, with a handheld monitor. He said this was a big leap to get where they are today.

Mr. Kamptner asked if there were any further questions or comments, or perhaps any decisions whether the Board is interested in further pursuing this item that year.

Ms. Palmer said given what Mr. Kamptner and Mr. Blount have explained, she thinks they have to give it some time to see how it goes.

Ms. McKeel said this was probably not her highest priority, especially if they are in a short session and they are only going to be submit limited items, although she does think it is important.

Ms. Mallek said she will understand the reality if it has to wait. She said this is the only way they are ever going to get their speeding problem under control throughout the County, in all urban and rural districts. She said this is why it is worth talking about. She said talking about it at VACO and other gathering places may be a way to stir the pot on that this year and see. She said she was thrilled to finally get the approval to be able to do the school bus arms and sending those tickets through the mail. She said she could not believe it took them three years to get there, though.

Ms. Price said she agreed on moving forward.

Ms. LaPisto-Kirtley said she agreed with Ms. Mallek. She said on rural roads, they cannot have law enforcement stationed along those roads to help control speed, but a photo speed monitoring device would certainly help, and especially with running red lights at larger intersections where there are problems.

Mr. Gallaway said relative to what Ms. McKeel said about priorities, this would probably fall down the list relevant to some other things in this work session.

Mr. Kamptner said one thing they could do so that it stays on the table would be to include it in Reports, Positions and Policy Statements.

Ms. LaPisto-Kirtley asked if this was the time that the Board suggests things for the upcoming Assembly.

Mr. Kamptner replied yes. He said this is the start of it. He said the next few slides they were running through were the ones that he has received from Supervisors.

Ms. Mallek asked if the admissions tax and the agreement with UVA was not written in stone and if it were something that the three parties could change.

Mr. Kamptner replied that this was something they need to look at.

Ms. Mallek said when they brought it up the first time in 2008, it was laughed out of the room because no one was willing. She said this is lots and lots of zeroes, and if people are spending \$150 for a ticket to a show at JPJ, they can certainly spend \$10 for an admission tax.

Ms. Mallek asked if the Collective Bargaining were mandatory, or if it is the County's local option.

Mr. Blount replied this is an option for the local government and is not mandatory.

Mr. Kamptner said it can come one of two ways. He said it can either come on the Board's own initiative, or at the request of an employee group.

Mr. Kamptner said Civil Penalties was an item that Ms. Price raised and was one of the first ordinances that came before the Board since she came onto the Board. He explained this involves looking at getting authority to punish violations of local ordinances through civil penalties in lieu of criminal enforcement. He said most of the violations of the County Code are criminally enforced, and most of them are also Class I misdemeanors, where the maximum penalty is \$2,500 and a year in jail.

Mr. Kamptner said as the Board is aware, the County has been doing civil penalties through Zoning enforcement for the past 20 years or so and have been under inroads into civil penalties through various State law changes over the years. He said there is a direction that allows civil enforcement. He said civil enforcement would be enforced, if going to court, through the County Attorney's Office. He said non-police County staff, rather than police, would be the compliance officers in the field who would enforce.

Mr. Kamptner said they do not have a final agenda yet for the General Assembly's special

session in late August and into September, but criminal justice and police will likely be a key part of that agenda. He said they do not know if it will include something like this. He asked Mr. Blount if he had any updates.

Mr. Blount replied that what Mr. Kamptner said was accurate.

Ms. Palmer said she considers this important and would like to see the County pursue it if it makes sense, and if staff finds out more about what is going on in the General Assembly.

Ms. McKeel said she really likes the idea, and thinks that ultimately, it is appropriate. She said when she reads that they will be turning this over to County staff, however, and code compliance officers who already have more than they can handle, as they are dealing with many issues and have an overwhelmed staff, she gets very concerned about adding more. She said if they can hire someone to do it, that is one thing, but that she would be very concerned about staff, at this point.

Mr. Kamptner said this is where the County's current revenues, in light of the pandemic and current staff capacity, are factors.

Ms. McKeel said she hears everyone saying a lot that they know the department is far overworked and has as much as they can handle, so this would be her concern. She said she does appreciate the idea and thinks it would be great.

Ms. Mallek said the philosophy of this is a great idea, but as Ms. McKeel said, there is no way to get people's attention if they are intent on not complying. She said she was sure that in other districts besides her, Ms. Lisa Green and staff have spent 15 years on the same place, such as an illegal garage running drugs and partying all night out in the countryside. She said they had to get to \$15,000 in fines before anyone would pay attention, and it took years at the civil level.

Ms. Mallek said she didn't know if there was any way to get less burden on staff with stiffer penalties to begin with, or how they can get the judges to pay attention. She said it is incredibly frustrating for neighbors, as well as for staff, that they put them in a situation where they cannot accomplish anything. She said she didn't know what the answer was, but people in the past have said that once they get beyond civil court, they'll be able to get the judges' attention. She said they don't want people jaywalking and getting a criminal record, but that this makes things difficult.

Ms. Price said she was thrilled to see this. She said as a former prosecutor, defense counsel, and criminal judge, she believes that the overcriminalization of this conduct is a serious problem in the country, so she was pleased to see this. She said she believes, however, that consistent with other Supervisors' comments, what they have to look at as some of this work shifts away from law enforcement and the Commonwealth's Attorney's Office to County staff and the County Attorney's Office is expanding staff. She said it is not that everything will be decriminalized and turned into civil penalties, so there still will be conduct that will be subject to criminal prosecution. She said she thinks this is the right thing and is pleased to see it.

Ms. LaPisto-Kirtley said she agrees. She said it is referring to expanding the authority to use civil penalties instead of, not in lieu of, criminal punishment for local violations. She said they can actually do both. She asked how they can ask the State legislature to give the County more control over zoning violations, so they are not going after someone 10-20 times with a tiny fine but be able to have more control over the number of violations and the amount of money. She said it seems that when it costs people more money, unless it is criminal, they tend to comply with the zoning laws. She said she would actually like to see it expanded and ask the legislature how the County can have more control over its zoning.

Ms. LaPisto-Kirtley said Ms. Price was correct in that they would absolutely have to hire additional County staff. She said they have so many incidents in the County whereby people are getting away with all kinds of things because of the fact that they are not getting looked at, nothing is being done, or they keep trying and the staff keeps going out there. She said it is almost like a "Mother, may I?" situation, and that this is not working. She said there are some hardcore people there and that the County needs to have more control over who they can go after and what they can charge them. She said she wants to see being able to charge people more for violations.

Ms. McKeel said this is different, however, than what they have here.

Ms. LaPisto-Kirtley said yes.

Mr. Kamptner said it is different, and that he would take that as an addition. He said he would take a look at that.

Mr. Gallaway noted the time and encourage the Board to stay on schedule.

Mr. Kamptner said the next item was one that came from Finance and is one that was on the early discussions with the Board a couple years ago. He said it deals with carryover and funds that have been appropriated for multiyear projects. He said as a County that operates under the County Executive form of government, they do have express authority with respect to outstanding grants that go from year to year, and they can carryover without a reappropriation for one year.

Mr. Kamptner said the Office of Management and Budget reached out to him a couple weeks ago and wanted to put this back on the table. He said they would like to pursue expanding the existing authority for localities.

Mr. Kamptner said those who were on the Board a couple years ago may recall some discussions that looked at other localities. He said they did find a couple who were doing this practice without express enabling authority. He said this does not necessarily mean that it is not enabled. He said even the fact that the County has express authority for these grants does not necessarily mean that it does not exist for those other non-County executive form of localities.

Mr. Kamptner said he would like to keep it on the table for August. He said he asked Ms. Lori Allshouse, who had reached out to him, to update the research that had been done and identify whether or not it is a best practice. He said they would come back in August with that kind of information.

Mr. Gallaway asked if there were any objection to this staying on the table and heard none.

Mr. Kamptner said he could not recall which Supervisor raised the next item, but it was an idea that Albemarle County and probably most other localities in Virginia have had over the years, which would be to allow notices to be published on locality websites in lieu of publishing them in what are identified as "newspapers and general circulation." He said it would certainly save time and money, and would allow more flexibility to get notices up, as well as correct notices where they may have been published incorrectly or had typographical errors.

Mr. Kamptner said this has been in front of the General Assembly every year that he could recall, and it has failed. He said VACo and VML are working on an alternative project, and it is not exactly this same project. He said they are at least trying to get some consistency on the publication requirements, which may vary from item to item.

Ms. Mallek said the consistency item is more important than not putting it in the newspaper. She said she thinks there would be tremendous blowback, and that even though there may not be that great a reduction in access, she thinks people will perceive this as an effort to be secretive.

Ms. McKeel said it was interesting to look at the surveys about where people actually get their news, and that this would be helpful when putting this into perspective. She said she thinks it is an interesting idea. She said she can see the merits, as well as the point Ms. Mallek is making, given the County has a new website coming up and most people are used to going to a website in this day and age, and that most people do not get a newspaper.

Ms. LaPisto-Kirtley said regarding a newspaper, perhaps it could include a line, at least in the beginning, saying, "For County of Albemarle notices, please go to the website." She said this would be easy, fast, and take care of both problems.

Ms. McKeel said Ms. LaPisto-Kirtley's idea was interesting, as it gives them a way of softening this somewhat.

Ms. Mallek said it could be the agenda instead of the entire legal description.

Ms. McKeel said this was not exactly what Ms. LaPisto-Kirtley was saying.

Ms. LaPisto-Kirtley said her idea is to make an announcement about an upcoming meeting, then go to a certain website, which also gets everyone using the website for additional information as they do things. She said it gets people trained to go to the website to access all kinds of information.

Ms. McKeel said as the County rolls out its new website, they should be pushing people to their website.

Mr. Gallaway said it sounded as if there were no objections to keeping this item for further discussion. He asked Mr. Kamptner how many more items he had to present.

Mr. Kamptner said the next item was the last one, which is about Community Services. He said he could not remember which Board member brought it up, and that it may be an issue that is discussed during the Special Session. He said it rolled into the criminal justice reform. He said right now, perhaps they will report back after they monitor the General Assembly session to see what ends up coming out of that.

Mr. Gallaway asked if there were any objections to this plan and heard none. He said he was sorry to rush through this, but they could not afford to get behind on time.

Mr. Kamptner said this was the end of his presentation.

Mr. Gallaway asked about the process. He asked if there are things that Supervisors want to get in for consideration, if they could email Mr. Kamptner and then put this up the next time it comes in front of the Board.

Mr. Kamptner replied it would be helpful if these things could be provided in the next week so that there is plenty of time, as he has to farm this out to the attorneys in his office, and to the individual

departments who may be impacted.

Mr. Gallaway said he would go through the speaking order of Board members to offer ideas, but that they need to be brief.

Ms. Palmer said she had no comments, and that she would email Mr. Kamptner if she does.

Ms. McKeel said she had a quick item that she had already mentioned to Mr. Kamptner about the emergency declaration process that requires Supervisors or governing bodies to actually meet to say that they are not going to meet. She said it seems to her that when there is a Governor's declaration of an emergency, there should be some language that says that given certain circumstances with the Governor's declaration of emergency, leadership do not actually have to physically meet. She said this caused a problem for those in the community, given the pandemic. She said it seems that if the Governor has declared a Statewide emergency, then the Board should be able to declare an emergency without meeting in person.

Ms. Mallek expressed agreement.

Ms. Mallek said she had two quick items. She said first of all, she was hearing rumors that the leadership in the General Assembly is not going to support the second year of the nonpartisan redistricting, which she thinks is appalling. She said she hopes the Board will agree to get on that and support it to make sure it passes this year because otherwise, they are waiting 10-12 more years, and who knows what will happen in the meantime. She said this aggravates her and that she cannot imagine what has come over the leadership.

Ms. Mallek said lastly, the General Assembly is the only way to get any next step done to give authority to the County to have certain minimal safety requirements for agricultural buildings used for visitors, whether it is agritourism or the like. She said this is an ongoing three-year process that was sunk by a Virginia Tech study last summer, and Mr. Michael Dellinger has said that the only way to get anywhere now is to go to the legislature. She said she would leave this roughly on the table for Mr. Kamptner and Mr. Dellinger to talk about.

Ms. Price said she concurred with Ms. Mallek on that. She said she would especially like to see additional funding for expansion of broadband and cell reception across the State. She said they need something comparable to the 1936 Rural Electric Act that the country had to bring electricity to rural areas. She said they are seeing more and more how people need to be connected.

Ms. LaPisto-Kirtley said she would also be very interested in getting additional broadband. She said the other things she mentioned, such as increasing zoning fines, would give the County more teeth so that they can address their zoning issues and not have to work on the same issue ad nauseam. She added that she was also interested in cameras for moving violations.

Mr. Gallaway asked Mr. Kamptner if he had any questions on these additions.

Mr. Kamptner replied no. He said he will reach out to the Board if he needs any clarification before he comes back to the Board about this in August.

Agenda Item No. 13. **Presentation:** Rivanna Water and Sewer Authority (RWSA) Quarterly Report.

Mr. Bill Mawyer, Executive Director of the Rivanna Water and Sewer Authority (RWSA), presented the report for the RWSA as well as the Rivanna Solid Waste Authority (RSWA).

Mr. Mawyer said the RWSA is currently monitoring droughts and hurricanes. He said fortunately, there is no indication that they are currently in a drought condition. He presented a map of the State that was provided by the Virginia Department of Environmental Quality (DEQ) and indicated to the Middle James region. He said all of their squares on the map were green, which was good news. He said this was unlike the Northern Virginia region (Loudon, Fairfax, and Prince William), which had a red block for groundwater level, meaning they are in an "emergency" status for groundwater levels and in a "watch status" for stream flow.

Mr. Mawyer said the four quadrants on the map are precipitation levels, groundwater levels, stream flow levels, and reservoir levels. He said the map also shows some yellow blocks in the Northern Coastal Plain region.

Mr. Mawyer said fortunately, Albemarle is in the Middle James region and is doing well. He said all their reservoirs are full, except for Ragged Mountain Reservoir, which is the largest. He said they have lost about 50 million gallons from the Ragged Mountain Reservoir over the last 6 weeks. He said to refill the reservoir, they currently would have to transfer about 3 million gallons per day (mgd) from the Sugar Hollow Reservoir. He said they are also taking water out each day at the Observatory Treatment Plant. He said the simple arithmetic is to refill Ragged Mountain Reservoir, it would take about 34 days with the current infrastructure, which is an older pipe from the Sugar Hollow Reservoir.

Mr. Mawyer said this is compared to the planned pipeline from the Rivanna Reservoir that will extend over to Ragged Mountain Reservoir, where they could refill at a rate of 25 mgd and where it would

take just over 2 days to refill the Ragged Mountain Reservoir using the planned pipe. He said he would talk briefly about this in a few minutes.

Mr. Mawyer presented a map indicating some of the major projects RWSA has ongoing to support the community water supply. He said Project 1 was decided long ago, and completed in 2014, to build a new dam at the Ragged Mountain Reservoir. He said they have two major projects going on now. He said one is that the South Rivanna Water Treatment Plant is under construction. He said they also have a project at the Observatory Treatment Plant to renovate that facility. He said those were Projects 2 and 3 on the map.

Mr. Mawyer said the fourth project is to replace and put a new waterline in from Ragged Mountain Reservoir all the way to the Observatory Treatment Plant. He said they plan to do that in the next 5-10 years. He said after that, there is a plan to build a new finished water distribution line, likely through the center of Charlottesville towards the Long Street/Free Bridge area. He said a study will be completed later that summer to give indication of exactly where the pipe should go.

Mr. Mawyer said the purple line on the map was the project that usually gets the most discussion and has the most cost, which is to build a new waterline from the Rivanna Reservoir all the way to Ragged Mountain Reservoir. He indicated on the map to where a pump station would be located, explaining they would be able to pump to Observatory Treatment Plant, and also take way from Ragged Mountain Reservoir and pump it back to the South Rivanna Treatment Plant, which are much of the benefit of this pipeline. He said this project is scheduled for the 2027-2035 timeframe.

Mr. Mawyer said the red section on the map was the Birdwood section that has already been constructed. He said RWSA is in the process of acquiring all the easements that are needed for the 9 miles of pipeline. He said when they get the new pipe in, they will be able to add more water at the Ragged Mountain Reservoir, which will add 12 feet, or about 700 million gallons, to the storage in Ragged Mountain. He said they plan to do this when they finish the waterline project.

Mr. Mawyer said another item RWSA has been working on is what is called the Urban Water Supply and Demand Study. He said what they call the Urban Water Supply System includes three major reservoirs: Sugar Hollow Reservoir (in White Hall), South Rivanna Reservoir, (near Agnor-Hurt), and Ragged Mountain Reservoir (off of Fontaine and Route 29 Bypass). He said those three reservoirs provide most all the water to the Urban System.

Mr. Mawyer said there is also a small intake on the North Fork of the Rivanna River, and a treatment plant. He said there are about 2.6 billion gallons that are stored in the Urban Water Supply System.

Mr. Mawyer said they treat this water at three water treatment plants. He said North Rivanna is a small plant that basically serves much of the northern section of the service area. He said the South Rivanna Treatment Plant (off of Woodburn Road) is the largest water treatment plant, at a 12-mgd capacity. He said the second-largest plant is on Observatory Mountain and is property that RWSA leases from UVA. He said this treats 7.7 mgd.

Mr. Mawyer said the peak area is called the Urban Water Service Area, which goes from Ivy to Glenmore, to Avon Street from Mill Creek, and almost all the way to Greene County. He said clearly, the City is totally in the service area, along with UVA.

Mr. Mawyer said RWSA is required every 10 years to do a study of how much water supply they have, and how much the community demand is anticipated to be, to make sure that the supply is equal to or greater than the demand so that they do not run short of water. He said they have completed that study and recently presented it to the RWSA Board.

Mr. Mawyer said the study says that for their population service area, the Urban Area, in 2070, they project they will have about 171,000 customers drinking water. He said the supply they will have available is about 12.8 mgd. He said this is what they calculate looking at the reservoirs, water treatment plant capacity, and piping capacity to deliver that water to the residents and customers of both the Service Authority and the City.

Mr. Mawyer said the demand of the service area will be 14.3 mgd that they estimate, which exceeds the water supply. He said they estimate that the available water supply is adequate until about the year 2060. He said they have a plan to add more available water supply, which is to complete the South Rivanna to Ragged Mountain Pipeline, and to raise the water pool at the Ragged Mountain Reservoir. He said their board talked about it in June, and they intend to keep it on the schedule that is in the CIP now, which is that about from 2027 to about 2035, they would finish that project, which would increase the available water supply to over 21 mgd and would meet the community water demand for 100 years from now (until about the year 2120).

Mr. Mawyer said this also creates redundancy and resiliency as they connect the facilities, reservoirs, and treatment plants so that if there was a problem with one or the other, they can switch, which is a great operational benefit. He said if the South Rivanna Reservoir were muddy and turbid, they could take all the water from Ragged Mountain to serve the Urban Area.

Mr. Mawyer said there are also permit issues, and that the permits for the Community Water Supply program will expire in 2023. He said they can get a 15-year renewal, which they feel will give

them enough time to get this major project completed.

Mr. Mawyer said one piece of information that the study brought to them was that the Rivanna-Charlottesville-Albemarle service area is very water-efficient. He said the number of gallons per person, per day is very low on a national scale. He indicated to a list of other localities. He said their study projects that about 73 gallons per person, per day are used in the Urban Water Service Area. He said this is good, and it used to be over 100 to 120 gallons per day, per person, so this number has greatly come down through the years and decades, attributable to water conservation, low-flow fixtures, and the like.

Mr. Mawyer said he would talk about some of the ongoing projects. He said they know there are major construction projects at Crozet, the South Rivanna Plant, and Observatory Treatment Plant at over \$50 million that they will have completed by the year 2023. He said they also have a small project with the Albemarle-Berkeley Basin Demolition. He said this started last week, and he believes it is almost finished now. He said this was an old wastewater overflow basin that has been there for decades and was no longer being used, so they are demolishing it and will likely make the property available to the schools for their transportation, parking, or other needs. He said this is near Albemarle High School.

Ms. McKeel thanked Mr. Mawyer.

Mr. Mawyer said they were glad to get this finished before school starts.

Ms. McKeel said she would hope that next time, it would not take decades to move an old facility like that. She said it was such a small cost.

Mr. Mawyer said one would think this would be true.

Mr. Mawyer said there is a larger project near Crozet, off of Route 250 near Lickinghole Basin. He said they will construct a wastewater storage tank. He presented a picture of a similar tank. He said the bids were being taken that week, and the project will start that fall. He said it will be complete in about a year or so. He said this allows them to capture wastewater from Crozet and rainwater that gets in the pipe. He said rather than overcharging the pipe and coming out of manholes, the water is stored in this tank until the flows recede. He said they pipe all the wastewater from Crozet back to the Moores Creek Water Treatment Facility.

Mr. Mawyer said there is another project where they are making some water treatment improvements in Scottsville and adding some ultraviolet disinfection equipment. He said this project will start that fall and be finished next summer.

Mr. Mawyer said there are major projects, but that he would also like to mention some of the smaller projects that are equally important. He said on the Solid Waste side, with the County's participation and support, they recently completed the new Ivy Recycling Convenience Center. He presented a picture of the new containers. He said they had to build an access road that goes around the convenience center. He said currently, the traffic would go through the middle of it to get back to where they have the Household Hazardous Waste Days, so they built an access road and put a gate at the end to make it a cul-de-sac, which is solely for recycling and the Tag-a-Bag program. He indicated to the location of the compostable food waste container.

Mr. Mawyer said they are pleased this facility opened the week prior. He said when the weather and time is right, they will try to have an opening ceremony there. He thanked the Board for its support on that project. He said it is a welcome addition to the Ivy facilities.

Mr. Mawyer concluded his report and offered to answer questions.

Ms. Palmer said she has been getting text messages from constituents applauding the recycling at Ivy. She thanked everyone for agreeing to go with that project, and RSWA for doing it.

Agenda Item No. 14. **Presentation:** Albemarle County Service Authority (ACSA) Quarterly Report.

Mr. Gary O'Connell, Executive Director of the Albemarle County Service Authority (ACSA), presented the report. He said most of what he would present was included in the written report, but that he would highlight a couple significant things they have been working on. He said he appreciates the opportunity to come before the Board each quarter and update them on all the different things they have going on. He said they continue to be proud that they provide clean, safe, reliable Albemarle water. He said even during COVID, the water has been safe to drink through all the efforts that go into the water treatment process.

Mr. O'Connell said ACSA's goals during the pandemic include to keep the water flowing, which he thinks they have been successful in doing so. He said they are keeping operations going since they are an essential service providing public drinking water. He said other goals are to stay safe, to have a safe product, and to continue to provide a high level of customer service.

Mr. O'Connell said like the County and other organizations, they have done many things with different kinds of scheduling to try to provide continuing customer service 24-7.

Mr. O'Connell said he wanted to focus on ACSA's Strategic Plan, which came about through a lengthy process but in particular, looked at a customer survey that they received from a variety of their customers. He said they are trying to respond to some of the customer's interests and feedback from that particular survey. He said they are putting this under an umbrella called "My Water," which consists of customer service initiatives that are using new technology and technology innovations.

Mr. O'Connell said the ACSA provides the public drinking water in the Urban Area, Crozet, and Scottsville. He presented a map, noting that the blue and green areas are service areas ACSA serves. He said they are nearing 80,000 residents that receive their services.

Mr. O'Connell said he would quickly talk about the budget, and that they could discuss it in more detail if the Board would like. He said they did a quick change in working with Rivanna as their partner, just before the budget was to be presented, recognizing that lots of businesses and residents were having economic issues. He said they changed and reduced things in the budget to where they are going forward with the budget that has no rate increase.

Mr. O'Connell presented the level of rate increases for the past couple years and said that they are looking to a future with larger rate increases to handle some of the larger projects that Mr. Mawyer just presented. He said they have a 15-year financing plan they are trying to look at, with a target to have about a 5% increase per year.

Mr. O'Connell said he feels ACSA gives people good value for their water, as 1 cent will buy 2.2 gallons of high-quality water at people's taps. He said he thinks this is a good deal. He said they continue to look at their rates compared to other utilities around the State. He said their goal is to stay under the Statewide median. He said they continue to do that, and that they are about 20% cheaper than their sister agency, the City of Charlottesville.

Mr. O'Connell said ACSA's budget is a little over \$32.5 million. He said about 60% of their budget goes to pay for Rivanna-related expenses, treatment costs, debt service, and capital projects.

Mr. O'Connell said annually, they have about a \$7 million Capital Improvements Program. He said most of the larger projects are aimed at waterline replacements. He said these are lines that have gotten to be 60-70 years old that are in need of replacements and that in a few cases, they experienced some breakages and leaks. He presented a map, explaining that they try to do this by the district areas, and that there are 36 projects underway that are either in design or actual construction.

Mr. O'Connell said the report goes into all the projects in greater detail and provides current statuses. He said he could answer questions, that Board members could follow up at a later date, and that he could even give them a tour of any of the projects.

Mr. O'Connell said budget process wise, they just went through the budget process with their board. He presented the newsletter that was sent to customers in May to give them a heads-up on what is coming with the budget. He said in October, they intend to do a first-quarter review, 6 months into the pandemic, to look at the revenue impacts, where they stand with the budget, and at some longer-term financial trends, particularly looking at rates over the next 5-10 years, then go into an in-depth review of the Rivanna capital projects, which drive a lot of the rates.

Mr. O'Connell said the "My Water" umbrella is aimed at customer service improvements using technology. He said the first of those bigger projects will be the Advanced Metering Project they have been working on for several years. He said they are also working on customer service requests online, and online bill payment. He said these were all things that they received feedback on in the customer survey, where people want to see improvements in those areas.

Mr. O'Connell said AMI, Advanced Metering Infrastructure, is a digital meter that, through a communications device, sends people's water use. He said the biggest benefit is the proactive leak notifications and alerts, which will be nearly instantaneous. He said 97% of their customers said they wanted to see leak notifications.

Mr. O'Connell presented a graphic on how the AMI system works. He said essentially, the electronic digital meter, through a communications device, sends it through the network to their software system where they get the water use data. He said they can make that available to customers through a portal, if they are interested, or if they would like to receive leak notifications as well as ACSA gets that information. He said there are a variety of new system features as they get into the project that they will be able to take advantage of.

