

ACTIONS
Board of Supervisors Meeting of May 4, 2005

May 6, 2005

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 9:04 a.m. by the Chairman, Mr. Rooker. All BOS members were present. Also present were Bob Tucker, Larry Davis, and Debi Moyers. 	
<p>4. From the Public: Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> Sara Lee Barnes, Chair of the Historic Preservation Committee, informed the Board that May is National Preservation Month. She then updated the Board on the Committee's work on country stores. On May 24th at 6 p.m. at the Senior Center, the Committee will be presenting an updated version of the Country Stores Project. Jeff Werner, a resident of the City of Charlottesville, spoke about the history of wine making in this area. 	
<p>5a. Boards and Commissions Certificate of Appreciation.</p> <ul style="list-style-type: none"> Chairman PRESENTED certificate to Kirk Train formally of Architectural Review Board. 	
<p>5b. Resolution by Delegate Mitch Van Yahres.</p> <ul style="list-style-type: none"> REMOVED from agenda. 	Clerk: Reschedule on June 1 st agenda, if ready for presentation.
<p>6.2 Set public hearing for June 1, 2005 on an Ordinance to amend the County Code, Chapter 15, Taxation, Article XIV, Enhanced Emergency Telephone Service Tax – E-911.</p> <ul style="list-style-type: none"> SET public hearing for June 1, 2005. 	Clerk: Advertise and schedule on June 1, 2005 agenda.
<p>6.3 Acquisition of Conservation Easements (ACE) Preliminary Ranking Order for FY 2004-05.</p> <ul style="list-style-type: none"> APPROVED recommendation from staff and ACE Committee to have the ten (10) properties from the FY 2004-05 ACE applicant pool appraised. 	<u>Ches Goodall</u> : Proceed as directed.
<p>6.4 Proclamation recognizing May 15 through May 21, 2005 as Emergency Medical Services Week.</p> <ul style="list-style-type: none"> Chairman PRESENTED proclamation to Steve Elliott from Fire/Rescue Department. 	(Attachment 1)
<p>6.5 Proclamation recognizing May 12, 2005 as Police Memorial Day.</p> <ul style="list-style-type: none"> Chairman PRESENTED proclamation to Captain Limerick from the Police Department. 	(Attachment 2)
<p>6.6 Authorize County Executive to execute Howardsville River Access Lease Agreement.</p> <ul style="list-style-type: none"> AUTHORIZED the County Executive to execute the attached lease agreement. 	<u>County Attorney</u> : Provide Clerk with copy of signed document. (Attachment 3)
<p>6.7 Formation of Natural Heritage Committee.</p> <ul style="list-style-type: none"> DEFERRED until June 1st. 	Clerk: Reschedule on June 1 st consent agenda.
<p>6.8 Resolution to accept road(s) in Beckoning Ridge Subdivision into the State Secondary System of Highways.</p> <ul style="list-style-type: none"> ADOPTED the attached resolution. 	Clerk: Forward signed resolution to Greg Cooley in Department of Community Development. (Attachment 4)

<p>6.9 Historic Preservation Committee requests pertaining to current legislation, re: changes to Section 106 of the Historic Preservation Act and tax incentives for conservation easements.</p> <ul style="list-style-type: none"> • APPROVED request to send letters from the Board to legislative representatives regarding their commitment to preservation and conservation. CONSENSUS by the Board to also send a letter to Congressman Cantor dealing with the conservation easement issue. 	<p><u>Clerk:</u> Proceed as directed.</p>
<p>6.10 Timetable for FY06/07-FY10/11 Strategic Plan.</p> <ul style="list-style-type: none"> • APPROVED the timetable for the FY 06/07 Strategic Plan Development Cycle and to PROCEED with planning the activities for the development of the FY 06/07 – FY 10-11 Strategic Plan. 	<p><u>Lori Allhouse:</u> Proceed as directed.</p>
<p>6.11 Park View Senior Apartments at South Pantops Subsidy Request.</p> <ul style="list-style-type: none"> • DENIED JABA's request for County subsidy of \$36,000 per year for ten (10) years for above referenced senior housing. 	<p><u>Clerk:</u> Send letter to JABA.</p>
<p>7a. Discussion: Meadow Creek Parkway/CATEC Impacts.</p> <ul style="list-style-type: none"> • HELD discussion. CONSENSUS by Board that Jack Kelsey meet with CATEC to review the two alternatives and make a recommendation. 	<p><u>Jack Kelsey:</u> Proceed as directed.</p>
<p>7b. Discussion: Reclassification of East Rio Road as Arterial Highway/Establish Rio East as Entrance Corridor Overlay District.</p> <ul style="list-style-type: none"> • HELD discussion and CONSENSUS to support request. Mr. Tucker stated staff will develop basis and start process with VDOT. 	<p><u>Juan Wade:</u> Proceed as directed.</p>
<p>7c. Transportation Matters not Listed on the Agenda. <u>Jim Utterback:</u></p> <ul style="list-style-type: none"> • Made comment on item 7b. If the intent is to change East Rio Road from urban collector to an urban arterial, it goes through County staff, the MPO and then to VDOT for concurrence. Federal Highway Administration decision. • On Dry Bridge Road, plan to install the guardrail this week. • He received the traffic study report from Traffic Engineering regarding the Rio Road and Dunlora Subdivision request for a traffic signal. At this time they are not supporting the request. • VDOT still looking at the intersection of Route 614 and Garth Road. • Route 250 along Brownsville School will be getting raised pavement markers for reflectors to be installed. Traffic Engineers also agreed to install a new eastbound sign with no cost to the County. • To add two-tenths of a mile to Via Lane would take a formal addition to the state system. Ms. Thomas asked if it could be a rural addition. Mr. Utterback stated it could. He will sit down with Mark Graham in the future to go over recent guidance from Richmond on rural 	<p><u>Clerk:</u> Forward comments to VDOT.</p>

