

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 5, 2020 at 2:02 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 (arrived at 2:06 p.m.), Ms. Diantha H. McKeel, Ms. Liz A. Palmer (departed at 5:45 p.m.), 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 meeting was called to order at 2:02 p.m., by the Chair, Mr. Gallaway. 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.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Borgersen noted that Ms. Mallek wanted to add something to the final agenda but was having technical difficulties.

While technical issues were being addressed, Mr. Gallaway said Ms. Mallek wanted to add a topic on sports field use. He said they would add this under Matters from the Board Not on the Agenda.

Mr. Kamptner said that before making a motion, included in the email he sent the night before, there was a note regarding Item 8.3, with a minor correction to Section 4C on that item, which required the Volunteer Fire Company to be registered with the state agency. He said they have not yet completed that process. He said it is not material to the project, nor to the Board's ability to enter into this agreement or appropriation. He said the option would be to pull the item and act on it separately, or to approve what is on the consent agenda with the amendment he just noted.

Ms. McKeel asked if this was on the consent agenda.

Mr. Kamptner replied yes.

Ms. McKeel **moved** to adopt the final agenda, as amended. 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 they would add Item 8.3 to the agenda after the consent agenda.

Agenda Item No. 5. Brief Announcements by Board Members

Ms. Mallek said there was spectacular news that additional housing vouchers are now available that DSS has secured from the feds.

Ms. Mallek said the day prior, she was able to attend the NACo Arts and Culture Commission meeting for the first time since being appointed last year, and many people from all around the country talked about the importance of the arts in healing during times of stress, whether it is from disease or trauma. She said there were lots of wonderful things happening and that she would report to everyone from her notes from that meeting. She said there were many wonderful arts goings-on in the County that she can share with them.

Ms. Mallek said LEAP is sponsoring another solarized program through August 31, so citizens in Albemarle County should call the LEAP office and get on the list to begin a home energy analysis. She said there are also reduced-price solar panels if people choose to do that.

Ms. Price said last week, she was on vacation in North Georgia, where her parents have a lake house. She said exactly a month before they arrived, a camp there, Camp High Harbour, had opened. She said there was a 15-year-old counselor who, unknown to herself, had been exposed. She said on the first day of camp, she was fine but that two days later, she had a fever. She said in a matter of just a few days, 260 of the 377 campers at that camp had tested positive for COVID-19. She said they closed the camp and sent everyone home, which meant 266 families now have been exposed to it.

Ms. Price said in North Georgia, their largest school system opened and within the first few days, 260, coincidentally, tested positive with COVID-19. She said she saw photographs the day prior from Paulding County, Georgia, where the halls were crowded with students and that very few were wearing masks.

Ms. Price said in Georgia, they did part of what they needed to do. She said they asked that people frequently wash their hands and wipe down surfaces. She said the Governor of Georgia, however, has issued a ban on face masks, and that none of these places have engaged in social distancing. She said they have now exposed thousands of people through these mass infection events with COVID-19.

Ms. Price said most of the residents in Albemarle have been very supportive of the action the Board has taken for the 60-day rollback into requiring that restaurants be at no more than 50% capacity, and that social distancing be enforced. She said what the County is doing is their best to prevent these sorts of outbreaks that are happening in Georgia. She said the County is fortunate that they have a Governor who did not impose a ban on masks and did not prevent social distancing from taking place.

Ms. Price said she thinks they are doing the right thing there to try to prevent these types of outbreaks that other places in the country are experiencing. She said having just come from Georgia last week and seeing very few people wearing masks, she was extremely appreciative of the Albemarle County residents who have willingly gone along with social distancing and face masks and have expressed support to the Board for the actions they are taking.

Agenda Item No. 6. Proclamations and Recognitions

There was none.

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. Terry Maynard, 334 Yancey Mill Lane, said he has already talked to several of the Supervisors personally, either over the phone or in person, in reference to the mitigating conditions the Board is considering for the approval of the special exemptions for Yancey Mill.

Mr. Maynard said he would like to address the issue of having a 45-foot truck access gate installed directly across from his property. He said he had a long conversation with Mr. May last night and while he understands his viewpoint, he does not agree with his logic. He said the gate, in Mr. May's mind, is essential to the safety of the community. He said if a truck turns down Yancey Mill Lane instead of not turning into the mill, this proposed gate would be the only means of safely allowing the truck to enter the mill without having to back up onto Route 250.

Mr. Maynard said there are several issues with this line of thought. He said first, as an individual that currently holds a federal CDL driver's license, he can say with some certainty that no reasonable qualified person would back a truck blindly on any state road, let alone a highway.

Mr. Maynard said second, there is a much easier mitigating control that the mill could implement to prevent trucks from turning down his road: a simple, plain-worded sign that states, "No trucks allowed."

Mr. Maynard said third, in reference to safety, a log truck in the state of Virginia, depending on trailer type and axle spacing, can weigh a maximum of 84,000 pounds. He said Yancey Mill Lane is a 1.5 car width gravel road without a graded shoulder and is not equipped to safely handle trucks that size or weight.

Mr. Maynard said fourth, the placement of the gate is not the safest placement on the mill's property line. He said with safety being of primary concern, it is easier and safer to make a slight left turn than a hard 90-degree turn. He said if instead of establishing a gate adjacent from his property, the mill can change the location to one that is directly across from Mr. May's property, just left of his own property line, which would allow a truck to enter behind the weigh station, providing the access the mill wants while having zero impact on the quality of life of his family.

Mr. Maynard said furthermore, if the mill wants to install a gate to allow for occasional truck access, there should be a condition added to ensure that this commercial low-volume access point is permitted properly by VDOT, as required by Title 24 Transportation Motor Vehicles access management regulations.

Mr. Maynard said there will be improvements required on the road and at the access point, which will require permits. He said in doing research prior to establishing a project, such as formalizing an access point or understanding setback regulations, hasn't historically been completed by the mill. He said

therefore, he wanted to bring this to light prior to the Board of Supervisors' approval that a gate is being installed specifically for occasional truck use.

Mr. Maynard said in closing, there is no impact to the operation of the mill to require them to install a fence adjacent to his entire property line. He said as the 100-foot setback requirement is going to be removed if approved, a fence replacing what should be 100 feet of trees and other vegetation seems to be the minimum mitigating condition that should be followed.

Mr. Maynard said he was asking that the Board of Supervisors ensures that his quality of life is maintained. He asked that a wooden fence be 10 feet in height without a gate adjacent.

Mr. Gallaway noted that Mr. Maynard's time had expired and if he had a full written record, he could send this to the Clerk or bos@albemarle.org, and they will make sure the entire statement is part of the record.

Mr. David Swales, 6259 Rockfish Gap Turnpike, Crozet, said as they are heading into the final stages of the R.A. Yancey Mills Lumber special request exemptions, he wanted to wrap up, on behalf of his wife and himself, as the Board is getting into the details of these resolutions to the mitigation documents. He said the devil is in the detail, and he thinks it is important that those details do get registered and reflected in those resolutions and mitigating documents to accommodate all the residents' concerns. He said it is important that they get it right and they turn over a new leaf.

Mr. Swales said the details listed the roadmap moving forward, and with no details, the big concern for all residents is that necessary mitigations either won't get completed, as they are not reported, or if relying on one's memory, everyone will have a difference of opinion, which will create a major issue down the road.

Mr. Swales said now is the time to make the necessary steps to get it right. He said all the details need to be documented accurately to avoid a resurrection of the past.

Mr. Swales said prior to that day's update provided by Mr. Bill Fritz at 10:51 a.m., as an example, he and Mr. May had spoken earlier the prior week regarding installing an additional fence on the west side of his property. He said Mr. May has verbally, and via email, agreed to install the fence. He said at that time, Mr. May was unwilling to commit to a date and a timeframe. He said his concern would have been that with no timeframe in writing, he wondered if this would happen. He said fortunately, there were updates from Mr. Fritz that day and that the issue has been addressed, which he appreciated.

Mr. Swales said more importantly, there are other items that are not addressed, and that he believes there are lots of other residents who have similar concerns which affect them more directly than himself. He asked the Board to look carefully in detail at all the necessary items to be covered under this mitigation with the mill.

Ms. Valerie Long said she would be happy to elaborate further on this issue when they get to the next item. She said she represents the applicant in the Yancey Mills Lumber Corporation project. She said she wanted to provide some context on the issues. She said the Board has seen and understands the revised proposed conditions, and that she is more than happy to discuss the reasons for those revisions with the Board when they get to that item. She said she wanted to make the applicant's presence known and that they were happy to discuss the revisions.

Ms. Long said she would briefly respond to Mr. Maynard's comments about the gate on Yancey Mills Lane. She said currently, it is completely open and there is an 80-foot fence that does not currently block the light. She said there is a large area that is completely open, and the company is proposing to replace that 80-foot fence that doesn't block light with what is effectively a 225-foot fence that blocks all light in the form of a 180-foot-long fence and a 45-foot-long gate.

Ms. Long said the gate is just to essentially provide emergency access in those rare occasions when trucks do inadvertently turn down Yancey Mills Lane, as it provides an option for them to get into the mill without having to back up all the way backwards on Yancey Mills Lane onto Route 250. She said the applicant is happy to discuss this issue in greater detail and respond to any questions the Board may have on this or on any other item, going forward.

Mr. Gallaway closed Matters from the Public.

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway asked if there was a motion to approve the Consent Agenda, minus Item 8.3.

Ms. Price **moved** to approve the consent agenda as amended, minus Item No. 8.3. 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

Item No. 8.1. FY 2020 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 20 budget due to the appropriations itemized in Attachment A is \$199,393.94. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

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

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Appropriation #2020071 **\$ 14,900.94**

Source: Special Revenue fund balance \$14,900.94

This request is to appropriate \$14,900.94 in special revenue fund balance to reconcile the FY 19 and FY 20 funding associated with Charlottesville Area Community Foundation (CACF) grant funding.

Appropriation #2020072 **\$ 179,493.00**

Source: Federal Revenue \$179,493.00

This request is to appropriate \$179,493.00 to the Housing Assistance Fund for additional federal funding received for housing assistance payments. The additional funding resulted from Housing and Urban Development (HUD) authorizing more vouchers for Albemarle County, which allowed more individuals to participate.

Appropriation #2020073 **\$ 5,000.00**

Source: Federal Revenue \$5,000.00

Per the School Board's approval on June 11, 2020, this request is to appropriate:

- \$5,000.00 in Federal revenue from the United States Department of Education's Individuals with Disabilities Education Act (IDEA) Part B Pre-school grant awarded to Albemarle County Public Schools to support educational programming for pre-school special education students between the ages of two and five.

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**RESOLUTION TO APPROVE
ADDITIONAL FY 2020 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2020071; #2020072 and #2020073 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, 2020.

APP#	Account String	Description	Amount
2020071	3-1200-51000-351000-510100-9999	SA2020071 Grant Reconciliation/Close Out	14,900.94
2020071	4-1720-12010-412010-600000-1007	SA2020071 Grant Reconciliation/Close Out	1,900.94
2020071	4-1720-12010-412010-800100-1007	SA2020071 Grant Reconciliation/Close Out	1,000.00
2020071	4-1720-12010-412010-800200-1007	SA2020071 Grant Reconciliation/Close Out	12,000.00
2020072	3-1227-33000-333000-330016-1008	SA2020072 Addtl funding recv'd for Housing Fund	\$179,493.00
2020072	4-1227-81920-481030-579001-1008	SA2020072 Addtl funding recv'd for Housing Fund	\$179,493.00
2020073	4-3205-63205-461108-114100-6599	SA2020073: IDEA Preschool Grant	\$4,644.68
2020073	4-3205-63205-461108-210000-6599	SA2020073: IDEA Preschool Grant	\$355.32
2020073	3-3205-63205-333000-384173-6599	SA2020073: IDEA Preschool Grant	\$5,000.00

Item No. 8.2. Personnel Policy P-21 / P-34 Amendments.

The Executive Summary forwarded to the Board states that, as we work towards a more diverse, inclusive and equitable organization, it is important to evaluate, clarify, and communicate our expectations through policies and trainings.

To this end, we have proposed to revise and combine Personnel Policy P-21, EEOC, Sexual Harassment, and Policy P-34, Harassment Into a new Policy P-21 entitled Equal Employment Opportunity, Inclusion, and Prohibition Against Discrimination, Harassment, Bullying, and Retaliation. This proposed draft was reviewed using our Framework to Align Policy and Practice with the Pillars, with feedback from our Organizational Leadership Team, our County Attorney's Office, Human Resources, an outside consultant, and employees who responded to the request to provide feedback. The proposed draft of this policy is before the Board for consideration.

Human Resources will also be coordinating Harassment Prevention Training for all Local Government employees starting in August, with specific training for management tailored to emphasize supervisory responsibilities and the County's exposure to liability for failures to meet those duties.

The proposed new Policy P-21, Equal Employment Opportunity, Inclusion, and Prohibition Against Discrimination, Harassment, Bullying, and Retaliation, includes the following changes:

- Revised and combined policies P-21 and P-34 into a new Policy P-21 entitled Equal Employment Opportunity and Inclusion Policy Including Prohibition Against Discrimination, Harassment, Bullying, and Retaliation;
- Added additional language around inclusion specifically;
- Added additional language expanding for harassment prevention, not limited to a protected class;
- Added language to include anti-bullying;
- Added/clarified specific complaint procedure, timelines, retaliation prohibited statement, right to alternate procedure and false charges sections; and
- Added a section to clarify management/supervisory duties.

Staff recommends that the Board adopt the attached Resolution (Attachment A) to amend and combine personnel policies P-21 and P-34 as set forth above and in Attachment C.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment A) to amend and combine personnel policies P-21 and P-34 as set forth in the Executive Summary and Attachment C:

RESOLUTION

WHEREAS, the Board of Supervisors has adopted County of Albemarle Personnel Policies pursuant to Albemarle County Code Section 2-901; and

WHEREAS, the Board desires to delete Section P-34, Harassment; and to move and amend the provisions from the deleted policy to Section P-21, EEOC, Sexual Harassment, and to further amend Section P-21, renaming it Equal Employment Opportunity And Inclusion Policy Including Prohibition Against Discrimination, Harassment, Bullying, and Retaliation.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia, hereby approves the changes to the County of Albemarle Personnel Policies, as described hereinabove, and as set forth on the attached document, attached hereto and incorporated herein, which shall be effective as described hereinabove.

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COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-21 EQUAL EMPLOYMENT OPPORTUNITY, INCLUSION, AND PROHIBITION
AGAINST DISCRIMINATION, HARASSMENT, BULLYING, AND RETALIATION

I. Purpose

Albemarle County is an Equal Opportunity Employer committed to providing an atmosphere of non-discrimination, inclusion, and equal opportunity within the County government. This includes maintaining a workplace that is free from discrimination, harassment, bullying, and retaliation.

The Albemarle County Board of Supervisors prohibits discrimination, harassment, bullying, the creation, maintenance, or tolerance of a hostile work environment, and retaliation of any kind. This includes but is not limited to discrimination, harassment, bullying, or retaliation on the basis of race, color, religion, sex, gender identity, sexual orientation, pregnancy, marital status, parental status, national origin, age, disability (physical or mental), family medical history or genetic information, political affiliation, military service, or any non-merit factors. Non-merit-based factors include non-job-related conduct that does not adversely affect the performance or work environment of an employee or job applicant.

These protections extend to all management practices and decisions, including recruitment and hiring practices, appraisal systems, promotions, training, and career development programs. All personnel decisions shall be based on merit and the ability to perform the essential functions of the job with or without reasonable accommodation. The Board has designated the Director of Human Resources to receive all complaints and inquiries regarding the nondiscrimination provisions of Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, the Age Discrimination Act, the Age Discrimination in Employment Act, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 with respect to any employment issues, and the Virginia Human Rights Act.

All employees of Albemarle County must be tactful in their relationships with their peers and the public and shall treat them with respect and courtesy. Any instances of verbal or physical harassment will be investigated and addressed through appropriate disciplinary action. Instances of physical or verbal harassment will be considered standard of conduct violations subject to discipline up to and including termination of employment.

II. Notice of Policy

The statement, "Albemarle County is an Equal Opportunity Employer," shall be placed on all employment application forms and shall be disseminated throughout Albemarle County.

III. Accommodations

The County will reasonably accommodate changes to work requirements and conditions for employee who need them for disability or religious reasons as required by law. See also § P-91 Americans with Disabilities Act.

IV. Prohibited Conduct

A. Generally

Physical or verbal conduct, or a combination thereof, which may include use of cell phones, social media, messaging apps, or other internet mediums, is prohibited when it:

- creates an intimidating, hostile, or offensive working environment;
- interferes with another's work;
- constitutes an adverse employment action; or
- otherwise is sufficiently serious to limit another employee's employment opportunities.

Behavior that is not civilly or criminally unlawful or does not constitute illegal or actionable harassment, discrimination, bullying, or retaliation may nevertheless be unacceptable for the workplace. Demeaning, derogatory, offensive, or otherwise harmful actions are prohibited. Such conduct not directed at an employee but performed under circumstances reasonably foreseeable that the employee will overhear, see, witness, or indirectly learn of such conduct is also considered prohibited under this policy.

Aggressive and unwanted behavior that is intended to harm, intimidate or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes identifiable/significant emotional trauma/distress is also prohibited and violates this policy.

Whether conduct is prohibited and violates this policy is based upon a reasonable manager/employer standard.

Examples of prohibited conduct which violate this policy include but are not limited to:

- written or graphic material containing offensive language, including offensive material shared via social media, messaging apps, or other digital platforms
- written or graphic material which is posted or circulated and which intimidates or threatens individuals including offensive material shared via social media, messaging apps, or other digital platforms
- name calling, offensive/unwelcome nicknames, demeaning/inappropriate terms, jokes or rumors
- offensive/threatening non-verbal or physical gestures/actions (i.e. slicing a finger across one's own throat, etc.)
- verbal or physical acts of aggression against a person or the person's property, insults, ridicule, acts of intimidation, or abuse
- encouraging others to make inappropriate jokes, comments or advances

- stalking an individual by following them, making repeated telephone calls, etc., whether during or after work hours
- a pattern or practice of offensive behavior (i.e. repeatedly rolling eyes/loud dramatic sighs whenever target of behavior enters a room, “flipping the bird”/showing middle finger, etc.)

Prohibited physical or verbal conduct may occur between any two or more persons; it may occur by or against an employee, contractor or vendor; it may occur at the workplace, or away from the workplace, and may occur during or after work hours. The employee need not suffer any physical injury to have experienced a prohibited action pursuant to this policy.

Violations of this policy may also constitute violations of other policies such as but not limited to § P-25 Standards of Conduct. Conduct brought to a supervisor’s attention pursuant to this policy that does not rise to the level of harassment, bullying, discrimination, or retaliation may be held to violate other policies pertaining to professional behavior and acceptable performance such as but not limited to § P-25 Standards of Conduct.

B. Prohibited Conduct Based on Sex, Sexual Orientation, Gender Identity

Sexual harassment, discrimination, and retaliation are absolutely prohibited. It is deemed to have occurred when physical or verbal conduct, or a combination thereof, meets the general definition above and is of a sexual, sex-based or gender identity-based nature.

Examples of conduct which may constitute sexual harassment include but are not limited to:

- attempts to coerce or force an individual to submit to unwelcome sexual advances, requests for sexual favors, unwelcome pressure to date or engage in sexual activities
- unwelcome verbal, physical, or written conduct of a sexual nature including but not limited to offensive material/conduct shared via social media, messaging apps, or other digital platforms
- unwanted, intentional touching (i.e., patting, massaging, rubbing, hugging or pinching)
- sexual or suggestive remarks about a person’s weight, body, clothing, make-up, appearance, smell, or hairstyle
- subjecting members of one sex or gender identity to disadvantageous terms or conditions of employment to which members of the other sex or gender identity are not subjected
- telling, displaying, or distributing sexually suggestive calendars, magazines, pin-ups, graffiti, pictures, cartoons, posters, software, e-mail or jokes including those with sexual innuendo or comments with a double meaning
- displaying, fondling, or grabbing one’s own intimate parts in another person’s presence

- making facial expressions such as throwing kisses, winking, licking lips or whistling at another person in a sexually suggestive manner
- asking intimate or sexually probing questions
- requesting sexual favors during work
- requesting sexual favors at any time accompanied by implied or overt threats concerning another person's employment status or benefits or promise of preferential treatment with regard to an individual's employment status or benefits

Sexual discrimination occurs when an adverse employment action is taken against a person based upon the person's sex, sexual orientation, or gender identity. Adverse employment actions affect the terms and conditions of employment including, but are not limited to, the failure to hire, termination, demotion, decrease in pay or benefits, loss of job title or supervisory responsibilities, or reduced opportunities for promotion.

Sexual retaliation occurs when an individual engages in an activity protected by County policy or law (i.e. reporting harassment or bullying or filing a claim with the EEOC or a court) and an employee retaliates with harassment or discrimination based on sex, sexual orientation, or gender identity.

Consensual Relationships – Employees involved in consensual relationships, including friendships outside of the workplace, should notify the other party that continued non-work-related contact is unwelcome before filing a complaint.

Supervisor/Subordinate Romantic/Dating Relationships – Supervisors must report to their department head/designee and the Human Resources Director/designee if they wish to pursue a consensual romantic/intimate/dating relationship between the supervisor and a subordinate prior to initiating such a relationship. One or both employees will be transferred to eliminate, or minimize the risk of occurrence if elimination is not reasonably possible, any conflicts that may arise from a supervisory relationship. The County will strive to have any such transfer be to a similar position of equivalent pay and benefits taking into consideration position availability and the transferring employee's knowledge, skills, and abilities. Consensual romantic/intimate/dating relationships that are not properly reported will be treated as non-consensual and will result in disciplinary action against the supervisor.

V. Supervisor Expectations and Duties

A. Generally

Supervisors/department heads are duty bound to create and maintain a safe environment that is free of discrimination, harassment, bullying and retaliation of any kind from other employees, residents, customers, contractors, or vendors.

If a supervisor/department head knows or reasonably should know that such impermissible behavior is occurring, they must take quick and reasonably necessary measures to stop such behavior through this policy and/or the disciplinary process.

Supervisors/department heads ‘reasonably should know’ when reported actions or statements would lead a reasonable supervisor to know or investigate whether impermissible behavior is occurring.

Supervisors/department heads are also required to take appropriate steps even when the reporting employee is from a different department. Supervisors/department heads must report discrimination, harassment, bullying, and retaliation complaints to and consult with their Human Resources Generalist/Human Resources Director/designee for guidance.

B. Additional Liability

In addition to facing disciplinary action from the County, employees who engage in or permit discrimination, harassment, bullying, or retaliation including supervisors who know or reasonably should know that such misconduct is occurring in their workplace and fails to report as required by County policy, may face personal civil liability under federal anti-discrimination laws, such as Title VII of the Civil Rights Act (“Title VII”).

VI. Complaint Procedure

A. Direct the Harasser to Stop

Any person who is being subjected to discrimination, harassment, bullying, or retaliation should direct the offender to stop the behavior. If the employee is not able to direct the offender to stop, if the employee feels uncomfortable directing the offender to stop, or if the conduct reoccurs after the offender has been told to stop, the employee should report the behavior as outlined below.

B. Report to Supervisor or Department Head/Designee

Employees are encouraged to report situations even when resolved on their own to their immediate supervisor/department head/designee so that the supervisor/department head/designee can identify any patterns.

The County supports site-based management and empowers department heads to solve problems at their level of the organization. The department head/designee may take whatever personnel actions are deemed necessary to protect employees, customers, contractors, vendors, and the public and to preserve orderly departmental operations consistent with County objectives. If the complaint indicates a severe or pervasive ongoing issue, the department head/designee must take immediate action to protect the aggrieved party and separate or remove the aggressor, which includes using administrative leave during the investigation.

C. Report to Human Resources Department (HR)

Employees are encouraged to report situations even when resolved on their own to their Human Resources Generalist or the Director of Human Resources/designee so that Human Resources can identify any patterns. HR is responsible for notifying the County

Executive's Office as needed to ensure appropriate policy application and maintain consistency across departments.

If an employee is not satisfied that a complaint has been resolved, or if the employee feels uncomfortable reporting the problem to their immediate supervisor or department head/designee, they should report the problem to their Human Resources Generalist or the Director of Human Resources/designee.

The problem should be reported as soon as possible. The County encourages reports to be made within twenty (20) calendar days of the occurrence or lack of resolution to promote and protect employee and customer welfare and safety, to facilitate prompt, thorough, and impartial investigations, and to allow the imposition of immediate and proportionate corrective action if discrimination, harassment, bullying, or retaliation is determined to have occurred.

Reports to HR or appointments to make a report can be made at: 434-296-5827.

If any person covered by this policy is not satisfied that a complaint has been resolved in accordance with the County's personnel policies, the person should report the matter to the County Executive's Office as provided below.

D. Report to County Executive's Office

If the complaint is made against an employee in HR, the person to whom a complaint is made shall contact the County Executive's Office for further action.

Reports to the County Executive's Office or appointments to make a report can be made at: 434-296-5841.

E. Duty to Investigate

HR is primarily responsible to investigate complaints promptly, thoroughly, and impartially subject to its standard operating procedures. HR may utilize other departments' resources to assist in the investigation. The County Executive/designee is authorized to request the County Attorney/designee or procure qualified outside professional organizations to investigate under appropriate circumstances.

The investigation shall be completed as soon as practicable, which generally should be not later than 14 business days after receipt of the complaint by the Human Resources Generalist or the Director of Human Resources/designee. Upon receiving the complaint, the Human Resources Generalist or Director of Human Resources/designee shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to the person complaining of harassment. Also, upon receiving the complaint, HR shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified. If HR determines that more than 14 business days will be required to investigate the

complaint, the complainant shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

VII. Refusal to Disclose

The County is not obligated to force an alleged victim/survivor of discrimination, harassment, bullying, or retaliation to reveal the name of their harasser if the victim refuses to disclose the name because the victim has talked with the harasser, resolved the matter to their satisfaction and represented in writing that they do not want the County to further investigate the incident. However, the way the County handles these situations will be determined only after interviewing the victim and analyzing the facts and circumstances of each case. If the County concludes the circumstances are serious, aggravated, or present as a potentially continued risk to the safety and welfare of its workforce or customers, then the County may require disclosure of the harasser's identity.

VIII. Duty to Cooperate

All County employees are required to cooperate fully in investigations. Impeding an investigation or otherwise covering up a violation is prohibited. Refusal to cooperate, whether by act or omission, is subject to disciplinary action.

IX. Confidentiality

To promote an impartial, accurate, and thorough investigation, all participants in the investigation, including the complainant, the alleged harasser, and witnesses must keep the details and results of any investigation confidential to the extent possible, or unless otherwise directed. Communications with personal legal counsel or communications that are otherwise legally protected as a privileged communication are permitted. Communications protected under state or federal law are also permitted.

X. Prohibition Against Retaliation

Albemarle County does not tolerate retaliation, which includes any adverse employment action, harassment, reprisal, punishment, or other form of retaliation against an employee because that employee filed a complaint of discrimination or harassment, participated in a complaint-related investigation, are perceived to have participated in a complaint-related investigation, or otherwise opposed discrimination, harassment, bullying, or retaliation. Employees who believe they have been subject to retaliation in violation of this policy should immediately contact their Human Resources Generalist or the Director of Human Resources/designee. Any employee, including any member of management, who violates this policy will be subject to discipline, up to and including termination of employment.

XI. Right to Legal Remedies

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited discrimination, harassment, bullying,

or retaliation including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law. This may include but is not limited to the employee contacting and communicating with the federal Equal Employment Opportunity Commission or the state Virginia Division of Human Rights.

XII. False Charges

Employees who knowingly, maliciously, or recklessly make false charges of discrimination, harassment, bullying, or retaliation shall be subject to discipline up to an including termination of employment.

XIII. Prevention and Notice of Policy

Training to prevent discrimination, harassment, bullying, and retaliation are included in new employee orientation as well as continuing employee in-service training.

The ultimate responsibility for compliance with this policy rests with the County Executive as the chief administrative officer of the County. Responsibility for administration and dissemination of the Policy is delegated to the Director of Human Resources.

To assist the Director of Human Resources, each department head will be responsible for ensuring that the Equal Employment Opportunity and Inclusion Policy is carried out within their respective department.

This responsibility will include, but not be limited to, the following:

- Train and counsel management concerning the need for their personal attention to the requirements of this policy to create, provide, and maintain non-discrimination, inclusion, and equal opportunity within the County government.
- Undertake efforts to recruit, appoint and retain qualified diversity at all levels of employment.

Legal References:

Civil Rights Act of 1964, as amended in 1972, Title VI, Title VII; 42 U.S.C. 2000e-z, 29 C.F.R. 1604.11 (1987); Executive Order 11246, 1965, as amended by E.O. 11375; Equal Employment Opportunity Act of 1972, Title VII; Education Amendments of 1972, Title IX (P.L. 92-318); 45 C.F.R., Parts 81, 86 (Federal Register June 4, 1975, August 11, 1975); rehabilitation Act of 1973; Age Discrimination in Employment Act, P.L. 95-256; Constitution of Virginia

Amended: August 4, 1993; January 3, 2007; August 5, 2020

Item No. 8.3. Agreement Between Albemarle County and the Crozet Volunteer Fire Department for a Paving Project.

The Executive Summary forwarded to the Board states that, in 2016, a Facility Condition Assessments (FCA) of all fire stations identified approximately \$14 million of facility needs in a 10-year planning window. These needs included low-cost repairs to non-essential systems, critical deficiencies of essential systems, and planned replacement of all building components based on expected useful life cycles.

In February 2019, the Board of Supervisors expressed a desire to support the facilities' capital needs of the County's volunteer fire and rescue companies (VFRCs) identified in the FCA. The Code of Virginia allows localities to make donations to charitable institutions or associations, located within its respective limits, if such institutions or associations provide services to residents of the locality. The County Executive's recommended FY19 budget included funds for a pilot program that would fulfill the desire of the Board to support VFRC facilities capital needs while maintaining compliance with Virginia Code §15.2-950 and 15.2-953 and Albemarle County Code §6-100 et seq.

The Facilities & Environmental Services Department was tasked with assessing the facility needs at the Crozet VFD and lead the negotiations on an agreement between Crozet VFD and the County. This agreement was to include performance benchmarks intended to ensure 1) that donated funds were expended to meet specific capital needs; and 2) that executed projects were planned and performed to professional standards.

The Agreement (Attachment A) defines the methodology of funding, project assessment, and reimbursement for actual expenses in the form of a donation to the Crozet VFD, for the improvement of a portion of the Crozet VFD parking lot. The improvement work includes the addition of drainage infrastructure to correct the root cause of the failure of the parking lot, followed by repairs to paved surfaces.

The Agreement has been negotiated with the President of the Crozet VFD; approved by the County Attorney's office; and is compliant with Virginia Code §15.2-950 and 15.2-953 and Albemarle County Code § 6-100 et seq.

There is no budget impact anticipated other than the \$253,000 that has already been appropriated. Because the June 30, 2020 date referenced in the agreement has already passed, the \$253,000 funding for this project will be reappropriated to FY 21 as part of the larger reappropriation for all unfinished capital projects.

If the Board wishes to approve the proposed Agreement (Attachment A), staff recommends that the Board adopt the attached Resolution (Attachment B) to approve an Agreement between the County of Albemarle and the Crozet Volunteer Fire Department.

Mr. Greg Kamptner, County Attorney, said the recommendation was to approve the agreement with the removal of Section 4C. He said CVFD is still awaiting their approval of the registration. He said they were asked to submit more information, and rather than hold up the project, the recommendation is to go ahead and approve it without it. He said the registration is not material to the agreement and is not material to the Board being able to appropriate or have the funds expended for this particular project.

Ms. Mallek **moved** to approve the agreement as Mr. Kamptner described. 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

**RESOLUTION TO APPROVE AN AGREEMENT BETWEEN
THE COUNTY AND THE CROZET VOLUNTEER FIRE DEPARTMENT**

WHEREAS, the Board has appropriated \$253,000 for the Volunteer Facilities Maintenance Program Pilot; and

WHEREAS, a project to improve the parking lot at the Crozet Volunteer Fire Department has been identified by staff for the appropriate and eligible use of these funds; and

WHEREAS, the Board finds it is in the best interest of the County to enter an Agreement with the Crozet Volunteer Fire Department that delineates the project funding and assessment for the parking lot improvements.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to enter an Agreement between the County and the Crozet Volunteer Fire Department, once approved by the County Attorney as to form and substance.

* * * * *

**AGREEMENT BETWEEN
THE COUNTY OF ALBEMARLE AND
THE CROZET VOLUNTEER FIRE DEPARTMENT**

THIS AGREEMENT is made and entered into on the 2nd of September, 2020, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("County"), and the **CROZET VOLUNTEER FIRE DEPARTMENT, Inc.**, a Virginia nonstock and nonprofit corporation ("CVFD," SCC registration: 01854538).

Recitals

- R-1** The CVFD is the owner of that parcel identified as Tax Map Parcel 056A2-01-00-03500 (the "Property"), which is located in Albemarle County; and
- R-2** The CVFD intends to refurbish the Property to continue to provide services for the County; and
- R-3** CVFD intends to determine the causes of existing failures of the parking lot of the Crozet Volunteer Fire Department facility; provide general scope of work to make necessary improvements and repairs to remediate those failures; provide estimated construction costs to implement recommendations; upon approval, provide design services and all documentation necessary to procure the services of a contractor or contractors to fulfill those recommendations and return the parking lot to service, and to inspect the contractor's work in progress to ensure compliance with design documents; and
- R-4** Procure the services of one or more contractors to effect design scope of work. The scope of the contractor's work is expected to include stormwater infrastructure improvements, replacement/repair of unsuitable soils, re-paving of the parking lot, and potential improvements to the concrete apron at equipment bay exits; and
- R-5** The County has received a onetime funding request from the CVFD to support the costs of design and construction as outlined in R-3 and R-4; and
- R-6** Design and construction of the parking lot is currently scheduled to begin by 2nd Quarter 2020 and be completed on or before December 30, 2020; and
- R-7** If design or construction continue past June 30, 2020, the County shall carry-over the remaining funds into FY21.