Mr. O'Connell said the project is underway, and they are in the first phase of testing. He said they have a 450-meter changeout scheduled for the fall, which will be the next phase, and then a final phase in 2021 where the rest of the 20,000 meters and communication devices will be replaced. He said by early 2022, they hope to have the system fully operational, and have all the web portal information available.

Mr. O'Connell presented an introduction to the customers in a newsletter that will go out that month with the bills about My Water and some of the technology improvements, as well as what they hope to provide to the customers over the next few months. He said it also includes some online bill payment changes that are being made to make it easier and more convenient for people to be able to pay

their bills online.

Mr. O'Connell said they continue to be proud, in partnership with Rivanna, of providing high-quality water. He presented the annual report that was put out. He said there are over 400,000 tests per year that go on to make sure that they do provide high-quality, safe drinking water. He said other parts of the country cannot say that. He said ACSA thinks they provide a good value for that high-quality water as well. He concluded his presentation.

Ms. Palmer thanked Mr. O'Connell for working out the finances to stay on track for all the projects they have going on in water and sewer and be able to keep the prices level.

Ms. Mallek urged Mr. O'Connell to keep telling everyone about the low-cost water, as they are getting a huge bargain. She said at some other time, she would like Mr. O'Connell to update the Board when he has any news about PFAS testing. She said she knows there was some discussion at Congress about that, as well as at the General Assembly last year, but she had no idea of the impact or what ACSA will be able to see.

Ms. Price said the cost per gallon for high-quality water is incredible. She said those who receive it should be very appreciative. She said the AMI metering will be very helpful for people to avoid exorbitant bills instead of having to wait a month and find out that all the water has been going in the ground.

Ms. LaPisto-Kirtley said she would email Mr. O'Connell her question.

Mr. Gallaway said he appreciated in the report the efforts that ACSA has been doing with customer accounts and customer service relative to job losses, business closures, and other things noted in the report. He said with the things that ACSA has been doing relative to no rate change for next year and working out payment plans for those who are behind, he appreciates all the efforts there to help people out.

Mr. O'Connell said they are working on a customer payment plan with no interest charges or late fees for the customers who are in some economic distress. He said he believes this is about 2% of their customers or less and are in contact with them trying to work through this 12-month program.

Ms. Palmer asked Mr. O'Connell if ACSA was receiving any CARES or State money to help pay those people's bills.

Mr. O'Connell replied no. He said they are trying to work things out with people individually through a payment plan. He said he knows some of the businesses that have been able to make payments for their bills have been involved with some of the federal funds, which was likely a source for part of their payments.

Agenda Item No. 15. **Discussion Item:** Jaunt On-demand Initiatives.

Mr. Brad Sheffield, JAUNT Chief Executive Officer, presented. He said he would continue the conversation they have had in the past about a new initiative JAUNT is putting together. He said he wanted to cover the on-demand concept and provide some additional information on how that is proceeding and being brought more and more to the forefront of the community. He said this is about how they are talking about and bringing forward on-demand in a larger ecosystem of all the different services that already exist, such as CAT and other types of modes.

Mr. Sheffield said another topic to touch on is an update on the grant that JAUNT went after where the Board had voted on a letter to endorse the Federal Transit Administration Grant to actually help get this initiative up and running.

Mr. Sheffield said he would discuss four different aspects of on-demand for the Board to consider and understand. He said as the Board is leaving the presentation that day, it is important to focus on the opportunities and flexibility that exists with this. He said he wanted to make sure the Board understands the difference between on-demand and what JAUNT already does with demand response. He said he will explain why they are looking at this differently as an innovative approach.

Mr. Sheffield said there are some guiding principles JAUNT has come up with that they felt were important to have as things progress that they do not want to lose sight of.

Mr. Sheffield said he would try to bring this forward to many different venues because it is important to get it out more and more. He said he is hearing similar ideas popping up here and there and as is the case, they sometimes see duplicate effort with no cross-communication, which ends up wasting a lot of resources and time.

Mr. Sheffield said he has already secured presenting before the City Council, Planning Commission, and RTP. He said they are working with Mr. David Benish to get on the Planning Commission agenda. He said if there are any other venues the Board can think of, noting the CACs would be great, they want to start having the conversation as the more they are consistent and get it out there and the more feedback they get, the better they can shape the message and information as it becomes more of a reality.

Mr. Sheffield said many of those who know JAUNT know they have been around since 1975, and there is a level of confusion about them already providing something like on-demand. He said he would touch quickly on the difference between this on-demand concept versus what they call demand response. He said it breaks into two areas, with one focusing on the user and the immediacy of the service. He said they look at the user, and things like fare structure are currently set. He said they have a fare that exists for the ADA passengers, and a fare for the service coming out of Louisa into Charlottesville. He said whatever it might be, it is predetermined.

Mr. Sheffield said that with on-demand, it is more based on the type of request being made and is flexible. He said they want to match the fare structure to the services that are being provided. He said in some cases, they can be sponsored by someone and therefore, the fare is not the burden of the passenger.

Mr. Sheffield said the other aspect from a user standpoint is scheduling. He said they have some set schedules of the way they offer some of their demand response, or even the commuter services. He said this on-demand initiative looks at shaping schedules around the actual requests that come through so over time, they are able to better respond more immediately to those needs so that they are not waiting for ongoing processes and a year-long effort to reshape services.

Mr. Sheffield said when talking about immediacy, there are areas of hours of operation in that they have set schedules and set timetables where they provide service, which is based on information they have at hand. He said if they are able to offer services more ambiguously and that are more responsive to the time of when someone is making the request, this starts to shift things around to where they do not have to inform everyone about that kind of schedule. He said it is more based on that immediate need.

Mr. Sheffield said it is the same with the area of what they serve. He said it was not someone going to look to see what is available. He said they are actually making the request, and JAUNT is responding accordingly. He said it is a dramatic shift in that in one sense, they are taking it out of the hands of a transit system and its typical planning, scheduling, and operations procedure and almost putting it into the individual's hands and empowering them with that information to help keep it going forward.

Mr. Sheffield said one of the biggest things he has come to realize is that when he first started to understand on-demand and some of the other concepts around it, and especially the platform JAUNT is looking at putting in place, he looked at it from all the potential opportunities that exist or that could exist based on putting something like this platform in place. He said most transit systems, and almost all those he has come across, typically have said they have a specific need and therefore, they will take the concept of on-demand and use it to serve that need.

Mr. Sheffield said Champaign-Urbana needed to be able to get kids from wherever they were to home late at night. He said they were not running buses and needed something. He said they used on-demand to make that connection.

Mr. Sheffield said this is very different. He said this is JAUNT saying they have this platform with amazing flexibility and opportunities, and that they want to inspire the community to think about how they can better help them once they better understand the flexibility and uniqueness of that platform. He said he harps on this because it is definitely a different approach. He said in a way, that is how JAUNT is, they typically look at the broader picture of what they are trying to put into place and not just respond to one specific need.

Mr. Sheffield said in terms of flexibility and opportunities, one good way of being able to show the Board the versatility of this platform is to go through a handful of scenarios that show how on-demand would fill the existing gap with some challenges in the community. He said he would show five different scenarios and quickly explain their impacts.

Mr. Sheffield said in this case, the schedule is uncertain and uncommon, such as working on weekends and at night, and there is no real consistent transit option. He said on-demand provides that ability to respond to his needs when he needs it without building a work schedule around a transit schedule, and not having to be 100% reliant on one mode versus another depending on the day of the week.

Mr. Sheffield said another scenario relates to so much conversation about affordable housing and jobs, and the connection in between. He said he harps on the fact that they are not talking about the transportation piece between those two. He said that is a dynamic issue because not only does someone need access to a new employment, but if it is outside of a typical transit zone, transit does not know that there is a growing need, such as up 29 North, for people to access employment. He said on-demand can start building up those kinds of needs and understandings of where the shifts of travel patterns are occurring. He said it offers a gateway into connecting those who are looking for jobs to the areas that are offering those opportunities.

Mr. Sheffield said another possible scenario is working with stakeholders and businesses. He said in this case, there is a software company in Woolen Mills that needs to connect their employees to other places downtown. He said in addition, there is the need to get them out of their car and connect them from where they live, off of Rio Road, to the office. He said this platform allows JAUNT to create

those unique partnerships to meet their specific needs while also meeting the public-wide needs. He said it helps get the businesses to own more of what is being invested in transit, as they are now seeing their specific outcomes.

Mr. Sheffield said another aspect is working with Human Service agencies to build stronger partnerships, similar to the business approach to where they can look at their specific needs and build around that. He said when it comes to the residents, in this case, someone needs reliable access to the support services the agencies offer. He said they cannot forget that they are balancing their need to get around and to access different resources, as well as all the other personal things going on. He said if someone is able to go to work but then needs to run to Loaves and Fishes, as this opportunity has popped up, something like on-demand can help better respond to those needs rather than force that person to plan so far ahead and follow a rigid structure.

Mr. Sheffield said the final scenario is someone who wants to leave their car behind and may live just slightly beyond walking to a hub that connects them to something like Crozet Connect. He said something like on-demand can help make that connection that can help the person take the further trip and make some multimodal connections. He said this helps to fill the short leg of a gap, and in transit, sometimes it is called the "first and last mile." He said it is important, though, because fixed routes cannot be everything to everybody, so they need to look at how the different modes can work together. He said on-demand can help fill in that gap.

Mr. Sheffield said with that, there are many possible scenarios, and that these were just five that JAUNT came up with. He said if they spend enough time, they will come up with many more. He said the reality is that they are all basically on the same platform, on the same service, being supported by the same infrastructure. He said it becomes powerful because none of them need to share the same transportation options, needs, or use. He said it is up to the platform and JAUNT to figure out how to manage it all together. He said the great thing is that this is not a new approach or new service they are looking at providing but is just evolving what JAUNT already does in providing the more user-focused and more immediate response.

Mr. Sheffield said when they look at deploying this, they are looking at five different guiding principles that form the acronym RIDES. He said they want to make sure they remain responsive to needs in building the platform and communications.

Mr. Sheffield said JAUNT has always been about inclusiveness, and they need to make sure that any on-demand platform remains inclusive, meaning one may not have or be able to use a smartphone, but it doesn't mean someone cannot use the platform by calling in and talking to a reservationist. He said he is very careful in not saying an "app" because an app means a smartphone. He said this is a software platform, but it doesn't mean that someone has to rely on a piece of technology. He said fortunately, the company JAUNT is working with is also a very inclusive company, so whatever they build, they consider the hearing-impaired, sight-impaired, and disabilities that need to be considered when developing an app.

Mr. Sheffield said the principle of being "dynamic" is around dynamic potential partnerships and being able to work with different stakeholders to come up with unique solutions.

Mr. Sheffield said a major principle for him is "empowering." He said they want to make sure they maintain empowerment on the user side. He said JAUNT wants users to feel like they are in control and not so dependent on a set schedule.

Mr. Sheffield said safety is included as a principle because many people related this to Uber and Lyft. He said safety is a huge issue for those providers but is not an issue for JAUNT. He said the more they make sure the public realizes that this will stay in the forefront, the better, and especially in this day and age.

Mr. Sheffield said lastly, there is the transit grant JAUNT went after. He said this has already been discussed by the Supervisors, and that JAUNT is working with Loaves and Fishes initially to put in an on-demand structure that would help get more of their clients to the facility. He said they are shaping this around the sense of food security. He said to him, it is an interesting aspect right now, given they are seeing a need for that more and more, and that transportation doesn't play a role, given it doesn't exist. He said they are interested to see hopefully getting awarded and seeing how it gets deployed.

Mr. Sheffield said JAUNT is going after the grant due to the budget challenges in the County and in many other localities. He said this came up around the same time the County was weighing its budget, and there had been thoughts about the County helping JAUNT to pursue this right out of the gate. He said obviously, this dissolved with the pandemic hitting the nation and the budgets. He said going after this grant means JAUNT can start sooner and that they do not need to wait until things start to recover.

Mr. Sheffield said JAUNT is hoping to see an award in the fall. He said their next steps will be to contact some of their federal legislators to let them know they applied and to build up that advocacy for that grant.

Mr. Sheffield concluded his presentation and offered to answer questions.

Ms. McKeel said Board would get the presentation to the RTP as well.

Ms. Mallek asked Mr. Sheffield to let the Board know when he is ready for the Board to pile on

support with requests for Congressional delegation to help out.

Ms. Price said this was a great presentation, and that the more she hears Mr. Sheffield talk about what he is doing with JAUNT, the more impressed she is. She said it is obvious that given the demographic and population spread, the traditional form of public transportation is simply not going to be as effective as what they need, and she appreciated that.

Ms. LaPisto-Kirtley said she looked forward to enthusiastically supporting Mr. Sheffield and everything he is doing.

Mr. Sheffield said this was an update to let the Board know how things are progressing. He said it is important to make sure the Board, staff, and others are informed. He said the Board will get questions as he talks to others in the community, and the more knowledgeable the Board is, the more they can help get the energy out about where they are headed.

Mr. Gallaway said he was trying to get this presentation in front of his CAC and to see if they can contact Mr. Sheffield about it. He said it would be important for them to start to hear it. He said the thing that clicked for him was the piece about empowerment and that this is in the user's control, not them being controlled by a set schedule or route. He said that component is one mindset that isn't really out there yet when thinking about on-demand and is a critical piece of this.

Mr. Sheffield said he has a great Public Relations Director that will be working with staff to set things up for him to work with the CACs. He said he was able to take Ms. Jody Saunders from Building Goodness, and who used to work with the County, to come work at JAUNT now.

Mr. Gallaway asked if this is who the Board should direct their CAC chairs to.

Mr. Sheffield replied this was correct. He said Ms. Saunders will be helping coordinate this to get this in front of the CACs and keep questions coming. He said he knows this is where many of the questions and discussions will land, which will bring understanding to the applicability to different areas of the County.

Agenda Item No. 16. Closed Meeting.

At 5:38 p.m., Ms. LaPisto-Kirtley **moved** that the Board went 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 Jefferson-Madison Regional Library Board and the Public Defender's Office Citizen Advisory Committee; and
- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to the County's authority to prevent the spread of COVID-19 among persons in the County; and
- Under Subsection (19), to discuss plans related to the security of the County Office Buildings on McIntire Road and Fifth Street, and at Court Square, and the safety of persons using those facilities, for an upcoming virtual meeting and other events from now through September.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None.

Agenda Item No. 17. Certify Closed Meeting.

At 6:07 p.m., Ms. LaPisto-Kirtley **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. Price.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Agenda Item No. 18. Boards and Commissions.

Item No. 18. a. Vacancies and Appointments.

Agenda Item No. 19. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Ms. Debbie Messlar Little, 6286 Hillsboro Lane, said she has been a resident of Crozet for 29 years and has been in Yancey Mills for 22 years. She said the mill has been part of the neighborhood for many years.

Mr. Gallaway said he was sorry to cut off Ms. Little, but that this portion of the meeting is for matter not listed for public hearing.

Ms. Little apologized.

Mr. Gallaway said this item will be coming up later that night, and that Ms. Little could call in during that time. He thanked her for her understanding.

As there were no other speakers, Mr. Gallaway closed Matters from the Public.

Non-Agenda Item. Amendment to the Agenda.

Mr. Gallaway said the Board had the opportunity to have Dr. Denise Bonds and Mr. Ryan McKay with them. He said earlier that day, the Board should have amended the agenda to have this update listed. He apologized for not catching this adjustment. He said the Board would need to vote to amend the agenda to add Dr. Bonds to this time.

Ms. LaPisto-Kirtley **moved** to amend the agenda. Ms. Price **seconded** the motion.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Non-Agenda Item. COVID-19 Update from the Thomas Jefferson Health District.

Dr. Denise Bonds said she was happy to come to the Board at any time to discuss how they are doing in this unprecedented pandemic. She said she would start by giving the Board a brief update of the numbers as they were that evening. She said they had just under 1,300 cases in the district, with 109 of those being hospitalized at some point in their case and, unfortunately, 29 fatalities.

Dr. Bonds said if one has been watching the trend data on the Health District's website, they will see there were 21 new cases that day. She said they have had double-digit cases every day for the month of July. She said this is an increase over previous months. She said Albemarle does continue to have the bulk of cases, but Albemarle County also has the bulk of the district's population. She said there are currently 583 cases in Albemarle, with 39 of those individuals that were hospitalized at some point during their case and, unfortunately, 10 fatalities from this disease.

Dr. Bonds said as she reported earlier, African Americans and Latinx communities remain overrepresented in the numbers. She said African Americans are 17% of the cases, and Latinos are 31%. She said in hospitalizations, 46% are African Americans and 17% are Latino. She said 28% of the deaths have been African American.

Dr. Bonds said something that is especially concerning right now is the gradual increase in the rate of positivity. She said it continues to climb, and they are now at 8.4% for the district, as the webpage notes. She said they have broken it out on the backend for Albemarle, and that Albemarle's positivity rate for the last 7-day average actually exceeds the district's, at 8.5%, which is for PCR tests only.

Dr. Bonds said they continue to test quite a number of individuals, and that just over 1,200 tests were done in the last 7 days in Albemarle.

Dr. Bonds said the Board had likely heard that there are two outbreaks in long-term care facilities going on currently. She said the Health District has been in conversations with both facilities but are not having much success in engaging one of those facilities to make sure they have contingency plans and adequate staff. She said when they do reach one facility, they do report having adequate staff, but it is not clear to her at this point in time.

Dr. Bonds said the problem with an outbreak in a long-term care facility is that it has lots of consequences. She said they see staff become infected, and they know lots of nursing home staff rotate amongst many homes, which is how they get jumps in the spread and in outbreaks. She said then, they have difficulty getting staff to work in the long-term care facility, either because they are infected with COVID and need to stay home, or because they want to protect their family from getting COVID. She said this is especially tragic because they know that in many long-term care facilities, individuals who are providing that frontline care often do not have health insurance.

Dr. Bonds said if a long-term care facility cannot get adequate staff, they then end up with patients being transferred to hospitals, and then hospitals have increasing difficulty discharging those

patients back to facilities, which leads to crowded hospital settings and a bottleneck there.

Dr. Bonds said when looking at the hospital data, the data she has is regional, so it is the northwest region that includes from Albemarle north and west to the Fredericksburg area. She said it does not include Northern Virginia, per se. She said as of that day, there are 2,890 staffed beds in the hospitals in the northwest region. She said 2,377 of those beds are filled, and 5% of those patients are noted to be COVID-positive. She said overall, that is about an 82% occupancy rate for the hospitals in the northwest region, with 5% of the hospital patients being COVID-positive. She said it is not disastrous as a region, and there is still capacity, which does not count the surge capacity that hospitals have developed.

Dr. Bonds said there are a number of concerning issues. She said the Governor just recently spoke about some of the increasing cases that were seen in the eastern area, Tidewater, Norfolk, Virginia Beach. She said looking at that data on the VDH website, one will see that the numbers are actually quite high for that area. She said when looking at it, it would be considered a "red zone," or an area that is having a rapid increase in community transmission.

Dr. Bonds said the rest of the State is not in that situation at the moment, although she thinks that in Albemarle, they do have some concerns. She said there is a high positivity rate that is increasing at this point in time. She said there are increasing numbers of healthcare workers that are becoming infected, possibly related to the fact that they now have outbreaks in long-term care facilities. She said they are seeing more individuals that are positive, and there are likely other reasons. She said there are large gatherings, and there was recently a big holiday that involves lots of people getting together, which people took advantage of. She said now, they are seeing consequences with positive health results.

Dr. Bonds said the other concerning factor is that because of the nationwide issues with many states having big boluses in their numbers, such as Florida, Texas, Arizona, Southern California, they are finding commercial lab facilities have a huge delay in getting test results back. She said often it can be 10-14 days before a test result comes back. She said, as one can imagine, that is a worthless test result, at that point in time. She said if they have been positive, they are probably recovered at that point in time and ready to go back to work. She said if they are negative, potentially, they stayed home for two weeks for no particular good reason.

Dr. Bonds said she thinks they are now in a situation where there are several factors that are worrisome. She said there are things the public can do. She said there is increasing evidence that just wearing a cloth face covering all the time, when out interacting with anyone, provides significant protection for the wearer and considerably, for those around them. She encouraged everyone to adopt their face covering all the time, practice 6 feet of social distancing, and if they do not need to be out, to stay home. She said they need to work to keep the numbers down.

Dr. Bonds said they would like to be able to have kids go back to school in the fall. She said kids have already lost several months. She said it is very difficult for kids of certain age groups to learn online and, as a resident of Albemarle County, she knows that broadband is not universal in all parts of the community, which will make it a challenge for parents and kids to be able to achieve what they need to in their schooling.

Dr. Bonds said there are several worrisome things going on. She said Mr. McKay is much more caught up on the school situation and would be happy to talk about that if there are specific questions. She said if there are questions about the numbers, they are happy to answer those as well.

Ms. Palmer asked if Dr. Bonds foresees a time when they will be able to fine or have any punishment for establishments that are not requiring masks or having their own employees wear them.

Dr. Bonds said this was something the Governor talked about in his press conference. She said previously, if she wanted to suspend a restaurant license for noncompliance, she had to work a lot with the central office and provide lots of details. She said now, this duty has been delegated directly down to her so that, in fact, she can suspend with a minimal amount of administrative work.

Dr. Bonds said she has been advised to really crack down on the wearing of masks. She said the Governor just released a news release about protections for workers so now, there are requirements for PPE. She said what this will look like has not yet been released, so she did not know the specifics and only had what was put out in the Governor's press release.

Dr. Bonds said they are having a Statewide meeting to talk about how they will enforce those mask rules in settings the follow morning. She said as an agency, the only groups that the Health Department regulates are restaurants and food establishments, and that is where she can pull a license, for example. She said while the Governor has said one can get a misdemeanor for not complying with the Executive Order, it is not clear at this point in time how they would issue that, and she hoped that some clarification would come with that the following day.

Dr. Bonds said the Health Department does work closely with other regulatory agencies. She said when they get supermarket complaints, they talk to the group that regulates those. She said they are in close contact with ABC about liquor licenses. She said they are trying but are not designed to go out and issue tickets for not wearing a mask at this point in time. She said it will be a significant manpower issue, which will take away from other responsibilities they have. She said they can keep adding responsibilities with staff but at some point, they run out bandwidth, and they are very close to

that.

Ms. Palmer asked who regulates places like Sheetz and 7-11, as those are the places she sees are not behaving very well. She said her last question might be for the IMT, which is about how they will do outreach, if this does change and they are allowed to issue some kind of citation.

Dr. Bonds said in regard to regulations of convenience stores, it depends. She said if there is a large amount of prepared food, it might fall under the Health Department, and they would go in and regulate the prepared food portion of it. She said they do not regulate the gas station part of it, and she would have to think about who regulates this. She said if they do not have prepared food and just snacks, that is probably not the Health Department's area. She said the line is how much prepared food there is. She said there is a list and that she can look up which agency is regulating a specific area. She said if there are complaints about a 7-11 and it is outside the Health Department's area, they forward it to the appropriate agency.

Mr. Doug Walker, Deputy County Executive, said in response to the question, he wanted to acknowledge that the Health Department is leading an effort with the Joint Information Center to launch an education campaign. He said he didn't know the specific timing, but that he thought it was close. He said this education campaign is set to be pushed out to the region.

Ms. McKeel said she had a couple questions about the testing turnaround time. She asked if UVA was only testing its employees. She said she would also like to hear from Dr. Bonds about contact tracing. She said the last time Dr. Bonds was before the Board, she said they were advertising for those jobs.

Dr. Bonds replied that in terms of testing, the Health Department's website lists all the free testing events and places where one can get testing. She said both Sentara Martha Jefferson and UVA have been partnering with the Health Department to make sure there is free community testing available. She said UVA has helped conduct testing at Southwood, Church of the Incarnation, and helped, in conjunction with Sentara, to do a big testing event for communities of colors about a month ago. She said her understanding is that UVA is committed to providing regular testing in the City and County in partnership with the Health Department, starting by the end of July. She said there was still discussion about where they will be testing, but that she has received firm commitment that this is happening.

Dr. Bonds said UVA is holding a testing event that Saturday at Buford Middle School and are meeting about another large event next Saturday as well. She said she thinks UVA has been very responsive. She said if they have capacity, they will take the tests to run them, which is a rapid turnaround time. She said UVA is also tasked with being an extension of the State lab, meaning that sometimes they end up getting 9,000 tests from a jail or 1,000 from a nursing home facility that they have to run.

Dr. Bonds said she could not personally speak to what UVA's testing plan is in regard to employees and students because she has not seen it. She said she was told at a meeting earlier that week that they will have their final plan available by Friday of that week and that they will share it at that point in time. She said she could not comment on the specifics.

Dr. Bonds said the Health Department is working very closely with UVA with regard to testing, and that UVA has tried to be a good partner. She said she also wanted to give credit to Sentara, as they have also stepped up to the plate to provide testing for the community.

Dr. Bonds said in regard to contact tracers and case investigators, the Health Department continues to hire and, in fact, have decided that they will continue to do so, at least until there is a good vaccine. She said they started hiring students that summer to help them and now, they are going back to school in another month or so. She said they want to have people already up and trained to replace them. She said it is a continuous process.

Dr. Bonds said when she looked at the metrics, they are just under 90% of cases being contacted within 24 hours, and just under 90% of contacts of those cases being contacted within 24 hours. She said it fluctuates somewhat, and that this is a 7-day rolling average. She said she would like it to be closer to 100%, and that she thinks they will be there in a few weeks. She said it is that they are still in the ramp-up phase, and it is not totally under their control. She said this is also in conjunction with the State, who is helping to get these people through the contracting agencies and making sure they have the IT they need. She said mostly, this has been seamless, but there were some hiccups in the beginning.

Ms. McKeel recalled that Dr. Bonds had talked about space issues at her office. She asked if she needed help with finding space for people. She said the Board wants to help in any way they can.

Dr. Bonds replied that space is a huge premium. She said they turned over their big conference room to essentially be office space. She said she is worried because when she looked in there that morning, it is just at the verge of not being appropriate with regard to distance between individuals. She said the back half of that room is their call center. She said they have had so many calls to the hotline, and because they use that hotline to register people for testing, they have three people staffing the line, which is not quite enough. She said they received over 250 calls in one day that week, and that each call can take a lot of time to go through to find the right resource, to take down their complaint, or to register them for a testing event.

