

ACTIONS
Board of Supervisors Meeting of September 9, 2009

September 16, 2009

<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 6:00 p.m. by the Chairman, Mr. Slutzky. All Board members were present. Also present were Bob Tucker, Larry Davis, Wayne Cilimberg and Ella Jordan. 	
<p>4. From the Board: Matters Not Listed on the Agenda. <u>Ken Boyd:</u></p> <ul style="list-style-type: none"> Reminded Board members about the 911 Memorial Ceremony scheduled for Friday, September 11th at the County Office Building, and encouraged everyone to attend. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Gave kudos to those individuals responsible for the new brochure for conservation easements. Mentioned a video she had seen from Louisa County and handed it to the County Executive. Provided an update from the Piedmont Workforce Network One Stop Committee. The Goodwill Industries has the new contract for management of the One Stop; they have a new director and have made quantum leaps forward in getting all the various agencies to work together in a productive way and improve services to clients. 	
<p>5. From the Public: Matters not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> There were none. 	
<p>7. <u>Public Hearing: FY 2010 Budget Amendment.</u></p> <ul style="list-style-type: none"> APPROVED the FY 2010 Budget amendment in the amount of \$3,848,351.19, and APPROVED Appropriations #2010023 and #2010024 to provide funds for various local government and school projects and programs. 	<p><u>Clerk:</u> Forward copy of signed appropriation forms to Finance and appropriate individuals.</p>
<p>8. <u>Public Hearing: Darden Towe Park Lease Agreement.</u></p> <ul style="list-style-type: none"> APPROVED, by a vote of 6:0, the proposed lease agreement and AUTHORIZED the County Executive to sign the lease. 	<p><u>County Attorney's office:</u> Provide Clerk's office and Parks and Rec with fully executed copy of agreement. (Attachment 1)</p>
<p>9. <u>PROJECT: SP-2008-060. Albemarle Baptist Christian School.</u></p> <ul style="list-style-type: none"> APPROVED SP-2008-060, by a vote of 6:0, subject to ten conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p>
<p>10. <u>PROJECT: SP-2008-066-20 South (Amendment).</u></p> <ul style="list-style-type: none"> APPROVED SP-2008-066, by a vote of 6:0, subject to five conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p>
<p>11. <u>PROJECT: SP-2009-006. Kenridge.</u></p> <ul style="list-style-type: none"> APPROVED SP-2009-006, by a vote of 6:0, subject to seventeen conditions 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p>
<p>12. <u>PROJECT: SP-2009-016. Music Festival.</u></p> <ul style="list-style-type: none"> APPROVED SP-2009-016, by a vote of 6:0, subject to seventeen conditions 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 2)</p>
<p>13. <u>EMS Revenue Recovery Ordinance.</u></p> <ul style="list-style-type: none"> ADOPTED, by a vote of 6:0, the ordinance. 	<p><u>Clerk:</u> Forward copy of ordinance to Fire/Rescue and the County Attorney's office.</p>

	(Attachment 3)
14. From the Board: Matters Not Listed on the Agenda. <u>Ann Mallek</u> : <ul style="list-style-type: none"> Updated Board members on the timetable for the Crozet Master Plan. 	
15. Adjourn to September 22, 2009, 10:45 a.m. <ul style="list-style-type: none"> At 9:59 p.m., the meeting was adjourned to September 22nd, Room 241, for meeting with ASAP. 	

/ewj

- Attachment 1 – Darden Towe Park Lease Agreement
- Attachment 2 - Planning conditions of approval
- Attachment 3 – EMS Ordinance

RESIDENTIAL LEASE AGREEMENT
DARDEN TOWE PARK

THIS LEASE AGREEMENT is made as of this ____ day of _____, 2009; by and between the County of Albemarle and the City of Charlottesville (hereafter collectively, the "Landlord"), whose addresses are 401 McIntire Road, Charlottesville, Virginia 22902 (hereafter, the "County"); PO Box 911, Charlottesville, Virginia 22902 (hereafter, the "City"), respectively; and Doraine K. Glidden and Sheila M. McMillian (collectively referred to as "Tenant").

