

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 18, 2021 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection, due to the COVID-19 state of emergency.

BOARD MEMBERS PRESENT: Mr. Ned Gallaway, Chair; Ms. Donna Price, Vice-Chair; Ms. Beatrice (Bea) LaPisto-Kirtley, Ms. Ann Mallek, Ms. Diantha McKeel, and Ms. Liz Palmer.

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 1:00 p.m. by the Chair, Mr. Ned Gallaway.

Mr. Gallaway stated that 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." He said that the opportunities for the public to access and participate in the electronic meeting were posted on the Albemarle County website, on the Board of Supervisors' homepage, and on the Albemarle County calendar. He stated that participation included the opportunity to comment on those matters for which comments from the public would be received.

---

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

---

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Gallaway said at Ms. Palmer's request, they would add for discussion under item #18 (From the Board) a conversation about revising AC ordinance to update language to specify decibel levels in relation to property lines, etc.

Mr. Gallaway said at Ms. Price's request, they would add a conversation about calculating density in a development proposal, as well as requesting that VDOT provide maps showing roads for acceptance or deletion into the state secondary system of highways for inclusion in the Board agenda packet.

Mr. Gallaway asked Ms. Mallek if she wanted to remove a consent agenda item.

Ms. Mallek said she wanted to pull for discussion 8.3 and add under #18 a discussion about the legislative priorities information that was included in the Board's packet.

Ms. LaPisto-Kirtley **moved** to adopt the final agenda, as amended.

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

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

---

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

Ms. Palmer said she had seen her very first monarch of the year that morning, but it was not in Darden Towe on the plants there.

Ms. Mallek said she had seen one the day before.

Ms. Price said the Scottsville District had been hit hard with some storms recently, especially near the Town of Scottsville. She expressed great appreciation to everyone who had pulled together to try to help take care of their neighbors, particularly Mr. Jack Maxwell. She said over the last several weeks, he has established and created a weather tracker and a storm tracker and has been able to provide detailed information to the County, the state, and businesses, which has been able to help restore some service. She said that was a great example of a community member helping to take care of the community.

Ms. Price said that Michael Culp of the Albemarle County broadband office and she had been working with Scottsville officials and are scheduled for September 20 to do a presentation on actions they've been taking to get restoration of service by the internet provider CenturyLink there. She said she had also invited CenturyLink to attend and participate, and she would remain after the presentation to talk and meet with community members as they do what they can within the limits of County authority to help restore service.

Ms. Price expressed her great appreciation for the members of the community who reach out to the Supervisors and County employees, understanding the work they do and the efforts they make. She said there is a segment of the population, however, which has been disturbing, around the country and in some neighboring communities, and she has started to see a little bit of that in some of the

communications the Supervisors get. She said, for example, she has had a number lately that start off, "As your constituent and your boss, I demand that you..." and then tell the Board what actions they want taken; whether it has to do with demanding a mask mandate or prohibiting a mask mandate, vaccinations, an ordinance being discussed later that evening with regard to weapons on County property, housing coming out of some of the CAC meetings and community meetings, development, etc.

Ms. Price said while the vast majority of the community is very respectful in the way they engage in their communications with the Board, there is a segment that is a little upsetting and of concern to her. She said she was speaking with a wise member of the community recently who reminded her of Edmund Burke's speech to the electors of Bristol on November 3, 1774. She said Edmund Burke was an Irish statesman, philosopher, and economist, and he was a conservative thinker who specifically addressed this: When officials are elected, they are there to use their best judgment in making the decisions they believe best provide for the health and welfare of the community, not necessarily the loudest voice, and there are times where reasonable minds can differ. She said the electorate does decide who gets voted into office, but once they are in office, they are elected based upon an expectation that they would use their best judgment and not simply listen to the loudest voice or sometimes even the largest number of voices. She said she also adopts this philosophy, and she has asked the Clerk to append the letter of Mr. Burke for the record and recommended it for reading.

---

Agenda Item No. 6. Proclamations and Recognitions.

a. Resolution of Appreciation for Lorna Gerome.

Ms. Palmer **moved** to adopt the Resolution of Appreciation for Lorna Gerome as she read it aloud. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Mr. Richardson said there was not a lot that he could say to really elaborate on the wonderful resolution to exemplify a public servant's career. He said it was always an honor and privilege to serve with people who devote their entire professional career to public service. He said the word that first comes to mind when he thinks of Ms. Gerome is kindness. He said that is how he would describe Ms. Gerome, and somewhere along the way growing up, someone had suggested to her that she get into the people business, and that was probably good advice. He said Ms. Gerome exemplifies kindness and care with every single thing she touches.

Mr. Richardson said he had only had the honor to work with Ms. Gerome for four years; many colleagues had worked with her for a much longer period of time. He said the smile on her face every day when she comes to work exemplifies her care and her excitement for being a part of Albemarle County public schools and local government. He said she was amazing because she was asked to move in two directions at once, and she did that aptly and happily every day. He said they would miss her greatly and thanked her for her service.

Ms. Gerome thanked the Board for the recognition. She said she felt very special and appreciated, but all of the achievements are really credited to the wonderful staff in Human Resources. She said she has been so proud to lead that team; they are talented, caring, adaptable, and resilient. She said while she was excited for her retirement journey, volunteering, traveling, and more time with family, it is bittersweet. She said she has loved working and serving the County and schools. She said she was appreciative of all the encouragement and support, both personal and professional, that she has received from many individuals over the years that has helped her to grow continuously as a leader.

Ms. Gerome said she was grateful for the kind of leaders she has had the opportunity to work for; visionary, ethical, innovative, and compassionate leaders who consider the people implications when making decisions. She said she knew, based on conversations with HR colleagues in other localities and school divisions, that she is very fortunate to work for elected officials who value diversity, equity, and inclusion, and who truly appreciate and value employees, who make Albemarle County a wonderful place to learn, live, work, and play.

Ms. Mallek said while it is absolutely a team effort and a very large department and a huge constituency that HR has to deal with, leadership really matters. She said she has seen three different leaders in this department, and she is grateful for Ms. Gerome's kindness but also her care for details and the fact that they are avoiding costly errors and costly decisions that have plagued them in the past. She said that was a wonderful legacy that she hoped Ms. Gerome would be very proud of, because it is important for all of them to do the best job they can with the resources.

Ms. LaPisto-Kirtley said although she and Ms. Gerome had not gotten to spend a lot of time together because of COVID, something she regretted, she supported everything she had heard. She said the resolution certainly states all that Ms. Gerome has done, and she agreed with Ms. Mallek that leadership and ethics are very important in doing the job. She said their team could not have done the job without Ms. Gerome's leadership and told Ms. Gerome to enjoy her retirement.

Ms. Palmer said she was curious what types of volunteering Ms. Gerome was going to do. She said there was nothing she could add to the resolution about Ms. Gerome's work ethic and the wonderful

job she had done. She said she has been very impressed by Ms. Gerome's kindness and attention to the few difficult situations in which she has had to turn to Ms. Gerome for help. She said the resolution acknowledged that caring, compassionate leadership, and she appreciated that and thanked her for all the time she had spent with Albemarle County government.

Ms. McKeel said that in reading the resolution, she just kept thinking to herself that she cannot imagine the HR department without Ms. Gerome. She said when she looked at the years, she realized she has never been around their HR department when Ms. Gerome was not there, whether it was when she was on the School Board or now the Board of Supervisors. She said Ms. Gerome has skillfully led the HR department, which is one of the most important departments in any organization; she has helped with multiple searches for employees, whether it was Superintendent or County Executive, and had done those searches extremely well. She said her expertise and kindness and outreach, whether to County government employees or school employees, were outstanding.

Ms. Price told Ms. Gerome that when she sees her, she is often reminded that it is not just what one says but how one says it, and her attitude and professionalism come across just as powerfully as the work that she undertakes. Ms. Price said one of her favorite phrases is, "Without ground support, there is no air support." She said what the County does largely is external, it is air support, but without ground support, that air support cannot be done; without the work that Ms. Gerome has led in human resources, they were incapable of providing that air support. She thanked Ms. Gerome for taking care of their ground support mission.

Mr. Gallaway said that being on the Board over the last four years, he has observed that there are many people who have been with the County for a long time, but his interaction with them had been only for a handful of years. He said Ms. Gerome is the one department head who from his time on the School Board through to today has consistently been there, so that is over 10 years. He said he was starting to appreciate and understand the sentiment of the other Supervisors who have longer tenure.

Mr. Gallaway said during that time, he appreciated the fact that any time he called, whether it was urgent or not, it was treated with urgency and a fast response. He thanked Ms. Gerome for that. He said HR sometimes is one of those fields with or without expertise that everyone feels like an expert in, and Ms. Gerome has had to deal with a lot of nonexpert questions in a very public way. He stated that he always appreciated the fact that with great poise and great care, she answered those questions the "experts" were asking of her. He said he has always appreciated her approach with elected officials when they talk about things like compensation and raises, etc.

Ms. Mallek said she wanted to pass along some advice from Leonard Sandridge. She said when she called him after he retired from the University to ask him to do something for her, he had responded that he was not going to say "yes" to anybody for a year because then he could decide what he really wanted to do because he was already being buried.

Ms. LaPisto-Kirtley told Ms. Gerome she has a year now to move into the Rivanna District and then they can work together.

Mr. Gallaway said on behalf of the Board of Supervisors and the County, he wanted to thank Ms. Gerome for her many years of service, not just to the Board and to her own department, but to the citizens of Albemarle. He wished her all the best in her retirement.

---

#### **Resolution of Appreciation for Lorna Gerome**

**WHEREAS,** Lorna Gerome has faithfully served the County of Albemarle, Local Government, and Public Schools for over 21 years with the Department of Human Resources, serving the community in the role of Assistant Director and then Director for the last 10 years; and

**WHEREAS,** Lorna has shown superior leadership in progressively maintaining the common interests of the local government and school division for more than two decades, as well as serving multiple partner agencies; and

**WHEREAS,** Lorna has exhibited strong human resources acumen in her efforts to carefully and purposefully facilitate meaningful compensation and benefits programs, by initiating and coordinating the local government's and school division's joint compensation policy and strategy, recently-approved public safety pay scale, time and attendance program and policy implementation, long-term disability program, VRS hybrid disability program, wellness and safety program implementation, introduction of a high-deductible health plan program; and

**WHEREAS,** Lorna has relied on her professional expertise to thoughtfully understand and manage organizational risks and liabilities, while maintaining all stakeholders' interests; and

**WHEREAS,** Lorna is highly regarded throughout her department, the local government, school division, and by all partner agencies and stakeholders, as a thoughtful, kind, caring and compassionate service-oriented leader who savors every opportunity to champion professional growth, equity, pluralism of thought, business partnering, and all aspects of pursuing an ideal work environment allowing great people to do great work.

**NOW THEREFORE BE IT RESOLVED**, by the Albemarle County Board of Supervisors that Lorna Gerome is hereby honored and commended for her many years of exceptional service to the County of Albemarle, Albemarle County Public Schools, the Department of Human Resources, Albemarle County residents, family and students, the broader community in which we live, and the entire Commonwealth of Virginia with knowledge that Albemarle County is strengthened and distinguished by Lorna's dedication, commitment, professionalism, and compassion in meeting community needs.

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

---

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

Mr. Finn Maloney, Rio District, said he was speaking that day as a member of Charlottesville DSA. He said he was asking the Board to allocate funds to ensure right to counsel for tenants facing eviction in Albemarle County. He said during the continuing COVID pandemic, evictions represent a public health risk on top of the economic trauma that they have always caused to families, and he believed that ensuring legal representation for these families is a crucial step to protecting the community.

Mr. Maloney said that in addition to informing tenants of their rights and protecting tenants from being wrongfully evicted, this representation would help tenants access existing rent relief programs that they might not otherwise have the time or legal expertise to apply for. He said Charlottesville DSA has documented eviction hearings in both Albemarle and Charlottesville, and much more often than not, tenants facing eviction did not have legal counsel; of those without counsel, about a third were evicted, while those with legal representation, at least in Charlottesville, were able to set trial dates or have their cases dismissed.

Mr. Maloney said in this system, it seems that landlords and tenants are simply not on an even playing field, as tenants are often not aware of their rights; for example, they may not be aware of measures such as the CDC's eviction moratoriums that would rightly prevent them from being evicted. He said he believed that a person's inability to access this legal representation on their own should not prevent them from being treated fairly under the law.

Mr. Maloney said the Charlottesville City Council has stepped up recently and allocated \$300,000 to provide legal representation for its tenants. He urged the Board of Supervisors to use funds from the American Rescue Act to match this or to allocate a proportional level of funding, about \$600,000, to address the eviction crisis in the County. He said not only would this give families in Albemarle a fighting chance to avoid the long-lasting consequences of eviction, but it could also be an investment that would see returns in other areas of spending, as has been seen for other localities that made this commitment. He said this was about protecting the community and ensuring that laws were being applied fairly across the board. He thanked the Board for their time and for considering this.

---

Ms. Diane Boyle, White Hall District, addressed the Board and said she was with her sister, Sue Smith, to share their experience with homestays in Albemarle and to provide the Board with a more nuanced understanding of how the new rules affect real people.

Ms. Boyle said her parents bought 123 acres in Earlysville in 1964 and built their dream home. She said she went to Broadus Wood Elementary, and she and her sister both graduated from Albemarle High School. She said her parents loved the property, and she and her sister inherited that love and have passed it on to her two 30-something girls. She said she and her sister inherited the property when her mom passed in 2015 and had to grapple with the painful choice of what to do next.

Ms. Boyle said at first, they approached Roger Ray & Associates surveyors for a development plan in accordance with their development rights for future subdivision. She said while they were interviewing local real estate agents, it was suggested that they may look into short-term rentals as a means of keeping the property. She said after associating with Virginia Guesthouses and Drew Thomasson, they discovered that short-term rentals have indeed been a lifesaver.

Ms. Boyle said they have a local caretaker, Julian Beachy, who actually took care of the property while her mom was alive. She said Mr. Beachy bought one of their plots to build a home for his family while still being able to care for the property. She said utilizing the home as a homestay has minimal negative impact on neighbors as it is nestled in the woods 200 feet and invisible from the road, 400 feet from the nearest neighbor. She said while short-term rentals have never been consistently profitable, they have allowed them to pay property taxes and maintain the property, including refinishing the floors and replacing the roof and HVAC system.

Ms. Boyle said the biggest benefit has been the warm, heartfelt appreciation from the families who enjoy their home and the area. She said they have consistently had stellar guest ratings and delightful stories of guest stays. She said they had a family who had not been able to get together because of foreign deployment; they gathered at the house, and the grandmother was able to meet her

grandchildren and celebrate both Thanksgiving and Christmas during their stay. She said they used her mother's china and even put up a Christmas tree. She said they have been able to provide a home away from home to so many.

Ms. Boyle said another important benefit is that they employ local cleaners and service people. She said their guests patronize local establishments such as winery tours. She said they are able to contribute to the local economy in many ways. She said after paying their short-term occupancy tax and sales tax for three years through Virginia Guesthouses, it has been heartbreaking for them to have received a violation notice. She said they have complied and stopped short-term rentals but cannot afford to keep the property without this income. She said not all short-term rentals are a detriment to the County, and the Board should consider exemptions on large inherited properties like theirs that instead are a real benefit to the community.

---

Ms. Susan Smith, White Hall District, thanked the Board for their service and the opportunity to speak. She said she knew some of the Supervisors have sympathy for their story; it is hard to make rules that apply fairly to every situation, which is why special exceptions are so important. She said some homestays are assets to their communities, attractive to visitors and considerate to neighbors, add jobs to the economy, and pay taxes. She said these are the keepers, except sometimes they are not the owner's primary residence like inherited properties or restored cabins.

Ms. Smith said the resident manager special exception gives the Board the opportunity to consider the circumstances and the flexibility to decide what is best for the County in each case. She said the current ordinance allows the special exception only for lots under five acres, not for larger rural lots. She said, for example, if her niece lived in their house with a lot of four acres and wanted to have a homestay, they could apply for a permit with her as resident manager; if the lot were five acres or more, they were automatically denied. She said this distinction was not intentional and is arbitrary, and there currently is no path for a permit for lots five acres or over that need a resident manager.

Ms. Smith said equal treatment under the law is fundamental; all property owners should have the same opportunity to make their case. She said undesirable hosts could still be denied a permit for cause. She said she has heard the Board wrestle with the vacation rental businesses, some with multiple units, potentially commercializing neighborhoods and bringing a steady flow of strangers, too many cars, and noise. She said these problems are most disturbing in dense communities of small lots and asked why the County would ban resident managers in widely spaced rural areas.

Ms. Smith said when the subject of larger parcels comes up, the conversation generally turns to corporate owners, as if large parcels lead to big business. She said this is no longer the case; when the whole-house rentals were limited to 45 days a year, the profit incentive dissolved, as income would not begin to pay expenses. She said developing land for the purpose of vacation rentals no longer makes economic sense, so the fear of larger lots being used in this way should not drive policy. She said if a nonconforming cluster of vacation homes already exists, there are numerous other enforcement tools available, such as development rights, permitted density, the two-homestay limit per parcel, the 45-day limit, and noise or disturbance ordinances.

Ms. Smith said banning resident managers on large parcels is not the answer. She said in addition to being discriminatory, the policy of denying the special exception for resident managers solely by lot size results in lost revenue for the County, and by reducing income options for large properties, it actually encourages subdivision and development in rural areas where it is the least appropriate. She asked the Board to please revise the ordinance to allow the resident manager special exception, regardless of property size, to make good, reasoned judgments with all the facts.

---

Mr. Javier Raudales, Rio District, said he was speaking as a long-time resident of Albemarle County. He urged the Board of Supervisors to support right to counsel for those facing evictions. He said as a community member, he speaks with members of the Latinx community, hardworking immigrants, who due to the impact of COVID-19 on the job market currently face a legal system that is unfamiliar and set against them. He said right to counsel for these members of the community should be complementary to rent relief efforts.

Mr. Raudales said he speaks with community members in his personal life who are unfamiliar with the frightening court system; when the court system is unfamiliar, it is intimidating. He said right to counsel would ensure that all members of the community have equal footing with landlords who almost always have an attorney. He said his community is often unable to afford an attorney; right to counsel would be greatly beneficial for community members that he speaks with who work long hours in hard jobs during the same times that court dates are normally held.

Mr. Raudales said having a right to counsel is a question of justice. He said community members are supported in navigating the legal system and are represented in a manner that the legal system is just to them and all members of the community. He said right to counsel is important when the immigrant community often faces situations in which landlords do not provide sufficient information on their rights as tenants in the County. He said he has known of experiences where having right to counsel would help community members keep a roof over their heads while they wait for rent relief to be approved. He said he often hears about ways in which neighbors are taken advantage of due to not knowing their rights as tenants. He said right to counsel is an important measure that the Board can take in addition to rent relief.

---

Mr. Gabriel Komisar, Rio District, said he was there to lend his voice to the others advocating for a right to counsel for tenants facing eviction in Albemarle County. He said he had something in common with his district magistrate; he also studied the performing arts and was sure they were all waiting with bated breath for a time when they could go to the theater without worrying about transmission or the ramifications for themselves and others.

Mr. Komisar said after a challenging year and a half, so many are still trying to pick up the pieces. He said one of the best ways to advocate for those who have lost work and struggled to safely keep their lives and families afloat is to help with the threat of eviction. He said their right to counsel is essential, and the City of Charlottesville has already allocated funds for it. He said Albemarle County should similarly allocate funds, accounting for the aforementioned disproportionately higher rate of eviction in Albemarle County, and so he seconded taking a proportionate \$600,000 from the American Rescue Act for this cause.

Mr. Komisar quoted Blanche DuBois, who famously said in *A Streetcar Named Desire*, "I've always depended on the kindness of strangers." Mr. Komisar said so often situationally the lives and livelihoods of others are helped by strangers through government initiatives like the right to counsel for those facing eviction. He said, in his mind, being a stranger in that situation is an honor, and the American Rescue Act's money is their money, they not only deserve it but have earned it.

---

Ms. Melissa Gilrain, Samuel Miller District, said she was also speaking that day to ask the Board to provide funding from the American Rescue Act for a right to counsel program that is at least on par with Charlottesville's, especially since Albemarle had almost twice as many evictions on average prior to the pandemic compared to Charlottesville. She said evictions have economic consequences for both individuals and localities, and other cities have seen economic benefits from right to counsel programs. She said evictions can follow tenants for the rest of their lives and make it more difficult for them to find future housing, in addition to other long-term effects.

Ms. Gilrain said that while she believed that rent relief is a great protection measure, it takes time and expertise to apply for and is ineffective if tenants are unaware how to access it. She said she was not sure if any of the Supervisors had actually looked at the rent relief application, but it is pretty long and complex, especially if one does not have a computer or someone to help work through it.

Ms. Gilrain said in addition, not all tenants have problems that can just be solved by rent relief; having an attorney can better level the playing field during this process. She said a lot of tenants are unable to make it to court since it occurs in the middle of the afternoon on a weekday, and having an attorney can help tenants navigate the court system and also represent them in the case that they are unable to attend themselves if they are at work or if they have to take care of children, etc. She said that even when tenants are able to attend, a lot of them do not understand how the court system operates, which puts them at an unfair disadvantage compared to landlords who typically do have attorneys; with right to counsel, they can ensure that tenants understand their rights and also help keep people in their homes, especially as the delta variant continues to surge.

---

Ms. Lydia Brunk, Samuel Miller District, said the Board had heard from her a lot before and was hearing from her again because this is important to her. She said she was coming in front of the Board again to ask that the Board both consider and approve allocation of funds towards providing lawyers for tenants facing eviction.

Ms. Brunk said she had seen that Ms. Price had taken the time to speak with Brielle Entzminger of C-VILLE Weekly about her thoughts on providing funding for legal assistance. She said she recognized and respected the view expressed in that article that it would be preferable to directly help tenants and landlords, rather than funding lawyers who are involved in the process. She said she was grateful for funds provided directly to tenants by the County, and that is an absolutely essential measure in a time like this; providing funding for lawyers to help tenants is helping them directly, and they cannot and should not be in opposition to each other and taken as one or the other. She said they should both be part of necessary efforts to help people stay off the streets and have a roof over their heads.

Ms. Brunk said it can be hard for tenants to even figure out what to do if they cannot make their court date; in most cases, they would have to fax the court. She said she does not have a fax machine and would not know where to find one. She said a fax can be sent over the internet, but she would never have known that if she had not been involved with the Cville DSA Housing Justice organization, with people who are working on this specific issue with help from lawyers and experts. She said it would not be her first thought to be able to send a fax over the internet; there are just so many complicated steps that one has to know if they want to effectively interact with the court system.

Ms. Brunk said it was great that entities like the Legal Aid Justice Center have rent relief navigators now, but the City of Charlottesville provided \$3,000 for a program for legal assistance for tenants facing eviction; that meant Legal Aid could spend more of their own money if needed on these rent relief navigator programs to help people navigate the application. She said Legal Aid is helping not only specifically with legal representation but also with outreach to tenants, which are both crucial parts of the process of allowing tenants to actually access the protections they are legally entitled to and deserve. She said she appreciated if the Board of Supervisors could and would consider this.

Ms. Brunk was notified that her time was expired.

Mr. Gallaway said her full statement could be submitted as part of the record.

---

Ms. Laura Brunk, Samuel Miller District, said she was speaking like many others in support of the right to counsel program. She said housing is a human right, and any support the County can give to individuals to provide them with housing, including rent relief and right to counsel, is a necessary and positive thing. She said as many of the other speakers had said, right to counsel simply levels the playing field between tenants and landlords and equalizes their power. She said rights given to tenants are extremely important, but they are essentially meaningless if tenants do not know how to enact them or are unaware that they even exist. She said the right to counsel is an essential step in allowing citizens to actually access the power that the County gives them, which is just another step in supporting citizens.

---

Mr. Jack Maxwell, Scottsville District, acknowledged Ms. Price for connecting with the storm relief project they have been doing. He said he had sent the Supervisors a map from several weeks ago when he finished it and wanted to put that into the record for evidence of a storm. He said they also have received over 300 reports of downed trees and one fatality out of the storm, which was a cow in the Mountain Vista Road area on Spangler's farm in the Scottsville area. Mr. Maxwell said they currently have the apartment issue, such that whenever it rains, it floods; they are working on monitoring that situation and documenting any other type of severe weather they have available in Albemarle County.

Mr. Maxwell said they have been working with the National Weather Service office, the Board of Supervisors, and Mr. Richardson and are hoping they have enough information to help support the Town of Scottsville. He said they have gotten drone footage over the damaged area of Mountain Vista Road and also along the James River, which was also significantly damaged.

Mr. Maxwell said if there were any other questions, they could reach out to the National Weather Service and Chris Strong, who is the Warning Coordinator for the area. He said they hoped they have enough information that they can provide dates and can help out as much as possible. He said the severe threat has been diminished for Albemarle County and has moved north, so all that is fine. He said to just be mindful of downed trees that are still falling from the recent rains.

---

Ms. Marta Keene said she was Jefferson Area Board for Aging (JABA) CEO and a resident of the Rio District. She said she had sent a handout to the Board of Supervisors to review their client satisfaction surveys. She said she would highlight several programs, but the Board could peruse the handout for others. She said the senior helpline, which is their information and assistance entry point, had 98% satisfaction where the residents felt their questions had been answered satisfactorily. She said their insurance counseling, which pertains to getting started in Medicare as well as the Part D prescription program, had 3.96 out of a 4-point scale of people feeling they had received the assistance needed.

Ms. Keene said in their volunteer services program, 93% of volunteers found their work meaningful, and 100% said that their volunteers made a positive impact on their lives. She said of significance is they had 957 volunteers totaling over 24,000 hours, and that is a huge value; that is over a half-million-dollar value to the community that was volunteer, and for JABA, that meant expanded capacity and the ability to deliver more to seniors. She said a lot of their insurance program is carried out by volunteers, as is ombudsman support and support in their centers for activities, as well as a neighbor-to-neighbor program. She mentioned that their FISH (Friends in Schools Helping) student mentor program had just won an award for the way it pivoted during COVID.

Ms. Keene said for their adult care centers, one of the most significant points that the caregivers reflected was that 80% of the members are in a better mood after they have been at the center during the day; that is wonderful for the people who attend adult care and also a real relief for the caregivers to know that their loved ones have had a good day, and that helps them in the evening when they are home with the caregiver.

Ms. Keene said for their community senior centers, which are Mary Williams as well as Esmont and Scottsville, the satisfaction rate was 100% at all three of those centers for enjoying coming to the center, Esmont and Mary Williams had 100% satisfaction with meals and Scottsville had 98%. She said participants also rated 92% satisfaction for health and wellness and for the activities that they were involved in; they are really enjoying what they are doing at the centers, and they are thrilled to be back again meeting. She said they often meet with Mary Williams' participants at Darden Towe Park, which has been enjoyable for all.

Ms. Keene said for Albemarle, there was an 88% satisfaction rate with the home-delivered meals and also a huge increase, almost double, in the number of meals that would have been provided this year. She said that is really due to the fact that during COVID, the regulations were loosened so that somebody did not have to qualify as strictly homebound but rather an unwillingness to get out more frequently, so that has made a big difference.

Ms. Keene was notified her time had expired.

Ms. Keene said she appreciated the Board supporting JABA.

Mr. Gallaway said if there was additional information, she could pass that along if needed.