Dr. Bonds said the Health Department is absolutely packed space-wise and are working hard to make sure that they practice what they preach. She said they are doing that by teleworking and by alternating people in and out on various days. She said as far as whether there is unused space somewhere, such as a large conference room or auditorium, and any place where they can get good cellphone access and where they can spread people out, they would be very much interested in talking about how they could make that work.

Mr. Walker said he would follow up on that.

Ms. McKeel said she had an idea as well, and asked Mr. Walker to remind her about discussing.

Ms. Mallek asked if Dr. Bonds is now free to notify the families of those in nursing homes. She said she thinks the Governor changed his original reluctance to notify families of what was going on in these facilities, but she does hope that is really being changed and that people are allowed to get their elders out if they choose and take them home.

Dr. Bonds replied that every long-term care facility outbreak is now posted on the website. She said it is somewhat of an obscure place, and she could send out the link. She said she did not think they were intentionally trying to hide it, but that it is not where the data is. She said one has to go to the Long-Term Care Facility Resources page and scroll all the way to the bottom. She said it lists all the homes, and one can sort it by whether they have a current outbreak going on, the outbreak has closed, or whether they have ever had an outbreak. She said this information is public and is updated frequently. She said as soon as there is an outbreak number associated with a cluster of cases, it gets posted to that site.

Dr. Bonds said with regard to getting one's family member out of a long-term care facility, her understanding is that one should be able to get their family member out at any time. She reminded everyone that she does not handle the direct regulation of long-term care facilities, and that this is done by the Office of Licensure. She also reminded everyone that assisted living facilities are regulated by the Department of Social Services. She said memory care units can vary, depending on if they are licensed under an assisted living facility or under a nursing facility. She said they could therefore be licensed by the Health Department or by Social Services. She said the requirements for those vary tremendously.

Ms. Mallek said it would be so simple and citizen-friendly if the place itself was required to make 25 phone calls and tell the families, but that this was obviously too much to expect.

Ms. Mallek said there was successful testing in the district, and that there was one the following day. She asked what the turnaround time is for the tests that happened in White Hall two weeks ago, for example. She asked if those people have already been notified.

Dr. Bonds replied that White Hall has. She said they are sending the vast majority of tests to the State lab, DCLS. She said if they are tested in the morning, the tests are shipped by courier in the afternoon. She said it depends on what DCLS has to do. She said they will not hit the evening run but might hit the run the next day. She said if DCLS also had a big point prevalence survey they had to do, they might not hit until the following day. She said typically, the tests are back in 2-3 days, but they tell people it is 5 days. She said the White Hall tests should all have been notified at this point in time.

Dr. Bonds said the Crozet testing filled up very quickly, in less than an hour. She said the State has said there are additional funds coming to the Health Department to stand up another testing team. She said she hasn't seen those funds yet but is told they are coming any day now. She said once they have notice of the funds, it takes about two weeks to go through the hiring process, and perhaps three weeks.

Dr. Bonds encouraged people to be judicious about getting tested. She said they of course want people to get tested if they are symptomatic, if they have been around someone who is positive, or have participated in a particularly risky activity, such as a big Fourth of July party where they didn't wear their mask, hung out with lots of people, and are now worried.

Dr. Bonds said if someone has been doing social isolation, staying appropriately at home, not out in large groups of people, and hasn't been around anyone who is positive and have absolutely no symptoms, to get tested if they are interested, but that the test is not going to tell them if they have ever had COVID. She said the test only indicates if one has COVID at that point in time. She said it will not indicate if they are going to get it next week if they are coughed on and didn't have their mask on, either.

Dr. Bonds said they want people to get tested and are glad to have the testing out and available, but that she would ask people to assess if they are truly at risk and if it is something they need to be doing that day.

Ms. Price said she had some questions about the schools, and that she understood there was another individual she could ask those questions to.

Dr. Bonds replied that Mr. McKay was on the call and knows about the schools.

Ms. Price said she understood that later that month is when the School Board would be making their decisions in terms of the various options or possibilities. She said they all recognize that given the rising numbers, where someone feels they are today is not necessarily where they will be in a week or

two.

Ms. Price said the thought of sending young children into school every day and expecting them to be able to wear a mask does not strike her as being very reasonable. She said she knows the schools are working hard to come up with a safe plan, but as Dr. Bonds mentioned, the reality is that virtual schooling is very difficult for many areas of the County. She said she knows there are many challenges ahead and that she looked forward to getting more information, as they get closer to the potential of an actual school start day.

Mr. Gallaway said Ms. Palmer hit on his question about the Governor giving the Health Department the authority to do things, but since it is so rigid in what they cover, he wanted to know if there is a summary somewhere so that the Supervisors can see a list of who is responsible for what. He said perhaps this is a question for the IMT team. He said it seems that they do have people contacting the Board about noncompliance happening, then wanting their help in directing them. He said the Board passes this onto the IMT team.

Mr. Gallaway said when Dr. Bonds mentions "food-related" and the distinctions between convenience stores versus a restaurant versus a bar, he was looking for some guidance relative to what the Governor is passing down. He asked if the Governor has given similar authority to the people who regulate those types of areas.

Dr. Bonds said her understanding is yes. She said they can certainly generate a list about where the Board might be directing people, but that people can always direct those complaints to the Health Department. She said they are happy to take them on the hotline and to then forward them onto the correct group. She said for the general public, it might be easier to call the COVID hotline if there is a specific circumstance they want to complain about or report, then let the Health Department funnel it to the right place on the backend, rather than having to pull up the list to determine who to call. She said the Health Department can always figure it out and has enough contacts to do that.

Dr. Bonds said it is within everyone's power to slow this down, let kids get back to school, and let businesses reopen. She said it is not that difficult. She said people need to adopt wearing a cloth face covering, as there is increasing evidence that it is effective enough at reducing aerosolized viruses that it will protect people.

Dr. Bonds said masks come in lots of colors and shapes and if one searches around, they can find one to fit their particular face. She said many of her staff have tie-dyed masks, and that masks can be personalized. She said there is one staff member who coordinates his mask with the rest of his attire.

Dr. Bonds encouraged everyone to wear masks. She said this is not a political statement, but a health statement, and what they are saying is that they care and respect other individuals and that you want to protect them.

Dr. Bonds said if there are complaints of concerns, they can always be taken on the hotline, and that the Health Department is happy to get them to the right place. She encouraged everyone again to wear their masks.

Ms. Palmer said there are multiple counties in the Health District with different populations and population concentrations. She said she understands that Nelson County schools will do something different than Charlottesville schools. She asked Mr. McKay if there are any coordination or guidelines that the Health Department is giving to the schools where all the schools would be looking at the same information.

Mr. McKay replied yes. He said the Virginia Department of Health and the Department of Education put out joint guidance, so there is a lot of information for schools to look at there. He said the Virginia Nurses Association put out a very lengthy, detailed document that has gone out to all schools.

Mr. McKay said the Health Department met with the public schools that Tuesday and included some pediatricians from the Charlottesville area to talk about the different questions they have related to face coverings for children and screening on the way into school.

Mr. McKay said the Health Department has been invited to the Region 5 calls, which happens every Monday morning and includes more than their district but is another opportunity for them to engage and review most, if not all, of the plans. He said while there are some differences in approaches, they all have very similar approaches to mitigation strategies as opposed to virtual versus in-person. He said they are adhering to the guidance in their plans, the coordination is happening, and there is significant information sharing going on each week.

Agenda Item No. 20. **Public Hearing: Virginia Community Development Block Grant (CDBG)**. To review the County's intention to apply for Federal funds from the Virginia Community Development Block Grant (CDBG) COVID and Program Years (PY) 2020-2021 Allocation Programs. Albemarle County proposes to utilize the requested funds to carry out the following activities for the CDBG-COVID program: Approximately \$615,000 for rental assistance, \$248,000 for mortgage assistance, \$90,000 for housing counseling services, and \$456,000 for emergency shelter hotel space for persons experiencing homelessness. For the PY2020-2021 Allocation Program, Albemarle County proposes the following uses: Approximately \$35,000 in planning grant funds for housing rehabilitation in

Esmont, \$15,000 in planning grant funds to support permanent affordable homeownership through a community land trust, \$700,000 competitive grant for housing rehabilitation in Esmont, and \$550,000 competitive grant to assist moving homeless persons into permanent housing.

The Executive Summary forwarded to the Board states that the Virginia Community Development Block Grant (CDBG) program is a Federally funded grant program administered by the Virginia Department of Housing and Community Development (DHCD). Since 1982, the DHCD has provided funding to eligible units of local government (in non-entitlement communities only) for projects that address critical community needs, including housing, infrastructure, and economic development. The CDBG application process requires two local public hearings be conducted. At the first public hearing with the Board on May 20, 2020, information was provided on eligible activities that may be funded by the CDBG program, the amount of funding estimated to be available, past activities undertaken with CDBG funds, and the process for applying for funding. No public comments were received during this hearing. The purpose of this public hearing is to provide information on the proposed project applications and to accept public comment on these applications.

Following the first CDBG public hearing held on May 20th, staff solicited proposals for potential CDBG projects in Albemarle County. Proposals were accepted for CDBG Planning Grants, Competitive Grants, or Urgent Need Open Submission Grants utilizing state CARES Act CDBG funding. The application form noted that priority will be given to projects or programs addressing a COVID-19 related community need. Proposals were due by 5:00 p.m. on June 12, 2020 via an online application form. The deadline was extended once to June 24th to accommodate a few last-minute inquiries.

This public hearing is only for the state CARES Act funding requests. A total of four applications proposing five programs have been received with a total combined funding request of \$1,516,183. Programs to address COVID-19 related issues include rental assistance for Southwood residents and residents of Piedmont Housing Alliance's properties located in Albemarle County, mortgage assistance, emergency family support and navigation services for low-income households; and emergency hotel shelter costs for homeless persons at high-risk for complications due to the coronavirus. A table summarizing each request is found in Attachment C. Attachment D provides copies of each application.

In response to the COVID-19 pandemic, DHCD has implemented an expedited application process for COVID-19 related CDBG funding requests. This process is initiated by submitting a Letter of Interest to DHCD outlining the activities Albemarle County proposes to undertake along with the amount of funding needed to implement those activities. DHCD will then forward an application packet to the County for completion. DHCD is reviewing COVID-19 applications on a bi-weekly basis and disbursing funds shortly after approval. Albemarle County is able to apply for up to approximately \$1,000,000 in state funding for COVID-19 related CDBG projects, which must be expended by December 31, 2020.

Due to the funding restrictions staff is unable to recommend full funding for each request. However, to ensure funding is provided to meet a variety of critical community needs, staff worked with the nonprofit organizations requesting funding to rework the proposed project budgets. As a result, staff is recommending the County submit a Letter of Interest to DHCD for a total of \$1,179,994 -- \$1,129,994 for program funding with an approximate \$50,000 administrative fee. A breakdown of recommended funding amounts can be found in Attachment C. Staff has prepared a Letter of Interest (Attachment B) for this amount to be submitted to DHCD if approved by the Board.

Staff also received several non-COVID CDBG funding requests. Staff will work with each nonprofit to further develop program details for these programs and return to the Board at a later date for application approval.

There is no budgetary impact unless and until an application is made and a grant is awarded, at which time the Board will be asked to appropriate the funding. Community Development staff will work in partnership with OMB and Finance to administer the grant. CDBG projects include various levels of funding to offset administrative costs by awarding such funds based on performance. The budget submitted with the application will include a performance-based budget for administration.

Staff recommends that the Board adopt the attached Resolution (Attachment A). This action approves the County's submission of a Letter of Interest for CDBG-COVID funding at the recommended amount and authorizes the County Executive to execute the application package, as well as any supporting or related contracts or documents required to obtain or accept this grant, and to take any further action required for this application.

Ms. Stacey Pethia, Principal Housing Planner, presented the second public hearing for Virginia Development Block Grant applications. She said the CDBG program is a federally funded program administered locally by the Virginia Department of Housing and Community Development (VHCD). She said the CDBG program provides grant funding for community projects that meet three national objectives: activities benefitting low and moderate-income persons; activities that aid in the prevention or elimination of slums or blight; and activities designed to meet an urgent community need.

Ms. Pethia said localities are required to hold two public hearings prior to applying for any CDBG funding. She said the first public hearing, which Albemarle County held on May 20 of 2020, provided background on the CDBG program, past activities for which the County has received CDBG grants, and sought community input on those past activities as well as proposals for future CDBG applications.

Ms. Pethia said that night is the second public hearing, which is when she will present to the Board a series of recommendations for CDBG grant funding and receive the Board's approval to submit a CDBG grant application to DHCD.

Ms. Pethia said that evening's public hearing was focusing specifically on CDBG COVID applications. She said she received requests for funding for project planning grants, as well as a project grant moving forward for housing rehab. She said those are a different process and so that evening, she was focusing on the most immediate community needs. She said she will return to the Board at a later date for the non-COVID-related application requests.

Ms. Pethia said in March of 2020, DHCD redirected approximately \$6.5 million in 2020 CDBG funds to support COVID-19-related community needs. She said as with standard CDBG projects, the COVID-19-related projects must meet one of the three national objectives. She said DHCD, however, is prioritizing projects that provide a quick turnaround of resources. She said in other words, it is those projects that can be implemented quickly and deliver community benefits as soon as possible.

Ms. Pethia said to help meet the immediate COVID-19-related community needs, DHCD has implemented an expedited application process. She said this time around, the process is initiated with the County's submission to DHCD of a letter of interest, which outlines the projects for which the County is seeking funding, along with the amount of funding to be requested. She said DHCD will then forward that letter of interest and once it is reviewed, they will then forward an application packet to the County. She said it is a very short four-question application. She said these are being reviewed biweekly by DHCD, and that hopefully within a month, they can have funding ready to go.

Ms. Pethia said Albemarle County is eligible to apply for approximately \$1 million of those funds, and that \$1 million in CDBG COVID funds do not count towards the maximum amount of open CDBG grants the County can have. She said they are typically allowed to have \$2.5 million in open CDBG grants at any one time, and that this goes over and above that amount.

Ms. Pethia said after the last public hearing, she received five requests for funding for five different programs. She said those range from providing rental or mortgage assistance to County homeowners and renters; providing financial support for Habitat families and navigation services, with those services helping families connect with job opportunities, any social benefits they may be eligible for, or any type of support to help them get through this period; and additional emergency hotel shelter support for the Thomas Jefferson Area Coalition for the Homeless. She said the total of all requests was just over \$1.5 million.

Ms. Pethia said it took some time to get together with DHCD, which is why this is somewhat behind schedule. She said after meeting with DHCD, some of the programs do not fit within the \$1 million, so she worked with the local nonprofits to cut back on some of that program funding and came up with a revised estimate for applications, down to approximately \$1.1 million.

Ms. Pethia said this cut back on the emergency support for Habitat families, and the Southwood Rent Relief Program was reduced to three months to fit within CDBG guidelines. She said the rent and mortgage assistance programs for Piedmont Housing Alliance already fit within the program guidelines, so that amount of funding remains the same. She said they will be cutting back the emergency hotel shelter to three months to fit within the CDBG guidelines.

Ms. Pethia said DHCD does have questions about the emergency support and navigation services for Habitat families. She said she will send them additional information about how that works. She said they think it will fit into the COVID-19 program funding, but they need to see more details.

Ms. Pethia said there is a revised total amount of \$1,129,994. She said this would be submitted as a letter of interest for one grant only instead of five different grants, which makes it easier for staff to manage and monitor compliance. She said she would also submit an additional \$50,000 with that request to cover administrative fees, which is the maximum amount that is available to the County.

Ms. Pethia said staff is requesting approval to submit the letter of interest that is included in the Board's packet, for a total amount of \$1,179,994, which includes the \$50,000 administrative fee; and to authorize the County Executive to execute the application, all supported related contracts, and other documents, should the request be approved.

Ms. Palmer said with respect to the three entities that are applying for the grants, she wanted to know if there is a limit on the amount of administrative fees that those agencies can get for administering the money to the people they are taking care of. She said she assumed there are strict guidelines but would like to understand what the CDBG funding requires with respect to that.

Ms. Pethia replied that it is typically 10% of the grant request, up to a certain amount. She said she did not have the details in front of her. She said for the COVID-19-related request, they are allowed a maximum of \$50,000, no matter what they request.

Ms. Palmer asked if this is \$50,000 for the County, or \$50,000 to be spread with Habitat, Piedmont Housing Alliance, and the Housing Authority.

Ms. Pethia replied that this would go between all of them. She said the County would work out the details as to how much the subrecipients or each nonprofit will be able to get out of that pot.

Ms. Palmer asked if with respect to Habitat for Humanity, for example, all of the money has to go to the renters except for a portion of this \$50,000.

Ms. Pethia said this was correct.

Ms. McKeel said it seems to her that of the low-income rental apartment communities managed by Piedmont Housing, the five that are located in Albemarle County will receive funds.

Ms. Pethia said this was correct.

Ms. McKeel said she was interested in Parks Edge, but she saw Crozet Meadows, Meadowlands, Parks Edge, Scottsville School, and Woods Edge and the breakdowns. She said this was great.

Ms. Price commended Ms. Pethia and those who worked with her. She said she was very impressed with page 2 of her report with the statement, "To ensure funding is provided to meet the variety of the needs." She said Ms. Pethia worked with the nonprofits to revise the proposed project budgets. She said she appreciated Ms. Pethia's efforts to maximize the assistance they would get.

Ms. LaPisto-Kirtley asked what the original amount was that Ms. Pethia received.

Ms. Pethia replied that the original amount she received was the \$1,516,183. She said this amount does not include the non-COVID-related requests she received. She said that brought this up considerably, but she did not remember what the additional amounts came out to be. She said she could get that information to the Board.

Ms. LaPisto-Kirtley asked what the final amount is that is being asked for.

Ms. Pethia replied that it is \$1,129,994, plus \$50,000 in administrative fees.

Mr. Gallaway opened the public hearing portion. Hearing no speakers, he closed the public hearing and brought the matter back to the Board for additional comments, questions, or a motion.

Ms. Palmer asked what happens to the leftover money, the difference between the \$1.5 million and approximately \$1.2 million.

Ms. Pethia replied that they will be asking DHCD for the \$1.2 million and not the \$1.5 million. She said she wanted to provide the Board with the applications describing the programs and wanted them to understand why what she provided to them application-wise is different from what she will be requesting.

Ms. Palmer asked if they were not asking for the \$1.5 million, and that she thought Ms. Pethia said they got the \$1.5 million.

Ms. Pethia replied that the request that came to her for the community need was \$1.5 million.

Ms. Palmer apologized.

Ms. LaPisto-Kirtley asked if the remainder goes back to the County.

Ms. Mallek said there is no remainder.

Ms. Price said the amounts requested were above what they were able to justify is the way she interpreted it. She said what she was thanking Ms. Pethia for doing was working to ensure that it looks like what they are requesting will actually be supportable and therefore, they will be able to get those funds.

Ms. Palmer said this was what she had thought, but she thought she heard something different in Ms. Pethia's answer to Ms. LaPisto-Kirtley.

Ms. Price **moved** the Board adopt the resolution (Attachment A). Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price

NAYS: None

RESOLUTION

WHEREAS, the County of Albemarle is committed to providing high quality service that achieves community priorities; and

WHEREAS, the closures of local businesses and the resulting job losses in response to the COVID-19 pandemic have left many of the County's low- and moderate-income families struggling financially; and

WHEREAS, upcoming changes to Albemarle School's operations, including the potential for a delayed start date and virtual instruction, impacts the ability of our community's essential workers to provide a safe space for their children throughout the school day; and

WHEREAS, Albemarle County is able to apply to the Virginia Department of Housing and Community (DHCD) for \$1,179,994 in Virginia Community Development Block Grant (VCDBG) funding to address COVID-19 related issues experienced by low- and moderate-income households; and

WHEREAS, Albemarle County has received funding requests from five local nonprofit organizations to support programs offering assistance with housing costs, connecting residents to supportive services, providing expanded programming for young people, and placing homeless persons in non-congregate hotel shelters;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County of Board of Supervisors hereby approves the County's submission of a Letter of Interest for CDBG-COVID funding, and authorizing the County Executive to execute the application package, as well as any supporting or related contracts or documents required to obtain or accept this grant, and to take any further action required for this application.

Recess. The Board recessed its meeting at 7:01 p.m. and reconvened at 7:18 p.m.

Agenda Item No. 21. **Public Hearing: ZTA 2020-01 Erosion Protection Design Standards.** To receive comments on its intent to adopt the following ordinance changes to the Albemarle County Code: Add Section 18-4.3.3 to apply performance standards for development as modeled after the existing development standards for the steep slopes overlay district; and Amend and Renumber Section 18-30.7.5 to clarify the requirements for reverse benches and surface water diversions.

The Executive Summary forwarded to the Board states that, during a May 3, 2017 work session, the Board of Supervisors endorsed a Natural Resources Program for the County, including a review of stream buffer requirements of the Water Protection Ordinance. After a review of the Water Protection Ordinance, County staff determined that both the Water Protection Ordinance and the Zoning Ordinance would require amendment in order to implement the proposed stream health protections. County staff presented the findings of that review to the Board on November 6, 2019. On December 18, 2019, the Board adopted a Resolution of Intent to amend the Zoning Ordinance as part of these stream health protections. On June 16, 2020, the Planning Commission held a public hearing regarding this proposed zoning text amendment. The staff report and action memo from this public hearing are provided as Attachments A and B. The Commission recommended approval of the zoning text amendment with the revisions noted in Attachment D.

The initial draft ordinance presented to the Planning Commission inadvertently applied the design standards only to those land disturbing activities in the steep slopes overlay district that required a Virginia Stormwater Management Plan (VSMP) application plan or a Virginia Erosion and Sediment Control Program (VESCP) application plan. During its June 16, 2020 public hearing, the Planning Commission recommended approval of the zoning text amendment with revisions both (a) to clarify the requirements of certain water diversions and (b) to retain the design standards for all land disturbing activity in the steep slopes overlay district. The annotated proposed ordinance (Attachment D) reflects these recommendations.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment E).

Ms. Lea Brumfield, Senior Planner in Zoning, said she will be presenting for the Board's consideration a Zoning Text Amendment (ZTA) to apply steep slope erosion protection design standards throughout the County. She said she was also joined by County Engineer, Mr. Frank Pohl, who will address any engineering questions.

Ms. Brumfield said currently, the Steep Slopes Overlay District, which applies to slopes with over 25% grade in the Development Areas of the County, includes design standards to reduce slope erosion and stream protection. She said these design standards generally include best practices reducing erosion and are required whenever steep slopes are disturbed.

Ms. Brumfield said as a core value of the County stewardship, the vision for the County includes acknowledging that healthy ecosystems are a vital part of the landscape, and that the Board has prioritized stream health. She said in acknowledgement that development can be extremely damaging to natural ecosystems, they have taken many steps to try to avoid the erosion that can happen. She said this ZTA aims to reduce that damage by requiring erosion protection standards across all slopes in the County and not just the ones in the Steep Slopes Overlay District.

Ms. Brumfield said to achieve the aims, staff began reviewing stream buffers in other proposals in December of 2017. She said through 2018, the Board provided input on those proposals. She said in 2019, they were further refined. She said a total of five are underway, including this ZTA. She said the Planning Commission held a public hearing on this ZTA on June 16 and made recommendations as outlined in the Board's packet.

Ms. Brumfield said the Resolution of Intent for this ZTA was adopted December 18, 2019. She said the intent of that ZTA was to protect natural resources and health ecosystems. She said the primary method of achieving that was by copying the erosion protection design standards from the Steep Slopes Overlay District into the rest of the County whenever a Virginia Stormwater Management Plan (VSMP) or a Virginia Erosion and Sediment Control Program (VESCP) is required.

Ms. Brumfield said the design standards that are currently there include limitations on retaining walls, best practices for cut and fill, requirements for reverse slope benches, or surface water diversions, which are ways to avoid channeling with a steep slope. She said in the work sessions, the Board determined these design standards to apply to any land-disturbing activity that requires the VESCP or VSMP. She said that currently, this number is a disturbance of 10,000 square feet or more, which triggers the VESCP or the VSMP.

Ms. Brumfield said as the Board heard from County Engineer, Mr. Frank Pohl, earlier that day, one of the recommended stream health proposals includes lowering the trigger, and if that proposal is approved, these regulations will apply to the lower trigger, as they are not necessarily tied to a number but are tied to the VSMP or VESCP.

Ms. Brumfield noted that shortly before the Planning Commission's public hearing on this ZTA, a member of the public voiced a concern that the wording of the ordinance, as it was proposed to the Commission, excluded smaller disturbances in the Steep Slopes Overlay District from the erosion protection design standards. She said a disturbance not requiring a VESCP or VSMP would be exempt, and that this was an unintended consequence. She said the draft before the Board today includes an annotated draft version that notes the change between the Planning Commission's draft and the one that is before the Board today to make sure that all disturbances in the Steep Slopes Overlay District remain subject to these erosion protection standards.

Ms. Brumfield said additionally, shortly before the Planning Commission hearing, staff were given feedback from the development community that the ordinance regarding reverse slope benches and surface water diversions was confusing, as written. She said the ordinance has been consistently interpreted to mean that reverse slope benches or surface water diversions, or both, may be required to avoid channeling, but this was not specified in the ordinance. She said the draft before the Board today includes the term "or both" to make this clear. She said this is a codification of existing practice and not a new practice.

Ms. Brumfield said additionally, previous numbering of the sections pertaining to reverse slope benches and surface water diversions indicated that surface water diversions were required in all kinds of fill slopes, regardless of the slope's actual length or steepness. She said the consistent interpretation of this was not as it was indicated. She said the consistent interpretation was that surface water diversions would be required as described in Section 3.1 when certain interval heights and slopes are combined. She said staff believes that the numbering of this section, where surface water diversions was not under C-4, but under D (its own number), was a typo at some point. She said this was just a codification of existing practice.

Ms. Brumfield said as a summary of the proposed changes in this ZTA, the current erosion standards required for all land disturbances in the Steep Slopes Overlay District will remain the same. She said those same standards will also apply to all land disturbances throughout the County requiring a VESCP or a VSMP. She said the only difference between the proposed regulations for all land disturbances requiring the VESCP and VSMP and the existing Steep Slopes Overlay District standards is a retaining wall height.

Ms. Brumfield said retaining walls outside of the Steep Slopes Overlay District currently have no maximum height limits. She said in addition to reducing runoff and protecting stream health, these retaining wall heights could, by limiting them, prevent development of slopes that are inappropriate for development. She said limiting a retaining wall height can also greatly reduce the visual impacts of a new development.

