

**ACTIONS**  
**Board of Supervisors Meeting of August 3, 2011**

August 5, 2011

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>• Meeting was called to order at 9:00 a.m. by the Chair, Ms. Mallek. All BOS members were present. Also present were Tom Foley, Larry Davis, Ella Jordan and Meagan Hoy.</li> </ul>	
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> <li>• Ms. Mallek added the following items for discussion under "Other Matters" <ul style="list-style-type: none"> <li>• Next steps on getting details and final conditions for MPO decision on the Route 29 Western Bypass; and</li> <li>• Request from the Virginia Association of Railway Supporters to have the County participate in putting up directional signs to the Railroad Station.</li> </ul> </li> <li>• <b>ACCEPTED</b> agenda as proposed.</li> </ul>	
<p>5. Recognitions:</p> <ol style="list-style-type: none"> <li>a. Proclamation recognizing Women's Equality Day.</li> <li>b. Chair read and presented to Kobby Hoffman.</li> <li>c. SPQA Recognition for Social Services.</li> <li>d. Chair recognized the summer reading program at Western Albemarle Crozet Library.</li> </ol>	<p>(Attachment 1)</p> <p>(Attachment 2)</p>
<p>6. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li>• <u>Charles Battig</u> made a presentation entitled "Potpourri", a copy of which is on file in the Clerk's office.</li> <li>• <u>The following individuals spoke about the Board's process for public input and/or the proposed Route 29 Bypass:</u> <ul style="list-style-type: none"> <li>• Morgan Butler</li> <li>• Elly Tucker</li> <li>• Tony Vanderwarker</li> <li>• Cheri Kennedy Early</li> <li>• Candace Smith</li> <li>• Bill Jones</li> <li>• George Larie</li> <li>• Milton Moore</li> <li>• Emerald Young</li> <li>• John Pfaltz</li> <li>• Max Evans</li> <li>• Mary Rice</li> <li>• Tammy Moses</li> <li>• Dan Bieker</li> <li>• Jeff Werner</li> <li>• Neil Williamson</li> </ul> </li> </ul>	

7.2	Resolutions for Rural Rustic Road Paving Projects – Rose Hill Church Lane (Rt 762); Fortune Lane (Rt 704); Blufton Road (Rt 672) and Happy Creek Road (Rt 608). <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolutions designating sections of Rose Hill Church Lane, Fortune Lane, Blufton Road, and Happy Creek Road as Rural Rustic Roads and requesting VDOT to hard surface these road segments as Rural Rustic Road paving projects.</li> </ul>	Clerk: Forward copy of signed resolutions to Community Development and County Attorney's office. <u>David Benish</u> : Forward certified copy of resolution to VDOT. (Attachments 3-6)
7.3	FY 2011 Budget Amendment and Appropriations. <ul style="list-style-type: none"> <li>• <b>APPROVED</b> budget amendment in the amount of \$3,256.78 and <b>APPROVED</b> Appropriations #2011088 and #2011089.</li> </ul>	Clerk: Forward copy of signed appropriations to OMB, Finance and other appropriate individuals.
7.4	FY 2012 Budget Amendment and Appropriations. <ul style="list-style-type: none"> <li>• <b>APPROVED</b> budget amendment in the amount of \$660,428.46 and <b>APPROVED</b> Appropriations #2012010, #2012011, #2012012, #2012013, #2012014, #2012015, #201216, #2012017 and #2012018.</li> </ul>	Clerk: Forward copy of signed appropriations to OMB, Finance and other appropriate individuals.
7.5	Resolution in Support of the Restoration of State Funding for Aid to Localities. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolution.</li> </ul>	Clerk: Forward resolution to Governor McDonnell. (Attachment 7)
7.5a	Resolution to Resolution to accept Fortune Park Road in Forest Lakes North, Commercial Area, into the State Secondary System of Highways. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolution.</li> </ul>	Clerk: Forward copy of signed resolution to County Engineer. (Attachment 8)
8.	Pb Hrg: <b><u>SP-2011-00003. Scottsville Elementary School/AT&amp;T CV434 Tier III PWSF (Sign #18).</u></b> <ul style="list-style-type: none"> <li>• <b>APPROVED, by a vote of 6:0, SP-2011-00003</b>, subject to one condition.</li> </ul>	Clerk: Set out condition of approval. (Attachment 9)
9.	Pb Hrg: <b><u>SP-2011-00007. Glendower/Schmidt Property-AT&amp;T Tier III PWSF (Signs #21&amp;24).</u></b> <ul style="list-style-type: none"> <li>• <b>APPROVED by a vote of 6:0, SP-2011-00007</b>, subject to two conditions.</li> </ul>	Clerk: Set out conditions of approval. (Attachment 9)
10.	Pb Hrg: <b><u>SP-2011-00008. Fairview Catholic Diocese Property AT&amp;T Tier III PWSF (Sign #25).</u></b> <ul style="list-style-type: none"> <li>• <b>APPROVED, by a vote of 6:0, SP-2011-00008</b>, subject to one condition.</li> </ul>	Clerk: Set out condition of approval. (Attachment 9)
11.	Pb Hrg: <b><u>ZTA-2010-00002. Industrial performance standards.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, ordinance.</li> </ul>	Clerk: Forward copy of adopted ordinance to County Attorney's office and Community Development. (Attachment 10)
12.	Pb Hrg: <b><u>An ordinance to amend Chapter 12, Regulated Enterprises, Article I, False Alarms, of the Albemarle County Code.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, ordinance, to be effective November 1, 2011.</li> </ul>	Clerk: Forward copy of adopted ordinance to County Attorney's office, Fire and Rescue, Police and ECC. (Attachment 11)
13.	Pb Hrg: <b><u>Streamline AFD review process – Amend County Code. 11-03( ) – Agricultural and Forestal Districts.</u></b> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, ordinance.</li> </ul>	Clerk: Forward copy of adopted ordinance to County Attorney's office and Community Development. (Attachment 12)
14.	Rivanna Solid Waste Authority Funding Agreements for Solid Waste Services. <ul style="list-style-type: none"> <li>• <b>AUTHORIZED</b> the County Executive to sign the agreements for funding of RSWA's Ivy and McIntire facilities.</li> <li>• <b>CONSENSUS</b> that staff present long-term</li> </ul>	Mark Graham/George Shadman: Proceed as approved. (Attachment 13-14)

	<p>service options with consideration of changes to RSWA Organizational Agreement and</p> <ul style="list-style-type: none"> <li>• <b>CONSENSUS</b> that staff bring back information to Board on costs of a second hazardous waste day.</li> </ul>	
15.	<p>Jarman's Gap Road Closure for Construction.</p> <ul style="list-style-type: none"> <li>• Karen Kilby informed Board members that due to unforeseen circumstances, VDoT plans to close Jarman's Gap Road August 15<sup>th</sup> until approximately October 15<sup>th</sup> to complete the box culvert reconstruction.</li> <li>• Karen Kilby announced that she would be retiring from VDoT effective October 1<sup>st</sup>.</li> </ul>	
16.	<p>Closed Session.</p> <ul style="list-style-type: none"> <li>• At 12:44 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees and commissions and under subsection (7) to consult with legal counsel and staff regarding pending litigation arises from appeals of real property assessments.</li> </ul>	
17.	<p>Certified Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 1:52 p.m., the Board reconvened into open meeting and certified the closed meeting (Rooker absent).</li> </ul>	
18.	<p>Boards and Commissions: Appointments.</p> <ul style="list-style-type: none"> <li>• <b>APPOINTED</b> Steven Janes to the Rivanna Solid Waste Authority Citizens Advisory Committee to fill an unexpired term that will expire on December 31, 2011.</li> </ul>	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>
19.	<p>Board to Board Update – Albemarle County Schools.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
20.	<p>Tourism Update/Priorities.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
21.	<p>From the Board: Matters Not Listed on the Agenda.</p> <p><u>Rodney Thomas:</u></p> <ul style="list-style-type: none"> <li>• The Fire Rescue Advisory Board met, and he will provide an update to the Board at the next meeting.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>• Discussed the Regional Planning Grant (Consent Agenda item 7.10.)</li> <li>• The Business Roundtable session was a success, and there was excellent discussion.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• The Virginia Association of Railway Patrons requested that the County find places for signs to help direct citizens to the Amtrak Station. There was a <b>consensus</b> of the Board to proceed.</li> <li>• Discussed the Route 29 Bypass.</li> <li>• <b>Moved</b> to direct the County representation on the MPO not to vote on a final TIP amendment until after the Board meets and discusses such amendment on September 7, 2011. Motion</li> </ul>	<p><u>County Executive:</u> Proceed as approved.</p>