Mr. Gallaway closed Matters From the Public.

---

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway said item 8.3 was removed for discussion.

Ms. Price **moved** to approve the Consent Agenda as amended. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

---

Item No. 8.1. Approval of Minutes: December 18, 2019.

Ms. Palmer had read the minutes of December 18, 2019, and found them to be in order.

**By the above-recorded vote, the Board approved the minutes of December 18, 2019.**

---

Item No. 8.2. River View Farm Historical Marker.

The Executive Summary forwarded to the Board states that the Historic Preservation Committee (HPC) has been working with the Office of Equity and Inclusion in support of the Board's initiative to broaden the scope of our publicly-told histories to be more inclusive of our community by obtaining Virginia Department of Historic Resources (VDHR) approval of new historical markers recognizing stories and contributions of women and people of color. The HPC has coordinated with the Ivy Creek Foundation on draft text for a marker commemorating River View Farm at the Ivy Creek Natural Area. The property is jointly owned by Albemarle County and the City of Charlottesville. The HPC hopes to meet the VDHR September 1 application submittal deadline for consideration by the Board of Historic Resources in December.

Educational Opportunities - Provide lifelong learning opportunities for all our citizens. The text of the historical marker has been drafted to meet VDHR requirements and will educate the public about the farm, its owners, and their accomplishments:

**River View Farm 1870-1975** River View Farm became one of the largest African American farmsteads in the region after Emancipation. Formerly enslaved Hugh Carr and wife Texie Mae Hawkins Carr established and grew the successful farm between 1870-1899. Eldest daughter Mary and husband Conly Greer expanded the over 200-acre farm while she served most notably as principal of Albemarle Training School and he as the first African American Albemarle County Agricultural Extension Agent. For nearly a century, River View Farm served as a model farm and hub for local church, education, and civic activities. It is listed on the Virginia Landmarks Register and the National Register of Historic Places.

The marker text was approved by the HPC on June 28, 2021. The proposed marker location is safe. The site is easily approachable and clearly visible to those entering the park on foot. The farmhouse and barn are within view of the marker location (see Attachment A).

County funds have already been earmarked for this marker through the Office of Equity and Inclusion's Cultural-Historical Initiative (Appropriation #2019059).

Staff recommends that the Board approve the proposed historical marker for River View Farm.

**By the above-recorded vote, the Board approved the historical marker for River View Farm.**

---

Item No. 8.4. VDOT Roadway Construction & Maintenance and Utility Easements on Parcel ID 04700-00-00-016A0.

The Executive Summary forwarded to the Board states that VDOT began development on a grouping of six Albemarle County Smart Scale road improvement projects in 2017 that included the construction of a roundabout and turn lanes at the Stony Point Road (Route 20), Proffit Road (Route 649), and Riggory Ridge Road (Route 1494) intersection (Attachment C). The roundabout design needed to account for and be sensitive to several parcels in the County's rural area under perpetual conservation/open space land easements. Albemarle County received approval for \$4 million in Fiscal Year 2018 (FY 18) Smart Scale funding for these Intersection Improvements. The project is in the design and right of way acquisition phase, both of which need to consider and accommodate parcels subject to conservation easements.

The Riggory (Parcel ID 04700-00-00-016A0), a 30.72-acre parcel fronting on Stony Point Road



close to The Riggory Ridge Road intersection, is one of those properties under conservation easement that VDOT needs for the project (Attachment A). The Riggory is subject to a 1992 conservation easement jointly held by the Albemarle Conservation Easement Authority (ACEA) and Albemarle County (Attachment B). A VDOT right of way for Stony Point Road, preexisting the 1992 conservation easement, already runs over the property's edge. A utility easement also crosses the property. To construct the roundabout, VDOT needs to improve the shoulder of Stony Point Road as it runs next to The Riggory. Improvements will not include the application of asphalt, hardscaping, or any structures other than single-post, regulatory road signs. The design will only raise the roadbed and, consequently, the shoulder grade on The Riggory. The land will be returned entirely to a vegetative cover as it now exists. The design requires relocating the CenturyLink utility easement.

The project designer, as agent for VDOT, requested The Riggory's owners and the ACEA to convey a roadside strip of the property in fee simple for roadway use and to permit the relocation of a CenturyLink utility easement. Through much discussion, negotiation, and two public meetings, the landowners and the ACEA agreed to convey and VDOT agreed to accept a highly restrictive, non-exclusive, perpetual easement that will allow roadway improvements and maintenance of the road shoulder essentially in the same condition as it exists now (Attachments D and E). The ACEA found via motion on June 10, 2021, by unanimous vote and with the landowners' consent that the "conveyance under the stated terms and conditions will preserve the open space use of the subject land," consented to the proposed easement terms, and authorized the ACEA Chair to endorse the Deed of Easement.

The landowners and the ACEA Chair have executed the proposed Deed of Easement. Although this Board authorized the County Executive to accept conservation easements under the Virginia Open Use Land Act (the Act), this Board has not delegated authority to convey any interest it has acquired under the Act. Virginia Code §10.1-1704(B) permits the Board to "convey or lease any real property it has acquired" under the Act so long as "[t]he conveyance or lease [is] subject to contractual arrangements that will preserve the property as open-space land." This arrangement accomplishes that charge.

The Act also empowers this Board "to provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any ... agency ... of services, privileges, works, streets, roads, public utilities or other facilities or structures that may be necessary to the provision, preservation, maintenance and management of the property as open-space land." Virginia Code §10.1-1702(A)(5). A locality may "[e]xercise its powers under [the Act] ... through such office or officers as its governing body by resolution determines." Virginia Code §10.1-1702(B)(3). The road design is sensitive to the open-space nature of the land. The easement preserves that condition and allows the project to proceed without necessitating a substantive redesign. Relocation of the utility easement will have no net impact.

No impact on the budget is anticipated.

Staff recommends the Board adopt the attached Resolution (Attachment F) authorizing the County Executive to sign the attached Deed of Easement and to sign any related easements relocating utilities currently existing on Parcel ID 04700-00-00-016A0.

**By the above-recorded vote, the Board adopted the attached Resolution (Attachment F) authorizing the County Executive to sign the attached Deed of Easement and to sign any related easements relocating utilities currently existing on Parcel ID 04700-00-00-016A0:**

**RESOLUTION APPROVING DEED OF EASEMENT TO THE VIRGINIA  
DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the County of Albemarle jointly holds a perpetual conservation easement in gross with the Albemarle Conservation Easement Authority pursuant to the Virginia Open Space Land Act on The Riggory (Parcel 04700-00-00-016A0); and

**WHEREAS**, the Virginia Department of Transportation needs a construction and maintenance easement over a portion of The Riggory and needs to relocate a CenturyLink utility easement to complete its SMART SCALE project improving the intersection of Stony Point Road (Route 20) and Proffit Road (Route 629); and

**WHEREAS**, the Board of Supervisors finds that the proposed construction and maintenance easement and road improvement project described therein and relocation of the utility easement are necessary to the preservation, maintenance, and management of The Riggory as open-space land.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the granting of a construction and maintenance easement to the Virginia Department of Transportation and the relocation of a CenturyLink utility easement and authorizes the County Executive to sign, in a form approved by the County Attorney, such Deed of Easements with the Virginia Department of Transportation and/or CenturyLink for easements across Parcel 04700-00-00-016A0 in order to complete the SMART SCALE intersection improvement project.

\* \* \* \* \*

TAX MAP #47-16A

SF-38  
Revised 9/16  
UPC 111733

PREPARED BY VDOT  
UNDER SUPERVISION OF THE  
OFFICE OF THE ATTORNEY GENERAL

Exempted from recordation taxes and  
fees under Sections 58.1-811(A)(3),  
58.1-811(C)(5), 58.1-3315, 25.1-418,  
42.1-70, 17.1-266, and 17.1-279(E)

THIS DEED, made this 25 day of June, 2021, by and between Martin F. CONNIFF and Adele M. CONNIFF, husband and wife as tenants by the entirety with full rights of survivorship as at common law, and not as tenants in common, Grantor; the COUNTY OF ALBEMARLE, VIRGINIA, (hereinafter ALBEMARLE COUNTY) a political subdivision of the Commonwealth of Virginia, a party of the third part to be indexed as a Grantor; the ALBEMARLE CONSERVATION EASEMENT AUTHORITY (hereinafter the AUTHORITY), a public recreational facilities authority and political subdivision of the Commonwealth of Virginia, a party of the third part to be indexed as a Grantor; and the COMMONWEALTH OF VIRGINIA, acting by and through its Department of Transportation, Grantee,

WITNESSETH: For and in consideration of the sum of \$5,697.00 to be paid by the Grantee to the Grantor on or before the Effective Date, as defined below, effective upon the Effective Date, the Grantor doth hereby grant and convey to the Grantee with, General Warranty and English Covenants of Title, subject to (a) the easement referred to below in favor of Albemarle County and the Authority and all other easements, conditions, restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property hereby conveyed in easement, which have not expired by a limitation of time contained therein or have not otherwise become ineffective, and (b) the terms, conditions and limitations set forth below, a non-exclusive perpetual right and easement to construct, alter,

operate and maintain the roadside cut and fill slopes and drainage ditches of a public street or highway, including any necessary permitted appurtenances thereto and being subject to and consistent with the attached Construction Design Plan and Cross Sections (hereinafter the Project), over, upon and across the lands and property of the Grantor, the area embracing the easement being situated in the County of Albemarle and described as follows:

Parcel 035

Being as shown on Sheet 4RW of the plans for Route 20, State Highway Project 0020-002-953, R-201, and beginning on the East (right) side of Route 20 N Construction Baseline from the lands now or formerly belonging to Sharon L. Cox-Ponder and Leonard K. Ponder opposite approximate Station 201+70 to a point in the lands of the Grantor opposite Station 204+19.88, and containing 8,553 square feet, more or less.

The source being a portion of the same property acquired by the Landowner by General Warranty Deed from Edgar J Roberts Jr., dated January 10, 2011, and recorded January 11, 2012, in Deed Book 4119, Pages 512-515, in the Clerk's Office of the Circuit Court of Albemarle County.

For a more particular description of the land herein conveyed in easement, reference is made to photocopy of Sheet No. 4RW, showing outlined in GREEN the land conveyed in perpetual easement, which photocopy is hereto attached as a part of this conveyance and recorded simultaneously herewith in the State Highway Plat Book \_\_\_\_\_, Page \_\_\_\_\_, the land herein conveyed in easement hereinafter referred to as the Property.

The Grantor by the execution of this instrument acknowledges that the plans for the aforesaid Project as they affect their Property have been fully explained to their authorized representative in the presentation made by Bowman Consulting at the April 15, 2021, meeting of the Authority, which Grantee represents was a complete and accurate explanation. The plans for the aforesaid Project as well as all of Grantee's future uses, construction, alteration, operations, and maintenance on the Property subject of this easement are subject and subordinate to ALBEMARLE COUNTY's and the AUTHORITY's perpetual, open-space easement in gross over the lands and Property subject herein by virtue of the Deed of Gift Easement dated February 27,

1992, and recorded with the Clerk of the Albemarle County Circuit Court at Deed Book 1207, page 82 (Instrument Number 199200002217).

In executing the plan and constructing the Project, the Grantee must protect against negative impacts to the wetlands and waters on the Property or on the Grantor's adjoining property by utilizing Best Management Practices to control and prevent erosion. The installation of any impermeable surface on the Property is prohibited. The installation of any type of structure on the Property, including but not limited to guardrails, sidewalks, posts, poles, shelters, and benches, are prohibited with the following exceptions: single-post regulatory, route, or directional signs and the reinstallation of Grantor's fence are permitted. Grantee hereby agrees that upon completion of the Project Grantor may reinstall its fence in a location as close as reasonably practical to its present location, such location to be discussed in good faith by Grantee and Grantor, but in any event Grantee agrees that it will agree to a location that is consistent with the preservation of the architectural significance and historical character of the structures on Grantor's adjoining property and their setting, as required by the foregoing easement in favor of Albemarle County and the Authority. All disturbed, filled, and graded ground on the Property must be repaired only with a vegetative ground cover. Grantee must repair any damage to the Property that occurs as a result of and during the course of the Project work and must restore the site and the Property to its condition prior to the start of the Project work consistent with the Project design and plans, this Deed, and the terms of the Deed of Gift Easement dated February 27, 1992, and recorded with the Clerk of the Albemarle County Circuit Court at Deed Book 1207, page 82 (Instrument Number 199200002217).

Grantee is solely responsible for maintaining and only permitted to maintain the Property at the standard, condition, and appearance of the Property at the close of the Project. Such maintenance must be consistent with this Deed and the terms of the Deed of Gift Easement dated February 27, 1992, and recorded with the Clerk of the Albemarle County Circuit Court at Deed

Book 1207, page 82 (Instrument Number 199200002217). Any future alteration to or improvement of the Property by the Grantee that will deviate or might be expected to deviate in any respect with the plan and Project design must first be reviewed and approved by the Grantor and the parties of the third part, ALBEMARLE COUNTY and the AUTHORITY. Grantee hereby agrees that upon completion of the Project Grantor shall have the right to use and enjoy the Property, including without limitation the right to mow, pick up trash and other activities to preserve the historical and scenic character of the Property, except when such use shall materially interfere with the rights granted to Grantee under this easement.

ALBEMARLE COUNTY and the AUTHORITY hereby consent to this easement.

The Grantor covenants and agrees for themselves, their successors and assigns, that the consideration hereinabove mentioned and paid to it shall be in lieu of any and all claims to compensation for the easement, and for damages to the value of the lands of the Grantor not encumbered by such easement, if any, which may result by reason of the use to which the Grantee will put the same.


Notwithstanding the foregoing, Grantee shall require its Contractor to purchase and maintain through the duration of the Contract Contractor's Bodily Injury and Property Damage Liability Insurance in the amount of \$1,000,000 per occurrence with an aggregate of \$2,000,000 to cover all claims and loss arising from or in any respect related to any exercise of or use of the easement by Grantee or any contractor or subcontractor at any tier with respect to the Project. Grantee shall also require any contractor retained by Grantee to maintain the Property thereafter to purchase and maintain such insurance in such amounts for the duration of its contract with Grantee. Grantor and its successors and assigns shall be entitled to specific performance of Grantee's obligations under this easement and to such other injunctive or other equitable relief as may be granted by a court of competent jurisdiction. Albemarle County and the Authority shall

have the benefit of the foregoing obligations of Grantee as third-party beneficiaries of this provision.

"Effective Date" as used herein shall mean the date on which Grantee shall provide notice to Grantor, Albemarle County and the Authority that all conditions to the commencement of work on the Project have been met and that work on the Project has in fact commenced. Following the Effective Date, Grantor shall remove its fence on the Property upon not less than 14 days' notice from Grantee of the date by which Grantor's fence on the Property shall be removed. If the Effective Date shall have not occurred on or before six months after June 1, 2021, this Deed of Easement shall terminate and be of no further force and effect. If the Effective Date shall have occurred, but State Highway Project 0020-002-953, RW-201 shall not have been completed and placed in service on or before twelve months following the currently scheduled completion date of April 30, 2022 for the Project, Grantee shall promptly restore the site and Property to its condition and appearance prior to the start of the Project work and thereupon this easement shall terminate and be of no further force and effect.

SIGNATURES ON FOLLOWING PAGE

WITNESS the following signatures and seals:

 (SEAL)  
Martin F. Conniff

COMMONWEALTH OF VIRGINIA

COUNTY OF Albemarle

The foregoing instrument was acknowledged before me this 25 day of June, 2021, by  
Martin F. Conniff.

My commission expires: 3/31/2023

Notary Registration No.: 7626542



  
Notary Public

 (SEAL)  
Adele M. Conniff

COMMONWEALTH OF VIRGINIA

COUNTY OF Albemarle

The foregoing instrument was acknowledged before me this 25 day of June, 2021, by  
Adele M. Conniff.

My commission expires: 3/31/2023

Notary Registration No.: 7626542



 (SEAL)  
Notary Public

COUNTY OF ALBEMARLE, VIRGINIA

BY:

\_\_\_\_\_  
Jeffrey Richardson  
County Executive

COMMONWEALTH OF VIRGINIA  
CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by  
Jeffrey Richardson, County Executive.

My commission expires:  
Notary Registration Number:

\_\_\_\_\_  
Notary Public

Approved as to Form:

\_\_\_\_\_  
County Attorney



ALBEMARLE CONSERVATION EASEMENT AUTHORITY

BY:

  
\_\_\_\_\_  
Jay Fennell  
Chair

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of July 2021, by  
Jay Fennell, Chair of the Board of Directors for the Albemarle Conservation Easement Authority.

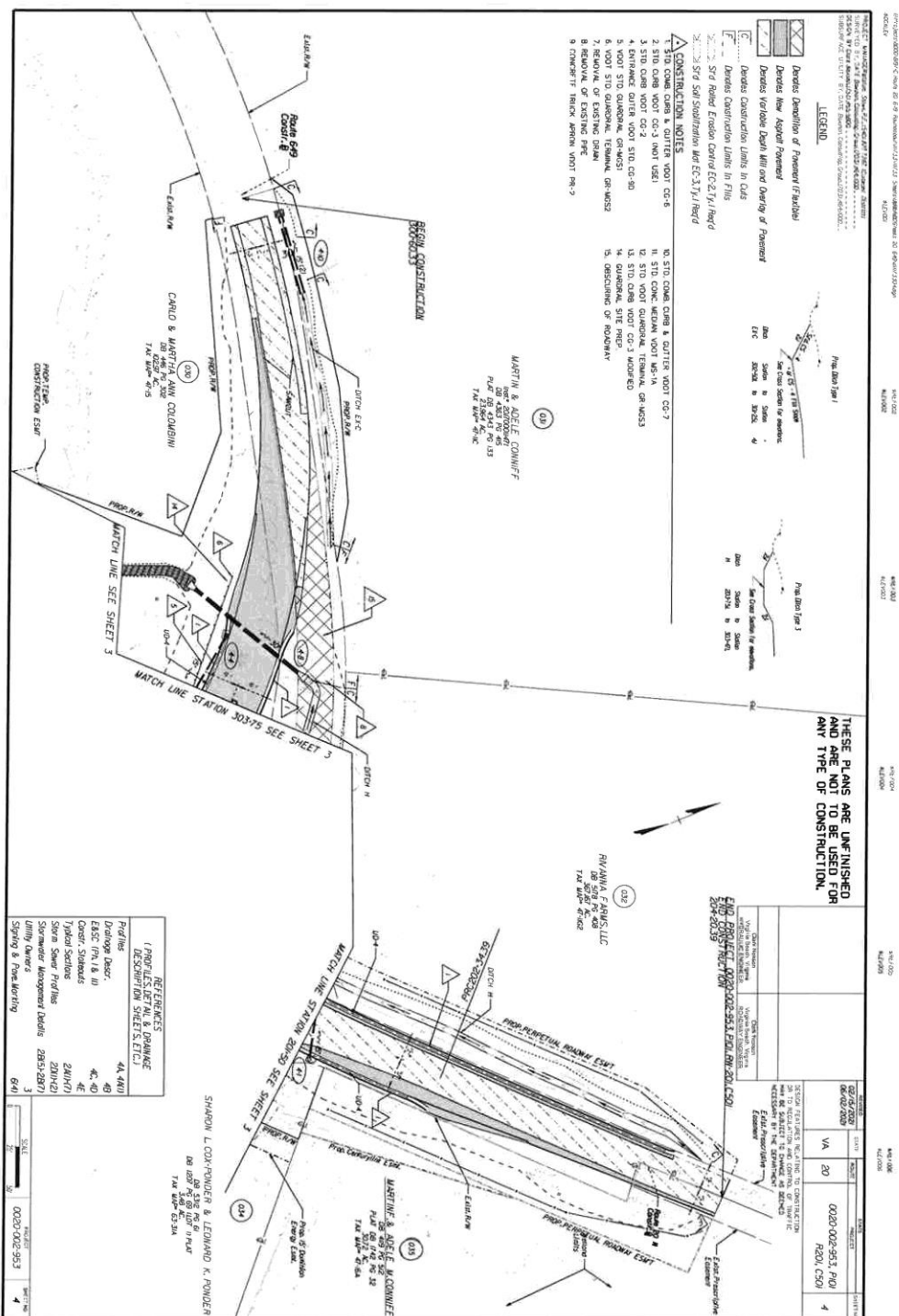
My commission expires: 1/31/2022  
Notary Registration Number: 260220

Marsha A. Davis  
\_\_\_\_\_  
Notary Public

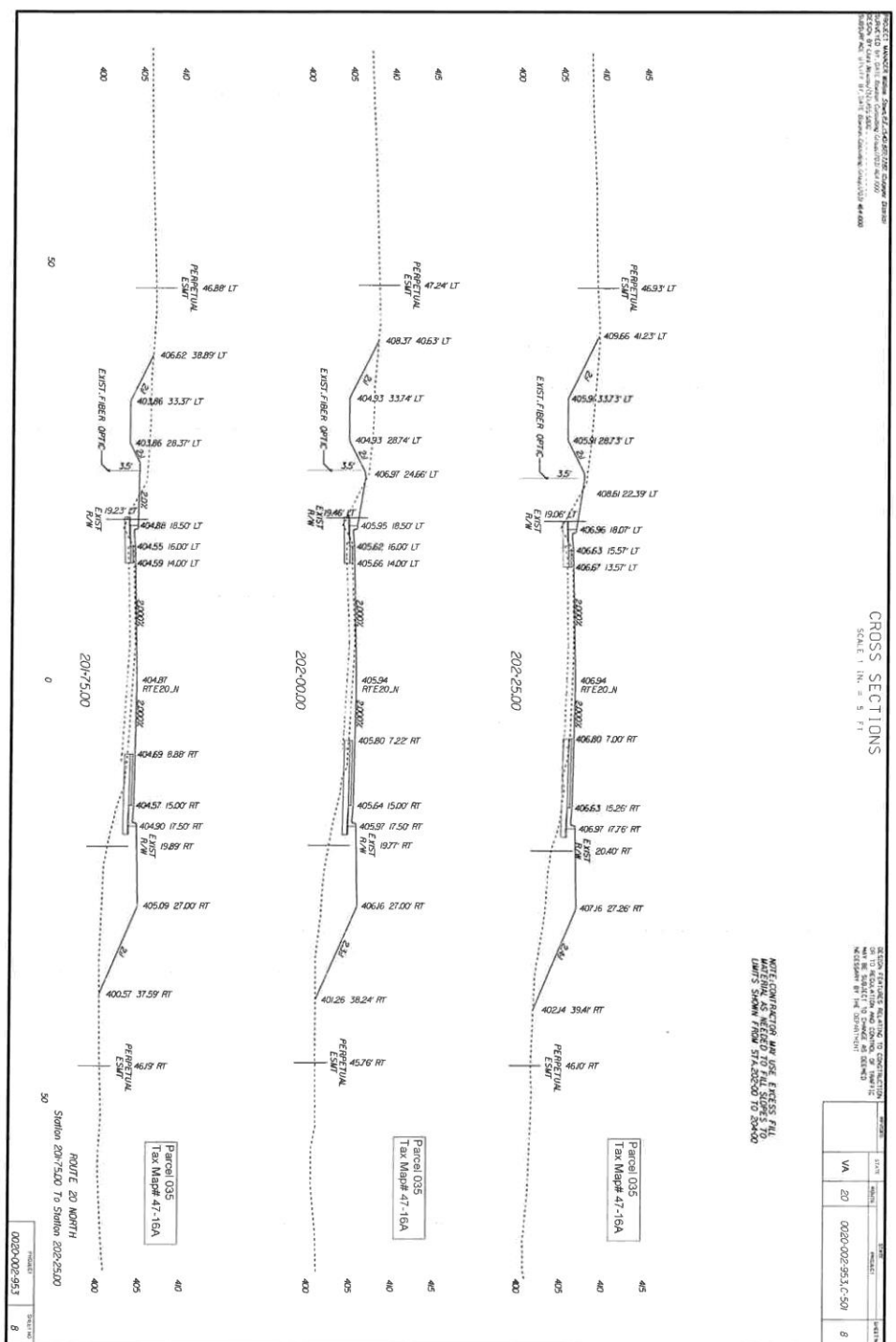


Approved as to Form:

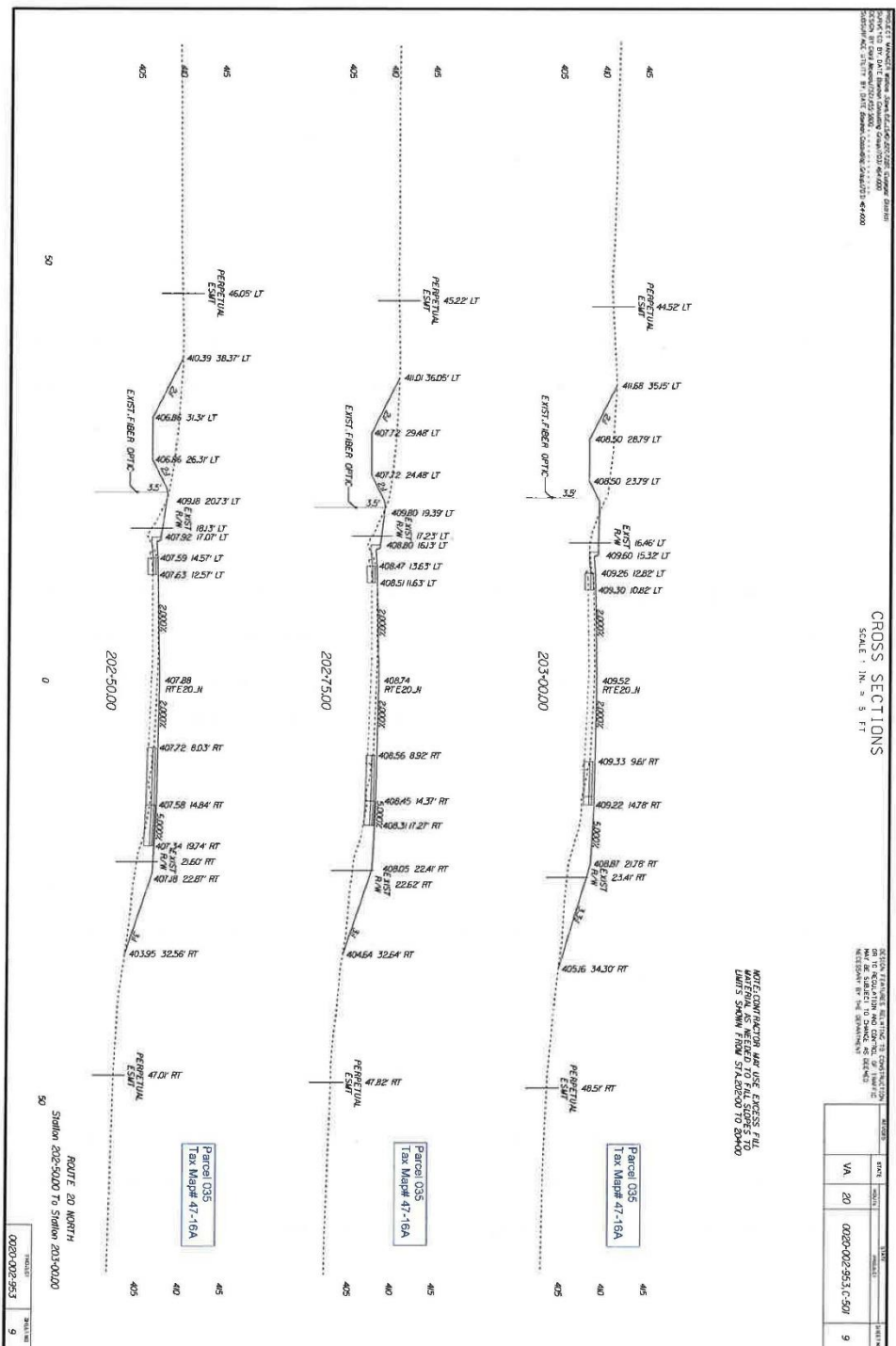
  
7 July 2021  
County Attorney for ACEA

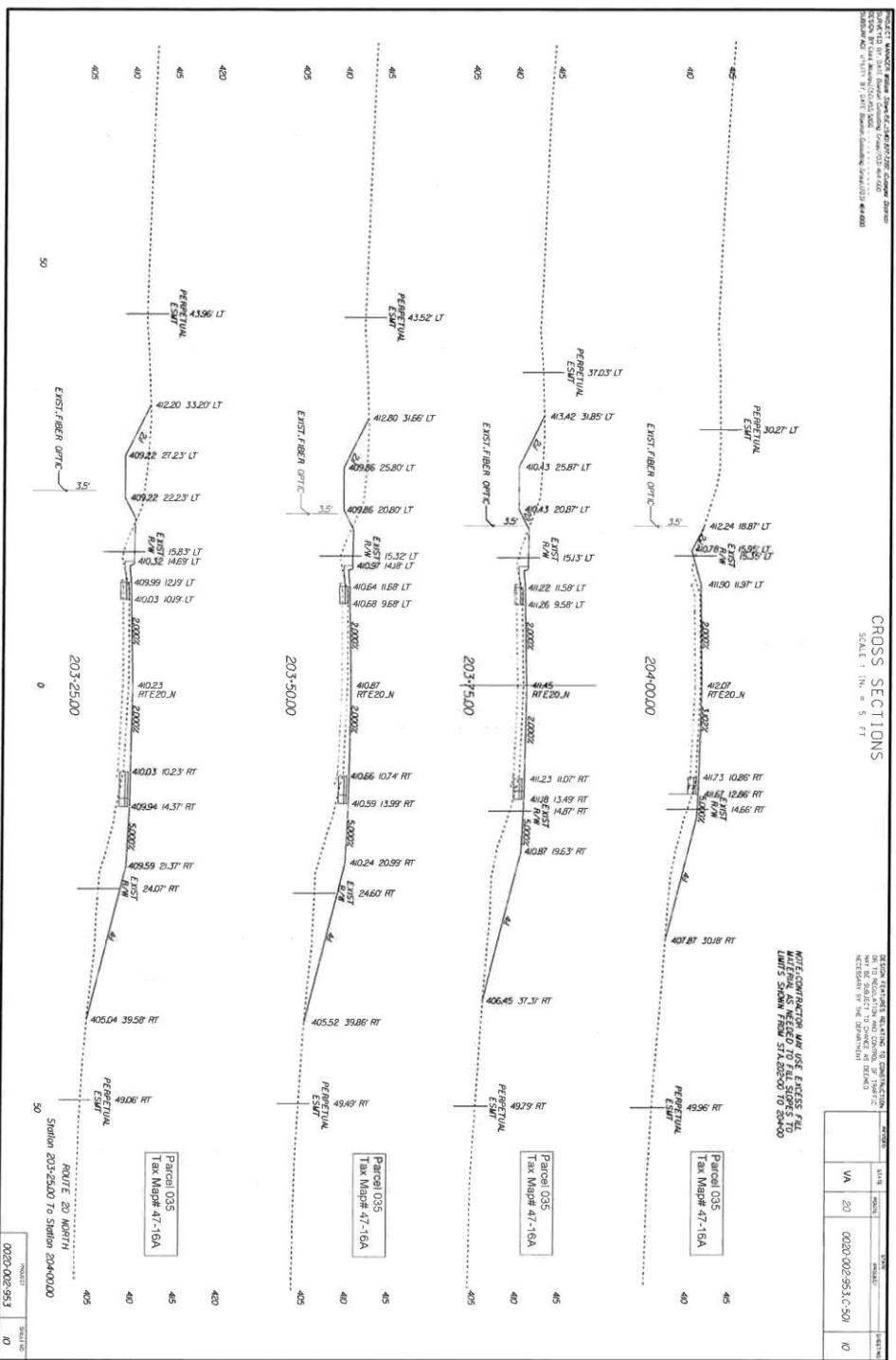






0240 PW on June 08, 2017





**By the above-recorded vote, the Board Resolution to Accept road(s) in the Hillsdale Drive Extension into the State Secondary System of Highways and to Abandon/Delete a Portion of Hillsdale Drive Extension:**

WHEREAS, a portion of Route 1340 has been realigned and a new segment constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors, this the 18<sup>th</sup> day of August, 2021, that the old segment of Route 1340, identified on the attached Form AM 4.3, is no longer needed as part of the Secondary System of State Highways as the new road serves the same citizens as the old road and is hereby requested to be deleted and/or abandoned by the Virginia Department of Transportation pursuant to §33.2-912, *Code of Virginia*, 1950 amended.

In Albemarle County

37721293

by Resolution of the governing body adopted August 18, 2021

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): Claudia H. Berger

Report of Changes in the Secondary System of State Highways

Project/Subdivision: Hillsdale Drive Extension

Addition - VDOT Project §33.2-705

Rte Numb er	Street Name	From Termini	To Termini	Length	Num ber Of Lan es	Recordation Reference	Row Widt h
1340	Hillsdale Drive	0.091 Miles South of Greenbrier Dr	0.125 Miles South of Greenbrier Drive	0.03	2		80
1340	Hillsdale Drive	0.097 Miles North of Rt 866, Greenbrier Dr	Rt 866, Greenbrier Drive	0.1	2		80

Deletion - Project by VDOT §33.2-912

Rte Numb er	Street Name	From Termini	To Termini	Length	Num ber Of Lan es	Recordation Reference	Row Widt h
----------------	-------------	--------------	------------	--------	-------------------------------	--------------------------	------------------



In Albemarle County

37721293

by Resolution of the governing body adopted August 18, 2021

1340	Hillsdale Drive	0.060 Miles North of Rt 866, Greenbrier Drive	Rt 866, Greenbrier Drive	0.06			
------	-----------------	---	--------------------------	------	--	--	--

Page: 2/2

Item No. 8.6. Resolution to accept the Lewis and Clark Drive Extension into the State Secondary System of Highways.

**By the above-recorded vote, the Board Resolution to accept the Lewis and Clark Drive Extension into the State Secondary System of Highways:**

**R E S O L U T I O N**

WHEREAS, the street(s) in Lewis and Clark Drive Extension, as described on the attached Additions Form AM-4.3 dated August 18, 2021, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in

Lewis and Clark Drive Extension, as described on the attached Additions Form AM4.3 dated August 18, 2021, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right- of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

**In Albemarle County**

37670399

by Resolution of the governing body adopted August 18, 2021

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee

Signed (County Official):



**Report of Changes in the Secondary System of State Highways**

Project/Subdivision: Lewis & Clark Drive Extension

Addition - New subdivision street §33.2-705

Rte Numb er	Street Name	From Termini	To Termini	Length	Num ber Of Lan es	Recordation Reference	Row Widt h
1571	Lewis and Clark Drive	0.11 South of Rt 1666, Quail Run	0.5 Miles South to Rt 1654, Innovation Drive	0.5	2	DB 5478: PG 21-34	99
1571	Lewis and Clark Drive	Rt 1666, Quail Run	0.11 Miles South	0.11	4	DB 5478: Pg 21-34	105. 46

Item No. 8.7. ZTA202100003 Resolution of Intent for Proposed Zoning Text Amendment for Bonus Density Improvements.

The Executive Summary forwarded to the Board states that bonuses to allow additional residential units above the default density are available in all residential zoning districts to encourage development that meets the County's strategic goals of environmental protection, dedication of public land, preservation of open space, affordable housing, and others. These bonuses were last comprehensively amended in 1985, and in the interim, the County's subdivision requirements and development regulations have changed, rendering some bonuses unnecessary. Additionally, the bonus density regulations have been amended piecemeal, leading to inconsistencies in those regulations and the need for amendment. This Zoning Text Amendment is part of a larger effort to modernize the Zoning Ordinance, as shown on the work plan for Fiscal Year 2022.

This Zoning Text Amendment does not propose substantive changes to the Zoning Ordinance, and therefore, does not include a public engagement process. As part of a larger effort to further the County's Comprehensive Goal to encourage high quality, mixed-use areas and neighborhoods in the Development Area, this Zoning Text Amendment will provide a consistent framework for the implementation of the County's Housing Policy and the incentives and strategies that will be developed as a result of the Housing Policy.

Staff will work to develop affordable housing incentives as directed by the Board of Supervisors on June 16, 2021. Those incentives, and the updated Housing Policy, will be incorporated into a second, in-depth Zoning Text Amendment on bonus densities, involving a thorough public engagement process.

If the Board adopts the Resolution of Intent, a draft ordinance will be prepared, with public hearings planned for the Planning Commission in October and for the Board in December 2021.

There is no anticipated budget impact related to this zoning text amendment.

Staff recommends that the Board adopt the attached Resolution of Intent (Attachment A).

**By the above-recorded vote, the Board adopted the attached Resolution of Intent (Attachment A):**

#### **RESOLUTION OF INTENT**

**WHEREAS**, the Albemarle County Zoning Ordinance includes regulations pertaining to bonus densities in Albemarle County Code §§ 18-2 and 18-12 through 18-18; and

**WHEREAS**, it is desired to consolidate the bonus density regulations to eliminate repetitive text, to eliminate bonus densities for incentives that are now requirements, and to amend related regulations, as appropriate.

**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 consider amending Albemarle County Code §§ 18-2 and 18-12 through 18-18 and any other sections of the Zoning Ordinance deemed to be appropriate 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 by this resolution of intent, and make its recommendations to the Board of Supervisors, at the earliest possible date.

---

Item No. 8.8. ZMA201900008 Rio Point (formerly Parkway Place) – Defer at the Request of Applicant.

By the above-recorded vote, the Board deferred ZMA201900008 Rio Point at the request of applicant.

---

Item No. 8.9. Proposed 2022 Legislative Priorities, **was received for information.**

---

Item No. 8.10. CCP202100001 Albemarle County Service Authority (ACSA) Avon Street Facility, **was received for information.**

---

Item No. 8.11. Albemarle County 2021 2nd Quarter Building Activity Report, **was received for information.**

---

Item No. 8.12. Albemarle County 2021 2nd Quarter Certificate of Occupancy Report, **was received for information.**

---

Item No. 8.13. VDOT Monthly Report (August) 2021, **was received for information.**

---

Item No. 8.3. Walnut Creek Park Tier III Personal Wireless Service Facility Special Use Permit Application.

The Executive Summary forwarded to the Board states that on April 8, the County received a proposal to lease a small portion of Walnut Creek Park to Cellco Partnership (Verizon Wireless) for a Tier III Personal Wireless Service Facility.

Walnut Creek Park, and the area surrounding it, have limited cell phone coverage. Verizon has approached the County with a proposal to build a Tier III Personal Wireless Service Facility at Walnut

Creek Park, which is owned by the County.

A Tier III Personal Wireless Service Facility requires a special use permit. A special use permit application may only be made by the owner of the property, or the owner's designee. Staff is requesting that the Board authorize the County Executive to sign Verizon's special use permit application on behalf of the property owner.

Authorizing the County Executive to sign the application does not necessarily indicate support for the proposal and does not obligate the County to approve the special use permit application. It merely allows Verizon to submit a special use permit application for review. The special use permit would be reviewed for compliance with County Code regulations and require a community meeting, a Planning Commission public hearing, and a Board public hearing.

If the special use permit were approved, staff would schedule a public hearing (as required) for the Board to consider leasing County property to Verizon.

Staff recommends that the Board adopt the attached Resolution (Attachment A) authorizing the County Executive to sign Cellco Partners (Verizon Wireless)'s application for a special use permit for a Tier III Personal Wireless Service Facility at Walnut Creek Park.

---

Mr. Gallaway said item 8.3, Authorize County Executive to Permit Verizon to Start a Special Use Permit Process at Walnut Creek Park, had been pulled by Ms. Mallek.

Ms. Mallek said a constituent had sent her the text, which she forwarded on to Mr. Kamptner, about a recent court of appeals decision about FCC failure to provide review of 1996 standards. She said since that is now in the court again and has standing to proceed, her question to the County Attorney was whether they should stop accepting more and more of these that could be possibly noncompliant when the rules get straightened out. She asked if would be sensible to have the rules straightened out first, before they have more things that are put up in the County that then have to be dealt with after the fact. She asked if Mr. Kamptner had anything to say that day that would impact this item 8.3 or if he would like to talk about it at another time.

Mr. Kamptner responded that the decision from the D.C. Court of Appeals pertained to the procedure that the FCC followed when they started what is called an inquiry, and then they ended it; this was pertaining to the impacts of radiofrequency emissions from wireless telecommunications devices. He said in 2019, they stopped that process, which could have ultimately resulted in updated regulations pertaining to the radiofrequency standards. He said the court said that the FCC failed to provide reasons for why they stopped the process.

Mr. Kamptner said the court also made it clear that it was not making any decision on the viability of the 1996 standard and recognized that there were studies, but it was the studies and the eventual rulemaking that might warrant a change or the FCC just leaving those standards alone. He said that decision does not affect the matter that is Item 8.3, which is simply to authorize the County Executive to sign on behalf of the County as the owner of the property. He said it also does not affect the federal law preemption of state and local governments from considering radiofrequency emissions in their wireless-related decisions and their regulations. He said the County still remains under what is referred to as the shot clock; they have to timely process applications for wireless facilities.

Ms. Mallek asked if they were stuck with the approvals given from now forward which are being made with full knowledge that there may be something that changes in the courts once the process has been completed. She asked if they could recall those decisions later, once the rules have changed.

Mr. Kamptner said part of that would depend on what those rules might say. He said they may require all of the wireless facilities that exist to retrofit their equipment so that they do comply with the new standard. He said as a zoning decision, those typically do not have retroactive effects; zoning deals with matters in the present and moving to the future.

Ms. Mallek asked if they had the authority to add a codicil in their approval that says that may be done.

Mr. Kamptner responded that he would advise against that under the federal law as it is currently written.

Ms. Mallek thanked Mr. Kamptner for the answer. She said there would be a lot more discussion about this; after 15 years, this was the first window to get the process done right.

Ms. Palmer **moved** that the Board adopt the attached Resolution (Attachment A) authorizing the County Executive to sign Cellco Partners (Verizon Wireless)'s application for a special use permit for a Tier III Personal Wireless Service Facility at Walnut Creek Park.

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

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

---

**RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE  
TO SIGN CELLCO PARTNERSHIP'S (VERIZON WIRELESS'S) APPLICATION  
FOR A SPECIAL USE PERMIT FOR A TIER III PERSONAL WIRELESS SERVICE FACILITY AT  
WALNUT CREEK PARK**

**WHEREAS**, the Board of Supervisors finds that it is in the best interest of the County to authorize the County Executive to sign Cellco Partnership's (Verizon Wireless's) Application for a Special Use Permit for a Tier III Personal Wireless Service Facility at Walnut Creek Park on behalf of the property owner.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby authorizes the County Executive to sign Cellco Partnership's (Verizon Wireless's) Application for a Special Use Permit for a Tier III Personal Wireless Service Facility at Walnut Creek Park on behalf of the property owner.

---

Agenda Item No. 9. **Action Item:** American Rescue Plan Act (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Update.

The Executive Summary forwarded to the Board states that on March 11, 2021, The American Rescue Plan Act, a \$1.9 trillion relief bill was signed into law. It provides \$350 billion to state and local governments for the purposes of supporting public health response to the COVID-19 pandemic as well as providing a way for states and local governments to start the process of economic recovery.

On March 29, 2021, the Board approved the County's American Rescue Plan Act (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) initial implementation framework which described the use of the first tranche of funding as follows: ~\$4 million for human services and economic vitality, ~\$3 million to support the Broadband office, ~\$3 million for workforce stabilization and financial foundation initiatives. At the time of the approval of the original framework for the use of ARPA SLFRF funding, staff was still awaiting guidance from the United States Treasury department.

On May 10, 2021, the U.S. Treasury released the Interim Final Guidance. The public comment period closed July 16 and final guidance has not been released yet.

On May 11, 2021, the United States Treasury provided an allocation of \$21.2 million in federal ARPA SLFRF monies to the County of Albemarle to be deposited in two tranches. The first tranche of funding, \$10.6 million was received on May 21, 2021. The second tranche of funding is expected to be received in May 2022.

On June 16, 2021, the Board approved an update to the County's ARPA SLFRF implementation framework which left \$4 million for FY22 Economic Vitality (Human Services and Economic Development), immediate needs and \$3 million for broadband funding, unchanged. The remainder of the funding for workforce stabilization and financial foundation was approved to move into the Fiscal Year 2023 (FY 23) through FY 27 budget cycle.

On July 7, 2021, the Board appropriated \$21.2 million in ARPA SLFRF.

On August 4, 2021, the Board approved including a portion of ARPA SLFRF funding into the FY 23 Agency Budget Review Team (ABRT) agency funding process.

Since the June 16, 2021 Board meeting, staff has moved quickly to implement the Board's approved funding framework. Staff created an ARPA SLFRF review process and met with County departments to identify projects related to the immediate needs surrounding human services, economic development and broadband. The Department of Finance & Budget is currently working to review and approve projects that meet the funding goals of the Board and community.

During the Board's August 18 discussion, staff will provide an overall update on ARPA and include highlights of the Commonwealth of Virginia's funding opportunities available for housing-related projects. Staff will provide an update on the immediate need programs (supporting human services and economic development) which are in review, planned or implemented phases. Lastly, staff will recommend the Board's approval for an increase to broadband funding through the Albemarle Broadband Authority (ABBA), originally approved on March 29. The additional funding supports the budget identified through ABBA and the new Broadband Accessibility & Affordability Office to achieve universal broadband in the County.

\$3 million in ARPA SLFRF was appropriated to ABBA on July 7, 2021. If this recommendation is approved, staff will bring to the Board an appropriation for an additional \$1.5 million in ARPA SLFRF funding at the September 1, 2021 Board meeting. This would bring the total FY 22 broadband ARPA SLFRF funding to \$4.5 million.

Staff recommends the Board receive staff's ARPA SLFRF update and approve additional ARPA SLFRF funding for broadband.

---

Ms. Nelsie Birch said she was in attendance with Kimberly Gardner, who would lead the bulk of the conversation. She stated that Ms. Gardner was the grants leader for all County grants but also, in particular, was responsible for the American Rescue Plan Act (ARPA) funding. Ms. Birch said that Chief of the Office of Management and Budget Andy Bowman was also in attendance with other program managers and directors available to answer specific questions about programming.

Ms. Birch said the first few desired outcomes from the work session were providing the Board with some updates. She said they had some updates relative to additional information received from the U.S. Treasury. She noted when they had started this ARPA discussion in March, they in particular had wanted to make sure they were tying together both the local funding being received through the state and local fiscal recovery funds with other funding available through the state and also perhaps administered through the federal government, and how that might trickle into the community. She said this was so both staff and the Board could make informed decisions about how to either further leverage their dollars or redirect some of their funding because other funding might be available through some state programming.

Ms. Birch said that staff would be making a recommendation to increase the funding from ARPA to support broadband efforts, and there would be more information about that and the reason why.

Ms. Birch provided background that the County has received half of the expected \$21.2M in federal ARPA funding. She explained that CSLFRF was the acronym for the Coronavirus State and Local Fiscal Recovery Funds, and this represented the County's portion of the funding that flowed from the Treasury down to either states or localities. Ms. Birch said on May 21, the County received the first tranche of that, the second of which would be received toward the end of the current fiscal year. She said all of that funding had been appropriated back in July, really just to make it easier to administer the grant, and staff had some lessons learned from CARES funding. She said while they were not planning to spend it before they have it, this allowed some administrative flexibility.

Ms. Birch said the Board did approve the framework in June, which has been their guide for moving forward with trying to determine the best use of this \$21.2M in funding. She said two weeks prior, the Board did approve a slight adjustment to that, which is allowing for the Agency Budget Review Team (ABRT) process. She said this is the funding that is provided to human services programming in the community, creating a secondary application process that would support using ARPA funding to advance the human services-related needs in the community as part of the budget process.

Ms. Birch presented a slide with the three areas of funding in the framework that was endorsed by the Board in June. She said there was \$4M in economic vitality funding, which is human services and both business support and economic activity-related support. She said this was what she would consider the more acute FY22 funding, having learned from CARES funding in FY21 and supporting some programming into FY22.

Ms. Birch said the second area was the \$3M in broadband to support broadband efforts. She said at the time, they were uncertain that \$3M would be the right number and had a conversation on this, but it was a number that they would use until learning more about what might be needed to support broadband programming. She said asking for additional funding related to that was one of the reasons for coming back to the Board that day.

Ms. Birch said the last area was ensuring they were being the most strategic they could be with this funding and building it into the FY23–27 capital budget process and fiscal planning process. She said this was to align the resources in the County with supporting the outcomes that the Board had discussed and supported, relative to community needs as they would be learned through the ABRT process.

Ms. Birch said that Ms. Gardner would go through the rest of the conversation as to the status of funding and lead a discussion with the Board on the broadband recommendations.

Ms. Gardner stated that they would talk about local funding and what had been done with the local portion, an update on state and federal funding and how that may affect the County for opportunities, a broadband recommendation, and any feedback along with potential approval of staff's recommendation.

Ms. Gardner presented a slide demonstrating what they had been doing with state and local fiscal recovery funds. She said getting the emergency assistance programming taken care of was the first thing that was important, so they have allocated and put forth payment of \$800,000. She said that was an extension of the United Way program that was previously funded by the CARES program; it provides support for both rent and mortgage payments, as well as some wraparound such as utilities like gas, electric, and water.

Ms. Gardner said that staff had been working on meeting with both the human services groups plus housing and economic development to discuss those acute FY22 programs. She said they were trying to be very strategic around some of the information they did not yet have, which was the General Assembly funding that was coming down. She said that had happened the prior week. She said she was very excited to see the Board approve the ARPA process going into the ABRT process for FY23; it would be a huge help for human services. She said most of those programs already know how to access the application and use it, so that is a huge win.

Ms. Gardner reported that staff had been working on structure to support this programming to ensure they are in compliance and able to do the reporting, which is much more extensive than the

CARES reporting, and also to make sure they can follow procurement processes and not bog down any of the business partners. She said that staff had been setting these up in place to make sure that they were ready for these immediate need programs moving forward.

Ms. Gardner said there were many programs and dollars that were supported and released through the special session that took place with House Bill 7001, which was the budget bill, the ARPA funding that came through the General Assembly. She said some of that funding would go to established programs, and they were waiting to see how they would allocate for some of it. She said it has been important to watch and wait for this bill to pass, and it has allowed the County to position itself well to augment some of this money from the state side with local programs they would like to institute, especially when it comes to immediate-need FY22 programs.

Ms. Gardner said it has also allowed them to work with their partners to make sure to understand what is happening through the state level and what may be out there not only for the funding that they can use, but for additional funding. She said, for example, utility assistance may not come to the County but may come to utility providers, and staff has been working closely with them to understand that funding. She said staff also wanted to answer any questions from the Supervisors, who had been doing their own research, and wanted to support that as well.

Ms. Gardner presented a slide demonstrating the large tranches of money coming down through the state, then a slide with an update on some additional federal opportunities. She said the last time staff had met with the Board, they had talked about some big allocations that were coming down through federal sources. She said that HUD had recently come out with \$20M, so they have twenty \$1M grants for eviction prevention services. She said \$2M in HOME-ARP would be coming to the County through the TJPDC, and the competitive tourism grants and the \$500M for the Good Jobs Challenges have come down as well.

Ms. Gardner said that Ms. Birch had started the discussion with the framework that staff had originally laid out. She said one of those pieces to the framework was broadband support, towards which they had initially put \$3M to support a VATI (Virginia Telecommunication Initiative) application that would be done in September.

Ms. Gardner stated that \$700M would be coming down through VATI; \$479M of that is coming from the state portion of the local fiscal recovery fund and \$220M from the capital projects fund, which is from the U.S. Treasury portion that states can apply to. She said staff is recommending adding an additional \$1.5M in local funding to the broadband authority, similar to what was done with the \$3M to support the VATI application with Firefly in September. She said staff has been working very closely with the broadband office to ensure they are ready for that application. She said originally the \$3M looked like it was going to be the right number, but getting closer to the application, \$4.5 would be a better match to be more competitive. She said the awards are going to be expected in January 2022, and that award along with the County match would support the goal of universal broadband coverage.

Ms. Gardner said staff was hoping to appropriate \$1.5M in additional ARPA if the Board approved, which was the County funding portion. She said staff would provide a Board update at the next quarter, which would offer information on more of the local projects to date now that they have a lot of state understanding, and also an update on state funding if there is any additional information to be provided there.

Ms. Mallek said it seemed as if they get new emails from Richmond or D.C. almost daily about all of this minutia, which is completely overwhelming, and she was glad staff was in the right spot to figure it all out. She said her question was about an arts pot of funding, as there are different communities drawing down pretty significant funding for the arts out of some special allocation, and she wondered if staff knew anything about that.

Ms. Gardner said specific to arts, she did not know of that allocation. She said their goal with the ABRT process is to open it to ARPA funding as a whole, not necessarily just human services. She said she would take a look and would get back to the Board on what kind of bucket that might be serving and how they can work through that.

Mr. Gallaway asked Ms. Mallek how she felt on the additional \$1.5M.

Ms. Mallek said it all seemed to make great sense in the staff report, and as long as colleagues in the broadband office are keeping them from doing any cherry-picking, she was all for it.

Ms. LaPisto-Kirtley said she was definitely in favor of the \$1.5M to go for more broadband.

Ms. Palmer said she agreed with the \$1.5M going to broadband and said she had some questions about United Way. She asked if the \$.8M funding for emergency services had started being allocated.

Ms. Mary Stebbins responded that the money was sent the past week, and they are taking phone calls now and getting back to people.

Ms. Palmer asked what types of people would be left out of that, especially with the rental assistance. She asked if they were paying attention to residents versus nonresident U.S. citizens, etc. She asked if there were people that they knew would not qualify.

Ms. Stebbins replied that her understanding was that it was for Albemarle County residents, but she would clarify exactly who was being covered.

Ms. Palmer said the question would be who was considered a resident.

Ms. Stebbins said she was pretty sure it was open to all residents of Albemarle County, but she would clarify that.

Ms. Palmer noted the state was allocating \$2.5M to the Virginia State Bar for legal aid funding for legal representation in eviction cases, and they have had a lot of questions from the public on providing ARPA money for that. She asked if staff had any information on how the state was going to allocate and use that, what their criteria were for that, and whether it was mostly just a situation where they would be explaining people's rights and what they can do.

Ms. Gardner said that was one of the first questions she had started looking at. She said she went directly to the Bar Association; they do not have an update on their site, but it is on her list to write to this week. She said she would find out whether it was going to a program already established or whether they are establishing a program, and she would find out the application process and the timeframe.