Ms. Brumfield said while the other erosion protection design standards have been moved to the general regulations as they are, staff does recommend increasing maximum retaining wall height from 6 feet, as it is in the Steep Slopes Overlay District, to 10 feet. She said while the primary purpose of this maximum height limit is to prevent slope erosion, staff believes the original 6-foot limit was set for aesthetic reasons. She said that particular number was primarily because 6 feet feels more approachable as a human.

Ms. Brumfield said imposing this limit throughout the County may be restrictive to future development. She said staff has actually had feedback from the public that they agree that 6 feet would be limiting, and that 10 feet would be reasonable for development.

Ms. Brumfield said the 10-foot height limit balances concerns of safety, aesthetics, and constructability, which is how staff landed on this limit. She said in many other Virginia counties and cities, including Alexandria, Fairfax, and Roanoke, retaining walls over 10 feet are generally discouraged and require a special inspections program with increased scrutiny and engineering requirements because any retaining wall over 10 feet naturally has an increased structural pressure, which requires additional engineering.

Ms. Brumfield noted that a matter that has been brought up before is that all retaining walls over 4

feet in the County do require Building Permits, per Virginia Uniform Statewide Building Code. She said they are under engineering scrutiny, but not at the same level as the ones over 10 feet tall.

Ms. Brumfield concluded the presentation. She said she and County Engineer Mr. Pohl would take questions.

Ms. Palmer said she listened to the Planning Commission hearing and read their notes. She asked if Ms. Brumfield or Mr. Pohl could give an example of a situation where there are land disturbances outside of the Steep Slopes Overlay District that do not require a VSMP or VESCP application plan, in other words, an example where this would not take effect.

Mr. Frank Pohl, County Engineer, asked Ms. Palmer if she were asking for an example of where the standard would apply without a VESCP or VSMP.

Ms. Palmer replied yes. She said she wanted to hear a situation where someone would have land-disturbing activities that would not be covered by the proposal. She said if they do not require a VESCP or VSMP, then these design standards don't apply. She said she was trying to understand a situation where these design standards would not apply.

Mr. Pohl replied that they would not apply to any land-disturbing activities that are below the current threshold unless they are in the current Overlay District. He said if they are in the Overlay District, then these standards would still apply, but the original standard, and not the 10-foot standard.

Ms. Palmer said she was trying to figure out where the trigger is.

Mr. Pohl said 10,000 square feet of land disturbance is the trigger.

Ms. Brumfield said one of the examples they talked about as a group and is something that is a legitimate use that does happen, would be if someone was building a small addition to their house, such as a very small bump-out that is less than 10,000 square feet of disturbance. She said outside of the Steep Slopes Overlay District, this would not require a VSMP or a VESCP. She said they go all the way down to something as small as building a small shed or, as the most extreme example, installing a mailbox on one's property.

Ms. Palmer said one can do that.

Ms. Brumfield replied yes.

Ms. McKeel asked if she could ask about staff time, as this is on her mind these days based on everything going on. She said she remembered seeing that if they pulled this out and isolated this amendment, it was going to impact staff time slightly. She asked if staff could speak to that.

Mr. Pohl replied that currently, staff reviews slopes to make sure they meet the current standards. He said if slopes exceed 3:1, there has to be ground cover, or some kind of other planting plan that addresses that slope. He said that could be grass if the sunlight is correct. He said there are some issues or conditions that dictate what can be planted on slopes over 3:1. He said they do not allow slopes over 2:1, so they do have to check to make sure that there are not any slopes exceeding 2:1. He said they do have to review certain plans, currently, when projects are built within managed slope areas, to follow these current standards.

Mr. Pohl said staff are familiar with the standard. He said it would require a little addition review, but it is not significant enough to warrant or say that they would need additional staff to address this.

Ms. McKeel said this was helpful.

Ms. Mallek said she was so glad they were at this point.

Ms. Price said she would simply acknowledge upfront that this is an area that she does not feel great competence in, at this point. She asked if staff could quickly list what the triggering factors would be before this came into play. She said as she reads it, it is talking about the Development Area with the steep slope, a certain amount of square footage, and that the steep slope is over 20% grade. She asked if she got this right, if she were missing something, or if there are additions to the criteria that would trigger this.

Ms. Brumfield replied that as it currently stands in the ordinance, these standards are only required for all disturbances in the Steep Slopes Overlay District. She said any use one establishes on a slope that is over that threshold, regardless of the square footage, requires these standards. She said this is something Engineering will check when they are reviewing the plan. She said as they are proposing, anything that is over 10,000 square feet disturbance right now, noting it could change in the future, or anything over a threshold that is set by the VSMP or VESCP standards will require these same standards.

Ms. Brumfield said the current standards for the rest of the County, for anything outside of the Steep Slopes Overlay District, are that there are no erosion standards. She said this proposal is to impose those standards once they reach the 10,000 square feet, or, in the future, if they reduce the trigger to 6,000, or whatever the numbers are that are currently being discussed. She said she believed

what Ms. Price was asking what a land disturbance is and responded that it is generally whenever one digs up land. She said these include cut and fill anytime dirt is being moved around, anytime a structure is being built, and forestry. She asked Mr. Pohl to confirm that.

Mr. Pohl replied that it does not include forestry. He said forestry is an exempt activity.

Mr. Kamptner added that there are several exempt activities in the Water Protection rules.

Ms. Price said Mr. Pohl went over some of this information with her recently and that she appreciated this. She said she had no further questions.

Mr. Gallaway opened the public hearing.

Mr. Neil Williamson said he serves as President of the Free Enterprise Forum, which is a privately funded public policy organization focused on local government in Central Virginia. He said he wished to thank County Engineer, Mr. Frank Pohl, and the entire Albemarle County staff for proactively working with the entire community on these ideas.

Mr. Williamson said that he, Mr. Morgan Butler of the Southern Environmental Law Center, and two local builders met with staff on multiple occasions to help hone this proposed ordinance. He said as the Board has heard, there have been significant changes made, which he thinks are to the betterment of the ordinance. He said the Free Enterprise Forum supports this ordinance.

Mr. Williamson said the Free Enterprise Forum does have continued concerns with some of the philosophical issues that were raised earlier that day in the Board's work session. He said Ms. Mallek suggested that making it harder for people to achieve maximum potential of their property is a good idea. He said conversely, at the very opening of this meeting, Ms. McKeel spoke of the difficulty of finding affordable housing that is located as transit accessible.

Mr. Williamson said it seems to him as though development moves a lot like electricity, it goes to the best available conductor. He said it is important to understand that the steep slopes in the Development Areas have not been developed because they have been the most expensive to develop. He said they are developing now because of the County's shrinking Development Areas.

Mr. Williamson said while the environmental issues are important, there is a cost to doing such a thing. He said each time they choose to develop less of the Development Area, they shrink the Development Area.

Mr. Williamson said while supporting this ordinance, the Free Enterprise Forum again asks when Albemarle County will start the discussion about revisiting their Development Area boundaries. He said as they did with this ordinance, the Free Enterprise Forum stands ready to work with staff and with all stakeholders to develop opportunities for more housing everywhere, for everyone. He said it has been over 40 years and he urged everyone to get to work.

Mr. Gallaway closed the public hearing and brought the matter back before the Board for additional questions, comments, or a motion.

Ms. Palmer commented that she was extremely happy that they were getting this done. She said to Mr. Williamson's comment, there are wonderful opportunities for redevelopment in the Development Area, and that she thinks this Board and staff are very much behind helping in any situation they possibly can to encourage redevelopment on some of the properties in the Development Area. She said she thinks there is a lot of room for redevelopment there.

Ms. Mallek said Mr. Kamptner had mentioned something about exempt activities. She asked if he could quickly list what those are.

Mr. Kamptner replied that under the VESCP, in Section 17-301 of the County Code, these include minor residential-related activities; service connections; public utility lines; conventional onsite sewage systems; mining oil and gas operations and projects; agricultural, historical, and forestal activities; agricultural engineering operations; railroad improvements; posts and poles; and emergency work. He said those are imposed by State law that the County is required to provide. He said he only read aloud the catch lines and that there are more details about some of those groups.

Ms. McKeel said she wanted to recognize what Mr. Williamson said, and thank Mr. Pohl and staff for their great outreach to the developers and people in the community. She said when they do this, they end up with better ordinances.

Ms. McKeel moved the Board approve the Zoning Text Amendment as outlined in Attachment B. Ms. Mallek seconded the motion.

Mr. Kamptner corrected Ms. McKeel and said that this should be Attachment E. He said there were three different versions of the ordinance attached to the Board's materials, but that Attachment E was the final draft.

Ms. McKeel said she would take back her motion.

Ms. McKeel **moved** to approve ZTA 2020-01 as shown in Attachment E of the staff report. Ms. Price **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

ORDINANCE NO. 20-18(1)

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

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

By Adding:

Sec. 4.3.3 Grading standards

By Amending:

Sec. 30.7.5 Design standards

CHAPTER 18. ZONING

ARTICLE II. BASIC REGULATIONS

. . .

4.3.3 Grading Standards

The following design standards apply to any land disturbing activity requiring a Virginia Erosion and Sediment Control Program (VESCP) application plan, or a Virginia Stormwater Management Program (VSMP) application plan, or both.

- A. *Retaining walls.* Retaining walls shall meet or exceed the following minimum standards:
 - 1. *Height.* The maximum height for a single retaining wall, measured from grade to grade, shall be ten feet, except as provided in subsection (A)(3). When the overall retained height would exceed ten feet, the retaining wall shall be broken into multiple stepped walls.
 - 2. *Multiple stepped walls; separation.* A minimum horizontal distance of three feet shall be maintained between each individual wall in a stepped wall system, and shall be landscaped with screening shrubs planted on ten foot centers.
 - 3. *Incorporation of wall into design of a building.* Retaining walls may be incorporated into the design of a building so that they become part of the building. Retaining walls incorporated into the design of a building shall not be subject to height limitations of subsection (A)(1).
- B. *Cuts and fills.* Any cut or fill shall meet or exceed the following minimum standards:
 - 1. *Rounding off.* Any cut or fill shall be rounded off to eliminate sharp angles at the top, bottom and side of regraded slopes.
 - 2. *Location of toe of the fill slope.* The toe of any fill slope shall not be located within ten feet horizontally of the top of an existing or proposed cut slope.
 - 3. *Tops and bottoms.* Tops and bottoms of cut and fill slopes shall be located either: (i) a distance from existing and proposed property lines at least equal to the lesser of three feet plus one-fifth (1/5) of the height of the cut or fill, or ten feet; (ii) any lesser distance than provided in subsection (B)(3)(i) the zoning administrator determines would not adversely impact the abutting parcel based on information provided by the owner of the abutting parcel; or (iii) on the abutting parcel if the owner obtains an easement authorizing the slope on the abutting owner's parcel.
 - 4. *Steepness.* Cut and fill slopes shall not be steeper than a 2:1 (50 percent) slope. If the slope is to be mowed, the slope shall be no steeper than a 3:1 (33 percent) slope.
- C. *Reverse slope benches or a surface water diversion.* Reverse slope benches or a surface water diversion or both shall meet or exceed the following minimum standards:
 - 1. *When required.* Reverse slope benches or a surface water diversion or both shall be provided whenever: (i) the vertical interval (height) of any 2:1 (50 percent) slope exceeds 20 feet; (ii) the vertical interval (height) of any 3:1 (33 percent) slope exceeds 30 feet; or (iii) the vertical interval (height) of any 4:1 (25 percent) slope exceeds 40 feet.
 - 2. *Width and location of benches.* Reverse slope benches shall be at least six feet wide and located to divide the slope face as equally as possible and shall convey the water to a stable

outlet. Benches shall be designed with a reverse slope of 6:1 (approximately 17 percent) or flatter to the toe of the upper slope and have a minimum of one foot. The bench gradient to the outlet shall be between two percent and three percent, unless accompanied by appropriate design and computations.

3. *Flow length within a bench.* The flow length within a reverse slope bench shall not exceed 800 feet unless accompanied by appropriate design and computations demonstrating that the flow length is designed to be adequate to ensure the stability of the slope and prevent or minimize erosion.
4. *Surface water diversions.* Surface water shall be diverted from the face of all cut or fill slopes or both, using diversions, ditches, and swales, or conveyed downslope by using a designed structure. The face of the slope shall not be subject to any concentrated flows of surface water such as from natural drainage ways, graded swales, downspouts, or similar conveyances.

(§ 30.7.5; Ord. 14-18(2), 3-5-14; § 4.3.3; Ord. 20-18(1), 7-15-20)

State law reference – Va. Code §§ 15.2-2280(1), (2), 15.2-2286(A)(4).

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ARTICLE III. DISTRICT REGULATIONS

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Sec. 30.7.5 - Design standards.

The following design standards apply to land disturbing activity to establish a use permitted by right or by special use permit in the steep slopes overlay district.

- A. *Retaining walls.* Retaining walls shall meet or exceed the following minimum standards:
 1. *Wall height.* The maximum height for a single retaining wall, measured from grade to grade, shall be six feet, except as provided in subsection (A)(3). When the overall retained height would exceed six feet, the retaining wall shall be broken into multiple stepped walls.
 2. *Multiple stepped walls; separation.* A minimum horizontal distance of three feet shall be maintained between each individual wall in a stepped wall system, and shall be landscaped with screening shrubs planted on ten foot centers.
 3. *Incorporation of wall into design of a building.* Retaining walls may be incorporated into the design of a building so that they become part of the building. Retaining walls incorporated into the design of a building shall not be subject to height limitations of subsection (A)(1).
- B. *Cuts and fills.* Any cut or fill shall meet or exceed the following minimum standards:
 1. *Rounding off.* Any cut or fill shall be rounded off to eliminate sharp angles at the top, bottom and side of regraded slopes.
 2. *Location of toe of the fill slope.* The toe of any fill slope shall not be located within ten feet horizontally of the top of an existing or proposed cut slope.
 3. *Tops and bottoms.* Tops and bottoms of cut and fill slopes shall be located either: (i) a distance from existing and proposed property lines at least equal to the lesser of three feet plus one-fifth of the height of the cut or fill, or ten feet; (ii) any lesser distance than provided in subsection (b)(3)(i) the zoning administrator determines would not adversely impact the abutting parcel based on information provided by the owner of the abutting parcel; or (iii) on the abutting parcel if the owner obtains an easement authorizing the slope on the abutting owner's parcel.
 4. *Steepness.* Cut and fill slopes shall not be steeper than a 2:1 (50 percent) slope. If the slope is to be mowed, the slope shall be no steeper than a 3:1 (33 percent) slope.
- C. *Reverse slope benches or a surface water diversion.* Reverse slope benches or a surface water diversion or both shall meet or exceed the following minimum standards:
 1. *When required.* Reverse slope benches or a surface water diversion or both shall be provided whenever: (i) the vertical interval (height) of any 2:1 (50 percent) slope exceeds 20 feet; (ii) the vertical interval (height) of any 3:1 (33 percent) slope exceeds 30 feet; or (iii) the vertical interval (height) of any 4:1 (25 percent) slope exceeds 40 feet.
 2. *Width and location of benches.* Reverse slope benches shall be at least six feet wide and located to divide the slope face as equally as possible and shall convey the water to a stable outlet. Benches shall be designed with a reverse slope of 6:1 (approximately 17 percent) or flatter to the toe of the upper slope and have a minimum of one foot. The bench gradient to the outlet shall be between two percent and three percent, unless accompanied by appropriate design and computations.

3. *Flow length within a bench.* The flow length within a reverse slope bench shall not exceed 800 feet unless accompanied by appropriate design and computations demonstrating that the flow length is designed to be adequate to ensure the stability of the slope and prevent or minimize erosion.
4. *Surface water diversions.* Surface water shall be diverted from the face of all cut or fill slopes or both, using diversions, ditches, and swales, or conveyed downslope by using a designed structure. The face of the slope shall not be subject to any concentrated flows of surface water such as from natural drainage ways, graded swales, downspouts, or similar conveyances.

(§ 30.7.5; Ord. 14-18(2), 3-5-14; Ord. 20-18(1), 7-15-20)

State Law reference— Va. Code §§ 15.2-2280 (1), (2), 15.2-2286 (A)(4).

Agenda Item No. 22. **Public Hearing: R. A. Yancey Lumber Corporation: Special Exception Request.** Request for special exceptions to allow reduction in setbacks, expanded hours of operation, expansion in permitted sound levels range and reduction in vibration limits. Approval of the special exceptions will bring the existing mill into compliance and authorize new construction.

The Executive Summary forwarded to the Board states that, at its meeting on June 23, 2020, by a vote of 7:0, the Planning Commission recommended denial of R. A. Yancey Lumber Corporation's requested special exceptions to the applicable noise standards.

By a vote of 6:1, the Commission recommended conditional approval of special exceptions for reduction in setbacks for existing structures and machinery, storage of logs and lumber, parking, and modified hours of operation of machinery and the loading and unloading of wood or wood products starting at 6:00 a.m. One Commissioner was not able to support a reduction in setback to zero feet for storage because of the impacts on abutting property. The Commission also recommended denial of special exceptions to allow reduced setbacks for the construction of the sorter/stacker and for 24 hour/day loading and unloading associated with the kiln.

The Planning Commission's staff report, action letter, and minutes are attached (Attachments A, B, and C). The Planning Commission's staff report has been amended to correct an error regarding proposed hours of operation. This change is highlighted in the report.

The Planning Commission's recommendations were consistent with staff's.

After the Planning Commission meeting the applicant withdrew the requests to expand the permitted sound level ranges and reduction in vibration limits.

Staff recommends that the Board adopt the attached resolution to approve SE requests #1, 2, 3, 5, 8, 9, 10, 11, 12, 13, 14, 15, and 16 and to deny SE requests #4, 6, 7, 17. (Attachment E).

If the Board chooses to approve all of the special exception requests, Attachment F provides suggested language.

If the Board chooses to deny all of the special exception requests, Attachment G provides suggested language.

Mr. Bill Fritz, Chief of Special Projects, presented. He presented a map of the Yancey Lumber site, located west of Crozet. He indicated on the map to I-64 and Route 250.

Mr. Fritz said before the Board that night was a Special Exception request for reduction in setbacks for buildings, machinery, parking, and wood storage. He said there are also Special Exceptions for modification of operating hours.

Mr. Fritz said the applicant had originally requested a modification of permitted noise levels. He said this request has been withdrawn, so he would not be discussing it that evening.

Mr. Fritz presented an aerial photo of the site, which shows building numbers for existing structures and the proposed sorter/stacker structure. He said if the Board wants to refer to those numbers for any reason, that information is included as Attachment K of the Planning Commission report, or as Attachment A13 of the Board of Supervisors' packet.

Mr. Fritz said the aerial photo also shows the areas currently used for parking and wood storage.

Mr. Fritz said while the site has been used as a mill dating back to 1949, not all of the improvements on the site date back that far. He said only the buildings highlighted on the map in green existed when the Zoning Ordinance was adopted in 1980, which is a critical date because this is the date the Zoning Ordinance went into effect and therefore, these structures are nonconforming. He said all the other buildings were constructed after 1980.

Mr. Fritz presented a map on which he highlighted some of the buildings. He said the buildings in blue are those that meet the required setbacks. He said they were constructed without Building Permits and will need to obtain those, as well as Certificates of Occupancy. He said the blue buildings are not part of the discussion that night because they meet all the setbacks.

Mr. Fritz said the buildings in red do not meet required setbacks and are subject to Special Exception discussion that night. He said those buildings were also constructed without permits and will also need to obtain both Building Permits and Certificates of Occupancy.

Mr. Fritz said the area highlighted in orange is the proposed sorter/stacker building, which is subject to the Special Exception discussion that night. He said it will also require a Building Permit and a Certificate of Occupancy.

Mr. Fritz said to recap, green is nonconforming (prior to 1980), blue meets setbacks, red does not meet setbacks, and orange is the sorter/stacker building. He said part of the sorter/stacker is constructed, but the building is not.

Mr. Fritz said he would go through all the different requests. He presented a map and said the features highlighted on the map do not meet the required industrial setbacks. He said for structures, that is a 100-foot setback from the property line, or 10 feet from the right of way. He said for parking, it is 30 feet from property lines, or 10 feet from the right of way.

Mr. Fritz said the mill building is 95 feet from the property line. He said the pole shed is 98 feet from the property line. He said the stem loader was built within the right of way. He said the applicant has purchased additional right of way so that it is now about 5 feet outside of the right of way. He said the proposed sorter/stacker building is 35 feet from the property line.

Mr. Fritz said at the time these buildings were constructed, the only way to reduce setback was by the issuance of a variance. He said while it is impossible to know how the BZA would have acted, the bar for an approval of a variance was, and is, very high. He said it is therefore reasonable to assume that it is unlikely that a variance would have been granted for a reduction in setback because redesign was possible. He said the redesigned structures would have met setbacks and allowed for reasonable use of the property.

Mr. Fritz said the owner did not apply for variances for construction of any of the highlighted structures. He pointed out that the owner has, however, twice applied for variances on this property; once for an addition to the office, and once for the construction of a rotary log crane. He said both of those variances were approved. He said the office improvements were constructed, but the crane was not constructed.

Mr. Fritz said it was important to note that variances are no longer needed for a reduction in setbacks. He said the Board of Supervisors amended the ordinance to allow reductions to be granted by Special Exception.

Mr. Fritz said the minimal reduction in setback requirement for the mill building and the pole shed are such that visual impacts or the blocking of air or light are not significantly greater than what would occur by meeting the setbacks. He said the sorter/stacker, however, is 35 feet from the property line. He said this 65% reduction in setback will result in visual and sound impacts on the adjacent property, inconsistent with the purpose of setbacks. He said it will also result in the placement of equipment and activity much closer to adjacent property than permitted by right in the Heavy Industrial District.

Mr. Fritz said the parking areas are located approximately 0 feet from the property to the east, and 0 feet from the right of way. He said from review of aerial photos, these areas appear to have been in use prior to 1980. He said the reduction in setbacks for parking area are supported due to these areas having been used prior to the adoption of regulations. He said the ARB also supports these parking areas.

Mr. Fritz said the ordinance prohibits the storage of lumber, logs, etc. within 100 feet of any lot line. He presented a map, which showed the property line in black and the 100-foot setback in red. He said the purple areas on the map show where storage occurs within 100 feet. He said this map was included in the Board's packet.

Mr. Fritz said staff has reviewed the historical photos of the area and believes these areas have generally been used for storage prior to 1980. He said therefore, staff is recommending approval of the Special Exceptions for the storage areas.

Mr. Fritz said the structures and machinery that do not meet the 600-foot setback from residential structures were highlighted on the map in blue. He said the applicant has also provided a map showing this same information, although in a different format. He said he chose the map on the screen because it was a little tighter. He said this information is included as Attachment H of the Planning Commission report, and as A10 in the Board's packet.

Mr. Fritz said the 600-foot setback is based on the location of structures on adjacent property. He said all of the residences existed prior to the construction of the highlighted buildings. He said with the exception of the sorter/stacker, the highlighted buildings are over 500 feet from adjacent residences. He said the sorter/stacker is approximately 350 feet from the residents. He said the setbacks of the

ordinance are intended to minimize machinery impacts on abutting properties. He said all of the machinery in the highlighted buildings was installed without permits or approvals. He said construction of the sorter/stacker started but has ceased.

Mr. Fritz said the sorter/stacker reduction is a 40% reduction in the required 600-foot setback and is a 65% reduction in the required 100-foot setback. He said these reductions are too significant for staff to support. He said staff's opinion is that this significant reduction is not consistent with the intent of the ordinance.

Mr. Fritz said the Planning Commission also recommended denial of reduction in setback for the sorter/stacker.

Mr. Fritz said the applicant has also requested a Special Exception for hours of operation. He said there are two time limits: machinery may operate between 7:00 a.m. and 7:00 p.m.; and loading and unloading of wood and wood products may occur between 7:00 a.m. and 12:00 midnight.

Mr. Fritz said the owner is requesting the machinery operating hours be modified to 6:00 a.m. to 7:00 p.m. He said late that afternoon, the applicant discussed with him a possible modification of that so that machinery would not operate between 6:00 a.m. and 7:00 a.m., but they would be able to start warming up equipment and get the site ready for the day. He said he would let the applicant speak to that in more detail. He said there would be activity between 6:00 a.m. and 7:00 p.m. instead of 7:00 a.m. to 7:00 p.m.

Mr. Fritz said the owner is requesting that loading and unloading be permitted between 6:00 a.m. and 11:00 p.m. instead of 7:00 a.m. to midnight. He said this is the same number of hours, but that the time is shifted one hour earlier to start, end to end. He said this would apply to all the loading and unloading except for the kiln operation, where loading and unloading would be permitted 24 hours a day.

Mr. Fritz said the owner has stated that these hours are historical, and staff has no reason to dispute the owner's assertion about the operating hours, although they cannot verify them. He said the operations associated with the kiln, however, cannot be historical as the kiln was constructed in the 1990s without approvals and does not meet setback requirements. He said further, staff cannot support 24-hours-a-day activities. He said abutting properties should have some extended period of time where the mill does not generate impacts.

Mr. Fritz said staff and Planning Commission recommendations of approval can be summarized as: a reduction in setbacks for existing structures; reductions in setbacks for parking and storage; a modification of hours of operation, except for those associated with the loading and unloading of the kiln; and the requirement that the owner must obtain a Certificate of Occupancy for all existing structures by January 1, 2021, or cease use of the structure, which the applicant does not agree with and would like to that have pushed to February.

Mr. Fritz said staff and the Planning Commission are recommending denial of reduction in setbacks for the proposed sorter/stacker, and for the modification of hours for the operations associated with the kiln.

Mr. Fritz offered to answer any questions.

Ms. Palmer thanked Mr. Fritz, noting she watched the Planning Commission meeting, and it was good to see this presentation twice. She said what she was confused on were the Heavy Industrial setbacks of the 600 feet from the house. She asked if this was from the house or the barn.

Mr. Fritz replied it is from the house (the residence). He said it is measured from a dwelling. He said as for the numbers for the pole shed and the mill building, when he said they were 95 and 98 feet, staff is sure of those numbers exactly because they are surveyed to the property line. He said they had to measure using GIS, aerial photos, and the like, so when he says 550, it might be 5 or 10 feet one way or the other because they are measuring, and they are not surveyed distances.

