

**FLUVANNA COUNTY BOARD OF SUPERVISORS  
REGULAR MEETING MINUTES  
Fluvanna County Library, 214 Commons Blvd.  
Palmyra, VA 22963  
December 16, 2020  
Adjourned Regular Meeting 7:00pm**

**MEMBERS PRESENT:**

John M. (Mike) Sheridan, Columbia District, Chair  
Tony O'Brien, Rivanna District, Vice Chair (*entered meeting at 7:05pm*)  
Mozell Booker, Fork Union District  
Patricia Eager, Palmyra District  
Donald W. Weaver, Cunningham District

**ABSENT:**

None.

**ALSO PRESENT**

Eric M. Dahl, County Administrator  
Fred Payne, County Attorney  
Caitlin Solis, Clerk for the Board of Supervisors

*\*Due to health concerns, Mrs. Booker is attending the meeting virtually/by telephone*

- *Mozell Booker, (Calling from 258 Bass Lane)*

*\*Due to health concerns, Mrs. Eager is attending the meeting virtually/by telephone*

- *Patricia Eager, (Calling from 1107 Mechunk Creek Drive)*

**1 – RECONVENE, CALL TO ORDER**

At 7:01pm, Chair Sheridan called to order the Adjourned Regular Meeting of December 16, 2020.

**3 - ADOPTION OF AGENDA**

- Mr. Dahl asked the board if Item H- *Families First Coronavirus Response Act (FFCRA) Emergency Sick Leave and Expanded FMLA Provisions Set to Expire* could be deferred and Item G - *FY20 Comprehensive Annual Financial Report (CAFR)*, could be moved ahead of the action matters.

<b>MOTION:</b>	Accept the Agenda, for the December 16, 2020 Adjourned Regular Meeting of the Board of Supervisors, as amended.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>	Second				Motion
<b>VOTE:</b>	Yes	Yes	Absent	Yes	Yes
<b>RESULT:</b>	<b>4-0</b>				

**4 - COUNTY ADMINISTRATOR'S REPORT**

Mr. Dahl reported on the following topics:

**Staff and Community Recognitions**

- Huge THANK YOU to Public Safety personnel during yesterday's ice storm and downed tree's clean up!
  - Fire & Rescue Volunteers, Sheriff's Office, E-911, VDOT, Lake Monticello PD and Maintenance.
  - They had over 150 CAD (Computer Aided Dispatch) entries and 80 911 calls
- Thanks to CVEC and Dominion for power restoration efforts
  - CVEC peak outage – 4,600
  - Dominion peak outage – 3,304
- Thanks to the Public Works Grounds crew for prepping and de-icing county facilities yesterday and this morning.

**Announcements and Updates**

Governor Northam released his New Statewide Measures to Contain COVID-19 – Executive Order 72

The following measures will take place effective on Monday, December 14 and remain in place through January 31, 2021, unless rescinded or amended.

- Executive Order Seventy-Two directs Virginians to stay at home between the hours of 12:00 a.m. and 5:00 a.m.
- Expansion of mask mandate – all Virginians over the age of five are required to wear face coverings in indoor and outdoor public spaces
- Reduction in public and private gatherings – limited to 10 individuals down from 25
- On-site alcohol curfew - The on-site sale, consumption, and possession of alcohol is prohibited after 10:00 p.m. All restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms must close by midnight.

Virginia is averaging 1,500 newly-reported COVID-19 cases per day, up from a statewide peak of approximately 1,200 in May.

**Fluvanna County Pandemic Metrics: 12/14/2020**

November 30<sup>th</sup>, 2020

- **Cumulative Cases: 498**
- **7-day rolling sum (11/23-11/30): 17 cases**
- **Percent Positivity, rolling 7-day average: 2.9%**

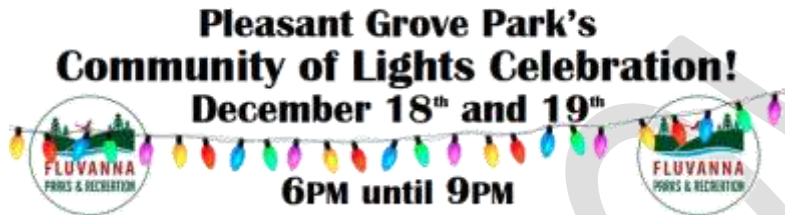
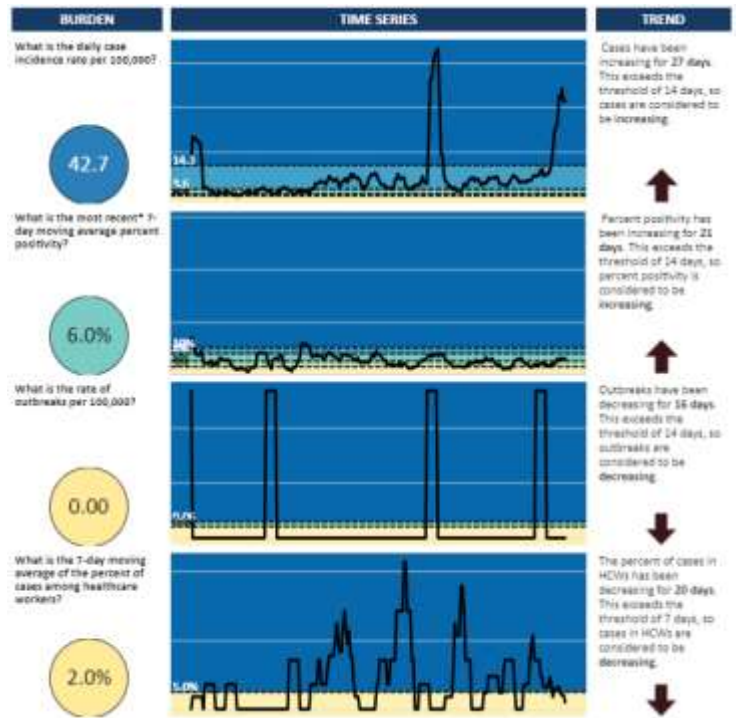
December 7<sup>th</sup>, 2020

- **Cumulative Cases: 553**
- **7-day rolling sum (11/30-12/07): 55 cases**
- **Percent Positivity, rolling 7-day average: 6.1%**

December 14<sup>th</sup>, 2020

- **Cumulative Cases: 633**
- **7-day rolling sum (12/07-12/14): 80 cases**
- **Percent Positivity, rolling 7-day average: 6.0%\***

\*This Metric is from Dec. 10<sup>th</sup>



- The Event will be held at Pleasant Grove Park, visitors will be able to drive a loop around the park and view holiday themed displays, Santa will be greeting vehicles as they drive by
- We will be practicing safety protocols recommended for COVID-19, including facemask and social distancing when appropriate.