addition authorities. Will bring back to the Board at a future meeting to outline the issues and how to proceed.

- Regarding Mosby and Old Trail Bridges, the latest plans have been submitted and are in Richmond.
- VDOT looked at the sight distance at the Meadows and came to the conclusion there was some sight distance to the left. They have an easement so VDOT is going back to clear some of that area in the next couple of weeks.
- Regarding the dangerous curve sign request coming into Crozet from Buck Mountain Road, VDOT did put up an additional sign, one of many that are out there. Asked Traffic Engineer to go back and look at some raised pavement markings or some other type of "in" pavement markings to try and help that situation.
- Potholes on Westmoreland Road/Old Brook Road have been taken care of.
- Said the only building being impacted by the Route 22/250 intersection improvements is the convenience/gas station that has a site plan to upgrade or change their site contingent on the new project.
- VDOT is paving roads right now. Will provide list of roads to Board scheduled for asphalt this spring/summer. Another plant mix schedule will start August 1st and go until December.

Sally Thomas:

- Legally, VDOT can remove signs that are in the right-of-way. She would like to see that enforced. Mr. Utterback stated, as a matter of operations, if VDOT crews see the signs, they do remove them. If there are a number of signs and they can pinpoint where the signs are coming from, VDOT can send a letter with ramifications.
- Wanted to know when equipment is gone from Ivy Interchange will it get reseeded. Mr. Utterback stated it would.
- Stated lights on 250 East (Pantops area) are not coordinated. Mr. Utterback said he would check on the synchronizing.

Dennis Rooker:

- Wanted to know what can be done about place on Old Ballard Road where a car can go airborne. It has become a big thing at Western Albemarle High School before you graduate to drive 70 to 90 mph down Old Ballard Road and go airborne. Asked VDOT to look at and see what can be done. Mr. Utterback said he would look into it.
- Asked about paving on Old Garth Road. VDOT has done some work and will go back in next week. Mr. Utterback said once all the patches are fixed, they will go ahead with surface

<p>treatment.</p> <ul style="list-style-type: none"> • Asked for a copy of the Colthurst Drive Speed Study of April 4, 2005. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Asked if work on Gilbert Station Road is starting this month. Mr. Utterback said “yes” once the pipe issue is resolved. • Wanted to know if he had any information on the traffic light at Hollymead Town Center. He has a constituent who lives in Forest Lakes who goes to CVS and cannot get across Route 29 before the light turns red on him. Mr. Utterback said he conveyed it to the Traffic Engineer and they will look to see if the signals are operating properly first and then look at the cycle times. • Rocky Hollow Road Community Association wants a 25 MPH Speed Limit sign on that road. There are no speed limit signs currently on the road. • Said the two Rural Rustic Roads will be completed this summer. His question is do we wait until the fall to look at the Six-Year Plan again or do we start looking at the next roads in sequence for the Rural Rustic Road Plan. Mr. Boyd said if funds are available he would like to start on next project. Following same discussion, Mr. Rooker asked for an update in June. <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> • Asked for periodic updates on improvements to Blenheim Road. Mr. Utterback said they have not done anything since last fall. 	<p><u>Clerk:</u> Schedule update on June 1st agenda.</p>
<p>8. Presentation: Hazard Mitigation Plan, Thomas Jefferson Planning District Commission.</p> <ul style="list-style-type: none"> • PRESENTED by Bill Wanner. SET public hearing for June 1st. 	<p><u>Clerk:</u> Advertise and schedule on June 1st agenda.</p>
<ul style="list-style-type: none"> • The Board recessed at 10:47 a.m. and reconvened at 10:58 a.m. 	
<p>9. Presentation of the Assets for Youth Report, Saphira Baker.</p> <ul style="list-style-type: none"> • RECEIVED report. Presentation given by Winx Lawrence-University of Virginia. 	
<p>10. Annual Real Estate Reassessment Report.</p> <ul style="list-style-type: none"> • DISCUSSED. Mr. Wyant wanted to know if this would require a public hearing. Mr. Boyd said he would like to see a financial cost benefit analysis going from biennial to annual assessments. Ms. Thomas questioned whether the appeal process was long enough. CONSENSUS of the Board for staff to come back with additional information. Specifically, computation of numbers, a look at the revenue picture on how it might affect the first year revenues, and whether it can be stretched to 30 days on the appeal process. Provide update at July 6th meeting. 	<p><u>Richard Wiggans:</u> Proceed as directed. <u>Clerk:</u> Schedule on July 6th agenda.</p>
<p>11. FY05 Third Quarter Financial Report.</p> <ul style="list-style-type: none"> • ACCEPTED FY05 Third Quarter Financial 	