Ms. Palmer said the sorter/stacker is 350 feet from the house, which would be a 40% reduction and that staff cannot support this. She said obviously, there are many things staff have to consider when they recommend approval of the setbacks, but in this case, she wanted to know what a distance would be that staff would feel is reasonable and would recommend approval for.

Mr. Fritz replied that staff's default position on any Special Exception is that the ordinance should be complied with. He said if it is a 600-foot setback, it should be 600 feet. He said any reduction should achieve an impact which is equivalent to that 600-foot setback. He said for example, the 600-foot setback is there to protect an adjoining property owner, and if the adjoining property owner expressed that they did not mind it being closer, staff would recommend approval because the protection is there.

Mr. Fritz said he could not give a standard answer of what amount of reduction they would recommend approval of. He said it would have to achieve the same, or greater, level of protection as the 600-foot setback.

Ms. McKeel said Mr. Fritz said there were some changes made that day. She asked him to clarify this, adding that he did a great job with the presentation.

Mr. Fritz replied that the ordinance allows the operation of machinery from 7:00 a.m. to 7:00 p.m. He said the applicant has modified their request so that they be permitted to start some operations at 6:00 a.m. instead of 7:00 a.m., not to operate the machinery, but to start warming it up and getting the site ready for work at 7:00 a.m. instead of warming everything up at 7:00 a.m. to start at 7:30 or 8:00 a.m.

Mr. Fritz said the applicant has also asked that the loading and unloading of wood products be permitted to start at 6:00 a.m. and end at 11:00 p.m. He said the ordinance currently says 7:00 a.m. to midnight. He said it is the same number of hours, with the time shifted an hour earlier.

Ms. Mallek said as Mr. Fritz was speaking, she wrote down that the staff thought that any reduction in setback must achieve the same impact as if it complied. She asked if this was the intent of what he said.

Mr. Fritz replied that this was essentially correct.

Ms. Mallek asked if this is always a factor of distance or would a building or some other modification would help something to qualify.

Mr. Fritz replied that in theory, anything could. He said they look at the 600-foot setback in this particular case regarding sound and visual impacts, as well as bulk and massing impacts. He said a building may actually exacerbate that problem and make it worse because if there is a large building, they may be mitigating the noise, but they may be having a greater visual or massing impact on the adjoining property because of the reduction in setback.

Ms. Price said she has read the staff report and Planning Commission report, and that he answered her questions in responding to Ms. Palmer and Ms. Mallek. She said she anticipated she would likely have more questions later.

Ms. LaPisto-Kirtley said she had a question regarding the kiln. She said she understands the applicant wants to operate the kiln 24-7 to dry the wood, and that they also want the wood to be able to be brought in 24-7.

Mr. Fritz clarified that the applicant's request is that for the loading and unloading of wood product, it would be 6:00 a.m. to 11:00 p.m. except for loading and unloading activities specifically associated with the kiln, and that those would be permitted 24 hours per day. He said staff knows and understands that the kiln would operate 24 hours a day because it needs to maintain heat and moisture content, but the applicant has asked to be able to load and unload it 24 hours a day.

Ms. LaPisto-Kirtley asked if this involves loading and unloading on trucks.

Mr. Fritz replied that it involves moving wet materials into the kiln, and if it is dry, take it out of the kiln.

Ms. LaPisto-Kirtley asked if this does not, then, involve the loading and unloading of trucks.

Mr. Fritz replied that he did not know if they would be taking that dry material and loading it on a truck. He said they would probably be storing it onsite and not directly taking it from the kiln onto a truck. He said they would be getting a truckload's worth and stacking it onsite for it to then be loaded on a truck at some later time.

Ms. LaPisto-Kirtley asked if the applicant plans to put some kind of building around the kiln to muffle the sound.

Mr. Fritz replied that the kiln is not a significant source of sound. He said there was an issue in the past, and he would have to defer to others about that, but it was more related to the exhaust and chimney. He said the kiln is a structure already and is an enclosed feature, as they are maintaining heat inside the kiln. He said there are no changes to the kiln proposed. He said the only new construction that is proposed onsite would be completion of the sorter/stacker equipment and the construction of a building around the sorter/stacker equipment.

Ms. LaPisto-Kirtley asked if the applicant is asking that the hours be changed to 6:00 a.m. to warm up the machinery, and if this causes noise.

Mr. Fritz replied that there would be some activity with it, and that he did not know how loud it would be. He said it would not be anywhere near as loud as running the saws, planers, chippers, and debarking machinery, so he would expect it would be a minimal amount of noise.

Ms. LaPisto-Kirtley asked if Mr. Fritz knows what decibel level that would be.

Mr. Fritz replied no.

Ms. LaPisto-Kirtley asked if putting up some kind of sound wall where the sorter/stacker is located would mitigate the noise level.

Mr. Fritz replied that any construction of any type between or around the sorter/stacker will have some mitigation of the sound from the sorter/stacker.

Mr. Gallaway invited the applicant to speak.

Ms. Valerie Long, Williams Mullen, said she was there representing the applicant, and that she would turn things over right away to Mr. Patrick May, the Vice President of Yancey Lumber.

Mr. May said his grandfather started the business 71 years ago. He said by 1980, the year he was born, the County adopted a comprehensive Zoning Ordinance. He said no one understood it at the time. He said some of the new zoning provisions have the unintended effect of freezing their company in time. He said all the equipment in use as of 1980. He said their family was advised of the new rules, and that the new rules only applied to new sawmills and not ones that are 30 years old. He said over the years, their focus has been on growing the company and surviving the challenges of being tied to construction cycles. He said no one ever imagined that zoning setbacks applied to them, as they were a sawmill and not a land developer.

Mr. May said the result is that they have put the Supervisors in a difficult spot. He said he understands they are not the bad guys, nor are the regulations. He said the day the new regulations took effect, December 10, 1980, marked a date with destiny for their company. He said from that day forward, they now know that any expansion required setback relief. He said if they survive long enough, they were destined to be there before the Board, and that they should have come sooner. He said their lack of awareness has now put the company in danger and has cost them millions of dollars. He said they should have paid more attention to the changes around them and should have asked for help.

Mr. May said they are asking the Board for the chance to do two things: continue their business and demonstrate how they plan to compensate for the setback adjustments they are requesting.

Mr. May said his grandfather was a former Supervisor himself, who had retired and was still active in the community before the 1980 zoning rules. He said if he had had any inkling that setbacks applied to his company, he would have taken action to get variances, but he did not. He said also, former Supervisor Walter Perkins advised their family and business and would have ensured they were compliant, but he did not.

Mr. May said lack of County permits for what they considered sheds, over the years, is an oversight that they are aggressively correcting, and they hope they can complete it within six months. He said they are not there to speculate, as it was their mistake, and that he will fix them. He said he is focused on the future.

Mr. May said they are there to discuss the setbacks and their continuing longtime operating hours. He said their rezoning history has been consistent, and that from the first zoning ordinance in 1969, it has been zoned for this use. He said Zoning Districts match the existing use because the County wanted those uses to continue. He said they are there before the Board asking them to balance community concerns with the needs of a 71-year-old company. He said sawmill regulations freeze their business at 1980s levels. He said in order for their company to remain viable now and for the future, they must have setback relief, and that he would explain this.

Mr. May said the shape of their property makes them vulnerable to setbacks because most of their equipment is fixed and was set in place before 1980. He said they do not have the ability to move it around. He said the zoning prohibits all equipment from 600 feet from all residences. He said all subsequent replacements would require a variance, or not be allowed. He said the zoning limits their company's 36 acres. He said with the setbacks, there is only a 2 to 3-acre area that is actually available for them to do anything and is really only viable for lumber storage.

Mr. May said from 1980 on, they either had to remain stagnant and leave the mill exactly as it was or grow and get setback relief. He said they had no reason to ignore the rules. He said as soon as they knew, they did the right thing.

Mr. May said without these exceptions, they will not be able to operate the mill. He said they are prevented from replacing aged equipment. He said they are forced to reduce operations and hours, and that the local, regional, and rural economy will suffer. He said the Board is at a crossroads.

Mr. May presented two pictures of the company's former stacker. He said it is 45 years old, and they had to upgrade it for many reasons. He said it had no replacement parts, it was not safe enough, and it could no longer handle their product line.

Mr. May presented a picture of the current stacker. He said it has been in continuous use since 2017, with no noise complaints until November 2019, at their community meeting. He said when combined with the sorter, it will bring the company in line with national peers and will allow for long-term viability. He said this was a multimillion-dollar investment for their family business.

Mr. May said the location of the combined machines is not flexible. He said it is pointed as far away from the property line as possible to allow continued operations. He said there is no functional location outside of the setbacks that exists on this property.

Mr. May presented a picture of the sorter. He said automated sorting of lumber has been the industry standard for 40 years. He said the map inset shows the mill property line on three sides, and the nearest dwelling as a red square. He said the manual sorting of lumber is the source of the most injuries

for the company, and they also have the lowest retention rate for labor there. He said it is a hard job. He said they are the last company of their size to do this upgrade, and they need to keep up, or they will go out of business.

Mr. May said while they are committed to employing locals and putting their money back into Albemarle County, they are competing with multibillion dollar businesses.

Mr. May said a lot of planning went into the location of the sorter and stacker. He said there were some fixed parameters that they had to work within. He said the sorter can only be located at the output side of the sawmill. He said moving it would cut off fire road access and would also require a shutdown of operations for an extended period of time. He said it was not feasible to do those things.

Mr. May said they had reinforced and slowed down the stacker to decrease noise but suspended the project before they could enclose the stacker with a building. He said they essentially wanted to put a muffler on or around it. He said they plan the same treatment for the sorter, and upon approval, they plan to enclose the stacker within 45 days of getting a permit. He said they want to take responsibility and propose these near and longer-term plans to help guarantee compliance if they are granted approval.

Mr. May said the company is committed to working with the County and communicating progress. He said they have, in fact, already completed 12 mitigations, and presented some of the highlights. He said they have also listened to community concerns and have made adjustments, with more on the way.

Mr. May said the company is not requesting any changes to their hours of operation. He said they need to be able to warm up their machines at 6:00 a.m. and unload trucks at 6:00 a.m. He said these are two things they have been doing since the early 1960s. He said they would simply like the regulations to match their historic hours.

Mr. May said they recognize that the purpose of the setback is to protect the adjacent properties from industrial impacts. He said they understand that their very survival depends on their ability to mitigate impacts of the sorter and stacker, and it is as if they were 600 feet away.

Mr. May said they have paid a very heavy price and put their company and employees at risk. He said they want to become a model for how locally owned family businesses can adapt. He said self-reporting and ceasing construction were the right things to do as a member of the community. He said they want to continue their business, set things right, and demonstrate how they plan to continue mitigating impacts.

Mr. May said the company needs the Board's help to do their part and hopes the Board will give them a chance to keep this renewable, green, and diverse business going. He thanked the Board for their consideration.

Ms. Palmer asked Mr. May if he is withdrawing the request for the all-night loading and unloading of the kiln. She said he did not mention that in his presentation.

Mr. May said the reason he did not cover it is because the sorter and stacker are the most important two things that he needs. He said without them, the kiln doesn't matter. He said this is what he has to have to continue to exist in the future. He said while he would like the modified hours for loading and unloading of the kiln, the two items that are critical to the company's survival are the sorter and stacker.

Ms. Palmer asked if Mr. May could explain about how the loading and unloading of the kiln is staged. She asked if the wood is nearby, and what noise is involved in the all-night loading and unloading of the kiln.

Ms. Long said she would share her screen with a picture. She said this is a picture of a cart of wood that is ready to go into the stacker. She said the term "loading" may not even constitute loading or unloading wood, but the applicant wanted to make sure they had the right to continue loading the kiln this way. She said the lumber is already stacked and separated with sticks so that it can dry faster and sits at the door to the kiln, as depicted in the picture.

Mr. May said the way the loading and unloading of the kiln works is that, as seen in the picture, there is what is considered a charge of wood, and it will be pushed into the kiln. He said when the charge in the kiln has finished drying, they take the charge that is waiting on the track and push it into the kiln, which pushes the dry charge out. He said this is what they mean by "loading and unloading." He said they do not want to load the carts after hours, but just want the ability to get the dry wood out of the kiln so it doesn't over dry.

Ms. Palmer asked if there were no forklifts or beeping sounds, or trucks going back and forth, and if it was just the pushing of the group of wood in and another one out. She said she was trying to understand the noise that is associated with loading and unloading the kiln, and that it didn't sound like there was a lot, but she wanted to make sure of that.

Mr. May replied that there is a forklift involved. He said the forklift pushes the charge in, which is the end of the process. He said there are no loading trucks or moving the wood into storage. He said they take one forklift, push the new charge in, and the old one goes out. He said they shut the doors and turn it on.

Ms. Palmer said what she was getting at with this was the beeping of forklifts going backwards, and if this was not part of the noise requirements. She said as someone who has lived quite a distance for the last year and a half to a construction site where it starts every morning at 6:00 a.m., and she can hear the beeping back and forth, it is very loud. She said she was trying to understand about the backup beeps on the forklifts.

Mr. May said there would be a momentary bit of time after the forklift has pushed in the charge that it would need to pull its forks out of the kiln, so it would need to back up 10 feet, and then be done.

Ms. McKeel asked Mr. May to help her understand the 6:00 a.m. to 7:00 p.m. request and how noise he would consider the warming up of equipment, adding that she understood why much of this large equipment would need to be warmed up.

Mr. May replied that at 6:00 a.m., the mill turns on its hydraulics for their equipment so that it may warm up. He said their chipper and blower are turned on so that they make sure they do not clog them up, as it would stop operations in their tracks. He said they have added sound attenuation materials on top of the blower. He said when they had the sound engineer look at it, he noted that if they attenuated the sound, it would make a huge impact, so they took those steps.

Mr. May said from 6:00 a.m. to 7:00 a.m., they are cleaning up the dust because a clean mill is a safe mill, and a safe mill is a clean mill. He said when it comes to the loading and unloading, they have historically unloaded the trucks at 7:00 a.m. for the loggers because they start early and end early.

Mr. May said they believe they need to keep the loggers in business for they themselves to stay in business. He said the business of wood is one huge agricultural family where they are all tied together, and without any one part, they do not survive. He said they support each other because they are a family of businesses that rely on each other.

Ms. Mallek said she was glad to see the picture and hear the story about the cart and the loading of the kiln, as she did not understand that part before then. She asked Mr. May to talk about the unloading of the trailers that come in with the long trees. She asked if these are dumped, or if they are unloaded with grapple or other equipment.

Mr. May replied that the truck comes in and they scale it. He said it then pulls into the log yard, where they use a 966 loader with a grapple arm in the front that reaches into the trucks, grabs the logs, lifts it up, then moves it to the appropriate stack, as they have to keep everything by date for drying reasons.

Ms. Mallek asked if the 996 loader will be beeping whenever it turns around. She said she assumed the Yancey Mill Lane residents are the ones who are closest to the unloading section on the western side. She said this is a concern.

Ms. Price asked Mr. May how many times the carts will be pushed in and out of the kiln. She asked if it is a single cart that goes through the drying process, or if there are multiple carts in it at the same time.

Mr. May replied that there are multiple carts that make up a single charge, but they are all together as one single charge. He said they charge in one single charge of multiple carts.

Ms. Price asked if these then stay in the kiln until they are dry and when they are dry, they are all pushed out and an entirely new set goes in.

Mr. May said this is correct.

Ms. Price asked if the wood takes up to 36 hours to dry.

Mr. May replied that it can vary between 19 hours and as long as 130 hours. He said it depends on the dimension of the wood, the moisture content of the wood, the moisture content of the dust, the humidity outside, and whether or not the shell is overly dried. He said there are a lot of variables that dictate how long it dries and what it looks like when it comes out.

Ms. Price said she did not want to be testifying and wanted Mr. May to be answering the questions, but that it did not sound to her as if they would be emptying and loading the carts into the kiln more than once per night if it takes place at night. She asked if this was correct.

Mr. May said this is correct. He said while they have more than one kiln, the system is only built to have one charge at a time come up to temperature.

Ms. Price asked what Mr. May's current position is.

Mr. May replied that his current position is Vice President. He said their election would take place next month.

Ms. Price asked Mr. May if he is, in effect, the CEO or COO, or if he is in charge of the mill at this point.

Mr. May replied yes. He said he is essentially the President at this point. He said in March, the owners of the company all agreed to get behind him due to the effects he has been able to bring to the company. He said in March, he took over all the decisions.

Ms. Price asked prior to March, how significant a role Mr. May had in leadership and from what point in time.

Mr. May replied that he has been running day-to-day operations for a while and could not tell Ms. Price his exact role at each time, as it has been developing since the day he got there. He said he started off shoveling sawdust, and every time an opportunity opened or when he felt there was a gap in leadership, he stepped up because this is his family business. He said he does this because he loves it and wants to be a part of this community.

Ms. Price said she appreciated this. She said what she was really getting to was when the mill first fully operational, there were all these noncompliance issues, who took the action to start to correct it, and when.

Mr. May asked Ms. Long if she might be better at answering this. He said he was not part of the beginning process of the sorter or stacker. He said at that point in time, he was running day-to-day operations and was not implementing those projects. He said that now, because of the way that has gone, he has taken over everything and has wrapped his arms around everything because it needs his attention.

Mr. May said Ms. Long might be able to help on the history, as she has been working with the company for a while.

Ms. Price asked Mr. May when, for him specifically, he would say that he really became the “queen bee” at the mill, whether he was officially in the position or not, in terms of taking charge of things.

Mr. May replied that it was when they were not getting the results they needed from the tone issue. He said at that point, he took over to make sure that they got it resolved.

Ms. Price asked if the tone issue was about the humming sound.

Mr. May replied yes. He said when they were not getting the results they needed, he took over that project, which is when he really started to get the appreciation of all the owners.

Ms. Price asked about when this was.

Mr. May replied it was about a year ago.

Ms. Mallek said it was last fall.

Ms. Price echoed it was Fall of 2019. She said she had no further questions at the moment, but may have some later, and would definitely have some comments later.

Mr. Gallaway said during Mr. May's presentation, he showed an alternative location for the sorter/stacker and was talking about a fire access road. He asked if Mr. May could share that visual again, as it was something that he didn't pick up on in the packet materials.

Mr. May presented the visual.

Mr. Gallaway asked Mr. May if he could further explain where the fire access road is and how this cuts it off.

Mr. May indicated on the screen to the road. He indicated to another area that they have to be able to access, which is their bark, mill, and chip trailers. He said without accessing their chip trailers or bark, they cannot run. He said without having access for the Fire Department, it would be insane to run.

Mr. May indicated on the screen to where the current manual sorting is taking place. He said if they had tried to build the new sorter over that, they would still be within the setback area, but they would have also had to shut the mill down and the mill would be closed now.

Mr. Gallaway asked if the new area where they have the sorter/stacker, relative to how it connects to the mill building, still fits, however the assembly line works there.

Mr. May replied yes, and asked Mr. Gallaway if he would like for him to show how that integrates.

Mr. Gallaway replied yes.

Mr. May indicated on the screen to the location of the trimmer, and to the output side of the mill, which is the last step in a continuous process. He said they would have to exit at the indicated point, and that this was the only location where they could exit the mill with the wood, allow for the angles to work, and allow for all the safety mechanisms to work for their business to continue running, and to do the investment needed for their continued existence.

Mr. Gallaway asked if he got it right at the beginning that Mr. May is dropping the request for the reductions in noise requirements.

Mr. May replied yes. He said they have worked with their sound engineer. He said in their original request, they were putting themselves to a standard that was beyond the written regulations. He said they originally had all the mobile equipment and trucks, and their sound study. He said trucks for transportations and motorized vehicles that are used for transport and backup alarms are exempt. He said honestly, they messed up, and included those in the initial studies. He said those issues were exempt, and now that they have discovered that, they have gone to address the other issues with their sound engineer to mitigate the sound issues that they have had. He said because of that, they removed the request.

Mr. Gallaway said the sorter/stacker in the proposed location would have to meet the noise regulations there.

Mr. May agreed. He said this is a "show me" moment where he is not asking to build the entire thing all at the same time. He said he wants to put a building over the stacker and prove to the County that they can do it before they move forward with the sorter. He said this allows him to prove that they can run it at a noise-compliant level. He said this will prove the same concept should work on the sorter as well, as they have to make this work if they want to continue.

Ms. LaPisto-Kirtley asked Mr. May if he could go back to a picture and which building would make more noise, the sorter or the stacker.

Mr. May replied that he believed the stacker would make the most noise because of the unscrambler, where the wood goes up a ramp and then can tumble back down. He said this is where they believe the largest noise should come from. He said the sorter will just be moving wood into bays and will have a building with sound attenuation material in it as well. He said the loudest thing should be the stacker.

Ms. LaPisto-Kirtley asked if both buildings would have sound attenuation.

Mr. May said absolutely.

Ms. LaPisto-Kirtley asked if Mr. May could go back to where the trucks come in in the morning and where they are unloaded. She asked what location this is.

Mr. May asked if Ms. LaPisto-Kirtley was asking about the log trucks.

Ms. LaPisto-Kirtley said yes.

Mr. May pulled up the slide and indicated on the screen to the log yard. He indicated to the location where trucks come in off of Route 250, pull in and scale, and then pull to an area that is dictated by where they need to unload the logs. He said they want to unload them as close to the pile as possible.

Ms. LaPisto-Kirtley asked if this is the piece of machinery where they were having the custom-made white piece of plastic.

Mr. May replied no. He indicated to the location of the custom plastic pieces that were made of UHMW (Ultra High Molecular Weight). He said they have added plates of steel to help reduce any noise that comes from the motors and gear boxes and redirect this back into the log yard and towards the sawmill, as opposed to exiting the road. He said this is the location where they added the silencers on the end of the exhaust so that their neighbors would not have to listen to that.

Ms. LaPisto-Kirtley asked if when the trucks are coming in, they are actually going further away from the entrance.

Mr. May replied that the trucks are further away from the mill office entrance, which is the main entrance for employees and for the trucks that come to pick up lumber. He said they have two different entrances: one for log trucks and one from lumber trucks.

Ms. LaPisto-Kirtley asked if the buildings for the sorter/stacker are fully enclosed, or if they are open on one side.

Mr. May replied that they have to be open on the ends because it is a continuous process. He said if he enclosed it, it would not allow for the continuous process.

Ms. LaPisto-Kirtley asked if it is then fully enclosed, except for the two ends.

Mr. May replied that this is his understanding and what they want to do.

Mr. Gallaway opened the public hearing.

Mr. Ash Singh, 6338 Hillsboro Lane said he, his wife, and two boys have been residents of the Yancey Mill area for the last seven years. He said they fully approve the recommendations made by the

Planning Commission and staff and would like to see them approved and implemented.

Mr. Singh pointed out that they have no ill words with Yancey Mills and do not wish them any harm, but the violations have had a very negative impact on their quality of life.

Mr. Singh said his younger boy has woken up at 4:00 a.m. in the morning and gets upset because his room is all lit up, and the light is coming from a tractor trailer pulling out of the Yancey Mill parking lot, the one they use for entrance to the office. He said there have been times when his seven-year-old has gotten off the bus when school was in session, and the first question he asks is, "Dad, what's that noise?" He said there have been times when his wife has come back from work in the wee hours of the morning, after attending to very sick patients all night after doing surgery, and she cannot get her rest or sleep because the mill going full throttle at 6:00 a.m. He said he cannot ignore all of this.

Mr. Singh said he also feels that some due diligence was due before these decisions were made. He said he honestly feels that the decision not to reject the workflow and the subsequent placement of the equipment should have all been driven by the zoning laws. He said the zoning laws of the County cannot be driven by the decisions that Yancey Lumber Mill makes. He said this is literally a case of the tail wagging the dog.

Mr. Singh said he also sincerely feels that it is in the best interest of the County to make sure that the zoning laws they have passed are followed and adhered to. He said otherwise, it is literally open season for everyone.

Mr. Singh said he loves living there, and they are okay with the noise on I-64. He said they prefer that, simply for the reason that his wife has to be able to get to work within half an hour of being on call. He said the noise generated from Yancey Mill, however, is ongoing and doesn't end. He said it impacts their way of life and quality of life every day for several hours a day. He said it is too hard to ignore that. He said he didn't know what decision will be made, but their grief is real. He said the problems they are facing are very real.

Ms. Lillian Mezey, 7153 Hampstead Drive, Crozet, White Hall District, said she is a resident of Crozet, and has been a resident of Albemarle County for 22 years. She said regarding the Yancey Mills Special Exemption request, she asks the Board to, number one, follow the well-researched and thoughtful recommendations laid out in the County report, and the recommendations of the Planning Commission, including denial of the requested significant change to the industrial setback requirements for the sorter/stacker structure, as well as denial of expansion of the kiln operating hours due to its potential sound impacts 24 hours a day.

Ms. Mezey said number two, she asks the Board to enforce the existing sound ordinance. She said the mill has been out of compliance of these for quite some time, with significant negative impact on neighbors and other community residents. She said there are well-established and adverse physical and mental health impacts of noise pollution, and noise pollution is not "green."

Ms. Mezey said there is a tendency to present a false dichotomy between support for business interests and jobs versus protecting the welfare of area residents, specifically protecting quality of life and the environment. She said one cannot truly thrive, however, without the other. She said Crozet is a growth area. She said for this to work, reasonable County ordinances and protections are vital to allow different groups to not only coexist, but also to thrive.

Ms. Mezey said when residents are not able to be outside in their own yards, the community is not a healthy one. She said the same goes for when residents are not able to sleep through the night.

Ms. Mezey said Yancey Mill did not do their research before beginning to build the sorter/stacker. She said the mill talks about not being able to operate if their requests are not approved, but the neighbors are currently not able to function in a healthy matter in their homes and properties. She said County ordinances are their only redress.

Ms. Mezey said the mill talks about all of their mitigation efforts and yet their neighbors continue to suffer from excessive sound impacts, as well as light impacts.

Mr. David Swales, 6259 Rockfish Gap Turnpike, Crozet, said he lives in Crozet with his wife and children, and has lived there for the past 24 years. He said their house was built in 1810, so it predates the mill by about 140 years.

Mr. Swales said he opposed all the mill's Special Exception requests, especially as it relates to the unpermitted sorter/stacker currently in violation, as it is constructed within the 600-foot setback from his residential dwelling. He said the current site is semi-functional at the moment, and part of it is still under construction. He said as said earlier, it is approximately 350 feet from his house and 35 feet from his property line.

