

ACTIONS
Board of Supervisors Meeting of December 15, 2010

December 22, 2010

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> • At 4:02 p.m., the meeting was called to order by the Chair, Ms. Mallek. All Board Members were present with the exception of Mr. Snow. Also present were School Board Members Ron Price, Steve Koleszar, Diantha McKeel, Harley Miles, and Barbara Mouly. Absent was Pamela Moynihan. Staff present were Bob Tucker, Pam Moran, Larry Davis, Tom Foley, Bill Letteri, Jennifer Johnston, and Meagan Hoy. 	
<p>2. Appointments.</p> <ul style="list-style-type: none"> • APPOINTED, by a vote of 5:0, Bob Crickenberger as Director of Parks and Recreation effective January 1, 2011. 	
<p>3. Consent Agenda.</p> <p>a. Virginia Retirement System (VRS) Plan Changes - Resolution to Pick up Employee's Contribution.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, the proposed resolution authorizing Albemarle County to pick-up the five percent (5%) member contribution for VRS Plan 2 employees effective July 1, 2011. 	<p><u>Clerk</u>: Forward copy of signed resolution to Lorna Gerome and County Attorney's Office. (Attachment 1)</p>
<p>b. Resolution – Proposed Financing for Greater Charlottesville Habitat for Humanity, Inc.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, the proposed resolution. 	<p><u>Clerk</u>: Forward copy of signed resolution to Karin Rose of Habitat for Humanity, Dave Richardson of McGuireWoods, and County Attorney's Office. (Attachment 2)</p>
<p>c. Resolution to Amend Section 5.3 of the Regional Jail Authority Service Agreement.</p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 5:0, the proposed resolution to Amend Section 5.3 of the Service Agreement for the Albemarle-Charlottesville Regional Jail. 	<p><u>Clerk</u>: Forward copy of signed resolution to Paige Barfield, City Clerk, for City Council approval and then to forward to Nelson County. (Attachment 3)</p> <p><u>Jail</u>: Provide Clerk's office with copy of fully executed agreement.</p>
<p>4. <u>Joint Meeting with School Board</u>:</p> <p>a. Brief Update on Access Albemarle.</p> <ul style="list-style-type: none"> • Held. <p>b. Work Session: Capital Improvements Program.</p> <ul style="list-style-type: none"> • CONSENSUS to move forward with final design and bid documents for Greer Elementary School. 	
<p>5. Adjourn to December 21, 2010, 12:00 Noon, Meeting with Legislators.</p> <ul style="list-style-type: none"> • At 5:13 p.m., the meeting was adjourned to December 21, 2010, 12:00 Noon, Room 241, meeting with Legislators. 	

/mrh

Attachment 1 – Resolution - Authorization to Pick-up the Employee’s Contribution to VRS
Under § 414(h) of the Internal Revenue Code For Plan 2 Employees

Attachment 2 – Resolution – Proposed Financing for Greater Charlottesville Habitat for Humanity, Inc.

Attachment 3 – Resolution to Amend Section 5.3 of the Regional Jail Authority Service Agreement

ATTACHMENT 1

The Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2" employees). The legislation amended VA Code § 51.1-144 to provide that Plan 2 employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h). Internal Revenue Code § 414 (h) provides that a governmental employer may "pick-up" mandatory employee contributions and thereby cause the contributions to be made on a pre-tax basis. The formal written action required by Internal Revenue Code § 414 (h) to effect the pick-up has been taken by the General Assembly with the Governor's signature.

The legislation also permits each county, city, town, local public school board or other local employer to pick-up, in whole or in part (in 1 percent increments), the 5 percent member contribution as an additional benefit not paid as salary. The employer's optional payment of the 5 percent member contribution may be phased in over a period approved by the VRS Board not to exceed 6 years and may only be made on a uniform basis for all its Plan 2 employees. The formal written action required by Internal Revenue Code § 414 (h) to effect the pick-up using the alternatives permitted by the legislation must be taken by the governing body of the specific employing entity and must be effective only on a prospective basis.

Please indicate, by selecting one option below, how member contributions will be paid:

- This is to acknowledge that _____ (Employer Name) will have the employees pay the 5 percent member contribution according to the terms of the legislation. This action does not require action by your governing body. _____(Authorized Signature)_____ (Date)
- This is to acknowledge that the County of Albemarle, Virginia elects to pick-up some or all of the 5 percent member contributions as detailed in the following duly approved resolution.