	failed by a vote of 2:4 (Boyd, Dorrier, Snow, Thomas.)	
22.	<b><u>Joint meeting with Planning Commission and Architectural Review Board.</u></b> <ul style="list-style-type: none"> <li>• <b>HELD.</b></li> </ul>	
22a.	Community Development – Site Plan and Subdivision Review Process. <ul style="list-style-type: none"> <li>• <b>Consensus</b> of the Board to follow Option 1 and the six recommendations as attached.</li> </ul>	<u>Community/Current Development:</u> Proceed as approved.  (Attachment 15)
22b.	Community Development – Legislative Review Process. <ul style="list-style-type: none"> <li>• <b>Consensus</b> of the Board to concur with the changes recommended in items A through G as attached. Staff will prepare a resolution of intent to initiate the necessary zoning text amendment for the recommended process changes for consideration by the Board on an upcoming consent agenda.</li> </ul>	<u>Community/Current Development:</u> Proceed as approved.  Clerk: Schedule on Consent agenda when ready to come back to Board.  (Attachment 15)
22c.	Matters not Listed on Agenda. <ul style="list-style-type: none"> <li>• <b>Directed</b> staff, Ms. Mallek, and Mr. Snow to coordinate with the City to clarify a position on the need for commitments to priority projects as a condition of continuing support for the Western Bypass.</li> <li>• Mr. Davis clarified that an additional TIP amendment would require a vote by the MPO to initiate that process.</li> </ul>	<u>County Executive:</u> Proceed as approved.
32.	Adjourn. <ul style="list-style-type: none"> <li>• The meeting was adjourned at 6:07 p.m.</li> </ul>	

ewj/mrh

- Attachment 1 - Proclamation recognizing Women's Equality Day
- Attachment 2 – Proclamation - Better Business Challenge
- Attachment 3 – Resolution – Rose Hill Church Lane
- Attachment 4 – Resolution – Fortune Lane
- Attachment 5 – Resolution – Blufton Creek
- Attachment 6 – Resolution – Happy Creek
- Attachment 7 – Resolution in Support of the Restoration of State Funding for Aid to Localities
- Attachment 8 – Resolution to accept Fortune Park Road in Forest Lakes North, Commercial Area, into the State Secondary System of Highways
- Attachment 9 – Conditions of Approval on Planning Items
- Attachment 10 – Ordinance - ZTA-2010-00002. Industrial performance standards
- Attachment 11 – Ordinance – False Alarms
- Attachment 12 – Ordinance – Agricultural and Forestal Districts
- Attachment 13 – RSWA Support Agreement for Ivy MUC
- Attachment 14 – RSWA Support Agreement for McIntire Recycling Facility
- Attachment 15 - Site Plan/Subdivision Review Process and Legislative Review Process guidelines

**PROCLAMATION**

**WHEREAS**, this is the **91<sup>st</sup> Anniversary** of the Nineteenth Amendment to the U.S. Constitution giving women the right to vote in 1920; and

**WHEREAS**, in 1848, 163 years ago in Seneca Falls, the need was recognized and proclaimed, but after great effort there is still no reliable protection in the U.S. Constitution for women against sex discrimination in general; and

**WHEREAS**, in many other ways the tasks of providing equal opportunities to women and men, and the tasks of removing burdens which fall unjustly on women as compared with men remain uncompleted.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Albemarle County, Virginia, does hereby proclaim

**August 26, 2011,**  
as  
**WOMEN'S EQUALITY DAY**

in remembrance of all those women and men who have worked to develop a more equitable community, which acknowledges both the real similarities and the important differences between women and men, with liberty and justice for all; and

Signed and sealed this 3<sup>rd</sup> day of August 2011.

**Charlottesville Area Better Business Challenge Proclamation**

- WHEREAS,** Albemarle County is recognized as an exceptionally beautiful and healthy community in which we live, work and play, rich in environmental resources and priceless assets such as the waterways farmlands, open spaces and mountain views, home to thriving businesses and having a high regard for life-long learning; and
- WHEREAS,** Albemarle County supports broader community economic vitality, fostered by cost-efficient operations that are not negatively impacted by rising energy costs; and
- WHEREAS,** Albemarle County is committed to sound, thoughtful environmental stewardship; understanding that in order to maintain the current quality of life we must take measures to operate businesses in a responsible and forward-looking manner; and
- WHEREAS,** Albemarle County supports the goal of lifelong learning, driving innovation and leadership in business; and
- WHEREAS,** Albemarle County now supports this community-wide collaboration between local governments, non-profit organizations (including churches and schools) and business organizations, including the Chamber of Commerce, called the Charlottesville Area Better Business Challenge with the goal of keeping Albemarle a vibrant and healthy community.
- NOW, THEREFORE,** I, Ann Mallek, Chair, on behalf of the Albemarle County Board of Supervisors, do hereby proclaim the County's support for the Better Business Challenge, and call upon our business leaders to participate in the Challenge by enrolling before the September 15, 2011 deadline.

RESOLUTION

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

**WHEREAS**, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 762, Rose Hill Church Lane, From: Route 732 To: End of State Maintenance should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the public has been made aware that this road may be paved with minimal improvements; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation.

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

RESOLUTION

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

**WHEREAS**, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 704, Fortune Lane, From: Route 715 To: End of State Maintenance should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the public has been made aware that this road may be paved with minimal improvements; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.



RESOLUTION

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

**WHEREAS**, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 672, Blufton Road, From: Route 810 To: End of State Maintenance should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the public has been made aware that this road may be paved with minimal improvements; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

**RESOLUTION**

**WHEREAS**, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

**WHEREAS**, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

**WHEREAS**, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 608, Happy Creek Road, From: Route 645 To: Route 646 should be designated a Rural Rustic Road; and

**WHEREAS**, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

**WHEREAS**, the public has been made aware that this road may be paved with minimal improvements; and

**WHEREAS**, the Board believes that this road should be so designated due to its qualifying characteristics; and

**WHEREAS**, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

**BE IT FURTHER RESOLVED**, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

**RESOLUTION IN SUPPORT OF RESTORATION  
OF STATE FUNDING FOR AID TO LOCALITIES**

**WHEREAS**, financial assistance from the Commonwealth of Virginia for mandated and high priority programs, including public education, health and human services, public safety and constitutional officers, is \$800 million less in FY12 than in FY09; and

**WHEREAS**, cities and counties must balance their budgets during a time in which future state assistance is unreliable, federal stimulus dollars are dwindling, and real estate assessments have not fully stabilized; and

**WHEREAS**, the Appropriation Act contains \$60 million in across-the-board cuts to cities and counties for both FY11 and FY12, under which localities are required to either elect to take reductions in particular state aid programs, or to send the state a check for the amounts determined by the Department of Planning and Budget ("Local Aid to the State"); and

**WHEREAS**, the reductions are applied to essential services, including law enforcement, jail administration, foster care and child protection services, election administration and social services; and

**WHEREAS**, the County of Albemarle does not have the authority to unilaterally decide to discontinue providing services such as election administration or to refuse to house and care for state prisoners in local and regional jails; and

**WHEREAS**, the state budget cuts are not accompanied by any reductions in state-imposed mandates, standards and service requirements, nor do they provide any administrative flexibility for local agencies; and

**WHEREAS**, the County of Albemarle has elected to take the \$592,574 in FY12 reductions through a combination of program reductions and a reimbursement payment to the State; and

**WHEREAS**, the Albemarle/Charlottesville Regional Jail has also been impacted by the reductions in state funding and has been required to take a reduction of \$288,863 in FY 12; and

**WHEREAS**, cities and counties will have provided the state with \$220 million by the close of FY12 for this "Local Aid to the State" program; and

**WHEREAS**, specifically, Albemarle County has received a total of \$ 2,133,602 in reductions in these particular state aid programs since FY 09.

**WHEREAS**, these reductions shift state costs to local taxpayers and artificially increases the amount of state surplus revenue; and

**WHEREAS**, state revenues have begun to recover and the state is expecting to have a revenue surplus of \$311 million, the second consecutive year in a row of state surpluses; and

**WHEREAS**, the state should not shift its share of the costs for mandates and responsibilities to local governments.

**NOW, THEREFORE, BE IT RESOLVED** that the County of Albemarle Board of Supervisors asks Governor Bob McDonnell to submit a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14; and

**BE IT FURTHER RESOLVED** that the members of the General Assembly support a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14.

**ATTACHMENT 8**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 3<sup>rd</sup> day of August 2011, adopted the following resolution:

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

WHEREAS, the street(s) in **Forest Lakes North, Commercial Area**, as described on the attached Additions Form AM-4.3 dated **August 3, 2011**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Forest Lakes North, Commercial Area**, as described on the attached Additions Form AM-4.3 dated **August 3, 2011**, 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 AM-4.3 is:

- 1) **Fortune Park Road (State Route 1754)** from the intersection of Route 1722 (Worth Crossing) to the west end of State maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2464, pages 27-28, with a 50-foot right-of-way width, for a length of 0.06 miles.

Total Mileage – 0.06

CONDITIONS OF APPROVAL

**SP-2011-00003, Scottsville Elementary School/AT&T CV434 Tier III PWSF (Sign #18).**

1. All work shall be done in substantial accord with what is described in the applicant's request and site construction plans, entitled "Scottsville Elementary School CV434", with a final zoning drawing submittal date of 5/17/11; and
2. Vegetative screening meeting the requirements of Section 32.7.9.8(a) must be maintained at all times between the facility and Route 20.

**SP-2011-00007. Glendower/Schmidt Property-AT&T Tier III PWSF (Signs #21&24).**

1. All work shall be done in substantial accord with what is described in the applicant's request and site construction plans, entitled "VA9023 Glendower Schmidt Property", with a final zoning drawing submittal date of 4/12/11.

**SP-2011-00008. Fairview Catholic Diocese Property AT&T Tier III PWSF (Sign #25).**

1. The proposed personal wireless service facility must be developed in substantial accord with the plan prepared by Clear Signal Towers, LLC with a revised final drawing date of 4-17-2011, and a certified engineer's seal and signature dated 4-17-2011.