Terms and Conditions for the County's Contribution and the CVFD's Use of Funds

The parties agree as follows:

1. **Authority.** The conditional appropriations by the County to the CVFD as anticipated by the terms of this Agreement are made pursuant to Virginia Code §15.2-950 and 15.2-953 and Albemarle County Code § 6-100 *et seq.*

2. **Term.** This Agreement shall be in force and effect from the date of its execution until the County issues a Notice of Substantial Completion, which shall not occur until all anticipated work is complete, all invoices have been addressed, and all design professionals and contractors have been paid or until the parties terminate this Agreement as provided in Section 3.
3. **Termination.** This Agreement may be terminated.
 - a. The County may terminate this Agreement if CVFD is in breach of any term of this Agreement after notice and 10 business days, during which CVFD shall have an opportunity to cure. The County, in its sole discretion, will determine whether the cure is satisfactory. If the cure is unsatisfactory and the County does not agree to additional time to cure, this Agreement is terminated without further notice. A termination occurring pursuant to this section shall invoke return of contributed funds under Section 10 herein.
 - b. Either party may terminate this Agreement for any reason with 60 business days notice to the other party. If the County terminates this Agreement, all uncontested invoices shall be paid, and all contested invoices shall be prioritized for resolution. The parties shall use their best, good faith efforts to resolve disputed invoices.
 - c. In the event that Section 14 ("Non-appropriation") applies, the County should provide notice to CVFD as soon as possible; however, failure to provide notice in the event of a non-appropriation is not a breach of this Agreement.
4. **CVFD Organizational Requirements.** CVFD must comply with the following during the Term of this Agreement:
 - a. CVFD is and shall remain at all times during the term of this Agreement a member in good standing of the Coordinated Fire and Rescue System (the "System"), providing consistent and reliable volunteer firefighting services;
 - b. CVFD shall maintain its status as a current nonprofit and charitable organization recognized by the Internal Revenue Service; and
 - c. CVFD may not change any material term of its corporate charter without written permission of the County.
5. **Requirements of Ownership.** CVFD shall at all times during the term of this Agreement maintain its full ownership interest in the real property that is the subject of these terms, and the Property shall be the principal locus of operations of CVFD services.
6. **Purposes for Which Contributed Funds may be Used.** The funds provisionally appropriated by the County to the CVFD are to assist CVFD in fulfilling its duties pursuant to Albemarle County Code Section 6-105(b)(10), as amended, and shall be used solely for design and construction, which shall include the facilities and services described in recitals R-3 and R-4 of this Agreement.
7. **County Responsibilities**

- A. Subject to the terms as stated herein, the County agrees to appropriate to the CVFD a maximum of \$253,000 ("Maximum Allowance") as provided in Section 9(A) of this Agreement. The appropriation by the County in any fiscal year is subject to non-appropriation by the Board of Supervisors as provided in Section 14 of this Agreement.
- B. County will provide a Point of Contact (POC) to Matt Robb within 14 business days of the execution of this Agreement. The POC will approve and coordinate with CVFD representatives as it relates to the design and construction of the Project, but will not be authorized to amend the terms of this Agreement, bind the County to obligations not contained herein, or provide the written approval referenced in Sections 2 and 3 above.
- C. Prior to beginning of construction, the POC will review and approve the engineer's preliminary design and construction cost estimates for appropriateness of scope and reasonableness of anticipated costs. If it is determined that the cost estimates of the project are greater than the Maximum Allowance, CVFD will either (1) verify that it can independently pay the costs in excess of the Maximum Allowance and provide evidence of such verification to the POC; (2) work in collaboration with the POC and engineering firm to "value engineer" the project scope so that it may be accomplished within the Maximum Allowance; or (3) stop all work.
- D. Upon request and as otherwise appropriate, provide updates of available funds from the Maximum Allowance.
- E. Review and approve contractor's proposal for consistency with design.
- F. Review and approve construction schedule in coordination with CVFD, to verify that the project can be accomplished within a reasonable period of time.
- G. Inspect work in progress and when complete, as necessary to effectuate the requirements of the Payment Procedures outlined in Section 9 of this document.
- H. Subject to CVFD's satisfactory compliance with the terms of this Agreement, process a payment to the CVFD within 14 business days of receiving an uncontested invoice per the procedure outlined in Section 9 of this Agreement or notify CVFD of the basis for an objection, need for clarification or supplemental documentation, or other notice and explanation of a necessary delay.

8. CVFD Responsibilities.

- A. Select an engineer that meets County standards.
- B. Enter into a written agreement with the engineer that requires design and construction management services and submit a copy of this agreement to the County upon request. If so advised, CVFD may disclose the substance of this agreement to the engineer. In no event will the County be obligated to the engineer or any of its subcontractors on behalf of CVFD.
- C. Select a CVFD Point of Contact (POC) that will oversee design and construction of the Project, including in-person inspection of work, and coordinate inspections with the County's POC for the duration of the Project.

- D. In coordination with County's POC, review and approve design and construction cost estimates.
- E. Choose a contractor(s) that meets the standards found in the County's General Terms and Conditions.
- F. Enter into a written agreement with the contractor and submit a copy of this agreement to the County upon request. If so advised, CVFD may disclose the substance of this agreement to the contractor. In no event will the County be obligated to the contractor or any of its subcontractors on behalf of CVFD.
- G. Account and timely reconcile invoices with work performed by design professionals and contractors throughout the Project.
- H. Provide requested information to the County. Make available, upon request, the Property and any construction site for inspection by the County's POC.
- I. Pay design firm and/or contractor(s) within 14 business days of receiving payment from the County.
- J. Ensure that all construction will be finally complete within 12 months of the execution of this agreement, unless an extension of time is authorized in writing by the County's Facilities Planning & Construction Division of the Facilities & Environmental Services Department. Such authorization shall not be unreasonably held. If design and construction continue past June 30, 2020, the County shall carry-over the remaining funds into FY21.
- K. Prohibit discrimination against any person in its employment, membership, or services on any basis prohibited by federal or state law.

9. Payment Procedure

- A. The combined design and construction payment maximum for this Project is \$253,000. The County will not reimburse any invoices or partial invoices once this Maximum Allowance has been reached.
- B. Engineer and contractor(s) will submit their invoices to the CVFD POC, or her/his designee.
- C. In coordination with the engineer, the CVFD POC, or her/his designee, will inspect all contractor's work that is being invoiced:
 - i. If work is acceptable, the CVFD POC will prepare a request for payment and submit to the County POC. The request shall include as attachment the approved vendor invoice.
 - ii. If the work is unsatisfactory, the CVFD POC, or her/his designee, will notify, by email, the vendor and the County POC regarding the contested invoice and his plan for resolution.
- D. At her/his discretion, the County POC, or her/his designee, will inspect work within 5 business days of receiving a payment request before authorizing a payment.
- E. County will process a payment to the CVFD within 14 business days of receiving an uncontested invoice. If there is a basis for an objection to the invoice or need for clarification or supporting documentation, the County POC will advise CVFD POC as soon as practicable.

- F. Within 7 business days of payment to the vendor, the CVFD POC, or her/his designee, will submit proof of payment to the County POC.
10. **Return of Contributed Funds.** The funds provided by the County to the CVFD shall become immediately due and repayable to the County in their entirety in the event any of the following circumstances occur:
- A. The CVFD does not obtain all necessary permits from the County by the start of construction.
 - B. The CVFD fails to comply with any of the terms herein, including but not limited to its Organizational Requirements and Ownership Requirements.
 - C. The CVFD sells, leases, or otherwise loses any portion of its ownership interest in the Property or permits an encumbrance on the Property on or before the CVFD expends all of the County's contribution.
 - D. The CVFD ceases to operate the Crozet Volunteer Fire Department on the Property and/or to provide firefighting at any point and/or dissolves or is dissolved.
11. **Security for the County's Contribution in the Event of the CVFD's Failure to Complete Design and Construction as outlined in R-3 and R-4.** The County, in its sole discretion, may record an instrument against the Property to secure the return of its contributed funds under any of the circumstances described in Section 10 of this Agreement. The CVFD will sign the documents necessary to allow the County to record its instrument, and will not otherwise prevent, or seek to prevent, the County from recording its instrument. The County instrument will be subordinate to any instrument recorded by one or more financial institutions to secure its funding provided to the CVFD for this project. The County will sign the documents necessary to subordinate its instrument to the instrument recorded, or to be recorded, by the financial institution, and will not otherwise prevent, or seek to prevent, the financial institution from recording its instrument. The County will promptly and timely release any instrument that it records to secure the return of its contributed funds as provided under this Section when the CVFD is no longer obligated to return contributed funds as provided under Section 10 of this Agreement. The CVFD shall not be responsible for any costs, including recording costs, incurred by the County for it to record any instrument under this Section.
12. **No Goods or Services Received by the County.** The contributions made by the County pursuant to this Agreement are solely to enable the CVFD to design and construct this project. The descriptions of the services that will be provided by the CVFD in recitals R-3 and R-4 of this Agreement state the public and charitable purposes that may be served by the County's contribution and are not a description of goods or services being procured by the County by this Agreement.
13. **Remedies.** The remedies available to the County at law and equity are not restricted by this Agreement. The County's plenary authority, pursuant to Virginia Code §27-10, is unaffected or unrestricted by the terms herein.

14. **Non-appropriation.** The obligation of the County to contribute funds as provided in Sections 7 and 9 of this Agreement is subject to, and dependent upon, appropriations being made from time to time by the Board of Supervisors. Under no circumstances shall this Agreement be construed to establish an irrevocable obligation on the County to contribute the funds.
15. **Assignment.** This Agreement is nonassignable by CVFD without the express, written permission of the County.
16. **Waiver.** No failure of the County to exercise any right or power given to it by law or by this Agreement or to insist upon strict compliance by CVFD with any of the provisions of this Agreement, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of the County's right to demand strict compliance with the terms of this Agreement.
17. **Entire Agreement.** This Agreement states all the covenants, promises, agreements, conditions, and understandings between the County and the CVFD regarding the County's contribution of funds.
18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
19. **Amendments.** This Agreement may be amended by a written amendment signed by the authorized representatives of the parties.
20. **Legal Notices:** All legal notices and requests required or permitted hereunder shall be sent by United States certified mail, return receipt requested, and to be effective, shall be postmarked not later than the final date for giving of such notice, or such notices may be sent by commercial messenger service, in which event, to be effective, such notices shall be delivered to a commercial messenger service not later than the final date for giving such notice.

Notices for County shall be addressed as follows:

Blake Abplanalp, Chief, Facilities Planning & Construction
401 McIntire Road, 4th Floor
Charlottesville, VA 22902

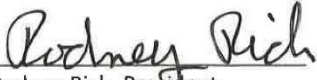
Notices for CFVD shall be addressed as follows:

Matt Robb
P.O. Box 696
Crozet, Va. 22932

Such addresses may be changed at any time and from time to time by like written notice given by either party to the other.

WITNESS, the following authorized signatures:

CROZET VOLUNTEER FIRE DEPARTMENT, INCORPORATED


Rodney Rich, President

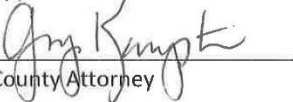
8/27/2020
DATE

COUNTY OF ALBEMARLE, VIRGINIA


Ned Galloway, Chair
Albemarle County, Board of Supervisors

9/2/2020
DATE

Approved as to form:


County Attorney

08/09/20
DATE

Item No. 8.4. Board-to-Board, July 2020, a Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Agenda Item No. 9. **Action Item:** R. A. Yancey Lumber Corporation: Special Exception Request.

The Executive Summary forwarded to the Board states that, on July 15, 2020, the Board of Supervisors approved 14 special exceptions to allow existing buildings to remain on the subject property, subject to conditions (Attachment A), and deferred action on three special exceptions related to the construction of a sorter/stacker, in order to allow staff to evaluate conditions that would address the concerns of the Board, the public, and the applicant. The Board took no actions on two special exception requests that were withdrawn by the applicant.

Staff has prepared a Resolution that includes the following:

- 1) Restatement and reaffirmation of the 14 special exception requests originally approved on July 15, 2020;
- 2) Approval of the three special exception requests related to the stacker/sorter (items 4,6, and 7) that were deferred from the July 15 meeting;
- 3) Withdrawal of two special exception requests by the applicant; and
- 4) Conditions related to all of the approved special exception requests.

Staff's newly-recommended conditions related to the sorter/stacker are to require the installation of noise attenuating materials and fencing, the submittal of studies to demonstrate that the requirements of the ordinance are being met, and the construction of a fence to minimize impact on a property to the south caused by dust and lights, as well as a provision for monitoring sound/noise, and designated timelines for compliance or limitations on future actions. The conditions run with the land.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to restate and reaffirm the 14 special exceptions approved on July 15, 2020, to approve the three special exceptions related to the sorter/stacker (items 4,6, and 7), all subject to conditions contained therein, and to take no action on the two special exception requests that were withdrawn by the applicant.

Mr. Bill Fritz said the Board had in its packet the resolution that was prepared by the County Attorney's Office. He said earlier that day, he forwarded the Board some revised conditions proposed by the applicant. He said he would try to answer any questions.

Mr. Fritz said he drew a quick picture that shows where the fences are proposed if the Board would like to see that, or he could answer any questions the Board might have. He said he had no prepared presentation for the Board.

Ms. Mallek said she would like to see the picture.

Mr. Fritz presented the picture. He said the red line on the southern property line of the Swales' property, Parcel 111A, is what was discussed previously and was included in the Board's packet. He said it is a 10-foot-tall fence that would stop just 30 feet shy of the southwest corner of the Swales' property. He said the applicant has also proposed a fence that would be constructed starting at the southwest corner of the Swales' property, running approximately 189 feet and stopping just 70 feet shy of Route 250. He noted that this was the red line on the west side of Parcel 111A.

Mr. Fritz said the applicant is proposing to construct the southern fence within 90 days of the special exception approval, and that the western fence would be constructed 120 days from approval.

Mr. Fritz presented what was Attachment D in the Board's packet, noting that it shows the location of the fence and the gate on the Yancey Mill Lane frontage. He said it shows in red where a fence would be located. He said in blue there were some minor modifications proposed by the applicant to that to clarify that the fence is not necessarily chain link but is metal and has light-blocking material.

Mr. Fritz said this fence would be constructed within 150 days, or before the sorter receives a Certificate of Occupancy. He reminded the Board that the sorter/stacker was going to be built in two phases, with the stacker built first and the sorter built second. He said this fence would be constructed within either 150 days from today if the special exception is approved, or prior to the issuance of the Certificate of Occupancy for the sorter.

Mr. Gallaway asked Mr. Fritz if this was the extent of his presentation.

Mr. Fritz said that was all that he had. He said the language was in a text form if the Board would like to see it, but it was nothing they did not already have.

Ms. McKeel said she would hold her questions for the moment about some of the last-minute changes.

Ms. Mallek said the last map Mr. Fritz showed and his explanation helped a lot. She asked Mr. Fritz if they were talking about the first phase of the sorter, or the second. She said by the time that the first sorter building is completed, this seems completely appropriate and that she would rather not have to wait for all the other approvals, changes, and reengineering before the second one gets built in order to just complete the fence, as that may be many months.

Mr. Fritz replied that the Swales' fence is not dependent upon construction at all; it has timeframes.

Ms. Mallek said she understood.

Mr. Fritz said the Yancey Mill fence would either be 150 days, or prior to the CO for the sorter. He said the sorter is the second of the two pieces of the sorter/stacker.

Ms. Mallek asked if this was whichever is shorter.

Mr. Fritz replied yes.

Ms. Mallek said having those words in the language was very important because otherwise, it could be two years. She said she needs to have those words in there to understand what is going on with that.

Mr. Fritz said it is in there.

Ms. Price asked Mr. Fritz if he could again present the image that shows the southern property

with Mr. Maynard's. She said she saw that Ms. Long and Mr. May were on the line. She said she would like to hear from the applicant. She said her understanding is that the red line will be a 10-foot wooden fence, and the blue line is now to be a metal gate so that light does not come through.

Ms. Price said going to the left on the western side of the mill property, it looks to her that the far left is a weigh station with scales. She said going down that path, one can see that there may be an opening where a fork could be built where, if a truck happened to come down Yancey Mills Lane, they could take a left fork onto the property rather than coming all the way around, making a left curve, and then a hard left turn into the property.

Ms. Price said she was wondering if there would be any consideration for moving the gate from where the blue line currently is to over more to the west so that if a truck comes down, it doesn't have to go right in front of the Maynard's' property, then make a hard left turn into the mill.

Ms. Price said other than that, she had no questions at that time. She said she did have some comments she would like to make before the Board takes a vote on this.

Ms. LaPisto-Kirtley asked if the property between the blue line and Yancey Mills Lane belongs to the lumber yard.

Mr. Fritz replied that Yancey Mill Lane is a prescriptive easement, so the property goes to the center line of the road.

Ms. LaPisto-Kirtley said she was asking about the area in between where the gate is proposed and the road and if it belongs to Yancey Mills.

Mr. Fritz replied that this is correct. He pointed out that the GIS is an approximate location of the property line. He said he believed the actual property line is slightly to the east. He indicated on a map to where he believed the actual property line is, noting it is farther to the east.

Ms. LaPisto-Kirtley asked if a truck could safely make that U-turn without part of the truck going into the road.

Mr. Fritz replied that he had no idea and that this had not been analyzed. He said he pointed out to the applicant that construction of an entrance onto Yancey Mill Lane will trigger the requirements for a site plan for this property, and then a VDOT review to ensure the adequacy of the design and the location of the entrance would be triggered.

Ms. LaPisto-Kirtley said she would save her comments for later.

Ms. Palmer said she would make part of a comment now so that Mr. May can explain if he wants to. She said having very recently driven out there to look at this and seeing how small this lane is, she thinks this map is deceiving because the mill itself is right up to Yancey Mill. She said there is maybe just a couple of feet of something and that most of the trees are gone.

Ms. Palmer said she thinks it is crazy to try to get a truck in there, and that she had to say that a sign is much more reasonable to keep the trucks out of there. She said on Rockfish Gap, they have the entire section along there open for trucks. She said if the applicant wants to comment on that, this was fine. She said she would make more statements later, but that she certainly could not vote for the gate.

Mr. Gallaway asked if Mr. May was present.

Mr. Patrick May said he did not want this to be an entrance. He said he did not want trucks to go down Yancey Mill Lane. He said he hoped he rarely, if ever, must use it. He said occasionally, however, a truck will turn down Yancey Mill Lane because it is similar to the name of his business. He said when someone plugs it into GPS and puts in Yancey Mills, they will sometimes choose Yancey Mill Lane and will take a wrong turn.

Mr. May said while he agrees that trucks should never go down there, as he does not want trucks down there, if someone comes from out of state, they sometimes make mistakes. He said he did not think this was a great access point anyway, but that it was better than having to go out to Route 250 and stop traffic while they try to back up a 45-foot-long flatbed truck. He said it was not the log yard he was worried about them going into.

Mr. May said to assume that someone is pulling into Yancey Mill Lane and he must get them into his log yard safely. He said he still has to get them back onto Route 250 and back towards his sawmill, as that is where the lumber is. He said this is a pain, and that he didn't ever want to do that. He said it serves no good practical use except for in the rare occasion where someone has made a mistake. He said this allows him to get them in and not have to have them back up onto Route 250, as there is nowhere to make a U-turn on that road.

Mr. May said he was not proposing that it is an entryway that is going to be used. He said he thinks that is crazy and is not what he is proposing. He said more so, he did not want to have to block Route 250 and stop traffic to get the truck off of Yancey Mill Lane because they will have to back up the entire way to get their truck off of that road. He said this has been done before. He said trucks are not the mill's employees and come from all over the East Coast. He said truck drivers make mistakes, which is

one of the reasons why the mill got out of the shipping business.

Ms. Palmer said if this was that rare, it was not that big of a problem. She said they can put the signs up, they can figure out how to keep them out. She said she thinks it should be a solid fence for the residents. She said there is no setback there, and she didn't know if they would end up requiring some trees there. She said it is a horrifying situation the way the mill has come all the way up to the edge of that road now. She said she thinks if the problem is that rare, that's great. She encouraged putting signs up there to make sure it is even less rare.

Ms. Mallek said she very much appreciated Ms. Price's suggestion about halfway down the road because, as someone else with a CDL license, backing up on a curve is the very worst thing one can ever do; whereas doing something on the straight-of-way right off of Route 250 and getting them into the property just south of the scales seems to be the only thing the Board could approve as far as the safety goes.

Ms. Mallek said she was quite sure that once the gate is there, it will end up being used by people who are out of Mr. May's control, which is the reason not to have the gate there at the houses.

Ms. LaPisto-Kirtley asked if the drawing with the blue line could be presented again and enlarged.

Mr. Fritz presented the map.

Ms. LaPisto-Kirtley asked Ms. Price, since she then knew where the trucks would be going down Yancey Mill Lane, where she was suggesting putting an entry in. She asked if this could be pointed out.

Ms. Price indicated to the place on the map. She said there was mention that there would need to be a site review and VDOT approval. She said after the full discussion, she was more inclined for putting a sign at the intersection of Yancey Mill Lane and Route 250 that says, "No trucks" and direct them onto the yard. She said if there must be a gate, it should stay where the blue line is, as this was the most expeditious way to get this done in a fashion that achieves the purposes.

Ms. LaPisto-Kirtley said she tended to agree about having a sign there. She said otherwise, Mr. May will be going through a greater expense putting in an entryway where Ms. Price suggested. She said she would think having a large sign there saying "No trucks allowed" should do it.

Ms. Mallek said her question was to reassure that they will be going through the conditions one at a time, as described by Ms. Price to her two days earlier.

Mr. Gallaway said he was fine with going through those. He said if there were some general statements to be made, they could get those out of the way and then go through the items.

Ms. McKeel said she had no comments and was waiting to go through the items.

Ms. Mallek said she was also waiting for the list.

Ms. Price said she wanted to address her comments in general, but also to three particular individuals or entities. She said she met with Ms. Lisa Swales for about an hour and a half, walked the property with her, and saw the situation. She said she wanted to express her appreciation for Ms. Swales, her husband, and other residents contacting the Board about the quality-of-life issues that are impacted by the mill, and that she does care deeply about the impact it has on them.

Ms. Price said she had an opportunity to speak with Mr. Maynard earlier that day, where they went over a lot of the same sort of issues and concerns. She thanked Mr. Maynard for this.

Ms. Price said she wanted to direct her next comments directly to Mr. May. She said the track record of the mill in terms of compliance with zoning in the County is horrific, when looking at it from an objective standpoint.

Ms. Price said taking the opportunity to spend an hour and a half with Mr. May, walk the mill, and listen to him, and even with his candor that day about the gate, the comment to him as an individual and to the owners of the mill is that if it was the previous leadership of the mill that was coming before the Board, she would be much more reluctant in supporting. She said what she has seen and the sense she has is that Mr. May has taken it seriously. She said he acknowledged the failings of the mill in the past, and that she believes he has made a commitment to do the right thing going forward. She said it was frankly because of the action Mr. May has taken that she has a sense of confidence that he will follow through.

Ms. Price said ultimately, she will be supportive of the mill, although the Board will go through each of the conditions.

Ms. Price said she wanted to be clear to the residents as well to the other owners of the mill that because Mr. May has taken over the leadership role, accepted responsibility, and acknowledged the shortcomings, it gives her a sense of confidence that he will do the right thing and that the mill will be able to survive.

Ms. LaPisto-Kirtley said regarding the location of the Swales' property, she noticed on the

southern fence that there is a gap. She asked if this could be explained, and why on the west side, the fence does not go all the way up to Route 250.

Mr. May said regarding the gap, the applicant is going to try not to leave a gap there. He said there is a culvert there, which may lead to them having to, but his goal was not to. He said he didn't want to promise something that he couldn't do because then, everyone will be upset with him, and he was not going to go through that. He said he was trying not to have the 30-foot gap, but he did not want to make a promise that he couldn't keep. He said it was mainly about the terrain, more than anything.

Mr. May said as far as the Swales' fence, there is a change in elevation a couple times there. He said the last section where the parking lot is is where the applicant is looking at stopping the fence because at that point, it is not producing any value for the neighbor as far as any attenuation. He said they would probably lose some attenuation as well because they may have to cut down some of the trees in that area, and he prefers to leave all the vegetation alone if he can.

Ms. LaPisto-Kirtley thanked Mr. May for answering both questions. She said she agreed with him regarding the culvert, as she has seen it. She said this is something he must be cognizant of.

Ms. Palmer said the Board has spent a lot of time talking about setbacks. She said they talk about setbacks with respect to their homestay applications quite a bit. She said they are giving a lot of special exceptions for setbacks here, and they understand why they are doing that. She said they want the mill to stay in business and thrive. She said they are dealing with the sorter and stacker, hopefully to the reasonable satisfaction of the neighbors.

Ms. Palmer said it is a lot about the health of the neighbors there. She said she is very troubled by the setback along Yancey Mill Lane. She said the trees there are gone, and she has not heard anyone on the Board talk about trying to put a line of trees or something to filter all the dust and air.

Ms. Palmer said they were basically giving a complete "OK" on the setback on Yancey Mill Lane, and that she didn't think it was a good thing for the health of that community, frankly. She said there are a lot of things being done, and she completely understood why. She said they want to keep the mill going, as it is important to the Board and to everyone in the community, as well as to the Yancey and May families.

Ms. Palmer said she thinks the Board needs to think about this complete "OK" to the setbacks on that area for the health of the community, and that she hopes they will. She said she thinks the fence should go down to the road. She said perhaps there are some issues with the terrain there, and it was hard to see. She said she did understand, as it was explained to the Board, that the trees make the wood get moldy. She said there is nothing there, however. She said a 10-foot fence going all the way is appropriate. She said if they must put a gate somewhere, she does think that it should go closer to Route 250, instead of directly across from people's homes.

Ms. Palmer said she hoped this would be a discussion the Board has as they go through the details.

Ms. Mallek said when they talk about Condition 5, they will talk about the zero setback for storage of wood. She said it was a very important concern, as she had raised many days ago. She said she was looking forward to the discussion, line by line, so they can analyze all these things.

Mr. Gallaway asked if "line by line" meant each of the special exceptions, or just #4, 6, and 7.

Mr. Kamptner said that those three special exceptions are the ones that are at issue that day. He said the Board acted on the other special exceptions on July 15.

Mr. Gallaway said those special exceptions they had acted on were #1, 2, 3, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17. He said exceptions #18 and 19 were removed. He said this meant Items #4, 6, and 7 were the ones they were coming back to today, and that he presumed that going "line by line" meant going through #4, 6, and 7.

Ms. Mallek said during the meeting previously, several Board members made it very clear that until they saw things written down, this was in concept and they were going to be approving these conditions individually at the next meeting, i.e., today. She said she was very concerned.

Ms. Mallek said she had gotten reassurance from multiple people in the meantime over the last week that they were going to be going through all of these. She said she had notified of the different ones she and the citizens had concerns about. She said to now say that they were not going to talk about #5, 15, and 16 is a big problem because they did not do individual condition votes, and everyone made a point to say that it had not been written down and that they did not know exactly what it would mean.

Ms. Mallek said she would argue, if she could, and had asked about clarification about this from Mr. Kamptner, who perhaps had sent an email that she had not found. She said this is where she stood.

Mr. Kamptner said to be clear, the conditions attached to #4, 6, and 7 are Conditions #3-10, plus an amendment to #1. He said it was only Condition #2 that is unchanged from the Board's action on July 15.

Ms. Mallek said it would be great if they could go down the list and look at them, along with the public as well, so that everyone can be in one place looking at these fourteen things and be reassured that they do not have anything they have to say about any of them. She said the numbers have changed and now, she was even more confused than she was before.

Mr. Gallaway asked staff if they had a list of the special exceptions they could put up.

Ms. Mallek said it was in the report.

Mr. Gallaway asked if Ms. Mallek wanted it visualized publicly.

Ms. Mallek replied that this would be great. She said she supposed Attachment A was the most recent one.

Mr. Fritz said this was pulled from the website, as the list was presented on the screen.

Mr. Gallaway asked for the list to be enlarged.

Mr. Fritz did so.

Mr. Gallaway asked Mr. Kamptner if there was a list of the conditions.

Ms. Mallek said they could get to that and suggested going through the presented list.

Mr. Fritz asked Mr. Gallaway if he wanted to start with the conditions.

Mr. Gallaway said he wanted to make sure they were there and available. He asked the Board if there were any objections to #1.

Ms. Mallek said no.

Ms. Palmer asked for explanation in terms of which one comes into play with Yancey Mill Lane.

Mr. Gallaway asked Mr. Fritz to point this out when they get to it. He asked if there were any objections to #2.

Hearing none, Mr. Gallaway asked if there were objections to #3.

Hearing none, Mr. Gallaway asked if there were objections to #5.

Ms. Mallek said yes, and then no.

Ms. Palmer asked if it would be possible to ask where this comes into play.

Mr. Fritz pointed out that they did an analysis of the special exceptions for the reduction of the storage of lumber, logs, chips, and timber. He said what they found is that from the review of the historical photos they have of the property that go back a number of years, the areas had been used, or appear to have been used, for the storage of these materials, as far back as they can see in the photos which go back to 1980. He said there may be a few places, but by and large, these areas have been used. He said there are some places where they are using less area now than they historically have at some points in time.

Mr. Fritz said he did not have a map that shows the specific places. He said there was a map he could find quickly that was included in the original packet that was prepared by the applicant that shows all the portions of the property where they are requesting that reduction.

Ms. Palmer asked if Mr. Fritz could pull up that map.

Mr. Gallaway said they could come back to that item while Mr. Fritz was looking for the map. He asked if there were any objections to #6.

Ms. Mallek said no.

Mr. Gallaway asked if there were any objections to #7.

Hearing none, Mr. Gallaway asked if there were any objections to #8.

Hearing none, Mr. Gallaway asked if there were any objections to #9.

Hearing none, Mr. Gallaway asked if there were any objections to #10.

Hearing none, Mr. Gallaway asked if there were any objections to #11.

Hearing none, Mr. Gallaway asked if there were any objections to #12.

Hearing none, Mr. Gallaway asked if there were any objections to #13.

Hearing none, Mr. Gallaway asked if there were any objections to #14.

Hearing none, Mr. Gallaway asked if there were any objections to #15.

Ms. Mallek said yes, as she had a concern. She said unless the weather is incredibly cold, she saw no reason why the engines should be starting at 6:00 a.m. She said they have had numerous forestry operations on her property over the last 50 years, and the foresters who have been in charge have forbidden anybody to turn on the machinery because of the noise it creates. She said these very large engines are not something like turning on the diesel Volkswagen in one's driveway. She said these are big sounds.

Ms. Mallek said it then turns into an extra operation because they must move them to get to the next one. She said she would prefer they not increase the turn-on time to 6:00 a.m.

Ms. Palmer asked if this meant that the backup beeping will begin at 6:00 a.m.

Ms. Mallek said yes.

Ms. Palmer said as someone who has woken up to backup beeping every morning, including that morning at 6:30 a.m., for the last year, it is a loud noise, and she knows this was explained that this noise does not come under the sound ordinance.

Mr. Gallaway asked Mr. May if he would like to respond.

Mr. May said the warming up of equipment is not so much about the loaders, but about the hydraulic power units. He said they have hydraulic pumps that are coupled together, and large hydraulic power units that power the stationary equipment that runs the mill. He said this is part of the warmup process. He said he would like to be able to unload logs at 6:00 a.m., but even in the summer, oil must warm up. He said more so in the winter, they definitely have to warm it, and they warm it up for an hour before they even run it.

Mr. May likened it to a restaurant opening, but not opening for business. He said there is a lot of prep work that goes into getting it ready. He said the mill's prep work is cleaning up, making sure they have a safe site, and warming up their equipment so that the hydraulics are warm and doesn't put a strain on the system.

Ms. Palmer asked if this stationary equipment Mr. May is talking about warming up comes under the noise ordinance.

Mr. May replied that the noise ordinance would still apply to it.

Ms. Mallek noted that if it is wheeled machinery, those are all excluded, which is part of the problem.

Mr. May said that wheeled machinery in the dead of winter is nice to warm up, but the physical, fixed equipment is the stuff that needs to warm up. He said those are bigger hydraulic power units than anything that runs a loader.

Ms. Mallek said a clarification in the wording that says, "Warming up of fixed interior equipment can start at 6:00 a.m." is something she could support. She said she cannot support turning on all the other hydraulic machinery and the wheeled machinery outside at 6:00 a.m.

Ms. Palmer agreed with that and said this needs to be clarified.

Mr. May asked if he could comment.

Mr. Gallaway said yes.

Mr. May asked if in the wintertime when he just turns on the engine on a loader, if he will need to wait until about 7:30 a.m. or 8:00 a.m. to then unload logs, and if this is what he should tell the loggers.

Ms. Palmer asked if 7:00 a.m. was the current startup time.

Mr. May replied that he could not safely unload them. He said if that equipment is running cold, he did not think that was a safe way to do business. He said in the dead of winter, the reason they want to be able to start it up at 6:00 a.m. is because the oil must warm up. He said they are moving a lot of weight, and it is not like starting a car. He said the best person to bring into this would be any of the Tapscott's, who would say they are not going to just start the machinery and start unloading.

Mr. May said in the summer, he can let it sit for 5-10 minutes and run it. He said in the winter, he likes it to warm up because things can break.

Ms. Palmer said her concern is about things that do not come under the noise ordinance, like the backup beeps of the trucks.

Mr. May said it is just running in place when it is being warmed up, so there is no beeping if it is

just warming. He said it is something that they have done historically, since before 1980.

Ms. Palmer said she recalled Mr. May saying that. She said her opinion is if it comes under the noise ordinance, she is okay with it. She said if it is something that doesn't come under the noise ordinance, then she would prefer the mill not start that until 7:00 a.m., as was recommended by staff in their review.

Ms. LaPisto-Kirtley asked Mr. May if he would not have any vehicles with the backup noise.

Mr. May asked Ms. LaPisto-Kirtley if she was asking about before 7:00 a.m.

Ms. LaPisto-Kirtley said she was asking about the time between 6:00-7:00 a.m.

Mr. May said that between 6:00-7:00 a.m., there could be a logging truck that pulls onto the property beforehand that would not be his. He said other than that, they are not using forklifts until 7:00 a.m.

Ms. LaPisto-Kirtley asked if the only backup noise, then, would be from a logging truck that comes on.

Mr. May said he did not even know if they have backup alarms. He said the only sounds they have right now have been when they first pull up the forklifts and drive them down to where they are going to work for the day, where they wait and sit there. He said there is no backing up or pulling forward, and it is waiting for the mill to start running. He said the mill doesn't start running until 7:00 a.m., so the equipment is idling. He said when they warm it up, there is no beeping.

Ms. LaPisto-Kirtley asked what would possibly be making the loud beeping noise backing up between 6:00-7:00 a.m.

Mr. May replied that the loudest beeping noises he knew of at that time were the trash truck that comes at 5:26 a.m., which he has no control over.

Ms. LaPisto-Kirtley said she understood that. She asked if this was the only noise.

Mr. May replied that the only thing that is running is things warming up and that there should not be any beeping.

Ms. LaPisto-Kirtley asked if the things warming up violate the noise ordinance.

Mr. May replied no.

Ms. Mallek said it is not covered by the noise ordinance.

Mr. May said the stationary equipment is covered by the noise ordinance, which is compliant. He said they are not running the equipment. He said that equipment is essentially idling as well. He said if he is not running a piece of stationary equipment, the way it physically works is that a motor turns a pump, but since it is not sending pressure into the system, the extra fluid is going back into the tank and circulating around and around, warming it up.

Ms. LaPisto-Kirtley asked if any of the machines Mr. May is talking about warming up between 6:00-7:00 a.m. violate the current noise ordinance.

Mr. May replied that they did not, as far as he knew.

Ms. LaPisto-Kirtley said she was not sure, then, what they were talking about or why there was a problem.

Ms. Palmer said she believed they were getting it straightened out. She said she was okay with it, and it sounded like Ms. Mallek and everyone was okay with it, as long as the noise starting at 6:00 a.m. is covered by the noise ordinance.

Ms. LaPisto-Kirtley asked why they were asking for a special exception.

Ms. Palmer said this was a good question.

