

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 6, 2021 at 1:04 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; 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 1:04 p.m., by the County Executive, Mr. Jeff Richardson.

Mr. Jeff Richardson, County Executive, said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

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

Mr. Richardson 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.

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Agenda Item No. 2. Pledge of Allegiance.

Agenda Item No. 3. Moment of Silence.

Ms. McKeel noted that this was the first Board meeting for 2021, and that it was a new year. She said she wanted to offer some things to think about as they have their moment of silence and as they move into 2021.

Ms. McKeel said there were now 8 million people who have moved into poverty. She said there were 90 million people with no health insurance. She said one in six adults and one in four children were going hungry. She said in the United States, they were losing someone to COVID every 30 seconds. She suggested thinking about those numbers and figures and the people involved. She said they are not just numbers and figures but are real people. She said moving into a new year, 2021, they can hopefully make the new year better for everyone in the country.

Mr. Richardson led the Board in a moment of silence.

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Agenda Item No. 4. Election of Chair.

Mr. Richardson said that it was the annual organizational meeting, explaining that this was why he was leading the meeting, to allow the Board of Supervisors to work through election of Chair to the Board.

Mr. Richardson opened the call for nominations for Chair of the Board for 2021.

Ms. Price said it was her privilege to nominate Mr. Gallaway (Rio District) to be the Chair of the Albemarle County Board of Supervisors for Calendar Year 2021.

Ms. Mallek seconded the nomination.

Mr. Richardson asked if there were any other nominations. Seeing none, he closed nominations for Chair.

Mr. Kamptner noted that a formal motion was needed to move Mr. Gallaway to be Chair of the Board.

Ms. Price **moved** to approve Mr. Gallaway as Chair of the Albemarle County Board of Supervisors for Calendar Year 2021. 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. Richardson said Mr. Gallaway would now accept the assignment as Chair of the Board. He said he would turn the meeting over to Mr. Gallaway for the election of the Vice-Chair.

Mr. Gallaway said it was his pleasure to again serve as Chair of the Board for 2021.

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Agenda Item No. 5. Election of Vice-Chair.

Mr. Gallaway opened the nominations for Vice-Chair of the Board for 2021.

Ms. LaPisto-Kirtley nominated Ms. Price for the position of Vice-Chair.

Ms. McKeel seconded the nomination.

Mr. Gallaway asked if there were any other nominations. He called for the motion for Ms. Price to be named Vice-Chair.

Ms. LaPisto-Kirtley **moved** to approve Ms. Price as Vice-Chair. 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.

Ms. Price thanked the members of the Board for their continued confidence. She said she looked forward to a productive 2021.

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Agenda Item No. 6. Appointment of Clerk and Senior Deputy Clerk.

Ms. Price **moved** to appoint Ms. Claudette Borgersen as Clerk and Mr. Travis Morris as Senior Deputy Clerk. Ms. Mallek **seconded** the motion.

Ms. Palmer said every year, this is done as a matter of course. She said that while the public does not see the Clerks very often, the Supervisors do, and they know how much and how hard they work to make sure the meetings and the Board members' lives as Supervisors run smoothly. She said she wanted to acknowledge how grateful the Board is for the Clerks and for the job they did continuously every week and month throughout the previous year. She said all their efforts were much appreciated.

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.

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Agenda Item No. 7. Board 2021 Calendar - Set Meeting Times, Dates and Places for Calendar Year 2021.

Mr. Gallaway asked if the dates were planned to be displayed during the meeting, noting that they had been included in the Board's packet for review. He said the dates and times were there, with the meeting location being subject to the Continuity of Government ordinance. He said meetings held while under that ordinance will be held electronically, and if this is to change, an announcement will be made about meeting at a physical location.

Ms. Price said she believed they had discussed the possibility of simply putting up a screenshot that showed the calendar, but it may be helpful to restate for the public when the regularly scheduled meetings take place during the month, which would be the first and third Wednesdays. She said they had talked about having a screenshot up of the calendar without going into great discussion about it.

Mr. Gallaway said he believed this would suffice and asked for a motion.

Ms. McKeel **moved** to set the meeting times, dates and places for Calendar Year 2021 as follows: first Wednesday of the month at 1pm, and the third Wednesday of the month at 1pm, with said meetings to be held in the County Office Building on McIntire Road; and set the meeting dates for January 2022 as January 5 at 1pm, and January 19 at 1pm. Ms. LaPisto-Kirtley **seconded** the motion.

Ms. Mallek asked if they also needed to include a motion that the first meeting of January 2022 will be on January 5 at 1:00 p.m. She said this was in a paragraph in the packet.

Mr. Gallaway replied yes.

Ms. McKeel amended her motion to include the meeting dates for January 2022 as January 5 at 1pm, and January 19 at 1pm.

Mr. Gallaway said there was an intent to show this physically there, and he had some difficulty visualizing it, but he believed they were fine with the information there.

Mr. Morris displayed the paragraph on the screen.

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.

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Agenda Item No. 8. Board Rules, Policies and Operating Guidelines.  
Item No. 8. a. Adoption of Board Rules of Procedures.

The Executive Summary forwarded to the Board states that rules of parliamentary procedure guide public bodies such as the Board of Supervisors through the various procedural issues that may arise before and during its meetings. Rules of procedure exist for the simple purpose of facilitating the Board's official actions in an orderly manner.

The Board adopts its Rules of Procedure at its annual organizational meeting each January.

Because of the ongoing COVID-19 pandemic and the need for meetings to be conducted using electronic communication means, the full title of the proposed Rules is "Rules of Procedure for Virtual and Hybrid Meetings." These are the same rules last amended by the Board on December 2, 2020. The Rules also may be amended from time to time in the manner prescribed in Rule 12. If any amendments are desired, staff will return to the Board at a later meeting with amended Rules for the Board's consideration.

Staff recommends that the Board adopt the Rules of Procedure (Attachment A).

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Mr. Gallaway said he believed the Board should be familiar with the policies and guidelines and that no presentation would be made.

Ms. Mallek **moved** to adopt the Board Rules of Procedure, Policies, and Operating Guidelines. 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.

Mr. Gallaway informed Mr. Kamptner that there were three separate items listed on the agenda for Board Rules of Procedure, Policies, and Operating Guidelines and that they had moved to adopt these all at once. He asked if this was acceptable.

Mr. Kamptner replied that this was fine.

Mr. Gallaway said it was an important item to have all those things in place. He said it was a good reminder, at least for him, to go back and reread those materials at the start of every year. He said he was glad those were all in place again.

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**Albemarle County  
Board of Supervisors**

**Rules of Procedure for Virtual and Hybrid  
Meetings**

**Adopted January 6, 2021**

**Rules of Procedure  
of the  
Albemarle County Board of Supervisors  
for Virtual and Hybrid Meetings**

**1. Introduction**

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

invalidate any action of the Board. The Rules that implement the requirements of State law are jurisdictional only to the extent that Virginia law makes them so.

D. **Applicability.** These Rules apply to all virtual and hybrid meetings of the Board, as those meetings are defined in these Rules, while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect. Any Board meeting at which the Supervisors and all of the participants are physically assembled is to be conducted pursuant to the Board's Rules of Procedure adopted January 8, 2020, or as they may be amended.

E. **Definitions.** The following definitions apply to the administration of these Rules:

1. **Hybrid Meeting.** A "hybrid meeting" is a meeting where persons may either physically attend the meeting or connect to the meeting by electronic communication means.
2. **Present.** A person is "present" at a meeting when physically attending on the date, and at the time and place identified for the meeting, or is connected to the meeting by electronic communication means.
3. **Virtual Meeting.** A "virtual meeting" is a meeting where persons are connected to the meeting by electronic communication means.

## 2. **Supervisors**

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

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

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

## 4. **Meetings**

- A. **Annual Meeting.** The *Annual Meeting* is the first meeting in January held after the newly elected Supervisors qualify for the office by taking the oath and meeting any other requirements of State law, and the first meeting held in January of each succeeding year. At the Annual Meeting, the Board:
  1. **Elect Officers.** Elects a Chair and a Vice-Chair.
  2. **Designate Clerks.** Designates a Clerk of the Board ("Clerk") and one or more Deputy Clerks who serve at the pleasure of the Board, and who have the duties stated in Virginia Code § 15.2-1539 and any additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)
  3. **Establish Schedule for Regular Meetings.** Establishes the days, times, places (if applicable), and how the public may access and participate in the meeting for regular meetings of the Board for that year. (Virginia Code § 15.2-1416) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413 governs how the public may access and participate in the meeting if the public is not physically attending.
  4. **Adopt Rules and Policies.** Adopts Rules of Procedure and Policies that will apply in the calendar year, subject to amendment under Rule 12.



**B. Regular Meetings.** *Regular Meetings* are those meetings established at the *Annual Meeting* to occur on specified days and at specified times and places, with instructions for how the public may connect to the meeting by electronic communication means.

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

**C. Special Meetings.** A *Special Meeting* is a meeting that is not a Regular Meeting. The Board may hold Special Meetings as it deems necessary at times and places that it deems convenient. (Virginia Code § 15.2-1417) The then-current continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413 governs how the public may connect to the meeting by electronic communication means.

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

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

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

1. **Resolutions Proposed by Supervisors.** Resolutions may be proposed by a Supervisor requesting the Board to take a position on an issue of importance to the Board.

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

applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks' advance notice of the deadline.

- b. Effect of Failure to Timely Receive Final Documents.** If the County does not timely receive the required final documents, the public hearing must not be advertised and the matter shall not be placed on the agenda. If the matter is not advertised, a new public hearing date will be scheduled.
      - c. Receipt of Final Signed Proffers.** Final signed proffers must be received by the County no later than nine calendar days before the date of the advertised public hearing. This Rule is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Supervisors at the public hearing.
    - 5. Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request.** Zoning map amendments advertised for public hearing must be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as provided in County Code § 18-33.52 *et seq.*
  - B. Order of Business at Regular Meetings.** At Regular Meetings of the Board, the order of business will be generally as follows:
    - 1. Call to Order.
    - 2. Pledge of Allegiance.
    - 3. Moment of Silence.
    - 4. Adoption of the Final Agenda.
    - 5. Brief Announcements by Supervisors.
    - 6. Proclamations and Recognitions.
    - 7. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
    - 8. Consent Agenda.
    - 9. General Business.
    - 10. Closed Meeting.
    - 11. Certify Closed Meeting.
    - 12. Actions Resulting from Closed Meeting.
    - 13. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.
    - 14. General Business, Including Public Hearings.
    - 15. From the Board: Committee Reports and Matters Not Listed on the Agenda.
    - 16. From the County Executive: Report on Matters Not Listed on the Agenda.
    - 17. Adjourn.
  - C. Closed Meetings.** A *Closed Meeting* is a meeting of the Supervisors that is not open to the public when authorized by the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). A Closed Meeting may be held at any point on the agenda, as necessary. Generally, a Closed Meeting will be scheduled either at the midpoint of the agenda or at the end of the agenda prior to adjournment. The Clerk must promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting.
- 6. Rules Applicable to the Items of Business on the Agenda**
- A. Adoption of the Final Agenda.** *Adoption of the Final Agenda* is the first order of business for a Regular Meeting of the Board. The Board may modify the order of business as part of its adoption of the Final Agenda. Any changes to the Consent Agenda, including removing an item from the Consent Agenda for discussion and separate action, should be made when the Final Agenda is adopted. The Final Agenda must be adopted by a majority vote of the Supervisors present and voting. No item for action not included on the Final Agenda may be considered at that meeting.
  - B. Brief Announcements by Supervisors.** *Brief Announcements by Supervisors* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.
  - C. Proclamations and Recognitions.** *Proclamations* are ceremonial documents or recognitions adopted by the Board to draw public awareness to a day, week, or month to recognize events, arts and cultural celebrations, or special occasions. *Recognitions* are ceremonial acknowledgements by the Board of a person for service or achievement.
  - D. From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board.** *From the Public: Matters Not Listed for Public Hearing on the Agenda, Matters Previously Considered by the Board, or Matters Pending Before the Board* ("Matters from the Public") allows any member of the public to speak on any topic of public interest that is not on the Final Agenda for a public hearing at that meeting, any matter that was previously considered by the Board, and any matter pending before the Board that is not on that day's Board agenda. The following rules apply:

1. **Number of Speakers.** Up to 10 persons may speak during each Matters from the Public session. The 10 speakers are determined on a first-come, first-served basis, with those persons signing up to speak before the meeting having priority.
  2. **Time.** Each speaker may speak for up to three minutes.
  3. **Place.** Each speaker may speak using electronic communication means or, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
  4. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker may speak at only one Matters from the Public session at each meeting, must address only the Board, and must not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the Matters from the Public session at which the speaker plans to speak.
- E. **Consent Agenda.** The *Consent Agenda* is for items for action that do not require discussion or comment and are anticipated to have the unanimous approval of the Board, and for items provided for the Board's information.
1. **Questions to Staff.** Supervisors should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item before the Board meeting.
  2. **Discussion and Comment.** There should be either no discussion or comment or only a brief discussion or comment on Consent Agenda items at the meeting except as provided in Rule 6(E)(3).
  3. **Removing an Item from the Consent Agenda.** Any Supervisor may remove an item from the Consent Agenda at the time the Final Agenda is being considered for adoption. Any item removed from the Consent Agenda should be moved to a specific time or to the end of the meeting agenda for further discussion or action. However, an item removed from the Consent Agenda requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
  4. **Effect of Approval of the Consent Agenda.** A successful motion to approve the Consent Agenda approves those Consent Agenda items identified for action and accepts Consent Agenda items identified for information.
- F. **General Business.** *General Business* includes public hearings, work sessions, appointments, and other actions, discussions, and presentations.
1. **Public Hearings.** The Board may not decide any item before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the public hearing or consideration of the item. The procedures for receiving a presentation from the applicant and comments from members of the public are at the discretion of the Board provided that they satisfy all minimum legal requirements. However, unless otherwise decided by a majority of the Supervisors present during a particular public hearing, the following rules apply:
    - a. **Time.** The applicant is permitted up to 10 minutes to present its application. Following the applicant's presentation, any member of the public is permitted to speak once for up to three minutes on the item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.
    - b. **Place.** The applicant and each member of the public presenting and speaking may speak using electronic communication means and, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
    - c. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker must address only the Board, speak to issues that are relevant to the item for which the public hearing is being held, and not engage in speech or other behavior that actually disrupts the meeting. The applicant and its representatives may include a visual or audio presentation. Any other speaker may also include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the time scheduled for the public hearing.
  2. **Public Hearings; Zoning Map Amendments; Applicant's Documents Not Available During Advertisement Period.** If the public hearing is held without the applicant's final documents being available for review throughout the advertisement period due to the late submittal of documents, or because substantial revisions or amendments are made to the submitted documents after the public hearing has been advertised, it is the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application. In deciding whether to defer action or to

deny the application, the Board must consider whether deferral or denial would be in the public interest or would forward the purposes of this policy.

3. **Action Items on Deferred Matters Not Listed on the Agenda for Public Hearing When Public Hearing Previously Held.** On any matter before the Board for action that is not listed on the agenda for public hearing and was previously deferred after the close of a public hearing, the following rules apply:

- a. **Time.** The applicant is permitted up to seven minutes to present its application and any member of the public is permitted to speak once for up to two minutes on the item. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation.
- b. **Place and Manner.** The place and manner rules in Rule 6(F)(1)(b) and (c) apply.

- G. **From the Board: Committee Reports and Matters Not Listed on the Agenda.** *From the Board: Committee Reports and Matters Not Listed on the Agenda* is limited to matters that are not substantial enough to be considered as agenda items to be added to the Final Agenda. Reports include routine committee reports and information updates by Supervisors. Any matters discussed during this part of the agenda may not be acted upon by the Board at that meeting.

- H. **Report from the County Executive.** The *Report from the County Executive* is a report on matters that the County Executive deems should be brought to the Board's attention and provide updates, if necessary, to the monthly County Executive's Report.

## 7. **Quorum**

- A. **Establishing a Quorum.** A quorum for any meeting of the Board is a majority of the members of the Board present, except as provided in Rule 7(B)(2). (Virginia Code § 15.2-1415; Continuity of Government Ordinance)
- B. **Quorum Required to Act; Exceptions.** The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415; Continuity of Government Ordinance) There are two exceptions:
1. **Quorum Not Established; Adjournment.** If a quorum is not established, the only action the Supervisors present may take is to adjourn the meeting.
2. **Quorum Not Established or Lost Because of a Conflict of Interests; Special Rule.** If a quorum cannot be established or is lost because one or more Supervisors are disqualified from participating in an item because of a conflict of interests under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*), the remaining Supervisors are a quorum and they may conduct the business of the Board.
- C. **Loss of Quorum During Meeting.** If a quorum was established but during a meeting the quorum is lost, the only action the Supervisors present may take is to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415; Continuity of Government Ordinance)
- D. **Quorum Required to Adjourn Meeting to Future Day and Time.** A majority of the Supervisors present at the time and place established for any regular or special meeting is a quorum for the purpose of adjourning the meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

## 8. **Remote Electronic Participation**

A Supervisor may participate in a meeting through electronic communication means while a continuity of government ordinance adopted by the Board pursuant to Virginia Code § 15.2-1413, and pertaining to the COVID-19 disaster, is in effect and the ordinance, or State law, or a combination thereof, allow Supervisors to participate in a meeting through electronic communication means.

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

- A. **Enable Efficient and Effective Conduct of Business.** Meetings will be conducted in a manner that allows the Board to efficiently and effectively conduct its business, without actual disruptions.
- B. **Minimizing Disruptions.** To minimize actual disruptions at meetings:
1. **Speakers.** Members of the public who are speaking to the Board must comply with Rules 6(D) and 6(F)(1), as applicable. Members of the public invited to speak to the Board during any agenda item other than Matters from the Public or during a public hearing must comply with Rule 6(D).
2. **Persons Physically Attending the Meeting.** Any person physically attending a meeting must comply with the following:

- a. **Sounds.** Persons may not clap or make sounds in support of or in opposition to any matter during the meeting, except to applaud during the Proclamations and Recognitions portion of the meeting. Instead of making sounds, persons who are not speaking at the podium or other location provided for the meeting are encouraged to raise their hands to indicate their support or opposition to any item during the meeting. Cell phones and other electronic devices shall be muted.
  - b. **Other Behavior.** Persons may not act, make sounds, or both, that actually disrupt the Board meeting.
  - c. **Signs.** Signs are permitted in the meeting room so long as they are not attached to any stick or pole and do not obstruct the view of persons physically attending the meeting.
- C. **Guidelines Stated on the Final Agenda.** The Guidelines stated on the Final Agenda apply during each Board meeting. The Board may amend the Guidelines from time to time without amending these Rules provided that the Guidelines are consistent with these Rules.
- D. **Chair May Maintain Order.** The Chair is to maintain order of the meeting, including the following:
1. **Controlling Disruptive Behavior of Persons Physically Attending the Meeting.** The Chair may ask any person physically attending a meeting whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may order the removal of that person from the meeting.
  2. **Controlling Disruptive Behavior of Persons Participating Through Electronic Communication Means.** The Chair may ask any person participating in a meeting through electronic communication means whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may ask the Clerk to silence the audio and video of that person.

#### 10. **Motion and Voting Procedures**

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

**C. Other Motions.**

1. **Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Supervisor. Upon a proper second, the motion to amend must be discussed and voted on by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both Supervisors making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
2. **Motion to Call the Question.** The discussion of any motion may be terminated by any Supervisor making a *motion to call the question*. Upon a proper second, the Chair must call for a vote on the motion to call the question without debate on the motion itself, and the motion takes precedence over any other item. If the motion is approved, the Chair must immediately call for a vote on the original motion under consideration.
3. **Motion to Reconsider.** Any decision made by the Board may be reconsidered if a *motion to reconsider* is made at the same meeting or an adjourned meeting held on the same day at which the item was decided. The motion to reconsider may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, is to place the item for discussion in the exact position it occupied before it was voted upon.
4. **Motion to Rescind.** Any decision made by the Board, except for decisions on zoning map amendments, special use permits, special exceptions, and ordinances, may be rescinded by a majority vote of all elected Supervisors. The *motion to rescind* may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Decisions on zoning map amendments, special use permits, special exceptions, and ordinances may be rescinded or repealed only upon meeting all of the legal requirements necessary for taking action on the items as if it was a new item before the Board for consideration; otherwise, decisions on zoning map amendments, special use permits, special exceptions, and ordinances are eligible for reconsideration as provided in Rule 10(C)(3).

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

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

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

**12. Amending the Rules of Procedure**

These Rules may be amended only as follows:

- A. **Rules Eligible for Amendment.** Any Rule may be amended.
- B. **Procedure to Amend.** The Board may amend any Rule by any of the following procedures:
  1. **Notice Followed by Action at Next Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting, followed by a majority vote of the Supervisors present and voting to amend the Rules at the next Regular Meeting-
  2. **Notice Followed by Action at Later Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting and requests that the proposed amendment be considered at a meeting other than the next Regular Meeting; at the same meeting, a majority of the Supervisors present and voting establish the later Regular Meeting date at which the proposed amendment will be considered; followed by a majority vote of the Supervisors present and voting to amend the Rules at the Regular Meeting.

3. **By Supermajority Vote.** A proposed motion to amend is added to the Final Agenda at any Regular Meeting; at the same meeting, five or more Supervisors vote to amend the Rules. This procedure should be used only to make minor technical amendments deemed to be necessary to allow the Board to efficiently and effectively conduct its business.
- C. **Motion.** The motion to amend a Rule may be made by any Supervisor. Upon a proper second, the motion must be discussed and voted on. In deciding whether and how to amend a Rule, the Board shall consider that Rules 3, 4, 6(D), 6(F)(1)(a) through (c), 7, 8, 9(B), 10(A)(3), and 10(B)(1) address statutory or constitutional requirements.
- D. **Limitation on the Effect of an Amendment.** The Board's approval of a motion to amend one or more Rules does not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

### 13. **Suspending the Rules of Procedure**

These Rules may be suspended only as follows:

- A. **Rules Eligible to be Suspended.** Rules 1, 2, 5, 6, 9(A), 10 (except for Rules 10(A)(3) and 10(B)(1)), 11, and 12 may be suspended.
- B. **Procedure to Suspend, Generally.** Any Rule eligible for suspension may be suspended by a majority plus one vote of the Supervisors present and voting. The motion to suspend a Rule may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to suspend a Rule, if approved, is to make that Rule inapplicable to the item before the Board.
- C. **Suspending Rules Pertaining to Motions When There is Uncertainty as to Status or Effect.** If one or more motions have been made on an item, and there is uncertainty as to the status or effect of any pending motions or how the Board is to proceed at that point, the Board may, by a majority vote of the Supervisors present and voting, suspend the Rules in Rule 10 for the sole purpose of canceling any pending motions and to permit a new motion to be made. The motion to suspend a Rule pertaining to any pending motions may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on.
- D. **Limitation on Effect of Suspended Rules.** The Board's approval of a motion to suspend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

\* \* \* \* \*

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014; 1-7-2015; 1-6-2016; 1-4-2017; 2-8-2017; 1-3-2018; 3-20-2019; 01-08-2020; 9-2-2020; 12-2-2020; 1-6-21).

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Item No. 8. b. Adoption of Board Policies.

The Executive Summary forwarded to the Board states that the Board's Policies address the Supervisors' reimbursement for travel expenses, the appointment of Supervisors and citizens to public bodies, and Supervisors serving without remuneration on the board of trustees of not-for-profit entities. The Board adopts its Policies at its annual organizational meeting each January.

The proposed Policies are the same as those last amended by the Board on February 5, 2020. If any amendments are desired, staff will return to the Board at a later meeting with amended Policies for the Board's consideration.

Staff recommends that the Board adopt the Policies (Attachment A).

\* \* \* \* \*



# Albemarle County Board of Supervisors

## Policies

### Adopted January 6, 2021

#### Policies of the Albemarle County Board of Supervisors

##### 1. Travel Reimbursement

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

- A. **Routine Travel Expenses.** Supervisors may be reimbursed for the following routine travel expenses at the County's authorized car mileage reimbursement rate, provided there are available funds:
  - 1. **Mileage to Attend Board and Committee Meetings.** Mileage for travel by personal vehicle or other travel costs to scheduled Board meetings and Board committee meetings for committees to which a Supervisor is appointed, from home or work, if a work day, which is not part of routine personal travel. Travel to use the Board's County Office Building office between other personal travel or meetings, is not eligible for reimbursement.
  - 2. **Mileage to Attend Matters within the Board's Responsibilities.** Mileage for travel by personal vehicle or other travel costs to events reasonably necessary to prepare for matters within the Board's responsibilities (e.g., site visits, informational meetings, local ceremonies to which the Supervisor was invited or is related to a matter for which the Board or the County has an interest) which is not part of routine personal travel.
  - 3. **Mileage to Attend Parades and Other Community Gatherings.** Parades and other community gatherings, that are not campaign events, to discuss County business.
- B. **Educational Conference Travel Expenses.** Supervisors may be reimbursed for the following educational conference travel expenses, provided there are available funds:
  - 1. **Regional, Statewide, and National Meetings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending regional, statewide or national meetings at which the Supervisor represents the County, as approved by the Board.
  - 2. **Legislative or Congressional Hearings.** All necessary, actual, and reasonable meal, travel, and lodging costs (including gratuity and excluding alcohol) of attending legislative or congressional hearings relating to official County business.
- C. **Matters for Which Supervisors will not be Reimbursed.** Supervisors will not be reimbursed for the following travel expenses:
  - 1. **Political Events.** Travel to events which are political in nature (*i.e.*, campaigning or partisan events).
  - 2. **Personal Expenses.** Personal expenses incurred during travel.
  - 3. **Travel Not Part of Duties.** Other travel which is not part of the statutory governmental duties of the Board of Supervisors that are not provided for in Subsections (C)(1) or (C)(2).
- D. **Implementation.** This policy will be applied and overseen in the following manner:
  - 1. **Reimbursement Requests.** Reimbursement requests shall be made in writing on forms provided by the Clerk of the Board (the "Clerk") and shall itemize the date, number of miles of travel, and purpose of the meeting. Mileage for use of a personal vehicle shall be reimbursed at the County's authorized car mileage reimbursement rate. Other reimbursements shall be

for the amount of costs expended and shall be documented by receipts for actual amounts paid.

2. **Clerk Review.** The Clerk, or his/her designee, will review all travel reimbursement requests and the Director of Finance will approve all travel reimbursement requests prior to reimbursement. No payment will be made for incomplete submissions or information.
3. **Exhaustion of Funds.** When all allocated funds for Board reimbursements have been expended, there will be no further reimbursement for that fiscal year unless the Board appropriates additional funding.

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

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

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

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

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

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

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

1. **Appointments, Generally.** All appointments to boards, commissions, and committees based upon magisterial district boundaries will be made by the Board. The Board will consider and/or interview candidates recommended by the Supervisor of that district.
2. **Compilation of List of Expired Terms and Vacancies.** Prior to the first regular Board meeting each month, the Clerk will provide the Board a list of expired terms and vacancies that will occur within the next 60 days. The Board will then advise the Clerk which vacancies to advertise.
3. **Advertising Positions.** When the Board advises the Clerk which vacancies to advertise, the Clerk shall, in collaboration with the County's Director of Communications and Community Engagement, distribute notice of the vacancy on any board, commission, or committee through available and appropriate media in order to reach as many citizens as possible. The advertisement shall provide a brief description of the duties and functions of the board, commission, or committee, the length of term of the appointment, the frequency of meetings, the minimum qualifications necessary to fill the position, and the Board's expectations for appointees to attend meetings and to participate in other activities of the board, commission, or committee. An explanation of the appointment process for both magisterial and at-large appointments will also be sent to all applicants.

4. **Application Content.** The application form shall request information in the following areas: (i) the name of the board, commission, or committee to which the applicant seeks to be appointed; (ii) the name, address, and other contact information of the applicant; (iii) employment; (iv) County resident status and resident history; (v) family relationship (natural or legal offspring, parent, grandparent, spouse, or sibling) to any County Supervisor or other officer, employee, or appointee; (vi) education; (vii) offices or memberships in civic, not-for-profit, and similar organizations; (viii) activities and interests; (ix) reasons for seeking to serve on the board, commission, or committee; and (x) how the applicant learned about the vacancy.
  5. **Application Period.** All interested applicants will have a minimum of 30 days from the date of the first notice to complete and return to the Clerk a detailed application, with the understanding that the application may be released to the public, if requested. No applications will be accepted if they are received or, if the application is mailed through the United States Postal Service, postmarked after the advertised application deadline, however, the Board, at its discretion, may extend the deadline.
  6. **Distribution of Applications.** After the application deadline has passed, the Clerk will distribute all applications received to the Supervisors before the Board meeting at which the applications will be considered. For magisterial appointments, the Clerk will forward applications as they are received to the Supervisor of that district who will then recommend his or her appointment.
  7. **Interviews; Appointments Without Interviews.** From the pool of qualified candidates, the Board, in its discretion, may make an appointment without conducting an interview, or may select applicants to interview for the vacant positions. The Clerk will then schedule interviews with applicants to be held on the day of a regular or special Board meeting.
  8. **Appointments Within 90 Days.** The Board will make all reasonable efforts to interview selected applicants and make appointments within 90 days after the application deadline. For Board-designated agency appointments to boards, commissions, and committees, the Clerk shall ask the agency to recommend a person for appointment by the Board.
  9. **Vacancies Filled as They Occur; Exception.** All vacancies will be filled as they occur, except that vacancies occurring on a Community Advisory Council will be filled on an annual basis at the time regular terms expire unless there are more than three vacancies on that Council at the same time and more than three months remaining from the annual appointment date.
  10. **Appointees Required to File Real Estate Disclosure Form.** As a condition of assuming office, all citizen members of boards, commissions, and committees shall file a real estate disclosure form as set forth in the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*) and thereafter shall file the form annually on or before February 1.
  11. **Termination of Appointment for Excessive Absences.** If a member of a board, commission, or committee does not attend and participate in at least 75 percent of that body's meetings, the Chair of the body may request the Board to terminate the appointment, if permitted by applicable law, and refill it during the next scheduled advertising period. If permitted by applicable law, the Board may establish different attendance requirements and procedures to terminate an appointment for excessive absences for a particular board, commission, or committee.
  12. **Appointees to Advisory Bodies Serve at the Pleasure of the Board.** Any person appointed by the Board to an advisory board, commission, or committee serves solely at the pleasure of the Board.
4. **Supervisors Serving Without Remuneration on the Board of Trustees of Not-for-Profit Entities**
- A. **State Law.** The State and Local Government Conflict of Interests Act (the "Act") recognizes that a system of representative government depends in part upon: (i) Supervisors representing fully the public in the legislative process; and (ii) the County's citizens maintaining the highest trust in the Board of Supervisors. The Act establishes rules designed to assure that the judgment of any Supervisor is free of inappropriate conflicts of interest. Under the Act, a Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity, where neither the Supervisor's nor his or her immediate family has a personal interest in the not-for-profit entity, is not required to disclose or disqualify themselves from participating in any transaction related to the not-for-profit entity.
  - B. **Board Policy.** A Supervisor who serves without remuneration as a member of the board of trustees of a not-for-profit entity must disclose that fact at each meeting of the Board of Supervisors at which a matter pertaining to the not-for-profit entity is considered or acted upon. The disclosure must be made at the beginning of the Board meeting at which the matter will be considered or acted upon.

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Item No. 8. c. Adoption of Board of Supervisors Operating Guidelines.

The Executive Summary forwarded to the Board states that at the Board's July 9, 2018 meeting the County Executive presented the Board's Operating Guidelines for High Quality Governance as developed during the May 2018 Board Retreat for the Board's review.

At the August 8, 2018 Board meeting there was consensus to make the final revisions outlined and incorporated in Attachment A. At the September 5 Board meeting there was final direction to revisit these guidelines in six months for a check-in to help insure they are working as originally discussed.

At the March 6, 2019 Board meeting, there was consensus that the eight operating guidelines have helped give clear communication and direction to staff from the Board. This has helped achieve a mutually beneficial and effective working relationship for the purpose of serving Albemarle County and its citizens.

Most recently, the Board again reviewed and reaffirmed the guidelines at its September 9 retreat.

Staff supports Board Operating Guidelines that assists both the Board and staff in achieving a mutually beneficial and effective working relationship for the purpose of serving Albemarle County and its citizens.

There is no budget impact anticipated with these guidelines.

Staff recommends that the Board consider and adopt the Board of Supervisors Operating Guidelines for High Quality Governance.

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**ALBEMARLE COUNTY BOARD OF SUPERVISORS  
OPERATING GUIDELINES FOR HIGH QUALITY  
GOVERNANCE  
JANUARY 8, 2020**

**The Board commits to using the following guidelines to ensure high quality governance:**

1. The County's strategic priorities will guide the work of the Board and staff and will be supported by a thoughtful priority setting process and cycle.
  2. We will honor the expressed will of the majority and respect the concerns of the minority.
  3. We ensure that policy decisions and directions to the County Executive are communicated by the entire Board.
    - Where this is unclear, the County Executive will seek clarification from the Board.
    - No single member of the Board can provide direction on policy implementation to the County Executive.
  4. Board Members do not want their interactions with and requests to staff members to negatively impact staff productivity.
    - Staff members should use judgment and explain the resources that would be required to respond to Board requests.
    - If a policy issue is going to affect workload or a policy decision, it should come through the County Executive's office.
  5. When a Board Member sends a communication to a staff member, it should be copied to the department director and the appropriate member of the County Executive's Office. Urgent matters will be clearly labeled in the subject line.
  6. To assure maximum productivity, the Board should focus on policy-making work and the staff should focus on day- to day operational work and provide progress reports.
  7. We are responsible for our districts, the entire County, and the region; therefore, we should give our best efforts to work for the benefit of all.
  8. When a Board Member has a concern regarding staff performance, we go directly to the County Executive in a timely manner so that it can be addressed.
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Agenda Item No. 9. Adoption of Final Agenda.

Mr. Gallaway noted that Ms. Mallek was withdrawing the item that was going to be added, and so there was no change to the agenda in regard to that.

Mr. Gallaway asked Ms. McKeel if a letter would be added to the end.

Ms. McKeel said this was correct, adding that she believed this item had made it to their script.

Mr. Gallaway confirmed that it had. He asked Ms. Price if she wanted to pull Item 13.3 from the Consent Agenda.

Ms. Price replied yes. She said she wanted to pull Item 13.3 so that the Board could have a conversation and clarification on that.

Mr. Gallaway said the item would be addressed following the Consent Agenda.

**Motion** was offered by Ms. Price 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.

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Agenda Item No. 10. Brief Announcements by Board Members

Ms. Mallek said she would briefly talk about things to think about in 2021, echoing what Ms. McKeel said earlier. She said her own statements were more policy-oriented, while Ms. McKeel's comments were absolutely on target for the hardships which individuals were suffering.

Ms. Mallek said she is proud of the work that the County leadership and workforce has done during the stressful year 2020 to provide services to the residents and develop new processes to keep the County Government operating. She said that while there are many more obstacles in the future stemming from COVID-19, she is confident that they will avoid chaos, provide services, and earn the confidence of the citizens.