	Report.	
12.	Closed Session: Personnel and Legal Matters. <ul style="list-style-type: none"> At 11:42 a.m., the Board went into closed session to consider appointments to Boards, Committees and Commissions; to conduct an administrative evaluation; and to discuss a prospective business locating in the County. 	
13.	Certified Close Session. <ul style="list-style-type: none"> At 1:40 p.m., the Board reconvened into open session and certified the closed session. 	
14.	Appointments to Boards and Commissions. <ul style="list-style-type: none"> REAPPOINTED Waltine Eubanks and William Harvey to Advisory Council on Aging with said terms to expire May 31, 2007. REAPPOINTED Gregory MacDonald to Charlottesville/Albemarle Convention and Visitors' Bureau Management Board with said term to expire June 30, 2007. APPOINTED Wendi Wills El-Amin, M.D. to Region Ten Community Services Board with said term to expire June 30, 2008. 	<u>Clerk</u> : Prepare appointment letters, update Boards and Commissions book and notify appropriate persons.
15	Presentation: League of Women Voters' Report on Rivanna Authorities. <ul style="list-style-type: none"> RECEIVED report. Presentation given by Liz Palmer. 	
16.	FY 2005 Budget Amendment. <ul style="list-style-type: none"> APPROVED FY 2005 Budget Amendment in the amount of \$1,091,434.24 and FY 2005 Appropriations #2005048, #2005052, #2005053, #2005054, #2005055, #2005056, #2005057, and #2005058. Ms. Thomas said she would like to get an accounting of the Department of Homeland Security grants and expenditures. 	<u>Clerk</u> : Forward signed appropriation forms to Richard Wiggans, OMB and copy appropriate individuals. <u>OMB</u> : Proceed as directed.
17.	Ordinance to add Article V, Private Ground Water Well Testing. <ul style="list-style-type: none"> ADOPTED the ordinance, by a vote of 6:0. Mr. Rooker asked staff to come back with additional information on other pollutants and how the County might deal with them. Mr. Rooker brought up the public notice aspect and whether there is anything the County can do to make sure the people that buy into these areas receive some kind of notice. Mr. Davis stated the County could have local information at the building permit stage. Mr. Rooker asked about putting a link to contaminated sites on the County's website. He also asked that the County send the web link out to realtors who deal directly with buyers and renters. 	<u>Clerk</u> : Forward adopted ordinance to County Attorney's Office for inclusion in next update of County Code and copy appropriate individuals in Community Development. <u>Mark Graham</u> : Proceed as directed. <u>Lee Catlin</u> : Proceed as directed. (Attachment 5)
18.	SP-2004-002. Charlottesville Kingdom Hall (Sign #34). <ul style="list-style-type: none"> APPROVED SP-2004-002, by a vote of 6:0, subject to the five conditions as recommended. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 6)
19.	SP-2004-057. Church of Latter Day Saints (Sign #59). <ul style="list-style-type: none"> APPROVED SP-2004-057, by a vote of 6:0, subject to the five conditions as recommended. 	<u>Clerk</u> : Set out conditions of approval. (Attachment 6)