1. **REAL PROPERTY AND TERM OF OCCUPANCY.** In consideration of the promises and covenants herein, Landlord hereby leases to Tenant that property located in the County of Albemarle, Virginia, and known as Towe Park Tenant House together with the fixtures and personal property listed below, (the Premises) for the term of 1 (one) year(s) commencing at noon on October 1, 2009. Thereafter, unless otherwise terminated by either party, as provided herein, this Lease shall renew automatically for four (4) additional one-year terms.
2. **PERSONAL PROPERTY.** The following personal property is included in the Premises subject to this lease: Range oven and woodstove.
3. **USE OF PREMISES.** The Premises will be used by Tenant as a private dwelling and for no other purpose. The Premises will be occupied by no persons other than persons who have signed this Lease as Tenant and such person's children under the age of 18.
4. **RENT.**
 - a. Tenant agrees to pay as rent the total sum of \$7,440.00, due and payable in advance in monthly installments of \$620.00, except as follows: If the lease term begins on a day other than the first day of a calendar month, the first month's rent shall be \$310.00. If the lease term ends on a day other than the last day of a calendar month, the last month's rent shall be \$310.00. The first month's rent payment is due October 1, 2009. The monthly installment of rent due for each month thereafter shall be due on the first day of each month. Rent shall be paid to County of Albemarle (landlord/agent) at Albemarle County Parks & Recreation, 401 McIntire Road, Charlottesville, Virginia 22902 (address) or at other such place as Landlord or Agent may from time to time designate in writing. If a monthly installment of rent is not received before the 6th day of the month, Tenant agrees to pay as additional rent a charge of late fee of \$10.00 for each month that the monthly installment of rent is not received by the 6th day of such month. The purpose of this late fee is to compensate Landlord for the expenses of processing such delinquent account. Rent payments will be applied first to all past due balances of rent and other charges owing under this Lease. The remaining portion if any of such rent payments will be applied to current rent. If there are two or more tenants, Landlord shall have the option of requiring that only one check, cashier's check or money order will be accepted for each monthly installment for rent.
 - b. As additional rent, the Tenant shall perform the following duties as long as either of them resides on the Property. The following duties may be modified, as duties may be added or deleted by mutual written agreement between the County and City and the Tenant. Failure to perform the following duties on the part of the Tenant shall constitute a material breach by the Tenant under the Lease Agreement and shall entitle the Landlord to terminate this Lease or exercise any other remedy under this lease or available law. The Tenant shall:
 - i. Assure that the park entrance gates, greenbelt gate, and restrooms are opened and closed at posted times and upon special requests;
 - ii. Assure that park visitors leave the park at posted closing times;
 - iii. During closing rounds, pick up loose litter and check restrooms for maintenance or plumbing issues, and correct or advise park personnel as necessary;
 - iv. Assist the public with information, as needed;
 - v. Clean and stock restrooms and clean-up and remove trash from parking lots and playing areas on days when park employees are not scheduled to work;
 - vi. In the absence of park personnel, perform emergency repair(s) or maintenance of park facilities and grounds, to the extent possible, and contact park personnel;
 - vii. In the absence of park personnel, enforce field closures, and unauthorized use of athletic fields and park areas; and

- viii. Mow and trim grass around the tenant house, as outlined by the Park Foreman.
- c. The County and City reserve the right to agree to certain modifications pertaining to the foregoing tenant responsibilities during the term of the lease agreement. It is the intent of the County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.
- d. The County and City further agree that, in the event tenant performs additional duties at the specific request of the County and City in connection with the property, or for any other reason in the sole discretion of the County and City, then an adjustment in the payment of rent under this lease agreement may be made, provided that any such modifications shall be effective only if in writing between the County, City and the tenant. It is the intent of the County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.
5. **BAD CHECKS.** Tenant agrees to pay as additional rent a charge of \$15.00 for each check returned for insufficient funds. This charge will be in addition to any late fee, which may be due. If any of Tenant's checks are returned to Landlord or Agent for insufficient funds, Landlord will have the option of requiring that further payments must be paid by cash, cashier's check, certified check, or money order.
6. **SECURITY DEPOSIT.** Tenant agrees to pay the sum of \$620.00 as a security deposit. This sum will be due when this Lease is signed by Tenant. Prior to the termination or expiration of this Lease, if Landlord makes any deductions from the security deposit for charges arising under this Lease or by law, Tenant agrees to pay Landlord such sums as may be necessary to offset such deductions to replenish and maintain the security deposit in the amount set forth above. The security deposit will be held by Landlord to secure Tenant's full compliance with the terms of this Lease. Within 30 days after the termination of this Lease, Landlord may apply the security deposit and any interest required by law to the payment of any damages Landlord has suffered due to Tenant's failure to maintain the Premises, to surrender possession of the premises thoroughly cleaned and in good condition (reasonable wear and tear excepted), or to fully comply with the terms of this Lease, and any balance, if any, to unpaid rent. Landlord shall provide Tenant with an itemized accounting, in writing, showing all such deductions. Within this 30-day period, Landlord will give or mail to Tenant the security deposit, with any interest required by law and minus any deductions. To assist Landlord, Tenant shall give Landlord written notice of Tenant's new address before Tenant vacates the Premises. During the term of occupancy under this Lease, if Landlord determines that any deductions are to be made from the security deposit Landlord will give written notice to Tenant of such deduction within 30 days of the time Landlord determines that such deduction should be made. This provision applies only to deductions made 30 days or more before the termination of this Lease. Landlord will maintain itemized records of all security deposit deductions and these records may be inspected by Tenant, his authorized agent or attorney, during normal business hours. However, when two years has passed from the time a deduction was made, Landlord may destroy the record of that deduction. If Landlord sells or otherwise transfers all or any interest in the Premises during the term of this Lease, Tenant agrees that Landlord may transfer the security deposit, plus any interest required by law, to the purchaser who in such event shall be obligated to comply with the provisions of this section.
7. **PARKING.** Tenant agrees to comply with such parking rules and regulations as Landlord may issue from time to time, and deliver to Tenant; provided that Tenant shall be given a reasonable opportunity to comply with any parking changes made during Tenant's term of occupancy under this Lease. Vehicles parked on or about the Premises in violation of such rules and regulations may be towed at the owner's expense.
8. **PETS AND ADDITIONAL RESIDENTS.** The Tenant shall not be allowed to have pets or additional residents without Landlord's prior written consent, which may be withheld in the Landlord's sole discretion. If such permission is granted the tenant agrees to be responsible for all damages to the property and third parties (persons and property) caused by pets or additional residents. It is understood that if this approval is given that it may be rescinded in the event a problem develops related to a pet or an additional resident.
9. **UTILITIES.** The Tenant is responsible for all utilities.
10. **ALTERATIONS AND IMPROVEMENTS.** Tenant agrees that no alterations; installations, repairs or decoration (including painting, staining and applying other finishes) shall be done without Landlord's prior written consent. However, Landlord may require Tenant to return the Premises to its original condition when this Lease terminates or expires. In addition, Landlord may require that any change, alteration or improvement to the Premises will become a permanent part of the Premises which may not be removed upon the termination or expiration of this lease. Such changes or improvements will include, but not be