Mr. Swales said as with all requests, he understands that there needs to be a compromise by both sides, so he felt the staff report presented by Mr. Fritz was an excellently crafted report, was diligently written, and was well presented at the Planning Commission meeting, which offers a fair balance between the business development and protecting residents.

Mr. Swales said at that, he would urge the Board of Supervisors to adopt all the staff's and

Commission's recommendations from their meeting on June 23, once all the requirements are adhered to, which would bring the mill into compliance.

Mr. Swales said at the Commission's meeting, Mr. Rick Randolph echoed his sentiments regarding his disbelief regarding the mill's excuse of not knowing the application, the permitting, or the zoning requirements that they are required to operate under, especially as it relates to a 40-year-old Zoning Ordinance. He said being told that the mill owners are unaware is insulting to everyone's intelligence, and if Ms. Long's statement that "they do not know what they don't know" is true, to be perfectly honest, they have no business running a business. He said to purchase a \$5 million piece of equipment prior to approval is very hard to comprehend.

Mr. Swales said he certainly does not want the mill to go out of business but does want them to be a good neighbor and to abide by the County rules and regulations. He said the 1980 Zoning Ordinance, specific to sawmills, acknowledges that there needed to be a sufficient distance (600 feet) between a mill operation and a residential dwelling in order to coexist. He said for the Board to even consider such a special exemption of a structure that has already been served a violation notice by the County and currently infringes his home is inconceivable. He said there is a potential timebomb to the County and other residents if this special exemption is to be approved.

Mr. Swales urged the Board to follow the staff's and Commission's recommendation to deny the mill's special exemption request as it relates to the sorter/stacker, as the Board should not be rewarding a habitual rulebreaker, and as the only item he could perceived gained is economic benefit by the mill.

Ms. Lisa Swales, 6259 Rockfish Gap Turnpike, said she lives next to Yancey Lumber. She thanked Mr. Fritz and everyone at the County who worked on the well-researched County report, as well as the members of the Planning Commission and Board of Supervisors for their time, consideration, and completing what she was sure was a daunting amount of reading.

Ms. Swales said she would like to state at the outset that she fully supports the recommendations of the County and the Planning Commission. She said it seems ridiculous and repetitious, at this point, but she feels she must reiterate that they are not anti-Yancey Lumber, and they do not want the mill to go out of business, or they would not have bought their house their 24 years ago. She said the smell of wood is the smell of home.

Ms. Swales said they do want and expect the mill, however, to operate according to and within the County Code's regulations in existence for 40 years. She said from the zoning and planning history and living there, it was clear that it was not until very recent times that the mill has ever attempted to take the residential community into consideration, and really only when forced to do so by the infamous hum in 2018. She said it became crystal clear then that the mill affects a larger and rapidly growing population of residents. She said given their long history of noncompliance, it is very difficult to view Yancey Lumber as a business that is a good-faith partner with the Yancey Mills residential community, or with the larger Crozet community.

Ms. Swales said the bottom line is that the problems and issues at stake here are of Yancey Lumber's own making. She said they are and should be responsible for their actions. She said residents should not have to bear the consequences of bad business decisions. She said they should not have their rights as property owners, their property values, their quality of life, health, or safety compromised. She said zoning codes are designed to prevent situations like this from occurring in the first place. She said seeking special exemptions instead of planning and operating according to County zoning codes is not the sign of a good-faith community partner. She said again, the burden is falling on residents to bear the brunt of their actions.

Ms. Swales said they are obviously adamantly opposed to the reduction in setback from their property for the sorter/stacker. She said as a new addition, it should be 600 feet from their property. She said they have not been able to use their backyard for some time, as it is just too noisy. She said the distance of 35 feet cannot be justified, according to the County's stated purpose of Heavy Industry setbacks, which is to minimize and prevent impacts on adjacent properties. She said the sound and visual impacts have been ridiculously out of compliance with the intention of the regulation.

Ms. Swales said she could not stress to the Board enough that these are the residents' homes where they live, love, and raise their families, and where they shelter during pandemics. She said her kids could not even do their online Zoom classes this spring on the patio because of the excessive noise from the running of the noncompliance stacker.

Ms. Swales asked the Board to put themselves in the shoes of residents, to remember the stated purpose of County zoning, and to vote according to the County report and the Planning Commission's recommendations.

Mr. Tom Goeke, 6254 Hillsboro Lane, said he has lived in Yancey Mills for 22 years, and in the County for 31 years. He said he did not understand how Yancey Lumber can consistently operate with complete disregard for County Code and regulation; adjacent property owners' rights; and the health, safety, and quality of life of the surrounding community.

Mr. Goeke said the installation of the sorter/stacker became clear to him that night with the explanation from Mr. May. He said it was put in in the cloak of darkness because it would have required zoning approval, which may not have been received, and it would have required them to shut down the

mill.

Mr. Goeke said the Zoning Department, Planning Commission, and Board of Supervisors are charged to hold business and property owners accountable to County Code and regulations. He said they are counting on the Board to do just that, especially when it impacts community quality of life, property owners' rights, and health and safety, which this very specifically does.

Mr. Goeke said Mr. Fritz, the Planning Commission staff, and the Planning Commission have done an outstanding job with the assessment and reporting on Yancey Lumber, specifically with setbacks to property lines and dwellings, and excessive noise levels exceeding the ordinance. He said the community full supports the recommendation of the Planning Commission.

Mr. Goeke said no one in the community who he has spoken with wants the lumber mill to fail. He said everyone in the community wants the lumber mill to operate within County ordinance, and to the recommendations of the Planning Commission.

Mr. Goeke asked the Board to vote to support the recommendations of the Planning Commission. He said doing otherwise is ignoring property owners' rights and the community and is setting a dangerous and unmanageable precedent for Albemarle County.

Ms. Lucy Goeke, 6254 Hillsboro Lane, said they have lived in their home for 22 years. She said before they bought the house, they looked up the zoning laws and were comforted to see that they would be protected from the lumber mill. She said they had assumed the lumber mill would stay in compliance to these laws, or that the Supervisors would help keep them in compliance.

Ms. Goeke said the lumber mill, however, has been out of compliance on so many issues since she has moved there. She said most of the trees are dying due to the constant encroachment of the lumber onto Route 250 and Yancey Mill Lane, so there is no buffer from the mill. She said the community was responsible for bringing the noise from the kiln last year under control and now, the community is asked to do the zoning policing again.

Ms. Goeke said the setbacks have been a constant issue and now, the noise and setbacks from the newly installed equipment are a tremendous problem. She addressed Mr. May, recalling that he said his grandfather would be upset by this. She said these zoning laws, however, were enforced in 1980, which was 40 years ago. She said the lumber mill knew the zoning laws, and as citizens, they are responsible for upholding the law, just as they are. She said it was Mr. May's administration, their planning, and their lawyers to make sure the lumber mill was within the zoning laws.

Ms. Goeke asked the Board to vote with the Planning Commission and for all the work Mr. Fritz and his team did to keep their community peaceful and a respectable place for everyone to live.

Mr. Steve Blaine, attorney representing the Swales Family, said their position is that this proposed mitigation to comply with the noise ordinance simply does not achieve the same level of protection as the setbacks do. He said the applicant's own consultant report indicates that after the completion of the building, the decibel level would still be 71 dB. He said for every 10 decibels, there is a ten-fold increase in the level of sound. He said effectively, they will have 10 times the County's permitted noise level emanating from the sorter/stacker.

Mr. Blaine said the applicant has proposed no specific mitigation efforts in his presentation that night. He said the applicant's own consultant study undercuts his promise to mitigate.

Mr. Blaine said the credibility of the applicant is also in question, when they hear testimony that they had applied for variances in the past and actually had received a variance but now claim that prior to installing the sorter/stacker, they were not aware of the County's ordinances.

Mr. Blaine said the noise ordinance alone does not address the visual impacts, the vibration, and other impacts of the sheer industrial activity going on under the noses of his client. He said the best way to envision this is that 60 decibels, which is the County limit, is the same as a normal speaking voice. He said it is quite different to have a normal speaking voice 600 feet from one's dwelling as opposed to just outside one's bedroom window.

Mr. Blaine said unfortunately, he has seen the scenario where the neighbors, his clients, are the ones who have to be vigilant and enforce this if it is approved as proposed. He said they would have to make complaints to the Zoning Administrator, the Zoning Administrators would have to make investigations, etc. He said he thinks they could all agree that those are circumstances that Albemarle County residents shouldn't have to accept.

Mr. Blaine said for these reasons, he would ask that the Board reject this latest proposal. He said as his clients have indicated, they can support the Planning Commission's recommendations.

Ms. Ashley Maynard, 334 Yancey Mill Lane, Crozet, said as a resident who is directly affected by the mill's daily operations, she asks that the Board deny the proposed special exemptions.

Ms. Maynard said she does not disagree with anyone about the service or the jobs the mill provides to the community. She said she does believe, however, that whether by intention or ignorance, they are doing a great disservice to the surrounding community and residents. She said ignorance is not

an excuse to not follow rules or regulations. She said everyone in the community should be held to the same standard.

Ms. Maynard said furthermore, from personal experience, she does not feel that the mill will conform to these exemptions, even if approved. She said currently, their working hours start at 7:00 a.m. She said this sounds great, but in actuality in the past, trucks and forklifts have started arriving to be unloaded as early as 5:00 or 5:30 a.m. on some mornings.

Ms. Maynard said her property is less than 50 feet from where these trucks are frequently unloaded. She said code requires 100 feet of buffer to her property line. She said they have zero vegetation or fence to buffer the noise and lights from the trucks, the beeping of forklifts, and the dropping of the logs.

Ms. Maynard said she asked to have a fence installed in this area and was denied. She said her husband later brought it up to Ms. Long and was told that it made sense to have it there, and that the mill agreed to install one. She said months went by, and still, no buffer. She said when her husband again inquired, he was told that they would install it only if they were approved for the exemptions. She said the problem is that the buffer is required by code, and it was only when her husband started a petition against the exemptions on social media that the mill said they would follow it.

Ms. Maynard said she believes if they are allowed to change working hours to 6:00 a.m., the trucks will slowly begin arriving earlier and earlier until they are at 4:30 a.m., as that is the precedence they have established.

Ms. Maynard said as for the noise, she is thankful that the mill has removed their request to operate above the current regulation. She said she was curious as to who will ensure they operate within the required levels. She said by their own account, they are out of limits but up until this point, instead of fixing the issue, they have been asking to be exempt. She asked how they intend to lower the noise to fit the current regulations. She said it seems they have gotten into the habit of doing as they please, getting caught, and then asking for forgiveness.

Ms. Maynard strongly implored the Board to uphold the Planning Commission's recommendation and keep the quality of life of the community and residents in the forefront of their decision.

Mr. Terry Maynard, 334 Yancey Mill Lane, thanked the Board for allowing the community to express their concern in relation to the special exemptions. He said he does not support the approval of the special exemptions and implored the Board to follow the recommendation of the Planning Commission.

Mr. Maynard strongly urged the Board to first enforce the code as it is written. He said the same intent to help establish these regulations back in 1980 still carry the same weight today. He said they allow for the expansion of lumber mills but require the quality of life and the safety of surrounding communities to be maintained.

Mr. Maynard said he feels that approving special exemptions will establish a precedence. He asked the Board not to establish a precedence that allows a company or developer to move forward with a project without first understanding the regulations that surround them. He said if approved, he firmly believes that the Board will be establishing a culture of asking for forgiveness, biased permission, and for the quality of life of communities to suffer.

Mr. Maynard said he does believe Mr. May is being truthful when he states that he wasn't aware of the regulations when he took on the program for the sorter/stacker. He said ignorance does not alleviate the responsibility of doing due diligence, however.

Mr. Maynard said he is a disabled veteran, having served 23 years defending the country. He said he has spent time in war and war-torn countries, and he finds it odd that even in that high-stress environment, they follow the rules that outline their objectives. He said if a soldier broke a rule of engagement, even if they were ignorant of that rule, they were still held accountable.

Mr. Maynard asked the Board not to establish this precedent, and to not undermine the quality of life of the community that surrounds the mill because the mill did not complete their due diligence. He implored the Board to follow the recommendations of its appointed Planning Commission and the report from Mr. Fritz's staff.

Ms. Sarah May, Chief Financial Officer of Yancey Lumber Company, Jack Jouett District, said she runs the financials at her mother's side at their family business. She said since their business is heavy manufacturing, it requires massive amounts of capital expenditures and lots of money to keep the equipment going. She said her family is cautious when it comes to money to order to ensure they are not in over their heads. She said this family trait allowed them to survive.

Ms. May said they had planned for the stacker and sorter before the recession. She said plans had been laid out, but they had to wait until they saved up some money. She said no dividends were paid, as it would require millions of dollars for the project. She said the Great Recession hit, and any plans for new equipment had to be put on the shelf. She said the Great Recession resulted in a struggle to stay in business and that this was scary. She said of the 500 lumber mills in Virginia, 350 went out of business. She said they survived through hard work and tightening up. She said they still paid their

employees every week and did not lay anyone off.

Ms. May said during that time, rumors abounded that they were going out of business. She said logs were low on the yard and, at times, they took the logs directly from the truck to the sawmill. She said maintenance had to be deferred. She said she remembered when they had to buy stacker sticks to go between the lumber layers. She said it cost \$15,000 and they wondered how they were going to pay for it, but it was necessary.

Ms. May said the company worked its way out of the hole and began to be profitable again. She said instead of investing in machinery, they needed to invest in maintenance and repairs. She said this took time and money, and still does. She said managing their costs is what they have control over. She said when older equipment breaks down, it is costly, hard to find parts for and, many times, they have to have it fabricated. She said some of their equipment was manufactured 60 years ago and has integrated modern technology, such as lasers and computers, to stay competitive.

Ms. May said after making it through the Great Recession, it came time to invest in the company's future. She said they saved money because they did not want to incur too much debt and decided to go ahead with plans for the stacker and sorter that had been in the works before the recession. She said it was important to go ahead and be prepared before the next recession.

Ms. May said equipment such as the sorter and stacker do not need a permit. She said they started their sorter/stacker project without one, and once they learned they were out of compliance on the setbacks, they stopped the assembly of the sorter and self-reported. She said they have been stopped for 2.5 years. She said they have spent millions on the project and still have a ways to go.

Ms. May said their family business, employees, and many local businesses need the stacker and sorter to survive the next recession and to remain viable. She asked the Board to help them with the setbacks.

Mr. Glen Worrell said he is a forester with F&W Forestry Services in Charlottesville. He said while he does not live in Albemarle County, he works for many landowners who have timberland in Albemarle County and the surrounding area. He said he is also Vice President of the Virginia Tree Farm Foundation and is representing those landowners that evening with his comments.

Mr. Worrell said healthy forests in Albemarle County depend upon healthy markets, and to have healthy markets, they must be competitive and viable. He said within this area of Crozet and the surrounding areas, over 100 million board feet are harvested every year. He said of that 100 million board feet, Yancey consumes approximately 40% of the total amount of pine wood that is cut in the area. He said he was talking only about pine saw timber, and that this is a substantial amount for one mill in one area. He said healthy forests need healthy markets.

Mr. Worrell said the Albemarle County Comprehensive Plan has goals of preserving rural, agricultural, and forest lands. He said there is a very aggressive land use program that recognizes the importance of forestry and forest management for Albemarle County and its surroundings. He asked if there are not healthy forest markets, how a landowner or a farmer can produce a crop if he has no place to send it to market.

Mr. Worrell said it is extremely critical that the Board works with Yancey Lumber to ensure that they remain competitive in the strong competitive markets of pine lumber. He said it is a great success that Yancey Lumber is still standing. He said the number of pine sawmills that have gone out of business not only in Virginia, but throughout the South and over his 26-year career is astounding. He said the fact they are still there shows the dedication the family has to preserving their way of life, and that they recognize the importance this mill has not only for Albemarle County, but for the surrounding areas.

Mr. Worrell encouraged the Board to help support Yancey Lumber with the setbacks and other requirements necessary to maintain the competitive nature of their pine mills in the Southern pine market.

Mr. Gallaway closed the public hearing and invited the applicant to provide rebuttal.

Ms. Long said she would hit on the comments in a random order. She said if anyone has any specific technical questions about the noise or sound issues, the applicant has its sound scientist there, Mr. Bill Yoder of Acentech, who can handle the technical questions.

Ms. Long said with regard to the visual and sound impacts of the proposed sorter and stacker, the applicant contends that the proposed mitigation measures that the company has already implemented, and those that they have committed to implement going forward, will more than compensate for any modifications that are granted to the setbacks as a result. She said the noise impacts will be fully mitigated by those measures, and the visual impacts will be mitigated as well.

Ms. Long said the company has planned and committed to installing a 10-foot-high fence along the common boundary with the adjacent property line. She said their sound consultant has estimated that this will have an estimated impact, in terms of noise reduction, of 7 decibels all on its own. She said the impact of enclosing the stacker inside of a building, on its own, will have a noise reduction impact of 18 decibels. She said the highest that will more than make up for any noise impacts that are being created now.

Ms. Long reiterated that the noise studies that were previously submitted do not account for the fact that a number of the predominant sound sources that were identified and contributed to those figures are exempt under the ordinance: transportation, vehicles, and backup alarms. She said a large component of the sound from the mill is comprised of the forklifts and the backup alarms.

Ms. Long clarified that since the sawmill supplemental regulations were adopted in 1980, the ordinance has always included a provision allowing for the Supervisors to grant modifications to these regulations. She said back in 1980, the Board contemplated that there would be situations just like this, where an existing business that predated the regulations would need some relief in order to expand. She said the business had been in place for almost 40 years when the regulations came into effect. She said they had fixed property boundaries, and their equipment is of a fixed nature, so they cannot just move their sawmill around.

Ms. Long said for any expansion of their business, which is necessary for most businesses, the day after the regulations were imposed, there was no way for them to expand any of their businesses or equipment and be compliant with the 600-foot regulations. She said it was impossible from Day One. She said they should have absolutely come forward sooner and asked for modifications, but they did not know, and as soon as they found out that they needed them with the sorter and stacker, they stopped construction.

Ms. Long said it is illogical that they were trying to get away with anything, as they had no reason to do that. She said if they were trying to get away with something, they would not have stopped construction midstream and immediately submitted a Special Exception application, which is what they did. She said her firm let them know about it, they stopped construction, and she submitted a Special Exception application.

Ms. Long said the first thing she did was sit down to meet with the Zoning Administrator to disclose what was going on, that they identified the problem, and that they wanted to work with the County. She said they were not exactly sure what to do, but they wanted to get the County's guidance. She said the suggestion was to do an assessment of the entire property, figure out all the nonconformities, as the regulations were imposed on the business after it had been in place for a long time, and bring the County a comprehensive package of Special Exceptions. She said this is exactly what the applicant did.

Ms. Long said if the applicant were trying to get away with something, they would not have stopped construction midstream. She said it makes absolutely no sense. She said they would have never put themselves through this if they could have avoided it.

Ms. Long said it has been 2.5 years that the applicant has been working to try and address all the issues and to be ready to come before the Board. She said they have taken time and spent a significant amount of their resources and energy implementing mitigation measures already, and they have come up with a long list of additional measures that they are committing to and will be put in place.

Ms. Long said with regard to the kiln, this does not create any appreciable noise. She said the kiln is also in the middle of the property and is not near property lines. She said it does not happen every night, or even every week. She said it is fairly infrequent, but when it is needed, it is absolutely critical because if the wood stacks stay in the kiln too long, they warp and will be ruined. She said this is an important consideration. She said they do not actually think that pushing the charges in and out of the kiln even constitutes legally loading or unloading.

Mr. Gallaway brought the matter back to the Board for additional questions and comments.

Ms. Palmer said she has a variety of questions, but that she would narrow them down to those regarding the most important thing to Mr. May, which is the sorter/stacker. She said Mr. May said at the beginning of the presentation that he could not stay in business without the sorter/stacker. She also recalled how Mr. May had said this was a "show me" moment and asked the Board to let the company show them that they can get this noise under control.

Ms. Palmer said she had to admit that at this point, although she didn't know how the rest of the Board felt, she had a very hard time approving this and saying, "Okay, go and show us."

Ms. Palmer said she would like to know what the applicant's plans are. She said to assume that the Board wants to support this mill staying in business but that under the current circumstances, they could not approve this. She asked Mr. May what he would do in that situation, going forward, as he is very motivated to keep this business going.

Mr. May asked for clarification about the question.

Ms. Palmer asked Mr. May what his next step would be. She said what she was trying to find out, reiterating that she did not know what the rest of the Board thought, and that she was trying to figure out her own position, was if Mr. May did not receive approval that day, what he would do going forward if he thought that there was a second chance or a "show me" moment.

Mr. May said he wanted to be clear about Ms. Palmer's question. He asked if she were asking what his next steps would be if the requests were approved, and what his next steps would be if the requests were not approved.

Ms. Palmer replied yes. She said her bigger problem was the scenario that Mr. May is not approved for the sorter/stacker. She said she was not talking about the kiln, fences, or anything else, but only the sorter/stacker.

Mr. May replied that the stacker puts sticks between wood, and if he cannot put sticks between wood, he cannot dry it in the kiln. He said this makes his business unviable. He said he supposed he would have to go through the inventory he has and stack it by hand. He said this won't really work because a 6 x 6 x 16 weighs 260 pounds. He said he might be able to make it work just to get through his inventory, and that he needs the stacker. He said he has to put sticks between lumber.

Ms. Palmer asked if Mr. May would move forward with his "show me" moment and come back again.

Mr. May replied that if he does not have the stacker running, he will not have a chance for a "show me" moment. He said he has to dry wood to have revenue. He said if he cannot dry wood, it is not even about profitability, but his cash flow will cease, and he will not be able to pay his employees.

Mr. May said the "show me" moment is that he has a stacker in place that is safe, new, and is missing a muffler. He said it would be like taking a car and driving a muffler, and that no one would like to hear the car on the road. He said he is asking the Board to please let him put a muffler on his car. He said he can show them that by putting the building around it, it will reduce the sound. He said he would end log purchases, essentially, if he cannot run his stacker.

Ms. Palmer asked if in the scenario that the Board approved putting a muffler on the stacker but did not allow Mr. May to build the sorter until the stacker was completely muffled, within the 45-day span that he said he would do it, what this would look like.

Mr. May replied that this would be reasonable. He said he wants the chance to show the Board. He said this is his exact plan.

Ms. Palmer said apparently Mr. May told the Maynard's that he would build the fence along their property if this got this approved, and if he didn't get this approved, he simply would not do that.

Mr. May replied that he has a construction loan, and he needs the construction loan to have the money to build this project, which would free up money for fencing and other things. He said if he does not get the requests approved, the business will die in which case, he would not want to do more capital improvements to a business that is not viable.

Ms. Palmer asked what the fence would be made out. She recalled that the fence would reduce the amount of noise by 7 decibels. She said it didn't sound like it was a very substantial fence.

Mr. May replied that the fence near the property line at the stacker is nowhere near the Maynard's.

Ms. Palmer asked if the Maynard's, then, were talking about a different fence.

Mr. May replied yes. He said the Maynard's want a screening for the light, and that he was happy to put that screen in for the light. He said he has already changed his loading and unloading hours in the log yard because they complained that the light was a problem. He said he has given them his cellphone number and has been very responsive. He said when Mr. Maynard addressed the issue, he asked what the company could do for them.

Mr. May said instead of unloading logs at 6:00 a.m., he has adjusted his hours of unloading, to the detriment of the loggers, to 7:00 a.m. so that they do not have to deal with the lights. He said he cannot control the trash trucks that come in at 5:30 a.m. and are extremely loud with flashing lights, but that he can control what is done on his property.

Ms. Palmer said the very first speaker complained about trucks and tractor trailers coming into the property in the middle of the night. She asked what this was about.

Mr. May replied that a byproduct of what they make is sawmill chips. He said the sawmill chips go to the paper companies, and those paper companies then produce the packaging, toilet paper, and all other wonderful goods that people use on a day-to-day basis. He said for him, it is a byproduct, and for them, it is a sellable good. He said he has to take that byproduct and get it to the papermills or otherwise, he runs out of trailer space to continue his day-to-day operations.

Mr. May said the trucks that come and pick them up are not trucks that he employs, but are third-party vendors, which is why they try to put as many trailers near Route 250 as possible so that they do not have to come into the property. He said occasionally, however, if they run out of room, they will have to have a truck come into it to haul the material away because if it is not hauled away, he is unable to run. He said if the papermills do not receive the paper chips, they are unable to make paper.

Ms. Palmer said this is a good explanation and asked if there is any way to mitigate that and not have the trucks come in in the middle of the night.

Mr. May asked if Ms. Palmer meant the trucks entering his gates or picking up the material on the side of the road.

Ms. Palmer said she was responding to the first speaker, who said this is happening in the middle of the night.

Mr. May replied that on the side of the road, no. He said he needs that material to be taken. He said he tries to get as much taken during the day as he can, but there are State regulations that dictate how much influence he can have over the truckers before they become his employees. He said he also needs the material hauled away so he can run each day. He said they do not have enough property to buy more trailers, nor do they have enough money to buy.

Mr. May said if he does 10-13 loads per day and they run 5 days a week, that is up to 65 trailers that they have to move. He said they have 10 trailers. He said they are expensive to maintain. He said if he had 65 trailers, he did not even know where he would store them all. He said essentially, every 45 minutes, he makes a load of chips, and he needs that load of chips to leave the property. He said it takes about 4 hours to drive the load of chips down to Covington and back. He said he doesn't know how to logistically make that happen. He said he would love to, but it would involve him being significantly wealthier and having much more land.

Ms. McKeel said Ms. Palmer asked about the trucks and the light. She said her main question was about the sorter/stacker, and that Mr. May had addressed that with Ms. Palmer as well. She asked Mr. May to further explain the fences, as she was confused as to if they were talking about two fences.

Mr. May said he would try to pull up the slide about this.

Ms. McKeel said this would be helpful.

Mr. May said his explanation works much better with a picture.

Ms. McKeel said when she drove to the site to take a look, she noticed that one fence is partially down and is in very bad shape.

Mr. May said it is an old fence and he wants to replace it. He said he thinks it is a bit of an eyesore and would very much like to replace it.

Mr. May presented a slide and indicated to the location of the Maynard's house. He said the company was looking to install a screening fence in the indicated location for the Maynard's. He said this way, when the trucks pull around to the scale, the lights will not shine in their windows. He said the trucks do not always pull around in the same way, and it depends on which row they are loading. He said many times, however, they do come up that way.

