

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 5, 2005, at 9:00 a.m., Room 241 in the County Office Building on McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. David P. Bowerman, Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, Director of Planning, V. Wayne Cilimberg, and Clerk, Ella W. Carey.

Agenda Item No. 1. The meeting was called to order at 9:00 a.m., by the County Executive, Robert W. Tucker, Jr.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. Election of Chairman.

Mr. Tucker assumed the position of chairman until after elections. He opened the floor for nominations for Chairman of the Board.

Mr. Bowerman **moved** to elect Mr. Dennis S. Rooker as Chairman of the Board for Calendar Year 2005. Ms. Thomas **seconded** the nomination. With no other nominations, Mr. Tucker closed the floor for nominations and requested that the Clerk call the roll. The motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Ms. Thomas and Mr. Wyant.  
NAYS: None.  
ABSTAIN: Mr. Rooker.

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Agenda Item No. 5. Election of Vice-Chairman.

Mr. Bowerman **nominated** Mr. Kenneth C. Boyd to be Vice-Chairman of the Board of Supervisors for Calendar Year 2005. The motion was **seconded** by Ms. Thomas. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.  
ABSTAIN: Mr. Boyd.

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Ms. Thomas thanked Mr. Dorrier for his work as former Chairman of the Board. Mr. Dorrier responded that serving in that capacity was the "high point" of his public life, and said he appreciated the support he received.

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Agenda Item No. 6. Appointment of Clerk and Senior Deputy Clerk.

Mr. Rooker indicated that Ms. Ella Carey had expressed a desire to continue serving as Clerk to the Board for Calendar Year 2005 and Ms. Debi Moyers as Senior Deputy Clerk to the Board for Calendar Year 2005.

**Motion** to make these appointments was made by Ms. Thomas. The motion was **seconded** by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 7. Set Meeting Times, Dates and Places for Calendar Year 2005.

Mr. Tucker recommended that the Board retain its current meeting dates of the first Wednesday of the month at 9:00 a.m., and the second Wednesday of the month at 6:00 p.m., with meetings to be held in the County Office Building at 401 McIntire Road, Charlottesville, and amending the schedule to change the April 13, 2005 meeting (Jefferson's Birthday and a County Holiday) to April 20, 2005 as the alternate meeting date.

**Motion** to this effect was offered by Ms. Thomas, **seconded** by Mr. Boyd, and carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 8. Set Dates for Hearing Zoning Text Amendments Requested by Citizens.

Mr. Tucker recommended the following dates: September 14 and December 14, 2005, and March 16 and June 9, 2006.

**Motion** to this effect was offered by Ms. Thomas, **seconded** by Mr. Bowerman, and carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 9. Rules of Procedure, Adoption of.

**Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to readopt the Boards' Rules of Procedure. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

### RULES OF PROCEDURE ALBEMARLE BOARD OF COUNTY SUPERVISORS

#### A. *Officers*

1. *Chairman.* The Board at its annual meeting shall elect a Chairman who, if present, shall preside at such meeting and at all other meetings during the year for which elected. In addition to being presiding officer, the Chairman shall be the head official for all the Board's official functions and for ceremonial purposes. He shall have a vote but no veto. (Virginia Code Sections 15.2-1422 and 15.2-1423)
2. *Vice-Chairman.* The Board at its annual meeting shall also elect a Vice-Chairman, who, if present, shall preside at meetings in the absence of the Chairman and shall discharge the duties of the Chairman during his absence or disability. (Virginia Code Section 15.2-1422)
3. *Term of Office.* The Chairman and Vice-Chairman shall be elected for one-year terms; but either or both may be re-elected for one or more additional terms. (Virginia Code Section 15.2-1422)
4. *Absence of Chairman and Vice-Chairman.* If the Chairman and Vice Chairman are absent from any meeting, a present member shall be chosen to act as Chairman.