Ms. Palmer said she had the same kind of question for the \$120M in utility assistance. She asked if that meant that Albemarle County residents have two buckets to apply to: the ARPA funding that the County is supplying to United Way to distribute and the state fund.

Ms. Gardner said the utility program is going through the State Corporation Commission. She said there is going to be an application process, and based on what she has read so far, it seemed the utility providers would be in that process, but she would verify that, and they have not yet set up the actual application process. She said it could be both: They could have a portion of it for those in arrears to contact them to receive funding, or a utility service may be able to draw down the money and pass it out through their own establishment.

Ms. McKeel said she did support the broadband funding and had a question about the arts as well. She said she knew that some communities have a designated arts district and did not know if this funding might be tied to an arts district, which she would love to establish. She said she would be interested in more information at some point. Ms. McKeel said she keeps hearing in the national news that states have been slow to distribute these monies, and she asked if staff could speak about how they are seeing that in Virginia.

Ms. Gardner responded that there are several different buckets. She explained that the County was eligible to receive funding directly from the U.S. Treasury, and there are some non-entitlement units that had to receive their funding directly from the state. She said that for the state to fund the non-entitlement units, there was something to the effect of an attestation that they had to sign and say that they did want the funding. She said some people did not want the funding, and they have spent quite a bit of time tracking down each of these localities to get the funding out. She said she did not know if there was a slowdown in the sense of the non-entitlement units receiving their funding.

Ms. Gardner said the second piece of that was that this is not CARES funding, so they do not have to go at lightning speed. She said she felt that Virginia has really tried to focus on how they are appropriating the funding and putting it into the right buckets. She said they are going back and deciding whether they are going to spend the administrative burden or effort to set up new programs, or whether they are keeping them in the same programs and determining the right approach. She said they moved more quickly on some of the things that the County has also put into its bucket as being important, such as housing and rental assistance. She said they have acknowledged that it was difficult to apply for rental assistance in the past and are working to up that administration on their end.

Ms. Gardner said some of it is slow in the sense that it is a lot of money, especially when they are giving it out to the non-entitlement units and tracking them down, but they are trying to be thoughtful about how they are setting themselves up to support all buckets of money they are now responsible for.

Ms. Birch explained it was just like local units that wait for their boards to make some decisions and then set them in motion. She said that just happened last week with Richmond and the General Assembly approving the allocation of how they want this funding to be apportioned. She said by the next time staff comes in front of the Board, they would have a better understanding of how quickly they have been able to move once the General Assembly made their decision and the governor signed it. She said that would be very telling, and they would be prepared to talk more specifically about that in their next update.

Ms. McKeel asked Ms. Gardner to explain for the public the term "non-entitlement." She said she wanted to make sure she understood, because she always thinks of an entitled community to be one like the City of Charlottesville because they are entitled automatically to monies. She said the non-entitled communities would be like Albemarle County because the County has to apply through a competitive grant process. She asked if that was what Ms. Gardner was referencing.

Ms. Gardner responded that they are communities that are smaller than Albemarle County.

Ms. Birch said Ms. McKeel was correct with the traditional meaning of that. She said through the



U.S. Treasury and the guidelines around ARPA, it was escaping her exactly how they cut it off. She said in their instance, the Town of Scottsville is a non-entitlement: They got their money directly from the state, not the Treasury and not through the County like CARES. She said she could not remember the distinction, and Ms. McKeel was exact with how it typically is with entitlement versus non-entitlement, but there were some nuances with this.

Ms. McKeel said a lot of people in the community are very concerned about rent relief and evictions, as is the Board, and she asked if the \$20M for eviction prevention was for Virginia.

Ms. Gardner said the \$20M is in HUD grants.

Ms. McKeel noted that was federal and said she thought there was another bucket.

Ms. Gardner said Ms. McKeel was probably referring to the \$2.5M for the Virginia State Bar for the legal aid funding and representation that she would be looking into that week. She added that there are several other housing buckets that staff is looking at and making sure that the programming they are moving forward with for housing and human services is taking that into account, plus anything that needs to be done on the local side.

Ms. McKeel said that Mr. Richardson had sent out to the Supervisors a great email explaining the work that the County has done and how many people have been served. She said she knew that staff would be coming back to the Board with the numbers on the eviction piece and would be working with social services, as well as some other structures, including talking to legal aid about their thoughts. She said they just do not know the data and really need to know that.

Ms. Price thanked staff for both their presentations and the detailed responses that they have provided to the questions thus far. She said she absolutely and unequivocally supported the additional \$1.5M towards broadband expansion; this is an absolutely critical aspect of quality of life in the County. She said she appreciated staff identifying that that is an additional need in order to provide that funding to enhance their chance of being granted the money through the state VATI program.

Ms. Price said that regarding the request that the Board is receiving both through public comment that day, as well as through communications from constituents regarding funding for attorney representation in eviction cases, she is neither insensitive to the plight nor the consequences of an eviction on an individual's credit and how it affects their life for many years going forward. She said similarly, she was far from oblivious to the impact on particularly individual landlords who may lose their property due to an inability to pay their mortgage because they have tenants who have been unable to pay their rent. She said she is very concerned about ensuring an equitable concern for both the tenants and landlords.

Ms. Price said she puts individual landlords in a different category from corporate or large businesses that operate a rental enterprise. She said in the legal practice she has had for approximately 20 years, she has dealt with many individuals who have faced deep and severe financial consequences in terms of employment, loss of their home, and family stability when they have been unable to pay their mortgage. She said it was important to recognize both tenants who may be suffering and individuals who own a home that they are renting out; they face comparable consequences.

Ms. Price said with the requests for funding for legal assistance, she did not know if they had received any requests from the entities that provide such representation. She said this is different from the requests being received from the public to fund such entities. She said before making a decision on whether to send money towards legal representation, it was important to know if they are receiving that request from those entities, such as legal agents to centers that are providing representation. She said if they do not necessarily need the funds, then there are better ways to use those funds to help both tenants and landlords, and those were additional considerations she would want to make sure they take into account in reaching a decision.

Mr. Gallaway said he did not have any objection to the broadband money. He asked about the logic of the jump from the initial \$3M to \$4.5M.

Ms. Gardner replied that the original thought was that they would need \$3M to be competitive with the VATI grant. She said at the time, it was not known how much funding VATI would be receiving from the state and how it would be allocated, or what the options were for allocation. She said that Mr. Culp has been working diligently on this.

Mr. Mike Culp explained that the \$1.5M was due to Firefly doing some fieldwork and going out and identifying what their actual costs were going to be, then coming back after knowledge of the additional funding and identifying what would be needed to be truly competitive to earn this VATI grant. He said it seemed that there were at least 60 and perhaps up to 100 applications for this VATI session, which demonstrates that the Commonwealth is really taking a good look at this and would be funding a lot more programs this year. He encouraged that they be in that bucket and said they were excited to get the federal funding and state funding to provide fiber broadband to all citizens in Albemarle County.

Mr. Gallaway commented on the fact that there is so much different money coming and going in different directions and the complex matrix staff must have in place. He said he suspected from past answers at other Board meetings that nothing was locked into place; if it was missed from one place, it could free up local money to be maneuvered to another spot and they always would retain the flexibility to

do that. He said it is changing and evolving so frequently that they must have that ability, or they would be undermining themselves in ways they may not even know yet.

Mr. Gallaway said transit was in their own kind of lane with some monies, and he remembered a note that it could be impacted or not impacted. He asked if they were okay there and if they were tracking that. He asked if they were not needing to necessarily put local monies in that direction because it is being handled from the monies that are flowing down from above.

Ms. Birch responded that this was exactly right, and she remembered staff did have it in an earlier presentation. She said it might have been their very first one because they did know what transit was receiving. She said she did not believe there had been any marked changes to the transit funding because it was established very early on, particularly as it related to ARPA. She said the infrastructure bills were entirely different for transit, but she did not believe it had changed for ARPA. She said staff could provide that for reference in a future update because it was important to track.

Ms. Mallek said it makes her nervous to hear that utilities would be getting a direct unknown number of millions of dollars. She asked who would be tracking where that was going and if they were going to put it in a bucket or actually get it out to people. She noted staff was not responsible for that but said it gives her anxiety that they were going to get it where it needs to go. She said she hoped there would be some information coming forward about that.

Mr. Richardson said that he appreciated the leadership from the Finance and Budget Department but also Mary Stebbins, who was on the call. He said Ms. Stebbins had stepped up significantly with the retirement of Ms. Phyllis Savides, as they were waiting for Kaki Dimock to come on board to lead the Social Services Department. He said they have wonderful staff who work very hard every day, and Ms. Stebbins exhibits that on a day-to-day basis. He said he wanted to publicly thank her for her leadership; the County Executive's office has leaned on her hard during this interim time, and she did an outstanding job for Mr. Walker and the team in the County Executive's office. He thanked her for her work and thanked her DSS team.

Ms. Stebbins thanked Mr. Richardson for his kind words.

Mr. Gallaway said the Board also expresses their appreciation.

---

Agenda Item No. 10. **Action Item:** SE202100019 Homestay Special Exception Tranquil Cottage.

The Executive Summary forwarded to the Board states that the applicant requests a special exception pursuant to County Code § 18-5.1.48(i) for a homestay at 3434 Fosters Branch Road to modify County Code 18-5.1.48(j)(1)(v) to reduce the required 125-foot setbacks to 82 feet +/- from the southwestern property line for a homestay use in an existing accessory structure.

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.

---

Ms. Leah Brumfield said she was presenting special exception 202100019 to reduce required setbacks for a homestay on Fosters Branch Road, located in a cottage built 20 years ago. She said given no neighbor objections to a proposed homestay requesting a setback reduction, this special exception would have gone on the consent agenda, but there was a concern voiced about this application.

Ms. Brumfield said homestays for parcels like the subject one here at 3434 Fosters Branch Road, an 8.5-acre rural area parcel, are subject to regulations limiting them to five guest rooms, requiring 125-foot setbacks from all parcel boundaries, permitting the use of accessory structures only if they preexist the homestay ordinance and requiring the homeowner to be onsite during a rental. She said that as with all homestays, the property must be the primary residence of the owner, parking must be onsite, neighbor notification is required, and annual safety inspections are also required.

Ms. Brumfield said there are two special exceptions possible for a larger RA (Rural Area) parcel like this. She said this application was requesting a reduction in the setbacks on the southwestern parcel boundaries of the accessory cottage structure. She said as the cottage was built in the year 2000 and is on a parcel over five acres in size, so no special exception is required for the cottage itself, but there is a special exception required for the setback.

Ms. Brumfield stated that homestay special exceptions may be granted if there is no detriment to any abutting lots and no harm to public health, safety, or welfare. She said the proposed homestay shown on the slide is surrounded by large parcels used for residential and agricultural uses. She said the nearest house is 442 feet away from the homestay, across a large field, and all other abutting parcels are used solely for agriculture and do not contain any dwellings.

Ms. Brumfield said staff did receive a phone call expressing concern from the nearest neighbor. She said that this neighbor cited poor neighbor relations and dumping as a cause for concern, but she did not cite any concerns related to the actual proposed homestay on the phone call; as such, staff recommends approval of a special exception with the addition of screening as shown on the exhibit.

Ms. Brumfield pointed out on the image and the prior aerials that the parking area is already very well screened. She said there is no current vegetation or any kind of screening between the homestay location and the neighboring parcel. She referenced a photo taken from the corner looking toward the neighbor's parcel where the fence separates the two properties. She said as previously required in other homestays, staff recommends providing screening to mitigate any visual impacts and believes that would serve to avoid any future negative impacts to neighboring parcels. She noted that the screening would be between the cottage and the neighboring parcel.

Ms. Brumfield said staff recommends approval with conditions related to parking and guestroom numbers, maintenance of the existing screening, and the addition of plantings as shown on the aerial exhibit.

Ms. Mallek said she was glad to see the attention already given to the screening. She said as long as it is thick and able to do the job with a staggered arrangement, then she did not have any other questions.

Ms. LaPisto-Kirtley said this was in her district, and with the additional screening and approval of Attachment F, she had no problem with this homestay. She said it looks very nice and is something that she would be supporting.

Ms. Palmer said she too would support it.

Ms. McKeel said she did not have any problem with this proposal based on the screening. She said she had flagged the dumping issue, which brought her to a process question. She said because this is an 8.5-acre piece of property, someone could be using that piece of property without the owner's knowledge, and they have dumping issues all over the County. She asked staff whether they report a complaint like this, which is not about necessarily the homestay, to officials so that they could follow through on an investigation and make sure that this owner's property is not being used for illegal dumping.

Ms. Brumfield said in this particular instance, it was very clear that this was not a further issue; this was a onetime issue and a misunderstanding. She said if there is something that is more alarming or a red flag that would need to be investigated, it would be investigated. She said it would be created as a zoning violation if follow-up was needed with code compliance officers, and then they would be able to investigate that. She said staff probably would not move forward with the homestay application at the same time if there was something that came to light, and zoning officials are accustomed to seeing what the red flags are.

Ms. Price said she would simply be repeating the same concerns that Ms. McKeel articulated, which are separate from the homestay itself. She said she appreciated that discussion. She said she had no questions or concerns with regard to this homestay application.

Ms. LaPisto-Kirtley **moved** that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein. Ms. Palmer **seconded** the motion.

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

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

---

#### **RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR SE2021-00019 TRANQUIL COTTAGE HOMESTAY**

**BE IT RESOLVED** that, upon consideration of the Memorandum prepared in conjunction with the SE2021-00019 Tranquil Cottage Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exception would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

**NOW, THEREFORE, BE IT RESOLVED**, that in association with the Tranquil Cottage Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125-foot southwestern yard required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \*

#### **SE 2021-00019 Tranquil Cottage Homestay Special Exception Conditions**

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the House and Parking Location Exhibit dated July 29, 2021.
2. Homestay use is limited to the existing structures, as currently configured and depicted on the House and Parking Location Exhibit dated July 29, 2021.

3. Screening must be established and maintained southwest of the homestay and homestay parking area, as shown on the House and Parking Location Exhibit dated July 29, 2021, in a way that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

---

Non-Agenda Item. **Recess.** The Board recessed its meeting at 2:55 p.m. and reconvened at 3:11 p.m.

---

Agenda Item No. 11. Work Session: Homestay Program.

The Executive Summary forwarded to the Board states that a "homestay" provides lodging and rooms to guests for less than 30 days, is accessory to a single-family dwelling, and may offer no more than five guest bedrooms for lodging. Homestays are also known as "short term rentals," "Airbnb," "VRBO," or "transient lodging," and were previously known in the Albemarle County Zoning Ordinance as "Bed and Breakfasts" or "Accessory Tourist Lodging." The number of homestays operating at the time without holding applicable zoning clearances or remitting applicable taxes created a "compliance gap." Study of the issue led to a series of amendments to the County's taxation, health and safety, fire protection, and zoning regulations in 2017-2019. Those amendments attempted to balance increased tourism with preserving the Rural Area and residential areas from potential negative impacts.

This work session is in response to the Board's request to review the homestay compliance program and experience with the new regulations after implementation. After the first updates were provided to the Board in June 2020, the Board requested another update the following year.

1. Proactive Compliance Program Updates - With the assistance of a third-party service, staff began contacting homestay operators proactively to achieve compliance. Staff believes that 90% of homestays are now compliant and \$287,871 total revenue, including transient occupancy tax (TOT), has been captured. Attachment B provides additional updates. Staff recommends that the third-party service be extended for an additional year. The service has been essential to the proactive compliance program, capturing lost revenue, and success in closing the compliance gap. Staff will bring a future appropriation forward prior to renewing the contract for services.

2. Initiate a zoning text amendment to amend the 125' setback for Rural Area homestays and parking - Albemarle County Code § 18-5.1.48(j)(1)(v) and § 18-5.1.48(j)(2)(v) require a 125' homestay setback in the Rural Areas (RA) zoning district from any abutting lot not under the same ownership. To date, 40 special exception requests have been submitted to reduce the required setback, and 23 have been approved as of July 27, 2021. Detailed information is provided in Attachment C. When a high number of applications is approved on a recurring issue, the best practice may be to amend the regulations rather than to repeatedly consider recurring special exception requests.

Staff recommends amending these County Code sections to save staff resources and build capacity for other work program priorities. Staff recommends that the Board direct staff to prepare a resolution of intent, public process, and schedule a proposed resolution of intent on the Board's next available consent agenda, tentatively, September 15, 2021.

3. Future Work Session topics - Staff has begun to identify other homestay topics that will need further discussion at a future work session. Board members may wish to identify additional future topics, such as considering amendments to owner-occupancy requirements - Albemarle County Code § 18-5.1.48(j) (1)(iv) requires owner-occupancy for each homestay located on a parcel of less than five acres in the Rural Areas Zoning District. Staff recommends that this ordinance be amended to allow special exception requests, regardless of parcel size or zoning district, and to make other necessary updates for clarification and ease of administration. Given some of the complexities related to this issue, if the Board is interested, an additional work session could be scheduled to discuss the scope of study prior to initiating a text amendment.

The cost of the first year of third-party support, that expired on April 1, 2020, was \$9,465. The cost of extending the service for a second year (January through December 2021) was approximately \$7,572. The cost for extending the service for another year is \$7,572.

Staff recommends that the Board:

1. Endorse the continued proactive compliance program and funding for the third-party support service for another year.
2. Direct staff to prepare a resolution of intent to amend Albemarle County Code §§ 18-5.1.48(j)(1)(v) and 185.1.48(j)(2)(v).
3. Advise staff if a future work session on remaining topics is desired once the zoning text amendment to adopt the above-referenced resolution of intent is completed, tentatively in the first quarter of 2022.

---

Zoning Administrator Bart Svoboda said he would cover the background for homestay regulations. He stated that Albemarle County has been contemplating homestays for approximately 45 years, and he presented an article published in 1976 from The Daily Progress.

He said this article was for the Bicentennial and talks about the visitors that come to the area for the celebration and their need for accommodations. He said some found refuge in B&Bs, which are now called homestays. He said homestay is a form of transient lodging that is an accessory and permitted only in association with a single-family residence. He said it allows for the rental of guest rooms for less than 30 days at a time. He said the provision for this form of lodging has been in the zoning ordinance since 1976, and that provision allowed for up to five guest rooms within a single-family dwelling.

Mr. Svoboda said he would talk about the comprehensive plan and tourism as part of the background. He said these homestays helped promote tourism and the heritage associated with tourism and agriculture. He said it helps preserve scenic, historic, and natural resources, and people who come to see the area like to see those things, so there is motivation for landowners to keep their properties and historic structures, and that part of tourism is an industry alive and vibrant. He said homestays in Albemarle provide lodging in areas that are not currently served by traditional types of lodging like hotels or motels.

Mr. Svoboda also said that homestays contribute to lodging tax revenue/transient occupancy tax (TOT), and visitors would spend money at local shops and restaurants and hire local employees. He said the average travel party to Central Virginia spends about \$623 per trip, according to the Virginia Tourism Corporation. He said staff did speak with tourism officials at the County to get some updated numbers and discuss how that industry plays into the larger financial picture.

Mr. Svoboda said he would talk about the term "compliance gap." He said Strategy 5e within the comprehensive plan is to study transient lodging and look at the regulatory changes that should occur, determine what changes needed to be made, and what was appropriate. He said this started in 2017, and the new homestay regulations were adopted in 2019. He said the compliance gap referred to people who did not know, were unaware, were not paying attention, and were not in compliance yet. He said the compliance gap was basically people who were up and operating and did not understand what regulations they had to meet, so they were not complying with zoning or taxation or other requirements.

Mr. Svoboda provided a summary chart of current homestay regulations. He said the little blue asterisks located within the chart are those things that may be modified for a special exception. He said towards the end of the presentation, staff would ask the Board for about four things, two of which are special exceptions including the 125s, and also a brief discussion about owner-occupancy and how they would like to proceed with that.

Mr. Svoboda said homestays have been permitted in the community since 1976. He said most recently, following the two-year study process, the ordinance was amended in 2019 to allow for unhosted, or whole-house, rentals. He said those take place only in the rural areas on those parcels larger than five acres. He noted that a member of the public had been speaking about a 45-day cap; that 45-day cap is associated with whole-house rentals and is not a cap for any other timeframe within homestays.

Mr. Svoboda stated that they were looking at those regulations to make sure to protect the character in those rural areas and residential neighborhoods and the character associated with where these uses were located. He said it was about what was going on in the homestay and where it was located and whether it fit into the character of that particular neighborhood, whether that neighborhood was residential, if it was permitted there, or whether that neighborhood was a farming community and how it impacted that particular character. He said there are five main focus areas of the new regulation, which are guest rooms, use of accessory structures, required setbacks, whole-house rental, and residency.

Mr. Svoboda said he would discuss some compliance program updates and information from Finance, as well as how the homestay cycle works. He said there are zoning approvals and building safety inspections, which include a fire marshal's office, in particular that inspection has been combined for the initial inspection. He said there was a request back in the beginning that they not send three different types of inspectors to do one task, and they were able to cross train one of their CCOs. He said they take care of the initial safety inspection and the building inspection and the zoning inspection all at the same time. Mr. Svoboda said there is health department approval, intake of the application, business taxes, and then zoning. He said some of the cycle would repeat annually as they renew annually under the registry.

Mr. Svoboda referenced a slide with a brief rundown of the steps one would take to get a homestay. He said these include meeting zoning requirements and fire and building safety requirements; an applicant needs to get a zoning clearance, pass inspections, send neighbor notice, apply for a business license, pay applicable taxes, and become a member of the registry, which enables the County to solicit that annual safety inspection and make sure that the homestay is up to date.

Mr. Svoboda presented a slide with the type of taxes that a homestay might pay. He said these consisted of a business license tax, transient occupancy tax, business tangible personal property tax, sales tax, and food and beverage tax. He said the last two depended on whether there were souvenirs or if they were serving food for a fee. He said the other three taxes had to do with the business license: The room rate is the TOT, and equipment, bedding, beds, and

things used within the business are tangible personal property tax.

Mr. Svoboda said the compliance update information was provided by Finance, and staff went over it that day to make sure it was accurate. He said as of 05/12/2020, 295 was the initial count; in the last year, they did about 32. He said there was a gap as shown in the staff report, with an eight-month lull where they did not have their third-party helper to handle some of these. He said the percent responded is on the rise; from talking with Ms. Lin that day, that number is probably closer to about 80% now. He pointed out the captured revenues listed and said Jian Lin from Finance was in attendance for questions about those components.

Mr. Svoboda stated that with the zoning compliance effort, they have proactively contacted approximately 400 of the listings, and they are about 90% compliant. He said that the 10% compliance gap remaining is likely to remain for a while; it may get smaller, but there is a certain percentage that are going to be new to doing the homestay as a business, so they may be unaware. He said there would also be a certain number of complaints and repeat customers who are in and out that would have to be tracked. He said that number would likely remain for the foreseeable future, meaning the next few years, until local and national habits are reestablished on how people vacation or use these homestays as recreation.

Mr. Svoboda said since 2019, there have been approximately 400 complaints; of those 400, 39 have been called in by individual property owners. He said the majority of those complaints come in from their third-party helper; he thought that was a number that the Board would be interested in because it helps elucidate the amount of "nuisance" of the homestays. He said that calculates to about 10% of the homestays that have some sort of complaint.

Mr. Svoboda said the compliance gap is closing; he did not know if they would get it 100% closed, because that would mean everyone was doing perfectly what they were supposed to do under the ordinance. He said operating in that 10% range is a vast improvement from where they began a few years ago, and barring any significant shifts again in the market, that 10% gap would probably remain fairly constant over the next few years during transition through current events and establishment of new routines.

Mr. Svoboda referenced a heat map, stating that it was only partial but gives an idea of where homestays are located: primarily around the urban ring and around growth areas. He noted that the compliance program takeaways were that the majority of homestays are concentrated around the urban ring, and the number of noncompliant new listings is declining. He said the message is getting out both for zoning and finance, but they need to continue the third-party helper for one final year. He said homestay complaints from individual property owners remain low, meaning that 39 out of 400 is about 9% or 10% of the overall homestays.

Mr. Svoboda said they would be coming back to the Board in August 2022 to have a final update, and he looks forward to seeing how this goes over the next year. He stated that the ordinance improvements/revisions section was based on their experience, meaning the Board, applicant, community, staff, and what had been experienced over the last year in special exceptions, phone calls, and the whole process altogether.

Mr. Svoboda presented a chart representing special exceptions: how many were taken in, how many were processed, and how many were approved. He said that as an example, the 125-foot setback reduction is by far the most sought-after special exception; 42 have been submitted, 29 approved, and 10 pending. He said staff was recommending a revision for the 125. He said they were asking to get permission to do an ROI that says staff can look into this, develop the standards, and develop the landscape for the 125. He said that similar to the application that day, those would be requirements as part of the administrative approval, which would free up some capacity for both staff and the Board on their agenda. He said it takes staff probably 20 to 30 hours, depending on the complexity of the application, to present a homestay by the time it runs through all the review process, pertinent people, Granicus approval, and any other steps.

Mr. Svoboda presented a slide with staff's recommended ordinance amendments. He said staff wanted to replace the 125-foot setback and would like to start the discussion with the primary structure setbacks which consist of sufficient screening. He said that gives the owners the ability to use their structures that meet the appropriate setbacks in the district, which is what is already allowed for home occupations. He said they want to mirror that section of the regulation but with some additional screening requirements.

Mr. Svoboda reported that staff has run into a situation on several occasions where there is an historic structure that does not meet primary setbacks. He said they also would want to consider having the special exception setback still available for parcels that are less than the district setback, in case there is a structure that is historic or a situation where the property owner has adjacent properties similar to what had been discussed as criteria for the 125 special exception a couple of years ago. He said they can reach for that, but it would be on a case-by-case basis.

Mr. Svoboda said another recommendation was expanding the option for the owner-occupancy onto lots greater than five acres. He said that would not be automatic; that would be similar to how they started with 125s; expand it into that area by special exception, and then

criteria can be developed to analyze those special exceptions. He said that particular category may never be administrative, and staff recommends that a full conversation take place in a work session that would probably come up after the first of the year. He said it is a heavier lift to develop criteria and discuss different types of ownership versus what the use is.

Mr. Svoboda said that a work session would take place end of calendar year first quarter or beginning of second quarter. He said that would be a discussion about what is being done and where it is being done, not necessarily who owns it, although that would at least be a starting point. He said they wanted to make sure they have clarity on how that would work. He said this had to do partly with comments from the farms; they had heard from a resident who still owned the farm but did not live on the farm. He said how to negotiate or navigate that to keep that rural character and farm intact without it having to be sold and developed residentially would be a broader discussion and a longer process for a zoning text amendment than the 125 would be.

Mr. Svoboda presented the next slide with a summary of staff recommendations: to endorse the third-party helper for an additional year, and to direct staff to prepare a resolution of intent to adjust the 125, and also clarify any additional confusing language within the homestay regulations. He said the regulations are not necessarily in a user-friendly order, so staff may reorganize that section without actually changing language so that it flows better for the layman.

Mr. Svoboda said the third recommendation would be to expand the special exception onto properties greater than five acres. He said it would not be automatic, but the owners would at least have the ability to ask the Board whether or not it would be appropriate. He said the last recommendation is to schedule that future work session to really dive into owner-occupancy and figure out where to go from there; the what and the where versus the who.

Ms. Mallek asked if the registry was currently in operation.

Mr. Svoboda responded that the registry is in operation now, and the people on the registry are compliant. He said staff had done research on it, and no one on the registry actually had a complaint against them.