**Spotlight on Business:**

DetailMeNow

- Located in Crofton Plaza, 112 Crofton Place
- [www.detailmenowva.com](http://www.detailmenowva.com) | (434) 510-7239
- [www.facebook.com/DetailMeNowVA](https://www.facebook.com/DetailMeNowVA)
- Chamber of Commerce Emerging Business of the Year
- eGift cards available for the perfect quick gift option.

**Next BOS Meeting:**

Day	Date	Time	Purpose	Location
Wed	Jan 6	4:00pm	2021 Organizational Meeting / Regular Meeting	Library
Wed	Jan 6	7:00pm	Rescheduled Work Session – Non-profits	Library
Wed	Jan 20	4:00pm	Budget Work Session – Non Profit Presentations	Library
Wed	Jan 20	7:00pm	Regular Meeting	Library

**5 - PUBLIC COMMENTS #1**

At 7:12pm, Chair Sheridan opened the first round of Public Comments.

- After discussion, the Board of Supervisors asked to have public comments submitted via email attached to the minutes to be included in the public record

With no one wishing to speak, Chair Sheridan closed the first round of Public Comments at 7:16pm.

**6 - PUBLIC HEARING**

Joint Mutual Aid Agreement between Fluvanna County, Fork Union Sanitary District and the Louisa County Water Authority for Mutual Aid Related to the Water and Waste Water Systems and Required Ordinance – Eric Dahl, County Administrator

- Pursuant to Section 15.2-1300 of the Code of Virginia, 1950, as amended, Fluvanna County, the Fork Union Sanitary District (“FUSD”) and the Louisa County Water Authority (“LCWA”) agree that the proper operation of all water and waste water systems controlled by them is in the best interests of the public and therefore the parties desire to enter into a joint agreement for mutual aid related to their respective water and waste water systems.
- The Mutual Aid Agreement together with exhibits thereto sets out the purposes under which such aid may be requested and the terms governing a response between the Parties to such requests and other matters related thereto.
- Enabling legislation requires localities to approve such agreements by ordinance.

At 7:19pm, Chair Sheridan opened the Public Comments.

With no one wishing to speak, Chair Sheridan closed the first round of Public Comments at 7:19pm.

<b>MOTION:</b>	Approve “AN ORDINANCE APPROVING THE MUTUAL AID AGREEMENT AND EXHIBITS THERETO BETWEEN FLUVANNA COUNTY, FORK UNION SANITARY DISTRICT, AND THE LOUISA COUNTY WATER AUTHORITY FOR MUTUAL AID RELATED TO THE WATER AND WASTE WATER SYSTEMS”				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O’Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>	Second	Motion			
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

*Dominion Right of Way Agreement – Eric Dahl, County Administrator*

- In November 2018, VDOF leased a parcel from the County in order to build a storage building; VDOF and the County has requested the Dominion utility lines on the leased property be buried
- Dominion must be granted an easement across County property in order to bury the utility lines
- Pursuant to Section 15.2-1800 of the Code of Virginia, 1950, the Board cannot convey an easement until a Public Hearing is held
- This Right of Way allows Dominion electric transmission lines and equipment to be placed in the easement area that travels across County property to the VDOF storage building
- VDOF, Dominion, and the County Attorney have approved the Right of Way Agreement; there is no cost to the County

At 7:22pm, Chair Sheridan opened the Public Comments.

With no one wishing to speak, Chair Sheridan closed the first round of Public Comments at 7:22pm.

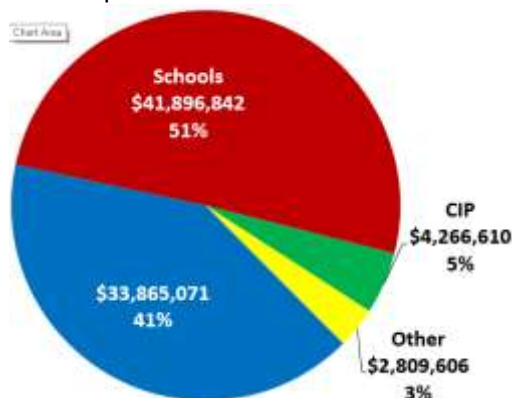
<b>MOTION:</b>	Approve a proposed Right of Way Agreement for conveyance by the County of Fluvanna to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, of a non-exclusive 15 foot in width easement over Fluvanna County Tax Map Parcel 42-1-4A in the location shown on the plat numbered 63-20-0068 which plat is attached to the Right of Way Agreement for the purposes of transmitting and distributing electric power and for such other uses as more specifically set out in the Right of Way Agreement.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O’Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>			Motion		Second
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

**8 - PRESENTATIONS**

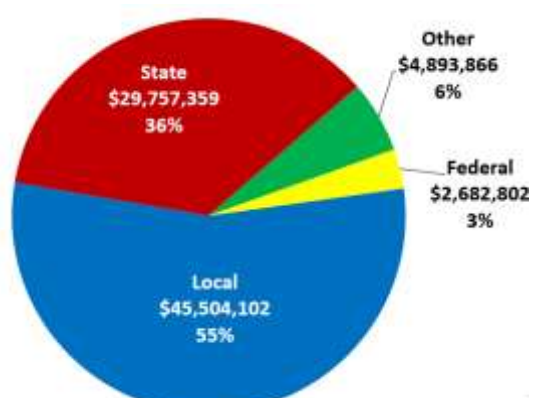
*FY20 Comprehensive Annual Financial Report (CAFR) – Mary Anna Twisdale, Finance Director*