limited to, locks, light fixtures, shutters, built-in shelves or bookcases, wall-to-wall carpeting, flowers and shrubs.

11. **INSPECTIONS AND ACCESS.** Landlord may enter the Premises to make inspections, repairs, decorations, alterations or improvements, and to show the Premises to prospective tenants, purchasers, mortgagees, workers and contractors and shall have the right to erect or place "For Sale" or "For Rent" signs thereon. Except in case of emergency or when it is impractical to give notice, Landlord will give Tenant reasonable notice of Landlord's intent to enter and may enter the Premises only at reasonable times.
12. **MOVE IN INSPECTION.** Within 5 days after Tenant takes possession of the Premises, Landlord agrees to provide Tenant with a list setting forth all of the defects and damages to the Premises, its equipment and appliances. The list shall be treated as correct unless Tenant objects to the list by written notice given to Landlord within five days after Tenant receives the list.
13. **COVENANTS BY LANDLORD.** Landlord covenants and agrees to maintain all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in good and safe working condition; and comply with applicable building and housing code requirements materially affecting health and safety. Landlord's failure to comply with the above requirements will not be grounds for Tenant's termination of this Lease unless Tenant has given Landlord written notice of the defective condition and Landlord has failed to remedy the condition within 21 days. However, Tenant may not terminate the Lease if Tenant, a member of Tenant's family or some other person on the Premises with Tenant's consent intentionally or negligently caused the defective condition. Such defective conditions will be repaired at Tenant's expense. Any termination by Tenant shall be made in accordance with the section of this Lease concerning breach by Landlord.
14. **COVENANTS BY TENANT.** Tenant covenants and agrees to keep the Premises clean and safe; use all electrical, plumbing, heating, ventilating and air-conditioning facilities and appliances in a reasonable manner; conduct himself or herself, and require guests to conduct themselves, in a manner that will not disturb Tenant's neighbors; and to take care not to intentionally or negligently destroy, damage or remove any part of the Premises, and that he or she will not permit any person to do so. The County and City reserve the right to request the Tenant to remove from the site any personal property that is inconsistent with the scenic natural beauty of the park (inoperable vehicles, appliances, etc.). The County and City reserve the right to request the Tenant to cease any activity that is inconsistent with the park or surrounding neighborhood. Tenant covenants and agrees to care for, maintain and repair the Premises, equipment, appliances and fixtures. Upon the expiration or termination of this Lease, Tenant agrees to deliver the Premises in good and clean condition, ordinary wear and tear excepted. Tenant agrees to pay the cost of all repairs and cleaning required by wear and tear beyond the ordinary. During the duration of this Lease, Tenant agrees to give Landlord prompt written notice of any defects in the Premises, its equipment, appliances and fixtures. If further damage occurs between the time Tenant learns that a defect exists and the time Landlord learns of such defect. Tenant will be liable for the costs of any repairs of such additional damage, which might have been avoided, had Tenant promptly notified Landlord of the defect. Tenant agrees to pay all costs resulting from the intentional or negligent destruction, damage or removal of any part of the Premises by Tenant or by any of Tenant's guests or other persons on the Premises with Tenant's consent. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement.