<ul style="list-style-type: none"> The Board recessed at 2:50 p.m. and reconvened at 3:00 p.m.. 	
<p>20. Cate Wyatt, Journey Through Hallowed Ground.</p> <ul style="list-style-type: none"> PRESENTED. Their request to the Board is the consideration of the Resolution in Support of the Journey Through Hallowed Ground, participation in the June 2nd event, and the Board's active participation as a partner in the workshops. ADOPTED the proposed resolution, by a vote of 6:0, with the following addition, "and is the Albemarle County home of the Monacan Indian Tribe," in the sixth paragraph. 	<p><u>Clerk:</u> Forward signed resolution to Cate Wyatt. (Attachment 7)</p>
<p>21. Work Session: Affordable Housing Implementation Recommendations.</p> <ul style="list-style-type: none"> HELD. Chairman thanked the Housing Committee for all their work on the recommendations. Asked that thank-you letters be written to the committee members. CONSENSUS of the Board, by a vote of 6:0, to direct staff to bring back a Resolution of Intent to amend the Comprehensive Plan and the Zoning Ordinance for the June 1st agenda. 	<p><u>Clerk:</u> Proceed as directed. <u>County Attorney:</u> Proceed as directed.</p>
<p>22. Discussion: Northern Development Areas Master Plan Project Status Report.</p> <ul style="list-style-type: none"> HELD discussion. Board asked for copies of the scopes of work and contract for the master plan and companion transportation study. 	<p><u>Clerk:</u> Forward copies to Board members.</p>
<p>23. Canceled May 11, 2005 Board meeting, by a vote of 6:0.</p>	
<p>24. From the Board: Matters Not Listed on the Agenda. <u>David Wyant:</u></p> <ul style="list-style-type: none"> Did not like response to temporary signs issue regarding non-profit groups having to pay the fee. Would like staff to look at it some more. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> Offered motion which was seconded by David Bowerman asking the Chairman to write a letter to Nature Conservancy requesting they allow a second wooden communications monopole to be co-located with the one currently installed on Verulam Farm. Motion PASSED by a vote of 6:0. The Rivanna River Basin Commission is going around fundraising. They have raised about one-third of what they need to raise so Board members may hear from private enterprises who are being asked to donate. Wanted to know if anyone was going to the Virginia Workforce Council meeting tomorrow. Wanted to know if anyone was going to the steering committees for VACO on Friday. Mr. Tucker suggested she contact Ron White. Wanted to know if the Virginia Railway Express met with any other Board members. Mr. Tucker and Mr. Rooker said they met with them. She said they are looking at a survey to see whether they can expand their weekday service to our 	<p><u>Clerk:</u> Proceed as directed.</p>

<p>area.</p> <ul style="list-style-type: none"> Said she had the chance yesterday to meet with relevant officials at DEQ. Said DEQ is going to be involved in more things than they were in the past. Said there will be more requirements attached to anything the County submits. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> Having small group meetings in preparation for pre-application meeting. Pre-application meeting is scheduled for June 22nd. The goal of the group is to try to come to an agreement as to what the group can present at the pre-application meeting. Group met with Fluvanna and Louisa Counties to discuss Albemarle County joining their application. Said group asked Mark Graham to work with engineer from Fluvanna and RWSA to get estimate between both approaches (jointly or on our own) to James River. Couple of things came out of legislation: funds were approved for staffing of adequate firefighters and emergency response, something called SAFER, a matching grant fund to reimburse local government for their share of new Federal program to encourage localities to hire more firefighters. Mr. Tucker said staff is looking at that. There is \$250,000 in Virginia Tourism Authority to make grants to regional and local tourism authorities available. Also, language regarding funding for metropolitan areas east or adjacent to Route 29 for ground transportation systems and research funds for localities that have a build out analysis. Said he asked the Community Development Department to look at Gannett Fleming's report and population assumptions used. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> Said he has been getting a number of calls about the panhandlers. Mr. Davis said his office has drafted an ordinance which will be coming to the Board for public hearing in July. 	
<p>25. Adjourn to May 12, 2005, 5:00 p.m., Montalto at Monticello.</p> <ul style="list-style-type: none"> The meeting was adjourned at 5:55 p.m. 	

/djm

- Attachment 1 – Proclamation recognizing May 15 through May 21, 2005 as Emergency Medical Services Week
- Attachment 2 – Proclamation recognizing May 12, 2005 as Police Memorial Day
- Attachment 3 – Howardsville River Access Lease Agreement
- Attachment 4 – Resolution to accept road(s) in Beckoning Ridge Subdivision
- Attachment 5 – Ordinance to add Article V, Private Ground Water Well Testing
- Attachment 6 – Conditions of Approval for Planning items
- Attachment 7 – Resolution in Support of the Journey Through Hallowed Ground

Emergency Medical Services Week

WHEREAS, *emergency medical services is a vital public service; and*

WHEREAS, *the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and*

WHEREAS, *access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and*

WHEREAS, *the emergency medical services system consists of emergency physicians, emergency nurses, emergency medical technicians, police officers, firefighters, educators, administrators, communications personnel, and others; and*

WHEREAS, *the members of emergency medical services teams, career and volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and*

WHEREAS, *it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week;*

NOW, THEREFORE, BE IT RESOLVED *that I, Dennis S. Rooker, Chairman on behalf of the Albemarle Board of County Supervisors, do hereby proclaim*

May 15-21, 2005

as

Emergency Medical Services Week

in Albemarle County, Virginia, and encourage the community to observe this week with appropriate programs, ceremonies and activities.