Mr. May said the second fence he is looking to install would be along the area he indicated to on the slide, except for on his property. He said one of the complaints was about the visual effect, so if they can remove that for the neighbor, they want to do that. He said this would be the 10-foot fence.

Ms. McKeel asked what this would be made out of.

Mr. May replied that this would most likely be made out of wood.

Ms. McKeel asked if the old fence would be taken down and replaced with a new one.

Mr. May replied yes.

Ms. McKeel said with that, Ms. Palmer had covered her other questions.

Ms. Mallek said she would try to go through her list of questions without being too confusing. She said the real problem is that there is tremendous support from the community for the operation, but also tremendous support for making sure the rules are followed and that everyone's quality of life is protected. She said they are all working toward achieving that.

Ms. Mallek said she understands there is a gap in that the building over the sorter and the building over the stacker cannot be connected entirely, but in that gap, something could be put that might not be attached to those two buildings, which would then function as its own sound diverter. She said they would probably have to have three sections instead of just two to keep it functioning. She said she wanted to know more about that opportunity.

Mr. May said the presented picture shows a sound barrier wall. He said in a perfect world, he would make this one continuous building, but he believes this would be another Special Exception. He said unfortunately, he needs to leave a 30-foot gap there because he does not have water that comes onto his property. He said the plan is that they will have two buildings with the sound barrier wall, which they believe will mitigate the sound.

Mr. May said he is not a sound engineer, which is why he has hired one because his expertise is in cutting wood, and they hired someone smarter than him to do sound. He said he was not sure if he was allowed to do a three-sided wall there, as it might constitute connecting the building because he

would not have a 30-foot gap between the roofs.

Ms. Mallek asked if this was for fire rules.

Mr. May replied yes. He said he could put a water curtain between them that would break it up, and if the County wanted him to make this one continuous building with water curtains so that it wasn't multiple buildings, that would definitely improve sound mitigation, and he would be more than happy to do that. He said this would be something he would need the County's direction and help with, as he does not want to be before the Board with any violations.

Ms. Mallek said months ago, there was some discussion about where the wall in the photograph was depicted was where a highway-style sound wall could go. She said she was told it was better to put it there than to put it up at the property line on the high elevation. She asked if this were still a live idea, or something that is not going to work.

Mr. May replied that this wall is the material as their building which, when they had done sound testing, found that it does drop the decibel level by 18 decibels. He said the best way to make it work, though, to know that it is going to work, is if it is one continuous building. He said again, this is not something he would be allowed to do without the Board's help. He said he believes this system will work, but that Ms. Mallek's recommendation is a better one.

Ms. Mallek said she did not have a recommendation.

Mr. May apologized and said he didn't mean to put words in her mouth.

Ms. Mallek said the blessing of not being an engineer is that one gets to come up with ideas and have other people solve the problem. She said she would ask her next question.

Ms. Mallek asked Mr. May to talk about the elevation change at the north end of the property. She said it looked pretty big when she was there during the middle-of-the-night visits to the Tea Kettle. She said it looks like the massing impact might be negligible because perhaps there was a 30-foot elevation change between the company's roadway and the top of the bank at the north end, where the property line is.

Mr. May asked if he could let his sound engineer answer the question about height differences and sound.

Ms. Mallek said anyone could answer.

Mr. Bill Yoder, the applicant's sound engineer, replied that although he didn't remember the exact number, the property line is about 20-30 feet higher than the road is. He indicated on a map to the area where the applicant proposes to put a fence, which is about 20-30 feet higher than the road is. He said the stacker is roughly the same elevation as the road. He said the dwelling unit is also higher than the property boundary, so they are looking at another 20-feet elevation rise.

Mr. Yoder said by putting up a 10-foot fence in the indicated area, because they are already so much higher, does provide some benefit. He said this benefit is not as much as if they were closer to the receiver, the dwelling unit, or closer to the source, the stacker, but what they have done is taken the terrain and elevation contours of this property and of the adjacent property owner's property and put that into a computer model. He said in that computer model, they put the sound source, the stacker (at the location of the stacker), then put receivers at the dwelling unit.

Mr. Yoder said they are able to estimate, using a computer model, what the sound level reduction of that barrier or fence will be. He said the 10-foot fence is roughly 7 dB, both at the dwelling unit and in a large portion of the backyard. He asked Ms. Mallek if this answered her question.

Ms. Mallek said it was pretty close. She said there are other impacts, in addition to noise, that the Board has to take into consideration that seem to be the basis for the 1980 600-foot setback, which were the visual impact and the big mass of a giant industrial structure. She said in the new and modern Light Industrial things, it is a different ballgame. She said it could be in an office building or research lab. She said this, however, is very much the old-fashioned industrial site, and they will have to work on that.

Ms. Mallek said in addition, when she was there before, there were a lot of trees, and those are now gone. She said she thinks there were wood stacks there originally that have been moved. She said these are things that seem to have changed over the last several years as the operations have been modified, which seems to have changed the impacts to the neighbors dramatically in the recent half-decade. She asked if there is any ability to put some tree growth back on that new bank they have, or some other methods to reduce that impact.

Mr. May replied that it is absolutely possible to add some vegetation there, such as trees. He said it will have a negative impact on the lumber. He said the more vegetation that is around wood, whether stacked or not stacked, the higher the moisture content in the area is. He said the higher the moisture content is, the quicker it turns to mold. He said in the summer months, specifically August and September, the mill struggles with this as a business. He said they want to keep their vegetation down, which is why if one came to visit the property recently, they have seen there is a lot of weed eating to do, and that they maintain the property. He said he likes it clean, and it also protects their inventory from

molding.

Mr. May said the answer is yes and no. He said if it is the difference between him shutting his business down, absolutely. He said in an ideal world, he does not want to damage the inventory, but he is not in a great spot to negotiate. He said he is just trying to exist.

Ms. Mallek said she was just trying to ask for information, and that Mr. May has answered her question.

Ms. Long asked Ms. Mallek if she could respond to the question. She said to add on to what Mr. May said about the plantings, with the addition of the fence along the common property line, this would block the visibility, as much as possible, of the sorter and stacker from the adjacent property. She said plantings on the mill's side of the fence would not help address the view from the adjacent property, so they were most focused on the noise, which was the main purpose of the fence. She said it does have the added benefit of reducing any visual impacts as well.

Ms. Price said she did not have questions at that time, but that she would have some comments once they are ready to make those.

Ms. LaPisto-Kirtley said there was talk about putting the 10-foot fence at the northern property line but yet the sound engineer had mentioned that if the fence were closer to the sorter/stacker, that this would mitigate the noise even more. She asked if this was correct.

Mr. Yoder replied that there are two barriers there. He said the building is the first barrier that is at the source. He said the second barrier is the fence. He said they would not put the existing barrier at the source. He said when they are trying to do noise reduction with a barrier, they want to put it at the source, or the receiver.

Ms. LaPisto-Kirtley said perhaps she misinterpreted, and that she thought that Mr. Yoder said if the fence were closer to the sorter/stacker, it would further mitigate the noise. She asked if Mr. Yoder is saying the opposite, that it needs to be separated in order to have a better mitigation of the noise level.

Mr. Yoder said he needed to further clarify. He said if there were no building around the sorter/stacker, then this would hold true, and they would want to put the barrier at the sorter and at the stacker. He said if, for example, the Board does not approve the building around the sorter and stacker, the applicant could put the barrier wall there. He said this is not a better solution, but a worse one.

Ms. LaPisto-Kirtley agreed, noting she did not think this was even in consideration, and that they would want the building to be around the sorter/stacker.

Mr. Yoder agreed.

Ms. LaPisto-Kirtley asked if Mr. Yoder were saying that the 10-foot fence would mitigate the sound more on the property line if it were placed there.

Mr. Yoder said this was right. He said in a perfect world, they would put it closer to the people who are being impacted. He said as close as Yancey Lumber can get, however, is the property line. He said it will provide some benefit there, and it will also provide some benefit to sources that are onsite that are not the sorter and stacker, such as trucks and forklifts.

Ms. LaPisto-Kirtley asked if the fence would go along the length of the horizontal line.

Mr. Yoder replied that he did not know what the applicant was proposing.

Mr. May replied that he believed they were stopping at the end of the concrete.

Mr. Yoder said this was how he modeled it. He said any more would really be unnecessary to block sound from the sorter and stacker, which is the primary source of noise at the moment that they are focusing on.

Ms. LaPisto-Kirtley asked if the building is covered as proposed, and if the 10-foot fence is built as proposed, Mr. Yoder is saying that the sound level at the home of the Swales would still be 70 dB.

Mr. Yoder replied no. He said these are new measures. He said the wall is a new measure. He said the 70-decibel level was in a survey report that they generated almost a year ago. He said this did not take into account other activity on the site, so the sound levels that were included there include exempt sound sources. He said it includes transportation and warning devices. He said at the time, they did not realize that those were an exempt source in the noise ordinance. He said they do not have a survey at the moment that does not include those exempt sources.

Mr. Yoder said what mill is proposing now is that they will make sure that the sorter and stacker meet the noise ordinance at the property boundary and will take the necessary measures to do that. He said the building is step one, and then the barrier wall at the property line is step two. He said they were also looking at doing some sound absorption in the building, which is the icing on the cake and shouldn't be necessary. He said there is a whole slew of things they hadn't previously planned to do that they are planning to do now.

Ms. LaPisto-Kirtley asked if this is when they get the 70-decibel level.

Mr. Yoder said 70 decibels is what they estimated last year. He said the sound level at the closest property boundary ranges in the upper 60 dB range. He said they have data that shows that with the stacker running, that is still a valid number. He said for the sake of argument, assume the level is 70 dB. He said when they put a building around it, the noise reduction through the façade of the building is 18 dB. He said 70 minus 18 is 52. He said this is just for the sorter and the stacker and doesn't include any other sound sources. He said if they attribute all the sound from the sorter and stacker, they expect the sorter and stacker sound at the property line to be reduced to 52 dB.

Ms. LaPisto-Kirtley said her next question was with regards to talk about putting in a wooden fence as opposed to a concrete sound barrier that is used on freeways.

Mr. Yoder replied that along the freeways, one will notice that many sound barriers are actually wood. He said the larger ones are concrete because they can support their own weight. He said lightweight is a sail, and if one makes it more than 15 feet tall, it is suddenly hard to maintain and cannot support the weight, which becomes a problem. He said the source of noise here is easily attenuated by wood.

Ms. LaPisto-Kirtley asked what the distance is of the Swales house to the property line, in feet.

Mr. Yoder replied that the property line is about 300 feet from there, but that he did not know right off. He said they could probably look that up.

Ms. LaPisto-Kirtley's last question was about the sorter/stacker. She asked if there would be a gap there, or if there would be a barrier there between them.

Mr. May replied that a barrier is planned. He said there would be two buildings, and roughly in the center, there is a 30-foot gap between them. He said the current proposal has a wall built out of the same material that the two buildings are constructed of that spans that gap.

Ms. LaPisto-Kirtley asked if it would also go over the top.

Mr. May replied no.

Ms. LaPisto-Kirtley asked if there would be attenuation measures in that wall.

Mr. Yoder replied that the plan is that there would be sound absorption in the building, and the absorption in the building would reduce the amount of reflected energy that goes towards that wall that spans the gap. He said the thought is that if they can keep the sound from coming out of the building, it doesn't have the ability to go over that wall. He said the wall is going to be the same height as the building, and that it is not a short wall. He said he believed there is a rendering of this.

Ms. LaPisto-Kirtley asked if the wall would have sound attenuation measures on it.

Mr. Yoder replied that the wall itself is the sound attenuation. He said adding absorption of that wall should not provide any benefit. He said adding absorption to that wall would just reduce reflections of sounds and not transmissions of sounds. He said sound absorption is used for a different reason and that they would not be adding that to the wall.

Mr. Gallaway said this was relevant to an application that was just before the Board a few weeks ago, and that his question was for whoever wanted to respond. He said the noise here seems to be the biggest impact to deal with. He said he could see where the lighting and perhaps controlling the traffic coming on and off, while difficult, could happen.

Mr. Gallaway said Mr. May did not have to rehash the reasons for noncompliance before his time, but when people are saying they do not have an expectation that compliance will happen, and if the Board's decision is to move forward and hope that compliance will happen or that there will be mitigation factors, he needed Mr. May to speak to that.

Mr. Gallaway said the compliance in the past and the fact that it has been noncompliant makes it hard for people to trust that it will be different moving forward. He said the "show me" moment is a huge leap of faith that if the Board gets it wrong, it would be immensely problematic. He said he supposed if Mr. May couldn't make it noise compliant, then he was out of business at that point as well. He said he was trying to put this into a question.

Mr. May said he would speak to that and allow Ms. Long to finish the question. He said it starts with the stacker. He said if he cannot make the stacker compliant, he will not get to build the sorter. He said he will make it quiet, and if he cannot, they will keep working on it and will make it happen. He said they did not really have an option, and that they have to make it work.

Mr. May said it is not as simple as saying it is not compliant and that they will keep on running. He said if it is not compliant, they will have to keep reporting back to the County. He said they will be communicating with the County and keeping them up to date so that the County will know where their progress is. He said this is how the "show me" works; that he is asking permission to do not only what he

is currently doing, but to add the sorter that he is in desperate need of before the next recession.

Mr. May said he will go out of business if he cannot prove that this works and get the Board's blessing to move forward. He said he does not know what will happen in the next year or two with the economy, but he knows that it scares the daylights out of him. He said there are a lot of people that are out of work, and that this will be hard on the markets that he sells to because last time there was a housing crisis, that is when 350 mills went out of business. He said he did not want to be one of those. He said he didn't want to be like the other 29 mills that went out of business in Albemarle, and that he wanted to make it through. He said this is more than just a job but is their life and is everything.

Ms. Long said the idea is that the applicant absolutely understands that the Board and community should not be asked to just trust her, the company, or anyone with the company. She said they need to have protections and mechanisms in place, as well as confidence, assurances, and guarantees that the noise will be addressed, and that the stacker will be in compliance.

Ms. Long said what has been proposed is actually to go above and beyond the normal process. She said the normal process is that with any industrial use, prior to being able to use the new equipment, a zoning clearance approval is required. She said the ordinance provides that before any zoning clearance can be approved and issued for an industrial use, the County has to receive and approve a certified engineer's report that addresses a number of technical issues that are associated with industrial uses. She said noise and vibration are two of those. She said before the company would be able to use the new sorter, they would have to have the County accept and sign off on the certified engineer's report.

Ms. Long said this is the process, which would ensure that they would not have the benefit of the new vital equipment unless and until they produce documentation that the stacker is compliant with the noise ordinance.

Ms. Long said what Mr. May has proposed actually takes this a step further. She said the proposal is to do all the mitigation measures with the stacker first and implement what she calls a "layered mitigation approach": enclose the stacker in a building, install the noise attenuation materials inside, build the sound barrier wall that spans the gap between the sorter and stacker, and build the 10-foot-tall fence along the adjacent property line. She said the applicant is confident that all those measures together, will be successful.

Ms. Long said as the Board heard, just the building around the stacker alone produces an 18-decibel reduction. She said that is probably all that would be needed, but the applicant does not want to risk it and have the Board have to wonder or worry whether it is enough. She said they have taken the steps to say they will do the noise attenuation material, sound barrier wall, and the fence on the property line.

Ms. Long added that what Mr. May has offered is to agree to a condition that says he will not even resume construction on the sorter until those measures have been implemented, and they can document to the County that the noise of the stacker is compliant with the ordinance. She said the applicant hopes that provides the level of guarantee. She said the mechanism is in place, and they are proposing to take it a step further.

Ms. Long said otherwise, the normal process is that they could be resuming construction of the sorter, enclosing the stacker with the building, and installing the fence all at the same time, which would be ideal for them. She said the applicant has said they will hold off on resuming construction of the sorter, however, even though it is the most important thing to them as a business in terms of keeping going. She said they understand they have to do their part first, and they have to reduce the sound from the stacker. She said she just wanted to clarify the thought process and approach that was involved.

Mr. Gallaway asked Ms. Palmer if she had wanted Mr. Fritz and Mr. Kamptner to weigh in on this.

Ms. Palmer replied yes. She said Mr. Fritz very clearly said that the 65% reduction in the setback for the stacker was not completely associated with the sound. She said she would like to hear some response from Mr. Fritz to this discussion about stopping the sorter and putting the buildings and fence up. She said she didn't know if the fence would make any difference in trying to reduce the impact Mr. Fritz spoke of with the 65% reduction in setbacks.

Mr. Fritz replied that he would start with the fence. He said if the fence were going to be installed, and if it were something the Board wanted to do, he would want to consult with the County Attorney's Office and the Zoning Administrator. He said he believed an additional Special Exception would be required for disturbance of the required 30-foot buffer between industrial property and nonindustrial RA properties. He said they just need to dot the I's and cross the T's on that.

Mr. Fritz said a fence is a technique that has been used in the past for mitigating impacts caused by particular developments. He said one has to be careful sometimes that the fence itself can become an impact. He said by putting a tall fence right on the property line, it essentially almost becomes a building on the property line, so there is a balance there. He said staff have not analyzed it to be able to provide any more comment than that.

Ms. Palmer said she wondered if Mr. Kamptner had anything to add to the discussion about going forward. She said now, the suggestion is splitting this up into parts going forward for just the sorter and stacker. She said she has some other questions about that, but that this was the most important one for

her to ask.

Mr. Kamptner said his main comment would be that they need some detail in the conditions. He said at some point that afternoon or earlier that evening, Mr. Fritz amended the resolution to deal with some of the issues they are talking about. He said to satisfy the Board and make certain that what has been committed to by the applicant and what the public may be expecting, they need some more detail in the condition language itself so that there is no disparity and no ambiguity in what the Board would be expecting in its conditions for the Special Exception. He said he was speaking to dealing with the sorter/stacker issue.

Mr. Kamptner said they have not really gotten into clarifying the hours of operation, hours of loading, matters related to the kiln, screening for the Maynard's, and dealing with the impacts of the adjoining property owners.

Ms. Long said the applicant would be happy to discuss those in more detail if requested.

Mr. Gallaway said he has had his questions answered in terms of this. He said typically, after the Board goes through and asks the questions, they can go back through and make some comments or statements. He asked if there were any additional questions that need to be asked in order to make a decision.

Ms. Mallek asked Mr. Fritz to help her understand the order of things, noting that what has created additional misery for the neighbors has been the process that has existed. She said it was no one's fault, but the truth. She said the BZA rules permitted continuation of regular operations, and the County rules say that they cannot build the mitigation to quiet things until this approval happens. She asked if this sounded correct.

Mr. Fritz asked Ms. Mallek if she was asking about the delay and the action of the BZA.

Ms. Mallek said it will take a lot longer because they are not allowed to build the things they need to do to be quiet until the Board says it is okay and yet, they are still operating because of the appeal. She said she thinks they are now finally almost to the point where they can begin to have some solutions here.

Ms. Mallek said since she is not an engineer, and since there are so much uncertainty with numbers and design, and there may be some improvements that need to be made and continual work that needs to be done to achieve the sound, she wanted to know if they can avoid numbers about sound decibels altogether and say that the applicant will keep working until they meet the ordinance and let that stand on its own.

Ms. Mallek said then, there is no disappointment because one condition she would want Mr. Kamptner to add, which they have talked about many times in the past, is that the applicants will be held accountable to the representations they are making in the hearing, in addition to the things that are written down. She said they want to make sure that all the things that have been brought up are what they are doing.

Mr. Kamptner said they can be held accountable if they are memorialized as a condition or batch of conditions to the Special Exception.

Ms. Mallek said several months ago Mr. Kamptner said they could also have a condition that says that the things the applicant said in the hearing are what the Board expects them to do. She said she was not proposing that is what is being done here but, in the past, the Board has been disappointed by others who have made representations and then never followed through.

Ms. Mallek said she would like some guidance from others about the necessity of dividing this into two construction projects, as far as the sorter and the stacker. She said she didn't know what the benefit of that was, necessarily. She said it is a benefit to the applicant, perhaps, but there may be some efficiencies of getting it all done at once because they will have to keep working until they fix the sound issue anyway. She said this is still something she is up in the air about.

Ms. Palmer said her feeling about this is that she doesn't want the mill to go out of business, but she also wants to make sure that they are dealing with the very real noise issues that the community has. She said she did not know any other way to marry those unless they have all these conditions clearly written down, which she did not see being able to do that night, unless others feel much differently than she does.

Ms. Palmer said she would really need to see everything written down very clearly if they were considering approving this to make sure that they protect the neighbors. She said there are some things that they do not think they can protect the neighbors from, but certainly, the noise issue has become horribly worse in the past couple years for the people around there. She said they have to have everything written down clearly if they are going to move forward.

Ms. Mallek agreed.

Ms. McKeel added that with the right fencing, they could help the lighting situation as the trucks come in. She said this is important. She said she didn't want to go too far into this at that moment, but if

there is a 10-foot fence, she was not sure what exactly is on the other side of that fence as far as the neighbors go, but it might be nice to have some simple plantings there for the neighbors. She said this is not very expensive to do.

Ms. McKeel said she agreed with Ms. Palmer in that she was not sure that, at this juncture, they were able to get all of this done that night, which worried her. She said she would like to know where the applicant stands on that, and how best to move forward, or what the suggestion would be. She said it does seem like the Board needs more of this in writing, or have it locked down tighter. She asked Mr. Kamptner for his thoughts.

Mr. Kamptner said part of it would depend on what the applicant says. He said the resolution that is in the Board's packet that follows the recommendation of the Planning Commission has the various Special Exceptions broken into three groups, and that he would focus on the first two.

Mr. Kamptner said there was a batch of Special Exceptions for which the Planning Commission recommended approval. He said from what he has heard that night, there was very little staff support, and staff Planning Commission supports it. He said in Mr. Fritz's modified resolution, there was an adjustment or clarification to Special Exception 15, which deals with the issue of the periods for warming up and preparing certain equipment.

Mr. Kamptner said for the second group, three of the four Special Exceptions (#4, #6, and #7) deal with the sorter/stacker issue and whether it can be located where it is currently proposed. He said those are the three Special Exceptions for which the conditions need to be finalized.

Mr. Kamptner said also in that batch of Special Exceptions that the Commission and staff did not support was the issue pertaining to loading and unloading, related to the kiln, and allowing that to be 24 hours per day. He said he counted 10-11 Special Exceptions where the Planning and Commission support approval, and that he would let Mr. Fritz jump in on 12.

Mr. Kamptner said then, they have the four that the Board has discussed, which are the ones the Commission cannot support. He said what he was hearing so far is that there are conditions that would be proposed by the applicant and discussed by the Board and staff where they may want to do some more work to nail down the language of those conditions.

Ms. McKeel asked Mr. Kamptner if he were suggesting that the Board could go on and agree to take a good number of these off the table that night.

Mr. Kamptner replied this was true if he heard correctly.

Ms. McKeel said there were some items where she was not hearing the other Supervisors having as much concern about. She said perhaps they could come back for those others after the applicant has a chance to work with Mr. Kamptner and Mr. Fritz.

Mr. Kamptner said yes.

Ms. McKeel said everyone was very tired, and good decisions do not get made when everyone is tired. She said she was not trying to put the applicant off but trying to help them move forward with this.

Mr. Kamptner said the Board could act on 12 of those, if Ms. Mallek's counting was correct there, and perhaps defer action on the other 4 to allow staff to work on conditions with the applicant to present to the Board. He said he wasn't sure if it could be turned around by the Board's August 5 meeting, but the public hearing has been done. He said if there is no further discussion, it could even come back on the Board's consent agenda.

Ms. McKeel said she would want to hear from the applicant.

Ms. Palmer asked if she could ask a clarification question. She asked Mr. Kamptner if he was talking about basically voting on what the Planning Commission voted to approve, and what staff has already said that they agree with. She said they would then just leave everything else for a later time, including the morning warmup time. She said she was putting the morning warmup time with the future items and not with what the Planning Commission voted on. She asked if this were correct about what they were suggesting.

Mr. Kamptner replied yes. He said currently, the particular number of Special Exceptions is the batch that the Planning Commission had recommended, but that this item could be pulled out and moved to the batch that the Board would be deferring action on.

Ms. LaPisto-Kirtley asked Mr. Kamptner if the Planning Commission had approved the startup.

Mr. Kamptner replied no. He said this was part of the email discussion that came in that day.

Mr. Fritz said the Planning Commission actually supported the increase from 7:00 a.m. to 6:00 a.m. for the starting of work. He said the applicant has pulled this back to say they do not want to start work at 6:00 a.m. and really want to start at 7:00 a.m., but they want to get prepared to start working at 6:00 a.m. He said they have modified the request so that it is less extensive than what the Planning Commission had previously approved.

Ms. Price said her recollection was that there was not much controversy over them warming up the equipment.

Ms. Palmer said she was fine with that.

Ms. McKeel said she did not have a problem with the kiln.

Ms. Price, Ms. Palmer, and Ms. LaPisto-Kirtley all agreed.

Ms. LaPisto-Kirtley suggested taking off as much as they can.

Ms. McKeel agreed.

Ms. Palmer said she was only trying to get straight what they were doing.

Ms. Price said Conditions 4, 6, and 7 were the only ones that the Board needed clarification on. She said as Mr. Kamptner mentioned, they have to listen to the applicant's thoughts. She said she was not trying to speak for any other Supervisor, but that there appeared to be consensus for approving all of the items that the staff and Planning Commission recommended approval on, including Item 15 with the warmup time between 6:00-7:00 a.m., and Item 17 on the kiln operation. She said the only three that they would be asking for a delay to get clarification in writing would be Items 4, 6, and 7 all related to the sorter and stacker.

Ms. McKeel agreed, adding that they need to hear from the applicant.

Ms. Price agreed.

Ms. McKeel said this would at least help move them forward.

Mr. Gallaway asked the applicant if they would like to respond.

Ms. Long thanked the Board for their willingness to work through this, acknowledging that it was late. She said they would be fine with that approach, but they have one logistical issue that Mr. May and Ms. Mallek alluded to, which is that they have the BZA hearing that is pending. She said the BZA did agree to delay the hearing on that issue to provide the applicant the opportunity to work through the process with the Planning Commission and the Board on these Special Exceptions, on the basis that it didn't make sense for them to hear their appeal until they had a chance to be before the Board.