Mr. May replied that the reason why is that the mill wants to continue doing what they have historically done, which is warming up their equipment. He said it gets into the gray area of what constitutes "running." He said the question is if it is when he runs wood, if it is when he hits the start button to warm something up, if it is when he is stalling, or when he is pushing a broom. He said it is the question of, "What is startup?" and that the purpose of their request is clarification. He said in the same way a restaurant opens and has pre-open activities, the mill wants to make sure that is covered and that they can get their place clean.

Ms. LaPisto-Kirtley asked if Mr. May was asking for the warming up of equipment, which does not violate the noise ordinance, between 6:00-7:00 a.m.

Mr. May replied yes.

Mr. Gallaway asked Ms. McKeel and Ms. Price if they wanted to weigh in.

Ms. Price said she had no problem with this.

Ms. McKeel said she didn't have a real problem with it other than the process. She said she thought the Board voted on these at the last meeting, and it seems like they are revisiting them. She said from a process standpoint, she was trying to figure this out.

Mr. Gallaway said he did not disagree. He said staff did ask to reaffirm, so this gets tricky.

Ms. LaPisto-Kirtley asked Mr. Kamptner about Item #15. She said the applicant is not asking for a special exemption from the noise ordinance regarding the warming up of equipment. She said if they are warming up the equipment and it violates the noise ordinance; this would be allowed in Item #15. She asked if this was correct.

Mr. Kamptner replied that it violates the noise ordinance. He said the reason why the applicant requested this special exception is because the supplemental regulations that apply to sawmills and wood yards don't allow any machinery to operate between 7:00 a.m. and 7:00 p.m. He said there was ambiguity in the language of whether or not the startup is actually operating machinery, so this takes care of that issue. He said it does not exempt it from the noise regulations.

Ms. LaPisto-Kirtley said as stated, if the warming up of equipment violated the noise ordinance.

Mr. Kamptner said Ms. LaPisto-Kirtley's audio cut out, but he assumed that if it violated the noise ordinance, they would be in violation.

Ms. LaPisto-Kirtley thanked Mr. Kamptner.

Mr. Gallaway moved onto the next item, #16.

Ms. Mallek said they just talked about how the loaders, unloaders, and grapples will not be running before 7:00 a.m. She said now, they have #16, which says that they will be allowed to load and unload wood products in the 6:00-7:00 a.m. interval. She said if she understands correctly, those machines are not included in the noise ordinance. She said they are like tractors on a farm. She said this is why she was very concerned about both #15 and #16. She said they cannot have #16 if they are assuming that everything is sitting still, idling, between 6:00-7:00 a.m. She said these machines will be moving forward, picking up logs, and backing up if #16 is approved. She said she just did not understand how those things could go together.

Mr. Gallaway asked who could respond to that.

Mr. May said he could respond. He said in the last meeting, he had expressed that although it would be nice to unload the loggers at 6:00 a.m. to help them get back on the road, if it was a big concern, they can keep with the 7:00 a.m. hour. He said the biggest reason they were asking for 6:00 a.m. was to get the wood out of the kilns.

Ms. Mallek said this was not a problem.

Mr. May said this was something everyone agreed that this was a valid reason because they are pushing it in, backing up 10 feet, parking, and that is it.

Ms. Mallek said this condition can be worded to say, "Unloading and loading of the kiln" and then, she would have absolutely zero problem with it. She said she must question the fact of the big trucks coming in and unloading everything at 6:05 a.m.

Mr. Fritz said the ordinance limits the hours of loading and unloading to between 7:00 a.m. and 12:00 midnight. He said in essence, what the applicant is requesting is a time shift of one hour to start one hour earlier than the ordinance currently permits, and end one hour earlier than the ordinance permits.

Ms. Mallek asked if this was for the kiln only, or for trucks as well.

Mr. Fritz replied that this is for loading and unloading of wood and wood products, which is permitted by the ordinance to occur between 7:00 a.m. and 12:00 midnight. He said what the applicant is requesting is that they be permitted to load and unload between 6:00 a.m. and 11:00 p.m.

Mr. Fritz said the applicant is asking that the loading and unloading of the kiln be permitted 24 hours per day.

Ms. Mallek said this was fine with her.

Ms. Price said this was #17.

Ms. Mallek said this was right. She said she had no problem with #17, which is why she thought

#16 was the trucks unloading their cargo in the woodyard, which is where she does have a problem that this be started before 6:00 a.m. because it means that all the machinery is really running at 6:00 a.m. She said many neighbors have complained over the last 10-12 years that things do start much earlier. She said she understands that people show up to work, but that doesn't mean they should be writing it into their approval to continue with that.

Ms. Mallek said they cannot have it both ways. She said if the kiln is 24 hours per day, which is no problem, they should not use that as an explanation for #16. She said it seems like #16 is about the yard outside and getting that done, and having that noise happening before 7:00 a.m. is too much of an imposition, in her opinion.

Ms. Palmer agreed that to start this kind of loading and unloading at 6:00-7:00 a.m., especially with how the Board is forgiving all these setbacks, she believes it should go to 7:00 a.m.

Mr. Kamptner said once again, they have a dilemma where the Board acted on Special Exception #16 on July 15. He said if there is a failure by staff to recommend a condition, that is on the County. He said there was a discussion by the Board, and as Mr. Fritz mentioned a couple minutes earlier, this was really a shift in time from 6:00 a.m. to 11:00 p.m. versus from 7:00 a.m. to 12:00 midnight.

Mr. Kamptner said if the applicant is willing to volunteer conditions related to this particular special exception, that would be appropriate. He said he thinks the Board needs to recognize that they did act on that special exception on July 15.

Ms. Mallek asked what the Board is reaffirming if they are not allowed to discuss, change their minds, and reaffirm things.

Mr. Kamptner said what is really in front of the Board are Special Exceptions #4, 6, and 7, which deal with the sorter/stacker. He said these are really the new items on today's agenda.

Ms. LaPisto-Kirtley asked if the Board could ask Mr. May if he would be willing to do that.

Ms. Valerie Long asked if she could jump in to address the question and provide clarification. She said she believed there was some confusion, and that it may have been somewhat on the applicant's end.

Ms. Long said as Mr. Fritz indicated, the applicant's request had two parts to it regarding this issue. She said one was to shift the starting time for loading and unloading wood to be permitted to begin at 6:00 a.m. instead of 7:00 a.m. She said the main reason for that is because that is the historic time for this. She said ever since the mill began and certainly prior to 1980, when the regulation was adopted, they have been loading and unloading wood beginning at 6:00 a.m. She said this is when the logging trucks arrive, and they get there early because they need to get back on the road and try to make a second run in the same day.

Ms. Long said the request was to reaffirm, for clarity, a right that already existed. She said Mr. Fritz had confirmed the assessment. She said they cannot demonstrate it from the record, but the loading and unloading of wood has long been occurring prior to 7:00 a.m. She said their request was to clarify and codify that with this special exception. She said this would be contained in request #16.

Ms. Long said #17 was related to the same regulation that prohibits loading and unloading wood, except after 7:00 a.m. She said they wanted to be clear that technically, in the event that the pushing of the wood into and out of the kiln on the cart constituted unloading and loading wood, it was clear that that could occur at any time because of those occasions when it does need to be done in the middle of the night if a load of wood has finished drying.

Ms. Long said the mill has long been unloading wood, and that her understanding was that as part of the loading and unloading of wood products between 6:00-7:00 a.m., there is no backup beeping and alarms involved in that. She said the logging trucks do not have those alarms. She said to the extent that is the concern, the loaders do, so perhaps she would let Mr. May jump in on that.

Mr. May said the loaders do have those alarms. He said he wasn't prepared to speak on all these matters and apologized if he mixed a few things up.

Mr. May said on the unloading of wood, they are not running forklifts before 7:00 a.m. He said they have historically run the loaders at 6:00 a.m. He said they have not been doing it since he talked to his neighbor, who complained about lights. He said the neighbor said his problem was with lighting. He said he shifted their process to 7:00 a.m. temporarily, to the detriment of some of the loggers.

Mr. May said if this were a situation where he needs to unload at 7:00 a.m. and hurt the loggers, he did not want to because they are going to have problems running, but he would prefer he not be shut down.

Ms. Palmer asked if she could ask a question.

Mr. May continued that currently, he was not running it before 7:00 a.m. but that historically, since the 1960s, they have.

Ms. Palmer asked since the other mills have gone out of business and Yancey has increased equipment to make themselves more competitive and to stay in business, if they were doing much more business now with respect to there being more activity at the mill. She asked if this was safe to say.

Mr. May replied that the amount of business they do varies. He said currently, with COVID, they are not doing more business than ever, but are doing less than they have done since before he was there. He said it has been a difficult scenario for him and for any other business owner in the community.

Mr. May said he didn't know how to answer the question of if they were doing more business. He said in the current year, they were definitely not. He said last year, they did less than the year before that. He said the year before that, they did more than the year before that. He said there is a cyclical pattern and that part of that has to do with the market and the cost of production. He said sometimes, it costs more to make wood than they can sell it for. He said it is a commodity and is very stressful because of that. He said when there is a good market to sell in and they have the correct talent, it is true that they can make more but that currently, they were not.

Ms. Palmer said she was asking the question because when they talk about historic issues and listen to the neighbors, they are talking about a lot more noise and activity than they are historically used to. She said this is why she was asking the questions and why she is responding to this timing issue.

Mr. May said in the last five years, it has been fairly steady.

Mr. Gallaway said his understanding of #16 was the shift, as he recalled this shift cutting off the end hour. He said the tradeoff with an extra hour in the morning or evening is that it either goes to midnight or starts earlier. He said he didn't know how to judge that, as noise before 7:00 a.m. and noise after 11:00 p.m. seems equally problematic. He said he thinks they were trying to cover the noise with the other items and trying to get started to be able to run by 7:00 a.m., which was his understanding of what was before the Board the last time.

Mr. Gallaway said for #15, 16, and 17, he heard some concerns from two Supervisors and some questions from three. He asked if they needed to modify any of this and if there were more than three people who wanted to modify the language. He said by his count, he did not have the numbers to be able to go in and alter any of this.

Hearing no comment, he asked Mr. Fritz if he had found the visual pertaining to #5.

Mr. Fritz replied yes and presented the visual. He said this was the presentation the Board saw at the previous meeting. He noted that the areas in purple on the visual show where there is a reduction of the setback that was proposed for the storage of material. He indicated on the visual to Yancey Mill Lane.

Mr. Fritz said he found some of his research. He presented an aerial photograph from 1980, which was of questionable quality, but shows that the area is disturbed very close to Yancey Mill Lane. He said if they go to 1974, it shows that the area was either actively being used or was devoid of any trees in a certain area. He said going back to 1966, it shows storage along an area, and an entrance.

Mr. Fritz said the area has been historically used, and staff used all the photos to determine that the areas, by and large, that were being requested for a reduction in a setback were areas that had previously been used for storage. He said they made no official determination, so even if the requests were denied, the applicant would have the ability to request an official determination from the Zoning Administrator of whether or not a nonconformity exists. He said they were simply using the photos to try to establish what they thought had happened in the past.

Mr. Gallaway asked if there were any objections to #5.

Ms. Mallek said she had a question. She said she understands that historically, piles have fallen, which is what happened to the fence over the years. She said if there is a zero setback, instead of 10 feet, for example, and the log piles go right to the property line, this is exactly why she raised this issue as a concern so that there is some possible ability to keep the materials on the property better and to keep drivers on the road and others safer. She said if this is not possible because for history, the County has always been letting this happen, she is outvoted. She said she thinks it is a safety concern, however, to have enormous high piles of very long logs stacked on top of each other right at the property line.

Ms. Palmer said she wanted to see around where the Maynards' property is, across from the other houses. She said she recognized that the Board did vote on that. She said she saw three arrows on Mr. Fritz's picture. She said she did not have a problem with the other areas where they have it but thinks that they need to do something for that section of Yancey Mills Lane.

Ms. Palmer said she knew that Mr. May said he will put a fence there, but it is not extending very far. She said it is just going to the very edge of that property.

Ms. Palmer said additionally, with the gate, it is basically just a log laying across the area now. She said there is no vegetation at all.

Mr. Gallaway asked if there were any other objections. Hearing none, he said hearing only two doesn't rise to the number needed to make any changes to #5. He asked if they could proceed to the three items that they were putting action to today.

Ms. Mallek asked to see the conditions as well.

Mr. Gallaway asked if they wanted to work through the conditions or through the three items. He said he would imagine the conditions were addressing those three.

Ms. Palmer asked to go through the three items.

Mr. Gallaway asked if they were still #4, 6, and 7.

Mr. Fritz confirmed they were.

Mr. Gallaway said #4, 6, and 7 were the three items the Board was deferring action on until today. He said it seemed to him that working through the special conditions probably makes sense in how they are addressing those three items, so they could start there.

Ms. Mallek agreed.

Mr. Gallaway asked if there were any questions or comments about Condition #1.

Hearing none, Mr. Gallaway asked if there were any questions or comments about Condition #2.

Hearing none, Mr. Gallaway asked if there were any questions or comments about Condition #3.

Ms. Palmer asked about Mr. Fritz's changes in his email and if they would be going through that.

Mr. Fritz said he just realized there was what he believed was an error in the building permit number. He said he believed it was 2018-2196 and not 2019.

Mr. Gallaway asked where this was.

Mr. Fritz replied it was on Condition #3. He said he would verify that while the Board was discussing the other items.

Mr. Gallaway said the emails Mr. Fritz sent pertain to #5 and 6. He asked if there were any questions or comments about Condition #4.

Hearing none, Mr. Gallaway asked if there were any questions or comments about Condition #5, which was the building permit timing. He said this was where the prior-to-earlier-than-150-days approval to build was for the Certificate of Occupancy for the sorter equipment, which was the change that was made.

Mr. Fritz said he could put up the conditions proposed by the applicant that were sent to him and forwarded to the Board.

Ms. McKeel said this would be great because one of those was a change to the fence, which she wanted to see.

Mr. Fritz presented the conditions.

Mr. Gallaway said it seemed to him that #5 was worked out through some conversation earlier. He asked the Board about #6.

Ms. Palmer said that on #5, though she was just one person, she did object to the gate. She said she thinks this is a bad idea.

Ms. Mallek said the gate in that location is bad.

Ms. Palmer agreed. She asked if the gate along Yancey Mill Lane is supposed to stop right at the edge of the Maynards' property across the street and that they cannot go farther down Yancey Mill Lane towards Rockfish Gap. She asked if there was some reason why they must stop right at that very edge.

Mr. Fritz said the gate was on the righthand side of the property, and the next property to the east is not actually part of the Yancey Mills property.

Ms. Palmer said she was talking about back north, towards Rockfish Gap.

Mr. Fritz said this area is still owned by Yancey Mills.

Ms. Price said they discussed this issue, and that to move the gate to a different location would require a site survey and VDOT approval.

Ms. Palmer said she understood that. She said she was talking about the fence, and perhaps she had said the wrong word. She asked why the fence was having to stop where it was, and why it did not extend further down towards Rockfish Gap.

Ms. Price replied that her conversation between Mr. May and Mr. Maynard resulted in the red line being satisfactory.

Ms. Palmer said she was surprised, as she just talked to Mr. Maynard yesterday afternoon, which he when he said he would like it to go further. She said she personally thinks it should go further, and that it is a mess over there. She said given that the Board is giving them a zero lot line, she thinks the fence should be extended.

Ms. Long said she could address this. She said she first met with Mr. Maynard back in early March, and the genesis of the fence at all was a request of his to block the light from the trucks that are there in the morning. She said there is an existing 80-foot fence there, and there is obviously a span that is not fence and is open, which she understood Ms. Palmer saw yesterday.

Ms. Long said Mr. Maynard's request was to extend the existing fence away from Rockfish Gap towards the edge of the Yancey property to block the light from the trucks into his windows.

Ms. Palmer said she recognized what Mr. Maynard said in the meeting about the light. She said she was talking about what it looks like, given they are doing a zero lot line and setback, and given the fact that the existing fence is a joke and is falling down.

Ms. Long said the original request from Mr. Maynard was to extend that fence to the end of the property line, furthest from Yancey Mills Lane. She said rather than just extending that fence, which is not in good condition and does not block light, Mr. May proposed something which they thought was better, which was to instead replace the 80-foot span of fence that was not blocking light with a much longer fence, 180 feet, that would extend almost all the way to the end of the property. She said the applicant does want to leave the gate there if the Board will agree to it.

Ms. Long said the request was about blocking the light from the trucks that come in the morning. She said Mr. Maynard had expressed this was his only concern with the mill at the time.

Ms. Long said extending the fence further in the opposite direction towards Route 250 poses several logistical challenges. She said among other things, there are numerous utilities lines in that location, including overhead power lines, underground utilities, a fiber optic line, and some other phone lines. She said there is also a berm in place up closer to Route 250 that does provide some limited screening of the mill from Yancey Mill Lane and is right on the property line. She said it would require grading that berm down, which the applicant would prefer not to do, in order to extend the fence. She said the fence is also extraordinarily expensive, at 10 feet tall.

Ms. Long said this was really a courtesy request to address Mr. Maynard's original comments to the applicant, that it was all about the light from the trucks and that because of the angle they came in, they would shine into his bedroom in the early morning hours. She said the applicant did not want to do that, so they agreed to extend the fence and address that concern. She said there are no additional benefits to Mr. Maynard regarding light blocking by extending the fence further.

Ms. Long said in addition, Ms. Sarah May, who the Board may recall is one of the officers and directors of the company, owns the lot adjacent to Mr. Maynard. She said Mr. May is going to be moving there soon with his family, and they would prefer not to have the view of the mill blocked. She said they are trying to address Mr. Maynard's initial concerns, which they agree are valid, and still improve upon his request. She said there is no fence or any light-blocking material across a large span of the area across from his property, and that they will replace this with a 180-foot fence and a 45-foot gate if the Board is agreeable. She said if not, the fence would go the entire length, which would be 225 feet.

Ms. Palmer said she didn't know how the rest of the Board felt, but the gate did not need to be chain link as there could be a sliding wooden one.

Ms. Long said the text on the screen includes revisions the applicant made to clarify that it wouldn't be chain link but would be metal and would have light-blocking screening material attached. She said for it to be a sliding wooden fence, the surface would need to be paved. She said right now, the ground there is not paved, so that would be additional disturbance.

Ms. Long said the point is really to provide something for those very rare occasions when a truck does, unfortunately, go down that road which, while it does not happen often, is very challenging. She said they just want to have that as a last-resort option for when it is needed, and for emergency fire ingress and egress in the event that is ever needed. She said it is a longtime, historically existing gap in the property line. She said the applicant is not proposing to leave it open. She said they are willing to screen it to address Mr. Maynard's concerns with the light.

Ms. Palmer said she was just trying to get something more attractive. She said she would probably be outvoted on this anyway, so she didn't want to waste much time on it, but she thought she would ask for something more attractive than the metal fence.

Ms. Long said she did have examples of two types of metal fencing.

Mr. Gallaway said this would not be necessary at that point.

Ms. McKeel said she had a comment and suggestion. She said this discussion was to be held

from 2:30-3:00 p.m., and there was another agenda item. She said they were now pushing almost 4:00 p.m. She said they are revisiting items that they already supported. She said she was not trying to disenfranchise or to stop good discussion, nor was she trying to undercut anything that the neighbors or the applicant need to have discussed.

Ms. McKeel said she would suggest, however, that they need to come back to this again at another meeting because obviously, there have been meetings and discussions, and they have been getting information at the last minute. She said it is important, going forward, that all the Supervisors hear the same information at the same time. She said this has not happened, which has added to the confusion.

Ms. McKeel said she hated to say it, but because of the way this has played out, she was not comfortable at all with the transparency, nor for the applicant and neighbors. She said she would like to see the Board send this back and have staff, the applicant, and the neighbors work it out and come back to the Board again. She said she was frustrated, at this point.

Mr. Gallaway said he did not disagree. He expressed that he didn't think any of this was purposely done, as things change and comments come up, but the fact is that if the packets get put out for the Board to study, and then if information is released and is changed after they have already gone through the material, it does make it difficult. He said they had one person reading this for the first time during the meeting.

Ms. McKeel agreed. She said she was not blaming anyone, but that they were going on to 4:00 p.m. She said the whole agenda now has been derailed. She said this was okay, but what they were seeing happen was not good process and does not make for good proposals. She said they must get this figured out and they want to do it right, but they were feeling pressure again, so she was not comfortable.

Mr. Gallaway said the point was to bring it back that day to get all the things written in writing, in detail.

Ms. McKeel said this was correct but was not what was playing out.

Mr. Gallaway asked if there were any objections to the Board deferring this again and bringing it back to the next meeting so they have a chance to have all this straight, including the gates and fences, and so they know what the clear questions and considerations are.

Ms. Palmer said she had no problem with that. She said her concern was that they went until 11:30 p.m. the other night with a lot of conditions and a complicated situation, and they tried to bring it back. She said she was fine with that.

Mr. Gallaway said what won't be coming back are the items that were already voted on. He said it would simply be the special conditions that relate to the three items outlined.

Ms. McKeel requested that all the Supervisors hear everything at the same time, together. She said this was all she was asking for.

Mr. Gallaway added that he didn't think any changes should be made at the last minute.

Ms. McKeel agreed.

Mr. Gallaway asked Mr. Kamptner if there were legal matters the Board needed to be aware of, timing wise.

Mr. Kamptner replied that there were none that he was aware of. He asked Mr. Fritz where they stood on time limits for #4, 6, and 7.

Mr. Fritz replied that he honestly did not know. He said it was a deferral, so they would have to go back and look at that. He said the deferral was to address the COVID impact.

Mr. Kamptner said he believed if they came back on the 19th, there shouldn't be any issues related to that.

Mr. Gallaway asked Mr. May if there was any issue with the Board coming back on the 19th to get everyone straight.

Ms. Long asked if she could respond. She said she may not be correct, but that she thinks the main sticking point left is the gate issue.

Mr. Gallaway told Ms. Long that the Board was going to defer this and bring it back, and not to try to argue the counterpoint. He asked Mr. May if there was any issue with him coming back later, at the 19th.

Mr. May replied that they could give him the time and he would be there.

Mr. Gallaway said they can get all this ironed out, in writing, and clear. He stated that this was all in the packet released, and that everyone understands that changes between the packet release and

meeting time will be problematic. He said they can get everything set and square so that the Supervisors have a chance to do all the reading and prep and ask questions as needed. He said the same was true for the applicant and residents. He said they can tidy this up on the 19th.

Ms. McKeel and Ms. Mallek thanked Mr. Gallaway.

Mr. Richardson said staff has been directed by the entire Board to go back and work on any final changes. He said the staff would bring this back to the entire Board. He asked if this was correct.

Mr. Gallaway said yes.

Agenda Item No. 10. **Discussion:** 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. Gallaway said this was a Board discussion around its public comment procedures. He said when the Board shifted to virtual meetings back in March, they cleared the agenda of any major items for the first initial virtual meetings. He said they took off anything that could illicit a lot of public comment and pushed those back, as well as high controversy items, until they had some dry runs on other matters, to be able to get through the meeting and see how the process would work running the Zoom meeting as a public meeting, which they did.

Mr. Gallaway said as part of that, in the Chair and Vice Chair pre-agenda meetings, that is when it was decided, which Ms. Palmer emailed a question about, that in the meantime, they would not be entertaining PowerPoints, photo presentations, and the like as part of the public hearing as they worked through how to run the meetings virtually.

Mr. Gallaway said last time they had some conversations, they were thinking this could be a pre-retreat or a retreat type item to discuss further how they will handle public comment, including things such as amount of time, amount of signups, time limits for speakers, etc. He said this could come back either as a special meeting or as a retreat before the other retreat they were doing in September.

Mr. Gallaway said as there was time on the agenda in August, they decided to go ahead and add it in today. He said he knows that each Board member had thoughts on where they should go and were thinking about general public comment and public hearings somewhat differently.

Mr. Gallaway said today was a time for them to have that conversation and throw out their ideas to see if there is any consensus. He said he didn't think any of the changes would necessarily be made right away, but they can at least get the thoughts on the table so they are all on the same page and can make some decisions of how to move forward and handle the public comment and public hearing as they move forward with virtual meetings, now that they had several of these under their belts.

Mr. Gallaway said if everyone was ready, they could go through the speaking order, and if the Board members were ready to make comments about what they should be doing for public comment and public hearing, they can share ideas and see where the discussion goes.

Mr. Gallaway asked Ms. Price if he missed anything, going back to their pre-agenda meetings.

Ms. Price replied no and said Mr. Gallaway had addressed it all adequately.

Mr. Gallaway asked Ms. McKeel if she had any thoughts on public comment, public hearing, and protocol.

Ms. McKeel said she appreciated this being put on the agenda that day. She said she is frustrated, personally, at 9, 10, and 11-hour meetings. She said she doesn't think the Board makes good decisions when it is late, and that it is not fair to staff, as they are often pushed off by an hour or two, even on their presentations to the Board. She said they are having to sometimes cancel agenda items.

Ms. McKeel said she thinks they need to wrap their heads around this, and that public comment right now, especially with the Zoom format, but even without it, needs some attention. She said they do need to look at perhaps the different types of public comment. She said since she was the first to comment, she would like to hear what others' thoughts and suggestions were, and that she did have some thoughts around the changes. She said good decisions are not made late at night, and they must figure out a way to be fair to constituents and staff. She said the processes right now are probably out of the norm of what the other peer localities are doing as far as time and public comment ability.

Ms. Mallek said she had a very specific question that came to her attention, and that she supposed she missed the boat when they were doing this originally. She said they now have a disparity in their public hearing setting, which is what she is concerned about, where an applicant has the ability to speak for 10 minutes and have all the technology that they wish, but anyone else who is speaking in the public hearing response is not allowed to put up a PowerPoint. She said this happened to an application at the Planning Commission, and that the same application was coming to the Board that night.

Ms. Mallek said when people have prepared their materials, have hired an attorney, or would like

to have their 3 minutes be something that is more visual and able to be done seamlessly, and given that she was told by staff that the technology is not a problem as long as the people provide the information in advance and everything is loaded onto the County computer, so there is not an issue with people not being able to open things, for example, she would hope that the Board would immediately consider making that adjustment.

Ms. Mallek said Mr. Kamptner said the Board did not have any vote on this particularly, and that it was a general discussion, so it is something the Board has the ability to modify. She said she did not want people going home mad, thinking they have been treated unfairly and then, they go to some other recourse that ends up taking much more time for staff, applicants, and everybody else.

Mr. Gallaway said once they get everyone's general thoughts, he would try to keep track of the topics and then go back to them individually.

Ms. Price said she has been an attorney for over 40 years, and every judge she has ever appeared before issues a case management order, which requires the parties to submit their proposed exhibits and documents in advance of the hearing. She said in every legislative body she has either observed or been a part of and having worked with Congress for two years in the Navy's Office of Legislative Affairs, there are requirements to submit information in advance of any hearing.

Ms. Price said first, she thinks that for anyone who wants to submit anything to the Board, the Board needs to set a deadline and hold to that deadline so if someone wants something to be considered by the Board, it needs to be submitted at a reasonable time before the hearing or meeting will take place. She suggested this be 48 hours. She said this gives staff an opportunity to review it, ensure that it is appropriate, and have everything set up so that it can be viewed.

Ms. Price said additionally, every legislative body she has observed has a limitation on the number of speakers for Matters from the Public, both in terms in the number and amount of time. She said for hearings, they also set a time limit. She said if one watches Congress or any other legislative body, including the state legislature in the Commonwealth of Virginia, they all set a specific amount of time for a topic for discussion. She said at the end of the discussion, they go to a vote.

Ms. Price said she believes the Board has self-inflicted some of the injury upon themselves by not establishing time limits and numbers of speakers for the items that come before the Board, and that doing so would be appropriate.

Ms. LaPisto-Kirtley concurred with Ms. Price. She said she believes they should allow people to do their prepared PowerPoints and to submit their materials in advance, with no exceptions. She said 48 hours would certainly give staff enough time to address any glitches, and that she wanted Mr. Richardson to weigh in on that to see if that would be enough time.

Ms. LaPisto-Kirtley said she thinks there should be a time limit, and if they have several speakers over a certain amount, it should be reduced to 2 minutes. She said she thought they had a provision for that, though she was not positive. She said this should be enforced. She said there should be a list of people who are going to speak, without last-minute add-ons. She said they need to tighten this up.

Ms. Palmer said she thinks it is the Clerk's Office that will have to comment on whether 48 hours is enough time.

Ms. Palmer said her feelings about this are strong. She said she had no problem with limiting the number of people that speak before Matters from the Public, not for a public hearing. She said if they limit this to 10 people, for example, they know what the maximum situation is that they can get off-schedule for.

Ms. Palmer said her experience with public hearings is that they should not limit the number of people. She said this is very important to the public, especially when there are very difficult subjects. She said she knows the Board has been arbitrary in figuring out which ones should be at 2 minutes, and which ones should be at 3 minutes. She said she thinks this is very aggravating for the public to come in and spend a lot of time preparing a 3-minute discussion for a public hearing on something that they are sincere and passionate about, so she would prefer not to do that.

Ms. Palmer said she would rather see a limit on the amount of time that Supervisors make their statements, rather than putting a limit on the amount of time the public makes a statement.

Ms. Palmer said with respect to the PowerPoints, she was fine with that.

Ms. Palmer said she completely agreed with Ms. McKeel on not having these meetings go for so long. She said she thinks there are some agenda management issues they can look at, and that she has every confidence that Mr. Gallaway, Ms. Price, and the Clerk's Office can brainstorm about what kinds of agenda changes can be made.

Ms. Palmer said on the agenda for that day, for example, she thinks that with the things coming in at the last minute for Yancey Mills, it could have been postponed until the 19th from the very beginning so that they were not trying to read things at the last minute.

Ms. Palmer said it was her problem, but at 11:00 p.m. when they were trying to deal with Yancey

Mill, they did not realize that the one section was a zero setback along Yancey Mills Lane. She said she prepared for hours for that meeting. She said she does think there really is a problem with trying to make decisions at 11:00 p.m., and she would like to figure this out.

Ms. Palmer said in the past, the Board started their meetings at 9:00 a.m., but this was changed. She said she was not suggesting they do this, but that this was one thing that did happen for years prior to her arriving on the Board. She said as soon as she got on the Board, they began starting at 1:00 or 2:00 p.m.

Ms. Palmer said perhaps this was an agenda management issue, but that she does believe the Supervisors have to be a little more cognizant of how long they speak, rather than reducing the public's time.

Mr. Gallaway said he thinks it is reasonable to have the general public comment up front, especially if they communicate out the number of speakers or agree to a timeslot that would be allowed for public comment. He said in the past, there were times when there were more than 10 people and the allotted time went from 3 minutes to 2 minutes. He said they could do something where they either have 10 speakers at 30 minutes, for example, or 15 speakers at 2 minutes each to still allow for 30 minutes of time. He said if they need to get more speakers in, it will allow the chance for 5 more people to speak, but everyone's time limit would then go to 2 minutes.

Mr. Gallaway said as an agenda management item, it could just be that it is 30 minutes allowed for public comment. He said during the meeting, this would be a full hour, as there would be 30 minutes at the start of the meeting, and then 30 minutes again at the 6:00 p.m. timeframe. He said this is one of the items that has recently been putting the Board back, and that he has been hearing about the lateness of meetings. He said a few meetings ago, they got about an hour and a half or two hours behind due to some Smart Scale application comments, as that was the only time people could address that.

Mr. Gallaway said he thinks with this type of management, this is a reasonable way of going about that based on past practice. He said they also must have the time to do the work they are going to do in the agenda.

Mr. Gallaway said relative to the visual aids, when the meetings have been live and in person, the speakers worked with the Clerk's Office to have that set up and ready to go. He asked Ms. Borgersen if she wanted to speak to that and if she would see any difference in workload relative to how they did it when they had live meetings versus virtual meetings, if there were people wanting to present materials, provided there is a time limit they would have to get it in by, deadline, etc.

Ms. Borgersen said she did not see an issue with that. She said she was confident she could handle that.

Mr. Gallaway said there were past concerns about someone having control over their screen, and that this would give them a chance to maintain that control so that not just anything can be put up as visuals.

Mr. Gallaway said for public hearings, in terms of the timeframe and the number of people, this has added to lateness of meetings as well. He said he has heard different ideas on this, but that he thinks this is a tough issue. He said he could certainly appreciate and understand that they want to allow everyone the chance that wants to speak on it, as these tend to be very specific items for public hearing.

Mr. Gallaway said that the matter of the Wetzel property in his district, for example, got them 28-30 speakers that night, which was an hour and a half in that alone. He said if they are going to consider having some sort of control over the time limit on that, this is an item for further discussion.

Mr. Gallaway asked the Board if they were to put in some sort of timeframe, e.g., 48 hours ahead of time, or if the Clerk has any concerns about 48 hours, if there was anyone objecting to that as a process regarding putting in visual aids ahead of time.

Ms. Palmer asked if they were talking about 48 hours if the public wanted to make comments, or if this was for changes, such as with what happened that day.

Mr. Gallaway replied that this was specific to the public comment. He said what happened that day and Ms. Palmer's comment about agenda management were noted. He said this will be handled in a different way.

Ms. Palmer said this was fine with her.

Mr. Kamptner asked if the 48-hour period was for submitting presentations, or if it was to sign up to speak.

Mr. Gallaway said he thought it was for presentations. He said they would require signups and if they have 10 or 15 slots, but only have 3 people signed up, like they did that day, if a fourth person wants to jump in and wants to sign up, the Board has to figure out what the protocol is for that. He said he likes the idea of a specific time period and specific signups in advance.

Ms. Palmer said certainly when they are in person, they have people that hear something and

really want to say something. She said she thinks it is important to allow people to do that. She said in the beginning of the meetings when they have Matters Not for Public Hearing, if they just give a timeslot, she prefers this, rather than requiring people to sign up. She said a lot of people don't understand they can sign up, and that she would hate to squash the public in their ability to participate in those. She said the timeslot makes more sense.

Mr. Gallaway said if he understood Ms. Palmer, if they went to a 30-minute timeslot and only three people signed up but then, a fourth person wanted to add in, since there was remaining time, Ms. Palmer would be okay with that.

Ms. Palmer replied that she thinks they should be okay with that. She said it is important to allow people to do things at the last minute. She said perhaps they just heard about it because someone called and let them know the Board was taking an action.

Ms. LaPisto-Kirtley said she thinks the only exception to that would be if they have a presentation, they would not be allowed to do that and would have to submit it 48 hours in advance.

Ms. Palmer agreed.

Mr. Gallaway said he would imagine if one was giving a presentation, they probably know well in advance of the 48 hours.

Mr. Gallaway asked if in terms of setting aside 30 minutes for general public comment, there were any objections to the thought of this being 10 people at 3 minutes each, or 15 people at 2 minutes each, depending on the number of signups in advance. He said he didn't know how they would manage that, and perhaps Ms. Borgersen has concerns.

Ms. Palmer said she thinks people need to know in advance, so she would say 3 minutes.

Ms. Mallek said as she understands the pain of having to shrink a 3-minute speech into 2 minutes while sitting in the audience waiting to have a turn, she would perhaps suggest that for Matters From the Public, they say it is 2 minutes and up to 30 minutes total. She said that way, people can prepare, and if they need to get a friend to do the second half of it, that will work.