NATIONAL POLICE MEMORIAL WEEK

WHEREAS, May 15 of each year was proclaimed "**Police Officer's Memorial Day**" by President John F. Kennedy on October 1, 1962, in honor of those peace officers who, through their courageous deeds, have lost their lives or become disabled in the performance of duty; and

WHEREAS, Albemarle County is faithfully served by a professional and committed Police Department whose men and women are dedicated to providing outstanding service to the community; and

WHEREAS, these days of increasing fear, rising crime, reckless acts of violence, recall to our minds President Kennedy's words of praise for these officers as "**truly men and women of courage, judgment and dedication;**" and

WHEREAS, we share his sentiments and agree that it is time to remind the public of the day-by-day heroism of our officers, both those on active duty and those who have given their lives in the line of duty; and

WHEREAS, we will be recognizing Police Memorial Day in Albemarle County with a special ceremony to be held on May 12, 2005;

NOW, THEREFORE, I, Dennis S. Rooker, Chairman on behalf of the Albemarle Board of County Supervisors, do hereby declare and set aside the week of

May 9-15, 2005

as

NATIONAL POLICE MEMORIAL WEEK

and call upon all citizens to recognize the significant efforts and accomplishments of these officers.

LEASE AGREEMENT

THIS LEASE AGREEMENT made by and between **JAMES E. CREWS** ("Landlord"), whose address is P.O. Box 187, Buckingham, Virginia 23921, and the **COUNTY OF ALBEMARLE, VIRGINIA** ("Tenant").

SECTION 1

- 1.1 Date of Lease.** June 1, 2005.
- 1.2 Property.** That certain lot or parcel of land located in Howardsville, Virginia and described as a 15-foot strip of land to the river consisting of .049 acres, and additional property to be used for parking (collectively the "Property").
- 1.3 Commencement Date.** June 1, 2005.
- 1.4 Term.** June 1, 2005 to May 31, 2010. Tenant may terminate this Lease Agreement for convenience at any time, upon giving written notice to the Landlord. Landlord may terminate the lease at end of each year (May 31st) with 90 days written notice to Tenant. In the event of termination by either party, any obligations provided for hereunder, including but not limited to the payment of rent, shall cease, with no further liability to either party.
- 1.5 Rent.** Tenant shall pay a total annual rent of \$4,000.00 during the initial term and agrees to an annual increase of \$250.00 for each of the subsequent years (two through five) of the term of this Agreement. Rent shall be due on or before June 1st of each year of the lease period.
- 1.6 Permitted Uses.** The County intends to use the Property in order to provide public river access for fishing and related recreational uses, and parking for cars and trailers using the boat ramp.

SECTION 2**Maintenance and Upkeep of Property**

- 2.1 Maintenance and Upkeep.** During the term of this Agreement, Tenant shall:
- (a) Establish a parking area for cars and trailers on landlord's TMP 139A-16 as near as possible to the railroad property. The limit of the eastern boundary line of the parking area is approximately 167 feet from the nearest rail and the limit of the western boundary line of the parking area is approximately 136 feet from the nearest rail;
 - (b) Provide fencing with access gates outside of VDOT's right of way from parking area to boat ramp on all property owned totally or in part by Landlord;
 - (c) Post and enforce "No Parking" between parking area and boat launch;
 - (d) Fence off and post closed VDGIF river front property with the exception of that area necessary to maneuver vehicles and trailers loading and unloading at ramp;
 - (e) Post signs at limits of Property stating: "No Trespassing. Persons proceeding beyond this point without the written permission of the owner will be treated as trespassers";
 - (f) As authorized by the Chief of Police and Sheriff for the County of Albemarle, Tenant will instruct Police and Sheriff department personnel to enforce Property rules as well as trespassing on Landlord's property from Property;
 - (g) Maintain all fencing and signage placed by the County on the Property and provide additional fencing and/or signage if Landlord and Tenant jointly agree;

- (h) Provide a minimum of twice-weekly trash pick-up of the Property and to adjacent Landlord's property if trash is related to use of the Property;
- (i) Provide regular mowing and trimming services of the Property as needed; this will include trimming on both sides of all fence installed by the Tenant including fencing around Landlord's garden area;
- (j) Provide 270 hours of annual on-site Police or Sheriff Department supervision. Tenant intends that direct police supervision will be targeted during peak use hours or other times as may be needed. Costs of such supervision will be the responsibility of Tenant. Additional on-site police or sheriff department services will be provided for security reasons if Landlord and Tenant mutually agree;
- (k) Provide portable toilet service for the site; and
- (l) Tenant will provide protective fencing around Landlord's garden area on adjacent TMP 139A-17.