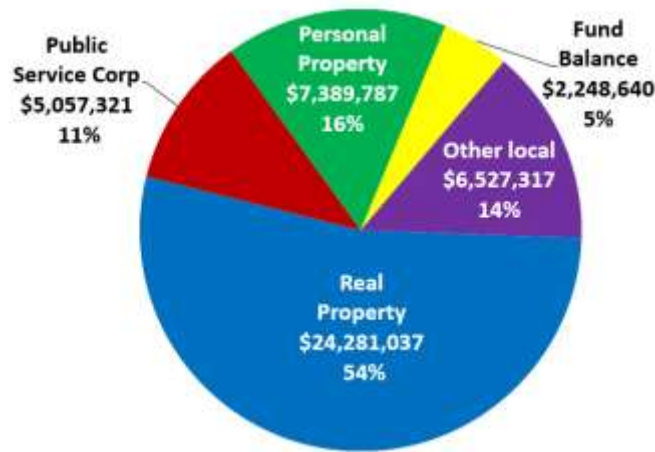
**Budget Summary**

Total Expenditures:



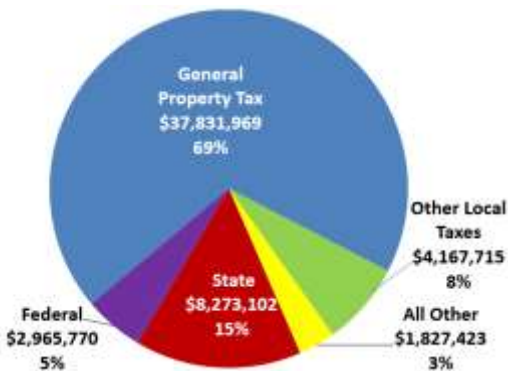
Total Revenues:





**Comprehensive Annual Financial Report:**

**FY20 General Fund Revenues:**

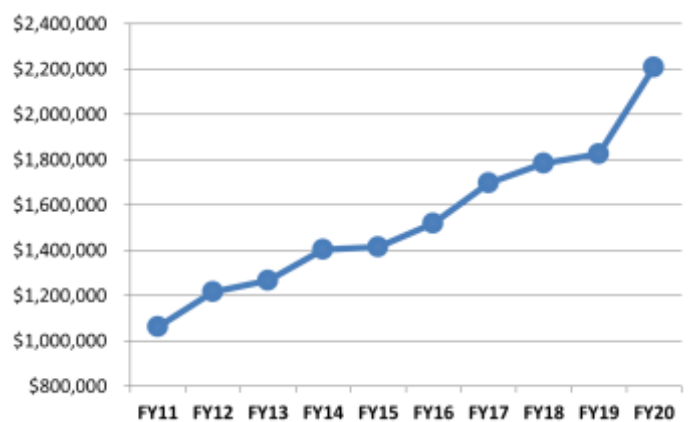


A	B	C	D	E	F
Revenue Source	FY19 Actual	FY20 Amended Budget	FY20 Actual	Over/(Under) Budget	FY19 to FY20 Inc/Dec
General Property Taxes	\$36,606,379	\$37,153,145	\$37,831,969	\$678,824	3.35%
Other local taxes	3,729,925	4,466,500	4,167,715	(\$298,785)	11.74%
Permits and fees	266,135	293,600	312,286	\$18,686	17.34%
Fines and forfeitures	66,715	61,500	57,037	(\$4,463)	-14.51%
Use of money	590,296	178,000	221,540	\$43,540	-62.47%
Charges for services	949,687	919,603	1,011,500	\$91,897	6.51%
Miscellaneous	120,081	134,537	81,846	(\$52,691)	-31.84%
Recovered Cost	195,792	227,247	143,214	(\$84,033)	-26.85%
Commonwealth	8,039,911	7,946,953	8,273,102	\$326,149	2.90%
Federal	1,700,485	1,440,359	2,965,770	\$1,525,411	74.41%
<b>Total</b>	<b>\$52,265,406</b>	<b>\$52,821,444</b>	<b>\$55,065,979</b>	<b>\$2,244,535</b>	<b>5.36%</b>

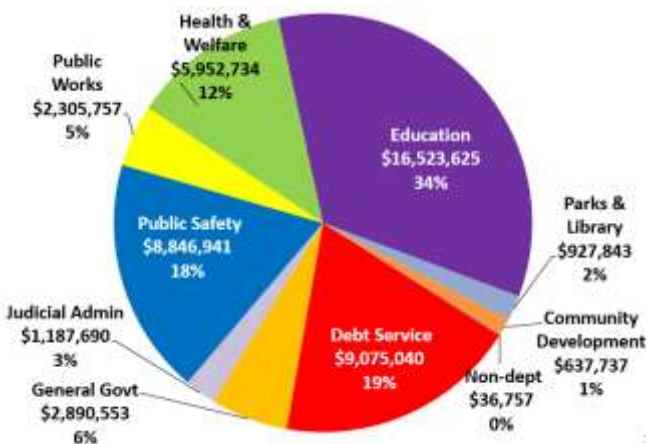
**FY20 Top four Local Revenues:**

A	B	C	D	E	F	G
Revenue Source	FY16	FY17	FY18	FY19	FY20	FY19 to FY20 Inc/Dec
Real Estate Taxes	\$21,511,249	\$22,171,385	\$22,614,196	\$23,789,823	\$24,432,282	2.7%
Personal Property Taxes	5,404,855	5,897,231	6,204,439	6,963,184	7,297,986	4.8%
Public Service Corporation	4,981,936	4,451,833	5,363,122	5,143,581	5,483,117	6.6%
Local Sales Taxes	1,518,328	1,696,819	1,783,287	1,826,331	2,208,895	20.9%