Ms. Mallek said she is very partial to having people know in advance that they would have a set amount of time for the public hearing comment, to which so much of their lives depend, at times. She said they have had a real assault of very high-pressure items in the last couple months that have been stewing for years, so it was no wonder they were reeling from this. She said she completely understood and felt the exhaustion.

Ms. Mallek said she hopes that when they get back to somewhat of a normal life, it will not be as awful, but she counts on people to have a chance to have their say. She said this way, if they don't get what they want, at least they got an even shake and they feel as if their voice is as important as someone else's. She said to her, this forestalls a lot of backlash that would come later.

Ms. Palmer said having written many of these statements to give before the Board of Supervisors and other bodies in the past, it is very difficult to do one in 2 minutes. She said she was a little concerned about the 2 minutes, especially if there is a complicated issue to talk about. She said it was not just a matter of being against or for something, but that it was frequently about having to give specifics. She said she thinks the 3 minutes is a reasonable thing.

Ms. McKeel asked Mr. Gallaway for clarification about whether they are talking about public comment for public hearing, or public comment for items not on the agenda.

Mr. Gallaway replied that it was the latter. He said it was about the public comment for things not on the agenda.

Ms. Palmer asked if the suggestion were that they would do two different times.

Mr. Gallaway replied that they have two different times in the agenda for general public comment, at the beginning of the meeting, and again at 6:00 p.m.

Ms. Palmer said she was asking about the 2 or 3 minutes.

Mr. Gallaway said when he threw out the examples of 10 people at 3 minutes or 15 people at 2 minutes, if they are requiring a signup in advance, as soon as they hit the 11th speaker, per the first example, there is an acknowledgment to those who have signed up that it switches to 2 minutes. He said he didn't know if that is possible, but they are signing up electronically, and the idea is that they don't get that many people beyond 10. He said in the past 12 months, in his own memory, there has been a handful of times where it has gone past 10 speakers.

Mr. Gallaway said he would think with technology, if there is a 30-minute slot that will be maintained and 10 people sign up, at 3 minutes, they have that. He said as soon as the 11th person signs up, they are all alerted that 2 minutes is now the protocol, and they can allow 4 more speakers. He said if that is too complicated to do technologically, they can try the 10 speakers at 3 minutes each, go from there, and see how it plays out.

Ms. McKeel said it is interesting because for years, the Board has had on the back of their printed agenda that if more than 10 speakers are signed up to speak, the time allotted will be reduced to 2 minutes. She said she has had it on that piece of paper now for years.

Ms. Palmer said this was correct, and they had done this in 2016.

Ms. McKeel said what is important for her is that they treat everyone the same and that if they require signups, they make sure everyone signs up. She said to just allow people to drop in and out is not fair to the people who are going through the trouble to think ahead and sign up. She said what Mr. Gallaway was suggesting is a slightly different take on that, which she understood. She said she thinks they must be respectful for people that go through the trouble to sign up.

Ms. McKeel said they have situations now where people are gathering in homes and passing the phone around at the end of the meeting at 11:00 p.m. to speak. She said this happened to be during a public hearing, but she thinks that some way or another, they also have to remember that there are other ways for people to reach the Board, such as email and telephone conversations. She said this is not the only way that their public is reaching them.

Ms. McKeel said Ms. Price said that at one point, with one proposal that came forward, she had 700 emails. She said she would almost bet that one could divide those emails into two camps, with many of them making exactly the same points.

Ms. Palmer said in the past, the Chair or Vice Chair, whichever was handling the public speaking, will say that if someone has something different to say when it is getting late, or if they are repeating the same thing that their friends have said, they could have those people stand up.

Ms. Palmer said they cannot do that in a virtual setting, but certainly if they have the situation like they did with the gas station on Black Cat Road where there is a campaign and everyone is saying to vote yes or no, and they have hundreds of emails, this is certainly something that the person who is running the public hearing can ask the public to do. She said she has heard this many times when she was sitting in the Board of Supervisors meetings before she got on the Board.

Ms. Palmer said the Board changed this in 2016 and reduced the number, when it got to be 10 speakers, to 2 minutes for just a couple hearings. She said with other hearings, they decided not to do that, e.g., matters dealing with guns. She said they need to be consistent about this.

Mr. Gallaway said to keep this on track, he wanted to know if there was any objection to the general public comment. He said they could put this into play at their next meeting unless Mr. Kamptner advises him to take more time before they implement it. He asked if they could set up a 30-minute timeslot with 10 speakers at 3 minutes. He said this may give them time with Ms. Borgersen and Ms. Price to explore the other option to allow more speakers and lower times even feasible, as he didn't think they could make that call today. He said at least they could start saying this will be the process moving forward, which gives them very specific times that they can start planning their agendas around.

Ms. Mallek asked if they should have something where someone who speaks in Matters from the Public at 1:00 p.m. should not speak at 6:00 p.m. and vice-versa. She said there have been cases where people come twice and say the exact same thing, and she didn't know what to do about that.

Mr. Gallaway said they would see how that goes out. He said for the general public comment, the 19th would be the soonest they could implement that. He asked Mr. Kamptner if there was any reason they should take more time to implement something like that.

Mr. Kamptner said they could treat what Mr. Gallaway just said as a notice to the rest of the Board. He said they can bring back amended rules to the Board for consideration on the 19th, at the beginning of the meeting.

Mr. Gallaway said they could then do the same for the visual aids and the 48-hour piece. He said it sounded like the Clerk was okay with that, and there was no objection to that, so they could take care of those two items.

Mr. Kamptner asked for confirmation about up to 10 speakers in 30 minutes.

Mr. Gallaway said it was 3 minutes a piece.

Ms. McKeel said she would like to see it in writing before she signs off on it.

Mr. Gallaway said this was fair and was the reason he was asking. He said they could start this at the first meeting in September if the Board would like. He said he was open to see where the conversation went because it seemed like people were starting to define where they were at on this anyway, so he figured they could move it along easily. He said it could come back to the Board on the 19th as an information item on consent, and that the first meeting in September could be the implementation date for it.

Ms. McKeel said this was a good idea because then, everyone will see exactly what the Board is talking about, and there will be no confusion over what they agreed to.

Mr. Gallaway agreed. He said if anyone has concerns, they could pull it off consent and address it. He said he couldn't imagine it would be a long conversation. He asked if everyone was okay with it coming back on consent.

Ms. Mallek said yes.

Mr. Gallaway said to him, for the visual aids, this applies to both the general public comment and the public hearings. He said this handles that item.

Mr. Gallaway asked the Board if limiting time or speakers for the public hearing was an item that they weren't sure about.

Ms. McKeel said although she understood this was the Board's decision, she wanted Mr. Richardson to weigh in, as he has had a lot of experience with boards and public hearings. She said she was curious as to what his thoughts are about what he has found works because the Board is struggling to maintain a meeting time that they can all deal with. She said good decisions are not made at 10:00 and 11:00 p.m.

Ms. McKeel said the Board of Supervisors used to have a Chair who, at 9:00 p.m., would put his gavel down, say he was done, and leave. She asked if Mr. Richardson had any thoughts.

Mr. Richardson said different Board members have made those observations and collectively, when he adds up all the years of experience the Board has, he certainly doesn't have more years of experience than the Board. He said he has been in other places, and in places where they struggled with late night meetings. He said he and Mr. Doug Walker have talked about it, and that Mr. Walker has as well. He said they often search hard for the balance of effectiveness as it relates to openness and transparency with the citizens.

Mr. Richardson said he does believe that once they pass a certain meeting time, which is subjective and somewhat personal, he doesn't believe they are at their best, and that he has shared this with each Board member individually. He said he appreciated the Board's attention, interest, and energy in trying to figure out ways to back that down. He said he worries about the Board's own safety if there are Board members at the office late at night and traveling back home. He said in some cases, several Board members have been traveling after midnight, which staff has talked about, as they worry about them being on the roads so late in the evening.

Mr. Richardson said the Board is recognizing how tired they are. He said their meetings start at 1:00 p.m. and in cases of recent work they have done, they are there past 11:00 p.m., meaning they are in their eleventh hour of a virtual meeting. He said he was sure it was exhausting for the Board and that frankly, it was exhausting for staff as well. He said staff is there for the Board, but that he did not know that they do their best work in the eleventh hour of the meeting.

Mr. Richardson said in some prior situations he has been in with public hearings, they have said they will accept public comment for a certain period of time, and then they have to move on and make a decision. He said he looks back, personally, at the Boyd Tavern situation where there were 35 or 40 speakers, and that he and the Board heard much of the same information over and over again, with speakers basically making the same point. He said in past jurisdictions he has been in where they would have long public hearings, the board made a decision and said they were going to cut off public comment after a certain amount of time because they have to manage the agenda and make sure they get to everything, or they will run out of energy.

Mr. Richardson said he didn't know if his comments were eye opening, but that these were his observations. He said staff wants to help in any way they can.

Ms. McKeel said they need to realize that while the Board starts at 1:00 p.m., staff starts at 7:00-8:00 a.m. She said when they go that late on a Wednesday evening, they still have to come in the next morning, go to work, and survive Thursday and Friday. She said this was one of her points back when she suggested moving to Thursday evening because at least then, staff would be able to say they have to live through Friday, and at least they would have the weekend to recuperate.

Ms. McKeel said to Ms. Palmer's point about starting at 9:00 a.m., her recollection of starting at that time was that they still got out at 9:00 or 10:00 at night. She said whatever amount of time they allow, they fill it up, so she was in no way interested in moving back to 9:00 a.m., which would only give them an even longer period. She thanked Mr. Richardson for his comments.

Mr. Kamptner said the late night items the Board is experiencing are land use items, and under the state planning and zoning laws, with items that require public hearings, the public is allowed to appear and present their views. He said the Board is able to control the time that each speaker has, but he was not aware of any authority that allows the Board to cut off the number of speakers.

Mr. Kamptner said there are a lot of techniques the Board has applied, including what Ms. Palmer mentioned about how asking people to stand up in support of what a speaker has said, as there is a lot of repetition. He said if someone shows up, particularly for a land use item, and wants to speak, the Board needs to let them do it, under the law.

Ms. McKeel said there are people who sign up for the public hearings. She said they are also allowing people to just free flow in and out with comments. She asked how the law affects that.

Mr. Kamptner said he didn't think he had a great answer, but the way they have done it where they allow anyone who shows up, even if they have not signed up, when they are physically assembled, he thinks they have a right to speak.

Ms. McKeel said Zoom obviously changes the situation. She asked if they could be in their living room with 20 people and just pass the phone around.

Mr. Kamptner said at some point, they reach a point where the whole statutory scheme and practice breaks down, where it is almost like a filibuster. He said he could look at that to see if there are other tools or options available.

Ms. McKeel asked if they know what other peer counties do. She said when she did her independent survey back in January, their peer communities that were much larger and ones they consider to be well-run had meetings that went from 4:00-8:00 p.m., or 5:00-9:00 p.m. She said she was sure they were taking public comment.

Mr. Kamptner said the County, as an organization, gets into the details, which is part of what lengthens their meetings. He said this is just the way it is. He said he could take a look and see whether and how other localities are curtailing the number of speakers at public hearings.

Mr. Kamptner said currently, the Board's rules allow 3 minutes for a speaker, and the Board can reduce that to 2 minutes or 1 minute and invite written comments. He said that option is certainly available.

Ms. McKeel said it is important for people to understand that the Board is not trying to shut down any kind of public dialogue. She said they have email and phones. She said at some point, however, they cannot continue to have these meetings that go all day long. She said they have to get their work done.

Ms. Mallek said she was intrigued by the concept of having a group of people and passing the phone. She asked Ms. Borgersen if she disconnects someone after they have had their comment, as this would be a way to control that. She said this was all new to her.

Ms. Mallek said she already gave her idea about having a fixed amount for the different categories.

Ms. Mallek said she was surprised to hear that the passing of the phone was a way to get five people in on one phone number, which she didn't know was a possibility.

Ms. McKeel said she was told this was what happened.

Ms. Mallek said she was not arguing but was just surprised. She said hopefully that night, the Board will come back before they stop this discussion with whether or not they allow someone who sent in their materials for public hearing to try first to submit on a Friday, then send everything in by Monday to allow their representative to use their PowerPoint tonight. She said at some point, she would like this addressed before they move on to some other agenda item.

Mr. Gallaway asked Ms. Borgersen if it was more about the Zoom meeting and if these were people who did sign up ahead of time, but then are all around one computer, not one phone getting passed around.

Ms. Borgersen said this was correct.

Mr. Gallaway said for Zoom meetings, they are logged in with one login, but that they did, in fact, sign up as individual speakers ahead of time.

Ms. Borgersen said this was correct and that it usually has to do with connectivity issues. She said they go to a location where they have good connectivity and can share a computer.

Ms. Mallek said she could absolutely see why people do this.

Ms. McKeel said this made more sense.

Ms. Price said Mr. Kamptner indicated a moment ago that the Board has allowed people to speak, even though they had not previously signed up. She said he mentioned that they have allowed 3 minutes per speaker, but they could change it to 2 minutes or 1 minute. She asked Mr. Kamptner if he could clarify that if the Board established a procedure that required people to sign up in advance, which she would offer out 48 hours as a suggestion, then it sounds like they could limit the number based upon that procedure. She asked Mr. Kamptner to get back to the Board on that.

Ms. Price said with regard to the Boyd Tavern application, she exchanged 763 emails. She said at the hearing, as she recalled, there were approximately 48 speakers and that the last 6 of those were in a single residence. She said candidly, she didn't think it makes a difference whether they have logged in on one computer or on the phone. She said if they've signed up, they've signed up.

Ms. Price said she was not suggesting that the Board limit all public hearing comment from the public to thirty minutes. She said the Board has a responsibility to identify the significance of issues based on public concern and interest, and that some public hearings will be longer than others. She said she believed that if the Board does not establish a process, policy, and procedure and then comply with it, they will be bringing this upon themselves.

Ms. Price said she could say there was one vote that happened at about 11:00 p.m. which, in hindsight, she didn't believe was necessarily the right one. She said it goes back to killing staff, exhausting themselves, and not being efficient. She said when they hear multiple people saying exactly the same thing, she doesn't think this really adds to the public discourse.

Ms. Price said she was not trying to limit public input. She said she was not trying to limit public communication. She said she does believe that the Board has to be reasonable, however, or they will not be an efficient Board.

Ms. LaPisto-Kirtley said she agreed. She said with Boyd Tavern and the fact that they had so many emails, they could have easily anticipated the fact that they would have gotten a lot of public input and could have therefore limited it to signing up in advance, but then limiting it to 2 minutes. She said people have to get their thoughts together and have to be efficient. She said as Board members, they also need to do that. She said they extend their meetings a lot longer because they go on and on, and she thinks they need to focus on what they want to say, get that message out to everyone, call for the question, and move on.

Ms. LaPisto-Kirtley agreed that when they have a lot of emails, they know what issues are hot topics, and that they should limit the amount of input they receive from the public to say 2 minutes.

Ms. LaPisto-Kirtley said she liked Mr. Gallaway's suggestion that for general public comment, they limit it to 30 minutes, then say it's 3 or 2 minutes. She said for regular public hearings, if there are a lot of people signing up, they should do the same thing because she thinks the public wants to be heard, but that they also want to be able to stay up to hear the resolution of the Board's decisions, which is currently until about 11:30 p.m.

Ms. Palmer said she has consistently, bitterly complained about late night meetings over the years because she is an early morning person, is up at 5:00 a.m., and tries very hard to go to bed at 9:30 p.m. each night. She said she was all for trying to figure out how to do this. She said she was glad to hear from Mr. Kamptner that they are not supposed to be limiting the number of people who speak at a public hearing on a land use matter, and that he will look into that, which she appreciated.

Ms. Palmer said if they have over 30 people signing up for these long public hearings, they will frequently go for a long time without having one of those. She said now, suddenly, they have been having many of them in a row. She said part of it is that they are now online and there were many glitches in the beginning to get things moving. She said for the public hearing, she would prefer the 3 minutes, and if they have a certain number of people signed up, e.g., 10 speakers, and go over that, they can switch it down to 2 minutes.

Ms. Palmer said she agreed with Ms. LaPisto-Kirtley that the Board members have to limit how much they are talking.

Ms. Palmer said she believed that Ms. Mallek suggested at the beginning of the discussion about the applicant's representative. She said there is a talented group of people who represent applicants and come before the Board time and time again. She said the Board is not as aggressive at times in getting those people to stop talking. She said the limit now is 10 minutes, and she didn't know if this was required by law, or if they should be cutting them back and being more aggressive when they come back up to respond to the public hearing. She said sometimes, the Board allows the applicant's representative to go on and on.

Ms. Palmer said she would suggest that those managing public comment for the Board, i.e., Chair and Vice Chair, take a look at the time they are allowing the applicant's representative to talk as well.

Mr. Gallaway said he would respond to that. He said on all of his sheets, he takes very careful notes of when things set. He said the Clerk prepares a script for him and that on it, it has item start, item end, staff start, staff end, public start, public end, Board start, and Board end. He said he could look back too since he has been Chair to look at his agendas, which he keeps in his desk, to see very clearly how much time each person has taken. He said he can say that since the virtual meetings have gone on, the 10-minute rule has been adhered to religiously by the Clerk.

Mr. Gallaway said the applicant gets a chance to go on and on when a Supervisor asks and allows the applicant to respond to their question. He said they then get more presentation times and visuals, and that this has happened frequently.

Mr. Gallaway said he was hearing loud and clear that the Supervisors want to be more regulated in their time, and that he was happy to take that task on. He said he hoped there was no kickback on the items that are of more priority to some than others. He said it is a delicate line to try to walk sometimes of trying to keep things in order and move on.

Mr. Gallaway said case in point, he was looking back through his notes, and the Child Development Center public hearing ended at 8:19 p.m., and the Board didn't end until 9:20 p.m., which was one of the shorter ones. He said this was almost an hour of Board time after the public comment ended. He said that was a long evening.

Mr. Gallaway said for the Parkway Place application, they started at 6:24 p.m. and ended at 10:55 p.m., and this had less than 30 speakers. He said there was an hour and a half of that 4.5 hours that was public comment. He said he was using that example because he probably took some time himself as a Supervisor that night. He said when whoever is Chair is speaking, the Vice Chair gets the job of regulating that speaker because technically, the gavel is supposed to change hands when the Chair is speaking on an item.

Mr. Gallaway said he has the agenda starts and stops for Boyd's Tavern, including the first round of that hearing. He said on the first hearing, the public ended at 8:51 p.m. and the Board ended at 9:22 p.m., so they took an extra half an hour.

Mr. Gallaway said to be honest, and as he is the one who has managed this, since the Board has gone to the virtual meeting, their time has been better. He said when they go through the speaking order and he calls on the Supervisors, he thinks this really helps move them along. He said the piece he struggles with is if the Supervisors are asking questions of staff or the applicant for understanding, it is hard to cut that off because that is needed to make a decision on the vote. He said if they start getting into long-winded statements for reasons other than understanding and taking the action, this is where they could limit the time. He said honestly, however, he did not see many Supervisors doing that. He said it was really more about understanding the topics at hand.

Mr. Gallaway said if they are all in agreement that this is a way to police it as well, it is his job as Chair to run the meeting, and he is happy to take that on over the next several meetings.

Ms. Palmer said she wanted to ask a quick question as a follow-up to that. She said for instance, that day, she asked the question about Yancey Mill Lane, and the applicant's representative gave a very full explanation, then went over everything that was said in the last meeting. She said since it was her asking the question, she would be happy to break in, as she tried to do at some point that day to say she understands and to just answer the question.

Ms. Palmer said she does recognize that the 10-minute issue has been adhered to, and they have been good about that all along. She said as Mr. Gallaway said, it is the matter of the follow-up questions and answering of those.

Mr. Gallaway said if Ms. Palmer gets the answer to her question, it is hard for him to decide if she got what she needs. He told the Supervisors to send him a chat once they have the answer to their questions, and he is happy to cut the conversation off and move forward.

Ms. Palmer said she would do that.

Mr. Gallaway said the trick would be when they get back into the live meetings at some point. He said they could have a chat up there as well.

Ms. Palmer said this works for her.

Ms. McKeel asked if it would be helpful if they try to be more conscious of the Board packets, which are usually distributed the Thursday before, acknowledging that they all read their packets at different times, and rather than waiting for the meeting to clarify their questions, if they could try to get with staff on their questions ahead of the meeting. She said this was assuming the Board members were asking the questions because they need clarity. She said if they are asking the questions because they want to make sure the community understands the situation, that goes into a different sort of discussion.

Ms. McKeel said it seems to her that if they have enough time, they ought to be able to reach out to staff and make sure they have their questions answered on at least what is in the Board packet before they get into the meeting. She said this may help a lot.

Mr. Gallaway said he didn't disagree. He said they do see a lot of that, and staff is always cognizant that if one Supervisor asks a question pertinent to everyone but doesn't copy everyone else, they make sure they get that out to everyone, per the operating guidelines.

Mr. Gallaway said the only other thought he had relative to public hearing, with the understanding that they cannot limit the number of speakers, the time could possibly be limited. He said he knows Board members do not always want to have extra meetings, but it occurred to him while they were having the conversation that in the virtual meeting setting, it has been easier for the Board to have an extra, special meeting.

Mr. Gallaway said when he looks at some of the agendas that have had moderate public comment or even longer Board discussion on top of another one that is a high-profile topic, it could be possible that if they have a Boyd Tavern or Parkway Place type of application that they know will generate interest, that they keep this off of the main agenda and schedule the public hearing in that second Wednesday time slot where all they are doing for the meeting is that big item. He said it would

require the extra time, but it is different coming in person for the extra meeting than logging into the virtual meeting.

Mr. Gallaway said he was just throwing that out as an option. He said it is hard with timelines to say that they cannot put a certain item on the agenda if it needs to happen that night, but if they are doing this ahead of the deadlines, they should be able to manage it. He said if they come in with fresh eyes and ears at 6:00 p.m. and have a public hearing like Parkway Place or Boyd Tavern and this is all they are doing that night, that might be different than having 4-5 hours, plus 2-3 other smaller public hearings, plus that big item all in one sitting.

Mr. Gallaway said this would take him discussing pre-agenda items that they think are going to generate larger public comment than others when they are trying to order what goes first, second, etc. in the evening. He said it would certainly be manageable ahead of time, thinking 1-2 months down the road when these things start to get scheduled. He said the Board would have to be willing to meet for that extra meeting for an anticipated large public hearing for that to be possible.

Mr. Gallaway asked, in terms of time limits for public hearings and with the consent item coming back to the Board about the general public comment, if they wanted to consider putting a time limit on speaking time for public hearings or not.

Ms. Price said they can look at it in advance because it depends on what the topic is. She said some public hearings are much more controversial or generate more interest. She said this is something that the County Executive, County Attorney, Chair, Vice Chair, and Clerk need to look at in setting up the agenda. She said she would personally be reluctant to propose a defined limit for all public hearings because some are quick and with others, there is a need to limit the time.

Mr. Gallaway expressed his concern about treating them differently and needing to be the same for all public hearings. He said it was troubling to him to say that one topic gets a different time than another.

Ms. McKeel said there have been Supervisors over the years who have wanted more time for particular things or people over the years, and that they do need to make sure they treat everyone the same.

Ms. Price said they have seen the public interest that is generated, and that she would go back to her examples of other legislative bodies. She said Congress, for example, does not set the exact same time limit for every item that comes before Congress. She said perhaps Mr. Kamptner needed to weigh in on that as well.

Ms. Price said she was not prepared to make a decision on public hearings at that time.

Mr. Gallaway said he knew they were running behind in the agenda, but that they were still under the time for this item. He asked if the Board members wanted to give some thought on the public hearing portion and bring the general public comment back to them on consent. He said this was an item they could kick to the Board retreat or to a second portion of Board retreat as part of that.

Ms. McKeel said she would like to know what other localities are doing around their public hearings.

Mr. Gallaway said this would give them time to try to sort that out.

Ms. McKeel said in terms of best practice, it would be interesting to know what other communities are doing. She said it didn't mean that the Board had to adopt it, but that she would like to know how peer communities are handling it.

Ms. Mallek said she was happy to have the separation of going with Matters from the Public, as soon as it is practicable to do, and try to keep the 3 minutes, for now, for the public hearings. She said not having backlash later, not having people get mad and take the Board to court is an important thing. She said they want to do the best job and have the perception among the community members, not that they are wasting time, but that the people have a chance to say what they want to say, and usually on things that are incredibly important.

Ms. Mallek said usually, zoning matters deal with neighbors next door and that they have great potential to feel aggrieved. She said she has always tried to go out of her way to listen and even though many times, the neighbors do not get the decision they want, they do feel that if they have had their chance the same as everyone else, they will just have to live with it. She said she wants to make sure that the Board is not falling into a hole of letting that perception get away. She said they have a reputation for fairness and that she wants to hang on hard to it while being as expeditious as possible with their meetings.

Ms. Palmer said on the next controversial meeting, they may want to try to say something to the effect of if someone hears their comment already made by someone, to please consider limiting the comments. She said she knew it was hard with the virtual meeting, so she was not sure how this would be, but wanted to allow people to have a way to show their support of a speaker without having to actually speak.

Ms. Palmer said she did hope that if the Board talks about limiting the amount of time, they pick a number that is larger than 10 speakers for the public hearings.

Mr. Gallaway said this matter would continue, and then there was the matter of the request for that evening, that there were speakers asking to present material. He said it sounded like they provided the material in advance. He asked if the Board had any objection to allowing them to have the materials presented tonight.

Ms. Palmer said she had no objection.

Mr. Gallaway asked Ms. Borgersen if she had the information in hand and if this were possible.

Ms. Borgersen said yes. She said she had the presentation and that it was no problem.

Mr. Gallaway said it sounded like the Board would allow that that night, and that speakers would have to adhere to the 3 minutes.

Mr. Richardson said he had a clarifying question. He said there was a request from possibly more than one Board member that staff do some benchmarking and compare data from peer localities. He said he wanted to make sure they were clear on that, moving ahead, and getting some information to bring back to the Board at a future date.

Mr. Gallaway said it didn't sound like anyone objected to that, and that this was good information to get.

Ms. Mallek said she would hope it would be a simple mechanism through VACO or VML to get someone who is already dealing with all those general government policies. She said a staff person to be able to supply that information might be much easier than having people spending a lot of time on the phone. She said that is what they are there for and that hopefully, this will help.

Mr. Gallaway said this was a good idea.

Ms. McKeel said she thinks being science-driven and data-driven is a good way to approach this.

Mr. Richardson said he knew the Board asked for some information several years ago, and he thinks the Clerk's Office or staff may have taken the lead on that. He said Alicia and staff did a lot of work. He said they could certainly go through the state organization, and that she may have some good ideas on that. He said he would talk to her offline and make sure that they talk to Mr. Kamptner as well to figure something out.

Ms. Palmer said the Clerk's Association probably has that information, too.

Agenda Item No. 11. Closed Meeting.

At 4:51 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 Board of Equalization and six County advisory committees; and
- Under Subsection (3), to discuss or consider the acquisition of property for the County's public trail system in the Scottsville Magisterial District.

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. 9. Certify Closed Meeting.

Ms. Palmer left the meeting at 5:45 p.m.

At 6:01 p.m., Ms. LaPisto-Kirtley **moved** that the Board 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.

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, and Ms. Price
NAYS: None
ABSENT: Ms. Palmer

Agenda Item No. 13. Boards and Commissions.

Item No. 13. a. Vacancies and Appointments.

Ms. Price **moved** to make the following appointments to County Boards and Commissions:

- **Appoint** Mr. Lee A Kondor to the Citizens Transportation Advisory Committee (CTAC) with said term to expire on June 30, 2023.
- **Reappoint** Mr. Vito Cetta and John E. Neal to the Places 29 Hydraulic Community Advisory Committee with said terms to expire on August 5, 2022
- **Appoint** Ms. Jaquelin Salazar to the Places 29 Hydraulic Community Advisory Committee with said terms to expire on August 5, 2021
- **Appoint** Mr. William P. McLaughlin to the Places 29 North Community Advisory Committee with said term to expire on August 5, 2022
- **Appoint** Ms. Mary Sandiford to the Village of Rivanna Community Advisory Committee with said term to expire on March 31, 2022

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, and Ms. Price

NAYS: None

ABSENT: Ms. Palmer

Agenda Item No. 14. 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. Kent Schlussel, 1171 River Chase Ridge, Rio District, said he recently took a drive up to 29 North and noticed that there is a lot of new housing going up there. He said he has been following some developments and that more housing will be going in there, including hundreds of apartments. He said he knows some of those people might have the opportunity to work in Charlottesville and would be coming down 29, Rio Road, and to John Warner Parkway and Rio Road East.

Mr. Schlussel said in past discussions, the Board has mentioned that a corridor study is needed for Rio Road East and John Warner Parkway, especially in light of Parkway Place, where the developer wants to build 328 apartments.

Mr. Schlussel said he had not heard anything about the corridor study for several months. He said he knew the budget was tight, but he wanted to know where the study exists in the priorities. He said he thinks it is an important study to understand the traffic and for future development of this area of the County.

Ms. Judy Schlussel, Rio District, said she is a member of the Rio29 CAC. She said she had a couple things she wanted to bring to the Board's attention.

Ms. Schlussel said there are some unsightly junipers and weeds that are growing undisturbed between Dunlora Drive and Belvedere Boulevard. She said she has recently been in conversation with Mr. Adam Moore, and that he seemed to think that it may or may not be a VDOT problem. She said she asked Mr. Moore and his staff to find out, during the construction of the reconfiguring of Rio Road to meet up with John Warner Parkway, whose responsibility it is. She said no one takes care of it, and with this being an Entrance Corridor, this is not the impression they want to have.

Ms. Schlussel said she had the opportunity to attend the Rio North CAC meeting and at that time, RST Residences gave a proposal about a new subdivision that will be south of the Hollymead entrance and north of Brookhill. She said it will be 370 units and 108 two-over-two townhouses. She said what is very disturbing is that it will be on the site that is currently the Ridgewood Park Mobile Homes, with 68 sites. She said some of those people have been there for 45 years or more, and they will be displaced.

Ms. Schlussel said all the County keeps talking about is affordable housing, and these people who have taken pride in their mobile home situation are now going to be displaced and probably cannot afford to live in these new RST residences. She said this was coming down the road and has not yet come before the Planning Commission but after it does, the Board of Supervisors will have to grapple with whether or not to approve it or not approve it. She said this will also have an impact on traffic, which everyone in the Rio-29 area is concerned about.

Agenda Item No. 15. **Public Hearing: FY 2021 Budget Amendment and 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 cumulative total of the FY 2021 appropriations itemized below is \$9,076,033.90. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 2021 Budget Amendment totals \$9,076,033.90. The estimated expenses and revenues included in the proposed amendment are shown below:

<u>ESTIMATED REVENUES</u>	
Federal Revenues	\$ 307,547.00
Other Fund Balances	\$ 8,768,486.90
TOTAL ESTIMATED REVENUES	<u>\$ 9,076,033.90</u>
 <u>ESTIMATED EXPENDITURES</u>	
Special Revenue Funds	\$ 9,076,033.90
TOTAL ESTIMATED EXPENDITURES	<u>\$ 9,076,033.90</u>

The budget amendment is comprised of a total of twelve (12) separate appropriations. Four (4) have already been approved by the Board as indicated below:

- Four (4) appropriations approved 7/15/2020
- Eight (8) appropriation requests for approval on August 5, 2020 are the remaining as described in Attachment A.

After the public hearing, 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 #2021010 **\$260,563.96**

Source:	Federal Revenue	\$211,478.00
	Grant Fund Fund Balance	\$49,085.96

This request is to re-appropriate Fire Rescue and Economic Development grants:

- Re-appropriate \$211,478.00 in Federal revenue for the Federal Emergency Management Agency (FEMA) Staffing for Adequate Fire & Emergency Response (SAFER) grant. This grant will be used to fund the following two Albemarle County Fire and Rescue (ACFR) Recruitment and Retention projects:
 1. A full marketing campaign to recruit new volunteers to increase the public's interest in volunteering.
 2. Training for leaders within all ACFR agencies to help ensure the retention of existing members.
- Re-appropriate \$49,085.96 in Grant Fund fund balance for the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund (VBAF) program grant. This grant will be used to fund an environmental assessment and site remediation planning for the former Barnes Lumber site in Crozet pursuant to the Economic Development Agreement for a Public-Private Partnership (PPP) between the County, the Economic Development Authority (EDA), and Crozet New Town Associates, LLC approved by the Board of Supervisors on June 19, 2019.

Appropriation #2021012 **\$57,116.00**

Source:	Federal Revenue	\$ 57,116.00
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This request is to appropriate \$57,116.00 in Federal revenue for Coronavirus Aid, Relief, and Economic Security (CARES) funding awarded by Housing and Urban Development (HUD) for the Housing Choice Voucher program to help lower-income families and elderly and disabled individuals afford safe housing and support the health and safety of assisted individuals and families. These funds will provide supplies and additional support as needs arise to voucher recipients, as well as related overtime and temporary wages.

Appropriation #2021013 **\$38,953.00**

Source:	Federal Revenue	\$38,953.00
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This request is to appropriate \$38,953.00 in Federal revenue for a grant awarded by the Bureau of Justice Assistance - Coronavirus Emergency Supplemental Funding (BJA-CESF) for outfitting Police Department vehicles with personal protective equipment (PPE).

Appropriation #2021014 **\$0.00**

Source:	Executive Leadership*	\$545,391.00
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*This appropriation does not increase or decrease the total County budget.

This request is to appropriate \$545,391.00 to reallocate the Office of Management and Budget (OMB) from Executive Leadership to the Department of Finance & Budget. Effective July 1, 2020, the Department of Finance and OMB merged into a single department renamed the Department of Finance & Budget, under the leadership of the Chief Financial Officer. The goal of this merger is to align the technical and strategic responsibilities of the two departments in order to optimize customer service and internal processes.

Appropriation #2021015 **\$ 171,400.00**

Source:	Economic Development Authority (EDA) fund balance	\$171,400.00
	Transfer from Economic Development Fund*	\$111,000.00

*This portion of the appropriation does not further increase or decrease the total County budget, as it is reflected in #2021016.

This request is to re-appropriate \$171,400.00 in EDA Fund fund balance and \$111,000 in planned transfers from the Economic Development Fund related to the Virginia Jobs Investment Program (VJIP). The Albemarle County EDA is a political subdivision of the Commonwealth of Virginia, operating in partnership with the Albemarle County Board of Supervisors to improve the quality of life for citizens of the County through responsible and sustainable economic development practices, using the County's Comprehensive and Strategic Plans for guidance, along with the County's Economic Development Strategic Plan. The County serves as the fiscal agent for the EDA.