15. **TENANT TO CLEAN PREMISES WHEN LEASE ENDS.** Upon the termination or expiration of this Lease, Tenant will remove all of Tenant's property from the Premises and deliver possession of the Premises, thoroughly clean and in good condition, reasonable wear and tear excepted, and in compliance with such reasonable conditions as may be set forth in Landlord's rules and regulations. Tenant's compliance with this section is necessary to insure that the Premises will be in good condition for the next tenants to whom Landlord leases the Premises. Tenant will be liable for any damages Landlord may suffer due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted.
16. **MOVE OUT INSPECTION.** Upon the termination or expiration of this Lease, Landlord will inspect the Premises to determine whether Tenant has properly maintained the Premises and has left Premises thoroughly cleaned and in good condition, reasonable wear and tear excepted. Grease accumulation and unreasonable marks, holes, nicks or other injury to walls, ceilings, floors or appliances will not be considered ordinary wear and tear. This inspection will be made to determine what portion of the security deposit will be returned to Tenant and whether Tenant may be liable for damages exceeding the amount of the security deposit. This inspection will be made with 72 hours after the termination of Tenant's occupancy of the Premises. For the purposes of this section, the termination of Tenant's occupancy of the Premises will not be deemed to have occurred until all or substantially all of Tenant's property has been removed from the Premises. Tenant will have the right to be present during this inspection, provided Tenant gives Landlord written notice of Tenant's desire to be present during the inspection. Upon receiving such notice, Landlord will notify Tenant of the time and date when the inspection will be made. However, Tenant's delay in notifying Landlord of Tenant's desire to attend the inspection will not require Landlord to delay making the inspection more than 72 hours after the termination of Tenant's occupancy. If Tenant attends the inspection, an itemized list of damages known to exist at the time of the inspection will be provided to Tenant by Landlord immediately upon the completion of the inspection.
17. **ABANDONMENT OF PROPERTY.** Any personal property Tenant leaves on the Premises after the termination or expiration of this Lease may be treated by Landlord as abandoned property. Landlord will prepare an itemized list of such property and may immediately remove the property from the Premises and place it in storage for safekeeping for a period not less than one month from the date this Lease terminates and possession of the Premises is delivered to Landlord. Tenant may reclaim the property during this one-month period, provided that tenant pays the cost of its removal and storage. Upon expiration of the one-month period, Landlord will be free to dispose of the property as Landlord sees fit, provided written notice of Landlord's intent to dispose of the property is given to Tenant at least 10 days before such disposal occurs. This notice must be sent to Tenant's last known address, address correction requested. In addition, Landlord must keep the itemized list of Tenant's property for two years after Landlord disposes of that property. Any funds received by Landlord from the disposal of Tenant's property may be applied to Tenant's indebtedness to Landlord for unpaid rent or other damages, including charges for removing, storing and selling the property. Any remaining funds will be treated as security deposit.
18. **DAMAGE OR DESTRUCTION OF PREMISES.** If, through no fault or negligence of Tenant or Tenant's guest, fire or other cause destroys or damages the Premises to the extent that Tenant's enjoyment is substantially impaired, Tenant may immediately vacate the premises and within 14 days thereafter give written notice to Landlord of Tenant's intention to terminate this Lease. In such cases, the Lease will terminate as of the date of termination of Tenant's occupancy and Landlord will return Tenant's security deposit, any interest required by law, and prepaid rent covering the period after Tenant vacated the Premises - subject to any set off for charges or damages Tenant owes to Landlord. If, through no fault or negligence of Tenant or Tenant's guests, fire or other cause damages the Premises to the extent that Tenant's enjoyment is somewhat impaired, though not substantially impaired, Landlord will have a reasonable period of time in which to repair the Premises. Landlord's duty to repair will not arise until Tenant gives Landlord written notice of the damage to the Premises. If Landlord fails to repair the Premises within a reasonable period of time after having received written notice from Tenant, Tenant will be entitled to a reduction in rent for that period of time beginning 30 days after notice was given to Landlord and ending on the date Landlord successfully repairs the Premises. In any dispute concerning Tenant's right to terminate this Lease or receive a rent reduction, Tenant will be required to prove that the condition of the Premises justifies such relief.
19. **BODILY INJURY AND PROPERTY DAMAGE.** Landlord is not an insurer of Tenant's person or property. Except to the extent provided by law, Landlord will not be liable to Tenant for any bodily injury or property damage suffered by Tenant or Tenant's guest.

20. **RULES AND REGULATIONS.** Tenant agrees to comply with Landlord's reasonable and non-discriminatory rules and regulations which concern the use and occupancy of the Premises, which intend to promote the convenience, safety or welfare to tenants or preserve Landlord's property from abusive conduct. Landlord agrees to give Tenant reasonable notice of any new rules or regulations before enforcing such rules and regulations against Tenant.
21. **EARLY TERMINATION OF OCCUPANCY.** Tenant will not be released from liability for all rent and other charges due under this lease unless Landlord signs a written statement on which Landlord agrees to release tenant from such liability.
22. **EARLY TERMINATION OF LEASE BY MILITARY PERSONNEL.** If Tenant is a member of the United States armed forces and (i) receives orders for a permanent change of station to depart 50 miles or more (radius) from the Premises or (ii) is prematurely and involuntarily discharged or relieved from active duty with the United States armed forces, Tenant may terminate this Lease by serving on Landlord a written notice of termination. This notice must state the date when termination will be effective and that date shall not be less than 30 days after the date Landlord receives the notice. In addition, the termination date shall not be more than 60 days prior to the date of departure necessary for Tenant to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Tenant's written notice of termination must be accompanied by a copy of the official orders. If Tenant exercises this right to terminate this Lease, Tenant shall be obligated for rent prorated to the date of termination. Rent for the final month or portion thereof shall be due on the first day of such month. On account of Tenant's early termination of this Lease, Landlord may require Tenant to pay liquidated damages as follows:
- If Tenant has completed less than 6 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one-month's rent.
 - If Tenant has completed at least 6 months but less than 12 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one half of one month's rent. Any amount owed; as liquidated damages by Tenant shall be due on the first day of the month in which the effective termination date occurs. This section shall not relieve Tenant of any other liabilities, which have accrued as of the date of termination.
23. **TERMINATION, RENEWAL OR EXTENSION OF LEASE.** This Lease will automatically terminate at the end of the lease term on the date on which Tenant's occupancy ends. In addition, Landlord may terminate this lease for any reason by giving at least thirty (30) days written notice to Tenant. The termination of this Lease will terminate Tenant's right to occupancy but it will not terminate any claims Tenant or Landlord may have arising out of events occurring during the Lease term or during any holdover by Tenant. No agreement renewing or extending this Lease will be effective unless that agreement is in writing and signed by Tenant and Landlord. If Tenant remains in possession of the Premises after the lease term is terminated or expires and Landlord consents to such holdover but does not enter into a written agreement extending this Lease or substituting a new written lease, Tenant shall have a month to month lease subject to termination by either party upon 30 days notice. The monthly rent during such holdover period shall be at the same rate as under this Lease or as otherwise agreed in writing.
24. **ASSIGNMENT OR SUBLET.** Tenant will not assign this Lease or sublet the Premises without Landlord's prior written consent, which will not be unreasonably withheld or delayed. Tenant agrees to pay Landlord a \$ N/A fee if Tenant assigns or sublets the Premises, or any part thereof. No assignment or sublet will release Tenant from continuing liability for the full performance of this Lease unless Landlord signs a written statement clearly releasing Tenant from such liability.
25. **BREACH BY TENANT.** If (a) Tenant fails to pay rent within five days after the date when due, (b) Tenant commits a material breach of this Lease, (c) Tenant denies Landlord's exercise of any rights under this Lease or arising by law, (d) legal proceedings are begun by or against Tenant to levy upon or dispose of Tenant's leasehold interest in the Premises, or (e) the Premises is used by Tenant or others for any illegal purposes, Landlord will have the right to sue for rent and to enter and take possession through legal proceedings or, if the Premises is abandoned, to enter and take possession by any lawful means. In addition, Landlord will have the right to pursue all other remedies available, including a claim for damages. If Landlord pursues any such remedies (and regardless of whether such remedies are prosecuted to judgment), Tenant will be liable as follows:
- For all past due rent and other charges
 - For all additional rent (future rent) that would have accrued until the expiration of the term of occupancy under this Lease or until a new lease term begins, provided (i) that this will not affect Landlord's duty to minimize the damages by making reasonable efforts to enter into a new lease as soon as practical, and