Ms. Mallek said she knew there was already a long to-do list and that the workplan was overflowing, but there are high-priority program issues that she hopes they will all think about and give attention to in 2021. She said they are working on the housing policy and finalizing it with specific actions and protocols, which will improve their ability to acquire and maintain moderately priced housing. She said there have been too many years of planning documents and that they need action documents now.

Ms. Mallek said funding the long-promised infrastructure in the Growth Areas that are already overflowing with new residents is a very high priority. She said recognizing the specific interconnections in the Climate Action Policy to include procurement, disposal, and environmental implications of all of the County's purchases will clarify their future investment policies before purchasing begins. She said if they take a cradle-to-cradle approach and get thorough documentation (not information from salespeople), they will make much better decisions.

Ms. Mallek said other issues on her mind are equal protection for all County residents, a definition of bona fide agriculture and standards, modifications of access to the land use program, and ways to solve the agriculture-to-development transition.

Ms. Mallek said citizens should count on equal protection under County regulations, yet some residents suffer damage from behavior on other properties (such as from sediment runoff or flood damage). She said as could be seen through the increase in ferocity of storms due to climate change, the County's processes need strengthening to hold source properties accountable for damage to others. She said the County has relied on state agencies for enforcement, but the state erosion standards have not been updated since 1996.

Ms. Mallek asked what County Government processes do to improve that equal protection. She said that frequently, they hear that it uses agriculture and thus, County standards cannot apply due to state "right to farm" rules. She asked what information or affidavit is required to prove that the use will be agriculture. She pointed out that just as land use requires five years of production before the land can qualify for the land use taxation program, saying one is establishing a farm, alone, should not be a qualifying reason to be exempt from County rules. She said a management plan could provide documentation.

Ms. Mallek said "right to farm" rules were based upon an old adage that a farmer would never endanger his or her soil. She said this is no longer true. She said the County now has many landowners who live on acreage yet do nothing for stewardship or soil control. She said they bulldoze the trees and buffers to see the stream in their backyard. She said the farm that does not participate in any federal programs, does not use the expertise of soil and water conservation districts or farm service agencies.

Ms. Mallek said the County's access to the land use property tax program could be modified to

required farm and nutrient management plans to be implemented in order to qualify for reduced taxes on open land. She said other Virginia counties already do this, and Albemarle could, too. She said participants in federal cost share programs already do this as well.

Ms. Mallek said that most frequently of all, it is the agriculture-to-development transition which creates difficulty for neighbors. She said properties hide in agriculture, under land use, and then move soils in ways that would never be allowed for development, but at the last minute declare the development to exist. She said the Water Protection Ordinance cannot be enforced with an agricultural exemption. She said the current processes do not provide staff with the authority to prevent this damage, yet highly agricultural counties do have stronger rules to prevent development transition from hiding as agriculture.

Ms. Mallek said other counties have agricultural zoning, which does not allow development without legislative process. She said Albemarle's subdivision and site planning processes do not have enough authority to prevent damage, which often has already occurred.

Ms. Mallek said while these are issues that will demand inquiry and discussion, they are in place in other localities. She said they would not be reinventing the wheel.

Ms. Mallek said there is a lot of work to do, and she looks forward to every minute of it. She wished everyone a happy new year and to be safe and well. She said she hopes 2021 will be a year of progress.

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Ms. Price said echoing many of the comments that they had already heard, both during the Moment of Silence as well as from Ms. Mallek, she reflected back on 2020 as a year unlike any other they had ever experienced. She said they say that "hindsight is 2020," and she is so thankful to see 2020 in her hindsight.

Ms. Price said they are not through the pandemic yet, however, nor the economic outfall from that. She said they are seeing infections and death at a rate never before seen in this country. She said in February 2020, when the pandemic first became more visible on the horizon, she estimated that they might have between 250,000 and 350,000 Americans die from it. She said they are well past 350,000, and there is a variant coming in from the United Kingdom that is estimated to be 70% more infectious. She said there is a variant coming in from South Africa, and there are concerns that the vaccine may not be effective against it.

Ms. Price said they know there are many months ahead before there is any hope of getting through the pandemic and the consequential economic impact that is an outfall from it. She said that as they move forward, they cannot let their guard down, they must remain vigilant, and they must protect themselves.

Ms. Price said, as she looks back on her first year as a Supervisor, one thing is to understand how little she knew going in and how much she appreciated the expertise of County staff and the scores of volunteers in the community who work, particularly on things like CACs and the Planning Commission. She said these are people who help, through their civic action, to ensure that the Board gets the information they need so that they make the best decisions possible.

Ms. Price said that as she looks toward 2021, she has three priorities that jump to her mind. She said the first is expanding broadband, which includes revising the County's cell tower policies in order to ensure expansion of availability and access. She said looking at neighboring counties, Nelson County has pledged that by the end of the year, they will have fiber optic cable to all of their residents. She said Albemarle is not Nelson County, and it has four providers while Nelson has one. She said Albemarle has complexities that Nelson does not have.

Ms. Price said Albemarle needs to do more, however, and this was not in any way to diminish the work that the Broadband Authority has done, as she is in awe of what they have done. She said there is a lot more to do, and they know that with the pandemic and its economic impacts, and with people working and going to school from home, the County must take action in approving their ability to stay connected.

Ms. Price said that on top of everything, the County has to look at equity. She said as she has mentioned before, equity must be perspective, not retrospective. She said every decision the County makes must be made with a view toward equity. She said they have to take care of those who have the least and not just those who have a great deal.

Ms. Price said her final point was about convenience centers. She said that as she travels to neighboring counties, she sees that virtually all of them have no-fee convenience centers. She said Albemarle County has no convenience centers, and they need to have them. She said she would like to see one in the southern part of the County, but one is needed in the northern part of the County as well. She said they need to be no-fee convenience centers, as this is an economic and an equity issue.

Ms. Price said there are many other challenges, but she looks forward to 2021. She said she is very appreciative of Mr. Richardson, Mr. Kamptner, and their staff and of the work they and their staff do to help make this the best community possible.

Ms. LaPisto-Kirtley said she concurred with what her fellow Supervisors said, and so she would not repeat those comments, but would say that in her experience, she has never worked with such a great staff of people, from the Executive Director to his deputies and all the way down to everyone who works in the County. She said it is a privilege to work with the Board of Supervisors. She said though they do not always agree, their focus is always what is best for the community as a whole, no matter what they believe.

Ms. LaPisto-Kirtley said she greatly appreciates that they all come together for the best of the County. She said that on a positive note, in the Rivanna District, CenturyLink is putting fiber in the Watts Passage area. She said she looks forward to other applications being approved, and they would hopefully find out in February whether or not more will be able to be done and if applications are approved.

Ms. LaPisto-Kirtley said she agrees that broadband is a big emphasis, as it means a lot to her, as does education. She said they need to do something with the schools, and she hopes the School District will figure out a way to make up for lost time for children. She said that is the basis of the democracy, there needs to be an outstanding educational system for everyone.

Ms. LaPisto-Kirtley expressed her love for volunteers and the CACs, adding that they do a great amount of work.

Ms. Palmer said she believed everyone had covered all her points, and so she would agree with everyone. She said she wanted to apologize that due to some medical reasons, she would be coming in and out of meetings that day, and she would not be able to attend the entire meeting.

Ms. Palmer said there was one other thing she wanted to say. She said everyone is very much aware of COVID, and she now has someone in her family who is dying from it. She said it does really hit home. She said she hopes the County can continue to do the great job that they have been doing in masking and social distancing, in spite of the spike currently going on.

Ms. McKeel said she agreed with what everyone had said. She said she wanted to give special thanks to the County employees who have been going out in the field and working with the community to get the work done. She said she had a couple of inspectors on her property and in her house over the last couple of months, and this is critical work that they were doing which does put them at risk. She said she appreciates the work, whether at the County Office Building sitting under a tent outside or meeting people in their houses and on their property. She expressed thanks to first responders.

Ms. McKeel said the only thing she would add was that Ms. Mallek was exactly right about looking at the high-growth areas. She said they also need to swing back around and look at the older areas that are not necessarily high-growth, but have existed for a long time. She said this gets back to older neighborhoods have older infrastructure, and so she would add this theme to the mix as well.

Mr. Gallaway he, too, echoed many of the comments that were made. He said he also wanted to give his own personal thank-you to the Clerk's Office and staff for the work they accomplished in 2020 in dealing with the pandemic. He said he knows that this work will continue, and no one knows when the pandemic will end. He said Board members are confident that they will be able to continue to work and provide services because of the excellent staff and Clerk's Office.

Mr. Gallaway said that as part of that thanks, he received a letter in December that spoke to appreciation and about how everyone is thinking about 2020. He said he would not read the letter, but would share the sentiment within it. He said there is a Dunlora resident in the Rio District, Ms. Lilly Casteen, who wrote and copied him on a letter to Chief Ron Lance expressing gratitude and acknowledgment for the exemplary service of Albemarle County Protection Officer Walsh.

Mr. Gallaway said without going into great detail, there was an injured animal witnessed, and Officer Walsh attended to the call for Ms. Casteen. He said Ms. Casteen said that Officer Walsh displayed great compassion, knowledge of wildlife, and professionalism. He said he would certainly be sharing his own note with Chief Lance, and he was sure he would appreciate receiving the letter. He said with the year they have had, to have a nice letter coming from a resident in the Rio District calling out the exemplary work of one of the officers, he certainly appreciates this and echoes Ms. Casteen's words of appreciation to Officer Walsh.

Mr. Gallaway said he is excited for 2021 because they have the Rio Road Corridor Study coming, which he looks forward to seeing come to fruition. He said the budget will be fast upon the Board, which is where they do much of their work in taking action during budget time and which he looked forward to.

Mr. Gallaway said he also wanted to thank staff in Community Development and the Albemarle County Police Department to quickly helping in finally resolving a matter with trucks parking out at Hollymead Town Center. He said they were swift in another complaint that came through that called out the issue and very swiftly were clear on the ordinances. He said they put out large billboards announcing that the enforcement would happen, and he did not believe any enforcement was needed because the education from the sign solved the issue.

Mr. Gallaway said there should not be any more truck issues out at Berkmar and the Hollymead Town Center. He said he is very grateful for the fast work that Community Development and the police department put forth, as well as the County Executive's Office, in helping get that resolved.

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Agenda Item No. 11. Proclamations and Recognitions.

Item No. 11. a. Proclamation Honoring Martin Luther King, Jr. Day.

Mr. Gallaway said that from the County, Ms. Irtefa Binte-Farid would be accepting the proclamation. He said there would also be an opportunity to say a few words, if needed. He said Ms. Price would be reading the proclamation.

Ms. Price **moved** to adopt the proclamation as she read it aloud. 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.

Ms. Irtefa Binte-Farid, Coordinator for Equity and Accountability in the Office of Equity and Inclusion, thanked the Board for taking the time to honor and celebrate Martin Luther King, Jr. Day that year and for their continued commitment to promoting a more inclusive and equitable community for all members of Albemarle County.

Ms. Binte-Farid said they were looking forward to having someone from UVA accept this proclamation on their behalf from the Division for Diversity, Equity, and Inclusion. She said that unfortunately, this person seemed to have some technical difficulties, and so she would accept the proclamation.

Ms. Binte-Farid thanked the Board again for their work. She said they are looking forward to celebrating the legacy of Dr. King that January and his powerful call to create a more equitable community for all.

Mr. Gallaway said he trusted this would find its way to UVA.

Ms. Price said around 2008 or 2009, she was working in Jacksonville, Florida. She said when she went downtown for a parade, she was sadly struck by the lack of diversity at that parade. She said that too many Americans, when they think of Dr. Martin Luther King, Jr. and of MLK Day, they think that this is a Black holiday. She said Dr. Martin Luther King did nothing but profess, proclaim, and protest for equal rights for everyone. She said MLK Day is a holiday for all Americans because what he preached, lived, and died for was that everyone would be able to achieve and enjoy the benefits of living in this country.

Ms. Price urged all Americans (not simply Americans of color) to honor Dr. King's memory and rejoice that they, as a nation, have been able to recognize the work he has done and the unfinished work that now rests upon their shoulders as they move forward.

Ms. Binte-Farid noted that Ms. Megan Faulkner from UVA was able to join, and so she wanted a moment to introduce Ms. Faulkner and let her make her remarks.

Ms. Binte-Farid said Ms. Faulkner is the Chief of Staff for the Division for Diversity, Equity, and Inclusion at UVA. She said Ms. Faulkner staffed the President's Commission on Slavery for five years and currently serves as a member of the President's Commission on the University and the Age of Segregation. She said Ms. Faulkner also chairs the Memorial to Enslaved Laborers Community Engagement Committee and has been in charge of coordinating the University's celebration of MLK Day for the last 11 years. She said Ms. Faulkner would accept the proclamation and speak more about their celebrations.

Ms. Faulkner apologized for her delay, explaining that she kept getting kicked out of the waiting room for an issue on her end. She thanked the Board for the proclamation and their continued partnership in working toward creating a more inclusive and equitable community together.

Ms. Faulkner said that each year, the community MLK Day celebration is held during the last two weeks of January. She said this year was unlike any other year in many ways, but also for this time when they are usually coming together over the course of two weeks for many events. She said nevertheless, they have about 15 events, which will all be virtual and open to the public, free of charge. She encouraged everyone to attend who is able. She said the events begin on January 14 and will run approximately through the end of the month.

Ms. Faulkner said the URL to visit to see the full calendar events is [mlk.virginia.edu](http://mlk.virginia.edu). She said the celebrations led by the Planning Committee are comprised of area schools and units across UVA as well as numerous local community organizations that they have partnered with over the years and the local school systems, both Albemarle and Charlottesville City.

Ms. Faulkner said the celebration was a bit scaled back in 2021 due to the pandemic, but they were coming together under the theme of, "Where do we go from here? Chaos or Community," which felt appropriate for the time and is also the title of MLK's last book, which was published in 1967. She said they were doing a community read of the book and have been distributing 500 free copies of the book throughout the community at various spots. She said there will be a panel discussion about the book that



includes several community members and UVA faculty on January 25.

Ms. Faulkner said she would just highlight a couple of events and that she hoped everyone would visit [mlk.virginia.edu](http://mlk.virginia.edu) to see the full calendar and perhaps participate where they can.

Ms. Faulkner said they would also have best-selling author Austin Channing Brown on January 20 to give a virtual talk on her book "I'm Still Here: Black Dignity in a World Made for Whiteness." She said Dr. Virgil Wood, who is an Albemarle County native, will discuss his book "In Love We Still Trust: Lessons We Learned from Martin Luther King, Jr. and Sr." on January 25. She said Dr. Wood will share his experience attending Hillsboro School in Crozet and Albemarle Training School in Charlottesville, which should be an interesting talk.

Ms. Faulkner said another event she wanted to mention is the 36th Annual Community Worship Service, which is led by a committee led by Reverend Alvin Edwards. She said this event will take place virtually on January 24.

Ms. Faulkner said they are also undertaking a new activity in 2021 in that they are making monetary investments in several local community nonprofit organizations in order to highlight the critical need where needed most in these times when so many people in the community have been negatively affected by the pandemic. She said they are gathering a central pod of funds from both the Division for Diversity, Equity, and Inclusion at UVA as well as other schools who wish to participate to make donations to organizations including the African American Teaching Fellows, City of Promise, the Legal Aid Justice Center, Loaves and Fishes, and the Piedmont Housing Alliance.

Ms. Faulkner concluded her remarks and thanked the Board for inviting her to be there.

Ms. Mallek thanked Ms. Faulkner and Ms. Binte-Farid for the work they are doing to help everyone. She said as someone who was born in Albemarle in 1950, she feels as if she is now on a different planet than she was then. She said with much of what she remembers about that time, she is looking at it completely differently than she did in the 1960s, 70s, and 80s because of all the things that she has learned as a 50-year-old and 60-year-old. She said now that she is 70, she is looking back and realizing that she did not learn what she needed to learn when she was young and able to do much more about it. She said she feels that there is a lot of catching up everyone is doing.

Ms. Mallek said they are so lucky in this community to have so many generational people who are still there and can tell their stories to help everyone understand what they can all do better together. She said the wonderful little community in Hillsboro that Ms. Faulkner mentioned in terms of the school is somewhat still standing and trying hard, but it is another example of how the houses that were taken for I-64 and demolished were the ones where the African Americans lived and not the ones up the street, where the white people lived. She said there is so much to learn together to improve.

Mr. Gallaway said it was exciting to hear the reading of the book "Where Do We Go From Here? Chaos or Community," which he could say is a foundational book. He said it is rare that he thinks of the things that influence how he thinks of policy, or the things that inform him that he has read over the years, when doing this job. He said it has been a couple of decades since he first read the book, and Dr. King could have stopped at the title, as the question is as profound as anything, let alone all the writing that is in the book. He said he will be excited to listen in on that reading.

Mr. Gallaway thanked Ms. Binte-Farid and Ms. Faulkner for being there.

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### **Proclamation Celebrating Martin Luther King, Jr. Day**

**WHEREAS,** Dr. Martin Luther King, Jr. devoted his life to the expansion of civil rights and public service to all Americans – such as his heroic leadership in the 1955 Montgomery Bus Boycott, the 1957 Southern Christian Leadership Conference, the 1963 March on Washington, and the Selma to Montgomery marches in 1965; and

**WHEREAS,** Dr. King sacrificed his life for equality, justice, and freedom for all and challenged all Americans to help build a more perfect union and live up to the purpose and potential of our nation; and,

**WHEREAS,** we have yet to realize Dr. King's dream as Black, Indigenous, and other people of color continue to face systemic inequities and deep disparities across different aspects of our society—from health outcomes to economic advancement to interactions with our criminal justice system; and,

**WHEREAS,** Albemarle County has invested in creating a more equitable and inclusive society by centering Community as an organizational value which states that "we expect diversity, equity, and inclusion to be integrated into how we live our mission" to serve all members of our community; and,

**NOW, THEREFORE, BE IT RESOLVED,** that we, the Albemarle County Board of Supervisors, do hereby honor and celebrate January 18, 2021 as Martin Luther King, Jr. Day and urge our employees and residents to work towards his vision for a more equitable society for

everyone in our community.

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Agenda Item No. 12. 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. Gary Grant (Earlsville area, Rio District) said that thanks to the help of the County Executive, Mr. Richardson, with a recent Virginia Freedom of Information Act (FOIA) request, it is confirmed that Albemarle County has no public records showing proactive equity and inclusion outreach prior to and in support of the search for their latest appointment to the Jefferson-Madison Regional Library Board of Trustees.

Mr. Grant said that while the middle-aged white male they most recently appointed as a trustee is well-qualified, they now have three middle-aged white males for all three of their library board appointments. He said the information from the FOIA request makes clear that Mr. Richardson and the Office of Equity and Inclusion have zero records to prove that any residents associated with the likes of the local NAACP chapter, Creciendo Juntos, Sin Barreras, LGBTQ organizations, or that any other underrepresented or BPOC groups were contacted in advance about the library board vacancy or proactively encouraged to apply.

Mr. Grant said this failure creates two questions: one, if the six Democrat Supervisors practice proactive and affirmative outreach for equity and inclusion purposes, or not; and two, if the six Democrat Supervisors expect the demographics of their appointed boards and commissions to reflect Albemarle's demographics, or not.

Mr. Grant asked the Board to listen to what Ms. McKeel said at the September 6, 2020 meeting. He quoted, "It is critical for me that we begin to look at every decision through the lens of equity." He asked how the public would know that they do this. He said they all look, in this case, at this decision in a closed meeting.

Mr. Grant said the Albemarle mission statement promises "to enhance the wellbeing and quality of life for all citizens through the provision of the highest level of public service, consistent with the prudent use of public funds." He said one of their five values pledges is, "We expect diversity, equity, and inclusion to be integrated into how we live our mission." He said the Board, the County Executive, and his Office of Equity and Inclusion failed on all accounts with their most recent library board appointment.

Mr. Grant thanked the Board for spending taxpayer money to stream their meetings and for his less-than-three-minutes of his time. He wished them a productive meeting.

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Mr. Neil Williamson congratulated Mr. Gallaway and Ms. Price for their Chair and Vice-Chair appointments. He said there was a big year ahead. He said he serves as President of the Free Enterprise Forum, a privately funded public policy organization focused on Central Virginia's local governments.

Mr. Williamson said that on the Board's agenda that day was a resolution of intent for comprehensive increases in the Community Development fees, as well as several new fees that are being proposed to capture the cost of administering and enforcing Albemarle's byzantine ordinances and architectural design guidelines. He said while the Free Enterprise Forum has no issue whatsoever with the language in the resolution, they have grave concerns with the specifics that are contained in the document.

Mr. Williamson said recognizing the resolution as a start rather than an outcome, there are three major concerns. He said first is a concern about the exact amounts contained in the document that are based on a salary formula the group rallied against in 2015. He said that since that time, significant advancements have been made by Community Development in resource tracking that should allow a more accurate time passed calculation. He said they hope the Board will encourage the department to use this metric rather than a broad-brush salary inflation guide.

Mr. Williamson said secondly, Albemarle is in the process of reviewing their affordable housing policy. He said the Free Enterprise Forum requests that the CDD staff, working with Ms. Stacey Pethia, calculates the impact of the proposed increases on different housing types. He said basic math leads him to believe that the increases will be most impactful on properties in the lower price ranges, making more housing unaffordable to more individuals.

Mr. Williamson said third, and perhaps most importantly, he would ask the Board to consider the validity of 100% cost recovery. He said the Free Enterprise Forum believes that a portion of the Community Development work is for the benefit of the community. He asked the Supervisors to consider what portion of that cost recovery should be allocated to the community. He said they believe that an 80/20 cost share is more than fair.

Mr. Williamson said in conclusion, he would be remiss if he did not mention that many of the causes of the increases in fees are directly related to the complexity of ordinances being administered.

Mr. Gallaway closed Matters From the Public. He said he did not typically make it a point to

comment at this time on public comment, but he did want to make sure to clarify one thing relative to Mr. Grant's remarks. He said Mr. Grant was placing some responsibility of Board appointments to boards and commissions on the County Executive and County staff, and this is misplaced. He said the County Executive and staff do not play a role in the Board's responsibilities of making these appointments. He said while the point was well taken, he wanted to make sure that it is publicly stated that the responsibility for all appointments to board and commissions is the sole responsibility of the Board of Supervisors.

Agenda Item No. 13. Consent Agenda.

Mr. Gallaway reminded the Board that Item 13.3 had been pulled from the consent agenda.

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

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

Item No. 13.1. FY 2021 Appropriations.

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

The total change to the FY 21 budget due to the appropriations itemized in Attachment A is \$480,399.14. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

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

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

<b>Appropriation #2021046</b>		<b>\$162,939.00</b>
Source:	Local: Earlysville Volunteer Fire Company	\$ 78,005.00
	Local: East Rivanna Volunteer Fire Company	\$ 84,934.00

This request is to appropriate \$78,005.00 in revenue from Earlysville Volunteer Fire Company to support the costs associated with replacing and equipping Car 2 and Fire Command 42 and to appropriate \$84,934.00 in revenue from East Rivanna Volunteer Fire Company to support the costs associated with replacing Engine 56. The funding is primarily for upgrades that are more than what is required by the County's specifications, which is funded in the capital Fire Rescue Apparatus Replacement Program.

<b>Appropriation #2021047</b>		<b>\$20,000.00</b>
Source:	ECC Fund Balance	\$20,000.00

The Emergency Communication Center (ECC) requests that the County, acting as fiscal agent for the ECC, re-appropriate \$20,000.00 from ECC fund balance for repair and replacement of existing HVAC system components. This request amends the ECC re-appropriation approved on July 1, 2020 to include this funding.

<b>Appropriation #2021048</b>		<b>\$15,000.00</b>
Source:	Local Revenue	\$15,000.00

This request is to appropriate \$15,000.00 in donations from the Charlottesville Area Community Foundation (CACF) – Early Childhood Funders Network (ECFN) to the Bright Stars program to purchase educational and recreational supplies for the students.

<b>Appropriation #2021049</b>		<b>\$101,450.00</b>
Source:	Federal Revenue	\$101,450.00

This request is to appropriate \$101,450.00 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, elderly and disabled individuals afford safe housing and to support the health and safety of assisted individuals and families. These funds will be used to pay

Housing Assistance Payment (HAP) subsidies directly to owners and landlords on behalf of participant families in both the Moderate Rehabilitation and Housing Choice Voucher programs.

**Appropriation #2021050** **\$181,010.14**

Source: Federal Revenue \$181,010.14

This request is to appropriate \$181,010.14 in federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act CRF) funds received by the Albemarle County Service Authority (ACSA) to assist with utility customer relief for all eligible customers of the ACSA. The County will serve as fiscal agent (pass-through entity) for the funding. The goal of this program is to assist utility customers experiencing economic hardship due to the COVID-19 pandemic with arrearage assistance for amounts owed from March 1, 2020 through December 30, 2020 that are over 30 days in arrears.

\* \* \* \* \*

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2021 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2021046; #2021047; #2021048; #2021049 and #2021050 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

\* \* \* \* \*

APP#	Account String	Description	Amount
2021046	3-9010-19000-319000-199904-3140	SA2021046 FR Apparatus Replacement Program	\$162,939.00
2021046	4-9010-32020-432020-810207-3140	SA2021046 East Rivanna Engine - Overage	\$84,934.00
2021046	4-9010-32020-432020-810606-3140	SA2021046 Earlysville Engine Overage	\$78,005.00
2021047	3-4100-51000-351000-510100-9999	APP2021047: ECC HVAC Reappropriation	\$20,000.00
2021047	4-4100-31040-435600-331800-1003	APP2021047: ECC HVAC Reappropriation	\$20,000.00
2021048	3-1553-18120-318000-181287-1005	SA2021048 CACF Bright Stars Donation	\$15,000.00
2021048	4-1553-51155-453010-601300-1005	SA2021048 CACF Bright Stars Donation	\$15,000.00
2021049	3-1100-33050-333000-330050-1555	SA2021049: HUD CARES Funding - Moderate Rehab	\$21,176.00
2021049	4-1100-81920-481030-579001-1555	SA2021049: HUD CARES Funding - Moderate Rehab	\$21,176.00
2021049	3-1100-33050-333000-330050-1556	SA2021049: HUD CARES Funding - Housing Choice Vouchers Housing Asst Payments	\$80,274.00
2021049	4-1100-81920-481030-579001-1556	SA2021049: HUD CARES Funding - Housing Choice Vouchers Housing Asst Payments	\$80,274.00
2021050	3-1100-33050-333000-330050-1558	SA2021050: ACSA CARES Funding	\$181,010.14
2021050	4-1100-12141-453010-312380-1558	SA2021050: ACSA CARES Funding	\$181,010.14

Item No. 13.2. Personnel Policies P-61 and P-66 Amendments.

The Executive Summary forwarded to the Board states that Albemarle County Local Government adopted Administrative Policy AP-16, Telework and Alternative Schedules, on October 14, 2020. This policy was under development in early 2020 and was accelerated due to the impact of the COVID-19 pandemic on our workforce and service delivery model. Staff identified opportunities to refine existing Personnel Policies in order to align with the flexibility and opportunities created by telework and alternative schedules. Personnel policies are adopted by the Board of Supervisors.

Staff is proposing updates to Personnel Policies §P-66, Coverage Due to Inclement Weather or Emergency, and §P-61, Staff Schedules, Time Tracking, and Compensation Policy, as described in the resolution in Attachment A. The attached proposed drafts include changes related to building closures to include expectations and leave application for teleworking employees. Attachments B and C show the marked up proposed changes and Attachments D and E provide the final draft proposed policies to §P-61 and §P-66, respectively.

The proposed changes align to our public service covenant and clarify that:

- the intent is to maintain operations whenever possible;
- only employees required to work at a site that is impacted by a declared inclement weather or emergency will be eligible for essential personnel pay;
- the expectation is that employees will work remotely if possible and will receive building closure leave only when not able to telework.

There is no budget impact associated with adoption of these amendments.

Staff recommends that the Board adopt the Resolution to amend personnel policies §§ P-61 and P-66 as set forth in Attachments D and E.

**By the above-recorded vote, the Board adopted the Resolution to amend personnel policies §§ P-61 and P-66 as set forth in Attachments D and E:**

**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 amend Section P-61, Staff Schedules, Time Tracking, and Compensation Policy, and Section P-66, Coverage Due to Inclement Weather or Emergency.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors of Albemarle County, Virginia, hereby approves amending the County's Personnel Policies as described hereinabove, and as set forth on the attached document, attached hereto and incorporated herein.

COUNTY OF ALBEMARLE  
PERSONNEL POLICY

§P-61      STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION POLICY

The County has established the following procedures to compensate employees fairly and in accordance with federal, state, and local laws for all time worked. The County approves the annual staffing plan through the budget process each fiscal year. Staffing allocations are made for each department that determine the number and type of positions for employee payroll. These policies and procedures establish guidelines and expectations for employees and supervisors.

I.      **Staff Schedules**

A.      **Classified Staff**

The supervisor of every classified employee shall determine the employee's work schedule in accordance with the base weekly hours for that position and the needs of the department. Department heads/designees may require that employees work additional time or alternative schedules to meet the needs of the department. Whenever possible, supervisors shall give advance notice as soon as the work schedule change is determined so that the employees are able to arrange their personal schedules.

II.     **Alternative Schedules**

A.      Guidelines: Department heads/designees may permit alternative work schedules for staff provided that the following conditions are met:

1.      The department is open to the public on all days other than posted holidays and emergency closings;
2.      Employees work the requisite number of hours for their positions; and
3.      All applicable personnel policies are followed.

B.      Flex Time: Non-exempt employees are paid based upon hours worked or leave taken during the workweek or work period. In lieu of taking leave, a supervisor may allow an employee to work an alternative schedule in a given workweek or work period as long as all base weekly hours are accounted for within the workweek or work period. Exempt employees may work alternative schedules with supervisor approval.

III.    **Overtime and Compensatory Time Leave Compensation**

Non-exempt employees are entitled to overtime pay or compensatory time leave in accordance with the Fair Labor Standards Act (FLSA) for hours worked in excess of their maximum allowable hours at one and one-half (1.5) times their regular rates of pay. The following regulation establishes the general guidelines and procedures the County will follow regarding overtime and compensatory time leave requirements of the FLSA and applicable state law. If any conflict arises between this policy and the

FLSA or state law, the requirements of the FLSA and/or state law will govern. §P-61

PERSONNEL POLICY

PROCEEDURE FOR STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION

I. Overview and Key Terms

- A. **Base Weekly Hours.** Each regular employee has a designated number of official hours per workweek or work period that have been set for the position. While an employee's actual daily work schedule may vary, the employee's base weekly hours remain the same. For example, an employee with 40 base weekly hours may work five (5) eight (8)-hour shifts or may work four (4) 10-hour shifts.
- B. **Full-Day Increments.** Full-day increments refers to the entire scheduled day and not a "day of leave" as defined in Policy § 86 Leave Program.
- C. **Exempt Employees.** Employees in certain positions are exempt from overtime pay requirements and compensatory time leave eligibility if the positions satisfy the criteria for the exemptions defined under the FLSA. Positions will be designated as exempt or non-exempt by the Department of Human Resources and approved by the County Executive/designee.
- D. **Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements.
- E. **Hours Worked.**
  - 1. **General.** Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive either overtime pay or compensatory time leave for their excess hours worked. Paid or unpaid time off during which the employee is absent from service for the County shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Such absences include, but are not limited to, holiday, sick, annual, and compensatory time leave; leaves of absence; meal breaks; and building closures.
  - 2. **Breaks.** FLSA does not require rest breaks or meal breaks. However, supervisors should allow employees time to attend to health and hygiene needs. Supervisors may designate specific times for rest and meal breaks. Department heads may establish department-wide standards to ensure efficient operations and service. Non-exempt employee rest breaks longer than 20 minutes are not compensable as time worked as long as no work is performed and the employee is free to leave his/her post. Non-exempt employee meal breaks 30 minutes or longer are not compensable as time worked as long as the employee is completely relieved from duty and free to leave his/her post.



PERSONNEL POLICY

3. Travel Time. When non-exempt employees are required to work outside of County facilities, the hours involved in the actual travel, as well as the hours working, shall be considered time worked. Employees shall report this time to their supervisors, using procedures established for that purpose. Ordinary travel/commute between an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources.
- F. Leaving Premises During the Workday. Departments may establish their own sign-out/notification procedures for employees leaving the premises during the workday.
- G. Maximum Allowable Hours. A non-exempt employee must be compensated for overtime once the employee has exceeded the maximum allowable hours. Maximum allowable hours for employees are as follows:
- |                                                |                                         |
|------------------------------------------------|-----------------------------------------|
| 7(k) exempt <sup>1</sup> Sworn Law-Enforcement | 171 hours within the 28-day work period |
| 7(k) exempt Uniformed Fire Rescue              | 212 hours within the 28-day work period |
| All Other Employees                            | 40 hours within the workweek            |
- H. Non-exempt Employees. Employees who are subject to the FLSA's overtime and compensatory time leave requirements are considered non-exempt.
- I. Overtime. This is time that non-exempt employees physically work in excess of the maximum allowable hours per workweek or work period, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). The County must compensate an eligible employee for time worked in excess of the maximum allowable hours by making monetary payment at one and one-half (1.5) times the employee's regular rate of pay for each hour or portion thereof worked or by granting compensatory time leave at the rate of one and one-half (1.5) times for each hour or portion thereof worked.
- J. Pay by Exception. Albemarle County operates on a "pay by exception" system. Each regular employee has a designated number of hours per fiscal year the employee has been allocated as part of the organization staffing plan. These annual hours are divided equally into the number of established pay cycles. The payroll system will pay this amount automatically unless the employee and supervisor submit adjustments to the base weekly hours such as overtime or leave without pay.

<sup>1</sup> "7(k) exempt" refers to 29 U.S.C. § 207(k), which provides public agencies a partial exemption to overtime compensation requirements for employees engaged in fire protection or law enforcement activities.

PERSONNEL POLICY

- K. **Premium Pay.** This refers to additional compensation, exclusive of overtime, non-exempt employees may receive as an incentive for specific types of work, i.e., shift differentials.
  - L. **Regular Schedule.** All regular employees have a designated schedule each workweek or work period based upon the base weekly hours. Changes to a non-exempt employee's regular schedule that impact the base weekly hours may cause changes to the employee's pay, such as overtime or leave without pay.
  - M. **Straight Time.** A non-exempt employee's non-overtime hours worked, compensated at the employee's hourly rate.
  - N. **Work Schedules.** The department head/designee is responsible for establishing employee work schedules, including allowances for breaks and meal periods.
  - O. **Workweek and Work Period.** The County Executive has established the official workweek as seven (7) days, extending from Saturday at 12:01 a.m. to Friday at 12 midnight. The work period for 7(k) exempt law-enforcement and fire rescue employees is a 28-day period. The beginning and ending time for the 28-day work period under section 207(k) of the Fair Labor Standards Act shall be determined by the appropriate department head.
- II. **Tracking Time and Pay Adjustments**
- A. **Non-exempt Employees**
    - 1. **Time Recording.** Non-exempt employees are paid for time worked on an hourly (or portion thereof) basis. All non-exempt employees must complete and submit, in a timely manner, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County policy.
    - 2. **Increments.** Rounding rules up or down to the quarter-hour will be established for County-wide consistency. Departments may set reasonable expectations for adherence to work schedules. An employee may be counseled or disciplined for tardiness; however, pay will follow the rounding rules.
    - 3. **Reductions in Pay.** In the County's pay by exception system, when an employee misses work in the workweek or work period and has insufficient leave to make up the variance from the base weekly hours, the non-exempt employee will be docked pay for that workweek or work period in 15-minute increments. Employees may also be docked pay for disciplinary purposes in accordance with County policy.