Appropriation #2021016 **\$4,603,000.94**

Source:	Economic Development Fund fund balance	\$ 4,603,000.94
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This request is to re-appropriate the funding remaining at the end of FY 20 in the Economic Development Fund for the following purposes:

- \$4,000,505.94 for the Economic Development Investment Pool to support future targeted economic development initiatives. The intention is that these resources will leverage/catalyze other possible investment and will provide an immediate and accessible pool of funds for implementing initiatives that will boost business opportunity and create an improved local economy. This amount includes \$1,760,000.00 pursuant to performance agreements previously approved by the Board of Supervisors.
- \$337,000.00 for the Economic Opportunities Fund, which matches economic development grant programs at the State and Federal level that help create jobs and expand capital investment in Albemarle County.
- \$111,000.00 for transfers to the Economic Development Authority (EDA) Fund pursuant to performance agreements previously approved by the Board of Supervisors.
- \$154,495.00 for expenses approved in FY 20, including part-time wages and contractual services.

Appropriation #2021017 **\$945,000.00**

Source:	Special Revenue Fund fund balance	\$ 945,000.00
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This request is to appropriate \$945,000.00 from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) for necessary CARES CRF eligible technology and broadband-related projects deployed to respond to the Public Health Emergency. Prior to execution, all programs will be reviewed by the County's CARES CRF Compliance and Documentation Team.

Appropriation #2021018 **\$0.00**

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

This request is to clarify the scope of appropriation #2021008 approved by the Board of Supervisors at is July 15, 2020 meeting. The prior appropriation was to provide \$1,250,000.00 in Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) for a Business Grant Program. This subsequent appropriation is to clarify that the County will partner with the Community Investment Collaborative, a 501(3)(c) charitable organization to administer the program.

Mr. Andy Bowman, Budget Manager for the Department of Finance and Budget, presented. He said this is an action item and public hearing for the Board. He said the Virginia Code requires that a public hearing be held before the County amends its budget, and when the amount of funds being appropriated exceed 1% of the currently adopted budget.

Mr. Bowman said this was the case, as they had a total increase of approximately \$9.1 million. He said this amount consists mostly of reappropriating funds from FY 20 to FY 21 for the Economic Development Fund, and also includes appropriations of federal revenue from the Coronavirus Aid and Relief and Economic Securities Act, commonly referred to as CARES-related funding. He said Attachment A includes the details on all appropriations, but that these items made up the bulk of the appropriations.

Mr. Bowman offered to answer questions. He said after the public hearing, staff would recommend the Board adopt Attachment B.

There were no questions from the Board.

Mr. Gallaway opened the public hearing. As there was no one signed up to speak, he closed the public hearing and brought the matter back to the Board.

Ms. Price **moved** that the Board approve Attachment B. 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, and Ms. Price
NAYS: None
ABSENT: Ms. Palmer

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 3) That the FY 21 Budget is amended to increase it by \$9,076,033.90;
- 4) That Appropriations #2021010; #2021012; #2021013; #2021014; #2021015; #2021016; #2021017; and #2021018 are approved; and
- 5) That the appropriations referenced in Paragraph #2, 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.

APP#	Account String	Description	Amount
2021010	3-1542-33000-333000-300001-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$211,478.00
2021010	4-1542-32016-432010-110000-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$21,666.02
2021010	4-1542-32016-432010-120000-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$11,239.94
2021010	4-1542-32016-432010-311000-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	-\$17,524.00
2021010	4-1542-32016-432010-312500-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$2,222.51
2021010	4-1542-32016-432010-360000-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$608.87
2021010	4-1542-32016-432010-601104-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$175,661.00
2021010	4-1542-32016-432010-301200-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$5,900.66
2021010	4-1542-32016-432010-390030-1003	SA2021010 - Re-appropriate SAFER Grant to FY21	\$11,703.00
2021010	4-1512-81050-481050-312210-1008	SA2021010 - Re-appropriate Brownfield Grant to FY21	\$49,085.96
2021010	3-1512-51000-351000-510100-9999	SA2021010 - Re-appropriate Brownfield Grant to FY21	\$49,085.96
2021012	3-1100-33050-333000-330018-1550	SA2021012: HUD CARES Funding	\$57,116.00
2021012	4-1100-53020-453010-120000-1550	SA2021012: HUD CARES Funding	\$13,575.45
2021012	4-1100-53020-453010-130000-1550	SA2021012: HUD CARES Funding	\$15,607.15
2021012	4-1100-53020-453010-210000-1550	SA2021012: HUD CARES Funding	\$2,417.40
2021012	4-1100-53020-453010-601380-1550	SA2021012: HUD CARES Funding	\$25,516.00
2021013	3-1503-33000-333000-330001-1003	SA2021013 Personal protection equipment - vehicle kit	38,953.00
2021013	4-1503-31013-431010-800100-1003	SA2021013 Personal protection equipment - vehicle kit	38,953.00
2021014	4-1000-12150-412150-110000-1001	SA2021014 Merge OMB and Finance	-\$366,475.00
2021014	4-1000-12150-412150-120000-1001	SA2021014 Merge OMB and Finance	-\$2,500.00
2021014	4-1000-12150-412150-130000-1001	SA2021014 Merge OMB and Finance	-\$4,900.00
2021014	4-1000-12150-412150-210000-1001	SA2021014 Merge OMB and Finance	-\$28,601.00
2021014	4-1000-12150-412150-221000-1001	SA2021014 Merge OMB and Finance	-\$45,341.00
2021014	4-1000-12150-412150-221500-1001	SA2021014 Merge OMB and Finance	-\$770.00
2021014	4-1000-12150-412150-222100-1001	SA2021014 Merge OMB and Finance	-\$4,090.00
2021014	4-1000-12150-412150-231000-1001	SA2021014 Merge OMB and Finance	-\$43,095.00
2021014	4-1000-12150-412150-232000-1001	SA2021014 Merge OMB and Finance	-\$1,200.00

2021014	4-1000-12150-412150-241000-1001	SA2021014 Merge OMB and Finance	-\$4,303.00
2021014	4-1000-12150-412150-242000-1001	SA2021014 Merge OMB and Finance	-\$360.00
2021014	4-1000-12150-412150-270000-1001	SA2021014 Merge OMB and Finance	-\$330.00
2021014	4-1000-12150-412150-301200-1001	SA2021014 Merge OMB and Finance	-\$28,721.00
2021014	4-1000-12150-412150-332104-1001	SA2021014 Merge OMB and Finance	-\$5,445.00
2021014	4-1000-12150-412150-382040-1001	SA2021014 Merge OMB and Finance	-\$105.00
2021014	4-1000-12150-412150-392000-1001	SA2021014 Merge OMB and Finance	-\$500.00
2021014	4-1000-12150-412150-520300-1001	SA2021014 Merge OMB and Finance	-\$800.00
2021014	4-1000-12150-412150-550100-1001	SA2021014 Merge OMB and Finance	-\$1,600.00
2021014	4-1000-12150-412150-550104-1001	SA2021014 Merge OMB and Finance	-\$100.00
2021014	4-1000-12150-412150-580100-1001	SA2021014 Merge OMB and Finance	-\$800.00
2021014	4-1000-12150-412150-600100-1001	SA2021014 Merge OMB and Finance	-\$800.00
2021014	4-1000-12150-412150-601200-1001	SA2021014 Merge OMB and Finance	-\$100.00
2021014	4-1000-12150-412150-601700-1001	SA2021014 Merge OMB and Finance	-\$4,455.00
2021014	4-1000-12148-412140-110000-1001	SA2021014 Merge OMB and Finance	\$366,475.00
2021014	4-1000-12148-412140-120000-1001	SA2021014 Merge OMB and Finance	\$2,500.00
2021014	4-1000-12148-412140-130000-1001	SA2021014 Merge OMB and Finance	\$4,900.00
2021014	4-1000-12148-412140-210000-1001	SA2021014 Merge OMB and Finance	\$28,601.00
2021014	4-1000-12148-412140-221000-1001	SA2021014 Merge OMB and Finance	\$45,341.00
2021014	4-1000-12148-412140-221500-1001	SA2021014 Merge OMB and Finance	\$770.00
2021014	4-1000-12148-412140-222100-1001	SA2021014 Merge OMB and Finance	\$4,090.00
2021014	4-1000-12148-412140-231000-1001	SA2021014 Merge OMB and Finance	\$43,095.00
2021014	4-1000-12148-412140-232000-1001	SA2021014 Merge OMB and Finance	\$1,200.00
2021014	4-1000-12148-412140-241000-1001	SA2021014 Merge OMB and Finance	\$4,303.00
2021014	4-1000-12148-412140-242000-1001	SA2021014 Merge OMB and Finance	\$360.00
2021014	4-1000-12148-412140-270000-1001	SA2021014 Merge OMB and Finance	\$330.00
2021014	4-1000-12148-412140-301200-1001	SA2021014 Merge OMB and Finance	\$28,721.00
2021014	4-1000-12148-412140-332104-1001	SA2021014 Merge OMB and Finance	\$5,445.00
2021014	4-1000-12148-412140-382040-1001	SA2021014 Merge OMB and Finance	\$105.00
2021014	4-1000-12148-412140-392000-1001	SA2021014 Merge OMB and Finance	\$500.00
2021014	4-1000-12148-412140-520300-1001	SA2021014 Merge OMB and Finance	\$800.00
2021014	4-1000-12148-412140-550100-1001	SA2021014 Merge OMB and Finance	\$1,600.00
2021014	4-1000-12148-412140-550104-1001	SA2021014 Merge OMB and Finance	\$100.00
2021014	4-1000-12148-412140-580100-1001	SA2021014 Merge OMB and Finance	\$800.00
2021014	4-1000-12148-412140-600100-1001	SA2021014 Merge OMB and Finance	\$800.00
2021014	4-1000-12148-412140-601200-1001	SA2021014 Merge OMB and Finance	\$100.00
2021014	4-1000-12148-412140-601700-1001	SA2021014 Merge OMB and Finance	\$4,455.00
2021015	3-6850-51000-351000-510100-9999	APP2021015: Re-app EDA Fund-partial	\$171,400.00
2021015	3-6850-51000-351000-512000-9999	APP2021015: Re-app EDA Fund-partial	\$111,000.00
2021015	4-6850-91095-491095-950029-1008	APP2021015: Re-app EDA Fund-partial	\$282,400.00
2021016	3-1820-51000-351000-510100-1008	APP2021016: Re-app ED Fund	\$4,603,000.94
2021016	4-1820-81050-481050-130000-1008	APP2021016: Re-app ED Fund	\$30,000.00
2021016	4-1820-81050-481050-210000-1008	APP2021016: Re-app ED Fund	\$2,295.00
2021016	4-1820-81050-481050-312210-1008	APP2021016: Re-app ED Fund	\$92,200.00
2021016	4-1820-81050-481050-560000-1008	APP2021016: Re-app ED Fund	\$30,000.00
2021016	4-1820-93010-493010-930222-1008	APP2021016: Re-app ED Fund	\$111,000.00
2021016	4-1820-99900-499000-999954-1008	APP2021016: Re-app ED Fund	\$4,000,505.94
2021016	4-1820-99900-499000-999987-1008	APP2021016: Re-app ED Fund	\$337,000.00
2021017	3-1100-51000-351000-510100-9999	APP2021017 CARES CRF - Technology and Broadband	\$945,000.00
2021017	4-1100-99900-499000-999999-9999	APP2021017 CARES CRF - Technology and Broadband	\$945,000.00
2021018	4-1100-81050-481050-700380-1008	APP2021018 Clarify Approp 2021008 - Business Grant Prog partner w/ Community Investment Collaborative	\$0.00

Agenda Item No. 16. Public Hearing: Ordinance to Change the Northside Precinct Polling Place and the Branchlands Polling Place Location.

The Executive Summary forwarded to the Board states that Virginia Code § 24.2-307 requires

that the Board of Supervisors establish polling places by ordinance.

County Code § 2-102(C)(2) currently establishes the Activity Center at the Church of the Incarnation as the polling place for the Branchlands Precinct in the Rio Magisterial District, and County Code § 2-102(C)(4) currently establishes the Earlysville Volunteer Fire Station as the polling place for the Northside Precinct in the Rio Magisterial District.

Due to Covid-19, these locations were not able to serve as polling places for the June 23, 2020 primary election. Given the uncertainty of the duration of the Covid-19 pandemic, the Electoral Board decided it would be best to find a new polling place for the Branchlands Precinct and the Northside Precinct for future elections.

The Albemarle County Electoral Board investigated alternative polling place locations for the Branchlands Precinct and recommends that the polling place be relocated to the Hillsdale Conference Center at 550 Hillsdale Drive. The Charlottesville Area Association of Realtors owns and manages the Hillsdale Conference Center, and has agreed to have the Hillsdale Conference Center serve as the polling place for the Branchlands Precinct. The attached map (Attachment A) shows the former Church of the Incarnation location and the proposed new Hillsdale Conference Center location.

The Albemarle County Electoral Board investigated alternative polling place locations for the Northside Precinct and recommends that the polling place be relocated to the Laurel Hill Baptist Church at 3595 Grand Forks Blvd. The Laurel Hill Baptist Church has agreed to serve as the polling place for the Northside Precinct. The attached map (Attachment B) shows the former Earlysville Volunteer Fire Station location and the proposed new Laurel Hill Baptist Church location.

The County Attorney has prepared the attached proposed ordinance (Attachment C) to reflect these polling place changes for the Board's consideration.

The adoption of the proposed ordinance will have minimal budget impact, as new voter cards will have to be mailed to all registered voters in the Branchlands Precinct and the Northside Precinct.

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

Mr. Jake Washburn, General Registrar, said they have lined up two good spots for the new polling locations, and have agreements signed by both of the lessors. He said the basics were outlined in the Executive Summary.

Mr. Jim Heilman, Secretary of the Electoral Board, said he believed this was self-explanatory. He said two places that have been their polling places did not allow these to be used due to COVID for the June 23 primary, and they have no reason to believe these places would welcome them back for the November 3 General Election. He said he hoped the Board would approve and adopt an ordinance for the two new polling places.

Ms. Price thanked Mr. Washburn and Mr. Heilman for their hard work in a very short window of time to resolve this voting issue. She said she was confident the County will send out sufficient communication to the voters to make it an easy transition.

Mr. Gallaway said he appreciated the fact that when this came up, especially for Northside earlier, which had some frustration around it for him, that there was going to be follow-up on that. He said he was unable to schedule it for further discussion. He said his question was for all the other polling places leading up to November, if everyone else was locked and loaded at this point, or if a scenario like this could come up between now and Election Day where they have to change a polling place again. He asked if the County has reached out to all the polling places and if their concerns are mitigated relative to COVID-19.

Mr. Heilman replied that currently, he believes all of them are on board and have not expressed any particular concerns. He said Ms. Clarice Schermerhorn may be able to expand on that.

Ms. Schermerhorn said so far, they have not had rumblings of anything, so they think things will go forward as normal.

Mr. Gallaway asked if Ms. Schermerhorn has been proactive in reaching out to the polling places to make sure there are no concerns, or if they were waiting to hear from them.

Ms. Schermerhorn replied that it was a little early for that, but that they are in the process of doing that. She said they have been talking with the schools, and that there are non-school polling places that they will touch base with repeatedly between now and then.

Mr. Gallaway said he would expect that they all that his conversation already.

Ms. Schermerhorn said yes.

Mr. Gallaway said had what happened with the Northside Precinct happened in a normal election versus a primary or a lead-up to a smaller primary, it would have been very disconcerting.

Ms. Schermerhorn said yes.

Mr. Gallaway said his hope was that knowing there have been a couple of places now, two of which were in his district, that have had concerns around what has led to these changes, that this is the red flag that says to make sure that everyone else is locked in. He said all elections are important, but this one is one that will have a lot of attention. He said there are the mail-in ballots. He said for anything to change, in his opinion, between Labor Day and Election Day, it will create anxiety on a population that is already experiencing extreme anxiety with the pandemic and everything else that is going on.

Mr. Gallaway said he knows this has been discussed, and he would just be supportive of making sure they are proactively reaching out to get the commitments so they don't have to add to any of the anxiety before the November election. He said for what it was worth, he felt better saying that.

Mr. Heilman added that none of the places that they used for the June 23 primary expressed any concern as to what they did, how they did it, or their COVID protective measures. He said everyone seemed fine with that. He said they will be following up.

Mr. Gallaway said this was good to hear. He opened the public hearing. As no one was signed up to speak, he closed the public hearing and brought the matter back before the Board.

Ms. Price **moved** that the Board adopt the proposed ordinance (Attachment C). 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, and Ms. Price
NAYS: None
ABSENT: Ms. Palmer

ORDINANCE NO. 20-2(2)

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE 1, ELECTIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 2, Administration, Article 1, Elections, is hereby amended and reordained as follows:

By Amending:
Sec. 2-102 Rio Magisterial District.

Chapter 2. Administration

Article 1. Elections

Sec. 2-102 Rio Magisterial District

.....

B. *Precincts.* The district shall be divided into five precincts, which are described as follows:

.....

2. *Branchlands Precinct.* Beginning at Charlottesville's northern city limits and its intersection with Denice Lane and Rio Road East (State Route 631); then northwest along Rio Road East to its intersection with Seminole Trail (U.S. Route 29); then south along Seminole Trail to Charlottesville's northern city limits; then east along the Charlottesville city limits to its intersection with Denice Lane and Rio Road East, the point of origin.

.....

4. *Northside Precinct.* Beginning at the intersection of Seminole Trail (U.S. Route 29) and the South Fork Rivanna River; then northeast along Seminole Trail to its intersection with Dickerson Lane (State Route 763); then west along Dickerson Lane to its intersection with Dickerson Road (State Route 606); then south along Dickerson Road to its intersection with Earlysville Road (State Route 743); then northwest along Earlysville Road to its intersection with Buck Mountain Road (State Route 663); then northwest along Buck Mountain Road (State Route 663) to its intersection with Buck Mountain Road (State Route 664); then northwest along Buck Mountain Road (State Route 664) to its intersection with Buck Mountain Road (State Route 665); then southwest along Buck Mountain Road (State Route 665) to its intersection with Bleak House Road (State Route 662); then south along Bleak House Road to its intersection with Reas Ford Road (State Route 660); then South along Reas Ford Road to its intersection with the South Fork Rivanna River; then meandering east along the South Fork Rivanna River to its intersection with Seminole Trail (U.S. Route 29), the point of origin.

.....

C. *Polling places.* Each precinct shall have a polling place at the location identified below:

.....
2. *Branchlands Precinct.* Hillsdale Conference Center, 550 Hillsdale Drive.

.....
4. *Northside Precinct.* Laurel Hill Baptist Church, 3595 Grand Forks Boulevard.

(8-19-71, § 1; 9-5-72; 7-15-81; Code 1988, § 6-1; 5-15-91; Ord. 95-6(1), 1-11-95; Ord. 98-A(1), 8-5-98, § 2-100(1), § 2-101; Ord. 01-2(1), 5-9-01; Ord. 02-2(3), 5-1-02; Ord. 06-2(2), 7-12-06; Ord. 11-2(2), 5-4-11; Ord. 15-2(2), 10-7-15; Ord. 18-2(2), 4-11-18; Ord. 19-2(2), 8-7-19; Ord. 19-2(3), adopted 12-4-19, effective 1-1-20; Ord. 20-2(2), 8-5-20)

State law reference—Va. Code §§ 15.2-1211, 24.2-304.1 *et seq.*, 24.2-305 *et seq.*

Agenda Item No. 17. **Public Hearing: SP202000004 Wild Turkey (Cross Property) Tier III PWSF Special Use Permit.**

The Executive Summary forwarded to the Board states that At its meeting on June 16, 2020, the Planning Commission conducted a public hearing and voted 7:0 to recommend approval of SP202000004 with staff's recommended conditions. The Commission also voted 7:0 to recommend approval of the special exception to modify the antenna standoff distance. Attachments A, B, and C are the staff report, action memo, and minutes from the Planning Commission meeting.

The Planning Commission's recommendations were consistent with the staff recommendation.

The primary discussion topic was the applicable review standard for screening and siting to minimize visibility from the Scenic Byway Avoidance Area as well as from adjacent properties and conservation easements. Although the Special Use Permit process provides for legislative review of Tier III facilities, in this case due to the proposed facility's location within 200' of a Virginia Scenic Byway, the facility is subject to the same standard in the zoning ordinance for screening and siting to minimize visibility as a Tier II facility (Section 5.1.40(b)(6)). The proposed facility would not be visible from the structure specifically identified for protection in the deed for an adjacent open-space easement. Members of the Commission also discussed the proposed facility's siting and height relative to existing tree cover, and application history for two existing personal wireless service facilities on the site.

Two members of the public spoke during the public hearing: a representative of two property owners on Broad Axe Road spoke in opposition, and an adjoining property owner across Route 250 spoke in support.

After the staff report was published, the applicant submitted revised plans to correct a discrepancy in height shown in the original plans (Attachment D). The recommended conditions of approval have been revised in the attached resolutions.

Staff recommends that the Board adopt the attached resolutions to approve SP202000004 (Attachment E) and the special exception request (Attachment F).

Mr. Andrew Knuppel, Senior Neighborhood Planner, said he would present a Special Use Permit application for a new Tier III Personal Wireless Service Facility near Route 250 and Wild Turkey Lane in the White Hall District.

Mr. Knuppel said the parcel is zoned RA Rural Areas and is located just outside of the boundaries of the Community of Crozet in the Comprehensive Plan. He said it is on a 6-acre parcel located on the southeast corner of Route 250 and Wild Turkey Lane.

Mr. Knuppel said the area is mostly rural residential. He said there are some single-family dwellings on wooded lots oriented to Route 250 or to cul-de-sacs that come off Route 250. He said Route 250 is an Entrance Corridor and a Virginia Scenic Byway, and that he would discuss the significance of this momentarily.

Mr. Knuppel presented photographs of the site area. He said the site is a wooded area and is cleared near the tower area. He said it is elevated overlooking Route 250, pictured in the background. He said the photo on the right was from the springtime, showing the other two facilities on the site and facing the driveway. He presented a photo perspective facing northeast towards Route 250.

Mr. Knuppel said he had more photos that show the context on Route 250. He said there is a board fence in the photo, and two existing facilities in the background. He said it is a wooded area. He said this section of Route 250 is a two-lane road with a potential left-hand middle/center turn lane. He said both sides are fairly well-wooded and screened.

Mr. Knuppel said the proposal is for a treetop-style personal wireless service facility. He said the monopole would be about 116.7 feet tall. He said it is designed to a Tier II standard where it would be 10 feet taller than the nearest tree within 25 feet of the monopole. He said there would be one flush-mounted

antenna array mounted 112.7 feet above ground level.

Mr. Knuppel said its location is about 28 feet and 5 inches from Route 250, approximate to the other two towers currently on the property. He said this location within 200 feet of the Virginia Scenic Byway puts it within an avoidance area and triggers a Tier III standard of appeal. He said in the County Zoning Ordinance, an avoidance area is an area having significant resources where the initial siting of personal wireless service facilities could result in adverse impacts. He said this includes ridge areas, parcels within agricultural and forestal districts, historic districts, and areas within 200 feet of state scenic byways or highways.

Mr. Knuppel said Route 250 is a state scenic byway and therefore, the Tier III review standard was triggered, as well as a special use permit.

Mr. Knuppel said visibility is the primary focus in the review of personal wireless service facilities. He said this is stated in the Wireless Policy and is the primary criteria in the Zoning Ordinance. He shared text from Section 5.1.40 of the screening and siting criteria in the ordinance, which states, "The site shall provide adequate opportunities for screening, and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility." He said the ordinance states, "The facility also shall be sited to minimize its visibility from any entrance corridor overlay district." He noted Route 250 is also an entrance corridor.

Mr. Knuppel said the ordinance also states, "If the facility would be located... adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement."

Mr. Knuppel noted that the Zoning Ordinance and Wireless Policy do not require invisibility. He said facilities can hide in plain sight with mitigating techniques to reduce or eliminate visual impacts. He said in this case, the County's review standard for a treetop facility does permit it to be taller than the nearest tree within 25 feet of the facility. He said a site with a tower like this does necessitate a degree of visibility for the facility to be able to propagate its signal and effectively provide wireless services.

Mr. Knuppel said that under Section 704 of the Telecommunications Act of 1996, the County cannot prohibit or have the effect of prohibiting wireless services, or unreasonably discriminate against functionally equivalent providers. He said it may also not regulate the placement, construction, and modification of wireless facilities on the basis of environmental effects of radio frequency emissions.

Mr. Knuppel said he would share some examples of some of the language used to describe visibility and other mitigation techniques in the ordinance. He said "skylining" refers to when portions of a facility are visible with only the sky as a backdrop. He presented a picture of 5th Street as an example. He said the other photo on the slide showed the existing facilities on Wild Turkey Lane. He said one would expect some visibility when looking directly at them, above the trees, with some clearance as well from the trees.

Mr. Knuppel presented another photo, this time with an example of screening per the Wireless Policy. He said this was an example of screening with trees on a site off of Route 53. He said the trees obscure the monopole from view. He showed a similar picture showing how screening works on the Route 250 site. He said one might be able to see the two existing towers and the red balloon from the balloon test for this facility.

Mr. Knuppel said backdropping is another example of how visible impacts can be mitigated. He said the left-hand side shows a picture from the Wireless Policy, and the righthand side is a photo simulation from one of the early balloon tests, showing the mountain backdrop rather than the sky.

Mr. Knuppel said he would walk through the visibility analysis and balloon tests. He said staff has been conducting visibility analysis using GIS software, which is what they use as an initial tool to predict where the tower could be seen. He said they use tree cover data, shown in the green areas on the slide, as well as elevation data to inform the balloon test, identify where things would be visible, and help verify the findings.

Mr. Knuppel said the analysis does not indicate the degree of visibility, but that staff does have a high degree of confidence in this analysis, as validated by the balloon test.

Mr. Knuppel said there were two balloon tests for the projects, with the first on January 20 and the second on April 2. He said he would quickly walk through areas where the balloon was visible during the balloon test and provide some analysis of the degree of visibility that involves mitigation.

Mr. Knuppel said he would begin near the site, on Route 250, at the rear of the site on Wild Turkey Lane, the Foxchase subdivision to the northwest, and finally, across from Mechums River on Broad Axe Road.

Mr. Knuppel presented a view from across Route 250 from the site, which identifies the balloon. He said existing facilities on the site are barely visible due to the presence of screening trees. He said staff believes that although the proposed facility would be taller than the existing facilities on the site, the presence of the screening trees would mitigate visibility from the Entrance Corridor and from the Virginia Scenic Byway. He said the facility is screened by trees and blends into the view. He said it is screened from the full length of the scenic byway and is not visible unless one is looking for the facility directly in

front of the site.

Mr. Knuppel said the ARB found that the proposed location will sufficiently minimize visibility from the Entrance Corridor and therefore from the scenic byway avoidance area, based on the continued existence of trees in the right of way.

Mr. Knuppel said there are no current plans to widen Route 250 or remove trees on this right of way, and the Board has been on record for the last 20 years opposing any further widening of Route 250 West.

Mr. Knuppel said the visibility analysis indicated that the proposed facility would be visible from portions of Wild Turkey Lane to the east of the facility site. He said the proposed facility would be skylit from the view presented on the screen, and that from this vantage point, it does appear to be significantly taller than the reference tree located behind the facility. He said staff notes that from this vantage point, the degree of skylining could be mitigated by lowering the height of the proposed facility.

Mr. Knuppel noted that the eastern portion of Wild Turkey Lane, where the presented photo was taken from, is a private street crossing a parcel under the same ownership as the immediate tower site. He said the Wireless Ordinance requires that facilities be sited to minimize visibility from adjacent parcels and streets, with the intent of protecting nearby properties from visual impacts of wireless facilities. He said requiring a facility to be invisible from its entire site would likely have the effect of prohibiting efficient wireless service. He said the property owner locating a facility on their own property would likely be aware of and accepting impacts to their property.

Mr. Knuppel said that because of this consideration, staff is not concerned with the degree of skylining visible from this property.

Mr. Knuppel presented a view from the Foxchase subdivision, located across Route 250. He said it is from the intersection of Foxdale Lane and Bedford Park Road. He said the photo simulation shows that the facility would be visible from this area but is fairly well hidden and blends in with the tree line there.

Mr. Knuppel said the proposed facility was not visible from the Broad Axe Road right of way, which is across Mechums River from the site. He said during the second balloon test, two property owners on Broad Axe Road requested that staff evaluate visibility from their properties. He presented a photograph to the Board, noting they may recognize it from the example of backdropping shown earlier. He said though the tower rises above the trees, it is backdropped by the mountain in the background, which mitigates its visibility.

Mr. Knuppel said in zooming out from the prior photo simulation, the presented view shows the context of the surrounding trees from the residence at 240 Broad Axe Road, which is over 4,000 feet from the site. He said in addition to the backdropping seen in the prior photograph, the distance mitigates the intrusiveness of any visual impact. He said staff contends that the facility is sufficiently sited to minimize and mitigate the facility visibility from this vantage point.

Mr. Knuppel presented a photo from the residence at 340 Broad Axe Road, which is about 2,900 feet from the site. He said again, the distance does mitigate the intrusiveness of this view.

Mr. Knuppel said there was a special exception request submitted with this application to modify the standoff requirements in Section 5.1.40 and allow the closest point of the back of the antenna to be greater than 12 inches from the face of the monopole. He said it would not change the distance of the farthest point of the back of the antenna and would not be greater than 18 inches from the monopole. He said this would effectively increase the amount of daylight one can see between the monopole and the back of the antenna but does not push the antenna much further from the monopole that would normally be allowed.

Mr. Knuppel said multiple examples of this design have been approved over previous years and do allow antennas to be mounted on a single array, minimizing the number of arrays on the facility and the height.

Mr. Knuppel said staff recommends approval of the requested special exception with the conditions in the staff report.

Mr. Knuppel presented the factors favorable and unfavorable from the staff report. He said the factors favorable include that the facility would be screened and sited to minimize visibility from the Route 250 Scenic Byway and avoidance area, as well as the Route 250 Entrance Corridor Overlay District.

Mr. Knuppel said the proposed facility is located on an opportunity site where there are already other facilities in place. He said it has been shown that is sufficiently screened from the area to potentially prevent the introduction of a facility at an area without towers currently.

Mr. Knuppel said improving wireless coverage would support improved public safety and welfare by expanding access to emergency services and online resources.

Mr. Knuppel said the factors unfavorable include that the proposed facility would be skylit in some areas to the southeast. He said the adjacent parcel is under the same ownership as the tower site, and

that impacts to parcels across the Mechums River are mitigated by distance and/or backdropping.

Mr. Knuppel said on June 16, the Planning Commission voted 7-0 to recommend approval of the special use permit, with staff's recommended conditions, as well as the special exception request. He said a few members of the public spoke during the public hearing.

Mr. Knuppel said staff recommends approval of the special use permit with the conditions. He said he would not read through the full text of conditions but would touch on some highlights. He said staff did identify concealment elements, which will help in the future to prevent future expansion of the facility. He said the color of the facility will be painted in a java brown color to blend in with trees. He said the antenna will be flush-mounted, with an 18-inch maximum standoff distance. He said ground equipment must be located as shown in the concept plan, and that the diameter of the monopole will remain the same.

Mr. Knuppel said the other two conditions emulate the Tier II treetop standards in the Zoning Ordinance by linking the height of the facility to a reference tree. He said this will also help to avoid increases in height over time. He said in this case, should the reference tree identified in the plan be shorter than the plan sets' tree inventory, this condition will require that the height of the facility be tied to the reference tree's actual height. He said in this case, should the reference tree be taller, the facility will still have to comply with the height flown during the balloon test.

Mr. Knuppel said the requirements in the conditions do also require a surveyor certification of the height of the tree. He said if the tree is lower than expected, this would require that the height of the proposed facility be lowered as well.

Mr. Knuppel said there are performance standards that would come through after the special use permit, when the facility comes in for a building permit.

Mr. Knuppel presented possible motions for the Board's consideration. He said if they choose to deny any of the special use permit or special exception, the denial must be in writing and supported by substantial evidence, per the Telecommunications Act. He offered to answer questions, noting that Mr. Bill Fritz could answer any questions about the Wireless Policy.

Ms. Mallek asked if Mr. Knuppel could further or better explain the connection between the concealment elements being identified and if it prevents the future 20-foot expansion in height and 20-foot width that has been the case with some other towers.

Mr. Knuppel replied that when staff discussed the conditions of approval with the County Attorney's Office, they did discuss this concern as well about the increase in height being permitted per the exempt telecommunications guidelines. He said the concealment elements including height, diameter of the monopole, and flush mounting, the height of the reference tree does help prevent that impact.

Ms. Mallek said secondly, Mr. Knuppel described the avoidance area because of the two towers already there and because of the scenic road and yet, it is also described as an opportunity zone, which seems to be the opposite. She asked Mr. Knuppel if he could talk about that.

Mr. Knuppel said opportunity sites can exist within avoidance areas. He said for example, the Wireless Policy does include other opportunity sites, including high-voltage powerlines being a type of opportunity site that could exist within an avoidance area. He said it prevents the location of a new facility in there, for example. He said there can be opportunity sites within avoidance areas. He said in staff's opinion, presence of the other facilities does qualify as an opportunity site. He said the location of a facility here could prevent future location in a different location within the overall avoidance area, which is the Route 250 Scenic Byway.

Ms. Mallek said she wrote down that View 8 in the staff report was a good example of how this new tower seems to really be different than the others. She said perhaps they could have the whole Board look at that view and have Mr. Knuppel explain how this is still meeting the objectives.

Mr. Knuppel pulled up a slide.

Ms. Mallek explained that the one she had in mind was a different view that was northerly and was much closer. She said it was in the staff report rather than the presentation. She said if it were not possible to present it, others could look in their staff reports to see it. She said it seems that the height of the tower is quite far above all the trees.

Ms. Mallek said her final question at the moment was what would happen if that tree were to fall down. She said there has been a history in Crozet of derechos and massive treefalls from inline winds. She asked what happens in that circumstance.

Ms. Mallek said she has also been looking through specifications about how the ground equipment will be screened, and that she was hoping it would not look like the one on Owensville Road.

Mr. Gallaway asked Ms. Mallek which view she was referencing.

Ms. Mallek said it says, "Applicant's View 8 is a good example of the new tower." She said she would find it somehow and get it to everyone.

Mr. Gallaway noted there were many attachments.

Ms. Price said she believed it was the view on the screen, as one could see the balloon slightly to the left of the two towers. She said in the staff materials, this is View 8.

Ms. Mallek said she would stand down for now.

Ms. Price said while she had no questions at that time, she would have comments later, before the vote.

Mr. Gallaway invited the applicant to make her presentation.

Ms. Lori Schweller, attorney with Williams Mullen representing Verizon Wireless, said she was joined by Mr. Nate Holland, who is the project manager for the site and is a zoning consultant with GDM Sites, on behalf of Verizon Wireless.

Ms. Schweller said the applicant is requesting a recommendation of approval for a special use permit for a wireless facility that is east of Crozet, off Wild Turkey Lane, on the south side of Route 250 West. She said it is Tax Map Parcel 57-41L, which has approximately 6 acres. She indicated on the slide to Wild Turkey Lane.

Ms. Schweller said this is an unusual site because there are two existing wireless facilities currently on the property. She said locating beside those is a good place to take advantage of this opportunity zone. She said the applicant is proposing only removing one tree, and that they will put some plantings along Wild Turkey Lane where one enters the site. She said this was the first view Mr. Knuppel showed the Board.

Ms. Schweller said they are in a very small lease area (30' x 30') and that they meet all setbacks as required by the Zoning Ordinance.