Ms. Mallek suggested taking out the words "one final year" in #1 to read "extend it for the next year." She said as long as it is bringing in more revenue than it is costing, they should keep it. Ms. Mallek said she looked forward to more explanation about the primary structure setbacks as if something new would match the existing one.

Ms. Mallek said according to current interpretation, if a property is owned by an LLC, even if the family lives there 100% of the time, they are excluded from applying for any reason because they are an LLC. She said that sounded like a much simpler change; if it is owner-occupied, it should not matter if they are an LLC. She said some residents who have 100 acres or more would love to be able to do this, but they were not even able to get their application in the door, and she would love feedback about that.

Mr. Kamptner explained that was partly because of the definition of "owner" in the zoning ordinance, which applies to the entire zoning ordinance, and it probably needs to be nuanced for this particular use.

Ms. Mallek asked if that would be a simple correction, emphasizing that it was not their intention to have the result they were having.

Mr. Svoboda said staff's proposal to expand the owner-occupancy exception to the five acres or more was the quick fix, so it could be done case by case. He said the longer fix is the work session as they talk about how it affects potentially other portions of the definition of "owner" throughout the ordinance.

Ms. Mallek asked if the expanding owner-occupancy exception to the over-five-acres process was an administrative change in policy that staff could make, or if the Board would have to do that.

Mr. Svoboda said it would be a zoning text amendment. He said two and three are both zoning text amendments to change the 125 and expand that into five acres or more.

Ms. Mallek asked what the timetable was on that.

Mr. Svoboda said staff would have to do their ROI, schedule for the PC, and then schedule for the Board.

Ms. Mallek asked if it could be something like a couple of months.

Mr. Svoboda responded that would be based on the Board schedule. He said they would collaborate with the Clerk, the County Executive's office, and their staff work program to determine where this lies in priority and how it balances with resources. He said they were hoping that two and three might be earlier, but that was a discussion he would need to have with his director about the work program and how all that fits in. He said number four, the bigger, broader discussion, would require more resources, and that discussion would likely come up as

they start talking about the work program again for Community Development.

Ms. LaPisto-Kirtley asked if they were talking about months and not years for two and three.

Mr. Svoboda said four to six months within the Board timetable, based on their schedule.

Ms. LaPisto-Kirtley agreed with Ms. Mallek to take out "one final year" because they may decide to continue it, even on a part-time basis. She said she would agree with number two, the 125-foot setback, and staff being able to look at that and determine what is reasonable for screening, parking, etc.

Ms. LaPisto-Kirtley said she was definitely in favor of number three; she thought it was actually an oversight to limit it like that. She said there are some historic homes on large parcels of property where people do not necessarily live there. She said she agreed with looking at the LLCs down the road; from her understanding, someone might have an LLC to protect themselves for insurance purposes. She said she also agreed with number four.

Ms. Palmer agreed with taking out "one final year." She said it was great other than that. She said for number two, she was confused about the explanation. She asked if staff was thinking about coming back and just changing the requirement to 60 feet or some other number of feet. She said that currently could be done administratively, as long as there is not a complaint at the 125.

Mr. Svoboda said right now, the Board does that administratively. He said if they would change this to an administrative process, it would be done at the staff level, and the Board would not see it as a special exception.

Ms. Palmer asked if staff was talking about just reducing that to something or making the 125 feet administrative.

Mr. Svoboda answered reducing it to flow with how they normally do setbacks.

Ms. Palmer said she agreed with the third one. She said for those who were not on the Board then, it was not an oversight. She said they had quite a discussion about people coming into the community and purchasing properties for this purpose and the number of affordable housing and other housing in the community. She said that now the situation where one can only use it for a certain number of days per year helps quite a bit.

Ms. Palmer said she was a bit confused on how the whole-house rental would work into it since they were saying that one has to live in a house for a minimum of six months. She asked if staff had any ideas on how they were going to deal with that aspect of the whole-house rental.

Mr. Svoboda said that would be part of the broader discussion. He said as they tweak that ownership, the whole-house rental would have to be dealt with, whether it is null and void or a different thing. He said when they look at expansion into the five acres, they would have to write a caveat that if one received a special exception, either the 45 days does not apply or would have to be addressed somehow.

Ms. Palmer said she remembered Ms. Price saying they should be looking at something slightly over six months so people would not be just buying two houses. Ms. Palmer said some of these large parcels could be put in conservation easements, either the ACE program or Virginia Outdoors Foundation, depending on their income and situation. She said if an owner puts it in conservation easement, they get an easier situation and dramatically reduced taxes. She said she was not sure if multiple people owning a property and having an LLC could even apply to the ACE program, but it would be interesting to look at to give them some break in the process.

Ms. Palmer said that number four made sense to her.

Ms. McKeel said she was supportive of one and agreed with taking out the word "final." She said they were going to probably want to continue this; she would think it reduces staff time to investigate compliance. She said she was happy to look at number two, the 125, as well and discuss that, and staff could come back to the Board with their recommendation.

Ms. McKeel asked for a discussion around the LLCs. She said she understood the reason they exist but did not see how they fit in with homestays. She asked if they would create situations where people would not be as inclined to take care of the property.

Mr. Svoboda said there was no more control zoning-wise, whether it was an individual or an LLC. He said it was about the use and whether it meets applicable regulations and whether it maintains the character of a particular area. He said bad actors can come in the form of an individual, a group of people, an LLC, or a company, and from a zoning perspective, those are the regulations that they have to comply with. He said who runs it is less of a concern, and some individuals have more than one property or more than one business, and some of their properties comply and some of them do not. He said strictly from the zoning enforcement end, it is about what is going on as opposed to who is doing it.



Mr. Kamptner said homestay use is residential in nature, and the artificial entities, which include corporations and land trusts like LLCs, at least leave open the possibility for a single entity to operate multiple homestays. He said in some ways, that is problematic if it becomes more of a business and is an incursion of purely commercial activity in what are either residential or RA districts. He said part of that could be addressed through focusing on the effects of the use and adding criteria to the special exception review that would include consistency with the comprehensive plan, for example, whether or not it affects the residential character of the neighborhood, as a way to help control the proliferation. Mr. Kamptner said they would also need to monitor who the humans are who compose the artificial entity and track the extent to which they are entering into multiple homestay uses.

Ms. McKeel said this was getting at some of her concerns, noting that staff has said in some cases they do not have a clue who owns a property because it is an LLC with indeterminable owners.

Mr. Kamptner explained that this could become part of the application process. He said for applications for an LLC, for example for rezoning, staff has to find out who the authorized signatory is, so they get the formational documents that identify who the manager is and who the members of the LLC are, so that information is available.

Ms. McKeel said one has to know where to look and how to get it because it can be a challenge.

Mr. Kamptner agreed and said most of those documents are not going to be recorded.

Ms. McKeel said she had concerns about the LLC because the whole idea of homestays was to allow people to use their home to be able to bring in extra income and not have to sell it. She said when they start talking about LLCs and businesses and people owning four and five, that is not her idea of a homestay. She asked Mr. Svoboda to tell her more about the complaints staff is getting.

Mr. Svoboda replied that the complaints were kind of the usual things: noise, parking, dumping, etc. He said they get the core of the neighborhood complaint, which usually relates to noise or parking.

Ms. McKeel asked if they were keeping track of those and investigating them as they come up.

Ms. Lisa Green said they were.

Ms. McKeel asked if it was a small percentage of homestays and whether the ones getting complaints were located in a certain area or fell within a certain category, such as under five acres.

Ms. Green said they had everything logged and tracked but had not done a mapping situation on those that were actual complaints from constituents or others about the location. She said they did get several after the new homestay ordinance was adopted. She said they have had everything from wanting to make sure a person was paying their proper taxes, traffic concerns, and a few noise complaints. She commented that sometimes it was just about whether the property was a townhouse, which is disallowed, and traffic and parking concerns related to those. She said they have not tracked the location; they can get that information but do not have it at present.

Ms. McKeel said she was thinking about location more in terms of the five acres or more, and she would like to come back and have a discussion. Ms. McKeel said that Ms. Palmer's point about the ACE program related to her desire to go back in and review that 30-year-old program in the context of a new reality. She said she would love to see them go back and holistically look at the ACE program and how it could be changed, improved, and strengthened.

Ms. Price thanked staff for both the presentation and the additional explanation. She said this is a very complex area that does have some competing interests. She said she appreciated the fact that the County has taken such a measured approach to identifying, addressing, and resolving a lot of the concerns that the Board has. Ms. Price concurred with continuing the third-party helper, and there was no reason to limit it to just a single year.

Ms. Price said she also agreed with number two to move forward with that change to reduce what in most instances is unnecessary time. She said she had full confidence that County staff would be able to identify those situations that do require actually coming to the Board of Supervisors, adding that she agreed that more time and work needed to be put into the last two.

Ms. Price said one of the real complexities here is the desire to preserve the scenic, historic, and natural resources by maintaining homestays as a collateral use of a primary residence, and not allowing it to turn into either a business as a primary source of revenue or effectively creating a landed gentry by those who may inherit or own a large piece of property.

She said this then causes complexity with balancing the ability to have a homestay for collateral use versus the impact on the housing stock availability, which is a major issue in the area, where more primary residences are needed.

Ms. Price said there are certain situations where exceptions can be made to some of the general policies; for example, the Board just recently approved a homestay in the Scottsville District owned by an LLC. She said that was a piece of property where there appeared to be no other reasonable use, and if it was not approved, then the property very likely could fall into disrepair, which goes against maintaining scenic, historic, and natural resources. She said there may be situations where an LLC might be appropriate; on the other hand, if unbridled LLC ownership is allowed, then that would result not in a collateral use of a primary residence but businesses. She said a limited liability corporation could be created to protect the owners from personal liability in the event of an incident that takes place, but on the other hand, an individual or individuals could have multiple LLCs, which now has gone completely away from the collateral use of a principal residence.

Ms. Price said as they look to try and balance the highest best use with these other interests, one of the things to also consider is compliance tracking and the resources and expenditures that are required to support that. She said if an LLC were to apply, perhaps there should be a different fee schedule for individuals versus LLCs because of the additional tracking that would have to be done. She said she also had serious concerns with individuals having ownership in more than a single LLC if they were looking to have a homestay.

Ms. Price asked County staff to go back and listen to the comments from the second speaker from the public earlier in the day. She said she heard a request for some sort of an exemption from at least some of the regulations for these inherited properties, which she simply cannot support. Ms. Price said there must be equitable responsibility and expenses that are tied to homestays, other than if it costs the County more to be able to monitor compliance, those entities that require more time and expense to monitor them should have to pay a higher fee.

Ms. Price said she agreed with one and two. She said with three and four, she supported having additional conversations.

Ms. Palmer thanked Ms. McKeel for talking again about the ACE program. She said they are going to have a review of the ACE program on September 15. She said it had been made very clear that when one of these is approved, it goes with the land and not with the owner. She said if it is a family situation that has an LLC and they decide to sell, in the future, it could be a business or it could be something else; they do not know what it could be in the future. She said she wanted to mention that and remind everybody that it goes with the land.

Ms. Palmer said she would not suggest that a family be required to put their land in conservation easement to get a homestay application, but it could be something of an exception or additional option. She said in situations where family members live in different states, they probably do not know about the ACE program and how they could reduce their taxes significantly if they decided to enter into something like that. She said it was just an idea to consider talking to these people about so that they are aware that they can reduce their taxes dramatically by doing that; if they are people who are land rich but cash poor, the ACE program might be a much better option for them than the Virginia Outdoors Foundation or Nature Conservancy.

Ms. Mallek said she had written down Mr. Svoboda having said the proposal to expand owner-occupancy exception into the over-five-acre category is the quick fix for the LLC. She said she did not see how that helped and asked staff to talk about that. She said the other question that goes along with this is whether this also excludes land that is in a family trust in agriculture.

Mr. Svoboda said the answer to the second question would be no. He said it would open up the options for property owned by an individual owner or other entity, and that would be a Board decision. He said number three gets the landowners or the landowner representative in front of them to discuss what is happening in those individual situations so they can understand it better with less speculation and more real-time example of what is happening; it would still be a discretionary decision on the Board's part and not an automatic.

Ms. Mallek asked if there were a different way to describe a residential full-time family who happened to be described as an LLC on the deed, which is different than the situation with the resident manager because they live there. She asked if that was creating a new category that also may bring people before the Board.

Mr. Kamptner said that issue speaks to a definition of owner that is unique to the homestay use. He said it has that unique residency requirement absent the special exception, and it would have to be very carefully crafted to incorporate the situation Ms. Mallek described and what has been heard anecdotally from others as well. He said, right now, that definition just does not accommodate every single situation that may be out there.

Ms. Mallek said she understood that and were just beginning two years ago, and they have since made a lot of progress. She said regarding the discussion of the 125 feet, it is fine to reassess this, and she was supportive of that. She said the reason it was made there was that they wanted to make sure that these uses with perhaps four and five cars were not crammed onto

very small lots, either urban or small neighborhood rural subdivisions. She said as long as these changes were being thought about along with other checklists, she was happy to move on.

Ms. Mallek said she was glad to hear what Ms. Palmer had said about the conservation easements. She said for the 18 years that she was on the committee, every single year they were modifying something, and there had been a constant reevaluation. She said there had been a lot of very wonderful evolution, though never fast enough, but they have to keep plodding along. She said she looked forward to that discussion in September.

Ms. McKeel said when she looks at the ACE program, there are no indications on the dates that any changes have been made, and it does not look to have been reviewed and updated in a long time. She said they do need to have a good discussion with that program.

Ms. Mallek said they were always referring to the dates on the bottoms of the pages.

Ms. LaPisto-Kirtley said she wanted to make sure that on item number three, they would be considering a resident manager for acreage over five acres, or even over 10 acres. She said there are large ranches or farms, some of which have historic buildings on them, that the County would not want to see purchased and subdivided. She said an owner who inherited one may live in Albemarle but not on that particular farm, and she would like for there to be an opportunity to have a resident manager live in an historic home owned by a family. She said that perhaps restricting the LLC applies more to properties less than five acres where the LLC can come in and purchase a lot of small individual homes in a small area and rent them out, and she would not be in favor of that.

Ms. LaPisto-Kirtley said in the situation of large acreage, it would be desirable to not have it subdivided and to be able to gain revenue. She said that does not take away from the affordable housing or the housing units available because the 150 acres with a large home was never going to be part of the affordable housing stock. She said she would like to see historic places that do have large parcels of property stay that way. She said if one of the ways to keep it is by having a homestay with a resident manager, she looked forward to having that discussion.

Ms. Price said she did not mention affordability when she had mentioned housing stock availability.

Mr. Gallaway asked if the two special exceptions that had been denied were denied only because of the setback reduction.

Mr. Svoboda said there were some other asks in there. He said one of the denials was in Earlysville that was close to the line, 10 feet or less. He said there were already some existing issues with buffering because the house was so close in that particular instance. He said they did not have the ability to mitigate some of those impacts with plantings and different things, and the driveway was on that side and was already up against the property line.

Mr. Gallaway clarified there were other factors involved too and not that one had come forward just with the setback special exception and then was denied just because of that.

Mr. Svoboda said that was correct. He said he believed that one also had a resident manager request.

Mr. Gallaway said he agreed with the point made about the final year and not to be locked in. He said he was fine with the setback one and further looking to see if they can get that figured out in a different way than the special exception; that seemed to make the most sense. He said he was fine with the other two as well.

Mr. Svoboda summarized the staff recommendations: continuing with the third-party helper; having staff prepare a resolution of intent to address the 125-foot setback and making that an administrative process that included screening, available parking, and other current special exception considerations, codifying those changes; and expanding the special exception for owner-occupancy into five acres, as a discretionary decision by the Board. He said they would have a future work session to talk more in depth about ownership types, such as LLC, and the general incorporation of other elements. He said this would be a bigger initiative that would take place after the first of the year. He asked if the Board agreed with the recommendations.

Mr. Kamptner said there was consensus.

---

#### Agenda Item No. 12. Mapping Albemarle.

Ms. Rachel Falkenstein stated that they were joined by Jordy Yager, Digital Humanities Fellow with the Jefferson School African American Heritage Center. She said Mr. Yager would share some of his findings from his work with the Mapping Charlottesville project, and he would provide an overview of his plans to expand their research to Albemarle County with the Mapping Albemarle project.

Ms. Falkenstein said it was important to mention staff's intent to partner with Mr. Yager and the team at the Jefferson School during the upcoming comprehensive plan update. She said the community

is getting ready for a review and update of the County's guiding document regarding land use and growth, which is the comprehensive plan. She said they see this project as an opportunity to build and grow community partnerships such as with the Jefferson School.

Ms. Falkenstein said as they embark on this work, an important factor to consider and evaluate is historic patterns of land use within the community. She said they must consider an accurate history of growth and development within the County and how past practices of discrimination and racial segregation have shaped disproportionate outcomes within the community. Ms. Falkenstein said they were pleased to have a local partner such as the Jefferson School leading this great work and were excited about the opportunity for community members to volunteer and help with Mapping Albemarle, conducting research and sharing their life experiences.

Ms. Falkenstein said they would continue to partner with the Jefferson School as Mapping Albemarle gets underway and would help share the findings from their research. She said they would participate in larger community conversations about what the findings mean, and then would use the maps and data to inform their work on the upcoming comp plan. Ms. Falkenstein thanked the Board for their time, leadership, and commitment to issues of equity and inclusion within the community.

Mr. Yager thanked the Board for having him and the collective of individuals that had made Mapping Albemarle and Mapping C-ville possible. He said this would not be where it is today without the direction of Dr. Andrea Douglas at the Jefferson School African American Heritage Center. He said he was privileged to be able to speak with the Board and report that more than a thousand people have contributed and made this project come to life, and hopefully this work would continue long after him.

Mr. Yager said he came to this particular project through his work as a journalist for the last 14 years. He said he grew up in Charlottesville and went to City public schools and was a Charlottesville High School graduate. He said he then promptly moved and created a career in journalism in Boston, Washington, D.C., and New York, then moved back home seven or eight years ago. He said he moved specifically to Esmont in southern Albemarle, then back into the City about a year or two ago, focusing most of his work on addressing inequities.

Mr. Yager referenced a slide depicting racial divides and disparities that exist within communities here. He said that he has met and interacted with an amazing group of community activists and advocates who have helped try to quell and solve some of these inequities. He said one of those is Mr. Ridge Schuyler, who has released a series of Orange Dot Reports. He said this is essentially an effort to collectively grasp how much it costs to survive in the area, looking at Albemarle and its surrounding counties, as well as the City of Charlottesville.

Mr. Yager said the cost to survive for a single parent with two children is increasing and is now about \$46,000 from the most recent report issued in January 2021. He explained that Mr. Schuyler is looking at not only how much it costs to survive without subsidies in Charlottesville and Albemarle and the surrounding counties but how many people actually make that much; so how many people can afford to live without any government or financial assistance. He said in the County of Albemarle, it is about 13%, or about 3,423 people that do not make that \$46,000, let alone the \$35,000 that was the threshold for getting out of poverty from reports in previous years. He noted that 13% is about one in seven people throughout the whole County.

Mr. Yager stated that Raj Chetty, a socioeconomist from Stanford and Harvard, has been a major part of Mr. Schuyler's work, looking at "income mobility." He said that Mr. Chetty and his team created something called the "Opportunity Atlas," which takes all data available through the census records and maps it, ascribing it to a specific census tract all throughout the country. He said that it is looking at things like incarceration rates, graduation rates, marriage/divorce rates, but also specifically at income.

Mr. Yager said that in zooming in on the County, you can see a median household income and toggle between racial identities as well. He said the median household income for Black residents in Albemarle County is \$31,000, and when that switch is toggled to white residents, that income jumps \$24,000 to about \$55,000 for a median household income. He said zooming in even further track by track, Keswick median household income for Black families is about \$22,000 less than for white families; similarly in North Pines, it is about \$27,000 less. He said in Crozet, it is about \$30,000 less and in Batesville it is \$35,000 less.

Mr. Yager said this was a fascinating amount of data and visualization to bring it to life in new ways. He said that the Orange Dot Report establishes the connection between it not being just income that allows someone to get out of poverty or maintain their family outside of poverty, but also the cost of living and specifically cost of housing. He said housing is the major burden cost for anybody in the community here. He said drilling down even further into that 13% for whom the cost of living outweighs their financial and economic means, one sees that 30% of the Black population is what makes up that 13%, and only 11% of the white population makes up that 13%. He said even within the County, there is a great disparity between who is affected by the increased cost of living and the relatively low wages that create inequities.

Mr. Yager said the core of the research is that where one lives determines what happens to them in life. He said the reason it is called the Opportunity Atlas is because it is looking at what would happen to children born in these geographical census tracts if nothing changes, and based on the data available, these are the predictable outcomes for those children as they grow into adulthood. He said if a census tract affords better educational opportunities, better healthcare opportunities, and better economic

opportunities than the census tract right next to it, the question is what is being done differently with the census tract with better opportunities. Mr. Yager said that really tied outcome with geography and with place.

Mr. Yager said at the Heritage Center, they started diving back into time through the maps and started looking at the question of how they got to where they are and why people live where they live. He said one of the first earliest surviving maps is one from 1624 that lays out many of the native populations. He said as the Board had helped to bring to light, the Monacan Nation history is rich and extensive in the communities here. He said that moving forward 250 years, one sees the formation of Albemarle County and European colonizers drawing the lines and borders and boundaries throughout the whole County. He said that the City of Charlottesville begins to become more populated and denser, as do several of the surrounding towns.

Mr. Yager said at the time of the Civil War, the majority of the population was Black, and the letter of the law was enforcing a different level of discrimination often referred to as "Black Codes" and even emerging into Jim Crow laws into the beginning of the 20th century. He said at this time, one also sees the formation of what is now known as regular kind of neighborhoods. He said before, where much of the land was used for agrarian purposes, infrequently one would see collective hubs or clusters of housing unless it was to provide structures for people who were enslaved; now, the emergence of gridded streets throughout the City and in parts of the County were starting to be seen.

Mr. Yager cited 1897 Locust Grove as an early example and said that plot of land would be seen at the junction point between Free Bridge Road and Locust Avenue. He said these were 140 parcels that in 1897 were starting to be bought and sold by mostly white men, and that is known because the deeds say, "It is also agreed that this land is not at any time to be sold to or owned by negroes ..." He said this is called a racial covenant, and these existed throughout the entirety of the country. He said this was one of the earliest examples, but they exist as far west as Seattle and Portland; they exist in Minneapolis and Chicago; in Austin, Texas; and in Louisiana and New York. He said they are not unique to Charlottesville or Albemarle, but they do restrict the land in a legally binding way.

Mr. Yager presented a slide of what those 140 parcels looked like when gridded out on today's map of the City. He said this was not unique to this neighborhood. He said 20 years later, there is evidence of Meadowbrook Hills that is restricting land, saying, "That said lot shall not be leased or sold to any person not of Caucasian race." He demonstrated a deed in 1923, Fry's Springs, again saying, "That said lot shall not be leased or sold to any person not of Caucasian race"; Rugby Hills 1926; 1927 Park Plaza. He said an interesting clause is seen to emerge as well: Not only is it a racial restriction in (2) on the deed, but also there is a minimum cost of a building structure, so it is discriminating based on income and economic wealth and value of a family.

Mr. Yager said the emergence of other restrictions are starting to be seen coming into these deeds: In 1927, the entirety of the large swath of land that becomes Farmington was racially restricted to white residents only; in 1930, Overhills, which is on the south side of the County-City border; 1930, University Park, or what is now known as Lewis Mountain is all restricted. He said here one sees the inclusion of language that not only is it for white people only, but it is saying it is not for "... negroes, Syrians, Greeks, or Jews, or any Corporation or clan composed of or controlled by them"—that was getting very specific. He said there were restrictions in 1936, Piedmont, on the south side of the County-City border; 1939, Rugby, "That said property or any part thereof shall not be sold to, nor occupied as owners or tenants, by any person not of the Caucasian race"; 1941, Locust Grove Extension, north of the bypass in the City; 1945, Stony Point, small subdivision just outside of Scottsville on the north side is all racially restricted; 1945, Bellair Estates, again with reference to no "Greek or Semitic or any person not of the Caucasian race"; 1948, Royal Acres out by Keswick, again all racially restricted to white residents and purchasers only.

Mr. Yager said common throughout all of these is that they are actually found in the County's records; some of these City properties are in the County's records because of annexation. He said it is there that they look and there that they begin to comb through. He said these were all gathered on their proverbial lunch break, trying to test a hypothesis; they thought there were racial covenants, and sure enough, there were. He said they then looked to see how widespread they were, and at each place they looked, they started finding this evidence.

Mr. Yager said they took that premise to the Charlottesville Area Community Foundation and said they would like to do a systematic large sweeping approach and grab all the information and data available, and they wanted to make sure they could tell without a doubt exactly how many and where these covenants existed. He said they applied for and got that grant and have been supported in their endeavors ever since. He said it has been about two years now, and they have entered into memorandums of understanding with both the County and the City court clerks. He said they have gotten upwards of 300,000 pages of property records that span from the late 19th century through 1968; those are digitized and run through Optical Character Recognition (OCR), which allows them to pull out individual terms and words; streets, for instance, or words like Caucasian or Negro.

Mr. Yager said they have also made it available that one can pull out specific proper nouns; the role of banks, for instance, People's National Bank or Charlottesville National Bank. He said this is important because one of the biggest housing periods in the nation's history was during the early 20th century, and if these properties were being racially restricted, one needed to understand how exactly these purchases were being made; in large part, that was through the role of the banks. He said The Color of Law by Richard Rothstein addresses the variety of racially motivated restrictions that have been

placed on housing and land policy throughout the nation's history. Mr. Yager said the book talks about racial covenants, and specifically from 1934 to 1968, there was a process known as redlining, which is similar to racial covenants but allowed people access to capital in exchange for racially restricting their properties through a variety of means; 98% of the loans that were issued by the federal government or with the federal government's backing from that period of 1934 to 1968 were issued to white homebuyers. Mr. Yager said that Mr. Rothstein had stated this in testimony before the Senate Banking Committee.

Mr. Yager said redlining is important because it allows a blueprint to look back into time to determine where the neighborhoods are that prevented access to resources, where the neighborhoods are where people were prevented from living and purchasing throughout the early 20th century and mid-20th century. He said through that, one is able to then mirror other life outcomes that have negatively occurred in these areas and may have a corollary value. He said that in Richmond, they were able to look at tree canopy and heat index, and the largely African American communities restricted from having access to federally backed loans all had higher heat indexes, so were all more vulnerable to climate change effects.

Mr. Yager stated that Albemarle and Charlottesville did not get a redlining map, as there were not enough people and the threshold when a redlining map was issued throughout America was upwards of about 50,000 people. He said that because they did not get one, they cannot tell exactly where racial discrimination occurred, which makes this racial covenant mapping process vital. He said it allows a lens into that history so that it can better inform policy going forward and look at where situations can be rectified and repaired.

Mr. Yager reported that they have been looking through newspaper articles and archives at where infrastructure was invested. He said as these neighborhoods were being created in the County and the City, they needed to get off of creek water, well water, and river water, and to get onto City grids that provide access to indoor plumbing, paved streets, and electricity. He said each instance of this design was a petition that was made before the Board of Supervisors or the City Council, and the record of that petition exists.