**ORDINANCE NO. 11-18(8)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURE, 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 18, Zoning, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

**By Amending:**

Sec. 4.14	Performance standards
Sec. 4.14.1	Noise
Sec. 4.14.2	Vibration
Sec. 4.14.3	Glare
Sec. 26.7	Performance standards
Sec. 30.4.3	Permit required
Sec. 30.4.14	Performance standards
Sec. 31.5	Zoning clearance

**By Amending, Renumbering and Renaming (old section number first, followed by new section number, followed by heading):**

Sec. 4.14.7	Sec. 4.14.4	Electrical disturbance
Sec. 4.14.8	Sec. 4.14.5	Certified engineer's report

**By Amending and Incorporating the Substance into Another Section (old section number first, followed by section number in which substance incorporated):**

Sec. 4.14.2.1	Sec. 4.14.2	Method of measurement
Sec. 4.14.2.2	Sec. 4.14.2	Meaning of terms

**By Repealing:**

Sec. 4.14.4	Air pollution
Sec. 4.14.5	Water pollution
Sec. 4.14.6	Radioactivity

**Chapter 18. Zoning****Article II. Basic Regulations****Sec. 4.14 Performance standards**

Each use of an industrial character as determined by the zoning administrator and each use to which section 4.14 is expressly applicable to that use (referred to collectively in sections 4.14.1 through 4.14.5 as a "use of an industrial character") shall be subject to the performance standards in this section through section 4.14.5.

**Sec. 4.14.1 Noise**

Sound generated from a use of an industrial character shall comply with section 4.18.

(§ 4.14-12-10-80; Ord. 00-18(3), 6-14-00)

**Sec. 4.14.2 Vibration**

Vibrations generated from a use of an industrial character shall be subject to the following:

- a. *Method of measurement.* The vibration standards delineated in this section shall be measured as follows:

1. Measurements shall be made at or beyond the closest boundary line of an abutting lot and the zoning district boundary line closest to the source as provided below in a manner accepted by the county engineer.
  2. Ground transmitted vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity or acceleration simultaneously in three (3) mutually perpendicular directions. The term "vibration" means the periodic displacement or oscillation of the earth.
  3. The maximum particle velocity shall be the maximum vector sum of the three (3) mutually perpendicular components recorded simultaneously. Particle velocity may be also expressed in a manner accepted by the county engineer, applying sound engineering principles.
- b. *Standards.* The following standards apply, as measured in inches per second, for the maximum allowable peak velocity:

<b>Type of vibration</b>	<b>At residential district boundaries</b>	<b>At other lot lines within district</b>
Continuous	.00	.015
Impulsive (100 per minute or less)	.006	.030
Less than 8 pulses per 24 hours	.015	.075

**Sec. 4.14.3 Glare and heat**

Glare and heat generated from a use of an industrial character shall be subject to the following:

- a. *Glare from lights, building surfaces or processes.* No direct or sky reflected glare, whether from flood lights, building surfaces or from high temperature processes such as, but not limited to, combustion, or welding, so as to be visible beyond the lot line, shall be permitted except for signs, parking lot lighting and other lighting authorized by this chapter or required by any other applicable law. However, any operation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.
- b. *Intense glare from processes.* Any operation producing intense glare as determined by the zoning administrator shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. An operation will be deemed to produce intense glare when it creates a sensation of extreme brightness within the visual field which causes squinting, discomfort or loss in visual performance and visibility in persons not suffering from light sensitivity (photophobia).
- c. *Intense heat from processes.* Any operation producing the emission of heat which would cause a temperature increase of one degree Fahrenheit (1° F) or greater as measured at or beyond the closest boundary line of an abutting lot shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. No heat or heated air shall be discharged such that a temperature increase of one degree Fahrenheit (1° F) or greater is measureable at or beyond the closest boundary line of an abutting lot. Vents, chimney stacks and other devices for emitting heat or heated air from a building shall be oriented away from abutting lots within the rural areas (RA) or any residential zoning district.

#### **Sec. 4.14.4 Electrical disturbance**

No electrical disturbance generated from a use of an industrial character shall adversely affect any activity, including the use of any machinery or equipment, on any other lot. Any electrical disturbance that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

#### **Sec. 4.14.5 Certified engineer's report**

Prior to the issuance of a zoning clearance or approval of a final site plan, each prospective occupant of a use of an industrial character shall submit a certified engineer's report as follows, except as provided in section 4.14.5(c):

- a. *Contents.* Each certified engineer's report shall include the following information unless the county engineer determines that any such information is not necessary:
  1. *Nature of the operation.* A description of the proposed operation, including all machines, processes, and products.
  2. *Emissions and discharges.* The identification of all by-products or wastes, stating the expected levels of emissions or discharges to land, air, and/or water of any liquid, solid or gas, and the emission of electrical impulses and sound under normal operations.
  3. *Control of emissions and discharges.* Descriptions and specifications as to how emissions and discharges will be treated and the equipment and practices that will be used to control emissions and discharges.
  4. *Other information.* Any state or federal permits, readings, measurements, plans or documentation necessary to demonstrate that the proposed use will comply with this chapter, other requirements of the Code and all applicable state and federal laws, including but not limited to those pertaining to the following:
    - (a) *Air emissions.* Air emissions subject to the applicable regulations of the State Air Pollution Control Board and the Virginia Department of Environmental Quality.
    - (b) *Water discharges.* Water discharges subject to the applicable regulations of the State Water Control Board and the Virginia Department of Environmental Quality.
    - (c) *Radioactive materials and radiation emissions.* Radioactive materials used in conjunction with, and radiation emissions from, a use that is subject to the applicable regulations of the State Board of Health and all applicable requirements arising from all agreements between the Commonwealth of Virginia and the United States of America, and any department or agency thereof, pertaining to radioactive materials or radiation emissions, and all interstate compacts pertaining to radioactive materials or radiation emissions to which the Commonwealth of Virginia is a party. Any radioactivity or radiation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.
    - (d) *Flammable, hazardous and explosive materials.* Flammable, hazardous and explosive materials used in conjunction with a use shall comply with the applicable requirements of the county fire marshal and the Virginia Department of Environmental Quality.
    - (e) *Disposal of waste and spill containment.* The disposal of waste and the containment of spills in conjunction with a use shall comply with the applicable requirements of the county fire marshal.
- b. *Review of report.* The certified engineer's report shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance



standards in sections 4.14 through 4.14.5. If a site plan is required, the county engineer shall review the report and inform the commission or the agent prior to action on the preliminary site plan as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

- c. *Document in lieu of certified engineer's report.* In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

(Amended 9-9-92)

### **Article III. District Regulations**

#### **Sec. 26.7 Performance standards**

The performance standards set forth in sections 4.14 through 4.14.5 shall apply.

#### **Sec. 30.4.03 Requirements for zoning clearance**

Each zoning clearance required by section 31.5(a)(5) shall be subject to the following:

- a. *Information required to be submitted.* The operator of the natural resource extraction activity shall file the following as part of its application for a zoning clearance:
1. *Plan of proposed activity.* A plan of the proposed natural resource extraction activity, supported by all data deemed necessary by the zoning administrator to ensure compliance with the requirements of section 30.4. The plan may be a copy of the applicable plan of the proposed natural resources extraction activity authorized by the Virginia Department of Mines, Minerals and Energy under Title 45.1 of the Virginia Code. The zoning administrator may require that the state-approved plan be supported by all data deemed necessary to ensure compliance with the requirements of section 30.4.
  2. *Evidence of compliance.* Evidence deemed sufficient by the zoning administrator to determine that that the operator has obtained all permits required by the Virginia Department of Mines, Minerals and Energy and the Virginia Department of Environmental Quality, and evidence that the operator has complied with all applicable requirements of Title 45.1 of the Virginia Code and the applicable regulations of the Virginia Department of Environmental Quality.
- b. *Periodic review and termination of zoning clearance.* Each zoning clearance shall be subject to annual review by the zoning administrator. If any permit for a natural resource extraction activity issued by the Virginia Department of Mines, Minerals and Energy or the Virginia Department of Environmental Quality expires or is terminated as provided by law, the zoning clearance shall not be deemed to authorize any activity authorized by the expired or terminated state-issued permit,

(Amended 4-28-82)

#### **Sec. 30.4.14 Performance standards**

In addition to any other provision of law, the following performance standards shall apply to any use permitted by sections 30.4.02.1 or 30.4.02.2:

1. No blasting shall be permitted except in conjunction with a clearance required by sections 30.4.03 and 31.5(a)(5);

2. Ground vibration from surface blasting shall not exceed the limits set forth in 4 VAC 25-40-880, as measured in the manner set forth therein (Amended 6-14-00);
3. Air overpressure resulting from surface blasting shall not exceed 133 decibels measured at the closest boundary line of a lot abutting the NR district that is not within an NR district and is measured using the procedures provided in section 4.18.03. (Amended 6-14-00)

#### **Article IV. Procedure**

##### **Sec. 31.5 Zoning clearance**

The zoning administrator shall review requests for zoning clearances as follows:

- a. *When required.* A zoning clearance shall be required in the following circumstances:
  1. *New use.* Prior to establishing a new non-residential, other than an agricultural, use.
  2. *Change or intensification of existing use.* Prior to changing or intensifying an existing non-residential, other than an agricultural, use.
  3. *Change of occupant.* Prior to a new occupant taking possession of an existing non-residential, other than an agricultural, use.
  4. *Specific buildings, structures or uses.* Prior to establishing any building, structure or use for which a zoning clearance is required under section 5.
  5. *Commencement of extraction activity.* Prior to commencing any natural resource extraction activity within the natural resources overlay district.
- b. *Approval.* If the proposed building, structure, improvements, and site, and the proposed use thereof, comply with this chapter, the zoning administrator shall issue the zoning clearance.
- c. *Circumstance when zoning clearance shall not be issued.* The zoning administrator shall not issue a zoning clearance if, after review of any site, the zoning administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan. (Added 9-9-92; Amended 10-3-01) (§ 31.2.3.3, 9-9-92; Ord. 01-18(6), 10-3-01)
- d. *Notice to the owner if the applicant is not the owner.* Within ten (10) days after receipt of a request for a zoning clearance by an applicant who is not the owner of the lot and/or structure to which the zoning clearance pertains, and prior to acting on the request, the zoning administrator or the applicant, at the zoning administrator's request, shall give written notice of the request to the owner. Written notice mailed to the owner's last known address as shown on the current real estate tax assessment records shall satisfy this notice requirement. If the zoning administrator requests that the applicant provide the written notice, the applicant shall provide satisfactory evidence to the zoning administrator that the notice has been given.
- e. *Commercial and industrial uses defined.* For the purposes of this section 31.5, agriculture composed of horticulture, viticulture, silviculture or other gardening which may involve the tilling of soil for the raising of crops and the keeping of livestock and/or poultry is not a commercial or industrial use, and a home occupation is a commercial use. (Added 9-9-92; Amended 10-3-01)
- f. *Effect of renumbering and renaming.* Any other section of this chapter that refers to section 31.2.3.2 or to a zoning compliance clearance shall be deemed to be a reference to section 31.5 or a zoning clearance.

(§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01)

**ORDINANCE NO. 11-12(2)**

AN ORDINANCE TO AMEND CHAPTER 12, REGULATED ENTERPRISES, ARTICLE I, FALSE ALARMS, 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 12, Regulated Enterprises, Article I, False Alarms, is hereby amended and reordained as follows:

**By Adding:**

**Sec. 12-100 Purpose**

**Sec. 12-102 Registration of alarm systems designed to seek a police response**

**Sec. 12-103 Maintenance of alarm systems required; disconnection of alarm systems**

**Sec. 12-106 Automatic dialing devices prohibited; penalty**

**By Amending and Renumbering:**

**Sec. 12-100 False alarm; defined**

**to Sec. 12-101 Definitions**

**Sec. 12-101 False alarms prohibited; penalty**

**to Sec. 12-104 False alarms prohibited; service fees**

**Sec. 12-102 Intentional false alarms a criminal criminal offense**

**to Sec. 12-105 Deliberate false alarms a offense**

**Sec. 12-104 Administration**

**to Sec. 12-107 Administration**

**Sec. 12-105 Appeals**

**to Sec. 12-108 Appeals**

**By Repealing:**

**Sec. 12-103 Charges for false alarms**

**CHAPTER 12. REGULATED ENTERPRISES  
ARTICLE I. FALSE ALARMS**

**Sec. 12-100 Purpose.**

The board hereby finds that malfunctioning alarm systems, and the false alarms associated with them, constitute a hazard to public safety personnel and to the public in general. The regulation of alarm systems and false alarms is necessary to promote the health, safety and welfare of county citizens. False alerts of intrusions or robberies increase the county's public safety costs, divert public safety resources from other critical areas of work, and burden the Charlottesville-U.Va.-Albemarle Emergency Communications Center. In order to preserve the integrity and efficiency of the county's police and fire and rescue emergency services, those who utilize automatic alarm systems must be required to maintain those systems in good working order and to promptly repair any defects which may cause those systems to trigger false alarms.

**Sec. 12-101 Definitions.**

For the purposes of this article and, unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

*Alarm system* means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which a police or fire and rescue response is expected.

*Alarm system user* means: (1) any person or entity owning or leasing an alarm system; or (2) any person or entity owning or leasing the premises on which such alarm system is maintained. An "alarm system user" shall not include the United States, the Commonwealth of Virginia, or their respective agencies or political subdivisions.

*Automatic dialing device* means any device, system or equipment that automatically transmits over telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating

the existence of an emergency situation to which a police, fire, or emergency medical services response is expected.

*Emergency communications center* means the regional 911 center known as the Charlottesville-U.Va.-Albemarle Emergency Communications Center.

*False alarm* means an alarm that causes a police or fire and rescue response when there is no actual or threatened criminal activity, fire, or other emergency requiring an immediate police or fire and rescue response. False alarms shall include, but not be limited to: negligently or accidentally activated signals; signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals which are purposefully activated to summon a police or fire and rescue response in nonemergency situations; and alarms for which the actual cause is not determined. False alarms shall not include any alarms caused by failure of the equipment at the emergency communications center, or any alarms determined by the responding police or fire and rescue officer to have been triggered by criminal activity, activity unauthorized by the alarm system user, or activity outside the control of the alarm system user.

(Ord. of 4-17-91; Code 1988, § 2.2-1; Ord. 98-A(1), 8-5-98; § 12-100)

**State law reference**--Va. Code §15.2-911

### **Sec. 12-102 Registration of alarm systems designed to seek a police response.**

A. *General Requirements.* Prior to installing, using or maintaining on any premises within the county an alarm system which is designed to seek a police response, an alarm system user shall register such alarm system by providing the following information, using forms provided by the county, to the chief of police or his designee:

1. The street address of the premises at which the alarm system is to be installed or used (the "premises"); the name, mailing address and telephone number of the owner and lessee, if any, of such premises; and the name and mailing address of an individual (alarm user or designee of the alarm user) to whom notices regarding the alarm system may be sent; and

2. The names, street addresses and telephone numbers of at least two (2) individuals who will have day-to-day responsibility for the premises and alarm system, who will be immediately available to be contacted in the event an alarm is activated, and who are authorized and able to deactivate the alarm system; and

3. A description of the specific type of alarm system, manufacturer's name, and the name and telephone number of the alarm company monitoring, responding to or maintaining the alarm system; and

4. If registering an alarm system that has been disconnected or disabled following a notice to disconnect or disabled issued pursuant to §12-103, documentation that the alarm system has been repaired or passed inspection by an individual or entity qualified to repair or inspect alarm systems.

B. *Changes in Alarm System Registration Information.* Whenever any registration information provided by an alarm system user pursuant to subsection A changes, the alarm system user shall provide correct, updated information to the chief of police or his designee within ten (10) business days of the change. When an individual or entity takes possession of premises equipped with an activated alarm system, the individual or entity must provide updated registration information within ten (10) business days of taking possession as required by subsection A.

C. *Failure to Register Alarm System.* Upon the first police response to an unregistered alarm system in response to a signal issued by the alarm system, the chief of police or his designee shall issue a written notice to the alarm system user that the alarm system must be registered. Upon the second police response caused by an unregistered alarm system, the alarm system user shall be assessed a service fee in the amount of \$150. On the third or subsequent such response, the alarm system user shall be assessed a service fee in the amount of \$300.

D. Registration of an alarm system shall not create a contract, duty or obligation, either express or implied, for police to respond. Any and all liability and consequential damage resulting from the failure to respond to a notification from an alarm system is hereby disclaimed. By registering an alarm system, the alarm system user acknowledges that police responses may be based on factors such as the availability of responding units, staffing levels, priority of pending requests for services, weather conditions, traffic conditions and other emergency conditions.

**Sec. 12-103 Maintenance of alarm systems required; disconnection of alarm systems.**

A. *Maintenance of alarm systems.* Alarm system users shall maintain their alarm systems in good working order. Because alarm systems that generate multiple false alarms within a short period of time may be malfunctioning, the chief of police or his designee and the fire and rescue chief or his designee shall have the discretion to suspend responses to an alarm system after the second false alarm generated within a twenty-four (24) hour period; such suspension shall last for the remainder of the twenty-four hour period.

B. *Disconnection of alarm systems.* An alarm system user shall disconnect or disable any alarm system upon a written determination and notice by the chief of police or his designee or by the fire and rescue chief or his designee that the installation, use, operation and/or maintenance of the alarm system would constitute an unreasonable burden on police or fire and rescue resources. Any alarm system which generates eight (8) or more false alarms within any four (4) day period shall be deemed an unreasonable burden on police or fire and rescue resources. An alarm system user required to disconnect or disable an alarm system shall be entitled to register a new or repaired alarm system at any time in accordance with §12-102.

**Sec. 12-104 False alarms prohibited; service fees.**

A. *Prohibition.* No alarm system user or other person shall send or activate a false alarm that causes a police or fire-and rescue response where there is no actual or threatened crime, fire, or other emergency requiring an immediate police or fire and rescue response. Violations of this section shall result in the assessment of service fees as provided below.