Ms. Schweller said their balloon tests were both during the months when the leaves were off the trees. She presented a photo looking from Route 250 West at Wild Turkey Lane, noting the existing facilities on the property. She presented a photo that was taken during the balloon test, indicating to the balloon from Route 250 and noting it is a slightly lower elevation than the property itself. She said she was pointing at one of the existing monopoles there, through the trees. She said at this point, one cannot see these from Route 250 because it is a very leafy corridor.

Ms. Schweller indicated on the photo to the one tree that is to be removed. She said it is low enough that it will not change the viewshed from the views to the south and east. She indicated to the reference tree located in front of the site.

Ms. Schweller said the applicant is proposing to meet all of the Tier II requirements, meaning that they must be 10 feet taller than the height of the reference tree, painting the monopole java brown, and keeping their antenna standoff to a minimum, for which they are requesting a special exception so that they can make this 18 inches all the way.

Ms. Schweller said to Ms. Mallek's point, the applicant is proposing a 10-foot board-on-board fencing at the base. She said it was important to the ARB that all the ground equipment be screened from Route 250. She said in the winter months, as one could see from the photographs, it may be possible to see that equipment. She said unlike the existing board fences onsite, this would prevent those from being visible. She said there was a viewshed analysis done to make sure the applicant got the height right to screen all that equipment.

Ms. Schweller said because they are on a Virginia Scenic Byway, they are proposing this as a Tier III. She said this is obviously a public process, and they did have a community meeting. She said at the community meeting, they had several residents who were interested in having photographs taken from their homes during their second balloon test on April 2. She said she would show the Board the results of the balloon test and a composite. She presented a map showing all the locations where photographs were taken.

Ms. Schweller said during the second balloon test, they did take the two photos on the bottom of the screen, View 11 and View 12. She said those were two property owners who were interested in having the photos taken at their properties.

Ms. Schweller said the rest of these were done during both balloon tests. She said they were able to confirm what those look like.

Ms. Schweller said when driving towards and from Charlottesville, either way, eastbound or westbound on Route 250, the site is not going to be visible, nor at the intersection with Mechums Depot Lane.

Ms. Schweller said from Foxchase, one will be able to see just the very top, the antennae, above the trees, in typical treetop facility fashion from some locations.

Ms. Schweller presented additional photos requested by the property owners at the community

meeting. She said Mr. Knuppel explained the staff's visibility analysis. She said the two large arrows on the photo were pointing to the site, and the two small arrows were pointing to those additional spots where they did take photos of the visible balloon. She said those were quite a distance away from 340 Broad Axe Road. She indicated to the balloon and to the photo simulation. She said from 240 Broad Axe Road, there is a mountain backdrop. She indicated to the balloon and to the photo simulation in that photo.

Ms. Schweller said in the other locations where neighbors asked to have photographs taken, the balloon was not visible from those.

Ms. Schweller said she would talk about wireless needs in the area. She said Governor Northam's goal is for functional, universal broadband coverage within 10 years, which would provide growth in small business revenue and jobs, and an 18% increase in agricultural output through connected agriculture technologies. She noted agriculture is the area's largest industry. She said it would result in increases in property value of 3-8%, according to the Commonwealth Connect Report.

Ms. Schweller said 64% of Virginia's rural population currently lacks access to broadband. She said many people noticed when they were working from home or participating in online education that they had difficulties with broadband at home. She said some students needed to go to Albemarle's Wi-Fi hotspots in the western portion of the County, to school parking lots, and to the library to get that needed service.

Ms. Schweller said according to the Commonwealth Connect Report, research is clear that students without access to reliable high-speed internet connection at home suffer both during and after their time in secondary school.

Ms. Schweller said further, the Weldon Cooper Center's 2020 survey results show that they have some challenges in this part of the County, for various reasons. She said there are a lot of historic districts, all of which are considered avoidance areas for wireless facilities. She said one can see from the polling that in this part of the County, the residents rate at-home internet as worse than other areas in the County. She said this is something everyone wants to work on.

Ms. Schweller said Verizon is attempting with this site to provide a new facility right in the center of the four existing closest facilities in the Verizon network, as shown on the presented map. She said they are all roughly 2.5-3 miles away. She said this would help bridge that gap across those existing sites.

Ms. Schweller said she would like to show the Board how this site complies with the Comprehensive Plan and Zoning Ordinance. She said regarding the special use permit, the applicant believes that it is not a detriment, but a benefit to adjacent parcels. She said it will not be visible from the identified protected resource on the property across the street, which is under conservation easement. She said in fact, that owner has expressed that that they do desire better service and supported the site at the Planning Commission hearing.

Ms. Schweller said there should be no change to the character of nearby areas. She said the applicant does comply with the Zoning Ordinance, and they are consistent with the Comprehensive Plan.

Ms. Schweller said more specifically in terms of minimizing visibility, they are meeting the Tier II height standard of 10 feet taller than the reference tree. She said they have minimal visibility on the Entrance Corridor, even in the winter months, as found by the ARB. She said there is minimal visibility from surrounding roadways and neighborhoods.

Ms. Schweller said skylighting is from half a mile away, on a ridge. She said they cannot prevent some visibility from some locations for some wireless facilities.

Ms. Schweller said she would like to explain how they justify the location within an avoidance area. She said first, there is minimal visibility on the scenic byway. She said co-locating on another existing structure is not possible, as there are none existing that are tall enough. She said they are providing another single-carrier pole on this opportunity site.

Ms. Schweller concluded her presentation. She said she had other slides to answer any questions.

There were no questions from the Board.

Mr. Gallaway opened the public hearing.

Ms. Martha Redinger, 340 Broad Axe Road, Samuel Miller District, said she and her husband bought and built their home 36 years ago and raised their three boys there. She said it was surprising to her to find themselves in a similar situation that they were in numerous years ago. She said one day, they looked out the window and saw a cell tower rising far above the ridge of the mountains. She said they drove over immediately and began a battle to lower it. She said they were successful because there is an Albemarle County policy that prevents this. She said there are now two poles that are better nestled into the trees, as policy required then and requires now.

Ms. Redinger said the current proposed Verizon pole would be an eyesore, as photos show. She

said page 8 of the memorandum from the Zobrist Law Firm is very similar to what she saw numerous years ago, when this happened once before. She said the photo shows that it would be an eyesore, as they saw it then, and she is afraid they would see it this time.

Ms. Redinger said if approved, the monopole would be nearly 30 feet taller than the existing poles and 40 feet taller than the existing trees in the area. She said this is absurd, and is absurd that once again, they are spending legal fees to stop it for the same reason.

Ms. Redinger said current policy is to protect the Route 250 West Corridor, and that the County Wireless Policy is written to protect the views. She said this is to minimize visibility from adjacent properties and the Route 250 West Entrance Corridor. She said Verizon's proposed cell tower is not respecting this policy. She said the Board are the stewards of the County policy, and that she and many others depend on them standing for that policy that protects the unique beauty of the County and the standards designed that value that.

Ms. Redinger said there is donated land in conservation next to the proposed Verizon cell tower. She said again, County Code requires that a cell tower be sited so that it is not visible from an adjacent conservation easement. She said indeed, it is. She said they, as a wider community, value the results of land offered for conservation belonging to them all and appreciate that ordinances are being followed.

Ms. Redinger said this conflict should serve as a perfect example as to how to proceed in the years ahead. She said Verizon or any other cell tower company should respect the decisions and policies previously agreed upon that protect skylines, visibility, and views from the Route 250 West Entrance Corridor and neighboring properties. She said she assumes the Board would enforce them. She said she depends on the Board and Planning Commission to follow the established policy.

Mr. Duane Zobrist asked for his PowerPoint presentation to be put up. He said on page 1 of the PowerPoint, they give a simulated view from the balloon test of the proposed tower, as seen from the properties of both the Farrells and the Kirbys.

Mr. Zobrist said the next slide shows a closer view that shows the existing poles on the site and the difference. He said this was the one Ms. Mallek was referring to when she asked why that one looked so much taller than the other. He said one can see all three poles on that slide.

Mr. Zobrist said the next slide shows the simulated pole from the Redinger property, as well as the other two poles on the property.

Mr. Zobrist said the fourth slide shows the view from Wild Turkey Lane, where one can see the balloon and the significant difference in the height between the two existing poles and the one currently proposed. He said they can also see a better view of the pole from Foxchase.

Mr. Zobrist said for the record, he is an attorney, and his firm is assisting the Redingers and the Farrells in opposing this cell pole's special permit. He said as many Board members already know, he has been deeply involved in the County's development for almost 20 years. He said initially, he served on the Crozet Community Advisory Council when it was formed. He said he then served as a Planning Commissioner two times, so he is very familiar with the County's history, policy, and practice in relation to cell towers and was on the Planning Commission when the Wireless Policies and Ordinance were adopted by the County.

Mr. Zobrist said he would talk about a few overarching principles that are the foundation of the County's Wireless Policy and how this pole is a major departure from any of those principles. He said when the County Wireless Policy was first created and when they were first adopting policies and ordinance, they had a goal, which was to balance the need for cellphone service against the need to protect the County's natural features. He said they focused primarily on visibility, pole location, and height.

Mr. Zobrist said as the focus was visibility, the policies have served the County well, as they have hundreds of cell realizations throughout the County, and most are not noticeable except sometimes in the winter. He said they have done an exceptional job of keeping the cell towers out of sight so they do not see what they see when they drive up Route 29, where there is a big one by Rio Road.

Mr. Zobrist said this goal has not changed. He said it is the same as it always was, and that the policy manual and ordinance remain in full force and effect. He said comparing the proposed Verizon pole to the County's Wireless Policy manual reflects Verizon's total disregard of the policies, which has been concerted by County staff, the Planning Commission, and the County Council staff.

Mr. Zobrist said a quick glance at the photos he submitted shows exactly what he means. He said the cell pole will be highly visible as the height of a 10-story building. He said not only is the pole high, but it is backlighted against a pristine mountain vista. He said it is in an avoidance area and is visible from a conservation easement directly across Route 250. He said it is visible from Route 250 and the neighboring Foxchase subdivision.

Mr. Zobrist said it is time to remind cellular providers of goals and policies respecting cell service and send a clear message to the Planning Commission, staff, and the cell companies that the policies have not changed. He said they are in full force and effect until amended or changed by the Board of

Supervisors. He said projects such as this are not and will not be allowed.

Mr. Jonathan Jacobs said along with Mr. Zobrist, he represents the interest of the Redingers and the Farrells, as well as his own interest as a resident of Crozet. He said he wanted to touch briefly on the standards of review. He said these are laid out more fully in a memo they submitted to the Board on July 31.

Mr. Jacobs said it is undisputed that they have a Tier III pole because it is in an avoidance area and 25 feet from a scenic byway. He said despite this, the Board has heard a lot about standards for Tier II from Verizon, the County staff, and the Planning Commission, and that the belief may be sometimes misconstrued that if it meets Tier II standards, it should be approved. He said this is obviously not correct. He said not surprisingly, the Wireless Policy from the County and the ordinances state that any pole located in an avoidance area has higher scrutiny. He said therefore this requires a special use permit rather than by-right construction. He said it is the duty of the Board to closely scrutinize the pole and how it will impact the surrounding area.

Mr. Jacobs said that generally, poles should not be located in an avoidance area. He said any application for that should be denied unless the carrier can demonstrate they mitigated, sited, and located the pole to minimize visibility.

Mr. Jacobs said the pictures the Board just saw from Mr. Zobrist's PowerPoint show that this pole would be highly visible. He said it towers over trees by an average of 40 feet, and from many angles, it is skylit, particularly from Broad Axe Road to the southeast and the Foxchase neighborhood to the northwest.

Mr. Jacobs said putting aside the Tier II standards, which are inapplicable, as discussed, this pole does not satisfy the heightened standards of Tier III.

Mr. Jacobs said the final point he wanted to talk about was the conservation easement across the street. He said the law on this could not be clearer. He said County Ordinance Chapter 18, Section 5.1.40(b)(6) plainly says, "The pole cannot be approved if visible from resources identified for protection in the deed of easement for a conservation easement." He said as outlined in their memo, the deed of easement has a lot of resources for protection, including open space resources and scenic resources. He said it says it right there in the deed.

Mr. Jacobs said despite this, a County attorney in the last hearing before the Planning Commission told the Commission that the only resource protected in the deed is a haybarn. He said this is obviously incorrect because looking at the deed, it says that open space and scenic resources are protected.

Mr. Jacobs said the property owner who gave this easement to the County also spoke during the Planning Commission hearing. He said while the property owner was in favor of the pole, as Verizon's attorney mentioned, it is important to remember that he gave this easement to the County for the benefit of all County residents. He said his opinion matters no more than the 110,000 people who live there.

Mr. Jacobs said the property owner did confirm that the pole would be visible from parts of the land protected by the easement. He said thus, under this County ordinance, it is illegal to place a pole here because it would be visible from the open space and scenic resources protected in the deed of easement across the street.

Mr. Kirby Farrell, 240 Broad Axe Road, White Hall District, said he was attending with his wife, Ms. Laura Farrell. He said a picture was shown from their property of a view of what the tower could look like, and his property is 12 acres. He said about 15 years ago, they bought up almost 200 acres, and their property extends to the tower. He said they did that to be good stewards of the land. He said they have a regenerative farmer and are taking steps to protect Mechums River. He said they are even working towards putting that part of the property in an easement. He said it seems to him that they are doing their part to maintain the beauty of Western Albemarle County.

Mr. Farrell said this 10-foot tower is anything but hiding in plain sight. He said it draws one's eye to it. He said in the summer, it draws one's eye to the existing poles. He said in the winter, it immediately draws one's eye.

Mr. Farrell said he works in telecommunications and served for four years on the Secretary of Technology's, Ms. Karen Jackson's, Broadband Committee in Virginia. He said this tower is there to improve cell service. He said it will not solve anything broadband-related. He said broadband to the home is a last mile problem. He said it is disingenuous to talk about how this tower is going to do anything about improving broadband to the home or school. He said it is all about cell service and not about broadband service to the home.

Mr. Gallaway closed the public hearing. He invited the applicant to rebut.

Ms. Schweller said the first point that she wanted to address was pole and tree height. She said in Albemarle County, there is an objective standard, which makes it easy to determine whether or not an

application does, indeed, comply with the Zoning Ordinance. She said in this case, they have a reference tree within 25 feet that they use to measure the height. She said at the time that the monopole is constructed, they then remeasure the actual pole itself and provide an engineer's letter to certify to the height so they can make sure they are exactly 10 feet above the reference tree. She said as trees grow, they can increase the height.

Ms. Schweller said those are the objective standards of the ordinance. She said although it is true that the existing monopoles on the site from other carriers are actually shorter than the trees, based on her estimation, that doesn't mean that the applicant's is not in compliance with the Zoning Ordinance. She said it is also in compliance with the visibility standards of the Comprehensive Plan.

Ms. Schweller said when there is a viewshed, one does not own that viewshed unless they have paid for a view easement. She said theoretically, when there is an 87.31-acre parcel of land between one and a wireless facility, the person who owns that property could clear-cut it, in part, and build a home, paint it purple, and do whatever one might want to do because they do not own that viewshed and hasn't paid for that easement.

Ms. Schweller said if the applicant complies with the Zoning Ordinance, the Comprehensive Plan, and the 20-year-old Wireless Policy, then their facility should be considered to meet those and not be considered an egregious outlier.

Ms. Schweller said as to conservation easements, she would clarify what the Zoning Ordinance provides with respect to wireless facilities. She said conservation easements will have recitals that explain how a piece of property qualifies for the various tax benefits that it receives. She said many conservation easement properties in Albemarle County provide to the public an opportunity to view beautiful land.

Ms. Schweller said it is not an opportunity for the landowner who has placed a conservation easement on his property to prevent anything from happening that he can see from his land. She said rather, what the ordinance provides is that if one has a wireless facility on a parcel adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection.

Ms. Schweller said those are not the resources that make it qualify for a conservation easement, such as open space, streams, and rivers. She said those are specific resources, usually structures, that the VOF in this case would protect. She said in this case, the only structure that the Virginia Outdoors Foundation is saying may not be removed without its permission is the one that was evaluated by County staff. She said in fact, the balloon couldn't be visible at all from any location on that property. She said she went there personally. She said even if that were the argument, the only place one should be looking is from the one resource which Mr. Knuppel can explain he did view from.

Ms. Schweller said the Wireless Policy was adopted over 20 years ago. She said in balancing the need for cell service versus visual impact, as Mr. Zobrist explained, times have changed, and wireless facilities are even more needed today. She said they are an essential utility, and there are many more technologies offered on these facilities than were at the time the ordinance and the policy were adopted. She said the facility they are proposing today is a state-of-the-art Verizon Wireless 4G site. She said it would have all the technologies that Verizon Wireless offers, including internet capabilities for the home.

Mr. Gallaway brought the matter back to the Board for other questions and comments.

Ms. McKeel said she would like clarification around what the disconnect is with the conservation easement. She said she seems to be hearing different things from different people.

Mr. Bill Fritz said the ordinance talks about protecting resources specifically identified for protection in the conservation easement. He said the idea at the time of the adoption of that was centering around historic resources. He said the listing of the property saying that because it has scenic beauty is giving the Board a list of the types of things that qualify for an easement, but they are not resources specifically identified for protection.

Mr. Fritz said one thing they have talked about as staff is introducing the concept of instead of talking about it in terms of whether or not it violates the easement would be to look at the standard special use permit language, which talks about whether or not approval of this request would change the character of the district. He said to look at the character of the district, and not the specifics of what this easement may protect.

Mr. Kamptner said that the phrase "resources specifically identified for protection" is critical because without that, then near adjacency to an open space easement could disqualify a facility from being sited in a particular location. He said back in 2004 when the provision was added, they needed to step back from that because there is a lot of land that is under public space and conservation easement and if the fact that the land is under easement itself becomes a disqualifier, then they are basically limiting the areas where facilities can be located or at least have an opportunity to be approved in a particular location. He said that language was added in the 2004 amendments.

Ms. McKeel said she read the Planning Commission minutes and that Mr. Knuppel's explanation of the special use permit was very helpful.

Ms. Mallek said she had no questions now but would comment later.

Ms. Price said because of the height of this pole over the other existing poles, she had two questions. She said she did read in the report where it talks about the efficiency of the actual service, but she had one question, which was if the monopole would not be shortened, to some degree.

Ms. Price said at her parents' lake house in North Georgia, there is a monopole that is substantially higher than the surrounding forest, but it is camouflaged to look like a tree. She said it is a joke they play on newcomers to the lake, that they tell them about the one ponderosa pine in the mountains there to see if they will catch them on it. She said it obvious it is a monopole and not a tree, but at least it blends in more than simply painting it java brown. She asked if something had been considered in terms of a camouflage on the pole itself to help reduce its visibility.

Ms. Schweller said she could address those questions. She said the first question was if the height could be shortened. She said it is very difficult to provide good service when height is limited. She said in Albemarle County, they always try to comply with the Tier II standards because of the visual analysis that they are working on here. She said this is a line-of-sight technology, so if they go below the trees, then they won't be providing the necessary service. She said it simply will not work.

Ms. Schweller said the short answer was no because they have gone as short as they can at this site. She said though they are focusing a lot on the photographs from the subject parcel, which are usually not looked at at all, as this is the view the landowner has, the views from everywhere else are nil. She said one cannot see it from the Entrance Corridor. She said she did not agree that there are different standards for visual impact for Tier II and Tier III, but the only place where there may be heightened scrutiny at a particular view is the Entrance Corridor. She said the monopole wasn't visible at all from that view. She said the applicant didn't see the need to shorten the monopole because it wasn't visible from the sensitive areas.

Ms. Schweller said in terms of camouflaging, it is possible to disguise a wireless facility as a "monopine." She said what they found in almost all situations, however, is that it is not desirable. She said one must go higher to get the shape that looks good, so that is usually an extra 10 feet. She said there are branches sticking onto the monopole so every time they work on the equipment, all of that must be removed. She said it is very undesirable from a performance standard.

Ms. Schweller said whenever the applicant prepares photo simulations to show Boards of Supervisors the difference between a monopine and a monopole, they always pick the monopole. She said because of its slimmer profile, it just looks like a telephone pole, so they would rather see that than a faux tree. She said the applicant has given them options in various counties, and this has always been the result.

Ms. Schweller said the applicant thinks that the brown monopole is the best option for minimizing visual impact.

Ms. LaPisto-Kirtley asked the applicant how many homes they hope to service with this cell tower.

Ms. Schweller replied that she did not have that information. She said they choose an area based on what the radio frequency engineers determine is an area with inadequate service, either coverage, capacity, or both. She said as she showed on the network map, this is an area in the center of existing Verizon Wireless sites. She said this is an area that needs additional capacity for data and additional coverage.

Ms. Schweller said those who have lived in that area know there are weaknesses in the western part of the County in terms of service. She said for zoning matters, the applicant does not keep track of the number of homes. She apologized for not being able to provide that information.

Ms. LaPisto-Kirtley said the fact that they have done the homework and they are putting it in an area where it would serve several homes is a good thing. She said she does know that the height of the pole directly affects how many people can be serviced. She said this factors into the equation.

Ms. LaPisto-Kirtley said where she used to live, they used to have "mono palm trees," but she supposed that wouldn't look so good here. She said a tower recently was put up not far from where she lives, and that this really increased the service a lot.

Ms. LaPisto-Kirtley said the only thing that does frustrate her is that anyone in the area who has AT&T, T-Mobile, or Sprint would not be able to make use of the cell tower. She asked if this was correct.

Ms. Schweller replied that this was correct. She said of the two existing facilities on that same property, one is AT&T. She said it may be too short to serve what it needs to at this point. She said the facilities being single carrier is why there are multiple facilities on the same property.

Ms. LaPisto-Kirtley said she wished they could all combine.

Ms. McKeel said she thinks many years ago, the local Forestry Department requested a tower that looks like a tree. She said it is still located over in the Forestry Department, and although she didn't want to go down a rabbit hole with this, she thinks the difference with that one is that it is not in the Rural

Area, and the elevation is different. She said there is one, and it is interesting that the Forestry Department requested it and it was approved. She said at the time she read the minutes, the Board said they would never approve one of those ever again.

Ms. Mallek said she still cannot wrap her brain around how they would have so many different approaches to what should be very straightforward with a conservation easement. She said it seems to be so contrived to limit the whole scenic easement to a building. She said the fact that these are so visible when seen not from Route 250, but from all the surrounding properties, makes her not be able to support it because she believes in using the ordinance that the County has, and not something they want to change to. She said if they have an adopted ordinance, they should be using it instead of changing the ordinance by decision, property by property.

Ms. Mallek said she didn't think there was any way to compare this site versus the one someone mentioned on 5th Street Station because there, that has very thick trees and even if one is trying to see it, they cannot. She said this site will be very different and very obvious.

Ms. Mallek said because of its impact on the district that she represents, she could not support this.

Ms. Price said she would ultimately support the request, although she did have some reservations. She said her analysis is that it basically meets the Tier II study, but because it is in an avoidance area and a scenic byway, they must look at it from a Tier III standpoint. She said this makes perfect sense and she agrees with that.

Ms. Price said when she was a child growing up in Georgia, Ted Turner owned the largest billboard company in the south, and their interstate highways were littered with billboards. She said one could not see the forest. She said fortunately, this has been addressed. She said with Albemarle County's somewhat outdated policy with these devices is such that they are largely able to reduce the visibility impact, and she thinks they should continue to do that.

Ms. Price said she would ultimately support this request, however, because they are in a time where they need to increase connectivity, and she finds this to be outside the realm of reasonableness. She said she understands it is different than Wi-Fi, but many people must use their cellphone as a hot spot. She said if they can increase that while people are working from home, or while people are having to go to school from home, she thinks this is an opportunity they simply have to do.

Ms. LaPisto-Kirtley said she also worries about the impacts to the view. She said she would be supporting this, however, because it is a health and safety issue. She said connectivity to cell and internet service nowadays is not a luxury but is something everyone should have.

Mr. Gallaway said as he has said at different times when the Board has had cell towers come before them, it has been noted in several different ways about the age of their Wireless Policy. He said he knows some of the Supervisors are on the record of wanting that policy back before the Board to be able to work on and update it. He said 20 years ago, visual impact versus connectivity was a no-brainer. He said if one goes back, like he did, to peruse those minutes, one could tell that the conversation around cell use was that it was a passing fad. He said it was not going to be something that became as critical to operations and social use that it has come to be. He said this is what led a lot of the discussions back then.

Mr. Gallaway said the discussion is very different today for the reasons that have been mentioned. He said just as some are frustrated by these things coming back to the Board, and he would appreciate getting the policy updated so they don't have to come back to the Board and have it be clearer based on what the reality of the world is now related to these items. He said he will be supporting the application.

Ms. Mallek said she very much wished that cell companies would invest in places where the service is really needed. She said in this area, she had never lost a call back when she did have Verizon, and never had any connection problems in Crozet anywhere where this tower is going to be effective. She said it is a very profitable area for the company because of the 8,000 residents there, but it does not solve the problems.

Ms. Mallek said she agreed that being able to call the ambulance is very important, but that this was not going to solve that problem. She said this was why she was not persuaded by that part of the argument.

Ms. Price **moved** that the Board adopt the attached resolutions to approve SP202000004 (Attachment E) and the Special Exception request (Attachment F), with the conditions contained therein. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: Ms. Mallek

ABSENT: Ms. Palmer

**RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR
SP202000004 – WILD TURKEY (CROSS PROPERTY) - TIER III PWSF**

NOW, BE IT RESOLVED that, upon consideration of the staff report prepared in conjunction with the application, and the attachments thereto, including staff's supporting analysis, any written comments received, all of the factors relevant to the special exceptions in County Code §§ 18-5.1.40(b)(2)(c) and 18-33.49, and the information provided at the Board of Supervisors meeting, the Albemarle County Board of Supervisors hereby approves the special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c), subject to the conditions attached hereto.

* * *

**SP202000004 – Wild Turkey (Cross Property) - Tier III Personal Wireless Service Facility
Special Exception Conditions**

1. The antenna shall be installed as depicted on Sheet C-5 of the site plan referred to as "Wild Turkey, Wild Turkey Lane, Charlottesville, VA, 22903, Albemarle County" prepared by John A. Daughtrey III, last revised on June 10, 2020.

No antenna authorized by this special exception shall project more than eighteen inches (18") from the monopole to the back of the antenna.

**RESOLUTION TO APPROVE
SP202000004 – WILD TURKEY (CROSS PROPERTY) - TIER III PWSF**

NOW, BE IT RESOLVED that, upon consideration of the staff report prepared for SP202000004 and all of its attachments, the information presented at the public hearing, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-5.1.40, 18-10.2.2(48), 18-30.6.3, and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP202000004, subject to the conditions attached hereto.

* * *

**SP202000004 – Wild Turkey (Cross Property) - Tier III Personal Wireless Service Facility
Special Use Permit Conditions**

1. The development of the site, and any modifications to the arrays, shall be in general accord with the plan titled "Wild Turkey, Wild Turkey Lane, Charlottesville, VA, 22903, Albemarle County" dated 6/10/2020 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, including but not limited to all concealment elements, concealment technique, and concealment elements of the eligible support structure, as shown and described on the Conceptual Plan and mentioned below and in Condition 2:
 - a. Color (equipment and monopole – Sherwin Williams – Java Brown #6090)
 - b. Flush mounting of antenna (18 inch maximum standoff distance)
 - c. Location of ground equipment
 - d. Diameter of monopole

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

2. As a concealment element to minimize skylining, the height of the tower shall not exceed 117 feet above ground level (AGL) or ten feet taller than the tallest tree within 25 feet of the monopole as measured in elevation above mean sea level, whichever is less. Measurement of height shall include any base, foundation or grading that raises the monopole above the pre-existing natural ground elevation.
3. The following shall be submitted with the building permit application:
 - a. certification by a registered surveyor stating the height of the reference tree that is used to determine the permissible height of the monopole; and
 - b. a final revised set of plans for the construction of the facility.

The agent shall review the surveyor's certificate and the plans to ensure that all applicable requirements have been satisfied.

Agenda Item No. 18. **Public Hearing: ZMA201800018 and SP201800023 River's Edge.**

The Executive Summary forwarded to the Board states that, at its meeting on March 10, 2020, the Planning Commission voted 7:0 to defer action on ZMA201800018 and SP201800023. The applications were deferred to May 19, 2020. A summary of the main concerns heard from the Planning Commission is included in Attachment E.

At its meeting on May 19, 2020, the Planning Commission voted 5:1 to recommend approval of ZM201800018 with the finding that the use of a central system to provide connection to the nearby public sewer system is in substantial accord with the Comprehensive Plan. The Planning Commission also voted 5:1 to recommend approval of SP201800023 with conditions as stated in the staff report.

The Planning Commission's staff report, action letter, and minutes (from both meetings) are attached (Attachments A, B, C, and D).

At its meeting on May 19, 2020, the Planning Commission voted 5:1 to recommend approval of ZMA201800018 and to recommend approval of SP201800023 with conditions as stated in the staff report. The Planning Commission did not request any changes.

It should be noted that there was significant discussion during the public hearing regarding the proposed density and the request for additional units above the recommended density in the Comprehensive Plan. This discussion may not have been reflected in the Planning Commission's motion. Staff's analysis of the requested density is included in Attachments A (staff report) and A9 (accessory units and previous applications). Please note the additional discussion on density in the Planning Commission minutes (Attachment C).

Since the May 19, 2020 Planning Commission public hearing, no changes have been made to the application. Several non-substantive changes were made to the SP201800023 conditions, and Condition #6 has been removed due to new guidance from the Department of Environmental Quality. The attached Resolution to approve SP201800023 (Attachment H) includes these revised conditions.

Attachment F is the current application for ZMA201800018, and Attachment A5 is the current application for SP201800023.

The Applicant has also requested approval of a central sewerage system, which is subject to the Board's approval, and is being presented to the Board as a separate agenda item on August 5 for the Board's consideration.

Staff recommends that the Board adopt the attached Ordinance to approve ZMA201800018 (Attachment G) and the attached Resolution to approve SP201800023 (Attachment H).

Ms. Tori Kanelopolous, Lead Planner for the project, said Mr. John Anderson in the County's Engineering Department was available to answer any questions. She said this public hearing is for an application, ZMA201800018 and SP201800023 River's Edge, for 100 dwelling units on 32.52 acres and a request to disturb preserved steep slopes.

Ms. Kanelopolous said the proposed development is located at River's Edge Lane off of Route 29. She said it is approximately one-quarter mile north from the intersection of Lewis and Clark Drive and Route 29 at the UVA Research Park. She said there are several commercial and institutional uses north of the site. She said there are adjacent forested parcels in the Rural Area, located to the east and south. She said the adjacent parcel to the south is currently undeveloped; however, it is also in the Development Area.

Ms. Kanelopolous said the site currently consists of approximately 14 dwelling units, which are currently rental units. She said properties are bordered by the Rivanna River. She said there are two accessways that run through the property called River's Edge Road and River's Edge Lane. She said these two accessways connect and create a loop. She said there is an existing basketball court near the front of the site.

Ms. Kanelopolous presented some additional photographs from the site showing the conditions of the existing accessways and the forested character of the site. She presented photographs showing views of the Rivanna River from this site, and another view of the existing accessway.

Ms. Kanelopolous said the property is currently zoned RA Rural Area, which allows residential densities of 0.5 units per acre. She said subdividing the property, however, is not feasible. She said nearby zoning districts include Commercial, Industrial, and Residential Districts.

Ms. Kanelopolous said there are significant environmental features on this site. She said there are preserved slopes, shown on the map in green, stream buffers, shown in dark blue, and floodplain, shown in light blue. She said the existing accessway is in the stream buffer, floodplain, and preserved slopes. She said the proposed accessway, which will be discussed in a later slide, is in the stream buffer and slopes, but not in the floodplain. She said there are approximately 8.62 acres of land outside of these

environmental features.

Ms. Kanellopolous said the property is designated Neighborhood Density Residential, as shown in the yellow color on the presented map, and as Private Open Space in the Places 29 Master Plan. She said the Neighborhood Density Residential classification calls for residential uses between 3-6 dwelling units per acre. She said the proposal is above the recommended density in the Comprehensive Plan, which she would discuss later in the presentation.

Ms. Kanellopolous said the Private Open Space and environmental features include the areas in the floodplain, steep slopes, and stream buffer. She said no residential units or parking are located within environmental features.

Ms. Kanellopolous said the application is also consistent with other relevant Comprehensive Plan policies including the Growth Management Policy promoting density within the Development Areas, the Housing Policy of having at least 15% of units affordable with rezonings, having hard edges with the Rural Area, and having a variety of housing types in the Development Areas.

Ms. Kanellopolous said the proposed development is within the Entrance Corridor and is providing the 50-foot forested buffer called for in the Places 29 Master Plan.

Ms. Kanellopolous said the applicant proposes to rezone 32.52 acres from Rural Area to Planned Residential Development (PRD). She said the proposal is for a maximum of 100 dwelling units, with 50 units restricted to 1,200 square feet, and the other 50 units restricted to 900 square feet. She said all the units are rentals, as the property cannot feasibly be subdivided.

Ms. Kanellopolous said access to the site will be provided using the existing entrance off Route 29.

Ms. Kanellopolous said as will be discussed later in the presentation, the applicant has also requested a special use permit to disturb steep slopes to widen the accessway and to install stormwater management facilities.

Ms. Kanellopolous said the application meets the requirement for a minimum of 25% open space and proposes a variety of amenities including trails and playgrounds.

Ms. Kanellopolous said the applicant has also requested a central sewage system, per County Code 16.102. She said this request must be approved by the Board of Supervisors. She said the request is a separate item on the agenda and will be heard directly after this application. She said a central system is defined as a private system designed to serve three or more connections. She said this facility would be privately owned and maintained. She said the force main and pump station are the only private utility components of the water and sewer systems for this development and would connect back to public utilities.

Ms. Kanellopolous said the Board of Supervisors' vote to approve a central system allows a development to use such a private system. She said the system cannot be constructed or permitted, however, until all relevant agencies and departments have reviewed submitted plans. She said this includes the Department of Environmental Quality (DEQ), Albemarle County Service Authority (ACSA), and County Engineering. She said Board approval is the first step in the process.

Ms. Kanellopolous said the Planning Commission reviews central system requests for consistency with the Comprehensive Plan. She said due to the unique features of this site, that private utilities connect to public utilities, and that the system would only serve this development, the Commission made a motion with the finding that the use of a central system is in substantial accord with the Comprehensive Plan.

Ms. Kanellopolous said Strategy 8C in the Development Areas chapter of the Comprehensive Plan states that density should be calculated using net density. She said by excluding areas not suitable for development, including steep slopes, stream buffers, floodplain, and areas identified as Parks and Green Systems, the proposed development has a gross density of 3 units per acre, and a net density of 12 units per acre.

Ms. Kanellopolous said the Master Plan recommends a maximum of 51 units, using the calculation of net density. She said 100 dwelling units are proposed with a range of detached, duplexes, triplexes, and fourplexes, which is double the recommended density in the Comprehensive Plan. She said all units are size-restricted, with a maximum gross area of 1,200 square feet for 50 units, and 900 square feet for the other 50.