- (ii) that if Landlord obtains a judgment for future rent, Landlord shall apply as a credit towards that judgment all funds received by Landlord as rent for the Premises for those months for which the judgment for future rent was awarded.
- c. For all expenses Landlord may incur for cleaning, painting and repairing the Premises due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted;
 - d. For any court costs and reasonable attorneys fees incurred by Landlord (i) in collecting rent, other charges or damages, and (ii) in obtaining possession of the Premises;
 - e. For a collection fee equal to 25% of the judgment amount for rent, damages, court costs and attorneys fees. Tenant understands and agrees that this amount represents damages Landlord will be likely to incur in efforts to obtain a judgment against Tenant (including time and effort spent in case investigation, correspondence, filing suit, discussions with lawyers, case preparation and court attendance) and to collect such a judgment. If Tenant has breached the Lease by failing to pay rent when due, Landlord shall give a written notice to Tenant stating that the Lease will terminate within 5 days if the rent is not paid. If Tenant fails to pay the rent within that 5 day period, Landlord may terminate the Lease and proceed to obtain possession of the Premises by filing an unlawful detainer proceeding. In that proceeding, Landlord may pursue a claim for rent and other damages. In connection with breaches other than failure to pay rent, if a material noncompliance with this Lease exists or if there is a violation materially affecting health and safety, Landlord may serve Tenant with a written notice stating that acts or omissions constituting the breach and stating (i) that the Lease will terminate upon a date not less than 30 days after Tenant receives the notice unless the breach is remedied within 21 days, and (ii) that the lease will terminate as set forth in the notice. If the breach is remedial by repairs or the payment of damages and Tenant adequately remedies the breach within 21 days or such longer period of time as Landlord may allow, the Lease shall not terminate. On the other hand, if the breach is not remedial, Landlord's written notice to Tenant may state the acts and omissions constituting the breach and state that the lease will terminate upon a specific date, which date may not be less than 30 days after Tenant receives the notice.
26. BREACH BY LANDLORD. If Landlord (a) commits a material breach of this Lease, or (b) fails to a substantial extent to comply with any laws with which Landlord must comply and which materially affect Tenant's health and safety, Tenant may give written notice to Landlord identifying the acts and conditions on the Premises concerning Landlord's breach and stating that this lease will terminate upon a specific date (which must be 30 days or more from the date Landlord receives the notice) unless Landlord remedies the breach within 21 days. If Landlord remedies the breach within that 21 day period, this Lease will not be subject to termination by Tenant in that instance. Tenant will not have the right to terminate this Lease because of conditions caused by the intentional or negligent acts of Tenant or persons on the Premises with Tenant's consent.
27. RENT WITHHOLDING. Tenant may not withhold rent because of conditions on the Premises that Landlord is required to repair unless Tenant has given Landlord written notice of the condition and Landlord has failed to successfully repair the condition within a reasonable period of time. If Tenant withholds rent because Landlord has breached the Lease, Tenant must immediately give Landlord a second written notice of the breach and of any conditions of the Premises which Landlord is required to remedy or repair and must state that rent is being withheld for such reasons. If Landlord then sues Tenant for possession of the Premises or for withheld rent, Tenant must promptly pay the rent to the court, which will hold the rent until it decides what portion, if any, should be paid to Landlord. If conditions exist which Landlord is required to remedy and which creates a fire hazard or serious threat to the health or safety of Tenant, Tenant may file an action in a court of competent jurisdiction to terminate the Lease, to require Landlord to repair the Premises, or to obtain other relief. In such an action, Tenant may pay rent to the court to be held until Tenant's action is decided. If Tenant withholds rent or pays rent into court under this section and the court finds (a) that Tenant has acted in bad faith, (b) that Tenant, Tenant's family or guests have caused the conditions or have refused unreasonably to allow Landlord or Landlord's written notice of the condition, Tenant will be liable for Landlord's reasonable costs, including costs for time spent, court costs, any repair costs due to Tenant's violation of the Lease, and attorneys fees.
28. NOTICES. All notices in writing required or permitted by this Lease may be delivered in person, or sent by mail (postage prepaid) to Landlord, Tenant or Agent at such party's address, as set forth above or at such other address as a party may designate from time to time by notice given in accordance with the terms of this section.