PERSONNEL POLICY

**B. Exempt Employees**

1. Time Recording. Exempt employees are expected to follow established procedures and policies for exempt employee time tracking and leave submission. Failure to do so may result in disciplinary action in accordance with County policy.
2. Increments. Exempt employees are compensated on a salary basis. The salary may be calculated on a daily or weekly basis depending on the position. However, exempt employees are not paid based upon physical time worked.
3. Reductions in Pay.
  - a. Exempt employees may be docked pay in accordance with FLSA, FMLA, Workers' Compensation laws, and other applicable laws. Generally, pay may be docked for partial weeks worked during the first and last weeks of employment and situations where a benefits-eligible employee has insufficient leave accrued or chooses to take leave without pay. Pay must be docked in full-day increments, excluding exceptions permitted under law. Benefits-ineligible employees may not be docked pay when work is performed in the workweek or work period, unless permitted by law. Supervisors may require any exempt employees to make up missed work in another workweek or work period.
  - b. Discipline. Any exempt employee may be docked pay in full-day increments for disciplinary purposes in accordance with County policy.

**III. Overtime Pay and Compensatory Time Leave**

**A. Eligibility to Earn Overtime Pay/Compensatory Time Leave**

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt regular employees of the County who work in excess of 40 hours within a workweek or the maximum allowable hours within one 28-day work period are eligible to receive overtime pay and/or compensatory time leave. Temporary employees are not eligible to receive compensatory time leave, but are eligible to receive overtime pay.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory leave time. However, this does not preclude department heads from using their discretion to grant time off to exempt employees in recognition of time worked beyond normal work schedules.

PERSONNEL POLICY

**B. Calculation of Overtime/Compensatory Time Leave**

All non-exempt employees are to be compensated for overtime hours worked. This compensation may be monetary or through the accrual of compensatory time leave. Time is calculated based on the entire workweek or work period and not on a daily basis. Overtime is not earned until the maximum allowable hours have been physically worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Calculation of overtime/compensatory time leave shall be as follows.

1. Fire Rescue Employees. Fire Rescue employees who are 7(k) exempt and work over 212 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
2. Sworn Law-Enforcement Employees. Sworn law-enforcement employees who are 7(k) exempt and work over 171 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
3. All Other Employees. All other non-exempt employees who physically work over 40 hours within the workweek are to be paid overtime pay.
4. Compensatory Time Leave. A non-exempt regular employee may be compensated at the rate of one and one-half (1.5) hours of compensatory time leave for each overtime hour worked in a workweek or work period instead of overtime pay referenced in B.1-3. The employee and supervisor must agree to compensatory time leave as compensation. If a supervisor is offering only compensatory time leave as payment, the employee must agree to accept compensatory time leave or be able to decline the additional work. Otherwise, overtime pay must be provided for required additional work. Temporary employees are not eligible for compensatory time leave in lieu of overtime pay.
5. Compensation for Additional Non-Overtime Work. When a non-exempt employee works more than his/her base weekly hours, the employee must be paid his/her hourly rate (straight time) for those excess hours worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Compensatory time leave may not be earned except as overtime.

PERSONNEL POLICY

6. Dual Job Employees.

- a. Two or More Non-exempt Positions. Employees who have two or more non-exempt regular positions contributing to overtime hours are eligible for both overtime pay and compensatory time leave. These employees may receive overtime pay at the blended overtime rate or earn compensatory leave time in accordance with B.4. Department heads shall consult with Human Resources for guidance regarding the payment of overtime compensation to these employees.
- b. Exempt and Non-exempt Regular Positions. For employees who have one or more exempt regular position(s) and one or more non-exempt regular position(s), the eligibility for overtime is determined by the primary position (the position with the highest part-time percentage). When the primary position is classified as non-exempt, all work performed in both positions contributes to the total hours for the workweek or work period. When the primary position is classified as exempt, the employee is not eligible to earn overtime or compensatory time leave. The employee may receive straight time pay for hours worked in the workweek or work period beyond the base weekly hours in the non-exempt position.
- c. Non-exempt Regular and Temporary Positions. If a non-exempt regular employee also has time worked in a non-exempt temporary position during the workweek, all such time worked counts towards the maximum allowable hours. The supervisor of the regular position may deny the earning of compensatory time leave in lieu of overtime pay, regardless of which position(s) contributed to the overtime hours. If a supervisor denies compensatory time leave, overtime must be paid at the blended overtime rate.
- d. Non-exempt Regular Employees Working Exempt Temporary Positions. As long as the exempt temporary position is occasional and sporadic, the hours worked in the temporary position do not count towards the maximum allowable hours. Supervisors of temporary positions shall contact the Department of Human Resources before scheduling any non-exempt regular employee for exempt temporary work.

C. **Compensatory Time Leave Payouts**

1. Maximum Balances. Employees eligible for the public safety exemption may accrue up to 240 hours of compensatory time leave. All other regular, non-exempt employees may accrue up to 100 hours of compensatory time leave.

PERSONNEL POLICY

§P-61

2. Job Changes. Upon termination of regular employment, non-exempt employees shall be paid for unused compensatory time leave. A non-exempt employee who is transferring to another department or who is changing from a non-exempt to an exempt position shall be paid for the unused compensatory time leave balance or reach an agreement with the current department head to use any accumulated compensatory leave prior to the effective date of the change. The employee's compensatory time leave balance must be zero (0) prior to the starting date for the new position.
  3. Compensatory Time Leave Payout Requests.
    - a. Department heads may offer periodically partial or full payouts of accrued compensatory time leave. Fair practices must be established to provide equal access to all eligible non-exempt employees. Department heads may not make payouts under the maximum compensatory time leave balance without employee approval.
    - b. Employees may request partial or full payouts of accrued compensatory time leave. Payouts are subject to department head approval and budgetary considerations. Department heads may set fair and consistent limits.
  4. Compensatory Time Leave Payout Rate.
    - a. During Employment: When compensatory time leave is paid during the course of employment, it will be paid at the employee's current regular rate.
    - b. Upon Termination: When compensatory time leave is paid upon termination of employment, it will be paid at a rate of compensation not less than:
      - i. The average regular rate the employee received during the last 3 years of employment, or
      - ii. The employee's final regular rate, whichever is higher.
- D. Employer Responsibilities**
1. Managing the Accrual of Overtime. Department heads/designees may require that employees work additional time or overtime to meet the needs of the department. They are also responsible for managing non-exempt employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in a day, the employee's supervisor may adjust the employee's work schedule for that

PERSONNEL POLICY

workweek or work period by the amount of the excess time worked to avoid the accrual of overtime.

The County will compensate an employee for any time worked in excess of the employee's base weekly hours. However, an employee may be disciplined for working unapproved time.

2. Availability of Funds. Department heads/designees shall ensure that adequate funds are available to pay required overtime compensation and compensatory time leave payouts.
3. Scheduling Compensatory Time Leave. (See Policy § P-86, Leave Program.)
4. Recordkeeping. Department heads/designees shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. They shall also ensure that exempt employees submit timely and accurate leave records.

**E. Employee Responsibilities**

Authorization for Overtime. Non-exempt employees may work additional time beyond their scheduled hours only with prior authorization from their supervisor. Failure to obtain prior authorization may result in disciplinary action in accordance with County policy.

**IV. ON-CALL AND CALL-BACK COMPENSATION**

**A. On-Call Compensation**

1. Purpose. Employees may be required to be available to return to work or "on-call" during a scheduled period. On-call periods have been established as 12-hour periods for the entire County. Department heads/designees may schedule employees to be on-call for shorter periods based on business needs.
2. Compensation and Eligibility. A regular or temporary non-exempt employee on-call will be paid a flat fee equal to one and a quarter (1.25) of the employee's hourly rate for each 12-hour on-call period. When an on-call period of less than 12 hours has been designated, an employee will still receive one unit of on-call pay for the period. Periods during which an employee is on-call are not time worked and do not count towards maximum allowable hours for overtime. For example, an employee who makes \$10.00/hour and is on-call for a designated eight (8)-hour shift would receive \$12.50 for one on-call period. If the on-call shift was 13 to 24 hours, the employee would receive \$25.00 for two (2) on-call periods.

PERSONNEL POLICY

Non-exempt employees who are on-duty while they are on-call are to be compensated for the time they are on-duty as time worked. Whether the FLSA considers an employee to be "on-duty" while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer's premises and being restricted from using on-call time effectively for personal purposes.

Exempt employees are not eligible to receive on-call compensation.

3. Condition to Work. Employees who are "off-duty", but on-call, must remain in a work-appropriate condition. This includes, but is not limited to, refraining from consuming substances that impair or compromise an employee's ability to work.
4. Departmental Expectations. Departments may develop on-call guidelines and expectations for employees for "off-duty" on-call time based on departmental needs. Department heads must submit their proposed guidelines to the Human Resources Department for approval to ensure that they meet all applicable legal and policy requirements.

On-call compensation will be authorized only if the on-call service meets all the following criteria:

- a. Service must be mandated.
  - b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific required response times may vary depending on individual departmental requirements.
  - c. On-call employees will not be called if another employee is already on duty and available to perform the required services.
  - d. The department's on-call guidelines have been approved by the Department of Human Resources.
5. Reporting for Work. While on-call, an employee may be contacted to report to work. An employee who is called in to work from on-call status is eligible for call-back compensation. The employees will also retain the on-call compensation in addition to wages for time worked.
  6. Special Provisions Regarding CPS Workers. Child protective service workers employed by the Department of Social Services shall be compensated for their on-call service in accordance with all state-mandated requirements.



PERSONNEL POLICY

**B. Call-Back Compensation**

1. Purpose. There may be times when supervisors may need employees to report back to work on short notice outside of the employee's work schedule. Call-Back status occurs when a department head/designee requires a non-exempt employee to report back to work outside of the employee's work schedule on less than 24-hour notice. Call-back is not hours worked beyond the schedule which require an employee to stay at work, such holdover time shall be compensated as straight time or overtime as applicable. Additionally, work schedule changes with more than 24 hours' notice are not call-back hours. Whenever possible, supervisors should give notice to employees when the need for call-back may occur, such as for an anticipated snowstorm.
2. Eligibility for Call-Back Compensation. Any regular non-exempt employee who is called back to work as described above by the department head/designee shall be paid call-back compensation..  
  
Temporary, non-exempt employees who have regular work schedules which are changed via call-back are eligible. Temporary employees who work on an intermittent, occasional, or sporadic basis do not qualify for call-back pay when scheduled or called to work with less than 24 hours' notice.  
  
While exempt employees may be called back to work with short notice, they are not eligible for call-back pay.
3. Condition to Work. Employees who are called back for work must report in a work-appropriate condition that includes, but is not limited to, the non-consumption of substances that impair or compromise an employee's ability to work. If an employee is not in a condition to work, the employee must disclose that to the supervisor before reporting for duty.
4. Compensation. The call-back compensation rate is one and one-half (1.5) times the employee's regular hourly rate for call back hours. If an employee exceeds the maximum allowable hours for the workweek or work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), the employee will receive overtime pay instead of call-back pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above.

PERSONNEL POLICY

Once an employee has been called back to work, the employee will be guaranteed a minimum of two (2) hours of call-back pay even if less than two (2) hours of work are performed. An employee will receive call-back pay for all hours worked. Ordinary travel/commute between

an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources. Emergency travel time to a location other than the employee's regular place of business which requires travel of a substantial distance (more than the employee's typical commute) is considered hours worked. Only hours physically worked or call back emergency travel time to work count towards the maximum allowable hours. An employee called back to work from "on-call" status may keep the on-call pay in addition to call-back pay received. When work is completed, travel time home is not compensable as time worked.

If an essential personnel employee receives additional pay due to building closure, the employee is not eligible for call-back for the same hours worked.

**V. HOLIDAY PAY**

Please refer to Policy § 86, Leave Program, for information on pay for work performed on a holiday.

**VI. SHIFT DIFFERENTIALS**

Non-exempt regular and temporary employees may be regularly or periodically scheduled to work evening or midnight shifts and may receive premium pay for such work. When five (5) or more hours are physically worked in either shift, the employee will receive the following additional percentage of his/her hourly rate for each hour worked in the range.

Evening: 3:00 p.m. – 12:00 a.m.      5% of the hourly rate premium pay

Midnight: 12:00 a.m. – 9:00 a.m.      6% of the hourly rate premium pay

Shift differential premium pay will not be granted when less than five (5) hours of work are performed in the designated range. Although an employee may be regularly assigned to an evening or night shift, the shift premium will not be paid when paid leave is taken, nor will the employee be charged the premium for leave without pay. Fire Rescue employees who are 7(k) exempt are not eligible for this shift differential premium pay.

PERSONNEL POLICY

**VII. BUILDING CLOSURES DUE TO INCLEMENT WEATHER OR EMERGENCY SITUATIONS**

The County expects all employees not required to work onsite who are able to work remotely during building closure periods to do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

Employees may be required to report to a County-operated worksite during building closure periods. Please refer to policy § P-66, Coverage Due to Inclement Weather or Emergency, for more information. While they may be essential personnel, employees on the public safety pay scales are not eligible for additional pay due to building closures.

Compensation for other essential personnel is as follows:

**Employees Required to Work.** Any non-exempt, regular employee who is directed to work at a site that is impacted by a declared inclement weather event or emergency are essential personnel and are paid a premium equal to the employee's hourly rate for any time the employee works during the building closure period. This premium is in addition to the regular wages essential personnel earn for any time worked in accordance with this policy.

For example, if the building closure period is 6am-10am, the employee's work schedule is 8am-4pm, and the employee works 9am-4pm (no lunch break) on the day of the closure as directed by the supervisor, the employee would receive one hour of paid administrative leave due to building closure (8am- 9am), one hour of essential personnel additional pay due to building closure (9am-10am), and seven hours of pay for time worked (9am-4pm).

**VIII. PROFESSIONAL LEARNING**

See Policy § P-87, Professional Learning, for more information on compensable work time for training and learning activities.

**IX. COURT APPEARANCES / HEARINGS**

When employees are subpoenaed to appear as witnesses in legal proceedings or participate in hearings with other federal, state, or local agencies in their capacities as County employees, the time spent in such work-related proceedings will be treated as compensable work time.

Employees who initiate or are otherwise involved in legal actions of any kind (excluding employee grievance proceedings) in their private capacity and not as a County employee, whether such actions involve the County or not, will not be permitted to treat such time as compensable work time. Leave may be requested in accordance with policy § P-86, Leave Program.

**X. SPECIAL PROVISIONS FOR SWORN LAW-ENFORCEMENT EMPLOYEES**

PERSONNEL POLICY

- A. **Court Appearances/Hearings.** Work-related Court appearances/hearings worked by sworn law-enforcement employees outside of the regular work schedule for that day will be paid at one and one-half (1.5) times the employee's regular hourly rate. If an employee exceeds the maximum allowable hours for the work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), while attending work-related Court hearings, the employee will receive overtime pay instead of court pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above. These employees will be guaranteed a minimum of two (2) hours of court pay even if less than two (2) hours of work are performed. Only hours physically worked count towards the maximum allowable hours.
- B. **Contractual Overtime.** Contractual overtime is defined as work outside of County work hours assigned to a sworn law-enforcement employee at the request of an outside entity and performed at the employee's option. Contractual overtime shall only be compensated monetarily. Those voluntary contractual hours worked by employees shall not count as hours worked for the County. Sworn law-enforcement employees shall be paid for voluntary contractual hours worked at an established fixed rate.

Amended August 4, 1993; August 3, 1994; September 1, 1997; December 9, 2009; Adopted March 6, 2019, effective April 1, 2019; January 6, 2021

§P-66

COUNTY OF ALBEMARLE  
PERSONNEL POLICY

§P-66

**COVERAGE DUE TO INCLEMENT WEATHER OR  
EMERGENCY**

It is the County's intention to keep County Office Buildings open to the extent possible and provide staff coverage to maximize service to the public. However, sometimes coverage will be limited due to inclement weather or other emergencies. In such instances, the County strives to staff facilities to provide necessary services and to protect the safety of employees and the public.

PERSONNEL

**Building Closure Procedures**

1. **Designated Building Closure.** The County Executive determines when buildings are closed and may retroactively designate these periods.
2. **Single Location Closures.** If a situation only impacts certain buildings, such as a power outage, the County Executive may close only those locations. Employees whose locations are not impacted are required to report to work as scheduled. The County Executive may designate a liberal leave period for employees working at other locations.
3. **General Coverage.** Department heads must arrange coverage to ensure safe and effective operation. During inclement weather or emergency situations, essential personnel may be required to report for work.
4. **Liberal Leave.** The County Executive may designate a liberal leave period due to inclement weather or emergency situations when a building is not closed but employees may be unable to report to work or may need to leave early from work. During these periods, department heads should allow staff to take unscheduled leave if their employees feel it necessary, unless coverage requirements cannot otherwise be met. Employees may use accrued leave without prior approval during liberal leave periods. In lieu of taking leave, employees may be allowed to flex time with supervisor approval. Department heads are responsible for monitoring time worked and leave taken to ensure employees are fairly and accurately compensated.  
  
If essential personnel feel they are unable to report to work, they must use applicable accrued leave or leave without pay. These employees are not eligible for paid administrative leave provided to non-essential employees for building closures. Essential personnel who are repeatedly unable to work during building closures may be counseled or disciplined, as essential personnel are expected to work during these periods. Please refer to Policy § P-02, Definition of Employee Status, for more information on essential personnel.
5. **Scheduled Leave.** Leave previously scheduled by an employee which falls on a work day when the employee's regular schedule is impacted by a delayed opening, early closing, or closing should not be adjusted.
6. **Impact to Work Schedule.** Employees not required to work onsite who are able to work remotely during building closure periods must do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

An employee not able to work remotely during building closure periods will be granted paid administrative leave (building closure leave) up to his/her regular schedule for such time missed and will not be required to use accrued leave or take leave without pay. For example, in the event the building is closed due to weather, and the remote-working employee loses electricity, the employee will be granted paid administrative leave for time unable to work within their regularly scheduled hours.

Employees whose schedules are not impacted by a closure will not receive additional leave or compensation. Employees may receive different amounts of paid administrative leave depending on the impact to their individual schedules.

7. **Working During Building Closures.** Essential personnel are expected to work at a site that is impacted by a declared inclement weather event or emergency. Only those employees required to work onsite should report to a County-operated worksite. Employees do not receive administrative leave due to building closure when they are working. Please refer to Policy § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensation during building closures.
8. **Board Authority.** The Board may modify the procedures and compensation practices in this policy at any time.

Adopted: February 6, 2019, effective March 1, 2019; January 6, 2021

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Item No. 13.4. SE202000009 Southwood Phase 1.

The Executive Summary forwarded to the Board states that the applicant is requesting minor changes to the Code of Development (COD) for Southwood Phase 1. This is variation request #1 for this development. Specifically, the applicant is proposing the following changes:

- To allow front loaded garages with a setback from either the face of the unit or the porch in Blocks 5-8.
- To reduce the rear setback from 5' to 0' in Blocks 6-8 where the lots are adjacent to greenspace/open space or the trail buffer.

Staff recommends approval of the special exception request. Please see Attachment B for staff's full analysis.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the special exception request, subject to the condition contained therein.

**By the above-recorded vote, the Board adopted the attached Resolution (Attachment C) to approve the special exception request, subject to the condition contained therein:**

**RESOLUTION TO APPROVE  
SE202000009 SOUTHWOOD PHASE I**

**NOW BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-8.5.5.3 and 18-33.49, the Albemarle County Board of Supervisors hereby approves SE202000009 Southwood Phase I to vary the Code of Development approved in conjunction with ZMA201800003 Southwood Phase I for changes to the garage setbacks in Blocks 5-8 and rear setbacks in Blocks 6-8, subject to the condition attached hereto.

\* \* \*

**SE202000009 Southwood Phase I Condition**

1. All changes to the Code of Development shall be in accordance with the Front-loaded garage scenario, the "No min" rear setback scenario, and the revised Table 5 prepared by BRW Architects entitled "Attachment 2B: Front-load Garage Scenarios"; "Attachment 3B: "No Min." Rear Setback Scenarios" and "Attachment 4: Modifications to Table 5 as requested (changes highlighted)" last revised on December 4, 2020.

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Item No. 13.5. SE202000018 R.A. Yancey – Special Exception.

The Executive Summary forwarded to the Board states that, on August 19, 2020, the Board of Supervisors approved a request to modify setbacks and hours of operation at the Yancey Mills lumber yard. The approved conditions included the following:

2. The owner must obtain a Certificate of Occupancy for all existing structures by February 1, 2021. For any structure that is not issued a Certificate of Occupancy by February 1, 2021 the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

The applicant has requested that this condition be amended to require the issuance of a Certificate of Occupancy by October 1, 2021 instead of February 1, 2021.

With regards to the findings contained in the Staff Analysis (Attachment B), inclusive of the criteria to be considered pursuant to the Albemarle County Code, staff recommends approval with conditions of this requested amendment to the special exceptions. The recommended conditions are the same as those approved on August 19, 2020, with a modification to the condition discussed above.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the requested amendment to the special exceptions.

**By the above-recorded vote, the Board adopted the attached Resolution (Attachment C) to approve the requested amendment to the special exceptions:**

**RESOLUTION TO APPROVE AMENDMENT TO SPECIAL EXCEPTIONS FOR R. A. YANCEY LUMBER CORPORATION: SPECIAL EXCEPTION REQUEST**

**WHEREAS**, by Resolution dated July 15, 2020, the Albemarle County Board of Supervisors approved certain special exceptions requested by the R. A. Yancey Lumber Corporation (listed therein as Special Exceptions 1-3, 5, and 8-17), and deferred certain other requests (listed therein as requests 4, 6, and 7) for further consideration; and

**WHEREAS**, by Resolution dated August 19, 2020, the Albemarle County Board of Supervisors restated and reaffirmed the special exceptions previously approved on July 15, 2020, and approved the special exception requests previously deferred subject to conditions; and

**WHEREAS**, the Board now wishes to amend Condition 2 of the approved conditions.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application to amend Condition 2 and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-4.18, 18-4.20, 18-5.1(a), 18-5.1.15, 18-33.43, and 18-33.49, the Albemarle County Board of Supervisors hereby restates and reaffirms all the Special Exceptions previously granted for and on County Parcel ID Numbers 05500-00-00-111B0 and 05500-00-00-11200, subject to the conditions attached thereto, with the following amendment to Condition 2:

2. The owner must obtain a Certificate of Occupancy for all existing structures by October 1, 2021. For any structure that is not issued a Certificate of Occupancy by October 1, 2021, the owner must cease use of the structure until such time as a Certificate of Occupancy is obtained.

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Item No. 13.6. Board to Board, December 2020, A monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

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Item No. 13.3. Department of Community Development (CDD) Fees Update, *pulled for discussion.*

The Executive Summary forwarded to the Board states that, under the provisions of Chapters 5, 7, 14, 17, and 18 of the County Code, the Department of Community Development (CDD) charges fees for a number of services that the Department provides to the development community and the general public. The purpose of the fees is to help CDD recover the cost of providing these services.

In August of 2008, the Board adopted a policy for updating the levels of existing fees. This policy provides for biennial fee adjustments, based on Board-approved salary adjustments. Under this approach, if Board-approved staff salaries increased cumulatively by a certain percentage over the course of the two years, CDD fees would increase by that same percentage. This policy has not been routinely applied. Most CDD fees were last adjusted on November 1, 2015, although many fees have not been adjusted since July 1, 2014. A few others were adjusted as recently as November 1, 2018.

The lack of increase in fee levels in several years has made it progressively challenging for CDD to cover the cost of providing services, including the provision of mandated services. In addition, staff has recently identified several CDD costs that the current County Code does not address, a situation that further constrains the department's ability to provide services efficiently.

In order to help address the imbalance between the cost of providing services and the fee revenue generated from services, staff proposes two strategies, outlined in the Resolution of Intent (Attachment A), and detailed below.

The first strategy involves increasing existing fees consistent with the policy that the Board of Supervisors adopted in August of 2008. As noted above, most CDD fees have not increased since November 1, 2015 (Fiscal Year 2016 (FY 16)), while several other fees have not risen since July 1, 2014 (FY 15), and a small number of fees have not increased since November 7, 2018 (FY 19). Staff found that, between FY 15 and FY 21, Board-approved salaries increased cumulatively by 13.36%; the comparable figure for the FY 16 to FY 21 time periods was 10.05%; while the corresponding number during the FY 19 to FY 21 time period came to 3.00%. In Attachments B through E, staff has used these respective percentage changes to make the appropriate proposed adjustments to existing CDD fees. These proposed amounts appear in red font. Staff envisions that these levels would become effective July 1, 2021 (FY 22). Please be aware that proposed changes in fees related to Chapter 18 of the Code (Zoning) will need to go before the Planning Commission for a public hearing.

The second strategy entails the establishment of new fees that would capture CDD costs that the current County Code does not include. Staff has identified several services related to architectural review, building inspections, and Water Protection Ordinance-related activities for which CDD currently does not charge a fee. Staff has estimated the amount of time necessary to perform each of these services, the associated costs in terms of salaries and benefits, and the indirect costs that these services generate in terms of administrative work and technological infrastructure. Staff recommendations for new fees, and the proposed dollar or percentage levels of these fees, appear in green font in Attachments B, C, D, and E. Staff envisions that these new fees would become effective July 1, 2021 (FY 22). Please be aware that the proposed new fees in Chapter 18 of the Code (Zoning) will need to go before the Planning Commission for a public hearing.

Staff estimates that the adoption of the proposed ordinances, including increases to current fees and the addition of new fees, would generate approximately \$343,000 in additional CDD General Fund revenue in Fiscal Year 2022 (FY 22). This estimate assumes that CDD's workload and mix of services provided in FY 22 would be identical to the workload and mix of services provided in FY 21. Components of this \$343,000 figure include approximately \$215,000 in additional revenue generated by changes in the levels of existing fees, about \$88,000 from the proposed Technology Fee, and roughly \$40,000 in revenue from the various proposed new fees related to architectural review, WPO-related services, and building-related services.

Staff recommends that the Board:

- 1) Adopt the attached Resolution of Intent (Attachment A) to amend the Community Development Department Fees in the Zoning Ordinance; and
- 2) Direct staff to schedule a public hearing to consider the adoption of the proposed ordinances (Attachments B through F).

\* \* \* \* \*

Ms. Price said she had asked to pull this item, and some of the reasons why were due to the communications she received from the community, including those from Mr. Williamson, who had just spoken to the Board.

Ms. Price said the other reason was it struck her that there was some confusion in the language and how this was presented to the Board. She said in one respect, it appears to simply be that it was the consent agenda to set a hearing, and at the same time, there was some confusion as to whether the Board was actually approving the fees or getting Board support for those specific fees at the same time that they were setting this for a public hearing, which she did not think they should be making a substantive opinion statement on what those proposed fees would be in advance of there actually being a public hearing.

Ms. Price said she forwarded to County staff the email Mr. Williamson had previously sent her in order for those questions to be addressed. She said she wanted to clarify that they were simply going to

set a public hearing in order to determine what the fees would be and not appear to be premature in setting any sort of a pre-decision on what those fees might be.

Ms. Price said that for those various reasons, she informed Mr. Gallaway that she would be pulling this item from the consent agenda. She said she was not at all opposed to setting a public hearing, but she did want to make sure there was clarification on that other part of it.

Ms. Mallek said she also had a question about it, and it is actually in Item 13.3 in the second or third portion down, where it talks about subdivision of land. She said she read very carefully through all of this, as she remembered what pain was involved in 2010 when the Board did this the last time. She said that under the Preliminary Plat Fees, it is the only one of all the 30 pages where it seems to be the same fee, no matter how big the job is. She said she wanted to know if there is a reason for that, or if it was just an error that needed to be fixed before they go to public hearing. She said this was 14-203 in the document.

Mr. Gallaway asked if someone needed to be able to provide an answer on this before the public hearing.

Ms. Mallek said if it needed more time to be fixed, this was fine, but she wanted to bring it up to make sure they are ready when they start advertising that they have everything perfectly laid out.

Mr. Gallaway said he saw that Mr. Steve Allshouse joined the meeting, and perhaps he could clarify what was on consent, for the record.

Mr. Allshouse, Manager of Forecasting and Performance in the Department of Community Development, said Ms. Price was correct. He said this item before the Board was a starting point, and the intention was to set a public hearing. He said the document and numbers the Board had before them were tentative and calculated according to a formula. He said Community Development intends to engage the community, get input into the numbers, and figure out what best should be in a final document that the Board would adopt or not adopt.

Mr. Allshouse said in terms of Ms. Mallek's question on 14-203, he would have to get back to her regarding that. He said his recollection was that it was something of a "one size fits all," but he would check unless anyone else could comment on that. He said he would get information back to her on that.

Mr. Allshouse said staff is in the phase currently where they will be engaging in community outreach. He said the intention in Community Development is to speak with builders, developers, environmental groups, and land use attorneys to get everyone's input into the fees they are proposing, and perhaps to tweak them. He reiterated that this was a beginning and not a final document, by any means.

Mr. Kamptner said he could jump in and answer Ms. Mallek's question regarding 14-203. He said his recollection from years before was that looking at the current fees for the 1-9, 10-19, or 20+ lots, those fees are currently all the same. He recalled that the reason is because the review is the same. He said the number of polygons and creating the number of lots does not really add complexity to the overall staff review. He said why they were broken out at this point, he could not recall, but he believed that it was because review is essentially the same.

Ms. Mallek said regardless of topography and other critical resources, people are working on a flat sheet of paper, and so this is one explanation, but it also shows another problem later of why lots get created that never should be. She said they will have to talk about this later as well.

Ms. Mallek said one other thing that was very helpful when they did this ten years ago was having information from other counties in Virginia so that they will have that comparison. She said they were shocked to find how far down below the bottom all of their fees were in Albemarle, and so she would be interested to learn if this has changed over the last ten years.

Ms. Price said while they were talking about CDD fees, one item that has come up over the last number of months, at least since she has been on the Board, is the opportunity to try to establish an affordable housing trust fund. She said one mechanism for funding such a trust fund that has been used in other locations is a fee that is attached to property transfers.

Ms. Price said she brings this up for thoughts and comments from other Supervisors, as well as Mr. Kamptner and County staff, if the Supervisors would be supportive of looking into that as a potential fee addition, based upon what Mr. Kamptner and the Legal Office tells them they may be able to do. She said it is definitely something that has caught her attention as a reliable source of funding, not subject to the vagaries of an annual appropriation by the Board of Supervisors where competing values may come into play.

Ms. Price said she also recognized that there are economic impacts any time there is a fee or tax that is brought up. She said she would like to know, however, whether other Supervisors may see this as something that they would like County staff to look into as part of this process.

Mr. Gallaway said he believed all the Supervisors would want to weigh in on that, and this could be a conversation that happens during the budget cycle that year. He said if there were no further comments, the Board would need to make an official motion to approve this item.

Ms. Mallek **moved** to approve Item 13.3. 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

\* \* \* \* \*

#### **RESOLUTION OF INTENT**

**WHEREAS**, Section 35, Fees, of the Zoning Ordinance (Chapter 18 of the Albemarle County Code) establishes a schedule of fees for services provided by the County of Albemarle under the Zoning Ordinance; and

**WHEREAS**, it is desired to amend Section 35.1 of the Zoning Ordinance in order to capture the increase in costs associated with the aforementioned services that has occurred since the most recent update to the schedule of fees; and

**WHEREAS**, it is desired to amend Section 35.1 of the Zoning Ordinance to establish new fees in order to capture costs generated by certain zoning-related services that the County of Albemarle provides, but which currently are not addressed in the Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Section 35.1 of the Zoning Ordinance to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

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Agenda Item No. 14. **Action Item:** SE202000016 Homestay Special Exception (Evelyn Tickle Kitchin).

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception pursuant to County Code § 18-5.1.48(i)(1)(ii) for a proposed homestay at 4391 Mechums School Hill to modify County Code 18-5.1.48(j)(1)(v) to reduce the 125' setback from the side property lines required for a homestay use.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

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Ms. Rebecca Ragsdale, Principal Planner, said this is a special exception for the Mechums School Hill property. She said the applicant is Ms. Evelyn Kitchin Tickle.

Ms. Ragsdale said staff usually starts the homestay special exception presentations by reminding the Board which regulations are applicable for the request, as there are residential-zoned properties and different regulations depending on whether the parcels are more or less than 5 acres in the Rural Area. She said for this request, it is a parcel that is less than 5 acres, and so by the ordinance, it is limited to two guestrooms, no use of an accessory structure, no more than one homestay use on the property, and no whole-house rental. She said there is also the owner occupancy requirement and the increased setback requirements.

Ms. Ragsdale said this special exception request is for a reduction in setbacks to the side property lines. She said when staff analyzes these, they are looking at the criteria in the ordinance, which is whether there is any detriment to any abutting lot and if there is any harm to public health, safety, or welfare.

Ms. Ragsdale said going to the specifics of this request, it is a parcel that is near the intersection of Routes 240 and 250, which is accessed by Mechums Depot Lane. She said Mechums School Hill is off of Mechums Depot Lane and indicated on the map shown on the screen to the blue star, which is the location of the second home on the property (4391) that has been used for homestay rental. She said the map also shows the surrounding properties of the abutting neighbors that were notified of the special exception request. She said there were no objections or concerns; and there was one letter of support received after the staff report and Board packet were finalized, which was from 4382, which is northeast of the applicant's property.

Ms. Ragsdale presented an aerial view of the property. She said looking closer at the property, it is about 50 feet from the neighbor who is in support of the request, and is about 120 feet (just shy of the required 125 feet) from the other neighboring property. She said there is a nice bit of vegetation surrounding the cottage on the property, so staff has recommended the typical condition that is seen: that either the existing buffer or the equivalent be maintained.

Ms. Ragsdale said staff has recommended approval of this homestay request for a special exception, with two conditions: one regarding the location of the guestrooms and parking, and the other being the commitment to maintaining the existing screening or equivalent. She said staff recommended the Board move to adopt the attached resolution (Attachment F). She offered to answer any questions.

Ms. Mallek said she had no questions and, as long as people love the train whistle, it is a great location.

Ms. McKeel said she spent her summers at a camp right behind a railroad track and loves the train whistle.

Ms. Mallek said people in Crozet love the train, too.