B. *Service fee amounts.* Alarm system users shall pay a service fee for false alarms within thirty (30) days of billing. The service fee shall be assessed for each false alarm during any twelve (12) month period as follows:

1. First false alarm: No charge.
2. Second false alarm: No charge.
3. Third false alarm: \$100.
4. Fourth false alarm: \$150
5. Fifth false alarm: \$200
6. Sixth and subsequent false alarms: \$300

C. *Service fee assessments.* The county shall cause alarm system users to be billed for false alarms in accordance with the above schedule of service fees. All fees shall be paid within thirty (30) days of billing. Failure to pay a service fee within thirty (30) days of billing shall result in the assessment of a delinquent payment fee in an amount equal to the original fee and the initiation of civil action, as necessary, for the recovery of the unpaid fee.

(Ord. of 4-17-91; Code 1988, § 2.2-4; Ord. 98-A(1), 8-5-98, § 12-101)

**State law reference**--Va. Code § 15.2-911.

**Sec. 12-105 Deliberate false alarms a criminal offense.**

It shall be a class 1 misdemeanor for any person to knowingly and without just cause to activate an alarm system to summon a police or fire and rescue response where there is no actual or threatened criminal activity, fire, or other emergency that required an immediate police or fire and rescue response.

(Ord. of 4-17-91; Code 1988, § 2.2-2; Ord. 98-A(1), 8-5-98, § 12-102)

**State law reference**--Va. Code § 27-97; false alarms, §18.2-212, 18.2-461

**Sec. 12-106 Automatic dialing devices prohibited; penalty.**

No person or entity shall install, use, or maintain on any premises within the county any automatic dialing device which delivers, or causes to be delivered, any prerecorded voice message or coded signal to the emergency communications center or any department of the county. Violations of this section shall constitute a class 4 misdemeanor.

**Sec. 12-107 Administration.**

The chief of police, the fire and rescue chief, in coordination with the director of finance, shall have joint responsibility for administering this article under the supervision of the county executive.

(Ord. of 4-17-91; Code 1988, § 2.2-5; Ord. 98-A(1), 8-5-98, § 12-104)

**Sec. 12-108 Appeals.**

A. *Appeals for Alarms Requiring a Police Response.* Any fee imposed by the police department pursuant to this article or notice to disconnect or disable an alarm system may be appealed in writing to the chief of police, using forms provided by the police department, within ten (10) days of the date of notice of such fee or decision. Upon receipt of such appeal, the chief of police or his designee may grant relief from the fee or notice or affirm the fee or notice. Should the fee or notice be affirmed, the alarm system user may appeal the decision of the chief of police or his designee to the county executive by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the county executive or his designee may grant relief from the fee or notice, or affirm the fee or notice. The decision of the county executive or his designee is final.

B. *Appeals for Alarms Requiring a Fire and Rescue Response.* Any fee imposed by the county department of fire and rescue pursuant to this article may be appealed in writing to the fire and rescue chief, using forms provided by the department, within ten (10) days of the date of notice of such fee. Upon receipt of such appeal, the chief or his designee may grant relief from the fee, or affirm the fee. Should the fee be affirmed, the alarm system user may appeal the decision of the chief or his designee to the county executive by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the county executive or his designee may grant relief from the fee or affirm the fee. The decision of the county executive or his designee is final.

(Ord. of 4-17-91; Code 1988, § 2.2-6; Ord. 98-A(1), 8-5-98, § 12-105)

**This ordinance will be effective on and after November 1, 2011.**

**ORDINANCE NO. 11-03(3)**

AN ORDINANCE TO AMEND CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE I, GENERAL, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, AND ARTICLE III, DISTRICTS OF LOCAL SIGNIFICANCE, 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 3, Agricultural and Forestal Districts, Article I, General, Article II, Districts of Statewide Significance, and Article III, Districts of Local Significance, are hereby amended and reordained as follows:

**By Amending:**

- Sec. 3-200 Minimum size and location of district
- Sec. 3-201 Creation of district
- Sec. 3-202 Effect of district creation
- Sec. 3-203 Addition of land to district
- Sec. 3-204 Review of district; continuation, modification or termination
- Sec. 3-205 Withdrawal of land from district
- Sec. 3-300 Minimum size and location of district

**By Adding:**

- Sec. 3-104 Program administrator

**Chapter 3. Agricultural and Forestal Districts**

**Article I. General**

**Sec. 3-104 Program administrator**

The director of planning is hereby appointed the administrator of the county's agricultural and forestal district program.

**State law reference**--Va. Code § 15.2-4305.

**Article II. Districts of Statewide Significance**

**Division 1. Procedure**

**Sec. 3-200 Minimum size and location of district.**

Each agricultural and forestal district of statewide significance shall have a core of no less than two hundred (200) acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district: (i) if the nearest boundary of the parcel is within one (1) mile of the boundary of the core; (ii) if it is contiguous to a parcel in the district, the nearest boundary of which is within one (1) mile of the core; or (iii) if the board of supervisors finds, in consultation with the advisory committee and the planning commission, that the parcel not part of the core within one (1) mile of the boundary of the core contains agriculturally and forestally significant land. The land included in a district may be located in more than one locality provided that the requirements of Virginia Code § 15.2-4305 for districts are satisfied.

(Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-4305.

**Sec. 3-201 Creation of district.**

Each agricultural and forestal district of statewide significance shall be created as provided herein:

A. *Application.* On or before one or more application dates each year set by the director of planning, any owner or owners of land may submit an application to the director for the creation of a district. The application shall be made on a form developed and provided by the director and shall be signed by each owner of the land proposed to be included in the district. Each submitted application shall be accompanied by: (i) maps or aerial photographs, or both as may be required by the director, that clearly show the boundaries of the proposed district, the boundaries of the parcels owned by each applicant, and any other features prescribed by the director; and (ii) the fee required by section 3-206.

B. *Receipt and referral of application.* Upon receipt of an application for a district, the director shall refer the application to the advisory committee.

C. *Advisory committee review.* Upon receipt of an application from the director, the advisory committee shall review the application and any proposed modifications and report its recommendations to the planning commission. The advisory committee shall apply the criteria in Virginia Code § 15.2-4306 in its review of each application.

D. *Planning commission review.* Upon receipt of the report of the advisory committee on an application, the planning commission shall: (i) provide the notice required by Virginia Code § 15.2-4307(1); (ii) hold a public hearing; and (iii) after the public hearing, report its recommendations to the board of supervisors. The planning commission shall apply the criteria in Virginia Code § 15.2-4306 in its review of each application. The planning commission's report shall include the potential effect of the district and any proposed modifications upon the county's planning policies and objectives.

E. *Hearing and action by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the application. After a public hearing, the board of supervisors may by ordinance create a district as applied for or with any modifications it deems appropriate, as provided herein.

1. The ordinance shall be adopted pursuant to the conditions and procedures provided in Virginia Code § 15.2-4309.

2. The board of supervisors shall act to either adopt the ordinance creating the district, or reject the application, or any modification to it, within one hundred eighty (180) days after the application date set by the director under which the application was received.

(§ 2.1-2; 6-8-83, §§ 3, 4, 5; 12-16-87; 12-11-91; 7-1-92; Code 1988, § 2.1-2; Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

**State law reference**--Va. Code §§ 15.2-4303 through 15.2-4307 and 15.2-4309.

### **Sec. 3-202 Effect of district creation.**

The land within an agricultural and forestal district of statewide significance shall be subject to the following upon the creation of the district:

A. *Prohibition of development to more intensive use.* As a condition to creation of the district, no parcel within the district shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production, without the prior approval of the board of supervisors.

1. Except as provided in paragraph (2), a parcel shall be deemed to be developed to a more intensive use if:

(a) The proposed development would remove any portion of a parcel from agricultural or forestal production; or

(b) The proposed development would increase the population density or the level of activity on the parcel including, but not limited to, the rental of more than one dwelling unit on the parcel except as provided in paragraph (2)(e).



2. A parcel shall not be deemed to be developed to a more intensive use if:

(a) The proposed development is permitted by right in the rural areas (RA) zoning district;

(b) The proposed development is permitted by special use permit in the rural areas (RA) zoning district and the board of supervisors, in considering the application for a special use permit, determines that the development allowed by the permit is consistent with the purposes of this chapter;

(c) The proposed development is the proposed division of the parcel either by subdivision or rural division and the minimum lot size of such division is twenty-one (21) acres or greater;

(d) The proposed development is the proposed division of the parcel by family division; or

(e) The proposed development is the occupation of dwelling units on the parcel by members of the immediate family of any of the owners of such parcel or by bona fide farm employees, together with their respective families, if any.

B. *Applicability of comprehensive plan and zoning and subdivision ordinances.* The comprehensive plan and the zoning and subdivision ordinances shall apply within each district to the extent that the ordinances do not conflict with conditions of creation or continuation of the district, or the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code.

C. *Limitation on restricting or regulating certain agricultural and forestal farm activities.* The county shall not unreasonably restrict or regulate by ordinance farm structures or agricultural and forestal practices which are contrary to the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code unless such restriction or regulation is directly related to public health and safety. The county may regulate the processing or retail sales of agricultural or forestal products or structures therefor, in accordance with the comprehensive plan and any county ordinances.

D. *Consideration of district in taking certain actions.* The county shall consider the existence of a district and the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code in its comprehensive plan, ordinances, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to the district.

E. *Availability of land use-value assessment.* Land within a district and used for agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 of Chapter 32 of Title 58.1 of the Virginia Code, if the requirements for such assessment contained therein are satisfied.