2.2 Condition of Property upon Surrender. Tenant accepts the Property "as is" and will, at the expiration or other termination of the term thereof, surrender and deliver the Property in the same order and condition as the Property shall be at the Commencement Date of the term of this Agreement, ordinary wear and tear excepted.

SECTION 3 Liability

3.1 Loss or Damage to Property or Persons. Neither Landlord nor Tenant, nor their respective officers, employees, agents or representatives shall be liable for any loss, damage or injury to property or persons caused by the negligent or intentional acts or omissions of third parties in connection with the uses contemplated by this Agreement.

3.2 Waiver of Liability. Landlord assumes no liability or duty to third parties because of Tenant's occupation or use of the Property, and Landlord assumes no liability or responsibility for Tenant's conduct and operation of Tenant's business on the Property during the term of this Agreement, except as otherwise specified herein. Landlord and Tenant are separate entities with separate duties; they are not engaging in any joint venture, partnership or concerted action. Neither party assumes any liability for the wrongful acts or omissions of the other.

SECTION 4 Damage or Destruction by Casualty

4.1 Damage. If during the term of this Agreement, all or any portion of the Property shall be damaged or destroyed by fire, flood, windstorm, strikes, riots, acts of public enemy, acts of God, or other casualty, this Agreement shall terminate at the option of Tenant in accordance with Section 1.4.

4.2 Partial Invalidity. If any term, covenant or condition of this Agreement, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

4.3 Approvals. This Agreement is subject to and contingent upon approval of its terms by the Board of Supervisors of Albemarle County, Virginia.

4.4 Annual Appropriations. This Agreement is subject to annual funding by the Board of Supervisors of the County of Albemarle, Virginia. In the event the Board of Supervisors fails

to appropriate funds necessary to fulfill Tenant's obligations specified in this Agreement, this Agreement shall be deemed cancelled, with no penalty of further liability to the County, and of no effect.

SECTION 5 Governing Law

This Agreement shall be in all respects governed by and interpreted in accordance with the laws of the Commonwealth of Virginia. Exclusive venue for any dispute arising under this Agreement shall be in the Circuit Court for the County of Albemarle, Virginia. In the event of any material breach of this Agreement by either party, the nonbreaching party shall have the right to obtain an immediate injunction or other equitable or legal relief.

SECTION 6 Entire Agreement

This Agreement sets forth all the covenants, promises, agreements, conditions and understandings between the parties concerning the Property and there are no other such covenants, promises, agreements, conditions and understandings, either oral or written, between them other than herein set forth. Except as otherwise provided in this Agreement, no subsequent modification, alteration, amendment, change or addition to this Agreement shall be binding upon Landlord or Tenant unless reduced to writing and signed by them.

This Agreement may be executed, acknowledged and delivered in counterparts and each such counterpart shall constitute an original, but together such counterparts shall constitute only one instrument.

SECTION 7 Notices

7.1 Addresses for Notices All notices required or desired to be given hereunder by either party to the other shall be personally delivered and addressed as follows:

Landlord:

Mr. James E. Crews
P.O. Box 187
Buckingham, VA 23921

Tenant:

Mr. Pat Mullaney,
Director of Parks and Recreation
County of Albemarle
401 McIntire Road
Charlottesville, VA 22902

7.2 Effective Date of Notices. Notice shall be deemed to be effective when personally mailed via first class mail, postage prepaid, unless otherwise stipulated herein.

ATTACHMENT 4

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 4th day of May 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Beckoning Ridge Subdivision** described on the attached Additions Form SR-5(A) dated **May 4, 2005**, 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 road(s) in **Beckoning Ridge Subdivision** as described on the attached Additions Form SR-5(A) dated **May 4, 2005**, to the secondary system of state highways, pursuant to §33.1-229, 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.

* * * * *

The road(s) described on Additions Form SR-5(A) is:

- 1) **Beckoning Ridge Road (State Route 1609)** from Route 677 (Old Ballard Road) to the cul-de-sac, as shown on plat recorded 12/2/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2650, pages 338-343, with a 50-foot variable right-of-way width, for a length of 0.19 mile.

Total Mileage - 0.19 mile.

ORDINANCE NO. 05-5(1)

AN ORDINANCE TO AMEND CHAPTER 5, BUILDING REGULATIONS, 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 5, Building Regulations, is hereby amended and reordained as follows:

By Adding:

Article V.	Private Ground Water Well Testing
Sec. 5-500	Purpose and intent.
Sec. 5-501	Applicability.
Sec. 5-502	Well testing and reporting.
Sec. 5-503	Building permit; withholding

Chapter 5. Building Regulations**Article V. Private Ground Water Well Testing****Sec. 5-500 Purpose and intent.**

The board of supervisors finds that the release or discharge of petroleum from leaking underground storage tanks may pollute ground water and, at high enough levels, these pollutants may render water unsuitable for drinking and may cause adverse effects on the public health, safety and welfare. The board also finds that establishing new private ground water wells in the immediate area of a contamination plume could alter the conditions of existing contamination plumes and draw contaminants into areas that are currently free from contamination.