Mr. Yager said with the help of Professor Barbara Brown Wilson at the University of Virginia School of Architecture, a group of students each semester works with him and the Heritage Center. He said they are working through the minutes page by page and year by year to collectively assess the number of petitions for different types of infrastructure, in other words, how many water lines were requested, where those requests were made and who made them, what happened to them, whether money was allocated, and if so, how much. He said they are outlining all of these things in giant spreadsheets and then geocoding them to an ArcGIS map to show the evolution of water lines, sewer lines, paved streets, and electric lines, with infrastructure in real time compared to the racial covenant map as an overlay.

Mr. Yager said a third layer to the map they are creating is home valuations, addressing the question of what happens to a home's value if it gets a water line or sewer line. He said their hypothesis is that it might increase, and they are quantifiably and qualitatively looking at whether or not that is true. He said they have assessment records as well as resale records and land tax records, which are being combined and triangulated to allow for inflation and the cost of buying power.

Mr. Yager said there was a Federal Register rule that was issued in about 2015 that has since been overturned by the Trump administration, essentially allowing for federal financial backing and prioritization to rectify these harms. He said in 1968, the Fair Housing Act was passed that made these covenants illegal, and it made any sort of racial discrimination along housing lines and property lines illegal. He read, "The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD's program participants to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination." He said this was a federal mandate to actually take action on a local and federal level to undo the harm that has been done through discriminatory policies in the first half of the 20th century.

Mr. Yager said they had taken this project and knew that there was an immense amount of work that needed to be done; their handful of staff and volunteers could not do it all, so they enlisted help and have recognized that the community is sincere in those efforts. He said pre-pandemic, they were in different spaces, from schools to walking tours to beer halls, trying to convey this history in accessible ways but also leaving people with an action step of how to get involved.

Mr. Yager said one fantastic instance just before the emergence of COVID was a high school program where they partnered with teachers to give a local companion to A Raisin in the Sun, which is about a family in Chicago that experiences racial discrimination in looking for housing and the generational impact of discrimination on housing and specifically on African Americans. He said they were able to correlate Chicago to what is happening in their own backyard, with the names of streets they may recognize and their own houses, for instance. He said the students were able to help comb through records and participate in building the dataset and information being mapped but also have it make a relevant impact on their school curriculum and activities.

Mr. Yager said to do that communitywide, they created the mappingville.com website and are posting updates periodically and trying to keep people abreast as much as possible through videos and interactive means. He said they are taking it a step further and are hoping to partner with curriculum builders in the schools so that children grow up learning this information, which is the core foundational

historical element of the community. He said they have made some progress in the City; their logging and data gathering through all of the City's records have been completed. He said they wanted to pilot this there to reveal any mistakes and fine tune their process to make it streamlined and easy for people who are trying to lower the barrier.

Mr. Yager said with the launch of Mapping Albemarle, there is much more information, and they are at a point now where they are partnering not only with local officials but national partners. He said later this week, they would be launching a national consortium of covenant mappers; this would include Minneapolis, Chicago, St. Louis, and Washington D.C. He said about 15 other major metropolises throughout the country are partnering in an attempt to standardize how communities can build these maps and reveal patterns of discrimination and racist housing policies in new ways.

Mr. Yager said this is the third city and county in America to ever take this on. He said what is unique is that they are able to do the infrastructure piece and the evaluation piece, and that would add a whole new layer. He said the size of the area is significant but also tangible.

Mr. Yager said there is a "Get Involved" button on their website that links to a site called "Zooniverse," a crowdsourcing platform that allows mostly scientists to be able to comb through massive amounts of data. He said this has been massively successful, with over 1,500 people logging a single deed and about 500 of those people repeatedly coming back and logging more than one. He said some people do it as a more proactive measure; some people use it with their children to teach them; some people do it in place of Sudoku as a way to wind down at the end of the day. He said he has heard a lot of different testimonials from people around this.

Mr. Yager reported that they have received a grant with the National Trust for Historic Preservation to look at both the City and the County's efforts to bolster the Black economy during that same period. He said Black residents were not sitting idly by, they were building wealth and emerging capital through property, even though they were being restricted in a variety of means, they were persevering. He said that his team is starting to work with a number of local Black scholars and historians to amass records that show the powerful African American communities for the approximate time period of 1865 to 1965.

Mr. Yager stated they would be moving forward with an exhibition on the first floor of the Heritage Center at the Jefferson School, which would feature large digital display maps with interactive capabilities, such as allowing people to search for their own home or other familiar properties. He said there would be preconstructed narratives and stories that show how something happened and the mechanisms that were in place that allowed it to occur. He said there would be testimonials of how this has impacted people, both in terms of their own livelihoods and life outcomes and general history.

Mr. Yager said they are excited about this partnership with the County's Office of Equity and Inclusion, and this has been a tremendous help, with more than 1,000 deeds into the Mapping Albemarle process identified and pulled out of the records. He said they have been able to start building this dataset and now are starting to populate the Zooniverse website where people can actually go through and pull out certain relevant information of who is buying, who is selling, what the racial covenant language is, etc.

Mr. Yager said the partnership would continue and grow and start the educational process of getting into communities, talking with people as it becomes safer for an in-person process in tandem with existing virtual interaction. He said this would include staying abreast of the comprehensive plan, ensuring that any of this information that is relevant, whether it is data, maps, or history is made available. Mr. Yager thanked the Board.

Ms. Mallek said this was an astonishing effort, and she had seen some of the sewer pipe maps over the last several years in the City, and it was fascinating to see how this has now expanded as an information source. She noted that Mr. Yager had mentioned names of streets and said Jeffrey Hantman had talked about all the Native American settlements whose names were now all over the neighborhoods throughout the County; the people who settled them knew who they were dispossessing right at the moment way back in the 17th century. She said there is a lot to learn, and she would love to hear the outcome that they are going for right now.

Mr. Yager responded that the first desired outcome is to have a comprehensive and verifiable dataset that is mapped so it is publicly accessible for people to access on whatever level, whether it is governance or just private at-home interest. He said this is so that it becomes a standard part of the community that allows people to know this history and to not have it be this intimidating or murky and foggy sort of thing that they have heard about but do not really know.

Mr. Yager stated that for putting it into physical spaces, they had recently gotten a Bama Works grant to commission a series of panels that can be showcased throughout the County and the City that would highlight some of this information and get it into people's parks and spaces that are more accessible than just online. He said another avenue is schools and working with teachers and administrators to build a curriculum that is supportive of this.

Mr. Yager said a third goal is related to policy. He said he is not a policymaker; as a journalist, he is tracking policy and following it but does not pretend to know what would be best in that avenue. He said one of the things that has been impressed upon him as far as policymakers are concerned is that the more information, the better. He said he does not know what would be done with it, but as long as it is available, then it can be tapped into whenever it is useful.

Ms. LaPisto-Kirtley said she really enjoyed the presentation, and as an educator, she looked forward to all the information going into the schools and being shared throughout the County. She said she wanted to get information and learn more.

Ms. Palmer said the presentation was very interesting. She said the County Assessor could tell them very well that prices go up when they are connected to water and sewer, and that is a given. She said some very interesting history was they did not even have the Albemarle County Service Authority until the early 1970s. She said there is a wonderful story about the administrator, and he was sent to prison for two years because he was working with developers as to where the water and sewer was going to go.

Ms. Palmer commented that this was wonderful history to know. She said they all pretty much knew that there were racial covenants all over everywhere in the United States. She asked Ms. Falkenstein how they see this affecting policy going through the comprehensive plan.

Ms. Falkenstein said she is not able to speculate on how this might affect policy; the Supervisors are the policymakers, and staff was just providing this information. She said there are a lot of datasets that can be put on maps to make comparisons and see if there might be ties to racial covenants about how the land use map looks today. She said how it would shape policy is up to the community; they would have engagement around the topic and would share this information with members of the community and get input on that, and then the Board can make the decision if there should be changes either to the land use or other policies related to growth and development within the comp plan.

Ms. Palmer said she thought maybe staff had some examples of something that happened in some other community. She said she understood the correlation but is looking forward to understanding how this could be applied to the comprehensive plan.

Ms. Falkenstein said one locality that has done this is Minneapolis; they did a pretty significant mapping project alongside a comprehensive plan update and some zoning changes. She said that was an example Ms. Palmer could look into if she was interested in learning more on how it has been done in other places.

Mr. Yager added that they have worked closely with that Minneapolis project called Mapping Prejudice, which was instrumental in helping them get their feet on the ground in terms of how to do this and then what happens in various stages. He said he would be happy to share any information or contacts of people there who have been more on the policy side of things as well.

Ms. Palmer said she had been actually following that one.

Ms. McKeel said this was fascinating, and she was really pleased that Mr. Yager had come to speak to the Board. She said her experience on the School Board taught her that to effect change, things have to be talked about and the problems discussed publicly; people have to be aware of them or change cannot be made. She said this step was to talk about these issues, and the change hopefully would follow.

Ms. McKeel said she would love to know more about Minneapolis. She said the Board had received anonymously the book *The Color of Law*. She said she was enjoying it and was learning so much, and she encouraged everybody to read it.

Ms. McKeel said she was very interested in having Mr. Yager back again for some follow-up discussions. She said as he works through this process, she would like for him to think about how it might look if this information were used in a policy-forward way. She said she lives in a neighborhood that has one of those racial covenants and has seen it in her deed in Canterbury Hills. She said she was appalled, but it is there and this is an urban neighborhood off Barracks Road.

Ms. Price thanked Ms. Falkenstein for the introduction and answers to some of the questions. She told Mr. Yager she had seen his presentation Mapping Charlottesville for the Charlottesville Chapter of the National Organization for Women a number of months ago. She said that night, she had written an email to the County Executive and said they must get him to do this for Albemarle County, and she thanked Mr. Richardson for making it happen. She said she could see so many ways that the information provided to the Board can be used in the comprehensive plan.

Ms. Price said for those who do not believe in institutional or systemic racism, it is right here in black and white; it is here in red lines that are seen for the country. She said in 1988, her six-year-old daughter asked her, "Why do Black people live in such poor houses?" and it is because of these types of restrictive covenants that exist throughout the country. She said that has a generational impact because someone living in poorer housing is not going to accumulate wealth to the same degree that would allow them to move into better housing in better neighborhoods.

Ms. Price said where this has a direct impact on the comprehensive plan is that it is incumbent upon them as Supervisors to ensure that they approve different varieties and types of housing throughout the County. She said that is the only way it works. She said her family is probably fairly typical, starting with a small house and hoping to work their way up. She commented that people did not want to necessarily have to move to entirely different communities, and if they provide various types of housing through their comprehensive plan and master plans, families can start small and work their way up and



still stay within their broader community.

Ms. Price said the Jack Jouett District has a number of residences that are still hooked up on septic systems when sewer is available; they as a County have an obligation to take action to help those families get connected into the sewage system. She said the impact of these sorts of racially discriminatory policies continues generationally and keeps families far behind those who have not been so constrained. She said that was shown in the data where 30% of the Black families are living in basically a poverty situation versus 11% of the white families, which is 13% overall through the County.

Ms. Price said while society has moved beyond the specific articulation of racially discriminatory covenants, they still are dealing with the economic impact of the generations of that. She said it is their obligation to take this information to help them make better decisions for the overall welfare of the County. She said she is extremely grateful for Mr. Yager, his volunteers, and the work they do to allow people to open their eyes. Ms. Price told Mr. Richardson she really wanted to see this particular presentation available and highlighted to the community so that people can see the real impacts and the work that must be done.

Ms. McKeel said the areas with the lack of sewer connections in her district have already been mapped. She said Mr. Yager could reach out to get that very easily.

Mr. Yager said that was helpful and thanked Ms. McKeel.

Mr. Gallaway said he appreciated the question of how this gets its way into policy, and it is contingent upon them to do so. He said when they use the phrase “looking at things using an equity lens,” this is the type of thing they are talking about; these are the tools to get into their hands to start integrating in as they make decisions and not continue to act like it doesn’t exist.

---

Agenda Item No. 13. Closed Meeting.

At 5:03 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider:
  1. The appointment of a Director of Information Technology; and
  2. An appointment to the JAUNT Board of Directors; and
  3. The assignment of County representatives on the Charlottesville-Albemarle Convention and Visitors Bureau; and
  4. The annual performance of the Clerk; and
  5. The annual performance of the County Attorney; and
- Under Subsection (5), to discuss a prospective business that might locate in the northern part of the County where no previous announcements have been made of its interest in locating in the County; and
- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to the Charlottesville-Albemarle Convention and Visitors Bureau; and
- Under Subsection (29), to discuss the terms of a public contract with the City of Charlottesville involving the expenditure of County funds where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.

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

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

---

Agenda Item No. 14. Certify Closed Meeting.

At 6:06 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor’s knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

---

Ms. Price **moved** to adopt the resolution appointing Roderick Burton as Director of Information Technology. Ms. Mallek **seconded** the motion.

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

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

**RESOLUTION  
APPOINTING RODERICK BURTON AS THE DIRECTOR  
OF INFORMATION TECHNOLOGY**

**BE IT RESOLVED** by the Board of Supervisors of the County of Albemarle, Virginia (the “Board”) that, upon the recommendation of the County Executive, Roderick Burton (“Burton”) is hereby appointed the Director of Information Technology for the County of Albemarle, Virginia pursuant to Virginia Code § 15.2-512; and

**BE IT FURTHER RESOLVED** that this appointment shall be effective on and after August 19, 2021; and

**BE IT FURTHER RESOLVED** that Burton will serve as Director of Information Technology at the pleasure of the Board and for an indefinite tenure pursuant to Virginia Code § 15.2-513; and

**BE IT FURTHER RESOLVED** that Burton will serve as the head of the County’s Department of Information Technology; and

**BE IT FURTHER RESOLVED** that Burton will act under the supervision of the County Executive.

\* \* \* \* \*

Mr. Gallaway congratulated Mr. Burton.

Mr. Roderick Burton thanked the Board for their support and words of encouragement. He said he was honored and privileged to accept this position as Albemarle County’s Director of Information Technology. He said he is excited to lead such an outstanding community and organization in its deployment of technology to better serve the community. He said he looked forward to working with each of the Supervisors to improve quality of life and access to services for County citizens.

Ms. Mallek said it was wonderful to have seen Mr. Burton take on new different roles over all these years, and she was very glad to have him land where he has.

Ms. LaPisto-Kirtley welcomed Mr. Burton in his new position and said she was looking forward to working with him.

Ms. Palmer welcomed Mr. Burton and said they were very happy that he had gotten this position. She said they always liked hiring within, and it was a real pleasure.

Ms. McKeel congratulated Mr. Burton on his new position. She assured him with her technology skills, they would be having a lot of get-togethers.

Mr. Burton said he looked forward to it.

Ms. Price told Mr. Burton that she had never believed that longevity alone is sufficient for someone to move up to the highest levels, but longevity with sustained superior performance is icing on the cake. She said she was appreciative of the work that he has done and the many times already where he has helped her directly. She said the IT Department helps both internally and externally, ground support and air support, and they help the community and the County. She said she was pleased and honored that he was the new director of Information Technology.

Mr. Gallaway said likewise on all counts and congratulated Mr. Burton on his new position. He said he knew what was coming based on their strategic plan and business process optimization pieces, and that was going to be largely under Mr. Burton’s umbrella. He said he looked forward to working with Mr. Burton on that.

---

Agenda Item No.15. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Ms. April Holmes, White Hall District, thanked the Board of Supervisors for the opportunity to speak on the proposed firearms ordinance and for all they do for Albemarle County and its residents. She said she was speaking that day both as an individual and as a member of the Charlottesville Coalition for Gun Violence Prevention.

Ms. Holmes said the coalition's efforts are aimed at preventing gun violence while respecting the rights of law-abiding citizens to own guns. She said the proposed ordinance to prohibit firearms on County property would go a long way to preventing gun violence and the potential threat to peaceful assembly by residents as well. She said restricting firearms for all but designated authorities could greatly reduce the chance of injury or death, accidental or intentional. She said even when guns are purchased legally, there is no guarantee that every owner would refrain from inappropriate, dangerous, or lethal use. She said one only needs to look to the shootings at the Virginia Beach Municipal Center to disprove any assumption that legal permits mean safe use, as that shooter had a legally permitted weapon.

Ms. Holmes said there is also the argument that harm from a bad guy with a gun can be reduced if a good guy uses his or her gun. She asked who in the general public is qualified to make the distinction between a bad guy and a good guy when the bullets are flying. She said there is no legitimate use by the public for firearms in County buildings and facilities. She asked why a person would need a gun while obtaining a dog license, kayaking at Chris Greene Lake, meeting with a social worker, or attending a Board of Supervisors meeting.

Ms. Holmes said citizens do not agree on every issue; some issues can be sensitive and controversial, and feelings can run high at public meetings. She said while the ability to express one's opinion is essential to a healthy democracy, it makes no sense to add a lethal weapon to a combustible mixture that can result from heated debate; in fact, firearms in County facilities can be a threat to constitutional rights. She said the First Amendment to the Constitution guarantees the right to free speech and the right to peaceful assembly. She said the presence of guns in public meetings can effectively shut down debate and intimidate members of the public, not to mention members of the Board of Supervisors or County officials and employees. She said she understood that some citizens left a Board of Supervisors meeting when others arrived with guns. She asked what this does for the democratic process.

Ms. Holmes said that as a resident, she needs to be and feel safe and not threatened in County spaces. She said this ordinance would do much to assure that basic need. She urged the Board to vote yes on the ordinance to prohibit guns on County property.

---

Mr. Gary Grant, Rio District, said at the July 21st Board meeting, two Supervisors, Democrat Mr. Gallaway of the Rio District and Democrat Ms. Price of the Scottsville District agreed with a late-night comment made by Democrat Supervisor Ms. McKeel of the Jack Jouett District. He quoted Ms. McKeel's July 21 comment: "I would just like to thank the Board and our staff for this discussion tonight. It was a really great discussion. Lots of good questions, lots of good answers. I just really appreciate the ability to have this kind of discussion and solve a problem." Mr. Grant quoted Ms. Price's response: "I concur with Ms. McKeel's comments." He quoted Mr. Gallaway's response: "... and I agree with the remarks."

Mr. Grant said the discussion being referred to by Supervisors McKeel, Price, and Gallaway was the Albemarle County gun control ordinance set for unanimous action by the six Democrats that evening. He said that same night of July 21st, when all the gun control discussion, questions, and answers were zoomed around between just the six Supervisors and their staff, he had emailed Ms. McKeel and Mr. Gallaway with one simple question: "What problem was solved?"

Mr. Grant said that this evening, 28 days later, that question of what problem was solved still has not been replied to, identified, or answered by either Ms. McKeel or Mr. Gallaway, both unopposed Democrat candidates for reelection this fall. He said maybe he was mistaken, but he thought the values of communication, service, and transparency were part of the mission the six Supervisors were constantly congratulating themselves about. He said he was mistaken; all six Democrats control all six Supervisor seats. He said the six Democrats do not have to communicate, serve, or be transparent, nor reply to, identify, or answer questions from residents, taxpayers, and voters. He said perhaps that was the problem that needed solving.

---

Mr. Dan Alley said he was calling on behalf of the proposal for protection against guns. He said guns have no purpose or place in government office buildings or sites in the County unless they are strapped on a police officer. He said guns are dangerous, even in the hands of experienced gun enthusiasts. He said they intimidate, shut down conversations, and are a threat. He said he could say that personally as someone who has had a gun pointed in his face.

Mr. Alley said that guns brought to government meetings do not protect anybody. He said if someone thinks they are going to come in and protect the world by having a gun on them, if a situation arises and a gun is drawn, and there is another party out there waving their gun, odds are they are going to be in as much trouble with police officers coming in and trying to put down the situation. He commented that all he could say to the pro-gun people that suggest concealed carry licenses be excluded by the ordinance is that it did not help Virginia Beach. He said the people that have these licenses are grandfathered in and have not been trained. He said the final question is why in the world would one feel a need to have to carry a gun into a peaceful meeting. He stated that this is a democracy, not a shootout. Mr. Alley thanked the Board for all they do. He wished them the best of luck and urged them to vote in the ordinance to prohibit guns on County property.

---

Mr. Johnathan McMahon, Scottsville District, said he was deeply disappointed with this revised ordinance. He said at the public hearing, it was clear that the majority of Board members were amenable to at least including an exception for Virginia concealed handgun permit holders, but this exception was not included in the revised ordinance. He said he had lost track of how many people have commented both in person at the meetings and online in the Board agenda comments section asking the same basic question: "Why do we need this ordinance? What problem is it intended to solve?" He said the answer is still unclear. He said the vast majority of people who have spoken on this ordinance have been against its passage. He asked why the Board was still pursuing it.

Mr. McMahon said that one speaker that evening had noted that this ordinance can prevent firearm injuries, both accidental and deliberate. He asked how this ordinance would prevent intentional gun violence. He said it cannot, as no criminal would respect a gun ban, and that was a crackpot idea that was out of touch with reality. He said the true cost of implementing this ordinance has been very glibly ignored by both the County staff who brought this forward to begin with and the Board members who are moving this item forward. He asked what the actual cost was of the signage and other security measures that are needed and if metal detectors would be required. He said they do not have any answers to these questions.

Mr. McMahon said he was going to try to abide by the guidelines to address the Board as a whole, although he maintained that he did not think they could legally prevent him from criticizing the voting record of an elected official who represents him. He said the political makeup of the Scottsville District is a little bit different from the rest of Albemarle, and many other constituents there are just as disappointed as he is with the way the Board members are representing them. He urged all Board members to please vote no on the ordinance that evening.

---

Mr. Mike Fox, White Hall District, said he was the legislative lead of the Virginia Chapter of Moms Demand Action for Gun Sense in America. He said he and his organization fully supported this firearms ordinance and urged Supervisors to approve its passage. He said this ordinance would mirror Charlottesville's by keeping firearms out of where they do not belong, where democracy takes place and where families and communities congregate. He said this ordinance would protect policymakers, residents, County employees, law enforcement, and tourists. He said he and his wife, who is Jewish, were in downtown Charlottesville for her wedding dress fitting when Neo-Nazis attacked the City four years ago this month. He said their leaders cannot stand idly by waiting for tragedy to strike again in a climate of armed intimidation and hate-fueled violence when they have the power to act. He thanked Supervisors and their staff for their hard work on this issue and their service.

---

Mr. Deonte Johnson said he was a fourth-year student at the University of Virginia currently residing on Grounds. He said he was there on behalf of the University of Virginia Student Council Legislative Affairs Agency to request that the Board approve an early voting satellite office on Grounds, as the state had recently appropriated \$3M for the expansion of early voting. He noted that there are funds available to the County to expand early voting in Albemarle.

Mr. Johnson said last year, the only early voting site was located at the registrar's office south of Fry's Spring and several miles from Grounds. He said because first-year students are prohibited from having cars on Grounds and many others lack transportation or time to make a trip to the registrar's office, this poses a significant barrier to voting for students during the early voting period. He said the County's mission is to enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of funds, encourage and support lifelong learning, and embrace creativity and positive change. He said establishing an early voting satellite office on Grounds would advance this vision and further Albemarle's commitment to these values.

Mr. Johnson said lowering the barriers to voting by placing an early voting site on Grounds would help the County achieve its vision to enhance the well-being of all citizens by making it easier for historically underrepresented groups, including young people and minority students, to vote. He said it would encourage and support lifelong learning by encouraging students to be civically engaged in the community they live in. He said finally, with 24,000 undergraduate, graduate, and professional students, UVA students represent a significant number of Albemarle's electorate. He said UVA also employs close to 18,000 faculty and staff and the health system close to 13,000 additional employees; therefore, adding an early voting location on Grounds would represent the provision of the highest level of public service by better serving the needs of a significant segment of Albemarle's population.

Mr. Johnson said they come to the Board to make this request because as leaders in UVA student government, they are passionate about serving their community and constituents. He said they know that as Board members, the Supervisors share that commitment also. He said for first-year students, this election represents their first opportunity to vote, and for even more of the students, this election is their first opportunity to participate in selecting a delegate, attorney general, lieutenant governor, or governor. He said in Virginia, there are no off-years in elections, and adding an early voting location on Grounds would be a powerful indicator of the County's commitment to fostering civic engagement and a lifelong habit of voting. He said they respectfully request that the Board use the money allocated by the state legislature to expand early voting by adding a satellite office on Grounds.

---

Ms. Virginia Rovnyak thanked the Board for the opportunity to speak. She said she currently lives in Crozet and has lived in Albemarle County for 51 years. She said she was there to speak in

support of the proposed ordinance that bans firearms on County property. She said she was a member of the Charlottesville Coalition for Gun Violence Prevention and a member of the Charlottesville Center for Peace and Justice. She said the day prior, the group had presented the Board with 192 signatures on a petition of support for the ordinance; every one of those 192 signers either lives in Albemarle County or works or does business in the County. She said she was on the downtown mall the last two Saturdays helping to gather those signatures, and it was not hard, a few locals declined to sign, but many were glad and even eager to sign. She said if the Board wants to know the pulse of the County on the issue, she could tell them that many more locals signed than declined to sign.

Ms. Rovnyak said this is a simple safety issue; everyone is safer when there are not guns present. She said guns are for killing, and someone with a gun might decide to do just that. She asked how anyone is to know what is in the mind of someone carrying a gun. She said all across the country, there have been mass killings by a gunman, and there is no reason it could not happen here. She said no one would ever have imagined the Unite the Right rally that happened here, but then it did happen, and a mass shooting could happen here also.

Ms. Rovnyak said a gun is a fearful object, and a person with a gun is even more frightening. She said the purpose of the ordinance is to establish some safe places, places where one does not need to worry about guns, places where people would not be frightened away due to the presence of guns; for example, County parks should be safe places. She said earlier that summer, a teenager was showing off a gun and waving it around at Chris Greene Park, but nothing could be done because there was no prohibition on guns in parks. She said that was a very scary event. She said if she had been there, she would have quickly gathered her party and left. She said people should be able to bring children, enjoy the lake, and have a picnic without fearing for their lives because of the presence of someone with a gun; guns should not be allowed in parks.

Ms. Rovnyak said County buildings should be safe places as well. She said people come in to do business, including speaking to the Board at times, and should not have to worry about being shot or frightened away by the presence of guns. She asked the Board to adopt this ordinance.

Mr. Gallaway closed Matters From the Public.

---

Agenda Item No. 16. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said that Director of Communications and Public Engagement Emily Kilroy would co-present that evening, noting that she had helped to prepare this report.

Mr. Richardson said the past week, he had signed order 21-3 in his capacity as the Director of Emergency Management for the COVID-19 local emergency. He said effective September 15, this order would require all local government employees to show proof of vaccination or submit weekly to negative test results. He said the CDC has designated Albemarle County as having a substantial transmission based on the current case counts and the percent positivity. He said they believe they can best maintain government services and reduce transmission of COVID-19 by taking this very important step, which Governor Northam has also put in place for state employees. He said the University of Virginia has put this in place for its employees, as has the Albemarle County School System.

Mr. Richardson said they need to protect their staff and the community they serve. He said that he did participate earlier in the week in a meeting with UVA, and he was pleased to report that as the students prepare to come back to Grounds and to the community through Friday, the University is reporting that 98% of the UVA students are vaccinated, and 92% of the faculty and staff are currently vaccinated. He said he very impressed with and appreciative of the level of effort and leadership that they have provided on this effort. He said they now have a team that is working to finalize the details on how the weekly tests would be administered, and they would be working very closely with employees to make that as seamless as possible. He thanked the Board of Supervisors for their support on this.