RESOLUTION

**Authorization to Pick-up the Employee's Contribution to VRS
Under § 414(h) of the Internal Revenue Code For Plan 2 Employees**

WHEREAS, the Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and

WHEREAS, the legislation allows certain employers, including the County of Albemarle, Virginia, to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and

WHEREAS, the election to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the 5 percent member contribution is paid; and

WHEREAS, employee contributions that are picked-up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and

WHEREAS, the County of Albemarle, Virginia desires to pick-up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to 5% of creditable compensation; and

WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the first day of July, 2011, the County of Albemarle, Virginia shall pick-up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to 5% of creditable compensation subject to the terms and conditions described above; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the County of Albemarle, Virginia in lieu of member contributions; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the County of Albemarle, Virginia directly instead of having them paid to VRS.

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF
ALBEMARLE COUNTY, VIRGINIA**

WHEREAS, the Economic Development Authority of Albemarle County, Virginia (the "Authority"), has considered the application of Greater Charlottesville Habitat for Humanity Inc. ("Habitat") requesting the Authority's to assume, modify and reissue an existing \$6,000,000 note (the "Original Note") of Southwood Charlottesville LLC ("Southwood"), whose sole member is Habitat, originally entered into in connection with the acquisition of approximately 350 trailer pads for the Southwood Mobile Homepark (the "Project"), which is located on approximately 100.5 acres of land at 387 Hickory Street, Charlottesville, Virginia 22902;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of Albemarle County, Virginia (the "County"); the Project is located in the County and the Board of Supervisors of Albemarle County, Virginia (the "Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the assumption, modification and reissuance of the Original Note (the Original Note, as assumed, modified, and reissued, is hereafter referred to as the "Note"); and

WHEREAS, a copy of the Authority's resolution approving the execution and delivery of the Note, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:

1. The Board approves the execution and delivery of the Note by the Authority for the benefit of Habitat as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), to permit the Authority to assist in the Project.
2. The approval of the execution and delivery of the Note does not constitute an endorsement to a prospective purchaser of the Note of the creditworthiness of the Project, Southwood or Habitat.
3. This resolution shall take effect immediately upon its adoption.

**A RESOLUTION
TO AMEND SECTION 5.3 OF THE SERVICE AGREEMENT FOR
THE ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL**

WHEREAS, the City of Charlottesville and the Counties of Albemarle and Nelson (the “Member Jurisdictions”) have previously established the Albemarle-Charlottesville Regional Jail Authority, and adopted an agreement (the “Service Agreement”) that established their respective rights and obligations regarding the financing, construction and operation of the regional jail serving their jurisdictions; and

WHEREAS, since its initial adoption, Section 5.3 of the Service Agreement has included a provision, intended to provide assurance to the bank that provided the financing for construction of the jail, that the Jail Authority would maintain an Operating Reserve Fund equal to 90 days, or twenty-five percent, of its annual operating budget; and

WHEREAS, over the ensuing decade, the amount in the Operating Reserve Fund has increased, and the unpaid balance of the Jail Authority’s indebtedness has decreased; and

WHEREAS, SunTrust Bank, the holder of the current revenue note representing that outstanding indebtedness, has advised the Jail Authority that the note does not require the maintenance of the Operating Reserve Fund, and that SunTrust does not object to a reduction of the balance in the Operating Reserve Fund; and

WHEREAS, the Jail Authority has determined that certain major security system components in the jail have reached the end of their useful life, and need to be replaced; and

WHEREAS, the Jail Authority and the Member Jurisdictions have determined that the most prudent and cost-effective way to pay for the security system replacement is to withdraw the required amount, not to exceed \$850,000.00, from the Operating Reserve Fund; and

WHEREAS, the Jail Authority and the Member Jurisdictions wish to amend the Service Agreement to allow that withdrawal, thereby reducing the Operating Reserve Fund to twenty percent of the current Annual Budget, and to provide a method for approval of future withdrawals; now therefore, be it

Resolved by the Boards of Supervisors of Albemarle, and Nelson Counties and the Council of the City of Charlottesville, with the concurrence of the Albemarle-Charlottesville Regional Jail Authority, that

1. Section 5.3 of the Service Agreement is amended and readopted as follows:

Section 5.3 Operating Reserve Fund. The Authority agrees to provide for an Operating Reserve Fund in each of its Annual Budgets in an amount equal to not less than ~~90 days~~ twenty percent of its projected Annual Budget for each year, less debt service. The Operating Reserve Fund will be established as a separate account and will be used to cover periods of revenue shortfall when the Authority’s revenues are not sufficient to cover its Operating Expenses or Debt Service, or in such other instances as may be approved by the Authority and concurred in by the chief administrative officers of all member jurisdictions. If such withdrawals reduce the Operating Reserve Fund below twenty percent of the Annual Budget, the Authority shall adopt a plan to restore it to that level over a period not to exceed three fiscal years.

2. The chief administrative officers of the Member Jurisdictions and the Jail Authority are authorized to sign a conformed copy of the Service Agreement incorporating this amendment.