**Sales Tax Revenues – FY11 to FY20:**



**FY20 General Fund Expenditures:**



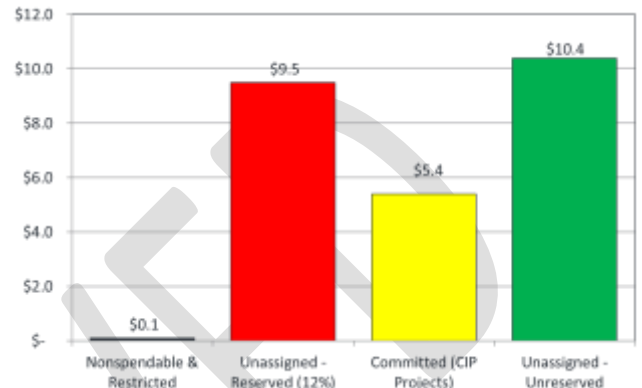
A	B	C	D	E	F
Expenditure	FY19 Actual	FY20 Amended Budget	FY20 Actual	Over/(Under) Budget	FY19 to FY20 Inc/Dec
General Govt	\$2,928,940	\$3,125,650	\$2,890,553	(\$235,097)	-1.31%
Judicial Admin	1,156,453	1,232,929	1,187,690	(\$45,239)	2.70%
Public Safety	8,111,487	8,878,430	8,846,941	(\$31,489)	9.07%
Public Works	2,464,093	2,537,295	2,305,757	(\$231,538)	-6.43%
Health & Welfare	5,891,086	5,889,573	5,952,734	\$63,161	1.05%
Education	16,544,579	17,864,597	16,523,625	(\$1,340,972)	-0.13%
Parks, Rec. & Library	910,949	1,036,511	927,843	(\$108,668)	1.85%
Comm. Development	741,256	1,254,972	637,737	(\$617,235)	-13.97%
Non-departmental	33,693	451,062	36,757	(\$414,305)	9.09%
Debt Service	9,108,278	9,242,684	9,075,040	(\$167,644)	-0.36%
<b>Total</b>	<b>\$47,890,814</b>	<b>\$51,513,703</b>	<b>\$48,384,677</b>	<b>(\$3,129,026)</b>	<b>1.03%</b>

FY20 General Fund Results:

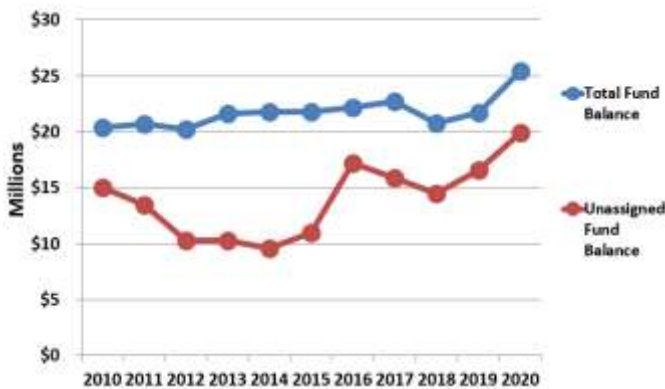
Year Ended June 30, 2020	
Revenue	\$ 55,065,979
Expenditures	(48,384,677)
Excess of revenues over expenditures	6,681,302
Transfers out (CIP & Sewer)	(2,969,716)
Change in fund balance	3,711,586
Fund balance beginning of year	21,693,269
Fund balance at end of year	\$ 25,404,855

General Fund Balance June 30, 2020:

As of June 30, 2020	
Non-spendable (Prepaid expenses, N.R.)	\$36,731
Restricted (e.g., FUSD Debt Reserve)	\$59,520
Committed (e.g., CIP Projects)	\$5,368,959
Assigned (Prior obligations)	\$0
Unassigned	\$19,939,645
Total	\$25,404,855
Unassigned Fund Balance Target per Policy	\$9,522,851
Excess Above Target	\$10,416,794



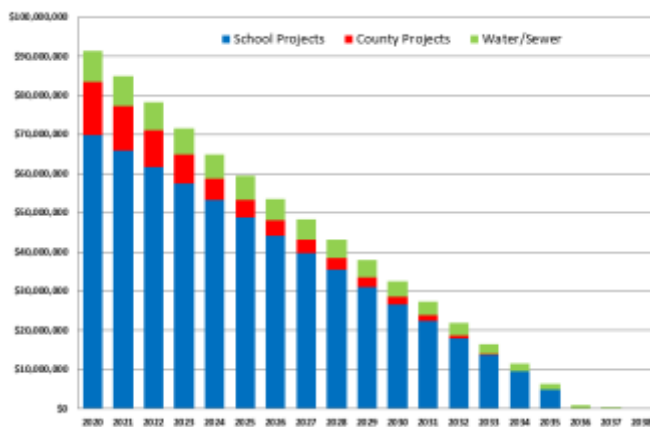
General Fund Balance – FY10 to FY20:



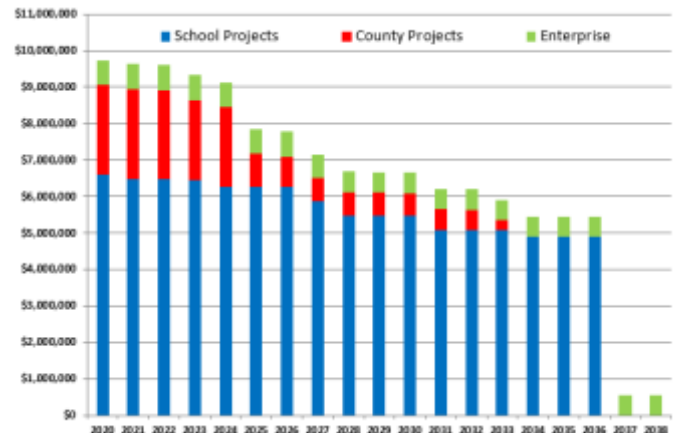
Debt & Capital Leases - June 30, 2020:

A	B	C	D
Outstanding Debt	2019	2020	FY19 to FY20 Inc/Dec
General Obligation Bonds	\$ 74,391,999	\$70,200,165	-6%
Literary Fund Loans	0	0	0%
State Moral Obligation Bonds	2,095,000	1,930,000	-8%
Qualified Energy Conservation Bond	6,944,928	6,466,608	0%
Capital Leases	5,978,573	4,814,688	-19%
Water/Sewer Bonds	8,318,959	7,962,398	-4%
<b>Total</b>	<b>\$97,729,459</b>	<b>\$91,373,859</b>	<b>-7%</b>

Total Debt (at end of FY20):



Annual Debt Service (at end of FY20):



- Sales tax went up due to online sales being included and people spending money locally during the pandemic.
- Ms. Twisdale commended the Finance staff for their hard work throughout the year.
- David Foley, RFC, gave an overview of the audit performed by Robinson, Farmer & Cox and Associates.
  - o Independent Auditors report, Internal control over financial reporting, and report on compliance with major Federal programs.
  - o Mr. Foley gave an unmodified opinion on the County’s financial statements. Unmodified opinion is the cleanest opinion an auditor can give on a set of financial statements and acknowledges Fluvanna County’s statements have been prepared in accordance with the generally accepted accounting principles.