Mr. Richardson said he did have an opportunity to briefly mention that Kaki Dimock is on board as the new Director of Social Services as of Monday, August 16. He said many on the Board had worked with Ms. Dimock over the years, and they were excited to have her and her vast knowledge and expertise in human service delivery, and she has already hit the ground running.

Mr. Richardson said he was really excited to announce that Albemarle County had recently received recognition by the Virginia Association of Counties in their annual achievement awards for the Court Square Community Conversation and the At Ready statue removal process that happened late last summer. He said they are working to schedule a time for VACo to come before the Board and present the award, but he wanted to share the news while it is still fresh. He said the awards are meaningful because they are a tool that shares best practices across Virginia's counties. He thanked the Board for their leadership and support in this process, and he thanked the community for their thoughtful engagement.

Mr. Richardson shared a brief snapshot of some positive revenue outlooks and presented charts showing the monthly revenue collections for the transient occupancy tax and the food and beverage tax, which he noted rise with tourism activity. He said FY20 was captured with the gray line, and FY21 was the gold line, with the orange and the blue representing the preceding pre-pandemic years. He said one can see in the chart just how much those two streams declined during the pandemic and how strongly they rose in the first half of calendar year 2021 to a near full recovery with recent trends. He said these

and other revenues would continue to be monitored going into the fall; they are cautiously optimistic that the local economic picture is continuing to strengthen and will hopefully continue to move in a positive direction.

Mr. Richardson said Albemarle County has partnered with the City of Charlottesville Go Cook program and Culinary Concepts AB to support six County residents to participate in culinary bootcamp to train in this high-intensity program for five weeks. He said it is hands-on training, food service job trials, and opportunities to gain industry certifications, and it presents an exciting and great partnership.

Mr. Richardson said Albemarle County Police Department had hosted National Night Out earlier in the month at Fashion Square Mall. He congratulated the department and key public safety partnership agencies that participated in this fun event. He said the weather was perfect, and several hundred community members and lots of families came out to learn more about ACPD, climb on equipment, try out the impaired driving course, and just enjoy a fun evening out when the weather was super nice. He said staff did a wonderful job, and he had an opportunity to visit with them. He said they had a nice media turnout, had some great pictures of officers, and the canine program was also well represented. He showed a picture of a patrol car commissioned in 1984 that is still in good working order. He said it was cool to look at that compared to some of the newer models that are out now in 2022.

Mr. Richardson said the "Seas the Day" event is being held on August 29 from noon until 4 p.m. at Walnut Creek Park for veterans and active-duty military in the region. He said it is cosponsored by Parks and also by the Veterans Affinity Group. He said the goal of the event is to build connections in the community for service people and show them community support in a very positive way. He said he is excited that this event is coming and hopes they have nice participation.

Mr. Richardson said on September 1, the Virginia Department of Historic Resources would consider an application for a marker commemorating River View Farm at the Ivy Creek Natural Area. He said this is a physical implementation of the Board's initiative to broaden the scope of publicly told histories to be more inclusive of the community with and through historical markers recognizing stories and contributions of women and people of color.

Mr. Richardson said the text of the proposed marker explains: "River View Farm, 1870 to 1975, became one of the largest African American farmsteads in the region after emancipation. Formerly enslaved Hugh Carr and wife Texie Mae (Hawkins) Carr established and grew the successful farm between 1870 and 1899. Eldest daughter Mary and her husband Conly Greer expanded the over-200-acre farm while she served most notably as the principal of Albemarle Training School and he as the first African American Albemarle County agricultural extension agent. For nearly a century, River View Farm served as a model farm and a hub for a local church, education, and civic activities. It is listed on the Virginia Landmarks Registry and the National Register of Historic Places."

Mr. Richardson reported that the last week of July, Scottsville experienced a significant weather event with strong winds, large hail, and thunderstorms; overnight, it created widespread power outages in the town and surrounding areas, and thousands of people were without power and water. He said community resources were mobilized quickly to respond. He said Albemarle County Fire Rescue, Albemarle County Police Department, Department of Social Services, Town of Scottsville Police, VDOT, and Dominion all got to work quickly to untangle power lines from the trees that were blocking roadways, to set up a cooling shelter at Walton Middle School, to identify a partner in JAUNT to transport senior citizens living in the old Scottsville school to the cooling center, and to meet the needs of the community.

Mr. Richardson stated that Ed Brooks, seeing his neighbors in need, reached out to his network of southern Albemarle County residents and solicited volunteers to help clear debris at the library and at the Scottsville Community Center. Mr. Richardson said 13 people showed up to help with a lot of backbreaking work moving large branches. Mr. Richardson said he wanted to thank everyone who supported community safety during and after this difficult event.

Mr. Richardson said the Board had received the Albemarle Broadband Authority quarterly report in their packet at their last meeting. He said ABBA has executed an MOU with Central Virginia Electric Cooperative/Firefly, Dominion Energy, and Rappahannock Electric Cooperative to develop a plan for Dominion to provide middle-mile fiber on their poles while Firefly provides connections to individual homes and businesses. He said this is a regional effort and includes Albemarle and 11 other counties. He said ABBA has also launched a request for information to solicit expressions of interest and proposals to address all of the 6,000 identified unserved and underserved, less than 25 megabytes of internet speed, areas in the County.

Mr. Richardson said ABBA expects in the third quarter to apply or be part of an application to DHCD (Department of Housing and Community Development) for a Virginia Telecommunication Initiative (VATI) grant for 2022 that would encompass the remaining areas of the County. He said DHCD and CenturyLink are going to bring the contract \$2.3M in a VATI 2021 award, so that work to connect the 1,675 locations with 80 miles of fiber covered under this award can go ahead and proceed.

Mr. Richardson said this amounted to significant forward progress on the Board's and ABBA's shared goal of achieving universal broadband access in the community. He thanked the Board for the support earlier in the day with the ARP funding for the additional \$1.5M.

Ms. McKeel said she had not seen a dedication of the historic marker for the Greer family in the report. She asked if there was going to be a public celebration of that marker going in or whether it had

already gone in.

Mr. Richardson said he could find that out and report back to the Board.

Ms. McKeel asked him to follow up with her because that was a dedication that she would love to attend, as both of her children were graduates of Greer Elementary School.

Ms. Price expressed her deep appreciation for Deputy County Executive Doug Walker, who called her first thing the morning after the storm hit Scottsville. She said she was out of town, and he wanted to make sure that she was aware of what was going on. She said he kept her informed throughout the next several days as County staff was coordinating with others to bring what relief they could. She said she is greatly appreciative for the actions and efforts that this County has demonstrated for that community.

Ms. McKeel added that Mr. Richardson called to let them know what was happening in Scottsville, which they also very much appreciated. She said they appreciated Mr. Richardson, Mr. Walker, Mr. Henry, and all of the staff keeping them informed on what was happening in the County.

---

Agenda Item No. 17. **Action Item:** Proposed Firearms Ordinance.

The Executive Summary forwarded to the Board states that in the 2020 Session, the General Assembly approved an amendment to Virginia Code § 15.2-915 permitting localities to pass an ordinance prohibiting possession, carrying, or transport of firearms, ammunition, or component parts in buildings, public parks, recreation centers, and permitted events areas that are owned or used by the locality or authority or entity controlled by the locality for governmental purposes.

The Board of Supervisors held an advertised public hearing on a draft of the proposed ordinance implementing the enabling authority in Virginia Code § 15.2-915 on July 21, 2021. The Board received written public comments both supporting and opposing the ordinance before the public hearing and received additional comments at the public hearing. After the public hearing was closed, the Board discussed the provisions of the ordinance and directed staff to return with an amended ordinance. Since July 21, the Board has continued to receive comments from the public both supporting and opposing the ordinance.

The proposed ordinance (Attachment A) would prohibit firearms or their component parts, ammunition, or a combination thereof from being possessed, carried, or transported into any buildings, parks, and recreation centers owned or used by Albemarle County or authorities or other entities created or controlled by Albemarle County for governmental purposes.

The June 7, 2021 draft of the ordinance considered by the Board at its July 21, 2021 public hearing has been amended as follows for the Board's consideration:

Subsection B (Prohibited acts): This subsection prohibits firearms or their components, ammunition, or combinations thereof on the specified County properties and buildings. This subsection is amended to clarify

Subsection C (Exceptions): This subsection provides several classes of individuals to whom the prohibition in subsection (B) does not apply, such as law enforcement officers. This subsection is amended to state that the Commonwealth's Attorney, deputy, and assistants may carry firearms without the condition that those persons be acting within the scope of their duties; this change is consistent with State law. Several classes of individuals are added as exceptions: (1) officers or guards of state correctional facilities acting within the scope of their duties; (2) judges or justices; (3) mail carriers acting within the scope of their duties; (4) qualified conservators of the peace; and (5) persons participating in an authorized ceremonial event. Lastly, an exception is added to provide that a person who may lawfully possess a firearm may keep a firearm in their personal private vehicle or vessel provided the firearm is secured in a container or compartment in the locked vehicle or vessel. This latter proposed change applies to County parks where the parking areas are within their entrances.

Subsection E (Notice): This subsection was added to expressly state that the firearms prohibition in subsection (B) applies only at those County buildings or parks where notice of the ordinance has been posted at their entrance.

Subsections (A), (D), and (F) (previously, subsection (E)), were not changed from the prior draft of the ordinance.

A comparison of the draft ordinance from June 7, 2021 and the revised draft dated August 9, 2021 is provided in Attachment B.

The cost of the signs to provide the required notice could be covered with currently appropriated funds. There is no anticipated additional budget impact.

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

---

Mr. Kamptner said that Amanda Farley would be presenting with him, and he would take the first

part. He asked Ms. Farley to display the slides. Mr. Kamptner said the Board saw the first slide back in July and said it provides the overarching purpose for this ordinance. He said he would review two or three slides providing some of the legal framework and background for this ordinance, as the Board has received numerous comments speaking about the Second Amendment along with its scope and effect.

Mr. Kamptner said the Second Amendment did not create new rights, it was protecting preexisting right to bear arms and declares only that those rights shall not be infringed upon. He said the courts analysis over the years has gone back and looked at what areas where guns were allowed or not allowed back in days before the Second Amendment came to be. He said the United States Supreme Court, in Heller, heard a case in 2008 coming out of Washington D.C., and said the right to bear arms is not limited. He said a couple of years later in McDonald, the Supreme Court reaffirmed that and reminded all that the Second Amendment rights are not absolute. He said the court also said in this case that the right to keep and bear arms is not a right to keep and carry any weapon whatsoever, in any manner whatsoever, and for whatever purpose.

Mr. Kamptner said there is a Virginia Supreme Court decision from several years ago that said when the State Constitution is considered, it is evaluated the same way as the Second Amendment is evaluated. He said the first bullet on the slide reflects what the court said in both Heller and McDonald about those preexisting rights to bear arms. He said that it is presumptively lawful for schools and government buildings to have a prohibition of firearms.

Mr. Kamptner stated that the court also has said in numerous cases that unlike a regular gun control type of regulation, in a situation like this, the County and the Board are acting like the owner of the County property, in a proprietary capacity, which is different than the more common type of gun control measure where it is acting as a lawmaker.

Moving to the next slide, Mr. Kamptner said in this case, this is not a regulation that has widespread application. He said the ordinance applies only to certain County buildings, and only to County parks and County community centers. He said it also has application to certain other entities that were created by the County and properties that are operated by the County. For purposes of this presentation, he said, the reference would be to County properties.

Mr. Kamptner moved to the next slide and said the first area where the proposed ordinance would have affect is in government buildings, with the focus on the County office buildings and community centers. He said the presented slide is from a human resources article that explored where shootings are more likely to or most often occur, and found that the majority were in work places.

Mr. Kamptner said there is also the general duty clause under federal law, under the occupational safety and health administration clause. He said this is the statute that puts an obligation on employers to provide workplaces that are free from recognized hazards. He said Virginia code also has a similar duty. He explained that this particular general duty clause also showed up in the referenced article, from a lawyer's blog recommending that employee handbooks prohibit weapons, including guns, in areas where people work. He said the County has a personnel policy #25, which has been in place for a long time, that says possession of firearms is deemed to be unacceptable conduct.

Mr. Kamptner said that in looking at the history of how the County has regulated parks, there have been rules of conduct. He said going back to 1975, when it appears that the first rules were codified in the County code, there was a prohibition on possessing firearms in all County parks. He said without any real clarity as to what the problems were, the Board's minutes from that meeting identified the rules. He said the request from the park director at that time was to control and deal with certain problems in the parks.

Mr. Kamptner said that prohibition on carrying firearms in parks continued until July 7, 2004, when the Board repealed that part of the ordinance. He said that was because of a change to state law, which removed the County's authority to have that kind of regulation. He said the County Parks and Recreations Department supports prohibiting firearms in County parks. He said he had spoken to the director on Friday and asked him whether families and children are present at all family parks, and the director confirmed that was correct.

Mr. Kamptner said that's important because the courts have not articulated the outer limits of the Second Amendment, for which core rights are to possess a weapon in defense of the hearth and home. He said as the government moves farther out from that, the right is not a right somewhat. He said what the court has said about the passage earlier that referred to schools and government buildings "in other sensitive places" and sometimes the court says, "sensitive areas," but case law identifies parks as "sensitive places" and holds this true particularly where children and families are present.

Mr. Kamptner said in looking at the programs and amenities at the County's parks, they are diverse and are designed to attract people of all ages, including children. He said the parks also have baseball, softball, and multi-purpose fields, which are available to both adult and youth organizations. He then presented a list of amenities as available from the Parks and Rec website.

Mr. Kamptner said the Parks and Recreation Department also provides programs at certain parks. As an example, he said Darden Towe Park has tennis classes for several age groups beginning with age 4. He said there are outdoor activities at the Lewis and Clark Exploratory Center, a Families on the Trail program, and school groups.



Mr. Kamptner said the parks are also well used, referencing information provided by the Parks and Rec Department that show vehicle trips per week at the parks that have counters available. Mr. Kamptner said Parks and Rec uses an industry standard of 2.5 persons per vehicle, so converting those vehicle trips per week to an approximation of the number of people using the parks would show approximately 1.5M visits to County parks in 2020.

Mr. Kamptner said the community centers of focus are the Greenwood and Yancey centers and referenced a slide showing the amenities they offer. He said he also wanted to note that Yancey has a food pantry and is also the location for the Blue Ridge District Health Clinic and the Greenwood Community Center hosts classes and a number of exercise programs that are available to children and adults. He said some have age limitations beginning at age nine or 16.

Mr. Kamptner said in summary, the parks and community centers provide amenities and programs to people of all ages, and have programs specifically tailored to children. He said a large number of people congregate in these areas, and the courts have recognized that the government has a substantial interest in promoting the safety of the people who visit outdoor and recreational and community areas.

Mr. Kamptner said that Ms. Farley would now review the elements of the ordinance itself.

Ms. Farley said the Board has seen the presented slide in the past because this portion of the proposed ordinance has not changed. She said the authorization is for four different categories of places, including County-owned buildings that are owned or used, or that are owned or used by an entity created by the County, public parks, and recreation and community centers. She said the fourth component is one that was not built into the draft ordinance because it has no direct application in Albemarle County.

Ms. Farley said the implementation slide has also been seen by the Board before but is included as a reminder that it does prohibit the acts that are described in the enabling legislation. She said it does provide exceptions that would be discussed, especially to the changes that were made since the July presentation. She reminded the Board that this provides for a criminal sanction and makes a violation of the ordinance a Class I misdemeanor, and it empowers the County Executive to implement reasonable security measures.

Ms. Farley stated that the next slide is labeled, "Exemptions in Original Draft," which means the draft ordinance that was originally advertised and considered prior to the July meeting, and these included exceptions for law enforcement, both active and retired, animal protection officers, and fire marshals. She said it also included in the then-drafted version, within the scope of their duties, commonwealth attorneys, ACRJ employees, civilian employees in forensics, DCJS-certified security, U.S. Armed Forces, and National Guard. She said other exceptions included in the draft were County Executive-granted exemptions, and safekeeping of firearms to the County Office Building-5th Street. She said specifically exempted in reference to the Virginia code section are "certain individuals who are permitted to have firearms within the County Courthouse."

Ms. Farley said the next slide reflects the changes that have been made to the draft ordinance based on the Boards feedback from the July 21 meeting, as well as feedback since the July 21 meeting. She said the county executive discretionary exemption is now eliminated, as reflected in the updated draft, and a change was made to the commonwealth's attorney exemption. She said in the previous draft, their exemption was limited to "within the scope of their duties"; however, the state statute that provides the exemption for commonwealth attorneys has no such limitation. She said in the updated draft, the "within the scope of their duties" portion has been stricken so it aligns with the Virginia code provisions.

Ms. Farley said based on the Board's feedback, additional titles have been included, including officers or guards of state correctional facilities within the scope of their duties; judges or justices of the Commonwealth without limitation; United States Postal Carriers within the scope of their duties; and certain conservators of the peace within the scope of their duties. She said there are some conservators of the peace that are specifically excluded from the exemption, and that is referenced in the new amendment.

Ms. Farley said additional exemptions are included based on the Board's feedback for individuals participating in approved ceremonial activities, with notice of the planned use of firearms during those ceremonies being provided to the County prior to the event. She said also included is an exemption for an individual possessing a firearm in their personal motor vehicle, if the firearm is secured within the vehicle. She said there was a suggested change from the draft that was submitted for consideration today based on good feedback from the community and further research that was done.

Ms. Farley said she is referring to subsection C.14., which is the exemptions part of the draft. She said currently it reads, "Any person who may lawfully possess a firearm and is carrying a firearm in a private motor vehicle of vessel on properties described in section B. above, and the firearm is secured in a container or compartment and the locked vehicle or vessel and is not in violation of this section." Ms. Farley said with helpful feedback and upon further consideration, the recommendation is to strike the work "locked" from the amended draft ordinance.

Ms. Farley said the reason is that the exception addresses when an individual is actually in their own vehicle, which would not necessitate or even suggest that locking the vehicle would be something that would make sense. She said it covers the situation and she believes it was anticipated by the Board

in their discussion, that an individual may come to a County park, drive their personal motor vehicle, and within that vehicle have a firearm that is secured, and park their vehicle. She said that for the period of time that they park their vehicle, this exception would indicate that person is not in violation of the ordinance. She said once a person leaves their vehicle and goes to enjoy amenities of the park, they would not technically be in possession of anything in their vehicle. She said that since the authorization for this ordinance addresses the possession, use, and transportation, it is her team's opinion the word "locked" would need to be removed from this exemption.

Ms. Farley would also like to note that her team received a note from a Board member to further provide the definition of what "vessel" means. She said according to the Virginia code, vessel means any watercraft except a sea plane. She said that would apply to any of the boats that could or would be in County parks.

Ms. Farley said the other changes included a tweak to the word order to clarify that the component parts that are referenced and prohibited are firearm component parts. She said as indicated in the July meeting, the County would expressly include the notice provision, which is reflected in the amended draft ordinance. She said that expressly states that the ordinance only applies to those specific enumerated areas for which posting and notice to the public has been made.

Mr. Gallaway directed the Board members that he would like to get through questions first for clarification and then go back through and make any comments as necessary.

Ms. Mallek said that Ms. Farley answered her question of what a vessel is, and clarified that it is any boat, except for something Albemarle doesn't have. She asked if there was a specific reason why people in boats should be allowed to carry their weapon as an exclusion. She said that seems to be contrary to everything else being talked about.

Ms. Farley said the language that does include the word "vessel" and "personal private motor vehicle" was taken from the concealed weapon exceptions that are in the Virginia code. She said it is not one that was inserted but is just one that is consistent with the Virginia code provision.

Ms. Mallek asked if the County is required to have that language included.

Ms. Farley said it was not required.

Ms. Mallek thanked Ms. Farley and said she would come back.

Ms. LaPisto-Kirtley thanked Mr. Kamptner and Ms. Farley. She asked if the reference to a weapon or gun being in a car is the proposed amendment taking out the word "locked" and saying the gun has to be secured.

Ms. Farley confirmed this and said is consistent with the research completed, to change the language to secured. She said secured does not mean locked, it just means latched that is more than closed, less than locked, as is the language that is used.

Ms. LaPisto-Kirtley confirmed that the language has to be where if someone were to break into the car, the gun could not just be grabbed.

Ms. Farley said that is not clear from the law. She said what the case law indicates, or what is trying to be prevented, is that someone who has dominion and control over a firearm has immediate access to it. She said that would suggest that one could not just reach over and have access but would have to go through some sort of mechanism to take it out of a compartment. She said that is the language of the statute that was borrowed for purposes of this ordinance and what it was meant to deter.

Ms. LaPisto-Kirtley thanked Ms. Farley for that clarification and said she had no further questions at this point.

Ms. Palmer asked what the requirements are with the signage that are going to be put in front of buildings and parks. She asked how much information is necessary.

Mr. Kamptner said the code says, "Notice of any ordinance adopted pursuant to the enabling authority has to be posted at all entrances of any building, or part thereof, owned or used by the locality and the other entities that may be affected by it, at all entrances of any public park, and at all entrances of any community center facilities."

Ms. Palmer asked if it is going to say more than "Ordinance 21-10 applies here" or if that is all it is going to say.

Mr. Kamptner replied that is probably not great drafting by the General Assembly, but the signage would certainly say much more than that.

Ms. Palmer asked if Mr. Kamptner could give her any indication of what or how much information, because there is a lot on exemptions, and she is trying to get an idea of what staff foresees putting on these signs.

Ms. Farley said that in anticipation of the possibility of the ordinance being adopted, staff has

been considering those things. She said to her knowledge, there has not been an impetus to actually act on that, but she has been in discussions with staff and feels that the primary things she's suggested for consideration are readability and easy reference. She said she doesn't want to pull an example out of the blue because she doesn't want to catch staff off guard, but she said something that is easily readable but also with a reference to find out if an exception applies.

Ms. Palmer asked if it would say something along the lines of "Guns are prohibited here."

Ms. Farley said it would probably also recommend either a reference to the ordinance or language to the effect that exemptions apply so it can be referenced by the party if desired.

Mr. Kamptner said at the entrances that are staffed, those who are there can have handouts or copies of the ordinance available. He said the information would be available.

Ms. Palmer said the parks are not staffed as people go in, except for certain times during the summer at swimming places. She said the parks for the most part would just not have that information.

Mr. Kamptner said there would be something to say, "Firearms prohibited with a reference to the ordinance or reference to the exceptions that apply."

Ms. Palmer thanked Mr. Kamptner and Ms. Farley for their responses.

Ms. McKeel said she is trying to wrap her head around some of the changes that have now been made to this ordinance. She asked for an explanation for now allowing people to keep their gun in their car at the buildings and parks, but the vehicles do not need to be locked. She clarified that the weapon just needs to be secured and asked if that is what the change was made to say.

Ms. Farley responded that in essence, yes. She said there are two reasons for recommending the change to remove the word "locked." She said one has already been discussed, but she is happy to discuss that more fully, and the other is an enforcement issue. She said she tried to find circumstances that she believes would justify an officer trying a door handle to see if it is locked. She said if there were a provision, that would be something they could investigate, and she struggled to find anything that wouldn't have evidence of another violation in place. She said police officers are not authorized to just go around trying door handles to see if a vehicle is locked, they would have to be able to view, in plain sight, that there is a firearm that is not secured within the vehicle. She said if they saw that and established probable cause for a search, that is one thing, but the locking of the vehicle itself would be likely unenforceable.

Ms. McKeel said that what she is getting at is that the expectation is for the community centers and the parks and the buildings, folks would leave their weapons in the car in the parking areas and not bring them into the building. She said what she thinks Ms. Palmer is trying to say is that this needs to be made very clear in the language, which she feels they can come up with that doesn't have to be a bunch of ordinance numbers on the paper.

Mr. Kamptner said the signage has to be effective. He said with the community centers and the County office buildings, the County cannot prohibit people from having firearms in their vehicles, and it's really at parks where there is the broader authority to prohibit. He said that kind of information at the County office buildings and community centers would be important, but also at the parks.

Ms. McKeel said she just wants to make sure the signage is written in a way that people arrive and can see what they need to do, and it should be made clear and easy to understand without just quoting code numbers.

Ms. Farley said that she is sure staff would find a creative way to do this, though she does not think there is a practical way to put all 14 exceptions in the signage.

Ms. McKeel said the one exception that people are interested in and are going to want to know about is the option about leaving the gun in their car, and that was the only clarification she had.

Ms. Price stated that she has absolute confidence that County staff will be able to articulate what needs to be on the signs. She said when going to a restaurant these days there are no menus, and people use a QR code and pull it on their phones, so where there is cellphone coverage, that would be one way to post the ordinance. She also suggested language that says, "Weapons prohibited. Leave it in your car." She said that while one can't fix stupid, if someone is bringing a weapon and they're not going to lock their car, they have other issues to deal with. She said those are the people who shouldn't be carrying a weapon around with them anyway.

Ms. Price said she does not have any questions and appreciates the deliberative process that Mr. Kamptner, Ms. Farley, and staff have gone through to improve the original draft into a much better proposal. She said she has no other questions but does have a few comments.

Mr. Gallaway said he does not have any questions as to the changes or status, so he would like to go through a round of comments before making motions.

Ms. Mallek said she appreciates the clarity and further discussion and would propose that "watercraft/vessels" be removed as places and parks where people would be allowed to carry their weapons on them. She said she would much prefer that all weapons stay in vehicles all the time on

County property. She said people have asked what the problem is, and she said it's about intimidation of others and it's a real problem. She said she has personally seen when half the members of the public in a BOS meeting got up and left when someone came in that they perceived to be carrying a weapon. She said she has been told by many people that it raises all sort of memories and experiences, and she feels no one needs that kind of stress while on County property. She said that she appreciates all of the comments that the speakers have made and understands that there is a difference of opinion, but she certainly supports this ordinance and hopes that others would support taking the watercraft out as an exemption.

Ms. Farley said she wanted to clarify that a firearm on a vessel would still have to be in a secured compartment. She said that may not impact this at all, but she wanted to make sure that was clarified.

Ms. Mallek said that offers her the opportunity to say that when a person is passing by others on the beach from their vehicle to the boat, others would see it and be very concerned. She said this was just spoken about tonight when a young person was seen brandishing a weapon at one of the parks the weekend after the previous discussion about this. She noted that it upset the staff who were there, the young teenage lifeguards, and the members of the public who contacted her, as her house is closest to that particular park. She said she would hope that the vehicle is the place for it to stay.

Ms. LaPisto-Kirtley said she is confused. She clarified that the request is to not have the weapon on the boat and asked for clarification that a vessel is a boat.

Ms. Farley confirmed this.

Ms. LaPisto-Kirtley said one comment regarding the signs would be to include a picture with a gun with a big red circle and line through it. She said she would like to see writing that says "Firearms Prohibited" and a reference for exceptions.

Ms. LaPisto-Kirtley said her comment regarding this, with her husband having been in law enforcement in a very dangerous area for 34 years, is that she is very supportive of this ordinance. She said it is something that is needed and is a very common-sense proposal. She said people should not be brandishing weapons and she agrees with Ms. Price that if someone legally owns a gun, there are other problems. She said she thinks the way this is written is good and thinks it goes in the direction the County wants to go and this is a commonsense gun control law.