Ms. Long said she saw that Mr. Bart Svoboda, Zoning Administrator, was on the call and that perhaps he could confirm it, but she believed that the BZA hearing is a couple of days and perhaps even the day before the Board's next meeting. She said the challenge for the applicant is that they would be happy to wait until the Board's first meeting in August, August 5, and they are absolutely happy and willing to put in writing all of these details.

Ms. Long said what they would ask is that if there is a way that staff, the Board, or someone can work with them to not be in the same position again of having to address that issue, maybe the Board could request to the BZA that they allow the applicant additional time to continue to work with the Board of Supervisors on these issues.

Ms. Long said when she spoke with Mr. Fritz earlier that day, if she understood him correctly, he shared the opinion that the existing process in the ordinance would effectively lock down this issue, and that it would require that the sound from the stacker would have to be compliant with the noise ordinance before there could be any use of the sorter at all. She said that would help with that, but nevertheless, in order to get to that point, all of these noise mitigation measures that the applicant discussed that night are what would get them to that point.

Ms. Long said if it makes the Board feel more comfortable for the applicant to work with staff and delineate, in detail, exactly what those noise mitigation measures are that the company will implement, they can do that. She said she thinks they get to the same place by saying that the ordinance and the requirement for the certified engineer's report documenting compliance of the sound of the sorter with the noise ordinance will achieve that goal.

Ms. Long said this was their only issue. She said she was trying to think through how the BZA hearing's timing would be reconciled.

Ms. Price asked Mr. Gallaway if she could make a proposal.

Mr. Gallaway said yes.

Ms. Price said she believed she had all the discussions covered in what she was getting ready to propose. She said there appears to be Board consensus to approve all of the requests, except for 4, 6, and 7.

Ms. Price said she would propose for discussion a motion that the Board also approve items 4, 6, and 7, contingent upon construction of the building above the sorter and the stacker, the wall between the

sorter and the stacker, that the applicant work with County staff on the erection of a 10-foot wall along the southern boundary of the Swales property, that the County work with the applicant for the construction of a privacy fence along the section of the Maynard's property where the logs are unloaded, another fence for lighting on the north side that Mr. May had referred to, and that the applicant obviously must meet all of the requirements of the sound ordinance.

Ms. Price said she believed that covers everything the Board discussed, but she would ask the applicant and other Board members to comment on that, with the applicant commenting first.

Ms. Long thanked Ms. Price and said she wanted to be sure she was clear in understanding her proposal. She asked if the proposal was that the Board would approve all the Special Exceptions, including numbers 4, 6, and 7, subject to conditions of approval that would require those things she just mentioned.

Ms. Price said she was right, as she believed that this is what the applicant had proposed through the discussion, to do those things.

Ms. Long said yes. She said the applicant would be happy to agree to that condition.

Ms. Mallek asked if this would get the Board consensus that night and then, the final items would be written down so that they can all see them formalized.

Mr. Kamptner said the Board has its shot to impose conditions at the time of approval.

Ms. Mallek asked if the time was now.

Mr. Kamptner replied yes. He said if they are talking about a fence, they would want it to be a solid fence. He said they expect that the applicant has the best intentions to deal with this issue, but 10-15 years from now, that solid fence could be replaced with a chain link fence. He said they are asking for that kind of clarity. He said they will want to know the length of the fence, and where it begins and ends, to deal with the northern portion of the property. He said there also needs to be a sound barrier wall across the gap between the sorter building and stacker building. He said they need to have that kind of detail so there is no ambiguity and so the Board can be confident.

Ms. McKeel asked Mr. Kamptner if he was saying they should wait.

Mr. Kamptner said if the Board wanted to take a recess for 15 minutes or so, they could come up with something.

Ms. Mallek said she would prefer that they take the time over the next week or so to do this perfectly and make sure they are not forgetting something, then get it officially blessed and approved with all the conditions written down. She said this would make her, and the neighbors, much happier.

Mr. Kamptner said the end product may not be any kind of illuminous thing. He said it may be satisfactory that the images that are on the "Assurances Upon Compliance" slide are included. He said the wording itself may not be that lengthy, and they just need to make certain that everyone is on the same page.

Ms. Palmer said there is a timing issue as well. She said she was not talking about the BZA, but the timing issue Mr. May mentioned where, in 45 days, he will have these things done. She said for the neighbors, she thinks it is very important to understand what the timeline is for these mitigations and what is going to happen when. She said the neighbors have had a very difficult time with this for the last few years.

Ms. Palmer said if the Board can work something out with the BZA, that's fine, but she thinks they need to have everything nailed down very clearly and communicate with the community there that these are actually going to all be done and mitigated. She said she would feel very uncomfortable about voting for those other things that night.

Ms. Mallek agreed.

Mr. Kamptner said there is one other issue, which may have been in an email from Ms. Long that came in during the meeting, which dealt with the timing by which a Certificate of Occupancy (CO) has to be issued. He said there is a January 1 date, and asked if this was still an issue, as they were working through the conditions.

Ms. Long asked Mr. Kamptner if he was asking her this question.

Mr. Kamptner said either Mr. Fritz or Ms. Long could answer.

Mr. Fritz said this was what he was talking about during his presentation. He said staff and the Planning Commission had recommended a January 1, 2021 date for obtaining COs for all the buildings that were constructed without building permits and that do not have COs. He said the applicant has requested that date be pushed back to February 1, 2021.

Ms. Price said she would submit that that date may also need to be flexible if they are taking

longer to reach a decision on this. She said if it takes another few weeks to make a decision to be able to get this back before the Board, if it is approved, then they have cut into that February 1 date. She said she thinks this could all be worked out.

Ms. McKeel said she did not have a problem with that.

Mr. Gallaway asked if the BZA issue is something they could work through. He said it doesn't sound like there is any other thing that the applicant is concerned about but that. He asked Mr. Kamptner how the Board can work through that.

Mr. Kamptner replied that they should let the BZA know the status of these applications, that they are very close, and that the Board will be expected to act the day following the next BZA meeting. He said he believes the next BZA meeting would be on August 4, with the Board's meeting being on August 5.

Mr. Gallaway said he knows there will be room on the agenda for August 5, as they do not have to do a new public hearing. He said there is room in the afternoon for the item, so that is manageable, and they can work that out. He asked Mr. Svoboda if he had anything to add to that.

Mr. Svoboda replied no. He said it will be the BZA's decision to continue it. He said in letting them know, he didn't know how they would vote on that, but they have been in tune to having the Board act first on this.

Ms. Mallek asked if the BZA did not say that they were postponing until after the Board decision was made, as this seems to take care of the issue. She said they would not officially make their decision until August 6, and so the BZA might continue after that, which would be at a later meeting.

Mr. Svoboda replied that the BZA deferred to their August meeting.

Ms. Mallek said this was then rather than after the Board's decision.

Mr. Svoboda said this was correct.

Mr. Gallaway said the BZA had presumed the Board would be making a decision that night, however.

Mr. Svoboda replied yes.

Mr. Gallaway asked if he thinks this would be a big ordeal for the BZA to defer to another month, waiting for the Board's decision, since they are taking extra time to make sure the decision is one that they are confident in.

Mr. Svoboda said if he were to go out on a limb, he would think that the BZA would go ahead and defer it, although he could not make those promises. He said he thinks the BZA is in tune to the Board wanting to work this out.

Mr. Gallaway said it seems to him, then, that if there is no objection, that is what they will do. He said he appreciated Ms. Price's comments, if they are all prepared to make the vote, but that the details matter on this. He said having them written down and taking the time to get them right is something that the Board, the applicant, and the residents would all want to see so that it is crystal clear for everyone.

Ms. Price concurred.

Ms. McKeel asked if the Board did not want to go ahead and move on the things that they have agreed on, that the Planning Commission recommended. She said she thought they could act.

Mr. Gallaway said if this does not complicate anything in Mr. Kamptner's opinion, he would agree.

Mr. Kamptner said it would be wonderful to get some of these out of the way so they can be focused on the sorter/stacker.

Ms. Mallek **moved** the Board approve the conditions that were recommended by the staff and Planning Commission.

Ms. Price said there are two conditions that the Board does have to address separately from that. She said one would be Item 15, as it was a change from after the Planning Commission that would permit warming up of equipment between 6:00 - 7:00 a.m., and operations starting at 7:00 a.m. She said the other would be Item 17 with regard to the kiln, which was recommended for denial and which the Board would recommend for approval.

Ms. Price said the only ones that would be left are 4, 6, and 7 of those that remain because the applicant dropped Items 18 and 19 on the noise issue.

Mr. Kamptner recommended that some of these conditions may also apply to the second batch, when the Board comes back. He said with Conditions 1 and 2, it sounded like the Board did not have an issue with extending the deadline for the CO to February 1, 2021.

Ms. Mallek agreed this was her motion.

Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Mr. Gallaway said the Items 4, 6, and 7 will come back to the Board on August 5 with clarity and details for each item for a vote of approval.

Mr. Gallaway thanked the applicant and those who voiced their comments and concerns during the public hearing.

Ms. Mallek said the community's involvement has made a lot of difference, and that they will get a good solution.

Ms. Long agreed and thanked the Board.

**RESOLUTION TO APPROVE CERTAIN SPECIAL EXCEPTIONS FOR
R. A. YANCEY LUMBER CORPORATION: SPECIAL EXCEPTION REQUEST**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the special exceptions application of the R. A. Yancey Lumber Corporation and the attachments thereto, including staff's supporting analysis, the recommendations of the Planning Commission at its June 23, 2020 meeting, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-4.18, 18-4.20, 18-5.1(a), 18-5.1.15, 18-33.43, and 18-33.49, the Albemarle County Board of Supervisors hereby approves the following special exceptions, all subject to the conditions attached hereto, for and on County Parcel ID Numbers 05500-00-00-111B0 and 05500-00-00-11200:

1. A special exception from the provisions of County Code § 18-4.20b to reduce the 100-foot setback for the Mill Building (building 7b) and Pole Shed (building 8).
2. A special exception from the provisions of County Code § 18-4.20b to reduce the 10-foot setback for the Stem Loader.
3. A special exception from the provisions of County Code § 18-4.20b to reduce the 30-foot setback for parking adjacent to Rural Areas property.
5. A special exception from the provisions of County Code § 18-5.1.15a to reduce setback for the storage of lumber, logs, chips or timber to zero (0) feet.
8. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Pole Shed (building 8) approximately 540 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.
9. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Silo (building 10) approximately 570 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.
10. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Boiler (building 11) approximately 570 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.
11. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Kiln (building 12A) approximately 515 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.
12. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Planer (buildings 18, 22 and 23) approximately 550 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.
13. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Mill Building (building 7a and 7b) approximately 520 feet from the dwelling located to the south on Tax Map 55, Parcel 100.
14. A special exception from the provisions of County Code § 18-5.1.15b to allow the location of the Stem Loader (adjacent to Rockfish Gap Turnpike) approximately 500 feet from the dwelling located to the west on Tax Map 55A, Parcel 28.
15. A special exception from the provisions of County Code § 18-5.1.15c to permit the warming up of equipment and preparing the equipment area to process wood between 6:00 am and 7:00 am.

16. A special exception from the provisions of County Code § 18-5.1.15c that the loading or unloading of wood products be permitted from 6:00 am to 11:00 pm.

17. A requested special exception from the provisions of County Code § 18-5.1.15c that the loading and unloading associated with the kiln be permitted 24 hours a day.

BE IT FURTHER RESOLVED that, also upon consideration of all the foregoing factors, the Board of Supervisors hereby defers acting on the following special exception requests until August 5, 2020:

4. A requested special exception from the provisions of County Code § 18-4.20b to reduce the 100-foot setback for the proposed Sorter/Stacker (building 27) to 35 feet.

6. A requested special exception from the provisions of County Code § 18-5.1.15a to reduce the 100-foot setback for the proposed Sorter/Stacker (building 27) to 35 feet.

7. A requested special exception from the provisions of County Code § 18-5.1.15b to allow the location of the proposed Sorter/Stacker (building 27) approximately 350 feet from the dwelling located to the north on Tax Map 55, Parcel 111A.

BE IT FURTHER RESOLVED that upon the applicant's withdrawal of the following special exception requests, no action was taken on them:

18. A requested special exception from the provisions of County Code § 18-4.18.04 to increase daytime noise limits.

19. A requested special exception from the provisions of County Code § 18-4.18.04 to increase nighttime noise levels limits.

* * *

R. A. Yancey Lumber Corporation: Special Exception Request Conditions

1. Structures and Machinery will be permitted as shown on a survey titled "Alta/NSPS Land Title Survey" prepared by Timmons Group and dated August 2, 2017, except for the Sorter/Stacker, which shall not be permitted.
2. The owner must obtain a Certificate of Occupancy for all existing structures by February 1, 2021. For any structure that is not issued a Certificate of Occupancy by February 1, 2021 the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

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

Ms. Price said she wanted to express her appreciation to County staff. She said Item 8.2 on the consent agenda appropriations included funding for the Rio Road Corridor Study, and that she appreciated the action and promptness in moving forward on that.

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

Mr. Jeff Richardson (County Executive) said he had a couple points to make regarding staff's work with the services to the general public.

Mr. Richardson said their Incident Management Team (IMT), which is made up of Public Safety, Human Resources, attorneys, Executive Team, and many other staff continues to meet and they continue to work daily on managing both their response and their reconstitution planning efforts around the COVID virus and their support for the needs of the public, both businesses and citizens in the County.

Mr. Richardson said they continue to work very closely with the Health District, the City, UVA, and their Emergency Communications Center (ECC). He said they are connecting on planning, monitoring, and responding to the pandemic. He said they continue to track local data and develop plans to address the community's needs on an ongoing basis. He said they are continuing to provide reports with data to the Board on a daily basis. He said that data is driven off the work they are doing through their regional partners.

Mr. Richardson said he wanted the Board and the general public to know that as it relates to the community-oriented services, the County Office Buildings will remain closed to the public until further notice. He said they are examining what it would look like to open the building up. He said they are beginning to invite staff back to the building in areas where they need staff to be in the building. He said they are remaining open to business through telephone, their website, over email and, on a case-by-case basis, when citizens come to the building.

Mr. Richardson said for example, over the past week, they have served 256 citizens and vendors who have come to the 401 McIntire Road site. He said there were 256 visits to that building in the last

week, including 170 visits to the main part of the building, and 86 citizens and customers to Community Development.

Mr. Richardson said regarding park communities, playgrounds, tennis courts, basketball courts, pavilions, and restrooms remain open. He said community centers will reopen on a limited basis. He said there will be private reservations of up to 25 people timed with office buildings and no open programs. He said Yancey School Community Center internet hours will continue. He said public meetings will continue to be virtual until further notice, as they continue to evaluate the COVID numbers.

Mr. Richardson said all staff will continue to wear cloth face coverings in all public settings. He said most staff continue to telework, and some staff are planning to return to work on July 20 as they continue to hopefully transition more to an open environment in the future regarding the buildings and to the public. He said they have not settled on a reopening date for the public, and they continue to monitor this on a day-to-day basis with the Health Department. He said he was saying with some certainty that this transition will continue for at least the next two weeks.

Mr. Richardson said they are looking at their frontline, hourly, non-exempt staff who worked between March 15 and May 15 in a frontline capacity when the pandemic started, either in an uncontrolled environment where they were in the field every day responding to calls, or where they were in the County buildings in a more controlled environment. He said they are looking at some kind of modest, nominal reward to give these staff. He said they will be bringing that program to closure, and that he feels that what the County does to reward their employees will probably, for the most part, be reimbursable through the COVID funds the County is receiving. He said they will do that in the context of their budget.

Mr. Richardson said he is extremely proud of staff, and knows the Board is as well, as he hears many nice compliments from the Board.

Ms. Mallek asked if everything with the sports fields was still unchanged, or if they were perceiving to open some of those up for larger activities.

Mr. Trevor Henry, Assistant County Executive, replied that following Phase 3 guidelines, the County is working with local sports leagues and will allow them to schedule activities, provided they have completed a plan that will follow State guidelines that is reviewed and approved by the County. He said there will be no outside tournaments allowed on any of the fields, but local leagues will be allowed to start resuming playing, provided they can show a plan that will be in compliance with State requirements. He said it is something the County will monitor and observe.

Ms. Mallek asked what the State requirements currently are for fields. She said she was looking for information on this in the last two Governor press conferences, and that he had not said anything. She said her concern is that things will happen the minute they open the gates and once it does, they will not be able to stop it.

Mr. Henry said the State Phase 3 guidelines include a section about this, and that it follows physical distancing guidelines of 10 feet, as practicable. He said the word "practicable" does leave for some interpretation. He said staff have consulted with the Health District on what that looks like from their perspective and have had some good support as far as encouraging the outdoor activities, provided players can remain distanced, for the most part. He said fans, parents, and people who would come watch a game have to maintain their physical distancing. He said he can highlight these guidelines from the State and send it to Ms. Mallek if she would like to see it specifically.

Ms. Mallek said she thinks the whole Board should receive that.

Mr. Henry agreed.

Ms. Mallek said one program has already had to cancel after only 7 days of doing outdoor activities because one of their coaches is positive, and he was exposed to 55 people. She said this is how quickly things can go to pot. She encouraged everyone to think about whether they really want to be in Phase 3 on this element right now.

Ms. McKeel agreed. She said the Board alluded earlier as to if they wanted to discuss sending a letter of concern. She asked if this were something people would be interested in talking about. She said she knew it was very late, but she was very concerned.

Ms. McKeel said sometime that week, UVA has said they will announce their plans, which was common knowledge. She said she is very concerned about 20,000 students coming back.

Ms. Palmer said she thinks the letter would be great, and that they need to stay in Phase 2.

Ms. Mallek agreed.

Ms. McKeel said football games and athletics are concerning to her. She said now, the School Division is saying they are struggling to even get enough teachers. She said the quotes in the paper that morning from the community was that they are concerned about sending their children back because of UVA students coming back. She said the Board really needs to think about this. She asked if they wanted to ask Mr. Gallaway to write a letter of concern to the Governor.

Ms. Mallek said this was two questions, and that her answer was yes to both. She said her answer was yes to stay in Phase 2, which is a local decision that Mr. Kamptner says the Board has the authority to make under their special power. She said nothing would make her happier than to do that tonight.

Ms. Mallek said secondly, she was in definite favor of a letter to say to those in Richmond that the County is deciding on their own to be the grown-ups here, as Richmond has given them no guidance on this.

Ms. McKeel said she would be perfectly willing to do that.

Ms. Mallek asked others to weigh in about making these big decisions. She said she is very stressed out about this issue.

Ms. McKeel mentioned waiting until August.

Ms. Mallek said waiting until August would be much too late.

Ms. McKeel agreed.

Ms. Mallek said the day prior, it seemed like they had 14 people with cases, and now, they have 500.

Ms. McKeel said this is how it happens.

Ms. Mallek said it is exponential. She asked what to do about staying in Phase 2.

Ms. Palmer said she had already given her opinion.

Ms. Price, Ms. McKeel, and Ms. LaPisto-Kirtley also said to stay in Phase 2.

Ms. Mallek asked those on the IMT what other help the Board could provide them now that they have done this momentous thing.

Mr. Richardson replied that they have to be able to figure out, as a staff, how to be able to implement it and carry it out.

Mr. Walker said there is a good deal about the change from the State's guidelines moving from Phase 2 to Phase 3 that, frankly, he did not know how the IMT would be able to enforce the regulations with regard to capacity such as within restaurants or retail establishments. He said they heard Dr. Bonds earlier talk about limitations with what she can enforce for restaurants and how the Health Division does not have any authority over grocery stores or the ABC. He said they would have to work through this, from a local government perspective.

Mr. Walker said he appreciates the County Attorney's opinion that they have the authority to do that, but they really need to understand what it means in terms of how it is that they enforce that when, in fact, they are deviating from what the State guidelines are. He said he heard the Board and wanted to make sure that he is putting them in the best position to be able to be successful.

Ms. Palmer said one of the big things they have discussed is the difference between 50 and 200 people gathering.

Mr. Walker said this was right.

Ms. Palmer said she thinks this is one of the main places that she would want to focus on, and not on everything in Phase 2, necessarily, which is what Mr. Walker was saying.

Mr. Walker said they have surely had initial conversations as an IMT and in partnership within the region about that particular issue within Phase 2 of limiting social gatherings to no more than 50 as opposed to 250.

Mr. Walker said the other issue that they are addressing is an increase or change in their enforcement profile with the emphasis on enforcement of trespassing for private businesses who are having difficulty keeping individuals from coming into their establishments without wearing a face covering. He said the Governor addressed that in his press conference on Tuesday. He said they do anticipate that this will then increase the expectation of a timelier response to calls for trespassing, which is not typical regarding their Police Department response.

Mr. Walker said they believe those two issues are achievable in the near-term. He said it doesn't mean that they will not continue to look at how it is they can apply pressure to the State to the extent there is an interest the Board has in returning to a Phase 2 profile. He said they will look at other areas that they can use local resources to affect that type of Phase 2 position. He said he did not want to represent some expectation that they have the ability to enforce Phase 2 requirements when they have not worked through that yet at the IMT level.

Ms. McKeel asked if she were hearing that they could control the size of the crowds and would be implementing what the Governor has discussed. She asked if Mr. Walker was saying they could address the crowd size, perhaps, and then possibly ask Mr. Gallaway to pen a letter from the Board to the Governor with their concerns around the community and their preference.

Mr. Walker replied yes to Ms. McKeel's second question. He said the early indications on reducing crowd size is favorable. He said there have been initial conversations with IMT, and they think there is a place they can get to, as a region, where they could make some changes that would enable them to effectively regulate and enforce crowd size that is less than 250. He said they haven't gotten there yet, but there is reason for them to think that this is very achievable.

Ms. McKeel asked if the Board would be willing to ask staff to do this, as regional would be much better.

Ms. Mallek said if the County takes the lead, others will probably be glad that they did so.

Ms. McKeel said in the meantime, perhaps they could get a letter out quickly, describing their concerns and thoughts.

Mr. Walker said yes.

Mr. Gallaway said he would support sending a letter of concern but that to him, it goes beyond that. He said they have been having Dr. Bonds come to the meetings, but they have not yet held a single special meeting around this. He said he thinks there will be more information in hand within days. He said it is a critical point for the County, and they are obviously thinking about changes from where the State is going. He said they don't know how that impacts matters on the ground. He said he certainly would not be in favor of just doing something for the look of it and not be able to back it up with actions.

Mr. Gallaway said it seems prudent to him that, knowing more information will be forthcoming in a matter of 24-48 hours, perhaps they start to think about what a letter could look like, and also start making some decisions on this of where the County wants to be, and not at 10:00-11:00 p.m. when they do not have information. He said they may have to call a special meeting.

Ms. McKeel and Ms. Mallek agreed.

Mr. Gallaway said he and Ms. Price can work with the County Executive, County Attorney, and IMT to figure this out over the next couple days. He said perhaps after they have what they need, they can target having a special meeting for 1-1.5 hours to have this as their topic of conversation versus jamming it into an agenda.

Ms. McKeel said this was a great idea. She said she would like this special meeting to be soon.

Ms. Mallek said Monday or Tuesday sounds great.

Mr. Henry said there is a timely question. He said he concurs with the Board's conversation on this, but as it relates to going into Phase 3 for their parks' fields, the timing of that was for Monday, July 20, which is when they would allow that league play to commence, provided that a plan has been given to Parks and Recreation and it has been vetted.

Mr. Henry said they could delay their posture through the rest of July, or until they have a follow-up work session with the Board because it's really not changing anything, other than they have been communicating with some of the leagues and working on the plans. He said this could be some timely feedback from the Board that they could make a change tomorrow to start notifying leagues that they will delay the decision.

Ms. McKeel said this makes a lot of sense to her. She said to delay it until the end of July, versus letting them start and then stopping them, gives the Board some breathing room to figure things out.

Mr. Henry said he saw many nodding heads. He asked if it was okay to proceed with that.

Ms. Mallek suggested delaying until further notice rather than two weeks. She said things are rapidly changing, and the positivity rate has gone up 3% in the last three days, which is ridiculous. She said back in March, because they did not get compliance, they had to close down the facilities where people were gathering. She said there was no other way.

Ms. Mallek said one of her constituents, Mr. Jimmy Duncan, was complaining bitterly on his blog about people who won't follow the rules because now, they ruined it for everyone. She said this is exactly what is going to happen if they have to go back to staying at home if they cannot get compliance here. She said she was trying to prevent that, but she was very grateful that everyone is willing to step up and that, rather than just receiving all this dreadful news, be able to take some positive action to turn this around.

Ms. Mallek said Richmond and Northern Virginia went their own way immediately, so the County should not be shy about saying to the Governor, "We're on our own."

Mr. Gallaway said they will come up with a game plan, and that he and Ms. Price will stay in

communication with the County Executive Team and Clerk’s Office to get this planned so that everyone knows what is happening by the end of the week. He said they will know by then what the expectation is and be looking for information from the Clerk about when they could make it happen early next week.

Ms. Mallek thanked Mr. Gallaway. She said in terms of the UVA students, unless they are planning to say to people, “If you mess up on this, you’re out of school,” they are not going to succeed. She said those kids are so entitled they don’t care.

Mr. Gallaway recommended everyone read what the Dean of Students sent out, which covers this.

Ms. Mallek said it was nice in saying, “Behave yourself,” but it didn’t say, “I’m going to kick you out.”

Mr. Gallaway said it was 11:00 p.m. and that the Board did have to go back into closed meeting. He said they could reserve other comments on this until the game plan and meeting for early next week.

Non-Agenda Item. Closed Meeting.

At 11:00 p.m., Ms. LaPisto-Kirtley **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 Jefferson-Madison Regional Library Board and the Public Defender’s Office Citizen Advisory Committee.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Non-Agenda Item. Certify Closed Meeting.

At 11:12 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each Supervisor’s knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting.

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

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Non-Agenda Item. Vacancies and Appointments.

Ms. Price moved that the Board approve the following appointment:

- **Appoint** Mr. Michael Powers to the Jefferson Madison Regional Library Board with said term to expire on June 30, 2024.

Ms. LaPisto-Kirtley seconded the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price
NAYS: None

Agenda Item No. 25. Adjourn.

At 11:14 p.m., Mr. Gallaway adjourned the meeting to August 5, 2020, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(8), “An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.”

Approved by Board
Date 12/15/2021
Initials CKB

Chair