- 29. HEADINGS. The headings of the sections of this Lease are inserted for convenience only and do not alter or amend the provisions that follow such headings.
- 30. GOVERNING LAW. This Lease is entered into and shall be construed under the laws of the State of Virginia.
- 31. SEVERABILITY. Any provision of this Lease which is prohibited by, or unlawful or unenforceable under, Virginia law shall be ineffective only to the extent of such prohibition without invalidating the remaining provisions of this Lease.
- 32. FAILURE TO ENFORCE LEASE NOT A WAIVER. Landlord's waiver of a breach by Tenant shall not be interpreted as a waiver of any subsequent breach or noncompliance, and this lease shall continue in full force and effect.
- 33. AMENDMENTS. This lease may not be amended or modified except by prior written consent of the Landlord. All amendments or modifications shall be in writing and signed by both parties.
- 34. ENTIRE AGREEMENT. This lease shall constitute the full and complete agreement between the parties, and no other writings or statements (other than amendments or modifications pursuant to Section 33) shall be of any consequence or have any legal effect.

WITNESS the following signatures and seals:

CITY OF CHARLOTTESVILLE

BY: _____ (seal)
City Manager

COUNTY OF ALBEMARLE

BY: _____ (seal)
County Executive

TENANT

(seal)
(seal)

CONDITIONS OF APPROVAL

PROJECT: SP-2008-060. Albemarle Baptist Christian School

1. The school is limited to the existing building and grounds, as indicated on the concept plan (Attachment A). Any additional building or site changes beyond those shown on the approved site plan for SP-2001-47, prepared by Dex A. Sanders and dated November 28, 2007, will require an amendment to this Special Use Permit;
2. Maximum enrollment of students and staff shall be limited to forty (40) students and five (5) staff. Any increase in enrollment and/or staff shall require an amendment to this Special Use Permit (SP-2009-60) and a traffic study shall be required to be submitted with the amendment;
3. Hours of operation for the school shall be between 9:30 a.m. and 3:30 p.m. Monday through Friday from September 1 to June 15, excluding special school events. Students shall arrive no earlier than 9:00 a.m. and shall leave no later than 4:00 p.m.;
4. No additional outdoor lighting shall be allowed without an amendment to this Special Use Permit;
5. Food preparation for the private school use shall not be conducted without an amendment to this Special Use Permit;
6. All requirements of the Architectural Review Board shall be met, including the site plan indicating the existing tree line and specific trees of six (6) inches or greater and retaining significant trees;
7. The area of assembly shall be limited to a maximum four-hundred-thirty-five (435) seat sanctuary;
8. Commercial setback standards, as set forth in Chapter 18, 21.7.2 of the Albemarle County Zoning Ordinance, shall be maintained adjacent to residential uses or residentially zoned properties;
9. Any number of parking spaces in excess of the required minimum shall not be paved; and
10. There shall be no day care center without the approval of a separate special use permit.

PROJECT: SP-2008-066 - 20 South (Amendment).

1. Special Use Permit SP-2008-66 20 South Office shall be developed in general accord with the concept application plan, provided by the applicant and received March 16, 2009 (Attachment D). However, the Zoning Administrator may approve revisions to the concept application plan to allow conformance with the Zoning Ordinance;
2. There shall be no on-site sales;
3. There shall be no outdoor storage of materials;
4. All requirements of the Health Department shall be satisfied; and
5. No additional outdoor lighting shall be allowed without an amendment to this Special Use Permit.

PROJECT: SP-2009-006. Kenridge.

1. The approved final site plan shall be in general accord with the revised Conceptual Plan prepared by Collins Engineering, revision date August 25, 2009 ("Conceptual Plan") (See Attachment). Parking for the office use shall be limited to the area and number of spaces shown on the Conceptual Plan. If additional parking is required for the office use, an amendment of this special permit shall be required;
2. There shall be a minimum front yard of two hundred seventy-five (275) feet between the southern-most structure (the "Main House") and the property line adjacent to Route 250 as shown on the Conceptual Plan; side and rear yards shall be as shown on the Conceptual Plan;
3. All streets on the property connecting to adjacent properties as shown on the Conceptual Plan shall be constructed by the applicant to an urban section with the intent that such streets on the property connecting to adjacent properties will be built to a standard consistent with the connecting street on the White Gables property. All streets and pedestrian accesses shall be constructed to a standard acceptable to the County Engineer in accordance with the highlighted sections of Attachment A, revised and dated August 30, 2005 and initialed as CTG;
4. The connecting road extending from the former ITT property (Tax Map 60, Parcel 28) and across the Kenridge property to its entrance at Ivy Road, as shown on the Conceptual Plan, shall be established as a private street in conjunction with the final subdivision plat or site plan. As a condition of final subdivision plat or site plan approval, the applicant shall grant all easements deemed necessary by the Director of Community Development to assure the public's right to use the connecting road for purposes of ingress to and egress from Tax Map 60, Parcel 28;