Ms. Kanellopolous said the applicant has included information regarding accessory units in their narrative as justification for the additional units. She said specifically, the applicant compared the additional density proposed with this development to be comparable to a more traditional single-family development with accessory units, which are permitted in the Zoning Ordinance and do not count toward the overall density.

Ms. Kanellopolous said the applicant compares the following scenarios. She said the applicant could construct larger single-family homes, each of which could have an accessory dwelling unit, which would not count toward density. She said for example, a 3,000-square-foot house can have an accessory

unit that can be 1,050 square feet in size. She said alternatively, as the applicant proposes, the applicant could construct 100 units and size-restrict the units so that the overall impact would be similar to 50 larger single-family units.

Ms. Kanellopolous said staff notes that several Neighborhood Model District developments have incorporated accessory or carriage units into their codes of development and that most do not count for density.

Ms. Kanellopolous said the request to exceed the recommended density was discussed at both the March 10 and May 19 Planning Commission public hearings. She said during the March meeting, Commissioners expressed that this application was unique due to other aspects beyond the density request, including unit types and preserving a significant number of trees. She said Commissioners also discussed the impact of dwelling units, considering associated impacts with the size of units. She said Commissioners noted that all units were size restricted to the same limit of 1,200 square feet, meaning none were accessory. She said Commissioners discussed the possibility of other density bonuses such as low impact development and design for stormwater management.

Ms. Kanellopolous said after the meeting, the applicant resubmitted the rezoning request, size-restricting half the units to 1,200 square feet and half to 900, rather than all being restricted to 1,200.

Ms. Kanellopolous said during the May meeting, Commissioners discussed the project's close proximity to employment opportunities, the reduced square footages and how these may be comparable to 50 larger units, the preservation of trees, and the likelihood that these units would be more affordable due to their restricted size.

Ms. Kanellopolous said there is not sufficient guidance in the Comprehensive Plan for staff to determine when it may be acceptable to exceed the Comprehensive Plan recommended density. She said there is also little precedent for this type of request, and the only precedent staff is aware of is Riverside Village.

Ms. Kanellopolous said therefore, staff included exceeding the recommended density as a factor unfavorable with this application and with previous applications and defers to the Planning Commission's recommendation. She said staff acknowledges that the full discussion on density may not have been reflected in the Commission's motion, and there may not have been clear guidance on when exceeding the recommended densities is acceptable.

Ms. Kanellopolous said staff has attempted to summarize the Commission's discussion in the attachments and in the presentation so the Board may decide if it would be acceptable for this application to exceed the recommended density.

Ms. Kanellopolous said the applicant has also requested a special use permit to disturb steep slopes to widen the accessway to meet County standards and to install stormwater management facilities. She said the requested area of disturbance is 39,100 square feet, shown in orange on the application plan. She said the County Engineering and Planning staff have no objection to the request. She said the applicant would need County Engineer review and approval of a Virginia Stormwater Management Program, VSMP, application to meet the steep slopes disturbance standards and County Code 1830.7.5 prior to any disturbance activities.

Ms. Kanellopolous said that while there may be some impacts to environmental resources with this development, the County Engineer and Planning staff find that the impacts to the preserved slopes are acceptable and find that there would not be substantial negative impacts. She said no building or parking are in the steep slopes, stream buffer, or floodplain. She said disturbance of preserved slopes is necessary to allow for vehicular access to the site.

Ms. Kanellopolous said the proposed development provides trails throughout the development to give residents access to the scenic environmental resources on the site. She said the Natural Resources chapter in the Comprehensive Plan highlights the importance of protecting water and topographical resources in the County, especially the water quality of the Rivanna River. She said Strategy 5C states that steep slopes in the Development Areas should be protected, especially those adjacent to streams.

Ms. Kanellopolous said the potential negative impacts to environmental features are considered against the beneficial aspects of the proposal, including providing affordable housing and directing development to the Development Areas.

Ms. Kanellopolous said the accessway will not be a private street and will have the design and appearance of a rural road section, widening the existing accessway from 12 feet to 28 feet, with 20 feet of travelway and 4 feet on either side for shoulders. She said the wider accessway is needed for safe and convenient vehicular travel and for access for emergency vehicles. She said further development of the site is not feasible without widening the accessway.

Ms. Kanellopolous said there is one ingress and egress for this site. She said Fire Rescue reviewed this application and stated that one entrance and exit is acceptable, given that the units are sprinklered, since the proposed access does not require travel through a floodplain.

Ms. Kanellopolous noted that while disturbance of steep slopes is needed for the accessway, disturbance of steep slopes for stormwater management facilities may not ultimately be needed during

site planning. She said the applicant has chosen to include the disturbance request for the stormwater management facilities with this application so that the full request is contained in one special use permit and so the applicant does not need to submit an additional special use permit in the future, should this disturbance be necessary.

Ms. Kanellopolous said the applicant shows three locations for potential slopes disturbance for stormwater management facilities. She said the County Engineer has reviewed the general locations of the proposed facilities and found them to be acceptable.

Ms. Kanellopolous presented a slide showing what staff has found as favorable and unfavorable factors for this proposal. She said since these are the same as in the staff report, she could return to them if there are any questions.

Ms. Kanellopolous said staff is carrying forward the Planning Commission's recommendations of approval for both applications. She said the conditions for the special use permit were on the following slide. She said Condition #6 has been removed since the Planning Commission public hearing, due to new guidance from DEQ. She said Condition #2 has been revised to reflect the correct date of the most recent rezoning application plan.

Ms. Kanellopolous presented motions for the rezoning request for the Board's consideration. She noted that the motion for approval is for approval of the requested 100 dwelling units above the Comprehensive Plan recommended density.

Ms. Kanellopolous presented the motions for the special use permit request. She noted that there was one minor adjustment to the resolution since the final documents were added to the agenda. She said Condition #2 was updated to reflect the correct date of the rezoning application, which is April 14 instead of February 28. She said the revised Resolution of Approval should reflect this correction, and that Condition #2 should have the correct date of April 14, 2020.

Ms. Kanellopolous offered to answer questions.

Ms. McKeel said she had a question or concern that Ms. Kanellopolous referenced and that the Planning Commission had talked about. She said she was a little surprised that one egress was acceptable. She said she understands the sprinklers, but she has seen the Fire Department deny developments in the Urban Ring that didn't have two egresses but had sprinkler systems. She said perhaps she was wrong. She asked if someone could speak to that, as this made her nervous, especially in this location.

Ms. Kanellopolous replied that her understanding is that two points of access are required after the thirtieth dwelling unit unless the units are sprinklered, in which case the second point of access is not required. She said Fire Rescue reviewed the plan to make sure that the road was wide enough and sturdy enough to support one of their vehicles.

Ms. McKeel expressed her surprise and that she supposed there was nothing they could do about it. She said they have all watched people trying to escape in California. She said residences and developments that were on fire there, and people were driving through their only egress.

Ms. McKeel said based on the size and the rental, she wanted to know what would keep some of these units from becoming Airbnbs. She said the County needs affordable housing and this size of housing, but they do not need it if they all turn into Airbnbs.

Ms. Kanellopolous replied that per County regulations, the units would not be able to be Airbnbs because they are not single-family detached units.

Ms. McKeel said she understands the County regulations, but she wonders if someone will be monitoring these. She asked if there will be a homeowner's association, or someone managing these.

Ms. Kanellopolous replied that she would let the applicant speak to this more.

Ms. Mallek said she looked forward to people addressing the environmental issues. She said she drove to the site that day in her very small car and there was no room for anyone else on the road, as there was a rock ledge on her left side and the river on her right. She said they are talking about an incredibly constrained mountain of rock that is completely surrounded by water.

Ms. Mallek said 30 years have been spent trying to improve the water quality in the Rivanna River and Chesapeake Bay and that with the ferocity of storms now, she cannot wrap her brain around how any amount of widening of any road is possible without all the dirt going down into the river, which surrounds the site. She said it is so much more challenging than Clark Road, where half of the road fell into the river several years ago after a lot of rain, and one lane of the road was closed for months.

Ms. Mallek said secondly, the sprinklers do not help at all when one needs rescue. She said although the building may not be burning down, the Rescue Squad cannot get there if the road is blocked. She said she has always had trouble dealing with this situation.

Ms. Mallek said the disturbance of these slopes is not just about pushing some dirt around but involves major blasting to get the rock to go somewhere.

Ms. Mallek said she wanted someone to address the 500 cars per day that seem to be a very low number for the 100 units coming in and out of there. She said for 20 years, 10 trips per day was the measure that everyone used for development. She said she didn't know why this would be any less here because it is not in a walkable area anywhere. She said it is way out at the fringe of the Growth Area, so people will have to get in their cars.

Ms. Mallek said when she was leaving the site that afternoon, she sat at the exit, and the light at Lewis and Clark was red, which meant she had about 1,500 yards empty. She said she pulled out as quickly as she could and literally in 5 seconds, there were cars at 60 miles per hour on her bumper going north, pushing her off into the slip lane to turn around at the U-turn.

Ms. Mallek said exactly the same thing happened when she took another picture sitting there because of the steady stream of cars heading south on Route 29 as was she trying to pull around. She said as far as the eye could see, there were no cars, so she jumped across the road and floored it. She said literally in 3 seconds, there was a whole cohort of cars flying over the hill who had to swerve around her because she was pulling out. She said 500 people are going to be doing this per day, per the traffic study.

Ms. Mallek said that it seems like too much is trying to be put in a place that is very challenging to be able to do it safely. She said in her mind, it was not a fair comparison to Belvedere, Brookhill, or Riverside Village. She said those have flat topography and much more space to do what they are trying to accomplish. She said there were a slew of questions people could address as they make their presentations.

Ms. LaPisto-Kirtley asked Ms. Kanellopolous if she could explain the sprinklers.

Ms. Kanellopolous said the Fire Department standards are that there either need to be two accessways if there are more than 30 dwelling units, or the units must have sprinklers within them. She said in that case, they will allow for only one accessway in or out of the development.

Ms. LaPisto-Kirtley asked if all the units were scheduled to have sprinklers.

Ms. Kanellopolous replied yes.

Ms. LaPisto-Kirtley reiterated Ms. Mallek's concern regarding the critical slope issue and cutting. She said this seems like a lot to be done, and she was referring to what the damage could be. She said she didn't know if there was a way to guarantee mitigation, but she was very concerned because it is next to the river in a small area.

Ms. LaPisto-Kirtley asked if the units would be one on top of the other.

Ms. Kanellopolous replied that some of them are, and that she could let the applicant speak more to that.

Mr. Gallaway invited the applicant to speak.

Mr. Justin Shimp, engineer for the project, said he was joined by Ms. Kelsey Schlein, land planner from his company, and Mr. Chris Berry, owner of Access Property, an affordable housing provider in the community. He said Mr. Berry has owned the property for some time, and he has been working with him for a number of years now trying to find a way to make this project into a unique development they can all feel good about. He said he believes they have done that here.

Mr. Shimp presented a picture and said he believes it paints the picture of what they are trying to accomplish. He said there are a lot of large trees and small units, and the principle is that they are going to work with a modular type of construction with smaller units that can be placed on stilts or on column foundation rather than having to clear and grade the whole site.

Mr. Shimp said if one goes to the site, they will notice many beautiful, mature trees, which is part of the charm of the property. He said the applicant thought that the traditional development model where everything got cleared was a missed opportunity. He said they can preserve much of what is there with character while providing more units and affordability with their approach.

Mr. Shimp presented a map, noting that the white dashed line represented the bounds of the property, which is around 32.5 acres. He said the area in the back was the only area they were developing, which is flat and very developable land. He said there are some steep spots there and that he would talk about those in his presentation.

Mr. Shimp said the enlarged drawing shows roughly 30 units in the structure. He said it could be 30 single-family houses, but they are not. They are a combination of duplexes, triplexes, and one six-plex. He said they have clustered the parking to minimize the amount of land that has to be disturbed for that, which has left open areas where they can place the units within the wood setting to keep the unique character of the property.

Mr. Shimp presented a rendering to give the Board a sense of what the site looks like from the sky and the effect of the landscaping on development such as this.

Mr. Shimp presented some images of examples of the types of housing the applicant had in mind. He said the top picture paints a picture of how one can construct a unit in a wooded setting without having to clear and grade everything around it. He said they are using this type of construction principle on the project. He said there are a couple other small units in the corners that are indicative of the kind of architecture and buildings the applicant wants to build on this property.

Mr. Shimp presented some cross sections. He said the top cross section was all the way across the property and that as the grade steps down, there is a small spot where they would notch out a parking lot. He said essentially, the structures stay on existing grade. He said as far as concerns about environmental impact, the applicant is actually touching much less of the site than they would under normal circumstances. He said even with the spots adjacent to a house, it is entirely conceivable that they may not touch anything other than four of the six columns of 2-foot diameter, and the rest of the ground will stay exactly as it is.

Mr. Shimp zoomed in on a picture to address an earlier question about the stacked units. He said as the grade slopes down, there would be a parking lot and small retaining wall, then a unit above another unit. He indicated on the slide to a unit, noting that it is a larger unit with essentially an accessory unit down below. He said there would be steps to go down, and the person would have their own porch. He said it is a full unit but is small.

Mr. Shimp presented a rendering to show the parking lot situation and also gives context to the buildings up above. He said the unit he just showed the Board steps down and indicated to a unit, with one down below. He said one thing the applicant has done is increased the spacing of the trees to something along the line of every 40 feet, whereas normally, it would be about every 100 feet or so, per the County ordinance. He said over time, the parking lot will essentially reestablish itself and fill in the forest because the trees planted as such will develop large canopies. He said this gets back to a wooded, almost park-like setting.

Mr. Shimp said a fun thing the applicant is doing is integrating natural playscape features in their recreational elements. He said there are requirements in the County Code for swing sets and traditional playgrounds, and the applicant has proposed using natural recreational elements that are similar to those as the Wild Rock camp.

Mr. Shimp said there would also be a long trail network for people to use and enjoy on the property.

Mr. Shimp said one thing the Planning Commission pushed the applicant on was to look at how the unit compares to the traditional. He presented a slide showing the comparison. He said the units could be 900 or 1,200 square feet, but that many of them will actually be smaller because of site constraints and will be 62 feet long. He said while the traditional house one might see in a 6-unit-per-dwelling unit neighborhood is 2,200 square feet at four bedrooms. He said the applicant's units are two-bedroom. He said the net number of units will really be an equal number of bedrooms and people than if they had 50 larger units.

Mr. Shimp presented a bird's eye view and indicated to Dunlora Forest. He noted the intensity of this development compared to that of the applicant. He said the inclusion of existing trees makes a big difference in how the site looks and feels, not to mention that the footprints of the building in the applicant's scenario are actually much smaller than what they would be in a traditional by-right or Neighborhood Density Residential project.

Mr. Shimp presented the footprint of the units he showed earlier. He noted that this was made up of 8 units, so they are able to fit eight units in the space of two, with some room for a tree or two in between. He said the slide illustrated the cross section of the area.

Mr. Shimp summarized that as described in the staff report, a normal single-family house of 3,000 square feet would have a 1,000-square-foot accessory unit, with no discussion of the density. He said the applicant has proposed a maximum of 2,400 square feet for two units, so they are at even less as far as intensity of development from what would be.

Mr. Shimp said critically, they have also restricted their square footage of 60,000 square feet, whereas they would be looking at 90,000 square feet or more on a more traditional development. He said if anyone was worried about the impact of the site and natural features, the applicant has been cognizant of that in their design.

Mr. Shimp said they essentially have 50 normal units, with 50 smaller units. He said again, those do not count toward density, in most cases. He said Belvedere is different and they do, but those units are actually detached as separate structures. He said in the applicant's case, all their units are attached in some fashion, so they would be more like the traditional single-family house.

Mr. Shimp said there are also many positive factors with this development in that they are maintaining 73% of the site as woods, with 80% being open space. He said they have the affordable units and that by having more units, they have even more affordable units. He said because of the increased number of units, every unit will be inherently more affordable than what would be built if there were the traditional Neighborhood Density model. He said there is a restricted site building area, and 2,600 feet of trails.

Mr. Shimp said he would address the slope disturbance and zoomed in on some areas on the slide. He said as was noted by staff, the applicant is not doing any slope disturbance to get more units or to create more parking. He said it was about getting an accessway in, and that it can be done safely. He said the applicant discussed at great length with the County Engineer about how this can be done. He said they have reached a consensus on that, which is how staff has recommended approval of the special use permit. He said this went through a lot of thought before they got to this point with a staff recommendation of approval.

Mr. Shimp said possible stormwater disturbances are because the code would allow the applicant, in many cases, to simply discharge the stormwater above the slopes, at the river. He said it was a concern of the County Engineer that this may not always be the best thing, and so the applicant wants to know that if they have to pipe it down to the river, which involves permits, if this is the best thing to do environmentally, they want to have the permission to do it. He said this is why this is included in the request. He said the applicant prefers not to do this but if they must, they will have the provisions there.

Mr. Shimp said he hoped the Board gathered that this was a unique kind of project. He said he has done many plans in Neighborhood Density, which end up with larger single-family houses. He said while there is nothing wrong with that, this project is an opportunity on a piece of property that offers tremendous natural resources and opportunity for those who live there, serving a wider section of people.

As Mr. Shimp's time expired, he said he would leave the Board with the staff comments in their report about the housing, adding that he believed those were key to this discussion.

Ms. Mallek said Mr. Shimp presented a slide with the elevation that showed the cuts, then the houses going down the hill, which reminded her of Birnam Wood years ago, before they had to tear everything up and do the drainage because it was built on a slope from Hydraulic Road straight down, and the water ran down the hill from one house down into the living rooms of the ones down below.

Ms. Mallek asked Mr. Shimp how they will gather the stormwater going over those cuts. She said there is a flat area, then a series of houses down below. She said this was a slide with a line drawing showing houses.

Mr. Shimp pulled up the slide. He indicated on the slide to a parking lot, explaining it would have curb and gutter to collect any water, which would fall into a pipe and get piped past the houses. He explained that the houses in the picture were elevated off the ground so if rainfall came in an indicated area, it would go underneath the building along the ground. He said there is no chance, in this scenario, for water to flow from a slope into a house as they are all elevated above the ground. He indicated on the slide to another place where runoff is caught at a parking lot into a pipe and goes past the houses. He said they are intercepting the water as it goes down.

Ms. Mallek asked if the outfall would be held somewhere and dribbled out slowly into the river.

Mr. Shimp presented the conceptual plan for the storm sewer network. He said it goes into a stormwater management system, as all projects have these days. He said how it would most likely work is that they will discharge into some sort of level spreader that takes the water and sheet flows it back over the forest. He said it will go back into the ground before it goes down to the river. He said this is the applicant's intention, and that they must get that approved. He said there are certain conditions that this must meet, and that it is part of the VSMP process with the County. He said if they can meet those conditions, that is what they will do.

Mr. Shimp said in the worst-case scenario, the applicant would have to build a pipe down to the river and discharge it directly into the river so there can be no erosion of slope getting into it. He said they would have to get a permit with the Army Corps of Engineers. He said this is very heavily regulated and the applicant does not want to do that, but this is a way to make sure that the water gets into the river without causing erosion anywhere in between the development and the river itself.

Ms. Mallek said this was good to know because the North Fork already got diverted when the main road to Advance Mills Farm was put in, and all the red mud ran down the mountain and changed the direction of the river. She said she was very glad to know that that will not be happening here.

Ms. Price said she finds this to be a fascinating and innovative approach to housing. She said she was sure there are more complexities than she was able to ascertain from the presentation, but that she appreciated the innovative approach in trying to meet the housing needs without unduly disturbing the environment.

Ms. Price said she did have a question for County staff, but that she would wait to ask it later.

Ms. LaPisto-Kirtley said she is concerned about the road, and about the critical slopes. She asked if the water is somehow managed where it is filtered if it is discharged into the river. She said she also understands that with that, they also have a storm system that will connect to the central sewage system.

Mr. Shimp said this was correct. He said there is a sewer collection station that runs through a small pump station, which pumps back to the Service Authority, who has a pump station right across the street from the site. He said they would connect to public sewer, which is normal. He said with

stormwater, it must go through a stormwater system. He said sometimes there is filtering and sometimes there is not, but it must be collected, maintained, then put in an adequate outfall where it cannot cause erosion. He said this is a baseline for any development, which is what will be required here.

Mr. Shimp said the applicant has done their best to try to get some people living on the site without unduly disturbing the site. He said the applicant's goal is to create as little disturbance as possible to make this work.

Ms. LaPisto-Kirtley asked how many homes will be removed in doing this project.

Mr. Shimp replied that he believed there are between 10 and 13, but that he did not know the exact number.

Ms. LaPisto-Kirtley asked if they are on septic.

Mr. Shimp replied yes.

Ms. LaPisto-Kirtley said this would then be an environmental improvement.

Mr. Shimp said this was a good point. He said there are probably all sorts of old septic on the site that do not meet current standards and would not be approved today.

Ms. LaPisto-Kirtley asked if all those would be removed.

Mr. Shimp replied yes.

Ms. LaPisto-Kirtley asked what percentage of the units would be affordable housing, expressing that they all looked like they would qualify.

Mr. Shimp replied that at minimum, it is a 15% guarantee. He said he thinks practically, almost all of the 900-square-foot-maximum units would fall into the affordable range.

Ms. LaPisto-Kirtley asked if these would be at 80% AMI.

Mr. Shimp replied yes.

Ms. LaPisto-Kirtley asked if there would be any units falling below that AMI.

Mr. Shimp replied that there were none proffered below that. He said the County policy is currently 80% AMI, which is what the applicant has done.

Mr. Gallaway said Ms. Mallek had brought up the question of getting the road done and the matter with the rock. He asked if Mr. Shimp had addressed that.

Mr. Shimp replied that he had not yet. He presented a section showing two scenarios: one they would do, and one they would not do. He said the top scenario is what happens if one fills on top of the ridge. He said there is material moving off on the side and the potential for erosion down the river.

Mr. Shimp said the applicant's grading plan shows the second scenario where on the narrow road, they will dig and chip into the rock straight down. He said at no time will they be creating material that would fall off the slope. He said they are going straight down, digging it out, putting it in a truck, and hauling it off the site. He said this is the method the applicant discussed with the County Engineering staff.

Mr. Shimp said the applicant has a grading plan as part of their 30-page application plan that shows this method. He said this is something they are bound to during construction.

Mr. Gallaway said he had noted some of former Supervisor Mr. Rick Randolph's comments about the flooding or the potential for the flooding of the roadway. He asked Mr. Shimp if he could speak to some of that. He said it looks like it is higher.

Mr. Shimp said the road, at its lowest point, is 3 feet above the floodplain. He said the flood waters would not come over the road when they are higher than the floodplain. He said the buildings are more like 6-7 feet over the floodplain, at minimum, and many of them are 20-30 feet above the floodplain, so they are not close.

Mr. Shimp said he believed this was Mr. Randolph's concern that was discussed at the Commission meeting. He said there is a coupled margin to the floodplain from the access road.

Mr. Shimp said he would address the sprinklers as well. He said according to the County staff, this is the standard, and that what is being applied here is the same that has been applied to every other development in the County. He said there were no special favors here. He said one could probably find quite a few developments that have a similar number of lots on one road. He said this was not uncommon. He said in the applicant's case, they will have to sprinkler it, and that they were fine doing so because it is good practice.

Ms. McKeel said she agreed with Ms. Price in that this project is very innovative. She said in all honesty, Mr. Shimp often brings the Board projects that are innovative, which she appreciates.

Ms. McKeel said she does like the idea that this addresses some of the affordable housing in the County, and especially the size she thinks is needed in this area. She said she is always worried, however, when she sees this sort of size in rentals that they will end up with Airbnbs. She asked if there were no plans to use any of these or allow this to turn into short-term rentals.

Mr. Shimp replied no. He said the owner, Mr. Berry, runs a company called Access Properties and that his business is essentially affordable housing. He said Mr. Berry runs a business of long-term rentals for people who work in blue collar jobs. He said he supposed if he sold the property, someone could break the law and do short-term rentals here. He said they could not deny that this is a possibility. He said this is a development brought to the Board essentially by an affordable housing developer, however, so this was certainly not his business.

Ms. McKeel said this was fair, and that she was just trying to be sure. She said there are certainly enough Airbnbs in the community and they need more of what Mr. Shimp had presented.

Mr. Gallaway opened the public hearing.

Mr. Neil Williamson said he is President of the Free Enterprise Forum, a privately funded public policy organization focused on Central Virginia. He said he specifically wanted to call out Ms. Kanellopolous' excellent staff report. He said while the Free Enterprise Forum has no position on this application, they do have questions.

Mr. Williamson said the easy sites in the Development Area have been developed. He said the more difficult sites will require many more innovative solutions. He said currently, the Board is looking at a site that includes a significant stream buffer and houses on stilts, which are all challenges. He said beyond that, it is challenge for the Albemarle County Service Authority, ACSA, to provide water service to this area in an economically viable way.

Mr. Williamson said the site is in the Development Area and is in part of their calculation for the developable area of the locality. He said this is a concern for the Free Enterprise Forum. He said they hoped the Board will consider this innovative idea. He said while the organization does not have an opinion about it, they do hope the Board understands that as they continue to restrict their Development Areas, they will continue to see more and more challenged areas forced to develop.

Mr. Gallaway closed the public hearing and brought the matter back before the Board. He asked if the applicant wished to rebut or speak to the public speaker.

Mr. Shimp said that challenges are also an opportunity for innovation and that sometimes when difficulties come up, applicant think of better solutions than they had before, which is how he looks at this particular property.

Ms. Mallek asked if the modular units come in units similar to what the Board was looking at in the picture, or if they come in wall by wall. She asked how the truck bringing them in would get out, as this would be a big tractor trailer coming in. She said she was still struggling with the matter of access.

Mr. Shimp said he did not exactly know. He said they would probably come in 2-3 pieces. He said one thing he considered was building a temporary construction facility onsite to build the units out of the weather and then place them on the site. He said Ms. Mallek was correct that they wouldn't be fitting interstate tractor trailers on the property, but that this was okay because there are lots of ways to deal with this. He said the technology of modular housing is going towards cartridge construction where a 10 to 12-foot section is pieced together, similar to LEGOS. He said this is probably what would happen, but that he didn't know for sure.

Ms. Price said her question was likely to Mr. Kamptner and possibly to Mr. Richardson. She said she found this to be a fascinating proposal and did not have questions with it. She said her question relates to whether there is any adverse impact on the Department of Defense property immediately to the northeast of this, and whether that has been considered.

Mr. Kamptner replied that he was not aware it was considered, but he would also expect that it was considered by Community Development when they were evaluating the proposal.

Ms. Price asked Ms. Kanellopolous and Mr. Richardson if they had any comment.

Ms. Kanellopolous replied that since there are no pedestrian or vehicular connections, all of the development, parking, housing, and roads, would be very internal to the site, and it is surrounded by the river, staff did not find any adverse impacts to any adjacent properties.

Ms. LaPisto-Kirtley asked Mr. Shimp if he had any pictures, other than what were shown, as to what the houses would actually look like as opposed to renderings.

Mr. Shimp replied that he only had the renderings and images he showed earlier. He said they

haven't set on a particular house, but he felt it was most likely what he showed. He said they were not proffering or guaranteeing a certain look.

Ms. LaPisto-Kirtley asked that since these would mostly be affordable, if there was any plan whatsoever to have a bus stop or location for a future bus stop.

Mr. Shimp said one of the things the applicant heard at the community meeting was that apparently the school bus currently stops on Route 29, which is not a good situation. He explained how the development would have a loop so that buses can come into the site, loop around, and come out. He said the bus stop could happen, although he hadn't heard anything about that. He said it would be up to the bus service, though the site does have the geometry to accommodate it. He said perhaps a shorter transit bus would come in the future, which would be easily accommodated by the property.

Ms. LaPisto-Kirtley asked if a school bus, then, could turn around and easily go out, and if something like a JAUNT bus would be able to do the same thing.

Mr. Shimp said this was correct.

Ms. McKeel said someone was going to respond about the short-term rental piece. She asked if someone else was available to say something about that, or if she misunderstood.

Mr. Gallaway said Mr. Shimp mentioned that the owner was available and spoke to his approach.

Ms. McKeel said this was perhaps who she was thinking about. She said she didn't want to take a lot of time because she was assuming this was not going to be short-term.

Mr. Shimp said he knew this was not the owner's intention. He said the property could be sold, but that the County does have rules. He said it would be against zoning to do that here.

Ms. McKeel said this was good enough.

Mr. Gallaway said he thinks that for enforcement, it is how they are doing everything else, with staff perusing the Airbnb sites and trying to get people into compliance. He said he would imagine it would fall under that as well.

Ms. McKeel said she would hope so. She said she was sure this was true, and that she was probably making more of it than she needed to. She said it was just that she is seeing affordable housing in the area being lost.

Ms. Mallek said she was following up on Ms. Price's comment about Rivanna Station. She said if staff knows, she would like to be assured about her question. She said the elevation of the top of this is still lower than the hill to the north, which is then south of the Rivanna Station. She said if there are higher residential buildings surrounding the station, that is a real security problem for them, and she is hopeful that this is still below the line of sight.

Mr. Shimp replied that this was correct. He said they are well below that. He said their treetops will remain where they are, as it is a wooded site now and will have that effect when they are done. He said their proximity is below the elevation, and that it is far up the hill when getting over to the Rivanna Station.

Ms. Price said she appreciated Ms. Mallek's question and Mr. Shimp's response. She said this had been her only concern as far as a potential adverse impact on a significant Department of Defense complex.

Ms. LaPisto-Kirtley said most of the units are either single or double. She asked Mr. Shimp if he said at some point that something would be six high, or if she misunderstood that.

Mr. Shimp replied that it would be six units in a row, attached side by side.

Mr. Gallaway said he appreciated the innovation of the modular units. He said he has been thinking of different developments that have come forward. He said there is one on Rio with the small house unit, and that he will be curious to see how that plays out. He said there is also the EcoVillage, which is bringing forward a different approach to how they are doing their development. He said this falls in line with another development coming out and that to his knowledge, the modular idea is one of the first ones he has seen. He said he was appreciative of seeing that kind of innovation and work on the site, such as stilting and trying to keep the integrity of the place.

Mr. Gallaway said he would follow the Fire Department's lead on this in terms of the accessway. He said he trusts their judgment and with what they are suggesting, he doesn't think they would otherwise give the go-ahead.

Mr. Gallaway said in terms of transit, this is a perfect opportunity as the Board continues to talk about on-demand transit potential. He said fixed routes are not going to be the answer on Route 29. He said there is an expressway that UVA runs from UVA Research Park, which runs down and when the roadway is open at Airport Road, this will make this more appealing. He said there is the potential for that to somehow get connected here. He said as they start thinking more about on-demand and hope those

things come to fruition, it will be places like this up and down along Route 29 that will benefit from this type of service rather than from a fixed bus route. He said it will be exciting to see how that plays out.

Mr. Gallaway said he appreciated Mr. Williamson's comments about the challenging sites, but with what the applicant was dealt here, he believes they approached this with a unique solution. He said he is in favor of the application.

Ms. LaPisto-Kirtley **moved** to approve ZMA201800018 and SP201800023 River's Edge. Ms. Price **seconded** the motion.

Ms. Mallek said in the staff report, she thinks there is a different resolution needed about displacement of current tenants. She said her question was only about asking the applicant if they are waiting until people's leases run out or if they are doing something more abrupt, and if there was any background provided to accompany that resolution the Board was asked to adopt.

Mr. Kamptner said there was a correction to the special permit Condition #2 to correct the date.

Ms. Kanellopolous confirmed this.

Mr. Gallaway asked if this was covered in the motion in the way it was worded.

Mr. Kamptner said this could be expressly done, as he did not hear that.

Ms. LaPisto-Kirtley asked what she should add to her motion.

Mr. Kamptner replied that it would be in reference to the resolution to approve the special permit, as amended, to correct the date of the document that is referred to.

Ms. LaPisto-Kirtley **moved** to approve ZMA201800018 and SP201800023 River's Edge, as amended. 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, and Ms. Price

NAYS: None

ABSENT: Ms. Palmer

Mr. Gallaway asked who could answer the displacement question.

Ms. Kanellopolous replied that this was a resolution to have an anti-displacement policy. She said since that policy has not been adopted yet, they could not require the applicant to fulfill that yet, though they may have come up with a response on their own.

Mr. Berry, the property owner, replied that he has placed the tenants on month-to-month leases and that it will probably be at least a year before they do anything. He said the tenants were sent letters and that they understand what is going on. He said they are cooperating, and that he will try to fulfill some of their needs by renting them other houses he has in his portfolio, if he can.

ORDINANCE NO. 20-A(9)
ZMA 2018-00018

AN ORDINANCE TO AMEND THE ZONING MAP
FOR TAX PARCELS 03200-00-00-005A1 AND 03200-0000-005A0

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2018-00018 and their attachments, including the application plan last revised on April 14, 2020, the information presented at the public hearing, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-19.1 and 18-33.27, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2018-00018 with the application plan last revised on April 14, 2020.

RESOLUTION TO APPROVE
SP 201800023 RIVER'S EDGE

BE IT RESOLVED that, upon consideration of the staff reports prepared for SP 201800023 and all of their attachments, the information presented at the public hearings, the additional data submitted by the applicant, any written comments received, and the factors relevant to a special use permit in Albemarle County Code §§ 18-30.7.1, 18-30.7.4(b)(2), and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 201800023, subject to the conditions attached hereto.

* * *

SP2018-23 River's Edge Special Use Permit Conditions

1. The limits of disturbance within the Preserved Steep Slopes Overlay District are to be limited to the sizes, locations, and extents of disturbance as proposed in the "River's Edge: Steep Slopes Disturbance" application prepared by Shimp Engineering, P.C. and dated February 28, 2020.
2. Improvements related to stormwater, drainage, and grading shown on the final site plan and water protection ordinance plan for River's Edge must be in general accord with the improvements and grading shown on the exhibits "River's Edge: Road Grading + Profile" and "River's Edge: Conceptual Stormwater" in the "River's Edge: Zoning Map Amendment Application Plan" application prepared by Shimp Engineering, P.C. and dated February April 14, 2020.
3. Any blasting of rock must be performed subject to a blasting plan reviewed and approved by the County Engineer and other Authorities having jurisdiction, prior to commencing such activity.
4. Two-layer erosion and sediment control measures will be installed around the perimeter of the site, where feasible, at the discretion of the County Engineer.
5. Erosion and sediment control basins and traps may not be located within the floodplain limits.

Agenda Item No. 19. **Action Item:** River's Edge Residences, Private Central Sewer System.

The Executive Summary forwarded to the Board states that, at its meeting on March 10, 2020, the Planning Commission voted 7:0 to defer action on ZMA201800018 and SP201800023. The applications were deferred to May 19, 2020. A summary of the main concerns heard from the Planning Commission is included in Attachment E.

At its meeting on May 19, 2020, the Planning Commission voted 5:1 to recommend approval of ZM201800018 with the finding that the use of a central system to provide connection to the nearby public sewer system is in substantial accord with the Comprehensive Plan. The Planning Commission also voted 5:1 to recommend approval of SP201800023 with conditions as stated in the staff report.