The purpose and intent of this article is to protect the public health, safety and welfare in areas where there has been a petroleum release or discharge within the county confirmed by the Virginia Department of Environmental Quality. Therefore, new private ground water wells in such areas shall be tested for petroleum contamination as provided herein to determine the extent of the contamination, if any, and to assure that the wells satisfy existing federal or state drinking water quality standards for the contaminants.

State law reference: Va. Code § 32-176.5.

Sec. 5-501 Applicability.

This article shall apply to those areas of the county where the release or discharge of petroleum from leaking underground storage tanks has been confirmed by the Virginia Department of Environmental Quality and such an area remains an active contamination area.

For the purposes of this article, the term "active contamination area" means those lands within the area identified by the Virginia Department of Environmental Quality to be contaminated such that, in its judgment, the contamination poses a risk to human health and the environment and warrants corrective action or remediation, and those lands within two thousand (2,000) feet of the contaminated area determined by the Virginia Department of Environmental Quality to be at risk for contamination.

Sec. 5-502. Well testing and reporting.

Each applicant for a building permit for a structure to be located within an active contamination area and to be served by a private ground water well as the primary potable water supply shall have the well tested as provided herein prior to the issuance of a building permit for the structure:

A. *Contaminants to be tested.* The tests shall determine whether the following volatile organic compounds are present in the water: Benzene, Toluene, Ethylbenzene, and Xylenes.

B. *Applicable standards.* Each contaminant identified in section 5-502(A) shall be tested for compliance with the maximum contaminant level established for that contaminant under the federal Safe Drinking Water Act, as follows:

1. Benzene: 0.005 MCL (mg/L).
2. Toluene: 1 MCL (mg/L).
3. Ethylbenzene: 0.7 MCL (mg/L).
4. Xylenes (total): 10 MCL (mg/L).

For the purposes of this article, the term "MCL" means the maximum contaminant level, which is the highest level of a contaminant that is allowed in drinking water. The units are expressed in milligrams per liter (mg/L); milligrams per liter are equivalent to parts per million.

C. *Sampling and testing methods and services.* Samples shall be taken and tests shall be performed using appropriate testing methods by either the Virginia Department of Environmental Quality or by a laboratory certified by the Commonwealth of Virginia to perform such services. No such tests shall be conducted by Consolidated Laboratories. The cost of such tests shall be paid by the landowner.

D. *Reporting of test results.* The testing laboratory shall notify the landowner of the test results in a written report.

Sec. 5-503. Building permit; withholding.

Each applicant for a building permit for a structure to be served by a private ground water well as the primary potable water supply within an active contamination area shall present the report containing the test results required by section 5-502 prior to issuance of the building permit.

A. *No contaminants detected.* If there are no tested contaminants detected, then the building permit shall be issued provided that all other applicable requirements are satisfied.

B. *Contaminants detected; exceed applicable standards.* No building permit shall be issued if one or more contaminants are detected and they exceed the federal Safe Drinking Water Act standards identified in section 5-502(B), unless and until the applicant has identified and provided an approved alternative primary potable water supply.

SP-2004-002. Charlottesville Kingdom Hall (Sign #34). Request to allow Church in accord w/Secs 14.2.2.12 & 15.2.2.12 of the Zoning Ord which allow for Churches. TM 76, Ps 51 & 52A3, contain 3.685 acs. Znd R-2 & R-4 respectively. Loc on Old Lynchburg Rd (Rt 631), at intersec of Old Lynchburg Rd & Sunset Avd Extd. Scottsville Dist.

1. The development of the site shall be in general accord with the concept plan entitled Proposed Addition Kingdom Hall of Jehovah's Witnesses Charlottesville, Virginia prepared by Hardee Johnston, A.I.A., and A.S.L.A. and dated December 28, 2004;
2. The area of assembly shall be limited to a maximum of two (2) auditoriums with one hundred seventy-five (175) seats in each;
3. The final site plan shall show an area to be graded across the front of the site to allow the future installation of a sidewalk by others (the "sidewalk area"). The final site plan shall include a note reserving the sidewalk area for future dedication. The sidewalk area shall be graded in conjunction with the installation of other improvements on the site required by the site plan. The sidewalk area shall be graded in compliance with the grading standards imposed by the agent. Upon request by the County, the sidewalk area shall be dedicated for public use. The owner shall grant all necessary temporary construction easements to allow the sidewalk to be installed;
4. The building shall not have more than one (1) apartment; and
5. There shall be no day care center or private school on site without approval of a separate special use permit.