Ms. Mallek **moved** to adopt the attached resolution (Attachment F) to approve Homestay Special Exception SE202000016, subject to the two conditions, for Mechums School Hill. Ms. Price **seconded** the motion.

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

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

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SE2020-00016 EVELYN TICKLE KITCHIN HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot northern and southern side yards required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \* \*

**SE 2020-16 Evelyn Tickle Kitchin Homestay Special Exception Conditions**

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit dated December 10, 2020.
2. The existing screening, as depicted on the Parking and House Location Exhibit dated December 10, 2020, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

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Agenda Item No. 15. **Action Item:** SE202000015 Homestay Special Exception (Susan Pierce).

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception pursuant to County Code § 18-5.1.48(i)(1)(ii) for a proposed homestay at 6950 Heards Mountain Road to modify County Code 18-5.1.48(j)(1)(v) to reduce the 125' setback from the front property line required for a homestay use.

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the special exception with the conditions contained therein.

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Ms. Ragsdale said this parcel is greater than 5 acres, which allows for rental of up to five guestrooms. She said the 125-foot setbacks apply, and parcels that are 5 acres or greater may also have up to two homestays and what is called "whole-house rental," which is a limited number of days where the property can be rented without the owner present. She said properties of this size may also use accessory structures that were existing as of the date they adopted the new regulations.

Ms. Ragsdale said this was just a request to reduce setbacks, and no other special exceptions were needed. She said staff was again looking at the property to see if there were impacts to abutting lots or any health, safety, or welfare issues to consider.

Ms. Ragsdale said this property is located in the southern part of the County, near the Nelson County line, off of Heards Mountain Road. She said the map on the screen showed the property in the center, denoted by a blue star, and that there is only one abutting owner, who is a family member of the applicant.

Ms. Ragsdale said this person also own the property across the street, on the other side of Heards Mountain Road, to the south of this property. She said it is entirely wooded, with no properties

around it and no neighbors that she could find nearby when she visited the property.

Ms. Ragsdale said in this case, the applicant had a recent survey and showed the house location from when the lot was created, which was used in lieu of the exhibits that staff has created for some of the other special exceptions. She said with the way that the property lines are, the house is situated about 94 feet, 108 feet, and 76 feet from that one abutting property owner.

Ms. Ragsdale said in this case, staff recommended approval based on their analysis and findings. She said staff has recommended one condition, which is in reference to the parking locations and the location of the guestrooms. She said the plat she showed the Board was referenced.

Ms. Ragsdale said given the topography and wooded nature of the site, the slopes would not be disturbed adjoining this property, and there was only one adjoining property owner (who is a family member), staff did not recommend the buffer condition, but there is a wooded buffer around the existing cabin at this point in time. She said staff has not seen a request quite like this in terms of the remote cabin, but they have also recommended approval without the need for the buffer condition. She offered to answer any questions.

Ms. Mallek said in relation to the buffer, what they are leaving out in the proposed approval is the maintenance of the current buffer that is there. She asked if this was correct.

Ms. Ragsdale replied that this was correct.

Ms. Mallek said she did not understand what the benefit was in doing that. She said the land around it may change and therefore, as she said earlier in the meeting, equal opportunity for protection under County regulations is a case where this may not always be 500-acre farms around it. She said if there is not any reason to take away the condition, she would just assume to leave it there.

Ms. Ragsdale asked Mr. Gallaway if she should respond to the question or after going through other Board member questions.

Mr. Gallaway said that it was best to respond now.

Ms. Ragsdale said staff mentioned the slopes surrounding the parcel, and they included the critical slopes exhibit. She said new houses would have to be built in a building site, and there is no building site on the abutting property that is closer than 125 feet to the property. She said this was the unique factor in this case, all the critical slopes, which is why she showed the exhibits on the screen.

Ms. Ragsdale said she did mention the buffer to the applicant, and they would be amenable to adding that condition as long as it has flexibility in the types of planting, which it would. She said if they did clear any trees, they would want to be able to replant it with sensitivity toward the types of species and native plants, as they have been working on clearing out some invasive things on their property. She said this was staff's line of thinking with this request.

Ms. Mallek said that in some ways, it is the view in as much as the view out that is affected, the way other people might see this. She said this is high ground, and so from a distance, it might really stick out. She said there is a house in Stony Point that one can see for 20 miles because it is right on a cliff, and they have cut every single tree anywhere around. She said she can see that house from Earlsville. She said she would stick with her original thought, and others may or may not support it.

Ms. Price concurred with Ms. Mallek. She said she understood the reasoning why it may not have been felt to be necessary, but she would like to see the buffer language included. She said it was not a question, but an additional comment that just because at the present time, the adjacent property owners are family members, one thing they have to remember as Supervisors is that the exception, once granted, goes with the land and not with the landowner. She said she did not see it as making a difference, in this particular one, but it was a comment she would add.

Ms. Price said other than adding the buffer, she had no objections.

Ms. LaPisto-Kirtley said she concurred regarding the buffer as well.

Ms. Palmer said not being familiar with this particular house, but being quite familiar having visited other houses up on Heards Mountain that are built into the cliffs, she totally understands why staff suggested that the buffer was not necessary. She said the first thing that came to her mind was a piece of property in the Stony Point area where they were told that they could build on the critical slopes because there was not another buildable site on the property. She said she had no idea if there was another buildable site on this property or what its condition is to the adjacent properties, but she supposed she would agree with the other Supervisors in leaving it in, as long as the owner of the property is not objecting to it.

Ms. Palmer said she would also totally agree with the request to have some flexibility with respect to plantings, especially if they are the kinds of stewards that they say they are in saying that they are trying to get rid of the invasives there. She said this would be great, and so she would prefer leaving the buffer up there, though she did understand why staff was suggesting it was not necessary.

Ms. McKeel said she agreed with what was said thus far. She said she agreed with the flexibility

and the buffer, but does recognize why staff made the recommendation. She said when she read her packet and looked at the map with the critical slopes, it was quite significant. She said the map itself was astounding, and while she knows there are lots of places like this in the County, to see it on a map was amazing. She said she was not disagreeing about the buffers and flexibility.

Mr. Gallaway asked Mr. Kamptner if they needed to adopt and adjust the language.

Mr. Kamptner replied that a condition was needed. He said the one that was attached to the prior homestay did not quite fit, and so he was looking through prior homestay applications to see if there was another one. He said Ms. Ragsdale may have a condition language at her fingertips that would work in this particular case.

Ms. Ragsdale said the standard condition language will work, but it is that for the others, staff has referenced an exhibit that has shown where the buffer is. She said they could add some verbiage in terms of describing the property lines, perhaps, where the buffer needs to be maintained. She said she should have mentioned that there is already flexibility in the ordinance, and there is a range of options the applicant has in terms of the buffer and screening.

Ms. Ragsdale said nothing needed to be added in that regard, and so she could go back to the slide for the prior special exception. She said it has been that the existing screening must be maintained, or an equivalent screening that meets the minimum requirements of Section 32 in the ordinance that establishes the screening requirements. She said it would just be that piece that needs to be added in terms of where this buffer should be.

Mr. Kamptner asked if this parcel is so heavily wooded that the existing screening is virtually the entire parcel, but for the homestay itself.

Ms. Ragsdale replied that it is mostly wooded, but the condition has been that a buffer be maintained along the property lines that do not meet the 125-foot setback. She said in this case, as shown on the screen, it is where they have the lines and distances of 76 feet, 94 feet, and 108 feet. She said this is a strange lot, and so it is along those front property lines that do not meet the 125-foot requirement.

Mr. Kamptner asked what the appropriate depth would be, then, looking at this particular drawing.

Ms. Ragsdale replied that the ordinance staff references is 20 feet, which has been the case for all of these homestays when they are including this condition. She said they are not saying that the entirety of the parcel along that property line could not be disturbed, but they are saying that if it is, the minimum that needs to be established is what they have in their ordinance that would apply to even more intensive uses, like commercial. She said the minimum would be 20 feet.

Mr. Kamptner asked if 20 feet would be enough, given the particular topography and the type of vegetation that is there.

Ms. Ragsdale replied that she believed so. She said the idea was that this buffer was mitigating any parking or homestay guest activity, and it was not to completely screen a house altogether. She said she did not know if they would like to put that together now, or come back at a future meeting.

Mr. Kamptner said he was looking at Condition 2 of the prior homestay and if it read "the existing screening to a depth of 20 feet from all property lines must be maintained, or equivalent screening that meets the minimum requirements of County Code Section 18-32.7.9.7, Subparagraphs B through E, must be established and maintained." He said it was really just substituting out the reference to the exhibit with a statement that it is 20 feet from all the property lines.

Ms. Palmer asked if Mr. Kamptner was waiting for Ms. Ragsdale to answer that.

Ms. Ragsdale said she thought the wording worked, though she would recommend that it was not to all property lines, but only those that are under review for the special exception.

Mr. Kamptner asked if they could easily describe those, or if they could simply refer to the drawing.

Ms. Ragsdale replied that they could state that this would be along the property lines that did not meet the required 125-foot setback.

Ms. Palmer said before making the motion, she had a question. She said when looking at the picture on the screen, it said it was the primary septic field in this area. She asked if the primary septic field goes into the adjacent property.

Ms. Ragsdale replied no. She said the lot is oddly shaped, and the field is still on a leg of the parcel that connects over to the rest of it. She said the drain fields are supposed to be on the same parcel as the house. She said the house was built in 2007, and it was originally on the parent parcel. She said they did a family subdivision in 2008, and so this is the configuration they ended up with. She said an old orchard road is the driveway, and continues along what is called Mindful Way. She said the front setback applies through there, to those lines.

Ms. Palmer asked Mr. Kamptner if he could help with the motion language.

Mr. Kamptner said he would read it again, with Ms. Ragsdale's additional clarification on the scope of it. He said it would read, "The existing screening to a depth of 20 feet from any property line for which the setback from the homestay is less than 125 feet must be maintained, or equivalent screening that meets the minimum requirements in County Code Section 18-32.7.9.7, Paragraphs B through E, must be established and maintained."

Ms. Palmer asked if this was in addition to Attachment E.

Mr. Kamptner replied yes. He said this language would become a condition to Attachment E.

Ms. Palmer **moved** to adopt the attached resolution (Attachment E), with the condition stated by Mr. Kamptner. 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 noted that Ms. Price would be having a conversation with Board members later that evening about the special exceptions specific to the 125-foot setback.

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**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR SE2020-00015 SUSAN PIERCE HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves a special exception to modify the minimum 125 foot front yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \* \*

**SE 2020-15 Susan Pierce Homestay Special Exception Condition**

1. Parking for homestay guests must be located within existing parking areas on the "gravel drive" depicted on the plat titled "Plat Showing Survey of Parcel A" dated May 2, 2008, prepared by J. Thomas Gale.
2. The existing screening, to a minimum depth of 20 feet along property lines where homestay guest parking and structures are less than 125 feet therefrom, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

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Agenda Item No. 16. **Action Item:** Recommended Revisions to the County's Financial Management Policies.

The Executive Summary forwarded to the Board states that, according to the Government Financial Officers Association (GFOA) guidelines and the County's financial advisors, financial policies should be reviewed periodically to ensure they are current and effective. The County's Financial Policies were initially adopted by the Board of Supervisors on October 5, 1994, with amendments approved by the Board on October 11, 2000, August 1, 2012, March 13, 2013, and September 6, 2017, with the September 6, 2017 amendment being the County's last major update to the County's Financial Management Policies. On November 6, 2017, the Board approved a revision to the Fund Balance or Reserves Policies Section of the County's Financial Management Policies to include a Budget Stabilization Reserve.

Over the past several months, staff has conducted a careful review of the County's Financial Management Policies and recommends several updates. These recommendations have been reviewed by the County's financial advisors, Davenport and Company, LLC. and are attached (Attachment A).

Recommendations include revisions to ensure the Financial Management Policies accurately reflect the County's current processes and approaches, to clarify policy language, and to ensure the use of consistent terminology.

The Investment Policies section of the County's Financial Policies references the County's Investment Policy Document, which includes additional investment guidelines, and is attached for the Board's approval. (Attachment B.)

Staff will review these recommendations with the Board during the January 6, 2021 Board meeting.

The County's Financial Policies provide guidance to the County's budget development and fiscal management processes.

Staff recommends that the Board adopt the revised Financial Management Policies as set forth in Attachment A and the County's Investment Policy Document as set forth in Attachment B.

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Ms. Nelsie Birch, Chief Financial Officer, said she was joined by Ms. Lori Allshouse (Assistant CFO for Policy and Partnership), who would take them through the bulk of the presentation. She said she also wanted to recognize the County's Controller, Ms. Cecilia Baber; Mr. Daniel Green, Chief of Treasury; and Mr. Andy Bowman, Chief of Budget, as they were all instrumental in helping to reevaluate the County's Financial Management Policies. She said at the same time, they can answer any questions that may come up that are more specific than she and Ms. Allshouse could answer.

Ms. Birch said she wanted to introduce the presentation before handing it over to Ms. Allshouse, as she thought it was important for the Board to understand that part of the reason staff established Ms. Allshouse's role as the Assistant CFO for Policy and Partnerships when the Budget Office was moved from the County Executive's Office to the Department of Finance (now the Department of Finance and Budget) was largely to make sure that they kept an eye on the pulse of their financial policies. She said one reason why is that one of the hallmarks of Triple AAA is making sure the County complies with all the expectations that the rating agencies set for them.

Ms. Birch said chief among those expectations is not only the development of policies (which they have had for some time), but also the execution, actualization, and appropriate updates that run the gamut across all facets of the financial side of the house. She said most specifically, fund balance, debt, and investment policies are areas that rating agencies home in on to make sure that the County not only has the policy, but that they adhere to it in practice.

Ms. Birch said quickly after she joined the County and Ms. Allshouse came over from the Budget team and started this new role, they began evaluating the financial policies. She said they had a series of recommended updates that Ms. Allshouse would go through in much more detail.

Ms. Birch said one thing she recognized early on was that the County's investment policy fell a little short. She said this is a critical area that rating agencies will look at, and they look at how involved and detailed the policy is, and whether or not it really has a governance or operational structure. She said there is also the matter of whether or not the Board approves that policy. She said while there are a couple of excerpts still in the financial policies the Board received related to the investment strategy and policies, this was not nearly as detailed as would be expected for a Triple AAA.

Ms. Birch said they would spend time later on that, but she wanted to mention that this was probably the biggest change to what the Board was seeing as it relates to financial policies. She said part of the reason staff wanted to bring it to the Board that day was that they will be preparing the FY 22 budget that the Board will see the recommended version of at the end of February, with these policies in mind, and so they wanted to be consistent in making sure that the Board is in agreement with their direction and that they understand that. She said they will get the appropriate approval and then be placed in the budget document when recommended.

Ms. Allshouse said there were about ten presentation slides, and so there would not be many details, but staff would provide the Board with information on background. She said they would go over key recommendations of note that staff wanted to point out, but as seen in Attachment A, there were many yellow highlighted areas, as staff did make many adjustments to it. She said they would then go through some of the next steps and then to Board approval.

Ms. Allshouse said the background was that in 1994, the Albemarle County Board of Supervisors adopted the initial financial policies. She said the Government Financial Officers Association (GFOA) guidelines state that jurisdictions should periodically review and update their financial policies. She said the County has updated those policies only four times, until today: in 2000, 2012, 2013, and 2017.

Ms. Allshouse said when staff brings these policies to the Board, they have their financial consultant (Davenport & Company) review this before it comes to the Board. She said these policies were therefore reviewed and discussed with Davenport.

Ms. Allshouse said she would share the revisions with the Board in a certain way. She said there were some minor revisions to clarify some language, such as "an" instead of "the," a hyphen where the needed to be, and some of the words spelled out whereas they had been using acronyms. She said there were revisions like these throughout the document, and she would not be going over those in detail.

Ms. Allshouse said there were structural changes made that year to organize the document a little differently and combine some of the chapters together. She said this resulted in moving from ten chapters to eight.

Ms. Allshouse said more specifically, she would share some revisions that were made to ensure that these policies accurately reflect current processes and approaches. She said some changes were made along the way, and staff wants to make sure that the financial policies stay aligned with how they approach many areas of their work.



Ms. Allshouse said as Ms. Birch pointed out, there were two attachments to the Executive Summary: Attachment A, which has the overall financial policies; and Attachment B, which has specific information on investment policies. She said that at the end of the presentation, staff would ask the Board to approve both the financial policies and the County's investment policy, which Ms. Birch would review with the Board later in the presentation.

Ms. Allshouse the financial policies structural adjustments were as follows. She said there are eight chapters, and the Capital Budget and Asset Policies were combined into one. She said Debt Policies were moved to follow the Capital Budget section, which makes good sense. She said they also combined the Financial Reporting section with a category that was called "Accounting, Auditing, and Financial Reporting" into one section.

Ms. Allshouse said she would point out some revisions that she thought were important to share with the Board, with the knowledge that there were other revisions as well. She encouraged the Board to note if there were questions along the way or matters to bring up. She said she would go through the revisions of note section by section.

Ms. Allshouse said the Operating Budget category probably had the most changes to it, the first being that it is very important to the rating agencies and to County Government that they do long-range financial planning. She said staff looked at this category and adjusted it to focus more on long-range financial planning. She said those who were on the Board a few years ago may recall that they added in a two-year balanced fiscal plan, and so they would have this plan as well as a long-range financial plan. She said this was basically the first two years of the five-year plan, and so staff took out the reference to a two-year fiscal plan and stayed more broadly with long-range financial planning.

Ms. Allshouse said staff also further clarified the shared local revenue clause to reflect current practices. She said this clause is important because it is where they share funding with the schools. She said staff wanted to make sure this includes that when the Board of Supervisors dedicates funding, or by a performance agreement such as the Economic Development Agreements, or any other dedicated tax revenue, it is deducted from that formula. She said they cannot spend it more than once, and it is dedicated to one thing, so it is not included in the shared formula. She said staff wanted to make sure that this was clear in the financial policies.

Ms. Allshouse said on the second page, staff noted that there were appropriations oriented to department appropriations. She said the Board appropriates funding that gives it the legal authority to spend money, and staff basically broadened this to reflect all funds, not just departmental funds. She said this was just some clarity added to the appropriation clause.

Ms. Allshouse said when the budget calendar came forward this year, they expanded the time for the Board's adoption, and so staff wanted to also clarify the financial policies that provide additional time for budget adoption. She said basically, instead of April 30, it says May 5, or the Board's first meeting in May.

Ms. Allshouse said on the Capital section, staff updated this to reflect the current capital and CIP practices. She said basically, the Board adopts the Capital (one-year) Budget and still does their CIP as a plan. She said staff also noted that there is an advisory committee and other adjustments that have been made in the last three years.

Ms. Allshouse said staff clarified some of the Debt Policies section and increased some flexibility in some places to say "may" rather than "must," giving them some flexibility with the funding they have dedicated to debt. She said if they do not need it all, they may move it to some other area rather than saying that they must do something specific with it.

Ms. Allshouse said that in the Revenue Policies section, for user fees and charges, staff noted that the Board should consider equitable access as part of this. She said in the Statement of Purpose, in a similar way, staff also mentioned adding an equitable look to their financial policies.

Ms. Allshouse said the emphasis was increased on recouping administrative costs from grants and services that the County provides to other entities where if they can recoup appropriate administrative costs, they should.

Ms. Allshouse said finally, in the Accounting and Financial Reporting section, the emphasis was increased on internal controls, and because staff has also updated the format for their quarterly financial reports, they updated the language to reflect that.

Ms. Allshouse said she would pause and that she knew she went through those fairly quickly, but those were the highlights of many of the sections where adjustments were made.

Mr. Gallaway asked if Ms. Allshouse was pausing for questions.

Ms. Allshouse replied yes.

Ms. Mallek said she did not find it in the text and wanted to know if any of the changes where "must" or "shall" become "may" were related to the policies about headroom, 10%, or all those things the Board has used structurally to rely on all those years.

Ms. Allshouse replied no. She said those ratios stay the same, although the language was clarified a little in them. She said the one she was referring to was if there is a debt fund with funding to pay off a debt of 30 years, for instance, and there is a balance that had to go to a one-time capital cost, debt payments are like operating money, and so staff changed this to “may” so that they could do something different if they chose to. She said the Board would need to approve anything that is done.

Ms. Allshouse said Ms. Mallek was exactly right and that those ratios stayed strong in the policy.

Ms. Mallek said some of those rules are what save them from making any mistakes.

Ms. Price said she likely found herself in a comparable situation to the question that Ms. Mallek asked. She said while she and the other Supervisors have great confidence in Ms. Allshouse, Ms. Birch, their staff, and what they do, guardrails sometimes protect them. She said she does not have expertise in financial areas, but she wants to make sure they are not removing so many guardrails that give themselves such flexibility where a poor decision or series of decisions could end up costing significant trouble.

Ms. Price said she did not know exactly how to phrase it as a question, but she would simply ask that Ms. Allshouse and Ms. Birch continue to provide assurances not just verbally, but through the policies and procedures, to help keep the County protected so that they do not fall off the edge of the cliff because there is no guardrail there.

Ms. Birch asked Mr. Gallaway if he minded her responding to this quickly.

Mr. Gallaway asked Ms. Birch to respond.

Ms. Birch thanked Ms. Price for her comments, as she believes this is vitally important. She said there were two things she would talk about, though she certainly understood that staff would have to put these into practice and show the Board over time. She said she started her career as a rating agency analyst, and so she looks at this through that lens in terms of how to make sure the County upholds their Triple AAA rating. She said it is a designation that is not just a novelty, but comes with things that they have done over time.

Ms. Birch said when she and Ms. Allshouse worked on this with the team and with the financial advisors, the question to them was if they were changing anything that would trigger, at least to the bond market community, that they were doing something that takes some of that protection away. She said she did not think there was anything in the policies that would take off the guardrails.

Ms. Birch said the lens they were looking through when changing this to “may” was that with the reality under the pandemic, there may be different decisions that the Board wants to make, and staff wants to make sure they have a policy that can support a different decision. She said it was not necessarily taking the guardrails off, but saying that they may not want to invest the extra money into the Capital Plan because they may want to hold it in reserves. She said this would actually be in conflict with the policy, and so this was the context for the reason and the lens they were looking at this through.

Ms. Birch said she thinks it is important that over time, particularly as they gear up to do a bond issuance in the spring, staff brings the Board along with some of that so that they can see the policy in action and how they have not done anything to remove the strength of their credit quality and ability to have the protections in place that the Board expects.

Ms. Price thanked Ms. Birch and said she appreciated her specifically coming back to that point.

Ms. LaPisto-Kirtley thanked Ms. Allshouse and Ms. Birch for the work. She said she likes the fact that they are keeping up with whatever they need to change to make sure it protects them. She said she felt very comfortable with the changes.

Ms. McKeel said she appreciated Ms. Birch addressing the concerns, as well as Ms. Allshouse and everyone for the work.

Ms. Allshouse said she would turn the presentation back over to Ms. Birch, who would be talking more about the investment policy.

Ms. Birch said as she mentioned at the outset, staff wanted the Board to have an opportunity to see what the County does when it comes to investment management. She said she wanted to make sure everyone (both the public and the Board) understood. She said right now, it sounds funny to talk about investment policy when interest rates are so low, but staff wants to make sure they have a policy that surrounds and supports the investments that they are making.

Ms. Birch said most of the investments they make in the County is the cash that they sit on every day. She said they have millions of dollars of revenues that are coming into the County from taxes, fees, and the like, and they have the opportunity to invest that.

Ms. Birch said the Investment Policy document talks about looking at investments through the lens of safety, liquidity, and yield. She said they want to make sure they are saving and that they have a safety mechanism for the principal, so if they have \$10 million in the bank, they preserve it so that they

are not overly aggressive with their investment strategy. She said it is liquid for what they need to pay, for whatever they need, at the time they need to pay it. She said the third lens is the kind of risk they are willing to take in order to balance a higher yield with higher risk.

Ms. Birch said this is something the County has done for some time as far as investing its funds, but what they have tried to do is put a more structured approach to their investment strategy while having a policy that supports this. She said much of the policy talks about an investment committee, which is a team of local government professionals that staff chose in order to help the treasury function be able to have some oversight into making sure they are adhering to the policy, that the Board has adopted this broader policy, and that there is some visibility and transparency to what happens under the hood.

Ms. Birch said this is what staff wanted to bring to the Board, and that she was not going to go through it in great detail. She said one of the great things about being in the Commonwealth of Virginia (a Dillon Rule state) is that they do not have a lot of opportunity to do crazy, out-of-the-box investments. She said it is really dictated by the Commonwealth of Virginia, which is a fairly conservative investment portfolio that they can hold. She said the types of investments they can make are all outlined in the policy.

Ms. Birch said the investment committee organized four months ago, and there is not much to talk about because they do not have significant yields that they can go after. She said as they start to see the market shift, however, and as interest rates start to climb, they will have bigger discussions about where they want to invest their money, making sure that it is liquid to pay their bills and that they are not doing anything shortsighted.

Ms. Birch said they will also have the opportunity to share quarterly with the Board what their investment returns are. She said currently, this information is not provided to the Board, and staff thinks it is very important that the Board and community see the investment strategy in terms of where they invest and the interest they earn. She said all of the interest earned is also a General Fund revenue, and so the better they do, the more they can use those funds to fund other things.

Ms. Birch said there was some small technicality that staff realized, in working with Mr. Kamptner. She said finance people are not legal people, and so they had a few technical issues with the way that they have written the code references in that policy. She said when Ms. Allshouse asks the Board to approve this later, it will have to be with the two minor changes made. She said the intention was the same, but they did not have the wording linking back appropriate to the code. She said when the Board approves the policy, it will include the updated references.

Ms. Birch said she would turn the presentation back to Ms. Allshouse for next steps.

Ms. Allshouse said if the Board approves the revised financial policies, they will be effective immediately and included in the FY 22 Adopted Budget document. She said these policies are always placed at the front of the budget document, and so the updated ones will be there that year.

Ms. Allshouse said the next quarterly report, which the Board would be receiving in mid-February, will include the information Ms. Birch referenced on the investment performance.

Ms. Allshouse said that per GFOA guidelines, staff will continue to review and update these policies on a periodic basis. She said they will continue to keep an eye on this and make any other adjustments in accordance with financial representatives and, of course, bring these back to the Board, as these are the Board's approved financial policies.

Ms. Allshouse asked the Board to adopt the revised Financial Management Policies as set forth in Attachment A, and the Investment Policy as set forth in Attachment B to include the State Code revisions that Ms. Birch mentioned on Slide 11.

Ms. Mallek on the investment question, she would assume that this is treasuries, CDs, and things in banks, not equities. She asked if they have the ability or authority to choose banks that treat the community well. She said over the years, there have been some national players in town who have treated citizens very badly, and one of the levers the Board had under previous CFOs was to call these banks and tell them that if they did not want to lose their business, they needed to change, or else. She said she hoped there was something in staff's mind about being good citizens and being able to use local banks, where it is easier to get help when they need it.

Ms. Birch replied that they absolutely do have the ability to do that. She said as the Board would see when staff brings them the next quarterly report in February, the two major investments they have right now are with Bank of America, their banking services provider, where most of the money is invested; and through the state's local government investment pool (GIP), which is the pool of investment that the state administers on behalf of local governments in Virginia.

Ms. Birch said that at this moment, they do not have anything outside of those two areas, but this was not to say that in the future, they could not look into local banks and what they might offer. She said they do have some flexibility there.

Ms. LaPisto-Kirtley **moved** to adopt the revised Financial Management Policies as set forth in Attachment A and the Investment Policy as set forth in Attachment B to include the State Code revisions noted on Slide 11. 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

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County of Albemarle, Virginia

# Investment Policy

**TABLE OF CONTENTS**

1.0 POLICY STATEMENT..... 3

2.0 SCOPE.....3

3.0 OBJECTIVES.....3

4.0 DELEGATION OF AUTHORITY.....3-4

5.0 INVESTMENT COMMITTEE.....4

6.0 STANDARDS OF PRUDENCE.....4-5

7.0 ETHICS AND CONFLICTS OF INTEREST.....5

8.0 SAFEKEEPING.....5

9.0 COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS.....5-6

10.0 AUTHORIZED INVESTMENTS AND DEPOSITS.....6-7

11.0 SUITABLE AND AUTHORIZED INVESTMENTS-GENERAL FUND.....7-8

12.0 SUITABLE AND AUTHORIZED INVESTMENTS-RESTRICTED FUNDS.....8

13.0 DIVERSIFICATION.....8

14.0 INTERNAL CONTROL.....8

15.0 REPORTING REQUIREMENTS.....8-9

## **COUNTY OF ALBEMARLE, VIRGINIA INVESTMENT POLICY**

### **1.0 POLICY**

It is the policy of the County of Albemarle, Virginia (County) to invest public funds in a manner which will safely preserve principal, provide adequate liquidity to meet the County's cash flow needs, and optimize returns while conforming to all federal, state and local statutes governing the investment of public funds.

### **2.0 SCOPE**

This policy applies to the investment of all the financial assets and funds held by the County. Specific requirements or limitations imposed upon the investment of Bond Proceeds, Debt Service Funds and Debt Service Reserve Funds are located in Section 12 of this Policy.

### **3.0 OBJECTIVES**

All of the County's funds, regardless of investment term shall be invested with the following objectives listed in the order of priority:

- a. Safety-** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure preservation of capital in the overall portfolio.
- b. Liquidity** – The investment portfolio will remain sufficiently liquid to enable it to meet all operational requirements which might be reasonably anticipated.
- c. Yield** – The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account its investment risk constraints and the cash flow characteristics of the portfolio.

Funds of the County will be invested in accordance with this policy and all applicable local, state and federal codes and regulations including but not limited to the Virginia Public Deposit Act, Virginia Code Section 2.2 and the Virginia Public Procurement Act.

### **4.0 DELEGATION OF AUTHORITY**

The County's Chief Financial Officer (Director of Finance) is the official charged with receiving, collecting, safeguarding, and disbursing County funds. The Chief Financial Officer is responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management for the operation of the County's investment program.

The Chief Financial Officer may designate the authority to manage the day-to-day operations of the investment program to the Chief of the Treasury Division as the Investment Officer. The Chief of the Treasury Division may delegate authority to, yet has the responsibility to oversee, members of his/her staff in the solicitation of offerings, the placing of purchase and sell orders, confirmation of trades, the preparation and distribution of reports, and other activities as required for the daily operations of the investment area.

The Chief of the Treasury Division is also charged with developing written standard investment procedures and an asset allocation plan consistent with this Policy. Such procedures shall be reviewed by the Chief Financial Officer and brought before the Investment Committee for approval.

The Chief Financial Officer may employ financial consultants on a contractual basis to assist in the development and implementation of investment procedures and policies, to provide guidance in investment matters, and to monitor the effectiveness and continued compliance with such policies and procedures, subject to the County's purchasing rules and regulations

#### **5.0 INVESTMENT COMMITTEE**

Management of the County's investment portfolio, and changes to this Policy, shall be the responsibility of the Investment Committee. The Investment Committee shall consist of the following employees:

- A representative of the County Executive's Office
- Chief Financial Officer
- Chief of Treasury
- Deputy CFO or Controller
- A Member of the Economic Development Office
- A Member of the Budget Division
- Other employees as proposed by the Investment Committee

In order to optimize total return through daily portfolio management, resources shall be allocated to the cash management program. This commitment of resources shall include financial and staffing considerations. The Committee shall meet not less than quarterly for the purpose of reviewing investment results, future investment plans and changes to this Policy.

#### **6.0 STANDARDS OF PRUDENCE**

At a minimum, the "prudent person" standard shall be used by investment personnel and shall be applied in the context of managing the overall portfolio. The "prudent person" standard states:

"Investments shall be made with judgement and care – under circumstances then prevailing – which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

The Chief Financial Officer, and those with delegated investment authority under this Policy, when acting in accordance with the Code of Virginia §2.2 and exercising due diligence shall not be held personally responsible for a specific security's credit risk or market price change provided these deviations are reported by the Chief Financial Officer, or those with delegated investment authority, to the Investment Committee in a timely manner and that reasonable and prudent action is taken to control adverse developments.

#### **7.0 ETHICS AND CONFLICTS OF INTEREST**

The Chief Financial Officer and his/her designees involved in the investment process shall comply with the County's Guidelines for Ethical Behavior and the Code of Virginia §2.2-3100 et seq., the State and Local Government Conflict of Interests Act.

Specifically, no officer or employee shall:

1. Accept any money, loan, gift, favor, services or business or professional opportunity that reasonably tends to influence her/him in the performance of his/her official duties.
2. Disclose any material interests in financial institutions with which they conduct business and any personal investment positions that could be related to the performance of the investment portfolio.
3. Refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the County.

#### **8.0 SAFEKEEPING**

All investment securities purchased by the County will be held by a third-party custodian, whenever applicable, designated by the Chief Financial Officer, or designee, and evidenced by safekeeping receipt. As required by Virginia Code, all security holdings with maturities over 30 days may not be held in safekeeping with the "counterparty" to the investment transaction. The Code refers to counterparty as the issuer or seller of the security and any repurchase agreement provider.

All investments shall be safekept so as to be classified within category one (includes investments that are insured or registered or for which the securities are held by the County or its agent in the County's name) of Statement Three of the Governmental Accounting Standards Board (GASB).

#### **9.0 COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS**

It is desirable to select investments on a competitive basis when possible to ensure that the County receives the best price available on a particular investment and avoids paying excessive fees, mark-ups or other compensation to the provider.



The Chief of the Treasury Division and any delegated staff (“Investment Staff”) shall adhere to the following procedures when funds become available for investment to the extent practical:

1. Determine the class of investment and maturity range most appropriate for investment of the funds available, based upon the anticipated expenditure schedule of the County, the desired asset allocation of the County’s portfolio and the County’s Investment Plan.
2. Offers will be solicited for the selected investment from a group of pre-approved providers. It will be the responsibility of the Chief Financial Officer, or designee, to maintain a list of approved dealers/providers for various types of investments suitable for the County’s portfolio.
3. The Chief Financial Officer, or designee, will accept the offer (or bid, if the County is selling an investment) which provides the highest rate of return or which is otherwise deemed most suitable while complying with this Policy and any other criteria specified in the solicitation of offers.

The County shall retain a record of the offers received, the instruments chosen, and the rationale for making the decision.

From time to time, the County may be presented with offers that are attractive for investment. Although the County should endeavor to verify and document that the price is “fair”, it may occasionally purchase such a security without a competitive process. All investments that bypass the competitive process must be authorized and approved by the Chief Financial Officer.

A competitive process is not required for the investment of funds in money market funds, investment pools and overnight securities. However, it shall be the responsibility of the Chief Financial Officer to be aware of the yields being offered by various highly liquid investments, and to invest the County’s overnight funds in the vehicle(s) which provide a competitive return to the County while complying with this policy and any other criteria established by the Chief Financial Officer.