Ms. Palmer said she does not have any problem striking the vessel language. She stated that the Board has received a lot of questions about why this is being done, and she can only personally answer that during her first term on the Board of Supervisors, a gentleman did come in and at times was carrying a gun, which she found to be very scary. She said that the Board was told by the police department that they were not able to inquire or address that person about the gun because there was not an ordinance in place. She said she decided at that time that if she ever had the opportunity to do something like this, she would support it.

Ms. Palmer said she wholeheartedly supports it as written for all County buildings and the urban area parks, and open carry should be off the table completely. She said that for the rural parks, she does not have a problem with a concealed carry permit. She said she doubts she'll get any support on that, but she feels that is something reasonable to include. She said she does think the signage could be problematic and that language needs to be displayed about keeping weapons in cars. She said that is very important to be on the sign.

Ms. McKeel stated that she does not have a problem with striking "vessel" from the language and agrees with the other Supervisors who have spoken. She said she thinks carving out differences for different parks based on where they are located is confusing and problematic, and she does not agree with Ms. Palmer.

Ms. McKeel said she has known Mr. Grant for a decade and a half, at least. She said she thinks every single time he has asked her a question, she believes she almost always has responded. She said she did not respond to his question this time because she knew she would have an opportunity to speak about it tonight. She said that when she referenced "the problem," there are two problems she sees. She said the first is the same problem that other Supervisors have talked about. She said in the ordinance, the Albemarle County Police Department lacks standing to be able to respond to a concerned call from employees in one of the buildings or community centers, and the ordinance is needed for that purpose. She said it also solves the problem of a lack of parity between people coming into the building and the employees. She said HR policies say that employees are not to bring guns into the building, which has got to be a standard that is pretty acceptable in the human resources world and employment centers.

Ms. McKeel said she had a School Board member reach out to her and they were talking about students and families and children. She said that person reminded her that the School Board now has a student representative on their board and once a month they recognize employees and students who have gone above and beyond and can fill the lobby of the County Office Building with young people, families, and children. She said that she is old enough to remember when the high school students left their hunting rifles in the back of the truck. She said it was commonplace to see those rifles through the window of the locked vehicle, without any need to carry them through the building, and there was never a discussion about infringement of rights.

Ms. McKeel commented that she had grown up in Staunton, and her father was a small

businessman who had to make night deposits at a local bank, often making them after 10 p.m. before he came home. She said she does not know what happened but remembers him coming home one day and telling her mother that he purchased a pistol so that when he made the night deposits, he had some protection. She said she would assume that something happened that caused him to do that, but she doesn't know. Ms. McKeel said to fast forward to the early '70s when she was in college, where she had a curfew. She said not only could women not wear slacks, but they had to be in a dorm by 11:30 p.m. She said she was out on a date and missed her college curfew, which was not good, so she told her date to drive her home to her parents. She said she didn't call her parents to tell them she was coming home and when she let herself into her parents' home, she met her father with the pistol in his hand. She said when he realized it was her, it terrified him as to what could have happened if he'd reacted too quickly. She said that is what happens often when there is a proliferation of guns and a lot of times they are used by accident. She said she is supportive of what is being done and thinks it brings safety to the community and feels there have been compromises for the members of the community who carry guns legally and want the ability to leave them in their vehicle.

Ms. Price said she concurs with the comments the other Supervisors have made, especially with Ms. Mallek and deletion of the word "vessel." She said if there were County parks that were directly accessible by waterways, then perhaps the vessel exception would make more sense, but if all of the waterways require access through land, there should be no reason to have a weapon on a vessel.

Ms. Price said she wants to first express her appreciation for the input from so many individuals, both community members and constituents, and even those who do not reside within the County. She said that she appreciates that there are very strongly held views on many issues, especially this one. She said when the draft of this ordinance was first presented to the Board, she had several areas of concern, including how to enact an ordinance that best provides actual and perceived physical safety to the community and County employees. She said it was important to address possession of weapons in County office buildings, recreation centers, parking lots, and parks with a clear and consistent message to everyone who may be affected. She cited the manner in which paragraph C.6. provided that the County Executive could grant an exception to the prohibition to weapons in County facilities.

Ms. Price said she reached out to the County Attorney and chief of police seeking their counsel. She said her initial concerns with paragraph C.6. language was that it was overly broad and subjective, leaving it dependent on personality, rather than a process in making a decision. She said in discussion with the County Attorney and chief of police, she mentioned an exception for concealed handgun permit holders with further review by Albemarle County Police Department and a final decision by the County Executive. She said her goal was to have a narrow exception, and in the discussions, it became apparent that the exception process would require the dedication of additional resources. She said it would require near instantaneous decisions to what should be a deliberative process, and it was likely to end up swallowing the rules while simultaneously failing to meet the basic objectives of the policy.

Ms. Price said two problems were immediately identified. She said establishing an exception process that could sustain a legal challenge and establishing a satisfactory process for evaluating such exception requests, appreciating that if an individual reasonably believed that their physical safety necessitated such an exception that crime would be of the essence, and recognizing the reluctance likely to fall upon anyone being assigned the decision-making responsibility for granting an exception.

Ms. Price said additional concerns that were identified in the discussions included the absence of an ordinance prohibiting weapons on County property and in County buildings limits and constrains the ability of law enforcement to determine whether an individual is in possession of a weapon in such places. She said consequently, she believes enacting an ordinance is both appropriate and a responsible action to take. She said it was important to have consistency in any ordinance, with long-established and recognized best human resource employment policies regarding weapons in the workplace, especially in recognition of workplace violence that has plagued our nation. She said it is just principle and to keep it simple.

Ms. Price said to provide consistency and avoid confusion to the community members as to what is and is not permitted or prohibited. She said recognition that while some may find more security in concealed carry, there are others who find security with the knowledge of there being weapons present. She said the distinction between an urban neighborhood parks environment is in contrast with rural more isolated areas of the County parks. She said she believes in treating all individuals similarly in regard to criminal violations and refuses, as a general proposition, to make criminal conduct by a County employee that would not be criminal conduct if engaged in by a community member.

Ms. Price said her absolute desire is to ban open carry of weapons on or in any County property, law enforcement and the like excepted. She mentioned the necessity of providing a safe manner for individuals to lawfully possess a weapon to transit within the County and not risk inadvertent violation of the law. She said this is achieved by enabling the security of a weapon in a container within a vehicle if a community member enters upon County property. She said she has a high personal sense of comfort with concealed handgun permit carriers, and she has such a permit herself. She also recognizes that in reaching decisions affecting the County that an individual legislator's personal beliefs must be secondary to decisions made for the betterment of the community.

Ms. Price said when all of this is evaluated, where she ends up is an absolute ban on open carry in or on any County property, a prohibition on carrying of a weapon on the person in any County Office Building, recreation center, or park; with law enforcement excepted. She said that regarding authority of lawful possession of weapons to have them in a secure container in a vehicle, it is important to note that

the enactment of this ordinance returns Albemarle County to the same legal situation in which it was operated until 2004 when the state legislature banned local governments from enacting such ordinances. She said they are, in effect, returning to the status quo in which Albemarle operated for years.

Ms. Price said there are a great many places where one is not permitted to possess weapons, such as airports, sporting events, schools, and military installations, and this would be no different. She said she believes that this proposal should be followed by all County office buildings that have a monitored public entrance and weapon detection may be offered at some of those locations, a culture where all County employees utilize employee entrance exits and not allow anyone into the building through such access points without using a badge. She said this requires training and acknowledges respect for the security measures, prevents tailgating (where an unbadged individual follows a badged individual), and a prohibition on any County employee physically possessing on their person a weapon in the course of their official duties, with law enforcement excepted. Ms. Price said she wholeheartedly supports this ordinance as it has been modified and recommended today and would ask that the language of "vessel" be eliminated from the exception.

Mr. Gallaway said he thinks that Ms. Price hit on something that has been on his mind since the last time this was in front of the Board. He said it is his personal comfort driving the decision when it comes to his responsibility as a Supervisor dealing with the public property. He said he made the comment at the last meeting that there have been many things that the state has prohibited local governments from doing in terms of control and having the responsibility for one's own property. He said that level of control is something that the Board, even though their composition has changed over the last three or four years, has consistently asked for from the state. He said this tends to get a little more emotional, as guns as a topic rouse people on both ends of the spectrum. He said it's not a statement of judgement, just acknowledging that the topic can bring an emotional response.

He said at this point, the state has granted the County the authority to make decisions on their property, and the current Board gets to make those decisions. He said this Board has consistently said they would get things put into place to have control over things that previously they didn't. He said personally, he does have comfort with the personal concealed permits. He said he cannot in his head figure out how to get past the consistency of saying it would be okay in parks and not in buildings. He said from that standpoint, he is swayed to put it in place across all County property, as it makes it more easily understood to reduce violations over confusion. He said from that standpoint, he would support the others and vote to put the ordinance in place.

Ms. LaPisto-Kirtley said that the Board has received numerous comments from people saying that if someone has a concealed weapons permit, the user is already proficient and knows how to use the gun and defend themselves. However, she said, that's not really true; law enforcement has to have ongoing proficiency and training in guns and are constantly required to do that. She stated that once someone has their concealed weapons permit, they are not required to show proficiency on how to use a gun. She said anyone who thinks that they can accurately shoot a gun, that doesn't happen. She said innocent people get killed and that is something that the County wants to avoid. She said just because someone has a concealed weapons permit, which she also personally happens to have, it does not make the user proficient in the use of a gun.

Ms. LaPisto-Kirtley said she is completely supportive of this ordinance.

Mr. Gallaway said it is as explicitly as Ms. McKeel's comment from a constituent who asked what problem is being solved. He said it's not a problem, but a responsibility. He said the state previously didn't grant the authority to have the responsibility, and now that they have, that is the problem that the Board is solving. He said the Board is saying what the rules are on County property.

Ms. Price **moved** that the Board adopt the proposed ordinance 21-10, attachment A: Draft, dated August 9, 2021, except in paragraph C14 excepting the words on line 2, "or vessel" and on line 3, the word "locked" and the words "or vessel." Ms. LaPisto-Kirtley **seconded** the motion.

In further discussion, Mr. Gallaway asked Mr. Kamptner if the Board has the right resolution for what is being proposed.

Mr. Kamptner said it is the ordinance itself.

Mr. Gallaway said if there was no further discussion, they could cast their votes.

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

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

---

#### ORDINANCE NO. 21-10(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10, OFFENSES - MISCELLANEOUS, 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 10, Offenses - Miscellaneous, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Adding:**

Sec. 10-118 Firearms prohibited on County property.

**Chapter 10. Offenses - Miscellaneous**

**Sec. 10-118 Firearms prohibited on County property.**

- A. *Firearm Definition.* For the purposes of this section, a firearm is any instrument designed, made, and intended to expel a projectile by means of explosion of a combustible material. The firearm need not be operable or capable of firing to sustain a conviction under this Section.
- B. *Acts prohibited.* It shall be unlawful to possess, carry, or transport any firearm or a component thereof, ammunition, or a combination thereof in or on:
  - 1. Any building or part of a building owned or used for governmental purposes by the County, any authority or local government entity created or controlled by the County;
  - 2. Any public park owned or operated by the County or any authority or local government entity created or controlled by the County; and
  - 3. Any recreation or community center operated by the County or any authority or local government entity created or controlled by the County.
- C. *Exceptions.* The prohibition made unlawful in subsection (B) shall not apply to:
  - 1. Federal, state, and local law enforcement officers; unsworn animal protection officers; and the Fire Marshal, deputies, and assistants;
  - 2. The Commonwealth's Attorney, deputy, and assistants;
  - 3. Authorized employees of the Albemarle-Charlottesville Regional Jail and officers or guards of state correctional facilities, acting within the scope of their duties;
  - 4. Civilian employees of the Albemarle County Police Department who are assigned to the Forensics Unit, acting within the scope of their duties;
  - 5. Individuals who surrender or submit for safekeeping firearms to the Albemarle County Police Department. Possession and transport for this purpose is permissible only at the County Office Building at 1600 5<sup>th</sup> Street, Charlottesville, Virginia;
  - 6. Active members of the United States Armed Forces and Virginia National Guard, acting within the scope of their duties;
  - 7. Retired law enforcement officers, if authorized by Virginia Code § 18.2-308.016 or other applicable law;
  - 8. Security officers licensed and certified by the Department of Criminal Justice Services and authorized to carry a firearm, acting within the scope of their duties;
  - 9. Individuals authorized by Virginia Code § 18.2-283.1 while in a courthouse that is subject to this section;
  - 10. Judges or justices of the Commonwealth;
  - 11. Mail carriers of the United States Postal Service, acting within the scope of their duties;
  - 12. Conservators of the peace, except as limited by Virginia Code § 18.2-308(D)(3), acting within the scope of their duties; and
  - 13. Individuals participating in ceremonial events allowed pursuant to the County's Rules for the Public's Use of the County Office Buildings and Their Grounds and other County rules and policies, provided that prior notice of the planned use of firearms in the ceremony is provided either on any required application or to the County Executive.
  - 14. Any person who may lawfully possess a firearm and is carrying a firearm while in a personal, private motor vehicle on properties described in subsection (B) above, and the firearm is secured in a container or compartment in the vehicle is not in violation of this section.
- D. *Security measures.* The County Executive may approve and order implemented lawful security measures reasonably designed to prevent unauthorized access of the buildings and areas in subsection (B) above.

- E. *Notice.* The acts prohibited by subsection (B) above apply only to those buildings or parts thereof, parks, and recreation or community centers at which notice of this section is posted as required by Virginia Code § 15.2-915(F).
- F. *Penalty.* A violation of any provision of this section shall be punished as a class 1 misdemeanor.

**State law reference -- Va. Code § 15.2-915.**

---

Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Gallaway asked if he is not mistaken that the next item was cited by Supervisors Palmer and Mallek. Revising Ordinance to Update Language to Specify Maximum Decibel Level in Relation to Property Lines and Further for Events at Wineries, Breweries, Cideries.

Ms. Palmer offered to clarify. She said that she and Ms. Mallek had met with a constituent recently to discuss some of the problems associated with wineries and breweries and cideries. She said they also discussed noise. She said it is well known that if you build something on top of a mountain, the people on other levels and elevations nearby can hear much better than the people on the adjacent property.

Ms. Palmer said it was suggested that the Board make the change in the ordinance that moves the decibel at the property line and beyond, instead of just at the property line as it is currently written. She said she spoke with Mr. Kamptner about this who confirmed it would be legal to do. She said her understanding is that there is no request on staff to notify more people, but that they would be talking to the applicant and explaining that this is a requirement that needs to be addressed. She said typically complaints would be on the weekend, so the police department would be answering those types of complaints, not staff.

Ms. Palmer said what she would like to see is if the Board would support having the staff take a look at that language and see if it is something that can be changed without too much trouble. She said it seemed relatively easy, but said staff has to come back to the Board with how much time it would actually take, and if it's easy or not.

Ms. Mallek said that the Whitehall District and the Rivanna District have both had occasions where it took several years to bring any kind of accommodation for sound that was traveling because of topography and said if there's way to figure out a way to accomplish this by a small definition change and have the process be unchanged, so the applicants who propose to do these events, know that they are responsible if their sound travels further than some arbitrary notion. She said if the noise is supposed to be at an acceptable level at the property line, then it should be far less, logically, a further distance away. She said she finds it hard to believe that this is going to be a lot of pushback. She said when there are complaints a mile or two miles away because the next cluster of houses is a bit further away, but at a higher elevation, this may be very helpful.

Ms. Mallek said there has been great success with some of the leadership wineries that have invested in directional speakers and really worked to control their sound. She said they have proven that it can be done very successfully, so having whatever the small appropriate changes that can be made to empower the staff. She said with this in place, she hopes they would have fewer problems going forward and would have less draw on staff and enforcement time if the Board is able to provide the right tools to get people to recognize the rights of others.

Ms. LaPisto-Kirtley asked Ms. Mallek if there would be a decibel level that can be set and checked.

Mr. Kamptner said there is an existing decibel level that is set for daytime and nighttime.

Ms. LaPisto-Kirtley asked if that is able to be measured across the hilltops. She confirmed that it's not so much a measuring of distance, but rather that the decibel level is met. That was confirmed. She had no further questions.

Ms. McKeel said that in theory it sounds very possible, and she has no problem with it. She said the reality is that this is adding something else to the work plan, and there has been discussion about that not being done, so she would like to know what staff time it would take and what is required.

Mr. Kamptner said he is never good at estimating the time it takes for Community Development to do the background analysis. He said CD would need to evaluate that.

Ms. McKeel said that before she can go forward, she would have to know that. She said she's made the promise to herself that she would not add anything more to the work plan.

Ms. Palmer said the request is for staff to evaluate and see how much time it would take. She said she is not suggesting that the Board decide right now to change anything, but rather to just have somebody come back at a later time and explain what is in the realm of possibility and how long it would take.



Ms. McKeel said that her concern is when staff comes back to the Board after they have asked some of these questions, they have spent and written a report that they could have almost probably done the work with how they had to answer. She said she is just not comfortable with constantly adding stuff to staff's time right now.

Mr. Kamptner said in response to Ms. Mallek and Ms. Palmer, he is looking at the zoning ordinance right now and is looking at place of sound measurement, and it appears to have some flexibility in where measurements can be taken. He said he sees Charles and Bart on, who may be able to fill in on that response and also to answer the other question.

Mr. Walker said he was just going to acknowledge Ms. Palmer's clarification around the interest and doing some preliminary work to see what would be involved. He said they won't know until they get into it, getting to the point that others have made. He said they certainly have been very cautious about how staff engages with the Board around these issues, so nothing is overpromised or underdelivered. He said it certainly, if the Board is interested in an initial look to see if there is a project there or not, is reasonable. He said not all projects are created equal, and staff is very reluctant to take on additional work, but also don't want to just dismiss it without having taken a look if that is the Board's interest. He said technically speaking, Charles and Bart are on the line and can speak to what the ordinance now is. He said the last thing he would say is that it's not just a change in the zoning ordinance, there would be a consideration in the enforceability and impacts on the staff that would then be expected to expand their enforcement parameters away from just the property line to anyplace where a sound may be heard. He said that would be made part of their assessment.

Ms. McKeel asked Mr. Walker if he recognizes her concern because staff always does such a great job in giving what the Board wants, it seems like asking for these asks are big undertakings.

Mr. Walker responded saying that at times staff has had to ask the Board to not ask at times because the time it would take to do the assessment would almost be a project. He said for the request this evening, he is asking that staff be allowed to do just enough work to say to what degree of a project this would be.

Ms. Palmer said all she would really like is a situation where staff could explain to the applicants, and not change who is being notified. She said the police also have a different standard, and so there is an issue with enforcement, as this would typically be a nighttime kind of thing.

Ms. Price said that she feels like in the absence of exigency there should be something like an open season on projects that we're going to ask County staff to do. She said she has no objection to adding this to a list of things that the County staff can at some point in time, but she is more in concurrence with Ms. McKeel at this point that she is not comfortable in asking County staff to add this to their current workload, rather than to add it to the list of things. She said she was just at a CAC meeting where there were some comments made why someone couldn't understand why County staff hadn't gotten a particular action done. She said this is the reason why, because the Board asks them to do so many other things. She said that while it sounds like a good idea, she is not pushing that County staff to act on it today. She said she would like it to be noted so that at the appropriate time it can be determined whether there are the resources to conduct the analysis and what the resources would be needed to effectuate compliance.

Mr. Svoboda said he would follow Doug's lead and the other Supervisors as far as allocation of resources. He said he would like to clarify that staff does work with the winery. He said that whenever there's adjacent notification required, that's not left up to the applicant to find out staffing gauges with them to make sure that that part of the process is done. He said there may be staff turnover during the lifetime of the facility that has outside amplified noise, so that may be something that would cause a lapse in someone knowing the regulations. He said when they do the first initial notification, or anytime there is a complaint regarding noise received, the staff takes great care to educate the property or business owner.

Mr. Gallaway said if this were a process to figure out a time without it taking too much time, he would not have a problem with it. He said Ms. Price's point that it gets put on a list is a good one. He said he's trying to understand if it's possible that if in reality if he is on the other mountain and there's a lot of noise, and I call in a complaint, he would imagine the police arrive and determine the violation. He's asking if it's trying to be said that the noise level would be lower at the property line than it would be across the mountain. He said that it sounds like a question for a sound engineer. He said he gets it, but that becomes an interesting thing and said he doesn't see how it could be put into anything consistent that says this is the rule. He said there are a lot of factors there. He said that he would go along with the idea of it being put on the list and if staff thinks they can come up with some sort of reasonable timeframe without spending a lot of time, then he does not object. He said he thinks if a noise violation comes in and the police are stuck in a rural event and play judgement of yes this is or isn't within range, then see how it plays out.

Ms. Palmer said it's more an advising from the start, is what the issue is. She said she recognizes that staff does a wonderful job talking to folks. She's not totally sure that when they very first come in for these applicants and they're building on top of a mountain, that this is made very clear to them. She said she has experienced this herself because she's at a higher elevation.

Ms. McKeel said it seems to her like the Board agreed that there was going to be a list that would

come back to the Board for prioritization. She said it seems like the list idea is a good one.

Mr. Gallaway said the next item up for discussion was Calculating Density in a Development Proposal.

Ms. Price thanked Mr. Gallaway and said as a quick interruption, during one of the breaks she was asked to repeat the date that the Board would be meeting with the Scottsville Town Council on broadband issues down in the southern part of the County. She said that would be on Monday, September 20, 2021 and would include Mike Culp, Director of the Broadband Office, herself, and she has invited a century of representative to be there. She said the date again is Monday, September 20, 2021.

Ms. Price also said in two of the items today, 8.5 and 8.6 on the consent agenda, the language is there, but not the maps. She asked that when they are given things to approve if there is a diagram of roadways, it would be helpful as well.

Ms. Price said with regard to the specific item at the recent Village of Rivanna Advisory Committee, a somewhat in-depth discussion took place on the difference between in-city calculations based upon net density or gross density. She said for this evening, she has asked that County staff be here for a very brief definitional description of the two. She said this is not to get into a broad discussion of net over gross density. Ms. Price said she does think this ties in somewhat with the consent agenda item 8.7, which is a resolution of intent to amend the zoning ordinance with regard to bonus density improvement.

Ms. Price said, as she understands it, and she has met with County staff earlier in the week about this, local residents would prefer to see net density as the calculation because that provides a lower number of units and developers would like to see gross density because that provides a greater number of units when property is rezoned and developed. She said there is a very serious aspect to this in that the County the talk is about a 5% development area and a 95% rural area. She said if Albemarle County wants to be able to maintain that for as long as possible, there does need to be an increase in density during the developments. She said that what she is asking for is that County staff and Mr. Walker and Mr. Rapp explain the difference between gross and net density.

Mr. Walker said he would be looking to the County staff in conjunction with the County Attorney to address this matter with the Board.

Mr. Rapp said he would provide a very brief overview as to where some of the discussion originates and then would be happy to answer some questions. He said there are also some opportunities to fix some inconsistencies for the future.

Mr. Rapp said the feeling is that net density units are typically calculated. He said it's just the proposed number of units divided by the land area associated with an application. He said the zoning ordinance follows gross density calculations, which is more of a traditional route, and obviously this is an older zoning ordinance that the County is in the process of updating. He said gross calculation takes the entire land area of the entire parcel and divides that.

Mr. Rapp said in the 2015 Comprehensive Plan, there was a strategy listed within the development areas chapter that suggested reviewing the zoning ordinance tackling density and amending that ordinance to better align with the density allowances in the Comprehensive Plan. He said it goes on to explain those differences as they exist now and the conflict between the two of them. He said the Comprehensive Plan is more of a guiding document and the zoning ordinance is the legal requirement. He said the Comp Plan takes out the areas of a parcel that are designated for green space, open space, or parks and green systems from that calculation.

Mr. Rapp said as an example, if there is a 10-acre parcel and two acres of those 10 are designated as green systems in the future land use map and eight are low-density residential, only the eight acres would be counted to arrive at the density allowance on that property. He said if using the zoning ordinance, it would calculate all ten acres, so there would be a higher number of allowed units following the more traditional zoning ordinance route versus the comprehensive plan.

He said the Comprehensive Plan future land use maps do designate on property stream slopes, stream buffers, things like that, and then there is the Master Plans. He said those generally dive into a further level of detail parcel by parcel as there is better data.

Mr. Rapp said there are a few inconsistencies with that, there are some older master Plans, the Pantops, the southern and western Master Plan, the Crozet Master Plans that don't specify net or gross. He said those would just fall back to the Comprehensive Plan language for guidance on that. He said the Village of Rivanna Master Plan specifically mentions gross density on the allowances and also have some additional calculations for the different areas.

Mr. Rapp said there are certainly some inconsistencies between the strategy identified in the comprehensive plan versus some of the master plans, as well as the zoning ordinance. Further into the zoning ordinance is the definition of "gross residential areas," and it does not get into a definition for "net residential areas," other than what is seen when there is discussion of net residential density, which is taking the development after it's done, remove the roads, right of ways, sidewalks, etc. that would tell the developer what there actually is. He said that the zoning ordinance specifies that it does not apply to the comprehensive plan designations.

Mr. Rapp said ultimately, staff has some clarification to do to figure this out, and they are about to start the zoning ordinance update and comp plan update, with a few previous work sessions and several more coming up. He said there are opportunities to clarify this and really identify the direction that the County wants to go, adding that he's happy to answer any specific questions.

Ms. Price thanked Mr. Rapp and said this has shown that 2 + 2 can be 3, 4, or 5 depending on which document is being looked at. She said she thinks this is why very often in the community there is confusion, if not disagreement.

Ms. Mallek said she would like to share her concerns with Mr. Kamptner about the legislative programs and get his feedback, and she would bring it up to the group next time.

Mr. Kamptner noted that he would be heading out on vacation on Friday.

Ms. LaPisto-Kirtley said she has no questions or comments.

Ms. Palmer had no questions or comments.

Ms. McKeel had no questions or comments.

Ms. Price said she would send a note to Mr. Kamptner regarding the legislative priorities and has no questions or comments.

Mr. Gallaway said he had seen an email in the last couple of weeks from a resident in the area of Target that said there are now signs prohibiting truck parking, recreational vehicle parking, etc. He said that signage was something that the County had been after for a while, and it helps give the police the ability to ticket if the signs are not followed. He said the temporary signs and the big digital kiosk worked, but now there is permanent signage in place. He said he knows that the residents out there appreciate that, and he thanked all involved who made that happen.

---

#### Agenda Item No. 18 a. Closed Meeting

At 8:14 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider:
  1. An appointment to the JAUNT Board of Directors; and
  2. The appointments and assignments of County representatives on the Charlottesville-Albemarle Convention and Visitors Bureau; and
  3. The annual performance of the Clerk; and
  4. The annual performance of the County Attorney and the appointment of his successor upon his pending retirement in 2022; and
- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to the Charlottesville-Albemarle Convention and Visitors Bureau; and
- Under Subsection (29), to discuss the terms of a public contract with the City of Charlottesville involving the expenditure of County funds where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.

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

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

---

#### Agenda Item No. 18. b. Certify Closed Meeting

At 9:04 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

NAYS: None.

---

Non-Agenda Item. Appointment to JAUNT Board.

Ms. Price **moved** to appoint Lori Allshouse to the JAUNT Board. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

---

Agenda Item No. 19. Adjourn to September 1, 2021, 1:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).

At 9:05 p.m., the Board adjourned its meeting to September 1, 2021, 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. Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page.

---

Chair

Approved by Board
Date 06/21/2023
Initials CKB