**7 - ACTION MATTERS**

*Agreement with VDOT Regarding “Watch for Children” Signs – Eric Dahl, County Administrator*

- VDOT no longer places “Watch for Children” signs along streets at the request of localities. Localities may, after entering into an agreement with VDOT, place such signs in locations approved by VDOT. All costs associated with erecting, maintaining and replacing damaged “Watch for Children” signs are the responsibility of the locality.
- It is estimated that it will cost \$300-\$400 per sign to install “Watch for Children” signs to VDOT Standards and will be paid out of the Public Works budget.
- The County currently has no written policy regarding the installation of “Watch for Children” signs. A request for a “Watch for Children” sign was considered and approved by the Board on April 5, 2017 in the Sycamore Landing neighborhood.



<b>MOTION:</b>	Approve the Agreement titled “ADDENDUM # 1 TO ORIGINAL AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF “WATCH FOR CHILDREN” SIGNS BY COUNTY” between the County of Fluvanna and the Virginia Department of Transportation, and authorize the County Administrator to execute the Agreement, subject to approval as to form by the County Attorney.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O’Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>		Motion	Second		
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

*FY21 CARES Act Budget Transfer – Liz McIver, Management Analyst*

The County received \$2,379,202 in CARES Act funding due to the COVID19 pandemic. These funds were allocated to the CARES Act Department Contingency Line. Funds will be further disbursed to the following categories to cover the various expenses associated with responding to the COVID-19 health crisis:

- Full-Time Salaries (E-911 Salaries)
- Full-Time Salaries (includes FMLA & Emergency Sick Leave)
- ADP Supplies (Increased Internet Bandwidth for Teleworking)
- 

<b>MOTION:</b>	Approve a transfer of \$342,000 from FY21 CARES Act Contingency line to CARES Act lines below: A. Full-Time Salaries \$330,000 B. Emergency Sick Leave \$10,000 C. ADP Supplies \$ 2,000				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O’Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>			Second		Motion
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

Compensation Board Funded Bonus for Sworn Personnel in the Sheriff's Office – Jessica Rice, Human Resources Manager

Legislative Amendment to FY21 Comp Board Budget

- Special session of the General Assembly amendment to Compensation Board funding dictates a one-time bonus to be paid effective December 1, 2020; "\$500 bonus payment on December 1, 2020 for Compensation Board funded sworn sheriffs, deputies and regional jail officers."- Bonuses must be paid in the County's December payroll.
- The bonus is approved by the legislature and funded through the Comp Board for sworn positions only, and is not funded for nonsworn (civilian) positions in sheriffs' offices and regional jails, such as cooks, medical, dispatch or administrative positions.
- Fluvanna County is required to accept the funding, and it may only be used for bonuses
- Fluvanna County Sheriff's Office has 36 sworn law enforcement officers. Only 20 of those positions are Compensation Board funded that are eligible to receive this bonus. County receiving \$10,765 to cover the 20 bonuses and associated payroll taxes.

BOS Options for consideration

- Option 1 (Required): Proceed with allocating the \$500 bonus to a portion of the Sworn Law Enforcement Officers, as funded by the legislation and Compensation Board funding.
- Option 2: Approve a \$500 bonus to all 36 full-time Sworn Law Enforcement Officers (includes sheriff and deputies).
- Option 3: Approve a \$500 bonus to all paid public safety personnel, to include Sworn Law Enforcement, Administrative position, and E911 staff.
- Option 4: Approve a \$250 bonus to all permanent part-time and \$500 bonus to all permanent full-time County employees.

Option	Number of Employees	Total Cost Bonus + FICA	Less Comp Board Funding	Total Cost to County
1	20	\$10,765	\$10,765	\$0
2	36	\$19,377	\$10,765	\$8,612
3	51.5	\$27,720	\$10,765	\$16,955
4	163.5	\$88,004	\$10,765	\$77,239

Option 1- Approx. ½ of Sworn LE  
Option 2- All Sworn LE  
Option 3- All Public Safety  
Option 4- All permanent staff

- Intent of State Funded Bonus
  - County FY21 Adopted Budget
  - County Employee Appreciation events
  - Status of current departmental expenditures
- After a lengthy discussion, the Board of Supervisors voted for Option 4

<b>MOTION:</b>	Approve a supplemental appropriation of \$10,765 to the Sheriff's Office FY21 full-time salary and FICA budget lines to cover a one-time \$500 bonus for 20 Compensation Board funded sworn law enforcement officers, as required by the Compensation Board funding.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>		Second	Motion		
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

<b>MOTION:</b>	Approve a \$500 one-time bonus for County staff as presented: <ul style="list-style-type: none"> <li>• <u>Option 4</u>: Approve a \$250 bonus to all permanent part-time and \$500 bonus to all permanent full-time County employees at a cost of \$77,239 with funding from departmental savings and other savings within the FY21 operational budget.</li> </ul>				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>	Motion		Second		
<b>VOTE:</b>	Yes	Yes	Yes	Yes	No
<b>RESULT:</b>	<b>4-1</b>				

COVID-19 Municipal Utility Relief Program for FUSD – Bryan Estes, Assistant Director for Public Works-Utilities

- On December 7, 2020, the County received notification of the COVID-19 Municipal Utility Relief Program grant award.
- The Fork Union Sanitary District has been awarded federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funds pursuant to the Appropriation Act mandated State Corporation

Commission application process in the amount of \$6,358.07, to assist with municipal utility customer relief for all eligible customers of Fork Union Sanitary District.