#### **10.0 AUTHORIZED INVESTMENTS AND DEPOSITS**

Authorized investments for public funds are set forth in the “Investment of Public Funds Act” of the Code of Virginia §2.2-4500 through §2.2-4518. Within the permitted statutory framework, the County limits the investment of assets to the following categories of securities:

<b>TYPE</b>	<b>MAXIMUM</b>
U.S. Treasury Securities and Agencies	100%
Bankers Acceptance	40%
Negotiable CD's and Bank Deposit Notes	40%
Non-Negotiable Certificates of Deposits	40%
Insured Certificates of Deposits	40%
Commercial Paper	25%
Repurchase Agreements	30%
Mutual Funds	30%
Collateralized Deposit Account	30%
Corporate Notes	5%

**11.0 SUITABLE AND AUTHORIZED INVESTMENTS**

1. Commercial Paper-§2.2-4502 of the Code of Virginia  
Commercial Paper maturing within 270 days of the day of purchase rated P-1 or higher by Moody's AND A-1 or higher by Standard and Poor's, provided that the issuing corporation has a net worth of \$50 million and its long-term debt is rated Aa3 or better by Moody's and AA- or better by Standard & Poor's. No more than 5 percent of the portfolio can be from one issuer.
2. Bankers Acceptances-§2.2-4504 of the Code of Virginia  
Bankers Acceptances maturing within 180 days rated P-1 or higher by Moody's AND A-1 or higher by Standard and Poor's, provided the issuer is a major domestic bank or the domestic office of an international bank is rated Aa3 or better by Moody's and AA- or better by Standard & Poor's.
3. Treasury Securities -§2.2-4506 of the Code of Virginia  
Bonds, Notes and Bills issued by the United States Treasury maturing within five years of the date of purchase, or certificates representing ownership of treasury bond principal or coupons payable within five years.
4. Repurchase Agreements-§2.2-4507 of the Code of Virginia  
Repurchase Agreements collateralized by securities approved for investment herein, provided that the counterparty is rated Aa3 or better by Moody's and AA- or better by Standard & Poor's and the collateral is held by an independent third party.
5. Agency Securities (FHLB, FNMA, FFCB, FHLMC, GNMA)  
Obligations issued and guaranteed as to principal and interest by the Federal Home Loan Bank, the Federal National Mortgage Association, the Federal Farm Credit Bank, Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, maturing within five years of the date of purchase.
6. Mutual Funds-§2.2-4508 of the Code of Virginia  
Mutual Funds must be open-ended, registered under the Securities Act (§13.1-501 et seq.) of the Commonwealth or the Federal Investment Co. Act of 1940, and the investments by such funds are restricted to investments otherwise permitted by law for political subdivision as set forth by the Code of Virginia.
7. Certificates of Deposit-§2.2-4518 of the Code of Virginia  
Certificates of Deposit maturing within one year and issued by domestic banks rated P-1 by Moody's and A-1 by Standard and Poor's
8. Commonwealth of Virginia and Virginia Local Government Obligations

General Obligations, Insured Obligations or Revenue Bonds secured by Debt Service Reserve Funds not subject to annual appropriation is rated Aa3 or better by Moody's and AA- or better by Standard & Poor's.

9. Virginia Local Government Investment Pool
10. Virginia State Non-Arbitrage Program
11. VML/VACO investment pool

**Down-graded Securities (Out-of-Compliance)** Should a security fail to meet the required credit quality limitations after purchase (i.e. credit downgrades), the external manager shall notify the Treasury Investment Staff in writing within one business day after the security fails to meet the credit quality limitations. Such security must then be sold within 30 calendar days, unless the Investment Manager's written rationale (both quantitative and qualitative) on why the security should be continued for an exception is approved by the Chief Financial Officer.

#### **12.0 SUITABLE & AUTHORIZED INVESTMENTS – RESTRICTED FUNDS**

Funds defined as sinking funds under the Virginia Code may be invested in items listed in Section 11.1 and 11.6 above, repurchase agreements collateralized by those investments, and in the Virginia State Non-Arbitrage Program.

#### **13.0 DIVERSIFICATION**

The County will diversify its investment portfolio to avoid incurring unreasonable risks regarding (i) security type, (ii) individual financial institution or issuing entity, and (iii) maturity. Target asset allocation strategies shall be developed by the Chief Financial Officer, or designee, and delivered to the Committee to provide guidance as to appropriate levels of diversification.

#### **14.0 INTERNAL CONTROL**

Investment Staff, with approval from the Investment Committee, is responsible for establishing and maintaining an internal control structure that comports with any County internal controls policies and that is designed to ensure that the assets of the County are protected from loss, theft or misuse. The internal control structure should be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- a. Controls to prevent collusion
- b. Separation of transaction authority from accounting and reconciliation activities
- c. Custodial safekeeping
- d. Avoidance of physical delivery of securities to the County (when possible)
- e. Clear delegation of authority to subordinate staff members
- f. Written confirmation of transactions for investment and wire transfers
- g. Development of wire transfer agreement with the lead bank and third-party custodian.

## 15.0 REPORTING REQUIREMENTS

The Treasury Management Staff shall generate investment activity reports at least quarterly. Portfolio reports will be presented to the Investment Committee quarterly with the report provided to the Board of Supervisors.

A statement of the market value of the portfolio shall be issued annually. The review is consistent with the GASB 31 (Accounting and Financial Reporting for Certain Investments and for External Investment Pools) and 40 (Deposit and Investment Risk Disclosures-An Amendment of GASB Statement No. 3).

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**Recess.** The Board recessed its meeting at 3:03 p.m. and reconvened at 3:27 p.m.

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Agenda Item No. 17. **Presentation:** Transportation Planning Quarterly Report.

Mr. Kevin McDermott, Chief of Planning, said Mr. Butch would be leading the presentation.

Mr. Dan Butch, Senior Transportation Planner, gave the quarterly report for October through December of 2020. He said he would start with the transportation priorities.

Mr. Butch said there was an update to share on how they will be approaching the priorities. He said staff usually goes to the Board every two years for a priorities update. He said these are recommended transportation improvement projects, bicycle-pedestrian, and roadway improvements from planning documents and master plans. He said staff has been going to the Board every two years to evaluate, assess, and rank what projects they will pursue for funding.

Mr. Butch said what staff is looking to do and will be going to the Board for further discussion is to take a broader multimodal transportation plan approach that is part of the proposed overall Comprehensive Plan update. He said this will allow them to assess how they are ranking in their approach to prioritization and will give them a better understanding of that while evaluating the priorities. He said staff will be ironing this out further and going to the Board soon with additional information on that.

Mr. Butch presented on the screen a list of 2020 Smart Scale applications, from August 2020 submitted by the County, Metropolitan Planning Organization (MPO), or Thomas Jefferson Planning District Commission (TJPDC). He said they will be hearing the results of those applications at the end of January 2021, with the scoring or ranking of the applications for any additional funding.

Mr. Butch said for the 2019 Revenue Sharing and Transportation Alternatives grants that were submitted in that year, in December 2020, due to COVID, the Commonwealth Transportation Board (CTB) approved the improvement program to FY 21-26. He said within that, they decided for projects to be funded that they would be funded at 50% of the requested funding. He said staff has approached the Board with scenarios toward these three projects, and from staff's email and recommendation with the Board, what was shown on the screen was a summary of the direction given for staff to take.

Mr. Butch said that for Tabor Street/High Street Sidewalks, which was submitted for a Transportation Alternatives grant, what was decided was to not proceed with the grant funding at this time, but to reevaluate the priorities that are coming through the Crozet Master Plan process update and for any bicycle/pedestrian alternatives transportation improvements to be called out within that master plan update, as well as evaluating any potential future Transportation Alternatives grants.

Mr. Butch said that for Berkmar Drive Extension to Airport Road and Roundabout, there was discussion about proceeding with the Revenue Sharing application and utilizing future development funds from the Secondary Six-Year Plan while leveraging local funds as well to fully fund that project.

Mr. Butch said for Old Lynchburg Road and Moores Creek, this was decided to proceed as two separate projects. He said they would reevaluate the greenway segment, but prioritize and utilize the Transportation Leveraging funds for the Old Lynchburg Road segment for the implementation of the sidewalks.

Mr. Butch said as far as major planning projects in Transportation, there is the Rio Road Corridor Study, which has a consultant currently focusing on data collection and assessment of existing conditions. He said they expect to begin public outreach in early 2021.

Mr. Butch said for the 5th Street Extended STARS Study, this was a corridor study by a VDOT consultant that looked at alternative transportation, intersection, and roadway segment improvements. He said a virtual public meeting was held on the recommendations in June. He said the final study will be going to the Board for their endorsement on February 17.

Mr. Butch said the Crozet Transportation Study is in support of the Crozet Master Plan update as well as the Barnes Lumber redevelopment. He said the existing conditions results were complete and presented to the Crozet CAC in December, and they do have the updated transportation recommendations, which will go to the Crozet CAC for discussion on January 27.

Mr. Butch said that for the Eastern Avenue South Extension, the alignment study results will be going to the Board on January 20 for their endorsement. He said the expected completion is early Spring 2021, anticipating a Revenue Sharing submittal in late spring 2021.

Mr. Butch said for the Climate Action Plan, Transportation staff worked in the mobility and land use sector of the Climate Action Plan. He said they have been working with Facilities and Environmental Services (FES) on some implementation of the Phase 1 recommendations, and they are beginning discussions with FES on Phase 2.

Mr. Butch said for the Broadway Blueprint, there was a City-County internal meeting that was held last quarter on that project.

Mr. Butch said for transit, staff is still working with CAT and stakeholders on bus stop improvements in developments. He said a good example of this is the Sense of Place projects, which Mr. McDermott has been more involved with and has been taking a lot of direction going on that.

Mr. Butch said for the Regional Transit Vision Plan, this was a grant awarded to the TJPDC, in addition to the Albemarle County Route Expansion. He said both of these would be administered by the Regional Transit Partnership (RTP) and were just awarded, so they are in the early stages.

Mr. Butch said for bicycle/pedestrian improvements, the Avon bike/ped recommendations from the corridor study will be taken to the Board for their endorsement for a potential Transportation Alternatives grant in 2021.

Mr. Butch said the Berkmar shared use path (from Rio Road to Hilton Heights) is currently in design.

Mr. Butch said the Rivanna River Crossing was a VDOT-led study from their on-call consultants, through the Thomas Jefferson Bicycle/Pedestrian Plan, to evaluate potential location and concepts. He said there was a public forum held in November 2020, and staff is currently working with TJPDC on receiving public comment, with additional information forthcoming to go to the Board. He said for the public engagement process plan associated with the Rivanna River Corridor Study, a public meeting is expected to take place in early 2021.

Mr. Butch said for the Bicycle Pedestrian Facilities Inventory and Mapping is a project that was through the TJPDC Bicycle/Pedestrian Regional Plan. He said this is in progress, and staff is always updating their data. He said they recently received Neighborhoods 1 and 5 bike/ped inventory through the TJPDC and will use this to keep a current status on their infrastructure. He said a way of doing this is by addressing sidewalk conditions and maintenance with VDOT and the potential funding for the maintenance of these sidewalks. He said the "One Map" will probably be finished and appear as online, accessible public data in Summer 2020 for the City-County regional bike/ped infrastructure.

Mr. Butch said the development projects on staff's plate included the RST Residences Rezoning, which is on Ashwood Boulevard on Route 29. He said they also looked at Old Dominion Village Rezoning in Crozet, as well as Breezy Hill and other road plans and site development plans.

Mr. Butch said for rural rustic hard surfacing, Coles Rolling Road is underway, which was broken into two segments. He said Segment 1 paving will be in January 2021, starting at any time.

Mr. Butch said for Reservoir Road and Wesley Chapel Road, paving is expected in Spring 2021. He said for the Secondary Six-Year Plan, this will be coming to the Board in March for their endorsement for an update on the recommendations for rural rustic surface pavings.

Mr. Butch said for reported transportation issues, staff is still working with VDOT and Albemarle County Police Department (ACPD) on a development process for addressing these reported speed concerns. He said they want to be able to take something to the Board for them to endorse to show how staff is evaluating and prioritizing these reported issues and complaints about speeding, and they want to also show their process of addressing these in working with VDOT and ACPD.

Mr. Butch said staff has also received citizen complaints and a Board complaint about Routes 22 and 231 about trucks, and the request was for a through-truck restriction and speed study. He said staff has heard about this and brought it to VDOT's attention, and they will be looking at crash and speed data to evaluate what they can.

Mr. Butch concluded his presentation, noting that he and Mr. McDermott were available for questions.

Ms. Mallek asked what the structure of the process for the Regional Transit Plan grant and Albemarle County Route Expansion would be at the PDC. She said if there was not a structure now, she would ask staff to get one and make sure that it happens so that they do not have things go astray. She said they need lots of County supervision to make sure it stays on target, and that especially with the virtual meetings that are easy to listen into, it is shocking what they learn by listening into the conversations at the committee meetings as far as the way the citizens have been allowed to run away with things. She encouraged the Supervisors to listen in on that.

Ms. Mallek said that on Rivanna Crossing, they were awaiting an update from the Army Corp of Engineers, or this was used as an excuse not to build the bridge at Woolen Mills because they were whining that they would have to get permission from the Army Corp of Engineers to use the island. She asked if this was considered a showstopper or if they were going to ask the question to get a good way to choose between those two locations.

Ms. Mallek said her concern regarding One Map from listening to another meeting is that they were talking about the trails in Ragged Mountain. She said One Map, for those who did not know, was something that they could look at on their phone that has all the trails and sidewalks in one place. She said this is a great idea, except if it shows as bicycling trails in a place where the County has forbidden bicycling. She said this is a real problem, and she would ask Mr. Butch and Mr. McDermott to continue to be aware of that to make sure that the initial assurances from Chris Gringich are not misplaced and they do not lose track of that.

Ms. Mallek said it is hard enough to keep people out who know they are not supposed to be there, but for people to think they have been invited to go there and then get mad because they get a ticket, they need to stay away from this altogether.

Ms. Mallek said her last question was about speeding concern, and asked if this meant they are working on policies where they can then have something ready to implement for putting in speed tables. She said she knew that staff probably has a dozen emails from her about Orchard Road over the last two years because the heavy trucks go through there at 60 mph, and the houses are only 15 feet from the street. She said it is a horrendous situation, and so she would love to know more about what the speeding concerns group means so they know whether or not this will be a solution for that particular one.

Mr. McDermott asked Ms. Mallek if she would like staff to respond to those.

Ms. Mallek replied that if they had anything handy, this would benefit everyone else in the group.

Mr. McDermott said that as far as the transit study process, they do not know exactly what this will be yet. He said they expect that because the award was just announced recently, they will be learning more from the TJPDC. He said his understanding is that this will likely be done through the Regional Transit Partnership group. He said the Vision Plan would definitely be done, as this is the basis for that.

Mr. McDermott said as far as the other study, they did not know exactly, but he knows that Mr. Chip Boyles plans to have the County heavily involved in the development of that, along with the RTP. He said he would let Mr. Butch answer about the Rivanna Crossing study and One Map.

Mr. Butch said staff is evaluating public comment, and the intent is for staff to be able to bring more information to the Board to decide next steps on how to proceed. He said the intention was to determine if this would get a future application for funding, and so staff wants to make sure they can iron out all the concerns. He said he was not sure if they were taking this back to the consultants, but he would follow up with Ms. Mallek after gathering more information on the next steps for that.

Mr. Butch said that for One Map, he believed they would have an internal evaluation of it before anything goes public, and so staff will be able to iron out any concerns with that.

Mr. Butch said for the reported speeding concerns, this was not to replace VDOT's traffic calming, but is more for the County to take steps prior to an official traffic calming process on how to evaluate these reported issues and determine if every issue should go to the extent of an official traffic calming process. He said with the help of VDOT and ACPD, they are able to see which ones of those are priorities or could be helped through ACPD education and enforcement, signage on the road segment, or looking at the speed. He said they are trying to build policies for the Board to endorse for staff to be able to prioritize many of those requests.

Ms. Mallek said this will be very helpful.

Ms. Price thanked those who had responded to a number of inquiries she had over the holidays. She said she received those responses in her inbox and may be following up on those, but nothing in terms of the quarterly report.

Ms. LaPisto-Kirtley said she was happy with what staff has proposed, and she likes the possible use of cameras for speeding. She said the reason why she was bringing this up is that there are some beautiful rural roads, but there is no place to stop anyone. She said if a police car were to stop a car or truck, they would back up traffic for miles. She said something that can be used in place of that, such as photography (as used in Europe), that is advertised to let people know they will get a ticket if they speed may be something that would need to go through the legislature.

Ms. LaPisto-Kirtley said they can have police out there to do traffic enforcement, but the question is where to stop people on the smaller, windy rural roads without backing up traffic for miles. She said something like a speed camera, if available and something they can do, is a good traffic calming measure.

Ms. LaPisto-Kirtley said that for the area of Route 22/231, this is a section of road that is about 20 miles, and part of it is 45 mph while part of it is 50 mph. She said she is working with Ms. Carrie Shephard from VDOT and asking the question as to why it is this speed limit. She said it is a very dangerous rural road with ditches on both side. She said if one were to go in a ditch and hit a tree, they would be a goner. She said she would like to see that stretch of road from Route 22 all the way up to Gordonsville and Route 231 labeled as 45 mph.

Ms. LaPisto-Kirtley said she just found out that if one is coming from Gordonsville, going south, and turns left onto Kloeckner Road, this is still Albemarle and is 50 mph, but as soon as they hit the border to Louisa, it goes to 45 mph. She said this makes no sense to her. She said she was trying to look at these things to keep people safe and to keep 18-wheelers from going on their side like what happened in 2017, because there is no room.

Mr. McDermott said he wanted to respond to Ms. LaPisto-Kirtley regarding Routes 22/231. He said staff has been in discussions with Ms. Shephard and Ms. LaPisto-Kirtley on the potential for a through-truck restriction. He said they previously looked at this quite a few years ago. He said if there is a desire to move forward with an official study to evaluate that, they would have to have a resolution from the Board to allow VDOT to begin that study. He said he wanted to make sure that everyone was aware that if there were to be additional work done, there would have to be a follow-up resolution.

Ms. Mallek said she would assume the very first thing, before they know anything, is if there is an alternative route. She said it is a truck route to KPA, and she does not know if there is anything nearby. She said they received all sorts of complaints when people had to go three quarters of a mile out of their way for Earlysville Road, and so if there is not something that is 10-15 miles nearby, they need to find this out first.

Ms. LaPisto-Kirtley said she could answer that question. She said if one is coming south from Gordonsville, Route 231 going into Route 22 is a scenic byway, and not too far from Gordonsville, they can turn left onto Kloeckner Road, which is a wide road and is already being improved to become even wider. She said this goes directly to Route 15, which is a four-lane road that goes directly past Walmart and to I-64.

Ms. LaPisto-Kirtley said continuing along Route 231 to 22, this is a scenic byway, a two-lane rural road with ditches on each side, and if a truck goes down there or there is an accident, it blocks everything. She said this is a scenic byway with windy, narrow roads, with speeds of 50 mph but everyone really going 55-60 mph. She said for those larger trucks, it is very dangerous, but they can easily come in south to Charlottesville by turning left on Kloeckner and right onto Route 15, which goes to

I-64. She said this is safer and is a parallel path. She said she would be asking the Board if they could do this because it does not cost the County anything and is all paid for by VDOT. She asked Mr. McDermott if this was correct.

Mr. McDermott replied that replied yes. He said this would come out of the Secondary Six-Year money and is not County funds, but VDOT funds that they can use for these types of studies, which is why they need a resolution from the Board to be able to use it.

Ms. McKeel said she appreciates looking at red light cameras. She said she could have used one that Saturday on 5th Street, coming off of the interstate and taking a left to head toward Wegman's. She said the light had a green arrow, and the car in front of her moved forward. She said she paused for a minute and moved after him, then a huge vehicle went between the two of them through the red light in such a blur that she could not even say what kind of car it was. She said she would have been T-boned and would have loved to have a picture of his license plate. She said he was putting everyone in the community at risk. She said the aggressive driving she was seeing in the community was very concerning.

Ms. McKeel said she has data that in 2019, 253 tickets were written between Georgetown Road and Birnam Wood. She said this is two blocks, and she continues to get numerous complaints of people running the red light at Albemarle High School on Hydraulic, Whitewood, and Lambs Road. She said this has become very dangerous. She said there have only been a few crashes, but when there is that kind of red light running and those types of speeding issues, it is just waiting for a tragedy.

Ms. McKeel said she believes part of the problem is that they have a school zone, and one of the things that might help is if they have flashing lights for the school zone. She said all of their school zone lights are old technology, and they are set at the beginning of the year and flash during holidays. She said they are set in the fall and turned off during the summer. She said she has already contacted the School Division about this because while VDOT provides the signs, the School Division has to provide the infrastructure for those signs.

Ms. McKeel said she was just letting everyone know that if they perhaps had better real-time flashing lights that do not flash forever, people will not ignore them. She said with the School Division, they are looking at some sort of pilot to see if they can get some of the software in the school signs upgraded. She said this might help a little, but the area there has become concerning.

Mr. Gallaway said on page 7 of the report, it mentioned the Rio Road Shared Use Path. He said he understood that it was about moving some of the Quality of Life (QoL) funding to a different project and asked if it was all of it. He said he understood that the development project will construct a large portion of the shared use path and asked if some of that would be retained to make up whatever the difference is if there are some funds that still need to go to that.

Mr. McDermott replied that the funding for Quality of Life projects has moved around somewhat over time and into the Transportation Leveraging Fund. He said some of it was used up on other projects, and so he did not think there was always a one-to-one exchange of that money. He said part of the shared use path project was going to be completed by the developer.

Mr. McDermott said when they first conceived of it, it was expected that they could also perhaps look at a way to get people across the railroad bridge there with an enhanced facility, but there is not a plan for that now. He said the hope is that with the Rio Corridor Study, which will also be looking at bike-ped connectivity, they will have a better idea as to what is possible and what they want to prioritize for those improvements. He said once this is done, perhaps they can start looking at how that Transportation Leveraging money could be used to possibly support an expanded project there.

Ms. LaPisto-Kirtley said that based on what some of the other Supervisors said, it seems to her that with new technology, they have a way to keep citizens safe through both vis-à-vis red light cameras in the urban areas and perhaps speed zones in the rural areas. She said there are technologies in Europe where if one is speeding, it captures the license plate, and the driver is sent a bill. She said there are companies that take care of that. She said this is worthwhile and is dear to her heart, as this is scary even before it is combined with night conditions, icy conditions, and animal crossings. She said it is time they look into this and make sure it can be done.

Mr. Kamptner said with respect to the speed cameras, there is new enabling authority that became effective in July with limited applicability. He said this was discussion during the Board's meetings on their legislative priorities, and it is on the Board's radar. He said it will come back in 2022 because of the new legislation and the expected unwillingness of the General Assembly to expand the new legislation as the County desires. He said they were going to wait a year, and it will be coming back for discussion in the next legislative priority season.

Ms. LaPisto-Kirtley asked if this includes red lights and speed cameras in rural areas.

Mr. Kamptner replied that there are two different sources of enabling authority. He said the red light enabling authority has been in place for a while. He said there used to be a red light system at the Rio/29 intersection before it was modified. He said the speed camera enabling authority is limited in its purpose to school zones and perhaps one other area where it can be used. He said the Board would like it to be able to be used with lighter application.



Ms. Mallek said as far as she could remember, they still have authority on the red light cameras. She said they just decommissioned it for a while but did not give anything up. She said it was going to go back to Routes 20 and 250 and then, everyone got excited because there was supposed to be a road project there, and so they did not do it, but they should have because it will still be five more years until the roundabout or whatever improvement it is gets done.

Ms. Mallek said there are plenty of school zones, especially if they are extended half a mile in each direction. She said at Broadus Wood, people go by there at 70 mph. She said as Ms. McKeel described, people go by Albemarle High School fast. She said people pass her all the time at the Hydraulic intersection because it is straight and flat. She said at nighttime, it is awful because one cannot see where the lanes are. She said she would love to be able to act on the ones they have because once they start sending tickets to people, all they have to do is hang up boxes. She said in Europe, they have some speed cameras that work and some that don't, and there are empty boxes everywhere that make people behave. She said they behave in Washington, D.C. because they have been using them there for years.

Ms. Mallek said that two or three years ago, Albemarle had the highest number of highway fatalities in the Commonwealth because they had people go so fast, one-car accidents run off the road and hit a tree, and many times, there are no seatbelts. She said it is only getting worse, and she can hardly get out of her own driveway without stopping and rolling down the window, as one would do at a railroad crossing, because of the way people come around the curves going 60 mph.

Ms. Mallek said she would love to be able to get on top of this matter, as there are probably five different locations that they could start on tomorrow, under current legislation. She said she would love to know what the process is for this and how many hoops they have to jump through. She encouraged figuring out who to talk to get started on this.

Ms. McKeel added that they could then prioritize where the most dangerous spots are, with the most violators.

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Agenda Item No. 18. **Presentation:** Virginia Department of Transportation (VDOT) Quarterly Report.

Ms. Carrie Shephard, Charlottesville Residency Administrator for VDOT, said as far as preliminary engineering, not much had changed, and the milestones and advertisement dates have stayed the same.

Ms. Shephard said there were two items of note on the next slide. She said the Exit 118/US-29 project had the traffic signals for the new turn lanes activated on December 17, and the traffic was adjusting well to that change in the new pattern. She said the signal timings were adjusted on December 21 per a recommendation for improvement. She said VDOT will be milling and overlaying to complete this project starting in the coming week, and so the project was getting ready to wrap up.

Ms. Shephard said the next item of note on the slide was the 29/Northbound Fontaine Avenue Ramp Improvement project, which is nearly complete. She said VDOT is installing the guardrail in January and a couple of erosion and sediment control measures. She said other than that, the project will be complete.

Ms. Shephard said as far as the rural rustic projects, the projects listed on the screen were still moving forward. She said Coles Rolling Road Phase 1 is currently being prepped for paving, and the base stone started to be laid that Monday. She said as long as they can expect good weather, they should be able to put the asphalt down next week. She said they will continue working on the pipe replacements for Phase 2 so that they can finish the road.

Ms. Shephard said as far as construction activities, these remained largely unchanged as well. She said they are still working through the logistics for the Route 20 Valley Street pipe replacement, which is a difficult location with the curve and how they are going to handle traffic. She said upon reflection, she wanted to make sure that they did not close the road during the holiday, and so they definitely wanted to wait until the new year to start that project, but they are still working on the logistics. She said if they can get this straight, they will then be able to schedule the pipe replacement.

Ms. Shephard said another thing to note was the Route 640 Gilbert Station Road Bridge Replacement. She said VDOT finally got their railroad clearances so that they could continue to proceed with that project. She said it is likely this will be on their schedule as soon as possible, as they were ideally trying to get that work accomplished last fall.

Ms. Shephard said as far as traffic engineering, the first two studies have been completed. She said they are waiting on sign installation. She said Orchard Drive is also complete at this time. She said VDOT determined with the 85 percentile speed that the 35 mph was substantiated and did not trip 10-mph speed limit or over the speed limit that would be necessary for traffic calming. She said they are partnering with ACPD to use their traffic study as well, and continued enforcement is recommended at this time.

Ms. Shephard said as far as items under review, VDOT has gotten the speed data back for Ivy

Farm. She said the data does support the 35-mph speed limit that is in place now. She said Caterton Road and Ortman Road are still pending. She said for Lewis and Clark Boulevard, VDOT has received concurrence from the police department that they will be proceeding with a consistent speed limit of 35 mph along that road. She said they will then work to get the last section into the state system, and this was the last piece that had been holding them up.

Ms. Shephard said there were a couple of things she did not have listed on the Traffic Engineering slide but that she wanted to mention. She said VDOT did review Simmons Gap Road and Buck Mountain Road (Route 663 and Route 664). She said they are now in the process for scheduling the installation of additional signage and a stop bar for that intersection as an improvement.

Ms. Shephard said an additional study she wanted to mention was the Ivy Farm Drive and Wingfield Road speed data before realizing that she had already covered this.

Ms. Shephard said the last item she wanted to mention was Crozet Avenue and St. George, as there were a couple of citizen concerns that came in about the crosswalk and how it needs to be painted and updated. She said VDOT reviewed this in the field with the citizen and have determined a striping plan and new pedestrian signage plan that they want to put in place there, which is pending installation.

Ms. Shephard said the land use items remained unchanged. She said North Pointe was close to completion, and so they would be working toward completion that week.

Ms. Shephard concluded her report and offered to take questions from the Board.

Ms. Mallek said she has participated once in the 29 South to East 64, but there are still trucks stacking up Northbound 29 to Westbound 64 where there is no light. She asked what will happen for the huge contingent of trucks that often blocks the entire northbound left lane all the way down toward Shepherds Hill. She said this has been a concern for four or five years and asked what the next phase will be to evaluate completing the project. She said they have done the easy part, but the question was what would happen to the westbound trucks.

Ms. Shephard asked Ms. Mallek if she could repeat her question.

Ms. Mallek said Ms. Shephard had talked about Exit 118 and how it was all done, but northbound on 29, lots of trucking trying to go west on I-64 still cannot get across. She said people are coming southbound on the bypass, and even with enforcement, they are ripping down. She said 55 mph is the speed limit, and a big tractor trailer cannot possibly get going when there are cars coming at 55 mph. She said the MPO was asked years ago for traffic control at the northern intersection also so that the westbound trucks would be able to leave. She said there is a trucking company that is threatening to leave the County altogether because they cannot get across.

Ms. Mallek said she wanted to know if there was anything else planned for Northbound 29/Westbound I-64. She said this is where the deaths and accidents have happened over the years.

Mr. McDermott said he could respond to that. He said the project to try to address that issue was the one that staff submitted for Smart Scale funding in this current round, with the Fontaine Avenue interchange improvements, that would allow them to actually close that crossover and push all trucks or vehicles that wanted to go that direction up to Fontaine and have a free flow movement where it is two left turns without having to be stopped by any signals or stop signs, then come back and make a right.

Mr. McDermott said this was part of the Fontaine Avenue project that was submitted for Smart Scale, but they will know later in the month whether or not this will be funded. He said he thinks it is a long shot and had mentioned to the Board before that it is an expensive project.

Mr. McDermott said if it does not get funded, staff is already starting discussions with VDOT's planning staff (which does not necessarily fall in Ms. Shephard's area) to look at the long-term plans. He said Mr. Chuck Proctor and the MPO will be looking at other options to address that issue, but they will wait to see what happens with the Smart Scale project.

Ms. Palmer said she wanted to add to one thing that Ms. Mallek commented on, as this was something that she had commented on before. She said the solutions that are being suggested (or at least the last one, which is a long shot) will just force more people onto Plank Road.

Ms. Mallek said it also creates a huge problem at the exit ramp off of the bypass to Fontaine. She said they will never be able to get out of there when there is a steady stream of trucks going throughout. She said she understands this is where they are, and a simple answer (a second light) obviously was not going to cut it. She said she would give up on this at the moment.

Ms. Mallek asked Ms. Shephard about Wesley Chapel and what surface was being put down there. She said it was a tenth of a mile, but she wanted to make sure it was not the slurry stuff because the trouble with this section is that it is constantly driven over by logging trucks, which is why the Board was trying four years ago to get that small section paved, as it turns to mud and then turns to dust. She said it cannot have anything but real asphalt out there, and so she was desperately hoping that this is what they were putting down.

Ms. Shephard replied that VDOT has been taking that path with the rural rustic routes in using

asphalt instead of the traditional three-coat. She said it has been working out well, and she thinks it is the best as far as long-term maintenance and longevity is concerned. She said she fully supports it, and at this time, this is the process VDOT has been using.

Ms. Mallek said this was wonderful news. She said four to five years ago, there was a contractor with slurry who did not do the job correctly, and VDOT had to fix everything afterwards. She said it was a debacle in all the neighborhoods, and so everyone was very sour on that.

Ms. Mallek said she supposed she would stifle her incredible disappointment that after four years of trying for Orchard Road (with low-income neighborhoods, small lots, houses up against the road), it is acceptable to allow the cut-through trucking traffic to continue to do what they are doing and refuse to put in a couple of tables that would slow them down because it does not meet something in a book.

Ms. Mallek said she drives out there just to check it, and even going 35 mph, she will get ten people stacked up on her bumper. She said she does not know how they're possibly getting the fact that everyone is driving 35 mph, and it is counterintuitive. She said it picks on people because it expects them to be quiet and not fight back, and so she is going to fight for them.

Ms. Price said her earlier comments pertained and that she appreciated Ms. Shepherd's responses to inquiries over the holidays. She said she totally agreed with what Ms. Mallek mentioned with regard to Northbound 29 trying to get onto I-64 West. She said she knows Mr. McDermott is actively working toward a resolution to that, and so she would continue to support his and VDOT's efforts to improve that.

Ms. Price said Southbound 29 to I-64 East is a great improvement, now that they take a left turn at the traffic light rather than the cloverleaf entrance/exit with trucks crossing over on Northbound 29. She said this has made a tremendous difference, and with the long access entrance ramp on I-64 East before getting to 5th Street, this is a much safer interchange now. She said she appreciates the efforts done there.

Ms. LaPisto-Kirtley said it looked like they were moving in the right direction, and she thanked Ms. Shepherd for her presentation and everything she learned from it.

Ms. Palmer said she had a question about Reservoir Road. She said she knows this is a rural rustic road project, and she noticed that the City has installed many more trails along the creek along that road recently. She said there is very little buffer from the road to the creek. She asked what VDOT does when they do these projects to try to protect the creek. She said it is actually a creek that is in decent condition now, and she hates to think what the road project will do to it with the creek being that close and running along the edge of the road.

Ms. Shepherd replied that VDOT will definitely be installing the appropriate erosion and sediment control measures during the actual construction so that they limit any kind of sediment runoff that would enter the stream. She said they have pretty strict guidelines as far as following what DEQ has dictated they must follow. She said she would imagine that once paved, the road would be in much better shape because they will not have the gravel wash off that can potentially get into the creek.

Ms. Palmer said she supposed she should ask her question in a better way. She said there are now parking pull-offs that the City has put in to get to the trails along the road, and she wondered how the sediment control measures will work with the use of those trails and the parking on the side of the road. She asked if VDOT contacts the City Parks Department when they do these things. She said she has gone there a couple of times since they have opened up the trails, and they are being well used, with lots of people using them. She said for the Board's information, these are the trails that connect to the back of Boars Head and to Ragged Mountain, and so the whole place is connected now.

Ms. Shepherd said she was not sure if VDOT had contacted or worked with the City Parks Department, to be honest. She said she knows their focus for rural rustic roads is just to take what is there, as far as the gravel, and hard-surface that and move on. She said sometimes, they do include those pull-offs, depending on the situation, but she did not know if they were included in this situation or not. She said she would definitely check into that with their project manager.

Ms. Palmer said she would appreciate it. She said she thinks a conversation with them on how they are dealing with the pull-offs could really help the stream, as close as it is to the road.

Ms. McKeel said she appreciated Ms. Shepherd allowing lots of time for questions. She said she appreciated the quick work on the Ivy Farm Road issue around speeding. She said she agrees with Ms. Price that the 29 South exchange onto I-64 (which she uses frequently) is so much better.