SP-2004-057. Church of Jesus Christ of Latter Day Saints (Sign #59). Request to allow church construction in accord w/Sec 10.2.2.35 of the Zoning Ord which allows for churches in RA. TM 32, P 17 contains portion of 5.14 acs. Znd RA. (It is this portion that will be reviewed for this SUP.) Loc at 1651 Airport Rd. Rio Dist.

1. The church's improvements and the scale and location of the improvements shall be developed in general accord with the concept plan entitled "The Church of Jesus Christ of Latter Day Saints, Rivanna Ward Waynesboro Va. Stake, Conceptual Site Layout and Utility Plan" dated January 13, 2005;
2. The proposed road or access way shall conform to public street standards for an urban section including a curb, gutter, six (6)-foot planting strip, street trees, and five (5)-foot sidewalk along the LDS site;
3. The area of assembly shall be limited to a maximum eight thousand eight hundred (8,800) square feet;
4. Conference meetings using an assembly area exceeding six thousand two hundred (6,200) square feet, which is an area comprised of the chapel, overflow, and half of the cultural center as identified on Attachment D, shall be limited to four (4) times per year; and
5. Day care use shall be prohibited unless approved through a special use permit amendment.

RESOLUTION

Journey Through Hallowed Ground

WHEREAS, the Journey Through Hallowed Ground project, the Route 15 corridor stretching from Gettysburg to Orange, and generally following Route 231/Route 22 from Orange to Monticello, was created through a partnership among the National Trust for Historic Preservation, Scenic America, the Conservation Fund, the Piedmont Environmental Council, and has since expanded to include the Civil War Preservation Trust, the National Register of Historic Places, Scenic Virginia, the Virginia/Maryland and Pennsylvania Departments of Historic Resources, the Pennsylvania Environmental Council, the Adams County (Pennsylvania) Board of Commissioners, the Adams County (Pennsylvania) Planning Department, the Center for Rural Pennsylvania, the Frederick (Maryland) County Planning Department, Main Street Gettysburg, Main Street Frederick, the Town of Leesburg, the Town of Purcellville, Scenic Maryland, Preservation Pennsylvania, the Virginia Land Trust, and the Virginia Outdoors Foundation, among others; and

WHEREAS, the Virginia portion of the Journey Through Hallowed Ground is a scenic and historically rich landscape that encompasses 75 miles and nine counties of Virginia hillside along US Route 15 and generally following Route 231/Route 22 from Orange to Monticello; and

WHEREAS, the Virginia portion of the Journey Through Hallowed Ground will contribute to the economic development potential of the localities that border the Routes 15/231/22 corridor; and

WHEREAS, the Virginia portion of the Journey Through Hallowed Ground includes sites of great historical significance that evoke the lives and actions of the soldiers, statesmen, farmers, and slaves who lived in, worked in, fought for, and governed the region; and

WHEREAS, the Virginia portion of the Journey Through Hallowed Ground features sites of African-American historical significance, including Madden's Tavern, Aldie Mill, and Douglass High School; and

WHEREAS, the Virginia portion of the Journey Through Hallowed Ground was first used as a hunting and trading route for the Susquehannock and Iroquois Indians, and is the Albemarle County home of the Monacan Indian Tribe, and is therefore important to Native American heritage; and

WHEREAS, the Albemarle portion of the Journey Through Hallowed Ground was home to America's founding fathers and features presidential sites such as Thomas Jefferson's Monticello, and James Monroe's Ashlawn Highland; and

WHEREAS, the Albemarle portion of the Journey Through Hallowed Ground is home to two World Heritage Sites, Monticello and The University of Virginia Rotunda; and

WHEREAS, the Albemarle portion of the Journey Through Hallowed Ground features three Historic Districts listed on the National Register of Historic Places including, the Charlottesville and Albemarle County Courthouse Historic District, the University of Virginia Historic District and the Southwest Mountains Rural Historic District; and

WHEREAS, the Journey Through Hallowed Ground project allows Virginia a valuable opportunity to form a partnership with and learn from groups in Maryland and Pennsylvania;

NOW, THEREFORE BE IT RESOLVED by the Albemarle Board of Supervisors, that this Board hereby acknowledge the intrinsic importance to Virginia of the Journey Through Hallowed Ground project and recognize this historic corridor as a gateway to some of the most important locations in both American and Virginia history, encompassing centuries of historic sites in scenic settings; and

BE IT FURTHER RESOLVED, that the Clerk send a copy of this resolution to the Executive Director of the Journey Through Hallowed Ground to share with all partners in order that they may be apprised of the sense of this Board of Supervisors in this matter.

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