The Planning Commission's staff report, action letter, and minutes (from both meetings) are attached (Attachments A, B, C, and D).

At its meeting on May 19, 2020, the Planning Commission voted 5:1 to recommend approval of ZMA201800018 and to recommend approval of SP201800023 with conditions as stated in the staff report. The Planning Commission did not request any changes.

It should be noted that there was significant discussion during the public hearing regarding the proposed density and the request for additional units above the recommended density in the Comprehensive Plan. This discussion may not have been reflected in the Planning Commission's motion. Staff's analysis of the requested density is included in Attachments A (staff report) and A9 (accessory units and previous applications). Please note the additional discussion on density in the Planning Commission minutes (Attachment C).

Since the May 19, 2020 Planning Commission public hearing, no changes have been made to the application. Several non-substantive changes were made to the SP201800023 conditions, and Condition #6 has been removed due to new guidance from the Department of Environmental Quality. The attached Resolution to approve SP201800023 (Attachment H) includes these revised conditions.

Attachment F is the current application for ZMA201800018, and Attachment A5 is the current application for SP201800023.

The Applicant has also requested approval of a central sewerage system, which is subject to the Board's approval, and is being presented to the Board as a separate agenda item on August 5 for the Board's consideration.

Staff recommends that the Board adopt the attached Ordinance to approve ZMA201800018 (Attachment G) and the attached Resolution to approve SP201800023 (Attachment H).

Mr. John Anderson, Civil Engineer with the Engineering Division, said he was not joined by Mr. Frank Pohl because he was traveling with family. He said this was a formal process of presenting limited information about the central sewage system to the Board for its consideration.

Mr. Anderson said that with the approval of the rezoning for River's Edge residences, sanitary utility service is required. He said the project proposes to make connection with the existing Albemarle County Service Authority, ACSA, public sanitary sewer system at Route 29. He said from that point of connection at Route 29, River's Edge residences will be served by the ACSA public system. He said his presentation would briefly outline a sanitary sewer design for conducting septic effluent only. He said it is a conveyance system and is not treating it.

Mr. Anderson said he appreciated when Mr. Shimp earlier said that pump stations are a rather common design feature and that on the west side of US-29, the ACSA operates such a pump system

down near the river to convey the septic through its network.

Mr. Anderson said there are approximately 100 units proposed for River's Edge residences on a promontory of land, and that it will connect with the pump station. He said the units that were showed and discussed will have 4-inch sanitary laterals that lead to 8-inch gravity mains, which is a conventional design. He said the gravity mains feed to the pump station.

Mr. Anderson said the pump station, with dual pumps, will force the septic effluent approximately 2,200 feet through a 3-inch force main designed to accommodate 2-inch solids to a new manhole on the south side of US-29's northbound lane.

Mr. Anderson said the preliminary central sewage system plan was in Attachment B.

Mr. Anderson said from an engineering perspective, the preliminary design appears to be noncontroversial. He said it includes features that help ensure reliability against failure, including alarms and telemetry, to notify offsite personnel of high water in the wet well. He said should the levels in the wet well reach a certain point without triggering the pumps, there will be an alarm sent to a third-party monitoring group, which is manned 24/7, 365 days a year.

Mr. Anderson said other features include dual pumps and a backup generator for the event of power failure. He said the plan and profile views on the preliminary plans show a generator.

Mr. Anderson said for these reasons, the County Engineer recommends the Board move to approve the proposed private central sewer system, with conditions. He said it is a system that conveys, but does not treat, septic effluent.

Mr. Anderson said the Executive Summary includes what the Mr. Shimp and the developer have found. He said the Albemarle County Service Authority, ACSA, has determined that there is no cost-effective means of providing public sewer service to this single parcel, and does not envision that a public pump system in this location could ever serve a large enough area to justify the ongoing maintenance cost. He said therefore, public sewer service is not available on the property.

Mr. Anderson said alternatives considered for providing sewer service for the proposed development include providing 50 private, individual duplex pumps and lateral connections to the offsite public sewer. He said it appears this could be done by right but is considered to have a higher failure potential by both staff and the applicant's consultant. He said the comparison is 50 pipes running 2,200 feet as opposed to one.

Mr. Anderson said the second option was to provide a private onsite sewage treatment system. He said he has also heard discussion in the ZMA presentation and some acknowledgment that some current existing septic systems on the site pose an environmental challenge and that they will be retired, should this central conveyance system be approved. He said this option is considered to be an inferior alternative because of the adjacent environmental features, and that there is a higher probability of failure, i.e., one versus many.

Mr. Anderson said the third option is to install a common pump station collecting all the sewage from the 100 dwelling units and conveying the sewage offsite in a single, private offsite sewer force main that would connect to the public sewer line, as proposed by the property owner. He said this is considered to have the lowest likelihood of failure.

Mr. Anderson said Chapter 16 of the Albemarle County Ordinance requires the design and this action pass before the Board. He said the second bullet is one of the more substantial things to consider, that no onsite sewage treatment is proposed. He said the proposal is to construct septic conveyance virtually identical with multiple pump stations in operation within the ACSA sanitary conveyance network. He said pumps have been around for centuries in one form or another, and ACSA relies on them. He said he did not know how many pump stations they have in their public system, but that the proposal is very similar.

Mr. Anderson said design plans will be reviewed by DEQ, with the criteria of a Reliability Classification I, which was included as an attachment. He said the Reliability Classification worksheet was completed by Shimp Engineering. He said the reason for this classification is that any overflow of the wet well is judged to have a high likelihood of having the public in contact with it or near it. He said the Reliability Classification I forces things like a backup generator, telemetry, and monitoring.

Mr. Anderson presented a slide from Ms. Kanellopoulos' presentation to point out some of the common features and the way the system would work. He indicated on the slide to a group of three units, and a 4-inch sanitary lateral and an 8-inch gravity fall. He said there are a series of the gravity lines. He said the 8-inch collector heads down to the pump station, and that all of this is a gravity fall and gravity operation of pumps there.

Mr. Anderson indicated on the slide to collection behind units. He said though one may think this is being routed uphill, this is not the case. He said all of these are gravity feeds to the pump station.

Mr. Anderson indicated to a spot where sensors and levels in the wet well trigger pumps that will then send the septic on its way through a 3-inch main that tends to run just outside the edge of pavement of the access. He said in the end, they could end up in the pavement, which Engineering sees a lot of and

that they were not sure would happen. He said he wanted the Board to focus on the elements of gravity collection, the location of the pump station, which is located outside of the mapped floodplain, and the effluent being on its way.

Mr. Anderson said once they get out to Route 29, right across the road, there is an existing ACSA manhole. He indicated to the 3-inch force main, noting it is in a protected location. He indicated to what will be a constructed access while the force main is going in. He said it will be vetted and installed properly and will have tracing wire on it to help locate it, should anyone ever need to access it in the future. He said in all locations, it is outside of the mapped floodplain.

Mr. Anderson said near Route 29, there is a new ACSA manhole proposed. He said the ACSA has had the opportunity to look at the plans and approve it, in concept. He said it will take a boring at Route 29 with no disruption to traffic. He said the bore pits will be located on each side, and what is believed will be an 8-inch gravity main under Route 29.

Mr. Anderson said in consideration of the budget to the County, the verification of ongoing maintenance is a recommended condition of approval. He said verification of ongoing maintenance is expected to require minimal staff time.

Mr. Anderson said staff has considered the design of the central sewage system and recommends that the Board adopt the attached resolution, Attachment E, approving the installation of a common pump station, subject to the conditions therein.

Mr. Anderson presented a slide listing the conditions, noting they were attached to the resolution. He said the conditions include establishing and operating in accord with the preliminary plan prepared by Shimp Engineering, Attachment B; and that prior to issuing building permits for dwellings, the system must be complete and authorized for use, or bonded by the County. He said the owner assumes responsibility for the proper operation and maintenance of the system, and that Albemarle County then checks on that.

Mr. Anderson said if requested by the County Engineer, the owner must demonstrate annually full compliance with all state operation and maintenance requirements. He said there are requirements that apply through DEQ to sewage and collection treatment systems, SCAT regulations, noting he could share a link to those who have an interest in that.

Mr. Anderson said in terms of the development design, staff finds it to be noncontroversial. He offered to answer any questions.

Ms. McKeel said she saw something in the report about redundancy for the pumps. She said she wanted to be sure there was some redundancy in the system for protection.

Mr. Anderson replied that this would be the two pumps where one pump tends to be a reliable piece of equipment and should there be a pump failure, there is a circuiting system that will sense the pump failure, along with a high-level alarm and sensor in the wet well. He said there are two pumps, and the chances of both pumps failing and for there to be no propelling force to move whatever is accumulating in the wet well throughout Route 29 is a low probability.

Mr. Shimp said there are two individual pumps in the well that cycle back and forth and if one were to not work, the other would automatically kick on. He said the operator would be notified via email or text to fix it.

Ms. McKeel said her other question was about unpleasant odors and if there wouldn't be any.

Mr. Shimp said there would not be, and that this was an important consideration. He likened the system to an aerator in a fish tank that pushes the air down. He said one would probably never notice but could see on top of the pumps a small fan, which is what keeps the sewer from going stagnant, which creates the smell. He said the technology to address this was well-established.

Ms. Price said she thought this was a great idea and a wonderful way to solve a problem.

Ms. LaPisto-Kirtley **moved** to approve River's Edge Residences Private Central Sewer System, subject to the conditions contained therein. 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, and Ms. Price
NAYS: None
ABSENT: Ms. Palmer

**RESOLUTION TO APPROVE THE RIVER'S EDGE
REQUEST FOR A CENTRAL SEWERAGE SYSTEM
ON TAX PARCELS 03200-00-00-005A1 AND 03200-00-00-005A0**

NOW BE IT RESOLVED that, upon consideration of the staff report prepared for this request and all of its attachments, the information presented to the Board of Supervisors, and the factors relevant to central sewerage systems in County Code Chapter 16 and the Albemarle County Comprehensive Plan, the Albemarle County Board of Supervisors hereby approves the request for a central sewerage system on Tax Parcels 03200-00-00-005A1 and 03200-00-00-005A0, subject to the conditions contained herein.

* * *

The River's Edge Central Sewerage System Conditions

1. The central sewerage system must be established and operated in accord with the Preliminary Central Sewage System Plan prepared by Shimp Engineering, P.C., last revised on July 24, 2020, and with DEQ's Reliability Classification Worksheet for Sewerage Pump Stations completed by Shimp Engineering, P.C.;
2. Before any building permits may be issued for dwelling units to be served by this sewerage facility, the facility must be either (a) fully completed and authorized for use or (b) bonded with the County;
3. The Owner(s) of Tax Parcel 03200-00-00-005A1 and 03200-00-00-005A0 assume full responsibility for the proper operation and maintenance of the sewerage system; and
4. If requested by the County Engineer, the Owner must demonstrate annually to the County Engineer full compliance with all State operation and maintenance requirements.

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

Mr. Gallaway asked if they should first address the item Ms. Mallek requested regarding the field use.

Ms. Mallek said she knew staff was working very hard on their task of criteria, and that she wanted to check in with the rest of the Board to find out about some policy items so that they would be able to help with what is on their side of the line as far as the sports field use.

Ms. Mallek said there were many things that seemed to have been agreed upon in the last Board meeting, but that she wanted clarity so that it would be helpful to staff as well as to the public.

Ms. Mallek said they had talked about field use for the local sports teams and that her understanding was that there would not be tournaments. She said they were not going to be inviting people to come to the area and use the fields to bring people from lots of other areas.

Ms. Mallek said in the meantime since having this discussion, people from the area are taking their children to hot spots like Virginia Beach for big recruitment events, to see college recruiters, etc. She said they are coming back and thinking they should then be able to use the County's fields. She said she was leaving a whole series of questions for people and staff to think about so they can be sure they are doing the best job they can. She asked how they should deal with that.

Ms. Mallek said they talked at the last big meeting about different sports having different risks, and that Dr. Denise Bonds talked about children on the baseball field and how this is not high-risk because they are waiting for the ball to come to them. She said she appreciated that completely and understood the difference.

Ms. Mallek said since the meeting, the Virginia High School League and other experts have come out with designations for which sports are considered high-risk, moderate-risk, and lower-risk. She said she does hope that the Board would support their policy that those are the framework within which the County would approach use of their fields as well.

Ms. Mallek said since only the lower-risk sports are being approved at all and not even until December 14 for VHSL, that cross-country, track and field, swimming, golf, and tennis are considered to be low-risk. She said during the time when cases are escalating so quickly in Virginia, these are the things that perhaps should be considered.

Ms. Mallek said she knew the Supervisors had all received a copy of the state guidelines from Mr. Richardson, which were very helpful. She said Ms. Price's story at the beginning of the meeting that day about how quickly things went badly at the camp in Georgia is why the County needs even more details about exactly how things are going to go in Albemarle so that their staff have all the information they need to make decisions, and that the County's liability is protected.

Ms. Mallek said to her, it is a very big issue when the County puts itself in the position of saying, "This is a fine activity," and then people experience dire consequences because of the decision that the County, Board, and staff is making. She said they do need to make sure that they are taking all the different consequences into effect.

Ms. Mallek said a question that had not been answered is about what liability the County has, and what the County must provide in the way of oversight to make sure that the groups they might allow on their properties are doing what they are supposed to be doing. She asked who would pay for this as well, if it would be the users or groups, who would pay the daily cost of the proctor or monitor to make sure that the County's risk finances and citizens are protected.

Ms. Mallek said another question, which was from a citizen, is if the County allows out-of-area groups to use the fields, and if not, do they allow groups to have out-of-area coaches come to provide coaching on County fields. She said a lot of these groups are interconnected throughout the state and that in healthy times, these state leagues have provided beneficial activity for both kids and adults. She said now the Board is being told that the only way to get their local numbers down, however, is to try to create a local pod and not be so much in traffic. She said it is the same reason why they are concerned about the UVA students coming back en masse and changing the local germ pool. She asked how they will deal with that.

Ms. Mallek asked how they will be sure that there are equitable decisions amongst the different groups that want to use County fields, and if they are holding everyone to exactly the same standard and to the greater level of details that are developed by staff over and above the state guidelines that were sent. She said she desires the Board to have due diligence on the extra layer of effort so that they do not look back and wish they had done a better job because they didn't allow themselves to recognize that with human behavior being what it is, people will do what they want to do. She said when the County offers them opportunities to do things, people will do them.

Ms. Mallek acknowledged she had many questions and said they are on her mind often. She said she hoped others had ideas or equal concerns so they can give some direction on these things. She said it didn't have to be that night and that she didn't know what the timetable would be to have that discussion going forward because staff and the IMT will need time to have their suggestions for the Board.

Mr. Gallaway said that while he would welcome other Supervisors to weigh in, his personal thought was that the Board gave specific direction on the athletic fields, and that staff has a plan in place that they have outlined and sent information to the Board on how they will do it. He said the Board should give staff a chance to do it and that just like everything else going on, there will be a chance for the Board to review how it is going. He said it is no different than the ordinance they put in place limiting places to 50 people, social gatherings, the ambassador program, and police enforcement. He said they will have to see how those go.

Mr. Gallaway said Ms. Mallek's questions that are specific to the athletic field use can be addressed to supermarkets and other things, in his opinion. He asked what will happen if people are not obeying the rules there, or if groups of people from out of the area come to shop at their grocery stores and do not adhere to the ordinance. He said these are all pertinent questions, but they are not just limited to athletic field use. He said it has to be to everything that falls under the umbrella of the special ordinance.

Mr. Gallaway said the more he thinks about it, the fact that they gave special exceptions for some of the social gatherings, even though they are outdoors and over 50 people, is more concerning to him than a group of people that keep it under 50. He said the Board did that for wineries and breweries. He said they could speak to a lot of behaviors where when alcohol is introduced, it does not help one's judgment.

Mr. Gallaway said he had similar concerns that mirrored what Ms. Mallek was saying in other groups and areas of the County. He said where he goes to in his mind is that the Board passed an ordinance, has a plan in place of how they are going to monitor and enforce it, and must give staff a chance. He said the ambassador program was not even in place yet.

Mr. Gallaway said when he went to Walnut Creek that Sunday for a hike, there were more than 100 people out there and a lot of cars. He said he got a rundown at the entrance of what the rules were, and some of those rules were reminders of rules that were in place before COVID, e.g., putting a life jacket on in a kayak, or else be ticketed.

Mr. Gallaway said there are things in place that to help with the enforcement and that once the ambassador program is in place, there will be another level of it that will speak to the ordinance.

Mr. Gallaway said it was just his opinion, and that he was not discounting the questions Ms. Mallek raised, but that it goes beyond just the one particular area. He said it must speak to the entire ordinance, what it covers, and why they put the ordinance in place. He said just like the economics of this, revenues, and the approach they took to the budget, they have to put the plan in place, let it go, and see how staff does with it. He said they will constantly be reviewing these things to see if they need to go further or start to relinquish at some point.

Ms. LaPisto-Kirtley said that while Ms. Mallek brought up many good points, she agreed with Mr. Gallaway that the Board gave direction to staff and they need to see what they come up with. She said they only have 60 days and at the end of that 60 days, the Board decides whether they will go to Phase 3 or stay in Phase 2, if they should ratchet things down even more, or if they should loosen restrictions. She said if the wineries and breweries aren't doing what they are supposed to be with more than 50 people outside, after the 60 days, the Board can ratchet this back down to 50 if need be.

Ms. LaPisto-Kirtley said they must start somewhere, and staff has to come out with something. She said she thinks they need to do this quickly. She said she feels that if they get too much into the weeds, it will take staff longer and longer to come up with something. She said staff has direction from the Board and encouraged the Board to see what they come up with. She said she was sure that staff will take the good points Ms. Mallek made into consideration.

Ms. McKeel said she had to admit, to speak to what Ms. Mallek was referring to, she was quite taken back when she saw the encouragement of the Lacrosse Club to take the children down to Hampton Roads. She said having said that, this is not something that staff is doing. She said as a parent, if she received that, it is certainly not be anything that she would be interested in allowing her child to do right now. She said having said that, it does make her concerned about those children coming back and playing with other local students, but staff has seen this as well.

Ms. McKeel said she does think the Board has to be careful and let staff do what they feel is best. She said staff is in charge of this right now.

Ms. McKeel said in terms of Ms. LaPisto-Kirtley's comment, while 60 days was the most, she wants the Board to be very aware that if they needed to come back in 15 or 20 days because of the climbing numbers in the community and the health situation that was concerning, that they could actually address this again. She said they do not have to wait for 60 days.

Ms. LaPisto-Kirtley said she understood and agreed.

Ms. McKeel said this is what they did before, and that she was very concerned.

Mr. Richardson said both Mr. Trevor Henry and Mr. Bob Crickenberger were on the call, and that it might be helpful if Mr. Crickenberger could talk about some peak timelines. He said for example, he believed that the Parks and Recreation Department is following the Phase 3 guidelines, and that according to what he sent to the Board last week, County staff are prepared to monitor the Phase 2 requirements on gatherings of 50. He said Mr. Crickenberger and his staff have a framework they are working through. He said they currently have 8 plans they have received from leagues that staff will review using the Phase 3 guidelines and the Phase 2 guideline on gatherings of less than 50.

Mr. Richardson asked Mr. Crickenberger if he could speak to that. He said it is evident that the Board is watching local field play and leagues closely. He asked Mr. Crickenberger if he could talk through the process of staff reviewing the plans. He said Ms. Amy Smith could also talk about how they will look at spacing, e.g., at Darden Towe, where there are multiple fields. He asked him to talk about the timeline coming up.

Mr. Crickenberger said he did not have much more to add. He said staff have received about 8-9 proposals. He said staff have notified all the youth and adult organizations that utilize County facilities and provided them with many guidelines not only from the County, but from the Governor for Phase 3, which outline recreational play. He said staff requested that each organization submit to staff what they call a "Return to Play Playbook," which outlines all the procedures and protocols that they would be putting in place in order to meet the current criteria and guidelines.

Mr. Crickenberger said once those are received, there is a team that will be reviewing each and every proposal to make sure that what they are submitting is and will be in compliance with the necessary guidelines, Phase 3, as well as the Board's recently adopted ordinance.

Mr. Crickenberger said at this point, staff have not received any requests from any of the organizations for August. He said they have received a handful of some requests for play and reservations within September and beyond. He said many of the requests have a reduced play schedule from what they would normally see. He said staff have not made any decisions yet as far as approving any of the play plans or field reservations.

Mr. Crickenberger said the strategy is that once they do receive an acceptable playbook and issue out a field reservation, they will look at each field and stagger them. He said Darden Towe, for example, has 4-5 rectangular fields. He said they would only allow two events going on at one time. He said they will also stagger starting times so that they do not have an overlap of teams coming in and waiting, e.g., a 30-minute overlap.

Mr. Crickenberger said he would use the example of softball fields. He said there are three of these at Darden Towe, and that they would only let two events happen at once with staggered starting times.

Mr. Crickenberger said many of the proposals are still under review. He said they have found some proposals that are to the point and outstanding. He said there are some that are not quite up to par. He said in the review process, they will reach back out to those organizations with those that they do not feel satisfied and comfortable with so they can begin negotiating and working with those organizations.

Mr. Richardson said this was an excellent overview of staff's work. He said to assume that some of the plans are approved, and that if the Board made the decision to be more restrictive and go back to Phase 2, the Parks Department would continue to move forward with some anticipated approval of plans for September. He asked Mr. Crickenberger if he also had a plan for staff to be able to put eyes on the field while the games are going on to look for Phase 3 compliance. He asked if the Parks Department will

not only be looking at the plans, but at how they are being executed on the days that the leagues have the fields. He asked if there were staff in the department who will be doing some monitoring and checking for compliance.

Mr. Crickenberger replied that from a team standpoint, staff have discussed this. He said they must recognize and be honest that they are not going to be able to monitor all fields at all given times. He said Darden Towe would probably be their best effort because they will have staff there. He said they will have their park advisors there through the middle of September. He said they do not have the resources, however, to go out and monitor over 22 athletic fields in the County on a regular basis. He said they will try to do spot checks, if possible, and do this if maintenance teams are out. He said they just do not have the capacity, however, to do daily monitoring and checking.

Mr. Richardson said Mr. Henry had talked to the staff, and that there was one concern raised by Ms. Mallek and at least one other Board member about the local teams who are traveling outside of the region. He said Mr. Henry spoke with the Parks staff about adding a checklist item.

Mr. Henry said it directly addresses the concern Ms. Mallek raised about the lacrosse tournament. He said through discussions with staff over the past two days, they are looking at not just state guidelines, but CDC framework and other best practices as well. He said one thing in the CDC framework as it relates to these sports is that it says to limit travel outside of the area. He said it is very clear about that, which is why the philosophy of moving into Phase 3 is to support local play on County property.

Mr. Henry said the day prior, the team, including Mr. Crickenberger and Mr. Kamptner, discussed adding in the requirement of screening. He said the protocol requires all players, parents, and coaches to do screening related to the COVID checks, and that staff is in discussions about adding a requirement that would also identify if the player has traveled outside of the state or to an area that is a designated "hotspot." He said they will work on the language to tie it to the Governor's action.

Mr. Henry said using Virginia Beach as an example, that would be defined as an area that if a player traveled outside the state or to one of those areas, they would have to report that within their team and league, and then would be ineligible to play or practice on County property for 14 days from the time of that event. He said this is a way to add some additional screening to the concerns raised, and that it is also in line with the CDC guidelines in trying to limit the cohort to local teams and players. He said this work has transpired over the past two days and is something staff is working with Parks and Recreation on to then include into the requirements.

Ms. McKeel said it sounded as if everyone was thinking the same thing because they are seeing how it was playing out. She thanked Mr. Henry, noting this was very helpful.

Ms. Mallek said this was very helpful and much more reassuring. She said a citizen just the day before reported that their school is requiring families to sign a contract that says they will not travel or go on vacations. She said if they are going to that school, they will stay and not travel. She said this was another suggestion from a citizen to say that for teams who are going to participate, they should require some kind of contract, at least with their own players, to know in advance.

Ms. Mallek said she hoped that what Mr. Henry described would be wildly successful. She said she hoped she could count on people to be trustworthy and truthful. She said she knows they will do the very best they can.

Mr. Richardson said he knew Mr. Gallaway still had to check in with other Board members who had not yet spoken, but that he would summarize from staff's perspective that Mr. Crickenberger did a good job of explaining to the Board where they are with their staff management of going into Phase 3, with some Phase 2 focus on crowd sizes as well as their strategy for staggering field use.

Mr. Richardson said he thought Mr. Crickenberger was also very forthcoming and candid that the County does not have staffing to put a staff member on every field during every ballgame to be there for the game's entirety. He said Mr. Crickenberger used the word "spot check," and that park ambassadors are spread through the County who can do spot checks, as well as maintenance staff. He said staff will be able to get some level of information on how things are going.

Mr. Richardson said if they see concerns, they will certainly be open and honest with the Board and try to share any concerns they see. He said Mr. Crickenberger's team will work closely with the County Executive's Office if there are problems or issues.

Mr. Richardson said he understood the Board's concerns, specifically those around travel outside the region. He said Mr. Crickenberger and Mr. Henry putting their heads together and looking at some type of additional checklist item emphasizes the issue of people going to other states or hotspots and coming back. He said this is something Mr. Crickenberger has said they can check on.

Mr. Richardson turned the conversation back over to Mr. Gallaway, with the emphasis that if the Board does decide it wants to go back to Phase 2 and eliminate local field play, staff fully understands that this is the Board's decision and respect that. He said they would make a turnaround very quickly. He said they know the Board is monitoring this, and they would take that feedback in the future and move forward accordingly. He said for as long as they stay in Phase 3, if it is the Board's direction, staff is capable of managing this in the organization and doing their best work to try to stay on top of it while

being fair and equitable. He said he appreciated Mr. Chickenburger's efforts.

Mr. Gallaway asked Ms. Price if she had any comments.

Ms. Price said she had made a lot of comments at the very beginning and that this addressed her concerns. She said she believed the other Supervisors and County staff adequately addressed what needed to be covered that evening.

Mr. Gallaway said they would continue to monitor and see how this plays out. He said he was sure staff would be keeping the Board in the loop as they deal with many things related to the Board's special ordinance.

Mr. Gallaway asked if there were other matters from the Board.

Ms. McKeel said she had two things. She said the first was a comment she wanted to make staff aware of. She said last Friday, she was out in Pantops and got onto I-64 West. She said she had all the windows open, and the sewer odor shortly after getting onto I-64 at Pantops and all the way down to Wegman's was awful. She said she was hoping they were not starting to have the problem again in that area. She said she probably would not have noticed it, except she had all her windows down. She said Woolen Mills would not be happy.

Mr. Richardson said he had some relevant information. He said at the Rivanna Water and Sewer meeting, Mr. Bill Mawyer did share with that board that there is some maintenance work being done at the facility, and it is something they are doing at the facility that needs to be done. He said he asked Mr. Mawyer specifically in that meeting, which Ms. Palmer also attended, about the odor. He said Mr. Mawyer informed him they would be sending letters to all of the adjacent property owners that for a very short period of time, there may be some odor issues because of this specific maintenance procedure being done at the Moores Creek facility.

Mr. Richardson said he would bet the timing of Ms. McKeel driving through there coincides with the work they are doing at the facility. He said he would verify this and send something to the Board.

Ms. McKeel said it was a longer stretch of the area with the smell than before, so Mr. Richardson may be right. She said it was very concerning because the County had spent a lot of money trying to fix that odor.

Mr. Richardson said this had been his specific question the week prior, and that he has shared what he was told.

Ms. McKeel said if this is the case, it may be fine. She said the only other thing she wanted to mention that night, and because of the issues the Board got into that night with Yancey Lumber, was that in an effort to improve the Board's process and not get into the confusion they had that night, where similarly in other proposals, there has been confusion about last-minute changes, she would suggest either the Board or staff consider having a deadline or cutoff for changes to items coming to or back to the Board, e.g. a week before the packets go out.

Ms. McKeel said with what happened that night, it seemed to her that some people had more information than others and had been involved in other discussions. She said she thinks it is important that when they talk about these changes, they all come to the table with the same information, and that they hear the same information at the same time. She said if not, it becomes very confusing. She said it is just something to think about that might improve the processes.

Ms. McKeel said they may have been able to resolve the Yancey issue that night and simply could have moved on but that instead, some of the Supervisors were confused. She said the changes coming in 3-5 days before the meeting, or the morning of, were unfortunate, and that she would hope they could look at how they might simplify or make that process smoother and get everyone on the same page with the information. She said it was something to think about, although she was not expecting an answer or vote that night.

Mr. Gallaway said he agreed. He said he understands how changes try to get rushed in, but that there must be some point where enough is enough. He said trying to jam things in hours before a meeting doesn't seem to be the best solution.

Ms. McKeel said she thinks there is something staff could do to avoid this, in working with the applicant. She said all the Supervisors would then get the same information at the same time at the meeting, which would be less confusing. She said it may also speed up the process rather than creating more delays.

Ms. Mallek said when there were proffers, there was a wonderful rule that the proffers had to be published at least a week or two before the hearing because in 2004, when they had Hollymead Town Center, there were 80 people in the audience all testifying, then Board members running back and forth behind the dais negotiating proffers at 11:00 p.m. She said there was almost a revolution because people were so angry about how this had happened. She said this rule was developed, and that it was great.

Ms. Mallek said this is why she came up with the original idea, which completely fell flat because of COVID, that the Board members all have a bus trip to go out and see the site all at once. She said she

agrees that having side conversations does not help. She said she was so overwhelmed, she didn't even get Mr. Fritz's helpful email until 2:00 p.m. She said she was glad to get that, as it helped them move forward a long way.

Ms. Mallek said hopefully, staff will come up with a wonderful suggestion they could carry out, as it would greatly help.

Ms. Price said she would repeat a couple things that seem to be a recurring theme for her. She said first, she wanted to thank the residents of Albemarle County for being as responsible as they have been with the pandemic. She said she just came back from a hotspot on vacation and was frankly somewhat shocked about the lack of the social distancing and wearing of masks whereas in Albemarle County, she truly believes that most residents understand and take it seriously.

Ms. Price said the second thing was that the Board members deal with a number of very emotional items, whether they be related to medical matters and economics from the pandemic, zoning, which always affects everyone who lives near where an application may come through, or the special meeting coming up the following day. She said she appreciates the professionalism and courtesy that the Board's constituents extend to them in their communications.

Ms. Price said with regard to the meeting the following night, as every other Board member, she has received hundreds of emails and that virtually all of them are very professional. She said when one loses on the facts, they turn to personal attacks, and that she was pleased the residents of Albemarle County do not do that.

Mr. Gallaway said he attended the quarterly Mayors and Chairs meeting. He said it was interesting to hear the different things happening regionally as people are dealing with their federal CARES Act money and where it is going. He said it was fair to say that all the localities in the area are targeting very similar things. He said he was thinking of areas they are struggling with the most, especially affordable housing, unemployment services, and the things involving those types of issues. He said it was encouraging to hear the shared concern and that similar places are getting targeted by all the localities with the federal CARES Act money. He asked Mr. Richardson if he had anything to add about that meeting.

Mr. Richardson said no. He said it was a good summary of what they learned. He said he was sure staff would be coming back to the Board soon to talk more about CARES funding.

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

Mr. Richardson said he would speak about the ambassador program. He said he sent a significant amount of information to the Board, with the help of several people from various departments, about the Phase 2 restrictions, which did go live on August 1. He said he indicated to the Board that staff was preparing with some in-house training to bring the ambassadors onboard. He said the ambassadors would be in the field that weekend.

Mr. Richardson said he couldn't be prouder of staff and their work that he has seen over the last couple weeks. He said the program has a high education focus with proactive engagement. He said the ambassadors will be in the field that weekend and will be using a mobile app to track their work and visits. He said it will be a very proactive and positive engagement with the community. He said it is education-oriented, and that staff has devised materials the ambassadors will take through the business community to various businesses in the County. He said the focus will be talking with business owners and retail management.

Mr. Richardson said the ambassadors will be observing and doing walk-throughs. He said they will be the eyes and ears on the ground to look at how things are going. He said there are busy times now with retail stores, grocery stores, and businesses. He said with all the Board has seen, they have seen a real uptick and vibrancy in the community. He said he notices every morning, driving into work, the number of cars on the road and the people who are moving at rush hour.

Mr. Richardson said they will have a data-driven approach. He said they are connected hard with the Thomas Jefferson Health District staff, who are key partners. He said the Health District has a hotline and will be sharing calls and complaints, including the specificity about where complaints are coming in and where there are problems in areas. He said the Health District will also talk to staff about contact tracing trends. He said they will also look at ACPD calls for service.

Mr. Richardson said ambassador observations will be tracked through an app, and they will be collecting information continuously as the ambassadors are on the ground and working through the community.

Mr. Richardson said the program is through a third-party vendor. He said they did do in-house training that week, where several people from the Facilities and Environmental Services department did an outstanding job. He said they have shared all their training materials with the City of Charlottesville, including the framework of how they will roll this out, and that their key partners in the City have been appreciative and are taking a look at the work that County staff has done.

Mr. Richardson presented a slide showing an example of some of the signage that will be taken

out to the community through the ambassador program. He said this was an example of information that will be shared with business owners, retail, and commercial. He said they will ask them if they can display this signage in a prominent spot to help share information with the community on how important it is to wear a face covering when going inside businesses.

Mr. Richardson said two of his staff recently traveled in other areas of the United States, not hotspot areas, and they came back and said they were very impressed with the level of compliance where they traveled. He said it takes a lot of collaboration from the community to help to get to 100% compliance, with the focus on preventing community spread.

Mr. Richardson said he appreciated the Board's support. He said they had a hectic two weeks. He said the Board has received several calls. He said there is a long list of staff who have done outstanding work to get them to this point.

Ms. Mallek said she appreciated this so much. She asked if it would be possible for the Board to help distribute the poster Mr. Richardson just presented, whether it is putting them up in post offices in their region or putting stacks of them in the grocery stores. She asked Mr. Richardson where the Board could pick these up, as she would be glad to do that in her district and would expect others would as well.

Mr. Richardson said he would be happy to. He asked if Ms. Emily Kilroy could talk about getting this signage to the Board members.

Ms. Emily Kilroy, Director of Communications and Public Engagement, said they would do a quick run the next morning and were finalizing the final verbiage to go on the sign. She said they would print out copies on high-quality paper and put them in the Board's office. She said she would let the Board know as soon as those are there the next morning.

Mr. Gallaway noted that the QR code on the poster works, as he had just snapped it from the computer screen. He said it took him to the site on the flyer.

Ms. McKeel said perhaps as the next round of CAC meetings take place, it would be good if they can have CAC members updated on this information. She said it would not take long for the staff person covering the meetings to show those signs and give the committees a brief update.

Ms. Kilroy agreed. She said she could work with Neighborhood Planning staff to prepare them on that and put a slideshow together.

Ms. McKeel said this could be a quick agenda item for all the CAC meetings.

Ms. Kilroy said this was a great opportunity.

Agenda Item No. 22. Adjourn.

At 9:38 p.m., Mr. Gallaway adjourned the meeting to August 6, 2020, 6:00 p.m., an electronic meeting pursuant to Ordinance No. 20-A(8), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Chair

Approved by Board
Date 2/16/2022
Initials CKB