Ms. McKeel said Ms. Shepherd mentioned that the Georgetown Road crosswalk lighting, and so she also wanted to thank VDOT as well as Dominion Energy because over the last few months, both entities tried to fix all of those streetlights. She said some are owned by Dominion Energy while others are VDOT responsibilities. She said so many pedestrians walk Georgetown Road to and from, and to have those lights working again has been nice.

Ms. McKeel said she had a quick question. She asked for clarification about the automated traffic signals. She said the last milestone was the Angus signal, and she believed what Ms. Shepherd was referencing was the idea that they were going to have smooth transitions with all of their traffic signals

from Emmet Street, in the City, all the way up 29 North and that all of those signals were going to be calibrated so that they work together. She asked if this was correct.

Ms. Shephard replied that she believed so and what is holding this up is that VDOT is still in discussions with the City about one or two signals. She said she would have to get an update from her Traffic Engineering department to see where that stands.

Ms. McKeel said this was not VDOT's fault, but it has been years working with the City and trying to get that done. She said it is a no-brainer, and so she would ask if there is something the Board could do to help in working with the City to get this done. She said there was an agreement that they were all going to get it done.

Ms. McKeel said the other question she had was that if they are taking those signals all the way down Emmet Street to 29 North (with the part in Albemarle County taken care of, for the most part), at the intersection of Emmet and Barracks, as Barracks Road goes up between the north wing and south wing of the shopping center, there is the light at Millmont. She said if this light is not adjusted as well, it will not work with what is happening at Emmet and Barracks because when they are not in a pandemic and they have normal traffic, the whole area backs up tremendously, and she was not sure if VDOT was looking at that signal as well as part of the package. She said the light all the way up at Georgetown Road was taken care of, and so they need the other signals on Barracks Road to work in tandem as well.

Ms. Shephard said she would look for a status update and get back to Ms. McKeel.

Ms. McKeel said she appreciated this and asked Ms. Shephard to let the Board know what they could do to help. She said they have been talking about this for years now and need to be able to move on this. She reiterated that this was not VDOT's fault.

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Agenda Item No. 19. Closed Meeting.

At 4:27 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
  1. To discuss and consider appointments of Supervisors as members or liaisons to various County authorities, boards, and other public bodies, including the Charlottesville-Albemarle Convention and Visitors' Bureau Executive Committee, the Economic Development Authority, and the Metropolitan Planning Organization; and
  2. To discuss and consider appointments of citizens to various County authorities, boards, and other public bodies, including the Economic Development Authority, the Planning Commission, the Board of Equalization, the Fire Prevention and Building Code Board of Appeals, and multiple committees and advisory committees.

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.

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Agenda Item No. 20. Certify Closed Meeting.

At 6:02 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, Ms. Palmer, and Ms. Price  
NAYS: None.

Mr. Gallaway said he believed it was important for those attending the meeting and listening in to know that the County Executive, Incident Management Team (IMT), and the County Police Department have been monitoring the events that are unfolding in Washington, D.C. He said they are not that far from them, so the teams have been making sure to be mindful of any spillover or things that could be happening locally. He said at that time, there were no local concerns. He said obviously, if something were to change throughout the meeting, the Board would pause to provide an update as needed. He reiterated that there were no local concerns they were aware of.

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Agenda Item No. 21. Boards and Commissions.

Ms. Price **moved** that the Board make the following Board Committee appointments for 2021:

Ned Gallaway:

- Audit Committee with said term to expire December 31, 2021.
- Darden Towe Memorial Park Committee with said term to expire December 31, 2021.
- High Growth Coalition with said term to expire December 31, 2021.
- Metropolitan Planning Organization (MPO) with said term to expire December 31, 2022.
- Places 29 (Rio) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Regional Housing Partnership with said term to expire December 31, 2021.

Bea LaPisto-Kirtley:

- Capital Improvement Plan (CIP) Committee with said term to expire December 31, 2021.
- Climate Change Steering Committee with said term to expire December 31, 2021.
- Darden Towe Memorial Park Committee with said term to expire December 31, 2021.
- Pantops Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Places 29 (North) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Regional Transit Partnership with said term to expire December 31, 2021.
- Rivanna River Corridor Project Steering Committee with said term to expire December 31, 2021.

Ann Mallek:

- Agricultural and Forestal Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Charlottesville-Albemarle Convention and Visitor's Bureau (Executive Committee), with said term to expire December 31, 2021
- Crozet Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- High Growth Coalition with said term to expire December 31, 2021.
- Historic Preservation Committee, Board liaison, with said term to expire December 31, 2021.
- Piedmont Workforce Network Council (designee in absence of Chair) with said term to expire December 31, 2021.
- Rivanna River Basin Commission with said term to expire December 31, 2023.
- Workforce Investment Board, Board Liaison, with said term to expire December 31, 2021.

Diantha McKeel:

- Charlottesville-Albemarle Convention and Visitor's Bureau (Executive Committee), with said term to expire December 31, 2021.
- Economic Development Authority, Board Liaison, with said term to expire December 31, 2021.
- Jail Authority, with said term to expire December 31, 2023.
- Places 29 (Hydraulic) Community Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Police Department Citizens Advisory Committee, Board liaison, with said term to expire December 31, 2021.
- Regional Housing Partnership - Designee for Executive Committee with said term to expire December 31, 2021.
- Regional Transit Partnership with said term to expire December 31, 2021.

Liz Palmer:

- 5th and Avon Community Advisory Committee with said term to expire December 31, 2021.
- Acquisitions of Conservation Easement (ACE) Committee with said term to expire December 31, 2021.
- Audit Committee with said term to expire December 31, 2021.
- Biscuit Run Steering Committee with said term to expire December 31, 2021.
- Climate Change Steering Committee with said term to expire December 31, 2021.
- Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire December 31, 2021.

Donna Price:

- 5th and Avon Community Advisory Committee with said term to expire December 31, 2021.
- Biscuit Run Steering Committee with said term to expire December 31, 2021.
- Capital Improvement Plan (CIP) Advisory Committee with said term to expire December 31, 2021.
- Hazardous Materials Local Emergency Planning Committee with said term to expire December 31, 2021.
- Rivanna River Corridor Project Steering Committee with said term to expire December 31, 2021.
- Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire December 31, 2021.
- Village of Rivanna Community Advisory Council, Board Liaison, with said term to expire December 31, 2021.

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.

Item No. 21. b. Vacancies and Appointments.

Ms. Price **moved** that the Board make the following appointments to the respective committees:

- **Reappoint** Mr. Roger Ray and Mr. Ross Stevens to the Acquisition of Conservation Easement (ACE) Appraisal Review Committee, with said terms to expire December 31, 2021.
- **Reappoint** Mr. George Hodson to the Charlottesville-Albemarle Convention and Visitors Bureau Executive Committee with said term to expire September 30, 2022.
- **Reappoint** Mr. Anthony Arsali as the Rivanna District representative, and Ms. Karen Pape as the Jack Jouett District representative to the Equalization Board, with said terms to expire December 31, 2021.
- **Appoint** Mr. Brian L. Mason to the Pantops Community Advisory Committee with said term to expire June 30, 2022.
- **Reappoint** Mr. Brian D. MacMillan to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2022.
- **Reappoint** Mr. Luis Carrazana to the Planning Commission as the University of Virginia's representative, with said term to expire December 31, 2021.

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.

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Agenda Item No. 22. 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.

There were no speakers.

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Agenda Item No. 23. **Public Hearing: 20-03(1) – Agricultural and Forestal Districts.** Ordinance to amend County Code Chapter 3, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance, Division 2, Districts, to review certain districts, and to make corrections to certain district regulations to identify all those tax map parcels within the districts, as specified below:

- a) **AFD 2020-01 Batesville AFD – District Review.** The proposed ordinance would amend Section 3-207, Batesville Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of December 16, 2025, to identify TMP 70-40 as no longer being in the district (this parcel was removed from the district by the former owners' heirs), to identify TMP 85-3A1 as being in the district (this parcel was created by the division of another parcel in the district), and to remove TMP 85-17B, as well as any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance. The review of the district will be reduced from once every ten years to once every five years, so that the next review of the district after the current review will occur prior to December 16, 2025; and
- b) **AFD 2020-02 High Mowing AFD – District Review.** The proposed ordinance would amend Section 3-220, High Mowing Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of December 16, 2030, and to remove any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance. (*Advertised in the Daily Progress on November 30 and December 7, 2020*)

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

The consolidated public hearing and the proposed ordinance pertain to the periodic reviews of two AFDs.

**District Reviews:** Virginia Code § 15.2-4311 requires the periodic review of AFDs to determine whether they should continue, be modified, or be terminated, unless the Board determines that review is unnecessary. During the review process, land within an AFD may be withdrawn at the owner's request by filing a written notice with the Board any time before the Board acts on the review. Virginia Code § 15.2-

4311 requires that the Board conduct a public hearing on AFD reviews after they have been reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations.

**Reviews:** Pursuant to the Board's direction in November 2018, the proposed ordinance (Attachment A) includes a five-year renewal period for AFDs containing parcels enrolled in open-space use valuation that have no development rights, and a 10-year review period for districts that have no such parcels. The Advisory Committee and the Planning Commission reviewed the following districts and recommend renewal of the Batesville AFD for five years, and the High Mowing AFD for ten years. The November 10, 2020 staff reports to the Planning Commission are attached (Attachments B and C). See Attachments B and C for more details regarding this and other staff analysis of the following district reviews.

**Batesville AFD:** The Batesville AFD is on the north, west, and south sides of Batesville, and is undergoing its periodic 10-year review. One landowner submitted a request to withdraw one parcel (TMPs 85-17B) consisting of 136 acres from the AFD. This AFD was created in 1990 and currently includes 34 parcels totaling 1,115 acres. With the withdrawal of parcel 85-17B, the AFD would include 33 parcels and 955 acres. The review period for this AFD is recommended to be reduced to five years, so the next review will occur prior to December 16, 2025.

**High Mowing AFD:** The High Mowing AFD is located south of Batesville, and is undergoing its periodic 10-year review. No requests for withdrawal have been received to-date. This AFD was created in 1991 and currently includes 5 parcels totaling 445.8 acres. The review period for this AFD is ten years, so the next review will occur prior to December 16, 2030.

There is no budget impact.

After conducting public hearings on the proposed AFD addition and the proposed AFD reviews, which may be held together as one public hearing, staff recommends that the Board adopt the attached ordinance to continue the Batesville and High Mowing AFDs.

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Mr. Scott Clark, Senior Planner, said there were two Agricultural and Forestal District (AFD) reviews.

Mr. Gallaway said the public hearing would be on both of those reviews (AFD 2020-01 Batesville AFD and AFD 2020-02 High Mowing AFD) at the same time.

Mr. Clark said these two districts (Batesville and High Mowing) were up for their periodic reviews. He said the two districts are located adjacent to each other, right around Batesville.

Mr. Clark said the slide on the screen covered the general purposes of the districts and clarified some of the issues that have been discussed recently. He said one of the purposes of several in Chapter 3 of the County Code is that the districts are there to protect resources for agriculture, forestry, biodiversity, and natural resource protection. He said in a nutshell, this is the purpose of these districts overall.

Mr. Clark said in terms of how the districts work, these are voluntary conservation districts that are formed by a landowner, individual, or group. He said the entire district runs in a cycle (usually ten years) before it is reviewed.

Mr. Clark said while the districts are in effect, they work by limiting development to a more intensive use. He said this prohibits some form of subdivision and puts limits on commercial uses. He said it also sets higher review standards for land use decisions, such as special use permits or rezonings, that would be in or adjacent to these districts. He said there are some limits on state takings for major road improvements and other changes that would affect agriculture in the districts.

Mr. Clark said in 2018, the County implemented a new policy for district reviews. He said that in the case where there is a district that has parcels that are in the districts that are in the Open Space tax category and that have no development rights, these districts will be renewed for five years instead of the usual ten years. He said they would potentially be removed at the end of those five years because those particular parcels are not adding any conservation value to the district, but they are getting a conservation related tax break.

Mr. Clark said to clarify, it is often understood in the community that AGDs are a tax program, and this is not true. He said AFDs are a voluntary conservation program that restricts land uses. He said it is enabled this way in the State Code and is operated in the County through Chapter 3 of the County Code.

Mr. Clark said the Use-Value Taxation Program, which reduces tax assessments for rural land used for agriculture, forestry, horticulture, or open space, is a completely separate program and separate chapter of the County Code.

Mr. Clark said one thing that ties these two programs together is the fact that being in an AFD can qualify one to be in that Open Space tax category. He said one needs to have the appropriate acreage and the approval of the Assessor's Office, and it can be used as a qualifying factor.

Mr. Clark presented a map of the two districts, noting that Batesville was shown in brown and High Mowing was shown in green. He said there are quite a few parcels in the area in double-hatching on the map, which are under conservation easements. He said the speckled parcels on the map are in Use-Value Taxation and the plain ones are not.

Mr. Clark said being in an AFD is not the same as being in the Open Space tax category. He presented a map of the parcels in the two districts under review, which showed their tax category. He said there are about 8-10 different tax categories that exist within the districts. He said some parcels are taxed as conservation easements, which is not under Use-Value but is under a different valuation program. He said some are taxed at the agriculture rate or the forestry rate. He said some, indeed, are in the Open Space category, and some are even taxed at the regular full rate. He said there is a big difference between being in the AFD and being in a particular Use-Value taxation program.

Mr. Clark returned to the map that showed Batesville in brown and High Mowing in green. He said both of these districts were up for their ten-year reviews. He said he would do a brief presentation on each of the individual districts and on the recommendations for the hearing as a whole.

Mr. Clark said the Batesville District was created in 1990. He said it currently includes 1,115 acres. He said as part of this review, there are a couple of clean-out items they need to take care of in the ordinance, which were already before the Board. He said the first was to add Tax Map Parcel 85-3A1, which is a parcel that was legally created by subdivision within the district. He said Tax Map 70 Parcel 40 will need to be removed, as this parcel was removed by the previous owner's heirs in 2016.

Mr. Clark said overall, the district protects a lot of high-quality soils. He said 950 of the 1,115 acres have important agricultural soils. He said there are only about 24 dwellings, and five parcels under conservation easement. He said 953 acres out of the 1,115 in use-value taxation of some form indicates that this is a good area with active agriculture and forestry.

Mr. Clark said in this case, there is one requested withdrawal from the Batesville District, which is Parcel 85-17B. He said the current owner of that property is now the Central Virginia Electric Cooperative, which hopes to apply in the near future for a solar-generating utility on that property.

Mr. Clark said determining the appropriate review period for this district, the district has nine parcels that are in the Open Space category, four of which have no development rights remaining and could potentially be removed from the district. He said thus, the appropriate review period for this district is five years.

Mr. Clark said the Agricultural and Forestal District Committee and the Planning Commission have both recommended renewal of this district for five years.

Mr. Clark said moving on to the High Mowing District review, this district was also created in 1991, and it is 445 acres. He said there is a high number of acres in important agricultural soils. He said it has 209 acres in use-value taxation, with most of the remainder in conservation easement taxation. He said this is an indicator of a district that is of high quality and protects a lot of the important land in the area.

Mr. Clark said there is only one parcel in the district that is in the Open Space tax category, and the parcel has five development rights. He said therefore, there is no need to remove it. He said thus, this district will be up for a ten-year review as well.

Mr. Clark said staff would recommend that the Board approve the renewals, as shown in the ordinance that was distributed to them. He offered to answer any questions.

Ms. Mallek thanked Mr. Clark for giving an introduction about the different categories. She said for those who may not know, the reason for the new timetables is to give owners who no longer qualify a chance to pay their property taxes ahead for five years and withdraw gracefully from the land use program rather than having it all at once, and for those who did not qualify for the land use program in another way than being a member of the AFD.

Ms. Mallek added that in 2010, when there was a big discussion about putting in a revalidation program, Albemarle was the only county anywhere around who had ever done that. She said no one had asked anyone to tell what they were doing to qualify for land use since 1973. She said the assessor, at the time, pushed people into this program as a way to keep them from having to face the music.

Ms. Mallek said she is very grateful that they are taking this difficult step to try to winnow this program to those who really should be there. She said she knows there are some who may have gotten in a pinch, but the County is doing the best they can here. She said out of fairness to all other citizens in the County, they have to make sure that this program, like many others, is squeaky clean in the way it operates.

Ms. Price said as Ms. Mallek just mentioned, she appreciated the way Mr. Clark explained some of this as well as Ms. Mallek's comments.

Ms. LaPisto-Kirtley thanked Mr. Clark for the explanation.

Ms. Palmer said she did not want to get into a big discussion about it, but she did disagree with



the idea that there is no conservation value in a piece of property that has good agricultural soils because there are no development rights on it. She said while there are some bad actors out there, they have some wonderful actors that they are kicking out of this program that have gone back to hay. She said she is disappointed that this is what the Board decided a couple of years ago.

Ms. Palmer said she did want to make one statement. She said she has had emails, which Mr. Clark has answered, about CVEC pulling out for the solar utility project. She said she believed she shared one of those emails with the Board so that they were aware of the issue, and they have heard about it from others. She said she did want to read the County Code that governs this particular ability for CVEC to withdraw, by right, from this because one of the comments from the public was that the Board should not allow them to withdraw if they are going to do a commercial project like this in the Rural Areas.

Ms. Palmer asked the Board to bear with her while she read the County Code aloud, as she wanted to make them and the public all aware. She said the County Code says, "The owner of land within a district may withdraw the land from the district as a matter of right at any time between the date the Director of Planning refers the district to the Advisory Committee for review and the time the Board of Supervisors acts to continue, modify, or terminate the district."

Ms. Palmer said there is nothing in the code that gives the County or Board of Supervisors the option to refuse a by-right withdrawal from this, but the Planning Commission will be looking at the solar project as well as the Board. She said she wanted to make sure everyone understood that this was a by-right withdrawal.

Ms. McKeel said she appreciated the presentation.

Mr. Gallaway opened the public hearing and asked for confirmation that there was no one signed up to speak on this item.

Mr. Morris replied that this was correct.

Mr. Gallaway closed the public hearing and brought the matter back to the Board for discussion and a motion.

Ms. Palmer **moved** that the Board adopt the ordinance dated November 9, 2020 amending Chapter 3 of Albemarle County Code, continuing the Batesville and High Mowing AFDs. Ms. McKeel **seconded** the motion.

In further discussion, Ms. Mallek asked if separate motions were needed, since these were for different time extensions (one for five years, one for ten years).

Mr. Kamptner replied no. He said the ordinance lays out the review period for each district.

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

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#### **ORDINANCE NO. 21-3(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE 2, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article 2, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

Sec. 3-207      Batesville Agricultural and Forestal District  
Sec. 3-220      High Mowing Agricultural and Forestal District

### **CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS**

#### **ARTICLE 2. DISTRICTS OF STATEWIDE SIGNIFICANCE**

##### **DIVISION 2. DISTRICTS**

##### **Sec. 3-207 - Batesville Agricultural and Forestal District.**

The district known as the "Batesville Agricultural and Forestal District" was created and continues as follows:

A. *Date created.* The district was created on May 2, 1990.

B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:

1. Tax map 70: parcel 40A.
2. Tax map 71: parcels 23A, 23C, 24B, 24C, 24C1, 26, 26A, 26B, 26B1, 26B2, 26C, 27A, 29C, 29D, 29E, 29G, 29H, 29I.
3. Tax map 84: parcels 35A, 69.
4. Tax map 85: parcels 3, 3A (part), 3A1, 4J, 17, 21, 21D, 21D1, 22B, 22C, 30D, 31.

C. *Review.* The district is reviewed once every five years and will next be reviewed prior to January 6, 2026.

(Code 1988, § 2.1-4(s); § 3-207, Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 00-3(3), 9-13-00; Ord. 01-3(2), 7-11-01; Ord. 04-3(1), 3-17-04; Ord. 09-3(4), 12-2-09; Ord. 10-3(1), 4-14-10; Ord. 18-3(1), 11-7-18; Ord. 21-3(1), 1-6-21)

### **Sec. 3-220 - High Mowing Agricultural and Forestal District.**

The district known as the "High Mowing Agricultural and Forestal District" was created and continues as follows:

A. *Date created.* The district was created on January 16, 1991.

B. *Lands within the district.* The district is composed of the following described lands, identified by parcel identification number:

1. Tax map 84: parcel 69A.
2. Tax map 85: parcels 39, 39H, 41A, 41A1.

C. *Review.* The district is reviewed once every ten years and will next be reviewed prior to January 6, 2031.

(Code 1988, § 2.1-4(t); § 3-216, Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; § 3-220, Ord. 18-3(1), 11-7-18; Ord. 21-3(1), 1-6-21)

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Agenda Item No. 24. **Public Hearing: B. F. Yancey Community Food Pantry Lease for a Portion of the Yancey School Community Center.** To receive comments on its intent to consider approving a lease agreement with B. F. Yancey Community Food Pantry for a portion of the Yancey School Community Center, located at 7625 Porters Road, Esmont, Virginia (Parcel 128A2-00-00-01800). *Advertised in the Daily Progress on December 28, 2020*

The Executive Summary forwarded to the Board states that, at the Board of Supervisors' March 7, 2018 meeting, the Board endorsed a use framework for the Yancey School Community Center that included the differentiation of user types, space types, and an associated fee structure. That framework provided for in-kind/no cost use by community partners such as the B. F. Yancey Community Food Pantry.

Virginia Code § 15.2-1800(B) requires that the Board hold a public hearing prior to the proposed conveyance of this interest in County-owned real property.

The B. F. Yancey Community Food Pantry, operating since January 27, 2017, and incorporated with the State Corporation Commission since April 13, 2020 (Attachment A), serves the Esmont area, providing needed food supplies to over 90 families on a monthly basis. This service to the community is provided at no charge. The B. F. Yancey Community Food Pantry is staffed by volunteers and relies on donations to sustain its operations. The proposed lease (Attachment B) allocates 376 square feet of dedicated space to be used by the Pantry, 2,275 square feet of shared space that would be used when food is distributed, and the exclusive use of two walk-in freezers. The term of the proposed lease is for one year (February 1, 2021 through January 31, 2022). The lease would automatically renew for additional 12-month terms unless written notice were given either by the County or the B. F. Yancey Community Food Pantry no later than 60 days prior to the expiration of any term.

Though the County would forego potential rental income from this space, that is consistent with the approved framework for in-kind/no cost use of the Community Center by community partners.

Following the public hearing, staff recommends that the Board adopt the attached resolution (Attachment C) approving a lease with the B. F. Yancey Community Food Pantry for a portion of the Yancey School Community Center and authorizing the County Executive to execute a lease in a form acceptable to the County Attorney.

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Mr. Michael Freitas, Chief of Public Works, presented the item for the Board's consideration,

which was a proposed lease with the B.F. Yancey Community Food Pantry for space at the Yancey School Community Center. He said the pantry's director, Ms. Berlinda Mills, was unable to join the meeting that evening, and so Ms. Deborah Smith was attending instead. He said he had a short presentation, after which they were prepared to answer any questions from the Board.

Mr. Freitas said that after the B.F. Yancey Elementary School was transferred to local government, staff and the B.F. Yancey Transition Advisory Committee worked to develop recommendations for near-term uses, which the Board approved in December 2017 and later, a framework to define user groups, space types, and fee structure, which the Board endorsed in March 2018.

Mr. Freitas said the B.F. Yancey Community Food Pantry is one such group envisioned as an in-kind, no-cost use by community partners.

Mr. Freitas said that in the four doors since they opened their doors, the B.F. Yancey Food Pantry has been instrumental in fulfilling the needs for food supplies, serving 33 families when they first opened the pantry and now serving an average of 90 families per month. He said he did them a disservice in the Executive Summary, inadvertently suggesting they serve only the immediate Esmont area when, in fact, they are helping families in the Samuel Miller and Scottsville Districts, as well as surrounding counties.

Mr. Freitas said the 376 square feet of dedicated space will be used mainly for storage and administrative work, while the shared space will be used for processing donations and distributing food items on the days the pantry is open. He presented a slide that detailed the actual spaces included in the proposed lease, with the areas in blue being the dedicated space, and the areas in yellow being the shared space. He said what is not shown on this floor plan are the two walk-in freezers that are actually outside that would also be included as their dedicated space.

Mr. Freitas said after conducting a public hearing on the proposed lease, staff recommends that the Board approve the lease and authorize the County Executive to sign in the lease in the form acceptable to the County Attorney.

Mr. Freitas concluded his presentation and offered to answer any questions.

Ms. Mallek said that even if there are overhead costs for electricity, freezers, etc., she thinks it is a worthy expenditure for the County to carry on.

Ms. Price concurred that this is an excellent community partner.

Ms. LaPisto-Kirtley agreed that this is a good expenditure of monies that will help people, and so she was in favor.

Ms. Palmer said she was in favor, needless to say, but she did want to mention that if one goes there on a day when the food pantry is operating, it is quite a production. She said they have several community members there putting the boxes together and getting them out to people in their car. She said there are many people who have handicaps, elderly people, and families with small children picking up the food. She said it is an impressive community effort to watch, and she is very much in favor of it.

Ms. McKeel said she was pleased to be able to support this good work.

Mr. Gallaway opened the public hearing and asked for confirmation that no one was signed up to speak.

Mr. Morris said this was correct.

Mr. Gallaway closed the public hearing and brought the matter back to the Board for a motion.

Ms. Palmer **moved** that the Board adopt the resolution in Attachment C, approving the lease with the B.F. Yancey Community Food Pantry for a portion of the Yancey School Community Center and authorizing the County Executive to execute a lease in a form acceptable to the County Attorney. Ms. Price **seconded** the motion.

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

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

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**RESOLUTION TO APPROVE A LEASE AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE  
AND THE B. F. YANCEY COMMUNITY FOOD PANTRY**

**WHEREAS**, the Board finds it in the best interest of the County to approve a Lease Agreement for the B. F. Yancey Community Food Pantry to lease a portion of the Yancey School Community Center, located at 7625 Porters Road, Esmont, Virginia, from the County.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves a Lease Agreement between the County and the B. F. Yancey Community Food Pantry for the lease of space at the Yancey School Community Center, and authorizes the County Executive to execute the Agreement, once it has been approved as to form and substance by the County Attorney.

LEASE

THIS LEASE, dated this 7 day of December, 2020, is by and between the COUNTY OF ALBEMARLE, VIRGINIA (the "County" or "Owner"), and the B.F. YANCEY COMMUNITY FOOD PANTRY, a Virginia nonstock corporation (the "Food Pantry" or the "Occupant").

ARTICLE I. PREMISES AND IMPROVEMENTS

In consideration of the covenants herein set forth, the County hereby authorizes the Food Pantry to occupy the premises shown as "Leased Space" on Exhibit A attached hereto and made a part hereof, together with any and all improvements thereon (the "Premises"). Except as otherwise provided herein, the Food Pantry will have exclusive use of Rooms 18B and 19 and of the two walk-in freezers located outside the building, and shared use of Rooms 18, 18A, 18C, 18D, and of the common areas. Upon mutual written agreement of the parties, this Lease may be amended to add additional square footage to the Premises.

ARTICLE II. TITLE: QUIET ENJOYMENT

So long as the Food Pantry is not in default hereunder, the Food Pantry will have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease will commence on February 1, 2021 (the "Date of Commencement") and will expire on January 31, 2022. All references to the "term" of this Lease will, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. This Lease will automatically renew for additional 12-month terms unless written notice is given by either the County or the Food Pantry no later than 60 days prior to the expiration of any term.

ARTICLE IV. RENT

Though the County reserves the right to collect unpaid charges and expenses incurred under this Lease, no rent (other than for utilities and services as provided in Article V) will be charged for the Food Pantry's occupancy of the Premises.

ARTICLE V. UTILITIES AND SERVICES

The County will provide water, sewer, electricity, and heating and cooling services at no expense to the Food Pantry. The County will further provide custodial services (to common areas only) and arrange for the regular collection of a shared dumpster at no expense to the Food Pantry. The Food Pantry will exercise reasonable and responsible care to conserve these services. Rent may be charged or adjusted to reflect any change in the cost to the County of providing the above

services. The County will provide the Food Pantry with prompt notice of any such change, and will provide evidence of its actual costs. The Food Pantry will provide telephone, custodial (including clean-up of shared space(s) when used), and all other services to the Premises.

#### ARTICLE VI. USE OF PROPERTY

Section 6.1. Permitted Use. The Food Pantry may use the Premises only for the collection, storage, preparation, and distribution of food items. No other use of the Premises is permitted without the prior written consent of the County.

Section 6.2. Parking. The Food Pantry will have shared use of parking spaces in the parking lot and an access easement to the Premises. The County reserves the nonexclusive right to use the parking lot.

#### ARTICLE VII. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS

##### Section 7.1. Installation by the Food Pantry.

(a) The Food Pantry may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements that do not damage or alter the Premises, provided that the Food Pantry has first obtained both (a) the County's written consent and (b) all required governmental permits for such alterations, additions or improvements. All such alterations, additions or improvements will be at the sole expense of the Food Pantry.

(b) The Food Pantry may, from time to time, make interior structural alterations, additions or improvements, only with County's prior written consent to plans and specifications therefor, which consent will not be unreasonably withheld. All such alterations, additions or improvements will be at the sole expense of the Food Pantry. Upon the expiration or sooner termination of this Lease, the County will have the option (exercisable upon sixty (60) days' notice to the Food Pantry, except in the case of a termination of this Lease due to a default by the Food Pantry, in which case no such notice will be required) to require the Food Pantry to remove at the Food Pantry's sole cost and expense any and all improvements made by the Food Pantry to the Premises or to elect to keep such improvement as County property. In the event the Food Pantry is required to remove any improvements, (i) the Food Pantry will be responsible for the repair of all damage caused by the installation or removal thereof, and (ii) if the Food Pantry fails to properly remove such improvements or provide for the repair of the Premises, the County may perform the same at the Food Pantry's cost and expense.

Section 7.2. Signs. The Food Pantry may place signs on the interior or exterior of the Premises with the prior written approval of the County.

#### ARTICLE VIII. MAINTENANCE OF THE PREMISES

Section 8.1. Maintenance. The Food Pantry will keep the Premises clean, neat, orderly, presentable, and in good repair at all times. The County will deliver the Premises to the Food Pantry at the beginning of the term in its present condition. The County will be responsible for all repairs and maintenance for the Premises, except as provided below, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, including, but not limited to,

plumbing, heating, electrical, plate glass and windows. The Food Pantry will be responsible for routine repairs and maintenance (excluding repairs and maintenance of the building and structural components identified above), except that the Food Pantry's obligation for such routine repairs and maintenance will not exceed \$2,500 in any one year of the initial or subsequent term(s). Notwithstanding the foregoing, the Food Pantry will be responsible for all maintenance and repairs necessitated by the negligence of the Food Pantry, its employees and invitees.

Section 8.2. Right of Entry. The County reserves the right for itself, its agents and employees to enter upon the Premises at any reasonable time to make repairs, alterations or improvements; provided, however, that such repairs, alterations, or improvements do not unreasonably interfere with the Food Pantry's operations. Such right to enter will also include the right to enter upon the Premises for the purposes of inspection.

Section 8.3. Surrender of the Premises. At the expiration of the occupancy hereby created, the Food Pantry will surrender the Premises and all keys for the Premises to the County, and will inform the County of all combinations on locks, safes and vaults, if any, which the County has granted permission to have left in the Premises. At such time, the Premises will be broom clean and in good condition and repair, commensurate with its age. If the Food Pantry leaves any of the Food Pantry's personal property in the Premises, the County, at its option, may remove and store any or all such property at the Food Pantry's expense or may deem the same abandoned and, in such event, the property deemed abandoned will become the property of the County.

#### ARTICLE IX. INSURANCE

Section 9.1. Liability Insurance of the Food Pantry. At all times during the term of this Lease, the Food Pantry must keep in full force and effect a policy of public liability and property damage insurance with respect to the Premises and the business operated by the Food Pantry and any sub-tenants of the Food Pantry on the Premises. The limits of public liability for bodily injury and property damage must not be less than One Million Dollars (\$1,000,000) per accident, combined single limit. The policy must name the County as an additional insured. The policy will provide that the insurance thereunder may not be cancelled until thirty (30) days after written notice thereof to all named insured.

Section 9.2. Fire and Extended Coverage. During the initial and any renewal term of this Lease, the County will insure and keep insured, for the benefit of the County and its respective successors in interest, the Premises, or any portion thereof then in being. Such policy will contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time. The County will name the Food Pantry as an additional insured on such policy, as its interest may appear.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by the Food Pantry and the County pursuant to Sections 9.1 and 9.2 will be delivered by the County or the Food Pantry, as the case may be, to the other upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. The County and the Food Pantry each hereby release

the other from any and all liability or responsibility to itself or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty results from the negligence of itself or anyone for whom it may be responsible, provided, however, that this release will be applicable and in force and effect only with respect to loss or damage occurring during such time as any such release will not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

ARTICLE X. WASTE, NUISANCE, COMPLIANCE WITH  
GOVERNMENTAL REGULATIONS

Section 10.1. Waste or Nuisance. The Food Pantry must not commit or allow to be committed any waste or any nuisance upon the Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, the Food Pantry must, at the Food Pantry's sole cost and expense, comply with all requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Premises or the Food Pantry's use and occupancy thereof.

ARTICLE XI. FIRE OR OTHER CASUALTY

If the Premises are damaged so as to render two-thirds (2/3) or more of the Premises untenable by fire or other casualty insured against under the insurance required to be carried by the County pursuant to Section 9.2, the County may elect either to terminate this Lease as of the date of damage or to repair the Premises. Unless the County elects to terminate this Lease, such damage or destruction will in no way annul or void this Lease. Notwithstanding the foregoing, if any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, the Food Pantry may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to the County.

ARTICLE XII. CONDEMNATION

If the whole or any part of the Premises is taken under the power of eminent domain, then this Lease will terminate as to the part so taken on the day when the Food Pantry is required to yield possession thereof, and the County will make such repairs and alterations as may be necessary to restore the part not taken to useful condition. If the amount of the Premises so taken substantially impairs the usefulness of the Premises, then either party may terminate this Lease as of the date when the Food Pantry is required to yield possession.

ARTICLE XIII. DEFAULT

Section 13.1. Default. The occurrence of any of the following will be deemed a "default" under this Lease:

- (a) The Food Pantry fails to pay when due any amounts due under this Lease, including Articles IV and V, and such payment is not received by the County within ten (10) days after written notice of such failure is received by the Food Pantry; or
- (b) a default in any of the other provisions of this Lease, and such default continues

uncured for a period of thirty (30) days after written notice thereof from the County.

Section 13.2. Remedies. In the event of any default or breach hereof by the Food Pantry, the County may (in addition to all other rights and remedies provided by law) terminate this Lease or re-enter and take possession of the Premises, peaceably or by force, and remove any property therein without liability for damage to and without obligation to store such property, but may store the same at the Food Pantry's expense, and collect from the Food Pantry any amounts then due and which would accrue for the unexpired portion of the term hereof, together with reasonable attorney's fees. In addition, in the event of a failure to pay any amount due within five (5) days of its due date, the Food Pantry must pay to the County the greater of Twenty-Five Dollars (\$25.00) or one half (1/2) of one percent (1%) of such sum for each day after the fifth day such amount is late.