F. *Review of proposals by agencies of the Commonwealth, political subdivisions and public service corporations to acquire land in district.* Any proposal by an agency of the Commonwealth, any political subdivision, or any public service corporation to acquire land or any interest therein in a district of statewide significance subject to Virginia Code § 15.2-4313 shall be reviewed under that section and the board of supervisors shall have all of the rights and powers granted to it therein.

G. *Parcel created by division remains in district.* A parcel created from the permitted division of land within a district shall continue to be enrolled in the district.

(§ 2.1-3; 6-8-83, § 6; 4-13-88; Code 1988 § 2.1-3; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-4312, 15.2-4313.

**Sec. 3-203 Addition of land to district.**

Land may be added to an agricultural and forestal district of statewide significance as provided herein:

A. *Application.* On or before one or more application dates each year set by the director of planning, any owner or owners of land may submit an application to the director to add one or more parcels to an existing agricultural and forestal district of statewide significance. The application shall be made on a form developed and provided by the director and shall be signed by each owner of the land proposed to be added to the district.

B. *Procedure.* The procedure for adding land to a district shall be the same procedure provided for the creation of a district in section 3-201(B) through (E).

(§ 2.1-2; 6-8-83, §§ 3 through 5; 12-16-87; 12-11-91; 7-1-92; Code 1988, § 2.1-2; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-4310.

### **Sec. 3-204 Review of district; continuation, modification or termination.**

Each agricultural and forestal district of statewide significance shall be reviewed as provided herein:

A. *Review period.* Each district shall be reviewed within the period set forth in the ordinance creating the district, which period shall not be less than four (4) years nor more than ten (10) years from the date of its creation, and shall thereafter be reviewed within each such subsequent period.

B. *Initiation of district review.* At least ninety (90) days before the expiration of the period of review of the district, the director of planning shall refer the district to the advisory committee for review.

C. *Advisory committee review.* Upon receipt of the referral of the district from the director, the advisory committee shall review the district, conduct a public meeting, and report to the planning commission its recommendations as to whether to terminate, modify or continue the district. Notice of the public meeting shall be provided to the owners of the land within the district as required by Virginia Code § 15.2-4311.

D. *Planning commission review.* Upon receipt of the report of the advisory committee on a district, the planning commission shall conduct a public hearing. The planning commission shall report to the board of supervisors its recommendations, together with the advisory committee's recommendations, as to whether to terminate, modify or continue the district.

E. *Hearing and action by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the district. After the public hearing, the board of supervisors may terminate, modify or continue the district. If the board continues the district, it may impose conditions different from those imposed when the district was created or last reviewed. If the board terminates the district, the land within the former district shall be subject to the applicable provisions of Virginia Code § 15.2-4314.

F. *Effect of failure to complete review by review date.* A district shall not terminate by the failure of the board of supervisors to act pursuant to paragraph (E) by the district's review date.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

**State law reference**--Va. Code § 15.2-4311.

### **Sec. 3-205 Withdrawal of land from district.**

An owner of land within an agricultural and forestal district of statewide significance may request that his land be withdrawn from the district, as provided herein:

A. *Withdrawal by right by owner.* After the planning commission initiates the review of a district and before the board of supervisors acts to continue, modify or terminate the district, an owner of land may withdraw the land from the district by filing a written notice of withdrawal with the director of planning.

B. *Withdrawal by right by certain successors to deceased owner.* Within two years of the date of death of an owner of land within a district, any heir, devisee, surviving co-tenant or personal representative of a sole owner of any fee simple interest of land may, upon the inheritance or descent of such land, withdraw the land from the district by filing a written notice of withdrawal with the director and the department of finance.

C. *Withdrawal in discretion of board of supervisors.* At any time after the creation of a district, an owner of land may request the board of supervisors to withdraw all or part of the land from the district, as provided herein:

1. *Filing of written request.* The owner shall file a written request for withdrawal with the director. The request shall identify the owner of the land, identify the land or part thereof proposed to be withdrawn, state the reason for the request, and address the criteria for review set forth in paragraph (C)(2). The request shall be accompanied by the fee required in section 3-206.

2. *Criteria for review.* A request to withdraw land from a district may be approved only if the withdrawal satisfies all of the following criteria:

(a) The proposed new land use will not have a significant adverse impact on agricultural or forestal operations on land within the district;

(b) The proposed new land use is consistent with the comprehensive plan;

(c) The proposed land use is consistent with the public interest of the county in that it promotes the health, safety or general welfare of the county, rather than only the proprietary interest of the owner; and

(d) The proposed land use was not anticipated by the owner at the time the land was placed in the district, and there has been a change in circumstances since that time.

3. *Advisory committee review.* Upon receipt of a request to withdraw from the director, the advisory committee shall review the request and report to the planning commission its recommendations. In conducting its review, the committee shall evaluate the request as provided in paragraph (C)(2).

4. *Planning commission review.* Upon receipt of the report of the advisory committee on a request to withdraw, the planning commission shall conduct a public hearing and evaluate the request as provided in paragraph (C)(2). The planning commission shall report to the board of supervisors its recommendations, together with the advisory committee's recommendations.

5. *Hearing by board.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the request.

D. *Effect of withdrawal.* Land that is withdrawn from a district shall be subject to roll-back taxes as provided in Virginia Code § 58.1-3237, and subject to all local laws and ordinances otherwise prohibited from applying to land within a district, as provided in section 3-202(C). The withdrawal of land from a district shall not itself terminate the district.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

**State law reference**--Virginia Code §§ 15.2-4307, 15.2-4314.

### **Article III. Districts of Local Significance**

#### **Division 1. Procedure**

##### **Sec. 3-300 Minimum size and location of district.**

Each agricultural and forestal district of local significance shall have a core of no less than twenty-five (25) acres in one parcel or in contiguous parcels, provided that any noncontiguous parcel that is not part of the core may be included in a district if: (i) the nearest boundary of the noncontiguous parcel is within one-quarter mile of the core; and (ii) the noncontiguous parcel had previously been included in a district of local significance. The land included in a district shall be located entirely within Albemarle County.

(9-15-93; Code 1988, § 2.1.1-2; Ord. 98-A(1), 6-17-98)

**State law reference**--Va. Code § 15.2-4405.

**IVY MATERIAL UTILIZATION CENTER PROGRAMS AGREEMENT**

**BETWEEN**

**THE COUNTY OF ALBEMARLE**

**AND**

**THE RIVANNA SOLID WASTE AUTHORITY**

This **Ivy Material Utilization Center Programs Agreement** (this "Agreement") is made this \_\_\_ day of \_\_\_\_\_, 2011 by and between the **County of Albemarle, Virginia** (the "County") and the **Rivanna Solid Waste Authority** (the "Authority", individually a "Party", and together referred to as the "Parties").

WHEREAS, on November 20, 1990, the City of Charlottesville (the "City") and the County entered into a certain Solid Waste Organizational Agreement (the "Organizational Agreement") for the purpose of forming the Authority to operate the Ivy Landfill (the "Landfill") and provide other waste management services for the City and County;

WHEREAS, the Landfill operated continuously from 1968 until the closure of Cell 2 in 2001; however the Authority continues to provide waste management services to the City and County and has continuing obligations with respect to the closure, remediation and monitoring of the Landfill;

WHEREAS, the Authority owns a transfer station at the Landfill site (the "Ivy Transfer Station") currently operated by the Authority, with transportation and disposal of the compacted waste provided by Waste Management, Inc. (formerly Atlantic Waste Disposal, Inc.) pursuant to a contract with the Authority (the "Waste Management Contract");

WHEREAS, in addition to the Ivy Transfer Station, the Authority provides other waste and recycling services at the Landfill site, commonly referred to as the "Ivy Material Utilization Center" (the "Ivy MUC").

WHEREAS, the City, the County, the Authority and the University of Virginia entered into a Memorandum of Understanding dated January 10, 2005 with respect to the sharing of costs related to the closure, remediation and monitoring of the Landfill (the "Environmental Expenses MOU");

WHEREAS, the City, the County and the Authority entered into a Local Government Support Agreement dated December 17, 2007, as amended by First Amendment to Local Government Support Agreement dated July 1, 2010, providing for the participation of the City and County in the costs of maintaining the operation of the McIntire Recycling Center and Paper Sort Facility (collectively the "Recycling Services") as well as the Ivy Transfer Station and Ivy MUC, which agreement expired on December 31, 2010;

WHEREAS, the City no longer desires to use or support the services offered by the Authority at the Ivy MUC;

WHEREAS, the County desires that the Authority continue the provision of services and operation of the Ivy MUC;

WHEREAS, the County and the Authority desire to enter into a new agreement to continue to provide for local government contributions to the Authority by the County to allow the Authority to cover the Authority's administration and operating expenses allocated to the services provided by the Authority at the Ivy MUC as defined herein and in the Authority's adopted budget over and above the revenues received under, and the costs covered by, the Environmental Expenses MOU, the Local Government Support Agreement for Recycling Services, and other revenues received by the Authority; and,

WHEREAS, the County, the City and the Authority are entering into a separate Local Government Support Agreement for Recycling Programs pursuant to which a separate portion of the Authority's Administration Services expenses (more particularly described in Paragraph 2 below) will be allocated (the "Recycling Programs LGSA").