- The goal of this program is to assist municipal utility customers experiencing economic hardship due and arrearage assistance due to the COVID-19 pandemic.
- Any customer – with the exception of any government entity – shall be eligible for such arrearage assistance. Municipal utilities are encouraged to pay the full amount of arrearages owed by eligible customers that apply for arrearages owed from the March 1, 2020, through the December 30, 2020 time period. Funds can only be used to provide direct assistance to customer accounts over 30 days in arrears during the covered period. Municipal utilities must prioritize assistance first to customers with accounts over 60 days in arrears and then for accounts 30 days in arrears.
- The awarded municipal utility and their city or county fiscal agent will be required to certify to abide by U.S. Treasury guidance and other regulatory matters concerning the use of CRF funds. The intent is for this allocation to pass through the county or city directly to the municipal utility to serve eligible municipal utility customers.
- All applicants must certify that all administrative expenses for direct program implementation and direct relief provided to eligible customer arrearages for the covered time period March 1, 2020 – December, 30 2020 will be expended and any unspent funds returned to DOA by COB Friday January 29, 2021.
- Chiefly, municipal utilities must justify and document use of CRF funds by assisting customers who are experiencing economic hardship due to the COVID-19 pandemic. Therefore, such customers must complete an application that will require self-certification by municipal utility customers in order to be considered eligible for arrearage relief.

<b>MOTION:</b>	Ratify the County of Fluvanna to act as fiscal agent in the distribution of the \$6,358.07 CARES Act funds awarded from the Virginia Department of Housing and Community Development to assist with the COVID-19 Municipal Utility Relief Program for all eligible customers of the Fork Union Sanitary District.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>	Motion		Second		
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

#### **7A – BOARDS AND COMMISSIONS**

None.

#### **8 - PRESENTATIONS**

*Families First Coronavirus Response Act (FFCRA) Emergency Sick Leave and Expanded FMLA Provisions Set to Expire* – Jessica Rice, HR Manager – DEFERRED

#### **9 - CONSENT AGENDA**

The following items were discussed before approval:

I – *Minutes of December 2, 2020* – Caitlin Solis, Clerk to the Board

N – *AP Report October 2020* – Liz McIver, Management Analyst

The following items were approved under the Consent Agenda for December 16, 2020:

*Minutes of December 2, 2020* – Caitlin Solis, Clerk to the Board

*Approval of Open Space Contract for Jerry Goodson* – Andrew M. Sheridan, Jr., Commissioner of the Revenue

*CRMF – PW21-003 Carysbrook Gym1* – Liz McIver, Management Analyst

*FCPS Transportation CIP Transfer of Funds* – Liz McIver, Management Analyst

*FY21 FCPS Supplemental Appropriation Request BOS - Security Grant* – Liz McIver, Management Analyst

*AP Report October 2020* – Liz McIver, Management Analyst

*AP Report November 2020* – Liz McIver, Management Analyst

<b>MOTION:</b>	Approve the consent agenda, for the December 16, 2020 Board of Supervisors meeting, and to ratify Accounts Payable and Payroll for October and November 2020, in the amount of \$4,865,016.96.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>		Second			Motion
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

#### **10 - UNFINISHED BUSINESS**

*Local Allocations for Federal CARES Coronavirus Relief Funds* – Eric Dahl, County Administrator

Possible improvements/expenditures for CARES Act Funds:

- MACAA Food Bank
  - MACAA has seen increased need: 5-6 more families per day than before COVID-19
  - Several very successful food drives sponsored by community organizations



- EW Thomas' Grocery: accepts donations to be used by MACAA foodbank. The money is held until purchases are made by MACAA, or by MACAA clients
  - The Fluvanna community has donated over \$35,000 this year; those funds are running out
- CARES Funds guidance for food delivery
- Obstacles:
  - No express authority to give funds directly to MACAA
  - County must purchase the food
  - Purchases must be made by Dec 30, 2020
- Proposed solution: MACAA places order for food, EW Thomas' bills the County directly
  - CARES Act Compliant: County purchases the food; order is completed by Dec 30, 2020; County has until Jan 15, 2021 to pay the bill.

**US Treasury Guidance**

- Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
  - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
- *May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?*

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

<b>MOTION:</b>	Authorize funds to purchase food for individuals and families affected by COVID-19, including senior citizens and other vulnerable populations, to enable Fluvanna non-profit organizations providing food to serve the Fluvanna residents, utilizing CARES Act Funding in an initial amount of \$10,000, and further authorize the County Administer to provide additional funds not to exceed \$80,000.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>			Motion		Second
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

- Mr. Dahl gave the board an update on the public comment made by Mr. Pace regarding firearms used in close proximity to his subdivision. The department of wildlife resources has been made aware.
- Mr. O'Brien suggested looking at ordinances in surrounding counties to see if there are additional ordinances that Fluvanna County could adopt.
- Mr. Payne suggested looking at a report but not necessarily adopting the new ordinances
- The board directed staff, the county attorney and the sheriff to review the county gun ordinances

**11 - NEW BUSINESS**

None.

**12 - PUBLIC COMMENTS #2**

At 9:22pm, Chair Sheridan opened the second round of Public Comments.

With no one wishing to speak, Chair Sheridan closed the second round of Public Comments at 9:22pm.

**13 - CLOSED MEETING**

None.

**14 - ADJOURN**

<b>MOTION:</b>	Adjourn the adjourned regular meeting of Wednesday, December 16, 2020 at 9:23pm.				
<b>MEMBER:</b>	Mrs. Booker	Mrs. Eager	Mr. O'Brien	Mr. Sheridan	Mr. Weaver
<b>ACTION:</b>			Second		Motion
<b>VOTE:</b>	Yes	Yes	Yes	Yes	Yes
<b>RESULT:</b>	<b>5-0</b>				

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

\_\_\_\_\_  
Caitlin Solis  
Clerk to the Board

\_\_\_\_\_  
John M. Sheridan  
Chair

Good evening, All,

I am writing to express my support for the county's plan to disburse CARES Act funding to the food bank at MACAA.

I am sure you are aware that Beth Thomas of EW Thomas Grocery Store and Bertha Armstrong have a long-standing process of securing groceries for the food bank.

This spring, as the pandemic began, it occurred to several community members that an economic crisis was looming, and that more Fluvanna residents would become food insecure. At the same time, quarantine orders were issued, and people would not be able to easily donate to the food bank in person. MACAA does not have the ability to accept credit card donations over the telephone.

A solution was found when Beth Thomas agreed to take donations for the food bank over the phone at EW's, and keep the funds on account for Mrs. Armstrong to use as needed.