#### ARTICLE XIV. HOLDING OVER, ASSIGNS, SUCCESSORS

Section 14.1. Holding Over. Any holding over after the expiration of the term hereof, with the consent of the County, will be construed to be a tenancy from month-to-month at the same rent herein specified (prorated on a monthly basis) and will otherwise be on the terms and conditions herein specified as far as applicable.

Section 14.2. Showing the Premises. During the last ninety (90) days of the term hereof, the Food Pantry will allow the County, or its agents, to show the Premises to prospective tenants or purchasers at such times as County may reasonably desire.

Section 14.3. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, will extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. All covenants, representations and agreements of the County will be deemed the covenants, representations and agreements of the fee owner of the Premises. The County will be automatically released of any liability under this Lease from and after the date of any sale by the County of the Premises. All covenants, representations and agreements of the Food Pantry will be deemed the covenants, representations, and agreements of the occupant or occupants of the Premises.

#### ARTICLE XV. BROKER'S FEES

The Food Pantry and the County hereby warrant that there are no brokerage commissions due in connection with this Lease.

#### ARTICLE XVI. NO ASSIGNMENT

The Food Pantry may not assign this Lease or sublet all or any portion of the Premises, either directly or indirectly, without the prior written consent of the County. No assignment, sublease or transfer of this Lease by the Food Pantry will (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing the Food Pantry's obligations under this Lease, or (ii) relieve the Food Pantry of its obligations hereunder, and the Food Pantry will thereafter remain liable for the obligations of the Food Pantry under this Lease whether arising before or after such assignment, sublease or transfer.



ARTICLE XVII. SUBORDINATION OF AGREEMENT

This Lease and all rights of the Food Pantry hereunder are and will be subject and subordinate in all respects to (1) any mortgages, deeds of trust and building loan agreements affecting the Premises, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, upon the County's request, the Food Pantry will promptly execute and deliver an instrument in recordable form satisfactory to the County evidencing such subordination. If the Food Pantry fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefor, the Food Pantry hereby irrevocably constitutes and appoints the County as the Food Pantry's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of the Food Pantry. If any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, the Food Pantry may not withhold or delay its consent thereto.

ARTICLE XVIII. MISCELLANEOUS

Section 18.1. Waiver. A waiver by either party of any breach of any term, covenant or condition contained herein will not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition contained herein. The subsequent acceptance or payment of any amount hereunder by the County or the Food Pantry, respectively, will not be deemed to be a waiver of any breach by the Food Pantry or the County, respectively, of any term, covenant or condition of this Lease, regardless of knowledge of such breach at the time of acceptance or payment of such amount. No covenant, term, or condition of this Lease will be deemed to have been waived by the Food Pantry or the County unless the waiver be in writing signed by the party to be charged thereby.

Section 18.2. Entire Agreement. This Lease, and the Exhibits attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions and understandings between the County and the Food Pantry concerning the Premises; and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease will be binding upon the County or the Food Pantry unless reduced in writing and signed by them.

Section 18.3. Notices. Any notice, demand, request or other instrument which may be, or is required to be given under this Lease, will be in writing and delivered in person or by United States certified mail, postage prepaid, and will be addressed:

- (a) if to the County, at  
County of Albemarle  
County Executive's Office  
401 McIntire Road  
Charlottesville, Virginia 22902  
or at such other address as the County may designate by written notice;
- (b) if to the Food Pantry, at  
B.F. Yancey Community Food Pantry

7625 Porters Road  
Esmont, VA 22937-2112  
or at such other address as the Food Pantry may designate by written notice.

Section 18.4. Captions and Section Numbers. The captions and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 18.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance to any extent is held to be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, covenant, or condition of this Lease will be valid and be enforced to the fullest extent permitted by law.

Section 18.6. Governing Law. This Lease will be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 18.7. Counterparts. This Lease may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

**OCCUPANT**

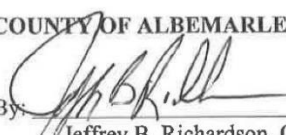
**B.F. YANCEY COMMUNITY FOOD PANTRY**

By:   
Berlinda Mills, Director

**COUNTY**

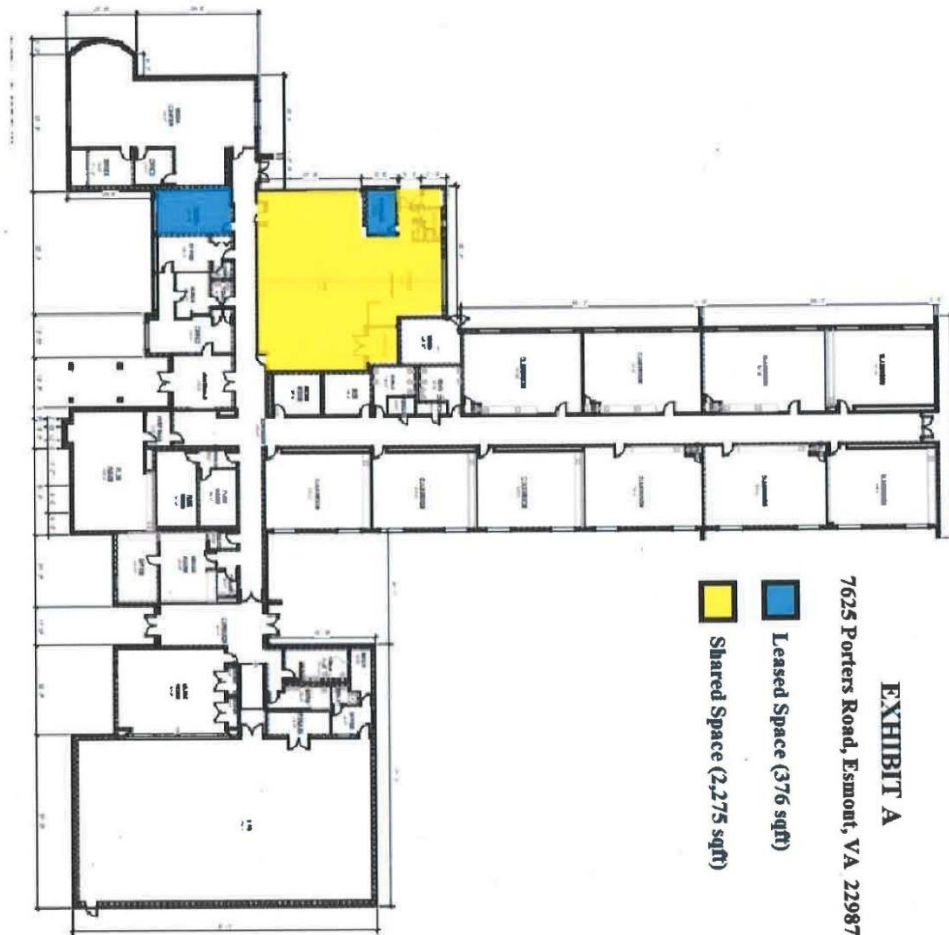
This Lease is executed on behalf of the County of Albemarle by Jeffrey B. Richardson, County Executive, following a duly-held public hearing, and pursuant to a Resolution of the Albemarle County Board of Supervisors.

**COUNTY OF ALBEMARLE, VIRGINIA**

By:   
Jeffrey B. Richardson, County Executive

Approved as to form:

  
Albemarle County Attorney



Agenda Item No. 25. **Public Hearing: SP2020-14 1680 Seminole Trail Auto Dealership Outdoor Sales, Storage and Display.**

PROJECT: SP202000014 1680 Seminole Trail Auto Dealership

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 06100-00-00-120T0

LOCATION: 1680 Seminole Trail

PROPOSAL: Establish outdoor sales/storage/display of vehicles on approximately .71 acres.

PETITION: Outdoor storage, display and/or sales serving or associated with a permitted use within the Entrance Corridor Overlay under Section 30.6.3.a.2.b of zoning ordinance. No dwelling units proposed.

ZONING: HC Highway Commercial – commercial and service; residential by special use permit (15 units/acre); EC Entrance Corridor Overlay District – overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access. AIA Airport Impact Area: Yes

COMPREHENSIVE PLAN: Core Area within Rio 29 Small Area Plan - area intended to have a mixture of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 3-6 stories, built close to the street, with pedestrian access and relegated parking. (Advertised in the Daily Progress on December 21 and 28, 2020)

The Executive Summary forwarded to the Board states that, at its meeting on November 24, 2020, the Planning Commission (PC) voted unanimously (7:0) to recommend approval of the special use

permit with conditions. Attachments A, B, and C contain the staff report, action letter, and minutes from the November 24, 2020 Planning Commission meeting.

Shortly before the Planning Commission meeting, the County Attorney's office advised staff that review of the special use permit request must be limited to "determining whether the outdoor storage, display and/or sales is consistent with the applicable design guidelines," as set forth in Sec. 30.6.3.a.2.b of the Zoning Ordinance. Consequently, the discussion in the PC staff report about conformity with the goals of the Rio29 Small Area Plan is not relevant to this request.

"The applicable design guidelines" in this case are the Entrance Corridor Design Guidelines. It is the responsibility of the Architectural Review Board (ARB) to apply the Entrance Corridor Design Guidelines in their review of development proposals within the County's Entrance Corridors. The ARB applied those guidelines in its review of this request on September 8, 2020 and recommended approval with conditions.

The County Attorney's Office made a few non-substantive revisions to the conditions, as included in the attached Resolution (Attachment D).

Staff recommends that the Board adopt the Resolution approving the special use permit for outdoor sales, storage and display (Attachment D), subject to the conditions attached thereto.

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Ms. Margaret Maliszewski, Chief of Planning and Historic Resources, said she would be presenting the request for a special use permit for outdoor sales, storage, and display of vehicles in the Entrance Corridor Overlay District. She said she would provide some basic information on the property and the request under review, as well as some general background on this particular type of special use and the Architectural Review Board's (ARB's) role in this process.

Ms. Maliszewski said this special use is requested by the site that is currently occupied by the Hardee's fast food restaurant prominently located on the southwest corner of the intersection of Route 29 and Rio Road. She said the parcel in question is zoned Highway Commercial, and motor vehicle sales is a permitted by-right use in this zoning district. She said sales, storage, and display of vehicles is considered accessory to motor vehicle sales.

Ms. Maliszewski said the general motor vehicle sales use was not what was under consideration that evening. She said outdoor sales, storage, and display was the focus of this review.

Ms. Maliszewski said that in the Entrance Corridor Overlay District, sales, storage, and display requires a special use permit. She said this site is bordered by two entrance corridors, as both Route 29 and Rio Road are designated entrance corridors in the County.

Ms. Maliszewski said the purpose of requiring a special permit for this use is to allow for the review of potential negative visual impacts on the entrance corridor streets. She said the intent of the Entrance Corridor Overlay is to ensure quality development is compatible with the County's important scenic, historic, architectural, and cultural resources. She said the County has Entrance Corridor Design Guidelines that have been adopted to help meet that intent, and the ARB applied those guidelines to the review of this application in a meeting on September 8, 2020.

Ms. Maliszewski presented the applicant's concept plan on the screen. She said the proposal includes 34 display spaces that are distributed along Rio Road, along Route 29, and adjacent to the south and west sides of the building. She said in this image, the proposed display parking is illustrated as a light orange color.

Ms. Maliszewski said to accommodate the display spaces adjacent to the building, the proposal includes the removal of the drive-thru structure on the south side of the building and the refrigeration unit on the west side of the building.

Ms. Maliszewski said the proposal also includes increased planting area along Route 29 and Rio Road. She said this increased planting area will be created by reducing the width of the travelways on the north and east sides of the building. She said these increased planting areas would allow for a significant amount of new tree and shrub plantings that would bring the site much closer to meeting the entrance corridor landscaping requirements.

Ms. Maliszewski said the proposal also includes the removal of nonconforming site lights and the removal of a nonconforming freestanding sign, as well as the consolidation of dumpsters onsite. She said it is possible that a portion of the retaining wall that currently exists on Rio Road could be removed in connection with the increase in planting area.

Ms. Maliszewski said that over the years, the ARB has established standard conditions for mitigating the impacts of outdoor display of vehicles. She said one of these is a requirement that vehicles not be elevated anywhere onsite. She said another is a requirement that cars only be parked in striped parking spaces. She said these conditions help maintain and organize an orderly appearance onsite, and they are among the conditions the ARB has recommended for this request.

Ms. Maliszewski said the increased planting areas, added landscaping, removal of nonconforming features, and other plant improvements are all positive changes that increase consistency

of the site with the Entrance Corridor Guidelines.

Ms. Maliszewski said the staff report does note that the proposed use is not consistent with many of the goals of the Rio29 Small Area Plan; however, shortly before the Planning Commission meeting that was held on November 24, 2020, the County Attorney's Office took another closer look at the ordinance section addressing this specific type of special use permit. She said staff was directed to limit their review for this particular type of special use permit to determining whether the use is consistent with the applicable Entrance Corridor Design Guidelines. She said as mentioned, the ARB has completed that review and recommended approval, with conditions.

Ms. Maliszewski said that consequently, staff has identified no factors unfavorable to this request. She said they have identified favorable factors, which include the recommendation of approval from the ARB as well as consistency with various elements of the Comprehensive Plan.

Ms. Maliszewski said that at the Planning Commission meeting, after some limited discussion, the Commission voted unanimously to recommend approval of the proposal with the conditions recommended by the ARB.

Ms. Maliszewski said staff's recommendation is for approval, subject to the conditions listed in the resolution (Attachment D). She presented the conditions on the screen, noting that she could also pull up the resolution and motions when the Board was ready. She offered to answer any questions.

Mr. Gallaway asked if the display spaces shown on the diagram were the exact number that one could count on the lot (which was about 20).

Ms. Maliszewski replied that the display spaces illustrated in the orange color on the diagram make up the total number of display spaces proposed. She said there are a few other parking spaces shown, which would be for employees and customers.

Mr. Gallaway opened the public hearing, noting that the applicant had 10 minutes to speak.

Mr. Scott Collins, representative for the applicant, said he was not there to make much of a presentation, as Ms. Maliszewski did a great job with her presentation.

Mr. Collins said he wanted to mention that this was a sort of interim plan. He said this is a prominent corner of the County, at the intersection of Rio Road and Route 29, but it is only about 0.75 acres, well short of 1 acre. He said the idea is that they enhance the landscaping aspect of this prominent corner with the occurrent use they are proposing, with the idea that this property could be combined with some of the other properties on that corner in a future setting, then be redeveloped to more or less what the Rio29 Small Area Plan is looking for.

Mr. Collins said the current owner of the property also owns a parcel two parcels down from this, and so of the five parcels that make up this corner, he owns two of the five. He said the idea is that this continues to conglomerate, and the properties could be combined in the future. He reiterated that this was more of an interim use, with the idea that this comes back in the future to be a much more pristine development at this corner. He said this was why the applicant concentrated on the landscaping to try to enhance the buffer between Rio Road, Route 29, and this property and create a landscape buffer that does not currently exist.

Mr. Collins said with all the improvements that were done with the Rio/29 thoroughfare, with sidewalks, there was not enough room for the buffer, and so the applicant is adding landscape buffers with this plan and trying to utilize the existing building for the use without putting much more money into the infrastructure of the building, knowing that it could be redeveloped in the future.

Mr. Collins said other than this, the applicant was okay with all of the conditions the ARB recommended for the approval. He said the owner was also online in case the Board had questions for him.

Ms. Price said she had no questions, but that she would have comments later.

Mr. Gallaway said he had some questions and comments. He said Ms. Maliszewski mentioned the retaining wall going away and the landscaping, and so he would ask Mr. Collins if he could talk about that in more detail. He said the retaining wall is there for a purpose and asked how the replacement would occur. He said he wanted to make sure that the purpose being achieved by the retaining wall is achieved by the new landscaping.

Mr. Collins replied that what the applicant has done is moved the existing parking lot away from Rio Road for about two-thirds of the property that fronts on Rio Road. He said as they moved parking away, it created more room for a landscaping buffer. He said they can grade this area out from their new parking lot down to Rio Road and thus eliminate a good portion of the existing retaining wall that is along Rio Road that had to be built when the road was enhanced in that location. He said one thing the applicant is seeking to do is limit those retaining walls and get more of a green buffer to make a more enjoyable pedestrian feel as they walk along that sidewalk.

Mr. Gallaway said his next question may be a better one for the owner. He said the last car dealership that was before the Board was Malloy, who was asking for more space. He said being in the

car business, he knows the difficulty that if there is too much inventory, one can be limited in where one can put it.

Mr. Gallaway said when he sees 22 display areas and asking the question if this is all, seeing in the application that they must remain parked within the striped areas, having dealt with the problem of having too much inventory and the urge to want to start tightening up cars where they are not one car per space, he wanted to know if this will be an issue for this business, or if the neighboring lot could be a place for overflow. He asked how parking will work out, or if inventory will not be an issue past the slots here.

As the applicant was not responding, Mr. Gallaway noted that there may be technical issues and that he was happy to receive the answer afterwards, either through written comment or through Mr. Collins if necessary. He said his question was not a hang-up, but making sure the cars stay in the spaces they are assigned to is going to be very important, even more so on this corner due to the location of the lot, just as it is with the other dealerships. He said he wanted to make sure that the commitment was there, and that the applicant would be able to deal with extra inventory without getting overcrowding on this particular location, as it will be watched.

Mr. Gallaway said he presumed he and the applicant were on the same page with this, and he suspected there was a plan for this, else it would not be a part of the agreement.

The applicant said it seemed as if Mr. Gallaway has been in the car industry and knows about the issue with car dealerships having overflow of inventory. He said this will not be an issue for him because they have another property called Auto Doctor, which is off Rio Road, and is over 1.6 acres. He said they would use this as an extra storage lot and would therefore not have overflow vehicles on the subject parcel.

The applicant said the reason he was acquiring this property is that the property he is currently operating out of does not have enough parking spaces. He said he was forced to get a better place, and so this was the resolution.

Mr. Gallaway said he did appreciate the comments about the interim nature of this. He said this is how they all imagine things will play out and that certainly, the landscaping is an improvement to what currently exists. He said there have been auto dealerships and that the body shop there (Brown's Collision Center) used to be a dealership. He said it makes sense for a dealership to be there. He said he is thrilled with the fact that it will look much better than what is there currently, as well as the fact that there is some mindfulness in looking ahead to the Rio29 Small Area Plan and perhaps a vision as to how to make some other redevelopments happen to fit with that.

Mr. Gallaway asked for confirmation that there was no one signed up to speak from the public.

Mr. Morris said this was correct.

Mr. Gallaway closed the public hearing and brought the matter back before the Board.

Ms. Mallek said she was especially assured by the interim nature and the fact that this could potentially grow into the form-based code future.

Ms. Price said Mr. Gallaway's comments addressed a large measure of her own. She said her initial concerns with a storage and display on a prominent corner were rightly reasonable, but she appreciated what the applicant has proposed and offered. She said she appreciated Mr. Collins' remarks and Ms. Maliszewski's presentation. She said she agreed with what Ms. Mallek said and so, at that point, she was satisfied and saw this as a good proposal.

Ms. LaPisto-Kirtley said she is excited about the enhanced greenspace and foliage, as she believes it will help the area a lot.

Mr. Gallaway **moved** that the Board adopt the resolution approving the special use permit for outdoor sales, storage, and display (Attachment D), subject to the conditions attached thereto. 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

Ms. LaPisto-Kirtley said she had one favor to ask. She asked if the applicant could pronounce his last name.

The applicant replied that his last name was pronounced "Mil-off."

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**RESOLUTION TO APPROVE SP 202000014  
1680 SEMINOLE TRAIL OUTDOOR SALES, STORAGE, AND DISPLAY**

**NOW, BE IT RESOLVED** that, upon consideration of the staff report prepared for SP 202000014 and all of its attachments, the information presented at the public hearing, any comments received, and the factors relevant to a special use permit in Albemarle County Code § 18-30.6.3, the Albemarle County Board of Supervisors hereby approves SP 202000014, subject to the conditions attached hereto.

\* \* \*

**SP 202000014 1680 Seminole Trail Outdoor Sales, Storage, and Display Special Use Permit Conditions**

1. Use of this site must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the concept plan "Application & Conceptual Layout Plan by Collins Engineering" last revised 09/21/20 (the Concept Plan),. To be in general accord with this plan, development and use of the site must reflect the general size, arrangement and location of the vehicle display/storage and landscape areas. Permitted modifications may include those required by the ARB, those necessary to satisfy the conditions of this special use permit, and additional landscaping/screening approved by the Site Plan Agent.
2. Vehicles must be displayed or stored only in areas indicated for display or storage on the Concept Plan.
3. Vehicles for sales/storage/display must be parked in striped parking spaces.
4. Vehicles must not be elevated anywhere outside of a building on site.
5. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of the ARB guidelines and/or the Zoning Ordinance to mitigate visual impacts of the proposed use.
6. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum height of new pole lights must not exceed 20'. Maximum light levels must not exceed 30 foot candles in the display lot and 20 foot candles in all other locations. Nonconforming poles and fixtures must be removed. All fixtures must have lamps whose color temperature is between 2000 and 3000 Kelvin.
7. The existing freestanding sign must be removed prior to commencement of the new use. Any new freestanding sign must meet zoning ordinance and Entrance Corridor requirements.

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Agenda Item No. 26. **Public Hearing: Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19.** To receive public comment on its intent to re-adopt an ordinance entitled "An Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19," which was most recently re-adopted on November 18, 2020 as an emergency ordinance (Ordinance No. 20-E(7) and thereafter amended on December 16, 2020 (Ordinance No. 20-E(8)). The ordinance establishes: (1) limitations on the number of persons at food establishments, farm wineries, limited breweries, and limited distilleries; (2) limitations on the number of attendees at gatherings; and (3) requires persons to wear face coverings in public places. The ordinance also includes definitions, specific provisions for when and how the above-described limitations apply, and imposes criminal penalties for violations. (*Advertised in the Daily Progress on December 21 and 28, 2020*)

The Executive Summary forwarded to the Board states that, since the early days of the COVID-19 pandemic, the World Health Organization, the United States Centers for Disease Control and Prevention, and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community, including wearing a cloth face covering when in public, limiting the size of gatherings, and limiting the duration of gatherings. With respect to restaurants, the Centers for Disease Control and Prevention have advised: (1) wearing cloth face coverings when less than six feet apart from other people or indoors; (2) wearing face coverings as much as possible when not eating; (3) maintaining a proper physical distancing if persons are sitting with others who do not live with the person; and (4) sitting outside when possible.

In response to concerns that the number of COVID-19 cases was rising and thousands of students would soon be coming to the community for the University of Virginia's fall semester, the Board of Supervisors adopted Ordinance No. 20-E(5), An Emergency Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19 (the "Ordinance") on July 27, 2020. The Ordinance, which became effective August 1, established regulations pertaining to: (1) the maximum indoor occupancy allowed at restaurants, farm wineries, limited breweries, and limited distilleries; (2) the maximum size of public and private gatherings; and (3) the requirement for persons to wear face coverings in public places. The Ordinance was narrowly focused to address these three areas of concern, provided exceptions in limited circumstances, and did not supersede the Governor's Executive Orders in those areas not regulated by the County, such as physical distancing, sanitizing hard surfaces, and other restrictions and practices not expressly addressed in the Ordinance.

Since its original adoption on July 27, the Ordinance has been amended several times as new information became available and the Governor adopted or amended Executive Orders.

At the time of writing this executive summary, the number of COVID-19 active cases, hospitalizations, and deaths are at or near record levels across the United States and in Virginia.

With limited changes, the Ordinance (Attachment A) for the Board's consideration is the same as



the emergency ordinance adopted by the Board on November 18, 2020, and amended on December 16, 2020. Two changes to the December 16 version of the Ordinance are updated recitals and a revised termination date in Section 9. This Ordinance is before the Board for public hearing and action because an emergency ordinance may be enforced for not more than 60 days, and that 60-day period will end on January 16, 2021.

Sections 4, 5, and 6 of the Ordinance are the key sections of the Ordinance, and are summarized as follows:

Section 4 limits the indoor occupancy of food establishments, farm wineries, limited breweries, and limited distilleries to 50 percent of the lowest occupancy load on the certificate of occupancy, or to 50 persons if the building or structure does not have an occupancy load. Neither Executive Order 72 nor its predecessors have a similar standard. The closest comparable standard in Executive Order 72 requires that parties in these establishments be separated by at least 6 feet. In Albemarle County, both the occupancy limit in the Ordinance and the separation requirement in Executive Order 72 apply to the establishments subject to Section 4.

Section 5 establishes a maximum gathering size of 10 persons, which is the same gathering size allowed by Executive Order 72. When the Ordinance was first adopted on July 27, 2020, the Ordinance allowed a maximum gathering size of 50 persons. At that time, Executive Order 67 allowed gatherings of up to 250 persons. The Ordinance also regulates two activities of local importance that are also regulated by Executive Order 72 - entertainment and amusement businesses and recreational sports - that have different gathering size limitations. The Ordinance imposes the same gathering size limitations as provided in Executive Order 72.

Section 6 requires persons five years of age and older to wear face coverings in indoor shared spaces and outdoors when physical distancing cannot be maintained. This requirement is consistent with Executive Order 72. The County's face covering requirement continues to differ from Executive Order 72 and its predecessors by the County requiring a person to provide written documentation from a doctor or health care practitioner in order to claim that a condition precludes them from wearing a face covering.

Lastly, relevant definitions and exceptions applicable to Sections 5 and 6 have been revised since the Ordinance was first adopted to be consistent with Executive Orders as they have been adopted or amended.

Staff recommends the Board adopt the proposed Ordinance (Attachment A).

Mr. Greg Kamptner, County Attorney, said this was the nonemergency version of the ordinance, which the Board has seen several times.

Mr. Kamptner presented on the screen a brief overview of the enabling authority of this particular ordinance. He said one caveat is that the County's regulations cannot be inconsistent with the general laws of the Commonwealth. He said the term "general laws" is a term of art that has a basis in the Virginia Constitution. He said only the General Assembly can adopt laws, and it is charged with adopting general laws. He said this is the origin of that terminology.

Mr. Kamptner said this ordinance works in tandem with the Governor's executive order. He said the County has some regulations that vary from the current executive orders that are in effect, but they are not inconsistent with the general laws of the Commonwealth.

Mr. Kamptner said this was the sixth or seventh time that this ordinance has been before the Board since its original adoption as an emergency ordinance back in late July of 2020. He said the most recent iteration of changes has reduced the gathering size. He said as the County had more restrictive gathering size regulations in place than the executive orders in place up until November 18, when the Governor reduced the maximum gathering size from 250 to 25, at that point, the ordinance needed to be amended to reduce the gathering size from 50 down to 25.

Mr. Kamptner said that on December 10, the Governor further reduced the maximum size of gatherings, and the Board adopted an emergency ordinance on December 16 to reduce the maximum gathering size.

Mr. Kamptner said the hearing that evening was for the nonemergency version of the ordinance. He said there are four sections that had material changes, and there were further refinements to a couple of the key definitions. He said Section 4, which deals with food establishments, farm wineries, limited breweries, and limited distilleries, there were no changes proposed there other than an update to cross-reference the executive orders.

Mr. Kamptner said in Section 5, which is about the maximum size of public and private gatherings, they are once again matching the reduction that appears in Executive Order 72, which reduces the maximum size from 25 to 10. He said there are some other revisions to clarify the section and to expressly include some of the gathering limitations that are also in Executive Order 72.

Mr. Kamptner said the last material section was Section 6, which is the requirement to wear face coverings in public places. He said there are some clarifications, and this is the one area that the County's ordinance has always varied from the various executive orders in place in that this ordinance

requires that a person claiming a physical condition exemption needs to provide written documentation from a health professional.

Mr. Kamptner said there were a couple other changes in the ordinance that were not outlined on the slide. He said one is updating the recitals. He said the ordinance is dated December 18, and obviously, conditions have further changed since this ordinance was drafted. He said related to that, the ordinance is scheduled to come back to the Board on or before April 7 for review. He said at that point, the recitals will be further updated, and restrictions will be on the table for review by the Board and recommendations based on the conditions of the pandemic at that time.

Mr. Kamptner said staff recommended approval of the proposed ordinance.

Ms. Mallek said she wished they could all figure out ways to turn these COVID numbers around.

Mr. Gallaway noted that Ms. Palmer had to exit the meeting for the remainder of the evening. He asked if anyone was signed up to speak to this item.

Ms. Borgersen replied that no one was signed up.

Mr. Gallaway he would open and close the public hearing portion and bring the matter back to the Board.

Ms. Price **moved** that the Board adopt the proposed ordinance in Attachment A. 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

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#### **ORDINANCE NO. 21-A(1)**

AN ORDINANCE TO PREVENT THE SPREAD OF THE NOVEL CORONAVIRUS, SARS-CoV-2, AND THE DISEASE IT CAUSES, COMMONLY REFERRED TO AS COVID-19

**WHEREAS**, on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as "COVID-19"); and

**WHEREAS**, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

**WHEREAS**, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Number Fifty-One ("EO 51") declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a "disaster" as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a national emergency in response to the spread of COVID-19; and

**WHEREAS**, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; spread is more likely when people are in close contact with one another (within about six feet)<sup>1</sup>, and by airborne transmission, which may be able to infect people who are further than 6 feet away from the person who is infected or after that person has left the space<sup>2</sup>; and

**WHEREAS**, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity<sup>3</sup>; and

**WHEREAS**, at this time, there is no known cure and no effective treatment of widespread application<sup>4</sup> vaccine; however, the first vaccine was approved for emergency use by the United States Food and Drug Administration on December 11, 2020 and distribution of available quantities began on December 13, 2020<sup>5</sup>, and as of December 18, 2020, approval of a second vaccine is pending<sup>6</sup>; nonetheless, at this time, people may be infected but asymptomatic and infect persons<sup>7</sup>; and

**WHEREAS**, the World Health Organization, the United States Centers for Disease Control and Prevention ("Centers for Disease Control") and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community: frequently washing hands, sanitizing frequently touched surfaces, wearing a cloth face covering when in

public, maintaining a separation of at least six feet between people (“social distancing” or “physical distancing”), limiting the size of gatherings in public places, and limiting the duration of gatherings<sup>8</sup>; and

**WHEREAS**, with respect to people wearing face coverings when in public, current evidence suggests that transmission of COVID-19 occurs primarily between people through direct, indirect, or close contact with infected people through infected secretions such as saliva and respiratory secretions, or through their respiratory droplets, which are expelled when an infected person coughs, sneezes, talks or sings; and some outbreak reports related to indoor crowded spaces have suggested the possibility of aerosol transmission, combined with droplet transmission, for example, during choir practice, in food establishments, or in fitness classes<sup>9</sup>; and

**WHEREAS**, according to the World Health Organization, fabric face coverings, “if made and worn properly, can serve as a barrier to droplets expelled from the wearer into the air and environment,” however, these face coverings “must be used as part of a comprehensive package of preventive measures, which includes frequent hand hygiene, physical distancing when possible, respiratory etiquette, environmental cleaning and disinfection,” and recommended precautions also include “avoiding indoor crowded gatherings as much as possible, in particular when physical distancing is not feasible, and ensuring good environmental ventilation in any closed setting”<sup>10</sup>; and

**WHEREAS**, the World Health Organization advises that people take a number of precautions, including: (i) maintaining social distancing because when someone coughs, sneezes, or speaks they spray small liquid droplets from their nose or mouth which may contain virus, and if other persons are too close, they can breathe in the droplets, including the COVID-19 virus, if the person coughing, sneezing, or speaking has the disease; and (ii) avoiding crowded places because when people are in crowds, they are more likely to come into close contact with someone that has COVID-19 and it is more difficult to maintain social distancing<sup>11</sup>; and

**WHEREAS**, the Centers for Disease Control caution that: (i) the more people a person interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading; (ii) the higher level of community transmission in the area that a gathering is being held, the higher the risk of COVID-19 spreading during the gathering; and (iii) large in-person gatherings where it is difficult for persons to remain spaced at least six feet apart and attendees travel from outside the local area pose the highest risk of COVID-19 spreading<sup>12</sup>; and

**WHEREAS**, the Centers for Disease Control state that cloth face coverings are strongly encouraged in settings where persons might raise their voice (e.g., shouting, chanting, singing)<sup>13</sup>; and

**WHEREAS**, the Centers for Disease Control advise, in restaurants: (i) wearing cloth face coverings when less than six feet apart from other people or indoors; (ii) wearing face coverings as much as possible when not eating; (iii) maintaining a proper social distancing if persons are sitting with others who do not live with the person; and (iv) sitting outside when possible<sup>14</sup>; and

**WHEREAS**, for these and related reasons, the Virginia Department of Health has stated that those businesses that operate indoors and at higher capacity, where physical distancing “recommendations” are not observed, sharing objects is permitted, and persons are not wearing cloth face coverings, create higher risk for the transmission of COVID-19<sup>15</sup>; and

**WHEREAS**, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; and

**WHEREAS**, as of July 21, 2020, the spread of COVID-19 in the Commonwealth, in the Thomas Jefferson Health District of which the County is a member, and in the County itself, had been increasing since late June, shortly before Executive Order Number Sixty-Seven (2020) and Order of Public Health Emergency Seven, Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19) (collectively referred to as “EO 67”) moved the Commonwealth into “Phase 3” of its reopening plan, the curve in the positivity rate of persons tested for COVID-19 was no longer flattened, and the community was currently experiencing more transmission of COVID-19; and

**WHEREAS**, on July 27, 2020, the Board of Supervisors adopted Ordinance No. 20-E(5), “An Emergency Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19 (the “Ordinance”), which became effective August 1, established regulations pertaining to: (1) the maximum indoor occupancy allowed at restaurants, farm wineries, limited breweries, and limited distilleries; (2) the maximum size of public and private gatherings; and (3) the requirement for persons to wear face coverings in public places; and

**WHEREAS**, as of September 7, Virginia’s 7.30 percent positivity rate in COVID-19 testing over a 14-day period exceeded the World Health Organization’s recommendation at that time that the positivity rate remain at 5 percent or lower for at least 14 days before governments lift public health and social measures (“re-open”)<sup>16</sup>; the seven-day positivity rate in the Thomas Jefferson Health District was 6.4 percent<sup>17</sup>; the community had just entered an uncertain period with approximately 4,400 students having returned to the University of Virginia to live on grounds since September 3, and in-person instruction beginning at the University on September 8.<sup>18</sup>

**WHEREAS**, on September 16, 2020, following a duly noticed public hearing, the Board of Supervisors adopted Ordinance No. 20-A(13), “An Ordinance to Prevent the Spread of the Novel Coronavirus, SARS-CoV-2, and the Disease it Causes, Commonly Referred to as COVID-19”; and

**WHEREAS**, as of November 9, 2020, the seven-day positivity rate in the Thomas Jefferson Health District was 1.7%; nationwide, as of November 9, 2020, new daily cases rose 29.1%, new daily reported deaths rose 20.9%, and hospitalizations rose 18.5%, all over the prior week, and the positivity rate among reported tests was 8%;<sup>19</sup> and all states and territories, with the exception of Puerto Rico, including Virginia (+10%, in addition to 21% the week before), reported increases in cases over the prior week<sup>20</sup>, and public health experts warn that, during the coming winter, with people spending much more time indoors and in drier air, will bring on a new surge in COVID-19 cases unless gatherings are limited, physical distancing is maintained, and face coverings are worn<sup>21</sup>; and

**WHEREAS**, the Board of Supervisors had on its agenda for November 18, 2020 a public hearing on the question of extending Ordinance No. 20-A(13) from November 18, 2020 to January 20, 2021; and

**WHEREAS**, on November 13, 2020, Governor Northam issued amended Executive Order Number 63 (2020) and Order of Public Health Emergency Five, Requirement to Wear Face Covering While Inside Buildings (collectively referred to as “EO 63”) and EO 67, and the introduction to EO 67 states that the “statewide percent test positivity rate is at 6.5%, an increase from 4.3% approximately one month ago,” that all “five health regions report a positivity rate over five percent and hospitalizations have increased statewide by more than 35 percent in the last four weeks,” that “[c]ase investigation interviews show a pattern of increased socialization with extended (non-household) family members and friends,” that “[r]ecent scientific literature suggests indoor settings contribute to community transmission,” and that “[m]odeling data demonstrates that large gatherings substantially increase transmission of the virus”<sup>22</sup>; and

**WHEREAS**, because EO 67 reduced the State-allowed maximum gathering size from 250 to 25 persons, the Board of Supervisors on November 18, 2020 adopted an emergency ordinance, Ordinance 20-E(7), which reduced the County-allowed maximum gathering size from 50 to 25 persons, among other changes; and

**WHEREAS**, on December 10, 2020, Governor Northam issued Executive Order Number Seventy-Two (2020) and Order of Public Health Emergency Nine, Common Sense Surge Restrictions, Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19) (collectively referred to as “EO 72”), which imposes further directions and restrictions, including a request for persons in Virginia to stay at home between the hours of 12:00 a.m. and 5:00 a.m. each day, and a reduction in the maximum size of gatherings, in response to increases in new COVID-19 cases, positive tests, and hospitalizations throughout Virginia<sup>23</sup>; and

**WHEREAS**, on December 16, 2020, the Board of Supervisors amended Ordinance No. 20-E(7) by adopted Ordinance No. 20-E(8) to reduce the County-allowed maximum gathering size from 25 to 10 persons, among other changes; and

**WHEREAS**, in November and December, most states reported record-high COVID-19 case counts, deaths, and greater demand for hospital beds<sup>24</sup>.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that:

**Sec. 1. Purpose**

For the reasons stated in the recitals, the purpose of this ordinance is to prevent the spread of COVID-19.