NOW, THEREFORE, the Parties agree as follows:

1. **County Request for Continued Operation of the Ivy MUC**

Pursuant to Section 4.3 of Organizational Agreement, the County has determined the need for the continued operation of, and provision of services at, the Ivy MUC, and hereby directs the Authority to continue such operation and provide such services, subject to the terms and conditions set forth herein.

2. **County's Proportional Funding of Authority's Projected Annual Ivy MUC Operations Deficit**

If the Authority determines that despite all reasonable efforts to fund the operating and administrative expenses of the Ivy MUC from the tipping fees charged for use of the Ivy Transfer Station and other revenues projected (designated as the sum of Ivy Tipping Fees, Ivy MSW Tipping, Material Sales-Ivy, and Other Revenues in the Authority's operating budget) that an operating deficit will exist, it shall prepare and adopt a budget, including reasonable reserves, balanced by using revenue to be contributed by the County, notwithstanding anything contained in Section 4.3 of the Organizational Agreement to the contrary. The Ivy MUC expenses shall be the sum total of Ivy Operations and MSW-Ivy Transfer as well as fifty percent (50%) of the total Administration Services expenses of the Authority as shown in the operating budget of the Authority. The County agrees to fund that portion of the budget balanced by revenues to be contributed by the County as provided below. An example of the calculations required by this paragraph is set forth in Exhibit 1 attached hereto (which are based upon the tipping fees adopted by the Authority effective July 1, 2011 as set forth in Exhibit 2), and such calculations shall be made by the Authority in a manner consistent with the example in Exhibit 1. The percentage of Administration Services expenses set forth above assumes that an additional portion of the Authority's total Administration Services expenses will be allocated under the Recycling Programs LGSA, and therefore the parties hereto agree that this Agreement and the Authority's continuation of the Ivy Material Utilization Center programs with the level of the County's funding determined by such percentage is contingent upon entry by the County and the City into the Recycling Programs LGSA, and in the event of any extension of the term of this Agreement pursuant to Paragraph 6 below, upon an extension for the same period of the term of the Recycling Programs LGSA.

3. **Tipping Fees and Other Charges for Ivy MUC**

Tipping fees and other charges for the Ivy MUC adopted by the Authority effective July 1, 2011 for the Authority's fiscal year ending June 30, 2012 are attached hereto as Exhibit 2. The Authority shall consult with the County prior to proposing any change to the tipping fees or other charges for the Ivy MUC and shall, to the extent permitted by law and subject to the requirements of Virginia Code Section 15.2-5136, propose tipping fees and other charges for use of the Ivy MUC for adoption by the Authority's Board of Directors as requested by the County. The Ivy MUC expenses include equipment depreciation expenses which are allocated to a capital equipment repair and replacement reserve. The obligation of the County to pay for any capital expenditures for repair or replacement of equipment exceeding such reserves shall require the prior written approval of the County.

4. **Quarterly Payments**

If the Authority's proposed annual budget for the Ivy MUC is balanced by revenues to be contributed by the County, the County agrees to provide such revenues by payments to the Authority made quarterly on the first day of July, October, January, and April of such fiscal year of the Authority.

5. **Increase or Decrease in the Ivy Material Utilization Center Deficit**

Payments by the County to the Authority for any particular fiscal quarter shall be increased or decreased, as appropriate to take into account any extraordinary increases or reductions in Ivy MUC expenses and/or reductions or increases in revenue not anticipated by the adopted budget for such year upon the Authority's submission to the County of an amended budget approved by the Authority's Board of Directors at least 30 days prior to the due date of the next payment. Upon completion of the audited financial statements of the Authority for the prior fiscal year, the County's payments to the Authority shall be increased or decreased, as appropriate, to take into account increases or decreases in actual Ivy MUC expenses and/or reductions or increases in actual revenues from those anticipated by the adopted budget as shown by such financial statement; provided, however, that any such increase or decrease shall take into account any increase or decrease in payments for such year pursuant to the most recently adopted amended budget of the Authority for such year, if any. In the event the amount of the County's payments exceed the amount of revenues needed by the Authority pursuant to paragraph 2 above, the Authority shall remit such excess to the County, or in the event that the County extends this Agreement as provided in paragraph 6 below, the Authority may carry such excess over to the next fiscal year giving the County credit during such year for such excess.

6. **Term of Agreement**

This Agreement shall be effective upon execution and the County's financial participation requirements shall be retroactive to July 1, 2011 and shall continue for the Authority's fiscal year ending June 30, 2012. Subject to Paragraph 2 above, the term of this Agreement shall be extended for up to two (2) additional one (1) year terms upon the Authority's receipt of a written request by the County not later than May 1, 2012 for the first extended term and not later than January 1, 2013 for the second amended term.

7. **Solid Waste Organizational Agreement**

The Parties enter this Agreement notwithstanding any provisions in the Organizational Agreement conflicting with this Agreement, and agree that in the event of any such conflicting provisions, this Agreement shall control.

8. **Voluntary County Funding**

Nothing in this Agreement shall be construed as creating a claim, cause of action, or right of recovery against either the County by the Authority or by any creditor or claimant of the Authority. The Authority acknowledges that the County is not under any legal or equitable obligation to provide funding to the Authority, but that it has voluntarily chosen to do so for the sole reason of insuring the continuation of a certain level of solid waste disposal and recycling services being provided by the Authority at the Ivy MUC, and the County acknowledges that in the event such funding is not made available to the Authority, the Authority will necessarily have to curtail those services.

9. **Non-Appropriation**

This Agreement is subject to the approval, ratification, and annual appropriations by the Albemarle County Board of Supervisors of the necessary money to fund this Agreement for this and any succeeding fiscal years. Should the County fail to appropriate the necessary funding, it shall give prompt written notice to the Authority of such non-appropriation, and this Agreement shall automatically terminate without further notice by or to any Party.

10. **Amendment**

Any amendment to this Agreement must be made in writing and signed by the Authority and the County.

11. **Governing Law**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

12. **Notices**

Any notice, invoice, statement, instructions, or direction required or permitted by this Agreement shall be addressed as follows:

- a. To the County: Office of the County Executive  
401 McIntire Road  
Charlottesville, VA 22902
- b. To the Authority: Office of the Executive Director  
Rivanna Solid Waste Authority  
P.O. Box 979  
Charlottesville, Virginia 22902-0979

or to such other address or addresses as shall at any time or from time to time be specified by any Party by written notice to the other Party.

13. **Integration Clause**

This Agreement, and any amendment or modification that may hereafter be agreed to in accordance with the provisions herein, constitutes the entire understanding between the Parties with respect to the matters addressed, and supersedes any and all prior understandings and agreements, oral or written, relating hereto, except for the Environmental Expenses MOU.

14. **Execution**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREAS these terms are agreeable to the County of Albemarle and the Rivanna Solid Waste Authority, and each Party offers its signature as of the date below.

THE COUNTY OF ALBEMARLE:

\_\_\_\_\_  
Thomas Foley  
County Executive

\_\_\_\_\_  
Date

RIVANNA SOLID WASTE AUTHORITY:

\_\_\_\_\_  
Thomas L. Frederick, Jr.  
Executive Director

\_\_\_\_\_  
Date



**LOCAL GOVERNMENT SUPPORT AGREEMENT FOR RECYCLING PROGRAMS**

**AMONG**

**THE CITY OF CHARLOTTESVILLE**

**THE COUNTY OF ALBEMARLE**

**AND**

**THE RIVANNA SOLID WASTE AUTHORITY**

This **Local Government Support Agreement for Recycling Programs** (this "Agreement") is made this \_\_\_ day of \_\_\_\_\_, 2011 by and among the **City of Charlottesville, Virginia** (the "City"), the **County of Albemarle, Virginia** (the "County") and the **Rivanna Solid Waste Authority** (the "Authority", individually, a "Party", and together referred to as the "Parties").

WHEREAS, on November 20, 1990, the City and the County entered into a certain Solid Waste Organizational Agreement (the "Organizational Agreement") for the purpose of forming the Authority to operate the Ivy Landfill (the "Landfill") and provide other waste management services for the City and County;

WHEREAS, the Landfill operated continuously from 1968 until the closure of Cell 2 in 2001; however the Authority continues to provide waste management services to the City and County and has continuing obligations with respect to the closure, remediation and monitoring of the Landfill;

WHEREAS, the Authority owns a transfer station at the Landfill site (the "Ivy Transfer Station") currently operated by the Authority, with transportation and disposal of the compacted waste provided by Waste Management, Inc. (formerly Atlantic Waste Disposal, Inc.) pursuant to a contract with the Authority (the "Waste Management Contract");

WHEREAS, in addition to the Ivy Transfer Station, the Authority provides other waste and recycling services at the Landfill site, commonly referred to as the "Ivy Material Utilization Center" (the "Ivy MUC").