Lynn Stayton Eurell donated her talents as a graphic artist, creating flyers and, early in March, "Feeding Fluvanna" was launched. Flyers were posted throughout the community and on social media, and advertisements were placed in the Fluvanna Review, encouraging Fluvanna residents to donate - and donate they did. Over the course of this pandemic, over \$35,000 has been donated to MACAA using this system.

The Fluvanna Rotary also has held enormously successful food and donation drives...but it is not enough.

Bertha Armstrong reports that the food pantry at MACAA is serving five or six additional families, above their usual numbers, EACH DAY. Meanwhile, a recent plea for more donations has been largely unsuccessful. The good citizens of this county have been exceptionally generous, in true Fluco fashion, but I fear that many of them are finding themselves with less money to spare for donations as this pandemic continues to steal jobs and livelihoods.

I strongly encourage the Fluvanna County Board of Supervisors to allocate CARES Act funding to the food pantry. There are few more fundamental necessities than food - and you can ensure that during this dark winter of the pandemic, no one in Fluvanna goes hungry.

Thank you for all you do in service to this community,

Respectfully,

Tricia Johnson  
Columbia District  
317 Shannon Hill Road

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Dear Members of the Board of Supervisors,  
At the November 18 BOS meeting, Sheriff Hess requested that you sign on to a resolution the Virginia Sheriff Association crafted concerning qualified immunity. The vote was slated to be held December 16 though I don't see it on the agenda for tonight's meeting. If/when it does come up for a vote, I encourage you to vote "no" and before voting that you share a copy of the resolution with the community.

According to criminal defense attorney, T. Greg Doucette, Qualified Immunity "is a doctrine created from scratch by judges. It was never enacted into law by a legislature or signed by an executive; judges created it on their own" (@greg\_doucette May 28, 2020). While police departments and sheriff offices generally oppose its removal, there is growing public support across the country for its abolition including various second amendment advocate groups who are joining forces with victims and national and state legislatures pushing for change. Police may commit acts that are deemed unlawful, or ones that violate a person's rights, but still be afforded qualified immunity because of how it can be applied. Also, it's clear that the threshold for cases brought forward is quite high, and it is inflammatory to suggest that frivolous lawsuits will flood the courts instead of expecting that this will begin a more equitable process of allowing citizens the right to redress wrongs in a court of their peers. To argue that law enforcement would lose staff or have difficulty hiring, implies that professionals do not want to be held to the highest standards when it comes to their job performance. Why would the BOS approve this idea? The examples of physical harm caused by police in the line of duty has been evident in news coverage for some time, but only this year has there been such a spotlight. We have witnessed –

sometimes literally on video – how law enforcement across the country has used excessive force with many cases resulting in death. To name just a few of these individuals: George Floyd, Breonna Taylor, Rayshard Brooks, Daniel Prude and Walter Wallace, Jr.

I suggest that to support this resolution and to encourage lobbying on its behalf contradicts the resolution you adopted this summer in support of racial justice after the killing of George Floyd. Data shows that black and brown people are disproportionately impacted by police violence (<https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>). As of last week, 1039 people have been killed by law enforcement across the U.S. this year. According to a research collaborative tracking this data, “black people have been 28% of those killed by police in 2020 despite being only 13% of the population.” If someone argues that police face justice in criminal courts for actions resulting in citizens’ deaths, it’s important to understand that over “98% of killings by police from 2013-2020 have not resulted in officers being charged with a crime.” And while some, not all cities, are seeing a reduction in police killings, rural and suburban killings have been trending upwards over the last several years (<https://mappingpoliceviolence.org>).

Some of the issues with qualified immunity are highlighted in this May 2020 Reuters article: Reuters found among the cases it analyzed more than three dozen in which qualified immunity protected officers whose actions had been deemed unlawful.... The increasing frequency of such cases has prompted a growing chorus of criticism from lawyers, legal scholars, civil rights groups, politicians and even judges that qualified immunity, as applied, is unjust.... In the cases it accepts, the court nearly always decides in favor of police. The high court has ... allowed police to request immunity before all evidence has been presented. And if police are denied immunity, they can appeal immediately – an option unavailable to most other litigants, who typically must wait until after a final judgment to appeal.... The Supreme Court in 2009 raised the bar even higher [when] it gave courts the option to simply ignore the question of whether a cop used excessive force and instead focus solely on whether the conduct was clearly established as unlawful.... [A]ppeals courts have increasingly ignored the question of excessive force. In such cases, when the court declines to establish whether police used excessive force in violation of the Fourth Amendment, it avoids setting a clearly established precedent for future cases, even for the most egregious acts of police violence. In effect, the same conduct can repeatedly go unpunished.... As opponents of qualified immunity point out, denial of immunity doesn’t automatically mean cops will be held liable for alleged excessive force. When such cases go to trial, juries may side with police after weighing the facts of a case.... Several lawyers told Reuters they decline to take cases they think may have merit in large part due to the high barrier of qualified immunity (<https://www.reuters.com/investigates/special-report/usa-police-immunity-scotus/>)

These excerpts come from an article in “Reason Free Minds and Free Markets,” November 2020: The doctrine [Qualified Immunity] shields public servants from federal civil suits unless their misbehavior was “clearly established” in previous case law.... That standard sounds benign. Quite the opposite, as it requires that any alleged wrongdoing be outlined with near-exacting precision in a court precedent within the same federal circuit or via the Supreme Court. A salient example: The 9th Circuit Court of Appeals gave qualified immunity to two cops who stole \$225,000 while executing a search warrant. Though the judges agreed the officers “ought to have recognized that the alleged theft was morally wrong,” the two cops couldn’t have known for certain without a specific case on the books telling them so. Their victims were not afforded the right to sue.... The majority of the American public opposes the doctrine. There have been several legislative attempts to fix it, although they’ve been dead on arrival (<https://reason.com/2020/11/20/qualified-immunity-supreme-court-prison-guards-cell-feces-sewage-trent-taylor/>).

A November Reuters notes that “in their opposition to qualified immunity, gun rights groups, typically supportive of police, find themselves allied with a broad coalition spanning the political spectrum, including gun control advocates.” The article cites cases of gunowners killed in their homes by police officers. Lawsuits resulted in court rulings which in effect meant that the victims gave up their Fourth Amendment rights (protection against illegal search and seizure) when they exercised their Second Amendment rights (<https://www.reuters.com/investigates/special-report/usa-police-immunity-guns/>).