5. The applicant shall comply with all requirements of the VDOT related to design and construction of the entrance to the property, as shown on the Conceptual Plan, and shall pay its pro rata share of the cost for signalization of this infrastructure contributed by traffic from the development as follows:
 - (a) Prior to the issuance of a building permit, the applicant shall place funds in escrow or provide other security ("security") acceptable to the County in an amount equal to its pro rata share of the cost of the signal which amount shall be calculated by the Director of Community Development in the year in which the security is provided. The security shall continue so that it is available to pay for the cost of the signal until ten (10) years after the date of approval of this special use permit; security provided that is not in an interest-bearing account shall be annually renewed, and the amount of the security shall be adjusted each year according to the consumer price index, as determined by the Director of Community Development; and
 - (b) If, at any time until ten (10) years after the date of approval of this special use permit, VDOT authorizes in writing the installation of the signal, and VDOT and the County's Engineer approve the signal's installation before the applicant has obtained a building permit, the County may demand payment of the applicant's pro rata share of the cost of the traffic signal, and the applicant shall pay its pro rata share of the cost to the County within thirty (30) days of that demand.
6. Screening adjacent to the railroad right-of-way and along the west and east sides of the project shall be provided and maintained as depicted on the Conceptual Diagram of Perimeter Screen and Privacy Planting, dated May 12, 2005, by Charles J. Stick, attached as Attachment B. The continuous evergreen trees noted as Leyland Cypress Hedge along the north, east and west sides of the project shall be installed at ten (10) feet to twelve (12) feet in height after lot grading but prior to issuance of a building permit for any dwelling unit construction. The Leyland Cypress Hedge also shall be planted on eight (8) foot centers. Underground irrigation shall be provided for all the planting areas. Screening deemed acceptable to the Director of Community Development shall be provided adjacent to the railroad to mitigate the impact of this development on adjacent property and the impact of the railroad on this development;
7. Prior to any alteration or demolition of any building, a reconnaissance level documentation to include black and white photographs and a brief architectural description shall be provided to the satisfaction of the County's Historic Preservation Planner;
8. Regardless of the ownership of the open space and amenities, they shall be made available for use by all residential and commercial units in the development;
9. Except for those attached single family buildings located in Zone (A) the exteriors of blocks of attached single family buildings shall be either red brick, or white painted brick, with gable roofs. The exteriors of attached single family buildings in Zone (A) shall be red brick with gable roofs. The features in Zone (A) shall be reviewed and approved by the ARB during its review of the site plan for these buildings. The exteriors of detached residences shall be either red brick or painted white brick. These materials shall be reviewed and approved by the Design Planner before the issuance of a building permit for the buildings (See Attachment C);
10. Exterior roof surfaces shall be constructed of either copper or synthetic slate;
11. The new villa and town home units shall include garden improvements, generally as depicted on the Front Garden Diagram, dated August 24, 2005, by Charles J. Stick, Landscape Architect (See Attachment D). Maintenance of these areas shall be provided for and required by the Homeowner's Association which shall be set forth in the Covenants for this development. The decorative walls, steps and walks shall be constructed of either brick or stone;
12. To ensure the retention of the majority of the existing trees in the two hundred seventy-five (275) foot front yard setback described in Condition 2 (located between the main house and the Route 250 West Entrance Corridor), the applicant shall submit for review and approval by the County's Design Planner a tree conservation plan prepared by a state certified arborist that meets the requirements of Section 32.7.9.4 of the Zoning Ordinance. This plan shall be required for all erosion and sediment control plans, site plans, and subdivision plats;
13. The site wall immediately adjacent to Route 250 West shall be included on all drawings that include its context. All grading, road alignments, turning lanes, and other improvements shall be adjusted to insure that impacts to the wall only include closing the existing entrance and adding a single entrance. Notes shall be included on the grading, site plans and subdivision plats that state: "The existing site wall shall remain. Disturbance shall be limited to the closure of the existing entrance and the opening of the proposed entrance into the site." Any changes to the wall shall be minimal and articulated to blend with the character of the existing wall to the satisfaction of the Architectural Review Board. Prior to the issuance of any building permits in the final block, the stone pillars shall be replaced at the new entrance from Route 250;

14. The design of all single family detached residences, including but not limited to colors, roofing, siding and foundation material selections, shall be coordinated with the Architectural Review Board-approved designs of the attached residential units, as determined by the Design Planner;
15. The owner agrees to voluntarily contribute a sum of three thousand dollars (\$3,000) cash per new dwelling unit to the County for funding affordable housing programs [including the Housing Trust Fund]. The cash contribution shall be paid at the time of the issuance of the Building Permit for such new unit. The acceptance of this special use permit by the owner shall obligate the owner to make this contribution;
16. Pedestrian access deemed acceptable by the Director of Community Development shall be provided to the Manor Home and the Carriage House; and
17. With the exception of the entrance road, all streets within the development shall conform to the neighborhood model matrix deemed appropriate by the Director of Community Development.