**Sec. 2. Authority**

This ordinance is authorized by Virginia Code § 15.2-1200, which enables the County, through its Board of Supervisors, to adopt “necessary regulations to prevent the spread of contagious diseases among persons . . .” that “are not inconsistent with the general laws of the Commonwealth.”

**Sec. 3. Definitions**

The following definitions apply to this ordinance:

- A. “Entertainment and amusement businesses” includes performing arts venues, concert venues, sports venues, convention centers, expos, movie theaters, museums, aquariums, fairs, carnivals, public and private social clubs, botanical gardens, entertainment centers, historic horse racing facilities, bowling alleys, skating rinks, arcades, trampoline parks, arts and craft facilities, escape rooms, amusement parks, and zoos, and other places of indoor public amusement.
- B. “Face covering” means an item normally made of cloth or various other materials with elastic bands or cloth ties to secure over the wearer’s nose and mouth in an effort to contain or reduce the spread of potentially infectious respiratory secretions at the source (*i.e.*, the person’s nose and mouth).

- C. "Farm winery" means an establishment that is required to be licensed as a farm winery under Virginia Code § 4.1-207.
- D. "Food establishment" means a food establishment as defined in 12VAC5-421-10 and the term includes, but is not limited, any place where food is prepared for service to the public on or off the premises, or any place where food is served, including restaurants, lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs. For purposes of this ordinance, "food establishment" does not include kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under Virginia Code § 53.1-68.
- E. "Gathering" includes, but is not limited to, parties, celebrations, wedding receptions, or other social events, whether they occur indoors or outdoors. The following are not "gatherings": (i) the gathering of family members who live in the same residence; (ii) the presence of more than 10 persons performing functions of their employment or assembled in an educational instructional setting; (iii) the presence of more than 10 persons in a particular location, such as a park or retail business, provided that those persons do not congregate; and (iv) the presence of more than 10 persons in shared spaces not expressly addressed in Section 5 but which may be subject to restrictions on the maximum size of gatherings in EO 72 or any state or federal law or order that are unique to that institution, business sector, facility, activity, or event.
- F. "Limited brewery" means an establishment that is required to be licensed as a limited brewery under Virginia Code § 4.1-208.
- G. "Limited distillery" means an establishment for which a limited distiller's license is required under Virginia Code § 4.1-206.
- H. "Public place" means: (i) any indoor place shared by other persons, including, but not limited to, local government buildings, retail stores, food establishments, theaters, personal care and personal grooming services, and transportation other than a personal vehicle; or (ii) any outdoor place shared by other persons. "Public place" does not include a person's residence or personal vehicle. "Public place" also does not include institutions of higher education and other schools, fitness and other exercise facilities, religious institutions and places where religious rituals are conducted, areas under state or federal jurisdiction or control, indoor shooting ranges, and the County courthouse buildings, provided that they, and any other institutions, business sectors, and locations shared by other persons not expressly addressed in Section 6 may be subject to face covering requirements in EO 72 or any state or federal law or order that are unique to that institution, business sector, facility, activity, or event.

**Sec. 4. Limitation on the Number of Persons at Food Establishments, Farm Wineries, Limited Breweries, and Limited Distilleries**

- A. *Indoor occupancy.* Indoor occupancy at food establishments, farm wineries, limited breweries, and limited distilleries must not be more than 50 percent of the lowest occupancy load on the certificate of occupancy issued by the County of Albemarle. If the building or structure does not have an occupancy load established on a certificate of occupancy issued by the County of Albemarle, indoor occupancy must not be more than 50 persons.
- B. *Persons at gathering are counted.* Persons participating in or attending a gathering who are indoors count towards the occupancy limits established by this section.
- C. *Persons working not counted.* Persons working at food establishments, farm wineries, limited breweries, or limited distilleries, either as employees or independent contractors, do not count towards the occupancy limits established by this section.
- D. *State requirements, recommendations, and guidance.* Except as provided in Sections 4(A), (B), and (C), this section does not affect any requirement, recommendation, or guidance including, but not limited to, those requiring or recommending physical distancing that apply to food establishments, farm wineries, limited breweries, and limited distilleries established in EO 72, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic.

**Sec. 5. Limitation of the Number of Attendees at Gatherings**

- A. *Generally.* All public and private in-person gatherings, as defined in Section 3(E), of more than 10 persons are prohibited, except as provided in Sections 5(B) and (C).
- B. *Entertainment and amusement businesses.* The total number of attendees (including both participants and spectators) at entertainment and amusement businesses cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons. Private bookings at entertainment and amusement businesses are subject to the 10-person limitation in Section 5(A).
- C. *Recreational sports.* The total number of spectators at indoor and outdoor recreational sports activities are limited as follows:

1. *Indoor sports.* For sports played indoors, the number of spectators may not exceed 25 persons per field and the total number of spectators may not exceed 30 percent of the occupancy load of the certificate of occupancy for the venue.
  2. *Outdoor sports.* For sports played outdoors, the number of spectators may not exceed two spectators per player and the total number of spectators may not exceed 30 percent of the occupancy load of the certificate of occupancy for the venue. Races or marathons may have up to 250 participants, provided staggered starts separate runners into groups of 25 persons or less.
- D. *State requirements, recommendations, and guidance.* Sections 5(A), (B), and (C) incorporate the gathering size limitations of EO 72 for common businesses, events, and activities in the County, however this section does not affect any other applicable requirement, recommendation, or guidance in EO 72 including, but not limited to, those requiring or recommending physical distancing pertaining to entertainment and amusement businesses and recreational sports. This section also does not affect any requirement, recommendation, or guidance pertaining to business sectors and other events and activities subject to EO 72, or as it may be further amended or superseded, any Order of Public Health Emergency, any workplace safety regulations, or any other State or federal laws related to the COVID-19 pandemic. This section also does not affect the exceptions in section II(D)(3) of EO 72.

#### **Sec. 6. Face Coverings**

- A. *Face coverings required.* Face coverings must be worn by all persons in public places, as defined in Section 3(H), except as provided in Sections 6(B) and (C).
- B. *Persons not required to wear face coverings.* Face coverings are not required to be worn by the following persons:
1. *Children.* Children four years of age or under.
  2. *Wearing face covering poses certain risks.* Persons for whom wearing a face covering poses a bona fide and substantial mental or physical health risk, such as persons who have trouble breathing, a health condition, or a disability, or persons for whom wearing a face covering poses a safety or security risk to persons who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance. For this exception to apply to any person claiming that wearing a face covering poses a substantial mental or physical health risk: (i) the person must present a valid document from a physician or other health care practitioner licensed, accredited, or certified to perform specified health care services, including mental health services, consistent with State law, specifying the medical necessity for not wearing a face covering, and the date on which the person may begin wearing a face covering again; and (ii) the public place must be unable to provide goods, services, or activities outdoors to the person or to the adult accompanying a child four years of age or under.
  3. *Certain employees.* On-duty employees exempt from wearing face coverings by workplace safety regulations promulgated by the State Safety and Health Codes Board, or exempt from face covering rules established by an applicable Executive Order of the Governor or an Order of Public Health Emergency by the State Health Commissioner.
- C. *Circumstances when face coverings are not required to be worn by any persons.* Face coverings are not required to be worn by any persons in the following circumstances:
1. *Outdoor activities.* While persons are engaged in outdoor activities in public places such as parks and other open spaces, provided that at least six feet of physical distancing from any person not living in the same household is maintained.
  2. *Eating or drinking.* While a person is eating food or drinking a beverage.
  3. *Exercising.* While a person is exercising or using exercise equipment.
  4. *Certain musical instruments.* While a person is playing a musical instrument, whether indoors or outdoors and in a rehearsal or during a performance, if wearing a face covering would inhibit playing the instruments, such as a wind instrument, if at least 10 feet of physical distancing can be maintained from other persons.
  5. *Communicating with the hearing impaired.* While communicating with the hearing impaired and for which the mouth must be visible.
  6. *Receiving services.* While receiving governmental or medical services if removing the face covering is necessary to receive the services.
  7. *End of waiver of Virginia Code § 18.2-422.* When the waiver of Virginia Code § 18.2-422, currently established in section III(F) of EO 72, or as it may be further amended or superseded, ends.
- D. *Responsibility of adults accompanying minors.* Adults accompanying minors should use their best judgment regarding placing face coverings on any minor between the ages of two through four in

public places. Adults accompanying minors between the ages of five through 17 must use reasonable efforts to prompt the minor to wear face coverings while in public places.

**Sec. 7. Effect of More Restrictive Executive Order or Order of Public Health Emergency**

Section 4, 5, or 6 does not apply when a more restrictive requirement in an Executive Order or an Order of Public Health Emergency is in effect.

**Sec. 8. Penalties**

- A. *Penalty for violation of Section 4.* A violation of Section 4 by the owner of the food establishment, farm winery, limited brewery, or limited distillery, and any manager or assistant manager, however titled, responsible for the operation and management of the food establishment, farm winery, limited brewery, or limited distillery on the date of the violation, is punishable as a Class 3 misdemeanor. Section 4(D) is not enforced pursuant to this ordinance.
- B. *Penalty for violation of Section 5.* A violation of Section 5 by the owner or tenant of the private property on which the gathering is located, is punishable as a Class 1 misdemeanor. A violation of Section 5 by any person attending the gathering, after first being warned by a law enforcement officer to disperse from the gathering because it exceeds the limitation for a gathering and having failed to disperse after a reasonable period of time not to exceed two minutes, is punishable as a Class 1 misdemeanor.
- C. *Penalty for violation of Section 6.* A violation of Section 6 by any person subject to its requirements is punishable as a Class 1 misdemeanor. No person under the age of 18 is subject to a criminal penalty for failing to wear a face covering.
- D. *Injunctive relief.* The County, the Board of Supervisors, and any County officer authorized by law, may seek to enjoin the continuing violation of any provision of this ordinance by bringing a proceeding for an injunction in any court of competent jurisdiction.

**Sec 9. Succession to Ordinance No. 20-E(8) and Duration**

This ordinance succeeds and supersedes Ordinance Nos. 20-E(8) and is in effect on January 6, 2021 and continues in full force and effect until April 7, 2021 unless it is amended, superseded, or repealed on or before that date.

**Sec. 10. Effect of this Ordinance on the Powers of the Director of Emergency Management**

This ordinance does not affect the powers of the County Executive, acting as the Director of Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster.

**Sec. 11. Severability**

It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

**State law reference –** Va. Code §§ 15.2-1200, 15.2-1427(F), 15.2-1429, 15.2-1432, 18.2-11.

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Agenda Item No. 27. **Public Hearing: An Ordinance to Amend County Code Chapter 6, Fire Protection.** To receive public comment on its intent to amend Sec. 6-100, Purpose, and Sec. 6-102, Establishment and composition of the coordinated fire and rescue system, of Chapter 6, Fire Protection, of the Albemarle County Code by deleting the references to the Scottsville Volunteer Rescue Squad as a member of the County's coordinated and integrated fire and emergency medical service system and to update a reference to the Virginia Code. (*Advertised in the Daily Progress on December 21 and 28, 2020*)

The Executive Summary forwarded to the Board states that, in a letter dated December 9, 2018, the Chair of the Scottsville Volunteer Rescue Squad's ("SVRS") Board of Directors informed the Albemarle County Fire and Rescue Department ("ACFR") that SVRS "had been "unable to attract sufficient membership to be able to provide a level of service that is anywhere near the equivalent of the service received by the balance of the County" and "formally request[ed] that ACFR take over the day-to-day operation of [the] squad with effect immediately." ACFR immediately thereafter began providing emergency staffing SVRS shifts. SVRS' membership continued to decline after December 9, 2018 to the point that, by April 17, 2019, ACFR was providing virtually all of the emergency medical services in the SVRS response area.

In its April 17, 2019 resolution (Attachment B), the Board "regrettably [found] that SVRS does not have and cannot reasonably be expected to recruit membership to justify its continued existence in the Albemarle County Coordinated Fire and Rescue System." The April 17, 2019 resolution removed SVRS "as a participant in the Albemarle County Coordinated Fire and Rescue System" and, as a result, SVRS was no longer authorized to provide emergency medical services in Albemarle County.

The proposed ordinance (Attachment A) removes the references to SVRS in Sections 6-100 and

6-102 of Chapter 6 of the County Code. For the reasons stated above and in the Board's April 17, 2019 resolution, the effect of this ordinance is to reaffirm SVRS's April 17, 2019 removal as a participant in the County's Coordinated Fire and Rescue System, and that, as of that date, SVRS was no longer authorized to provide emergency medical services in Albemarle County.

Staff recommends the Board adopt the proposed Ordinance (Attachment A).

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Mr. Kamptner said this is an ordinance to amend Chapter 6 of the County Code. He said the Board is familiar with the background of what has brought them to the public hearing for the ordinance.

Mr. Kamptner said the Board adopted a resolution on April 17, 2019 which, among other things, due to the condition of the ability of the Scottsville Volunteer Rescue Squad (SVRS) to provide services, the Board took the action to remove SVRS from the County's coordinated fire and rescue system.

Mr. Kamptner said related to that, the coordinated fire and rescue system exists in the County Code in Chapter 6, and so at this time, because SVRS is no longer a member of the system, staff is recommending that the references to SVRS be removed from Chapter 6. He offered to answer any questions.

Mr. Gallaway opened the public hearing and said he received confirmation that no one was signed up to speak. He closed the public hearing and brought the matter back before the Board.

Ms. Price **moved** to adopt the proposed ordinance (Attachment A). Ms. Mallek **seconded** the motion.

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

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

NAYS: None

ABSENT: Ms. Palmer

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#### **ORDINANCE NO. 21-6(1)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE 1, COORDINATED FIRE AND RESCUE SYSTEM, 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 6, Fire Protection, Article I, Coordinated Fire and Rescue System, Division 1, In General, and Division 2, Establishment of the Coordinated Fire And Rescue System, is hereby amended and reordained as follows:

**By Amending:**

Sec. 6-100 Purpose.

Sec. 6-102 Establishment and composition of the coordinated fire and rescue system.

#### **Chapter 6. Fire Protection**

##### **Article I. Coordinated Fire and Rescue System**

##### **Division 1. In General**

##### **Sec. 6-100. Purpose.**

The board of supervisors, determined to provide for the public safety, health and welfare of Albemarle County citizens and communities, hereby establishes a coordinated and integrated fire and emergency medical service system currently composed of the following, volunteer fire companies, volunteer rescue squads and the Albemarle County Department of Fire and Rescue:

Charlottesville-Albemarle Rescue Squad  
Crozet Volunteer Fire Department  
Earlysville Volunteer Fire Company  
East Rivanna Volunteer Fire Company  
North Garden Volunteer Fire Company  
Scottsville Volunteer Fire Department  
Seminole Trail Volunteer Fire Department  
Stony Point Volunteer Fire Company  
Western Albemarle Rescue Squad

In taking this measure to assure the most efficient and effective service possible and to meet the challenges of the growth and development of the jurisdiction, the board of supervisors specifically recognizes the essential and historical contributions of volunteers and the necessity of continuing and expanding volunteer participation, without which the county could not discharge its responsibilities.



The coordinated fire and rescue system shall work to develop an integrated and seamless systems approach to the provision of emergency services; promote the interests and welfare of county citizenry and communities; perform with maximum cost-effectiveness consistent with safety objectives; account for service delivery and resource utilization; and communicate and consider all views regarding the system.

(Ord. 11-6(1), 4-20-11; Ord. 21-6(1), 1-6-21)

## **Division 2. Establishment of the Coordinated Fire and Rescue System**

### **Sec. 6-102. Establishment and composition of the coordinated fire and rescue system.**

(a) The Albemarle County Coordinated Fire and Rescue System ("the system" or "the coordinated fire and rescue system") is hereby established pursuant to Virginia Code §§ 27-6.1 and 32.111.4:3 *et seq.* The coordinated fire and rescue system shall provide comprehensive fire, rescue, and emergency medical services throughout the county in accordance with state laws, county ordinances, and duly adopted policies issued by the system.

(b) The coordinated fire and rescue system shall be a combined force of non-employee volunteer members of the several fire companies and rescue squads, county employees, and county volunteers of the Albemarle County Department of Fire and Rescue. The following volunteer fire companies and rescue squads, and any others that may be duly established in the future, along with county volunteers, constitute an indispensable part of the public safety program for the county: Charlottesville-Albemarle Rescue Squad, Crozet Volunteer Fire Department, Earlysville Volunteer Fire Company, East Rivanna Volunteer Fire Company, North Garden Volunteer Fire Company, Scottsville Volunteer Fire Department, Seminole Trail Volunteer Fire Department, Stony Point Volunteer Fire Company, and Western Albemarle Rescue Squad.

(Ord. 11-6(1), 4-20-11; Ord. 21-6(1), 1-6-21)

**State law reference** – Virginia Code §§ 27-6.1, 32.111.4:3 *et seq.*

<sup>1</sup> Xponential Fitness v. Arizona, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at \*1 (D. Ariz. July 14, 2020) and cases and authorities cited therein; How Coronavirus Spreads | CDC.

<sup>2</sup> How Coronavirus Spreads | CDC.

<sup>3</sup> Xponential Fitness v. Arizona, No. CV-20-01310-PHX-DJH, 2020 WL 3971908, at \*1 (D. Ariz. July 14, 2020) and cases and authorities cited therein.

<sup>4</sup> <https://www.covid19treatmentguidelines.nih.gov/whats-new/> (use of remdesivir approved for certain patients on October 22, 2020); <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-monoclonal-antibody-treatment-covid-19> (use of investigational monoclonal antibody therapy bamlanivimab approved for certain patients on November 9, 2020).

<sup>5</sup> Hospitals await coronavirus vaccine shipments and wonder who gets the first shots - The Washington Post

<sup>6</sup> Covid live updates: Pence vaccinated on live TV as FDA prepares to authorize Moderna shots - The Washington Post

<sup>7</sup> South Bay United Pentecostal Church v Newsom, 140 S. Ct. 1613 (May 29, 2020) (Roberts concurring in denial of application for injunctive relief); on the fact that there is no effective treatment as of the date of this ordinance, see also [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters?gclid=EAlaIqObChMI9lvSvJPk6gIVGrbICh2TYw9QEAAAYASAAEgKjDfD\\_BwE#medicines](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters?gclid=EAlaIqObChMI9lvSvJPk6gIVGrbICh2TYw9QEAAAYASAAEgKjDfD_BwE#medicines); <https://www.health.harvard.edu/diseases-and-conditions/treatments-for-covid-19>; <https://www.mayoclinic.org/diseases-conditions/coronavirus/diagnosis-treatment/drc-20479976>.

<sup>8</sup> See <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html> and <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html> and links therein; <https://www.vdh.virginia.gov/coronavirus/#COVID-19-resources> and links therein.

<sup>9</sup> World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>.

<sup>10</sup> World Health Organization Scientific Brief, July 9, 2020 <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>; see also Statement of Dr. Michael Ryan, World Health Organization COVID-19 Virtual Press Conference, transcript page 12, [https://www.who.int/docs/default-source/coronaviruse/transcripts/covid-19-virtual-press-conference---17-july.pdf?sfvrsn=dd7f91a1\\_0](https://www.who.int/docs/default-source/coronaviruse/transcripts/covid-19-virtual-press-conference---17-july.pdf?sfvrsn=dd7f91a1_0) ("So it's all about the setting, it is about the duration you spend in that setting and it's about the intensity of the activities that you participate in in that setting and when you get into a particular setting, a very overcrowded situation in an indoor environment then effectively all bets are off because so many of the modes of transmission come into play; the aerosol route, the airborne route, the fomite or contamination route. So the more close you are to other people, the more you are inside, the more the activity is intense or involves very close social contact the more that multiple modes of transmission come into play. So in that sense it is about you understanding your risk, it is about you managing that risk and being aware of the situation that you find yourself in personally and reducing that risk for you, for your family, for your children and for your community. It is important, as I've said previously, that governments communicate those risks very, very carefully and it is also important that providers, authorities and others ensure that those environments are as safe as possible and that the risks are also managed.")

<sup>11</sup> <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>.

<sup>12</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events->

gatherings.html; see also <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>; How Coronavirus Spreads | CDC.

<sup>13</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>.

<sup>14</sup> <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/personal-social-activities.html>; Deciding to Go Out | COVID-19 | CDC.

<sup>15</sup> <https://www.vdh.virginia.gov/coronavirus/schools-workplaces-community-locations/businesses/>.

<sup>16</sup> <https://coronavirus.jhu.edu/testing/testing-positivity>

<sup>17</sup> <https://www.vdh.virginia.gov/thomas-jefferson/tjhd-covid-19-data-portal/>

<sup>18</sup> <https://www.cavalierdaily.com/article/2020/08/there-are-no-risk-free-paths-u-v-a-announces-no-changes-to-fall-semester-plans-for-in-person-instruction>

<sup>19</sup> <https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/>

<sup>20</sup> <https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/>

<sup>21</sup> <https://www.scientificamerican.com/article/why-covid-outbreaks-could-worsen-this-winter/>;

<https://www.forbes.com/sites/robertglatter/2020/10/25/dry-air-indoors-will-increase-transmission-of-covid-19-as-winter-approaches/?sh=1ce4e74720ee>; <https://blogs.webmd.com/public-health/20201019/will-covid19-get-worse-in-the-winter>

<sup>22</sup> <https://www.governor.virginia.gov/executive-actions/>

<sup>23</sup> <https://www.governor.virginia.gov/executive-actions/>

<sup>24</sup> U.S. coronavirus cases and state maps: Tracking cases, deaths - Washington Post

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Agenda Item No. 28. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Gallaway said the item that was parked for the evening was scheduling the homestays with the 125-foot setbacks on the Consent Agenda.

Ms. Price said she would propose that the Board approve directing to County staff that when homestay applications are made and the only item that requires Board approval is the 125-foot setback waiver for exception, that they authorize County staff to analyze that and, in the absence of a matter related to that particular application generating serious concern, that those specific exceptions (the 125-foot exceptions) be placed on the Consent Agenda.

Ms. Price said this will reduce the amount of time that the Board will have to spend on those 125-foot exceptions, such as the two that they had that day. She said it would recognize the expertise that County staff has so that if there is something other than the 125-foot exception, or if there is something related to the 125-foot exception that they believe would warrant it to remain on the action agenda, then it would be placed there. She said of course, any Supervisor at any time has the right to pull an item from the Consent Agenda.

Ms. Price said this would help to reduce the amount of time the Board is spending, since it appears (based on the last year of these, in her experience) that the 125-foot exception, standing alone, rarely actually requires significant Board time at their meetings.

Ms. Price said she would appreciate if Mr. Richardson and Mr. Kamptner would offer any thoughts as well.

Mr. Gallaway said he would first ask if the Supervisors had any reactions.

Ms. Mallek said she was fine to try this, with her one request being that the Supervisor of the district be informed and discuss the details of this with staff before the Consent Agenda item is listed.

Ms. Mallek asked if the same notice provisions would stay so that the only change was the format in which the Board would hear the issue.

Mr. Gallaway replied yes.

Ms. LaPisto-Kirtley said she agreed that this was a good idea, as it saves time and effort. She said she agreed with Ms. Mallek's inclusion that the Supervisor of the district be notified.

Ms. McKeel said she agreed and appreciated Ms. Price bringing this forward. She said that somehow, it did not seem like it had been a year and yet, it seems like it has been five years. She said she is in favor of this, but she believed Ms. Mallek's suggestion was good. She clarified that the neighbors would receive the same notification and that this would not change, and that going forward, the Supervisor of record would be notified so that they know it is coming before it actually hits the Consent Agenda.

Mr. Gallaway confirmed this.

Ms. McKeel said she was very pleased.

Mr. Gallaway said the part of this that was about alerting the Supervisor of record would be a new step for staff. He asked if there were any concerns on staff's part.

Mr. Richardson replied that he did not believe so. He said Mr. Doug Walker was on the call, who is highly connected into the CDD operations on a weekly basis. He said he knew Mr. Bart Svoboda was trying to come onto the call as well. He told Mr. Walker that if he were to see any flags or concerns, he knew he would chime in, and he appreciated Mr. Walker tracking this.

Mr. Gallaway said Mr. Svoboda had joined the meeting and asked if he wished to comment.

Mr. Svoboda replied that he believed this was good and would speed up the process. He said the notifications and conditions will be tied to a sketch and will follow the same process. He said this was really just a scheduling change and not anything to do with process.

Mr. Gallaway asked if alerting the Supervisor of record in that district would not be an issue for staff to handle.

Mr. Svoboda replied that it would not. He said staff can do those notifications at the same time they notify adjacent property owners.

Mr. Kamptner said one of the areas of the homestays that has come through that has caused the Board to stop and spend time discussing the applications is the screening requirement. He said one thing the Board may want to do is consider having this be a standard condition for any property line that is less than the 125 feet. He said it would either be a maintaining or a planting, and like the application heard that day, if that condition had been there already, it would have gone through with very little Board discussion.

Ms. Price said this was a good point.

Ms. McKeel said this was a great catch.

Ms. Mallek asked Mr. Svoboda if he felt there was a sufficient set of benchmarks, criteria, and checkboxes already in existence so that staff knows exactly what to follow and can feel confident that they are not being charged with making it up as they go along.

Mr. Svoboda replied yes. He said staff has already had the discussions since the early afternoon session regarding the buffer and how to get that placed within the conditions and the sketch. He said this is only about the 125-foot setback and not the other homestay exemptions. He said if there is a neighbor concern, or if staff recommends denial, then they will not be putting those applications on consent. He said this is only for the ones with approval that meet the standard criteria that they have been following with the 125-foot requests and the buffer.

Ms. Mallek said regarding what Mr. Svoboda just said, one other suggestion was perhaps in the letter to the neighbors, staff can find a way to inform them that if there is no feedback from neighbors, then the application is more likely to go through on the Consent Agenda. She said this would be an extra wake-up call that they need to speak up if they have a problem, as many people are reluctant to speak up.

Mr. Svoboda said yes.

Mr. Gallaway said obviously, the Board reserved the right to pull an item from Consent, if needed, and they would be mindful of that. He said the agenda had not been set but that later that month, there were three requests that fall in this category that would have been on the second meeting that month. He said the idea is that this could be their first trial run and if the Supervisors are okay, they can move those to Consent as he believed they fall under this category. He asked Mr. Svoboda if this would be appropriate.

Mr. Svoboda said this was correct, with the caveat that the language suggested by Ms. Mallek was not a part of this.

Mr. Gallaway noted that this would happen moving forward. He asked if a Supervisor could make a formal vote to move the items to Consent, as discussed.

Ms. Price **moved** that the Board approve the process by which homestay applications where if the only question relates to the 125-foot setback, provided that the buffer requirement is either met and will be maintained or will be planted, that County staff be permitted (with communication to the Supervisor of the magisterial district of record) to place those on the Consent Agenda rather than on the action agenda. 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

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Mr. Gallaway said the next item parked was a letter of support for policy which expands access to low- and zero-emissions vehicles.

Ms. McKeel said she believed most people in the meeting were familiar with 3C, which is the Community Climate Collaborative, which has done a lot of good work in the community around climate change and getting Charlottesville and Albemarle businesses onboard. She said 3C is asking the Board for a letter of support to go to the General Assembly around clean cars and initiatives that would encourage consumers to purchase clean cars.

Ms. McKeel said the Supervisors all had a copy of the letter, and she did not know if she needed to read the letter. She said she hoped everyone had seen the letter, but that the public had not seen it, and so she was not sure of the best way to proceed.

Mr. Kamptner said the public had not seen the letter, but he did not believe it had to be read. He said the Supervisors had it and had had the opportunity to read it. He said it will be a public record for anyone to see. He said Ms. McKeel may want to summarize it so that the public has an understanding of it.

Ms. McKeel said the letter is in support of policy which expands access to low- and zero-emission vehicles. She said it is a pretty self-explanatory letter, which states that transportation is responsible for 48% of climate emissions statewide and is a significant contributor to each of the community-wide emissions. She said vehicle electrification is essential. She said the letter states that 16 states have already passed standards requiring manufacturers to increase the availability of low-emission and zero-emission vehicles, and that combining these standards with tax incentives for the purchase of these vehicles will accelerate transportation electrification, improve public health, and support Virginia's continued leadership on climate change.

Ms. McKeel said this would be a letter signed off by the Chair, asking the General Assembly to look to legislation to pass, increasing the availability of low- and zero-emission vehicles in Virginia, and to provide consumers financial incentives to choose them.

Ms. Mallek said what intuition told her, which may be wrong, is that the legislature would also support charging stations and things that make it possible, if one owns one of these vehicles, to go anywhere. She said she did not know if this was in it or not, but it should be. She said the reason she did not get an electric vehicle was that she cannot get to Norfolk for a meeting without stopping to charge up.

Ms. McKeel said this was right and that she did not disagree. She said the Board could certainly add in their own sentence if they wanted to.

Ms. Mallek said that question was not answered in the letter.

Ms. McKeel said this could be added in the cover letter or email that goes to the legislature about the fact that they would love to have the ability to help with charging stations. She said it would be nice if the Board could support sending the letter. She said the General Assembly would be starting soon, and so she was trying to bring up the letter at this meeting so that they were not trying to get it out at the last minute.

Ms. Mallek agreed, adding that the General Assembly was starting a week from that Thursday.

Ms. McKeel said there was a copy of the letter for Mr. Gallaway.

Mr. Gallaway asked Ms. McKeel if she could forward it to him and to the Clerk.

Ms. McKeel replied yes. She asked if a vote was needed or if consensus would suffice.

Mr. Kamptner asked that there be a vote.

Ms. McKeel **moved** that the Board support the Community Climate Collaborative's initiative regarding expanding access to low- and zero-emissions vehicles by sending a letter to the General Assembly. 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

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Mr. Gallaway said he would go through the Supervisor speaking order to see if there were any other items.

Ms. Price said the Board is a local body that deals with local issues, but they know that what happens nationwide affects them. She said the pandemic affects them because it infects people around the country, and the economic fallout from the pandemic affects them. She said she could not close that evening without thinking about what happened in Washington, D.C. that day. She said she thinks every American needs to step back and think about what they do and say because it does have consequences. She said this was a sad day in America.

Ms. LaPisto-Kirtley thanked Ms. Price for her comments.

Ms. McKeel also thanked Ms. Price and said she wanted to remind everyone still listening that the COVID situation is increasingly more concerning in their locality. She urged people to ramp up their mask wearing if they have not been consistent about it. She said they need to keep the hospitals' and first responders' ability to deal with this crisis. She asked people to be safe, mask up, social distance, and stay at home as much as possible.

Mr. Gallaway said the Board could expect an update at the next meeting from the Health Department.

Agenda Item No. 29. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Jeff Richardson, County Executive, said Ms. Price and Ms. McKeel both provided nice transition comments to his brief comments, which were basically to remind the Board that the normal process and batting order of inviting leadership from the regional Health Department will land on January 20.

Mr. Richardson said he would bring to the Board's attention several items. He said one was that the Governor held a press conference that day at 2:00 p.m., and County staff monitored that press conference. He said staff would be meeting in the morning at 8:00 a.m. with the regional Health Department leadership to talk about the framework that was provided and is on the Governor of the State of Virginia's website regarding the framework for essential workers and the categories provided in 1b and 1c, moving forward. He said this will be helpful for all counties across the state on the administering of the vaccination.

Mr. Richardson said he also wanted to tell the Board that under the guidance of the Incident Management Team (IMT), Mr. Doug Walker and Mr. Trevor Henry had staff visit the old Kmart site that week with health officials in town, with the goal of understanding the logistics of how this will work, with the simple question of, "How can our County Government help?"

Mr. Richardson said they will be working hard, and this will be an ongoing topic of discussion that week with the Health Department leadership, Public Safety officials, and IMT to see how they can share resources and work closely, as they have in the past, with UVA and the City as they keep one foot firmly planted in managing case load and working locally and regionally on positivity rates. He said at the same time, they are also keeping one foot in the area of vaccination administration.

Mr. Richardson said they will be focusing on planning, logistics, and doing what they can to help the amazing Health Department serve the citizens and community members of the area. He said there will be a robust update to the Board on January 20 by the Health Department, as this would be in two weeks and the team will have made a lot of headway in that period on working on vaccine administration and the logistics.

Mr. Richardson stopped to see if there were questions from Board members. He said he would elaborate as he could and would let them know if he could not supply information.

Agenda Item No. 30. Adjourn.

At 7:21 p.m., the Board adjourned their meeting to January 20, 2021 at 1:00 p.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Chair

Approved by Board
Date 03/01/2023
Initials CKB