There is ample reason to believe that bills which amend the Code of Virginia to provide for “civil action for deprivation of rights” would move us one step closer to promoting, or establishing in some cases, trust between the community and those tasked with safeguarding it.

Please do not sign onto this resolution.

Millie Fife  
889 Jefferson Drive, Palmyra

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December 14, 2020  
Mr. Eric Dahl  
Fluvanna County Administrator  
132 Main St.  
Palmyra, VA 22963  
Dear Mr. Dahl:

With respect to the draft resolution concerning Qualified Immunity proposed by the Fluvanna County Sheriffs Office and presented to the Fluvanna County Board of Supervisors, the Fluvanna County NAACP Branch follows the position of the NAACP Virginia State Conference as explicitly expressed by the Conference President, Mr. Robert Barnette as stated below:

"It is imperative that the Governor's call for a Special Session to address police reform and criminal justice issues does just that in a meaningful way that ensures equity and transparency in our criminal justice system.

The Virginia State Conference of the NAACP will settle for nothing less than a ban on chokeholds and strangle-holds, an end to no-knock warrants, ending qualified immunity, sentencing reform, and establishing Civilian Review Boards with Subpoena power. Our stance on these issues is firm ... For far too long, the Commonwealth has funded injustice, it is now time that justice be funded."

(VSC NAACP Call to Action to address the Special Session of the General Assembly, Aug 4, 20.)

Very Respectfully  
Ben Hudson, President  
Fluvanna County NAACP Branch

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My name is Joseph L. Creasy, and I am a resident of Fluvanna County, residing at 38 Jennings Drive, Palmyra, VA22963.

The attached copy of the resolution proposed by the Fluvanna County Sheriffs Office in support of the Virginia Sheriff's Association on subject topic is deplorable. This resolution suggests that the judicial doctrine of qualified immunity for law enforcement officials is unquestionable and essentially absolute. On its face, this interpretation of immunity leaves no room for objective considerations based on individual expertise, experience, training, integrity, and common sense but seemingly relies on robotic action devoid of elements of thoughtful and objective decision-making common to reasonable people.

The U.S. Supreme Court has struggled with the concept of qualified immunity since 1871 and continues to do so into 2020. This then begs the question of why would anyone seek to perpetuate a practice based on a false premise or at least one that is without a solid foundation at a minimum? The following excerpt from a LAWFARE article on "Policing in America" entitled "Hold Police Accountable by Changing Public Tort Law, Not Just Qualified Immunity" by Paul Stern, Wednesday, June 24, 2020 is informative and can serve to put forth a well-reasoned and objective approach for the construction of a resolution that is much more balanced and equitable than the one in question: Politicians, scholars and jurists on both sides of the aisle have pointed to the elimination of qualified immunity as a means to ensure greater law enforcement accountability in the wake of George Floyd's tragic death. Congressional Democrats recently introduced the Justice in Policing Act of 2020, which aims to establish a national standard for policing and combat racial bias in policing-by, among other things, doing away with qualified immunity. Organizations along the political spectrum, including the American Civil Liberties Union and the Cato Institute, have joined in the call to eliminate the doctrine. Justice Clarence Thomas recently dissented from the denial of certiorari in a case involving qualified immunity, raising his "strong doubts" about the doctrine as it relates to actions brought against officers acting under the color of state law.

The judicially created doctrine was conceived as a means of striking the proper balance between permitting compensation for the conduct of officials acting with ill motives, while not punishing those officers who, in good faith, did not know that their conduct would violate the constitutional rights of the plaintiff. Part of that analysis required a subjective assessment of whether the official acted with permissive intent. The Supreme Court later found the subjective element of the good-faith defense incompatible with its concern that well-intentioned officers often had to endure the stresses and burdens of a fact-intensive investigation, extensive discovery and a trial. Casting aside the subjective standard, the Supreme Court devised an objective test, which asked whether the officer's conduct violated "clearly established statutory or constitutional rights of which a reasonable person would have known."

The basic premise that a constitutional right be "clearly established" may appear innocuous enough, lest the official be financially responsible for conduct for which there was no reasonable basis to know it would subsequently be deemed unconstitutional. However, the Supreme Court later clarified that the factual context of the legal precedent must be sufficiently specific so that officers are not confused about whether it applied in their particular circumstances. As a result, courts are tasked with determining whether "every reasonable official would have understood that what he is doing violates that right." In other words, the fact that the conduct was unconstitutional must be "beyond debate." Given that each encounter with law enforcement is factually unique, and courts do not need to resolve the issue of whether the conduct was indeed constitutional before concluding that the immunity

applies, the doctrine has been chastised as protecting "all but the plainly incompetent or those who knowingly violate the law."

While a great deal of recent writing has focused on the inequity created by qualified immunity, it is important to keep in perspective the extent to which its elimination could serve as a meaningful reform mechanism. The U.S. Supreme Court has historically drawn a sharp distinction between constitutional torts, such as excessive force, and common-law torts, such as assault, battery and negligence. Many acts of police wrongdoing may not constitute constitutional violations and thus would not be addressed by reforms to qualified immunity.

Accountability would then have to stem from state tort law.

Consequently, to the extent that public tort law can serve as a viable mechanism for law enforcement accountability, eliminating statutory privileges and indemnification regulations may serve as a greater vehicle for reform than qualified immunity. That is not to suggest that the federal government cannot play a role in promoting reform. However, when it comes to federal statutes, Congress should once again examine the Federal Tort Claims Act instead of focusing solely on actions based on U.S.C. 1 8 as a means of initiating law enforcement accountability.

Having been born and raised in Fluvanna County in the era of segregation and its challenges for people of color and in a community of people largely of lesser means, I find it difficult to believe that the community as a whole, to include our law enforcement officials, sincerely feel that the proposed resolution is needed or required. I believe that the citizens of this community look for honesty, integrity and transparency which is achieved through the voluntary exercise of their rightful involvement and equitable participation in open and inclusive governance.

As a concerned citizen of Fluvanna County, I seriously encourage the Board of Supervisors to reject the proposed resolution for reasons previously stated and to maintain confidence, trust and support among our community at large.

Sincere regards,  
Joseph L. Creasy

APPROVED