WHEREAS, the City, the County, the Authority and the University of Virginia entered into a Memorandum of Understanding dated January 10, 2005 with respect to the sharing of costs related to the closure, remediation and monitoring of the Landfill (the "Environmental Expenses MOU");

WHEREAS, the City, the County and the Authority entered into a Local Government Support Agreement dated December 17, 2007, as amended by First Amendment to Local Government Support Agreement dated July 1, 2010, providing for the participation of the City and County in the costs of maintaining the operation of the McIntire Recycling Center and Paper Sort Facility (collectively the "Recycling Services") as well as the Ivy Transfer Station and Ivy MUC, which agreement expired on December, 31, 2010;

WHEREAS, the Parties desire to enter into a new Agreement to continue to provide for local government contributions to the Authority by the City and the County to allow the Authority to cover the Authority's administration and operating expenses allocated to recycling services provided at the Authority's McIntire Recycling Center (the "MRC") over and above the revenues received under, and the costs covered by, the Environmental Expenses MOU and the other revenues received by the Authority; and,

WHEREAS, the County and the Authority are entering into a separate Local Government Support Agreement for Ivy Material Utilization Center Programs pursuant to which a separate portion

of the Authority's Administration Services expenses (more particularly described in Paragraph 1 below) will be allocated (the "Ivy MUC Programs LGSA").

NOW, THEREFORE, the Parties agree as follows:

1. **City's and County's Proportional Funding of Authority's Projected Annual Recycling Operations Deficit**

If the Authority determines that despite all reasonable efforts to fund the operating and administrative expenses of the recycling services provided at the MRC from the sale of recyclable material collected at, and fees charged (if any) for the use of, the MRC that an operating deficit will exist, it shall prepare and adopt a budget, including reasonable reserves, balanced by using revenue to be contributed by the City and the County. For purposes of the budget for the Authority, the percentage of the City's portion of the revenue to be contributed shall be thirty percent (30%) and the County's portion of the revenue to be contributed shall be seventy percent (70%). The Administration Services expenses for the recycling services provided at the MRC shall be allocated as twenty percent (20%) of the total Administration Services expenses of the Authority. An example of the calculations required by this paragraph is set forth in Exhibit 1 attached hereto, and such calculations shall be made by the Authority in a manner consistent with the example in Exhibit 1. The percentage of Administration Services expenses set forth above assumes that an additional portion of the Authority's total Administration Services expenses will be allocated under the Ivy MUC Programs LGSA, and therefore the parties hereto agree that this Agreement and the Authority's continuation of the MRC recycling programs with the level of funding determined by such percentage is contingent upon entry by the County into the Ivy MUC Programs LGSA, and in the event of any extension of the term of this Agreement pursuant to Paragraph 4 below, upon an extension for the same period of the term of the Ivy MUC Programs LGSA.

2. **Quarterly Payments**

If the Authority's proposed annual budget for the operating and administrative expenses of the recycling services provided at the MRC is balanced by revenues to be contributed by the City and the County, the City and the County agree to provide such revenues by payments to the Authority made quarterly on the first day of July, October, January, and April of such fiscal year of the Authority, subject to the provisions of paragraphs 5 and 6 below.

3. **Increase or Decrease in the Recycling Operations Deficit**

Payments by the City and the County to the Authority for any particular fiscal quarter shall be increased or decreased, as appropriate to take into account any extraordinary increases or reductions in MRC recycling services operation and administrative expenses and/or reductions or increases in recycling revenues from the MRC not anticipated by the adopted budget for such year upon the Authority's submission of an amended budget approved by the Authority's Board of Directors to the City and the County at least 30 days prior to the due date of the next payment. Upon completion of the audited financial statements of the Authority for the prior fiscal year, the City's and County's payments to the Authority shall be increased or decreased, as appropriate, to take into account increases or decreases in actual MRC recycling services operation and administrative expenses and/or reductions or increases in actual MRC recycling revenues of the Authority from those anticipated by the adopted budget as shown by such financial statement, and such adjustments shall be determined by using the City's and County's percentages as set forth in paragraph 1 above; provided, however, that any such increase or decrease shall take into account any increase or decrease in payments for such year pursuant to the most recently adopted amended budget of the Authority for such year, if any. In the event the amount of local government support payments exceed amount of revenues needed by the Authority pursuant to paragraph 1 above, the Authority shall remit such excess to the City and County, or in the event that the City and County extend this Agreement as provided in paragraph 4 below, the Authority may carry such excess over to the next fiscal year giving the City and County credit during such year for such excess.

4. **Term of Agreement**

This Agreement shall be effective upon execution and the financial participation requirements shall be retroactive to July 1, 2011 and shall continue for the Authority's fiscal year ending June 30, 2012. Subject to Paragraph 1 above, the term of this Agreement shall be extended for up to two (2) additional one (1) year terms upon the Authority's receipt of a written request by both the City and County not later than May 1 of the current term or any extended term..

5. **Solid Waste Organizational Agreement**

The Parties enter this Agreement notwithstanding any provisions in the Organizational Agreement conflicting with this Agreement, and agree that in the event of any such conflicting provisions, this Agreement shall control.

6. **Voluntary City and County Funding**

Nothing in this Agreement shall be construed as creating a claim, cause of action, or right of recovery against either the City or the County by the Authority or by any creditor or claimant of the Authority. The Authority acknowledges that neither the City nor the County is under any legal or equitable obligation to provide funding to the Authority, but that each has voluntarily chosen to do so for the sole reason of insuring the continuation of a certain level of solid waste disposal and recycling services being provided by the Authority at the MRC, and the City and County each acknowledges that in the event such funding is not made available to the Authority, the Authority will necessarily have to curtail those services.

7. **Non-Appropriation**

This Agreement is subject to the approval, ratification, and annual appropriations by the Charlottesville City Council and the Albemarle County Board of Supervisors of the necessary money to fund this Agreement for this and any succeeding fiscal years. Should the City or the County fail to appropriate the necessary funding, it shall give prompt written notice to the Authority and the other party of such non-appropriation, and this Agreement shall automatically terminate without further notice by or to any Party.

8. **Amendment**

Any amendment to this Agreement must be made in writing and signed by the Parties.

9. **Governing Law**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

10. **Notices**

Any notice, invoice, statement, instructions, or direction required or permitted by this Agreement shall be addressed as follows:

- a. To the City: Office of the City Manager  
P.O. Box 911  
Charlottesville, VA 22902
- b. To the County: Office of the County Executive  
401 McIntire Road  
Charlottesville, VA 22902

c. To the Authority: Office of the Executive Director  
Rivanna Solid Waste Authority  
P.O. Box 979  
Charlottesville, Virginia 22902-0979

or to such other address or addresses as shall at any time or from time to time be specified by any Party by written notice to the other Parties.

11. **Integration Clause**

This Agreement, and any amendment or modification that may hereafter be agreed to in accordance with the provisions herein, constitutes the entire understanding between the Parties with respect to the matters addressed, and supersedes any and all prior understandings and agreements, oral or written, relating hereto, except for the Environmental Expenses MOU.

12. **Execution**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREAS these terms are agreeable to the City of Charlottesville, the County of Albemarle and the Rivanna Solid Waste Authority, and each Party offers its signature as of the date below.

THE CITY OF CHARLOTTESVILLE:

\_\_\_\_\_  
Maurice Jones  
City Manager

\_\_\_\_\_  
Date

THE COUNTY OF ALBEMARLE:

\_\_\_\_\_  
Thomas Foley  
County Executive

\_\_\_\_\_  
Date

RIVANNA SOLID WASTE AUTHORITY:

\_\_\_\_\_  
Thomas L. Frederick, Jr.  
Executive Director

\_\_\_\_\_  
Date

### Community Development - Site Plan and Subdivision Review Process

#### Option 1:

Agent approval instead of PC approval with no right for site plans or subdivision plats to be called up for review by the PC. ARB reviews projects in Entrance Corridor Districts prior to preliminary approval.

#### Six Recommendations:

1. Preapplication submittal with review in 10 days to determine main issues and required waivers.
2. Reduced plan content to minimum necessary for review.
3. Public notified of Site Review Meeting and asked to attend and provide comment.
4. Establish clearer submittal requirements for the final site plan.
5. Establish that any comment not responded to within 6 months deems the project withdrawn.
6. Allow the issuance of grading permits with the approval of the initial (preliminary site plan).

### Community Development – Legislative Review Process

- A. A pre-application conference is to be **required** prior to application submittal
- B. A pre-application form is to be completed by the applicant and submitted before scheduling the pre-application conference
- C. Staff completes the pre-application comment form and provides it to the applicant within 7 days of submittal
  1. Includes checklist of information required for application submittal
  2. Includes requirement(s) for a plan of development, a traffic study and other special studies or documentation **if** determined to be applicable
- D. The application form will address expectations, including those based on the staff pre-application comment form
- E. Fee is not paid with submittal – applications are to be reviewed for completeness before acceptance
- F. Applicant is to be notified within 7 days of acceptance/rejection
  1. **If the application is accepted:**
    - a) The fee must be paid within 5 business days of the notice of acceptance to activate the review during that application submittal review period
    - b) If the fee is not paid within 5 business days the review does not begin until the next submittal date after the fee is paid
  2. **If the application is rejected:**
    - a) A checklist of missing information is provided by staff to the applicant
    - b) The applicant is eligible to reapply with the required information as early as the following month's submittal date
    - c) A new pre-application conference is not required, but a follow-up meeting with staff can be scheduled before re-applying if the applicant so desires
- G. Community meetings:
  1. Would be applicant-sponsored and required after the application is submitted to provide public information about the project; community meetings must be held within 46 days of the application submittal date for which the fee is paid
  2. Staff attends the community meeting to observe and answer process and policy questions