PROJECT: SP-2009-016. Music Festival.

1. The use shall conform to any existing applicable special use permits, including but not limited to SP-1994-30, whose terms are hereby incorporated by reference;
2. Development of the use shall be in conformity with the Concept Plan entitled Misty Mountain Camp Resort SP-2009-16 Music Festival, prepared by Albemarle County Office of Geographic Data Services, and signed by Mike Leo and dated August 6, 2009, (hereinafter, the "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator;

To be in conformity with the plan, development shall reflect the following central features within the development essential to the design of the development:

- location of temporary parking areas 1,2, and 3
- location of temporary stage

All activities related to the music festival shall take place within the area of the site bound by the Rockfish Gap Turnpike, Misty Mountain Road, Stockton Creek and the western parcel boundary. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;

3. A music festival special event shall be permitted once every twelve (12) month period, for a maximum of three (3) consecutive days consisting of one (1) week day and two (2) weekend days. Any increase in the number of special events shall require an amendment to this special use permit;
4. A maximum of fifteen (15) vendors shall be allowed to operate on any given day during the music festival;
5. Written approval from the Police Department, Fire and Rescue, and the Health Department shall be required each year prior to the issuance of a zoning clearance to allow the special event use;
6. No tree removal, grading, or disturbance shall take place within the driplines of the trees as shown on the Concept Plan prepared by Mike Leo, and dated March 25, 2009. Any grading or disturbance within ten (10) feet of any dripline shall necessitate submittal of a "Tree Protection Plan" in accord with section 32.7.9.4 of the Zoning Ordinance. No grading or disturbance within ten (10) feet of any dripline shall be permitted until: a) a survey and fencing have been completed and b) the Planning Director approves a plan which shows the grading or disturbance and the surveyed dripline of the existing trees;
7. Hours of operation for the music event shall be between 12:00 p.m. and 10:00 p.m.
8. Off-site parking shall not be permitted except in authorized parking lots from which people are transported to the special event by shuttle or comparable vehicles;
9. The maximum number of people allowed on the site for the special event on each day shall not exceed five hundred (500) persons.
10. The maximum number of vehicles allowed to be parked on the site for the special event on each day shall not exceed two hundred twenty four (224).
11. A minimum of twenty (20) private security, parking, and traffic control staff members shall be required on site each day of the music festival;
12. Overnight camping outside the designated camping areas shall be prohibited;
13. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
14. The maximum level of noise shall not exceed sixty-five (65) dBA as measured from an adjacent property;

15. The applicant shall reseed and restore the parking area site(s) as required by the zoning administrator within thirty (30) days of the last day of the special event;
16. The site shall be restored and cleared of all trash, debris, and temporary structures associated with the special event within two (2) days after the final day of the special event; and
17. Special use permit 2009-16 shall be valid until June 30, 2011.

ORDINANCE NO. 09-6(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 6, Fire Protection, of the Code of the County of Albemarle, is hereby amended and reordained as follows:

By Adding:

Article V	Emergency Medical Services Cost Recovery
Sec. 6-500	Purpose
Sec. 6-501	Definitions
Sec. 6-502	Permits Required
Sec. 6-503	Fees for emergency medical services vehicle transports

CHAPTER 6. FIRE PROTECTION**ARTICLE V: EMERGENCY MEDICAL SERVICES COST RECOVERY****Sec. 6-500 Purpose.**

Pursuant to Virginia Code §32.1-111.14, it is hereby determined that the powers set forth herein must be exercised in order to assure the provision of adequate and continuing emergency services and to preserve, protect and promote the public health, safety and general welfare.

State law reference—Virginia Code § 32.1-111.14

Sec. 6-501 Definitions.

"Agency" means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

"Ambulance" means any vehicle, vessel or aircraft, which holds a valid permit issued by the Office of Emergency Medical Services, that is specially constructed, equipped, maintained and operated, and is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The word "ambulance" may not appear on any vehicle, vessel or aircraft that does not hold a valid permit.

"Emergency medical services vehicle" means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.

State law reference—Definitions, Virginia Code § [32.1-111.1](#)

Sec. 6-502 Permits required.

No agency shall charge fees for transport services provided by a private emergency medical services vehicle within the county in response to a call for service originating from the county without first obtaining a permit pursuant to this section. Permits shall be issued in accordance with section 32.1-111.14 of the Virginia Code, as amended, by the county executive or his designee, upon such terms and conditions as may be needed to ensure the public health, safety and welfare. No permit shall be required for any person acting pursuant to a mutual aid agreement with the county or while assisting the county during a state of emergency. Agencies permitted pursuant to this article shall comply with all terms and conditions of their permits.

State law reference—Virginia Code § 32.1-111.14

Sec. 6-503 Fees for emergency medical services vehicle transports.

(a) Reasonable fees shall be charged for transport services provided by emergency medical services vehicles operated by the department of fire and rescue or by any private agency permitted under this

article. The schedule of fees shall be established by resolution of the board. In no event shall a person be denied transport for emergency medical services due to his or her inability to pay.

(b) The county executive shall establish policies and procedures to implement this section in accordance with applicable law, including payment standards for persons demonstrating economic hardship.