#### B. *Clerk and Deputy Clerks*

The Board at its annual meeting shall designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board. The duties of the Clerk shall be those set forth in Virginia Code Section 15.2-1539 and such additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code Section 15.2-1416)

#### C. *Meetings*

1. *Annual Meeting.* The first meeting in January held after the newly elected members of the Board shall have qualified, and the first meeting held in January of each succeeding year, shall be known as the annual meeting. At such annual meeting, the Board shall establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code Section 15.2-1416)
2. *Regular Meetings.* The Board shall meet in regular session on such day or days as has been established at the annual meeting. The Board may subsequently establish different days, times, or places for such regular meetings by passing a resolution to that effect in accord with Virginia Code Section 15.2-1416. If any day established as a regular meeting day falls on a legal holiday, the meeting scheduled for that day shall be held on the next regular business day without action of any kind by the Board. (Virginia Code Section 15.2-1416)

If the Chairman (or Vice Chairman, if the Chairman is unable to act) finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, such meeting shall be continued to the next regular meeting date. Such finding shall be communicated to the members of the Board and to the press as promptly as possible. All hearings and other

matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code Section 15.2-1416)

Regular meetings, without further public notice, may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Board is complete. (Virginia Code Section 15.2-1416)

3. *Special Meetings.* The Board may hold special meetings as it deems necessary at such times and places as it deems convenient. A special meeting may be adjourned from time to time as the Board finds necessary and convenient. (Virginia Code Section 15.2-1417)

A special meeting shall be held when called by the Chairman or requested by two or more members of the Board. The call or request shall be made to the Clerk of the Board and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the Clerk, after consultation with the Chairman, shall immediately notify each member of the Board, the County Executive, and the County Attorney. The notice shall be in writing and delivered to the person or to his place of residence or business. The notice shall state the time and place of the meeting and shall specify the matters to be considered. No matter not specified in the notice shall be considered at such meeting unless all members are present. The notice may be waived if all members are present at the special meeting or if all members sign a waiver for the notice. (Virginia Code Section 15.2-1418) The Clerk shall notify the general news media of the time and place of such special meeting and the matters to be considered.

D. *Order of Business*

The Clerk of the Board shall establish the agenda for all meetings in consultation with the Chairman. The first two items on the agenda for each regular meeting of the Board shall be the Pledge of Allegiance and a moment for silent meditation.

The procedures for receiving comment from the public for matters not on the agenda shall be at the discretion of the Board. Unless otherwise decided, no more than three persons will be allowed to speak during the time set aside on the agenda for "From the Public: Matters Not Listed on the Agenda". Each person shall be permitted no more than five minutes to provide comments.

Zoning applications advertised for public hearing shall be on the agenda for public hearing on the advertised date unless the applicant submits a signed written deferral request to the Clerk of the Board no later than noon on Wednesday of the week prior to the scheduled public hearing. The first request for a deferral will be granted administratively by the Clerk. The Board will be notified of the deferral in the next Board package and the deferral will be announced at the earliest possible Board meeting to alert the public of the deferral. Any request received later than the Wednesday deadline and any subsequent request for a deferral for the same application previously deferred will be granted only at the discretion of the Board by a majority vote. The deferral shall not be granted unless the Board determines that the reason for the deferral justifies the likely inconvenience to the public caused by the deferral. The staff will make every effort to alert the public when a deferral is granted.

E. *Quorum*

A majority of the members of the Board shall constitute a quorum for any meeting of the Board. If during a meeting less than a majority of the Board remains present, no action can be taken except to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code Section 15.2-1415)

A majority of the members of the Board present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning such meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

F. *Voting Procedures*

1. *Approval by Motion.* Unless otherwise provided, decisions of the Board shall be made by approval of a majority of the members present and voting on a motion properly made by a member and seconded by another member. Any motion that is not seconded shall not be further considered. The vote on the motion shall be by a voice vote. The Clerk shall record the name of each member voting and how he voted on the motion. If any member abstains from voting on any motion, he shall state his abstention. The abstention will be announced by the Chairman and recorded by the Clerk. A tie vote shall defeat the motion voted upon. (Article VII, Section 7, Virginia Constitution)

2. *Special Voting Requirements.* A recorded affirmative vote of a majority of all elected members of the Board shall be required to approve an ordinance or resolution (1) appropriating money exceeding the sum of \$500; (2) imposing taxes; or (3) authorizing the borrowing of money. (Virginia Code Section 15.2-1428)
3. *Public Hearings.* The Board shall not decide any matter before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the holding of a public hearing or consideration of such matter.  
  
The procedures for receiving comment from the applicant and the public for public hearings shall be at the discretion of the Board. Unless otherwise decided, the applicant shall be permitted no more than ten minutes to present its application. Following the applicant's presentation, any member of the public shall be permitted no more than three minutes to present public comment. Speakers are limited to one appearance at any public hearing. Following the public comments, the applicant shall be permitted no more than five minutes for a rebuttal presentation.
4. *Motion to Amend.* A motion to amend a motion before the Board, properly seconded, shall be discussed and voted by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
5. *Previous Question.* Discussion of any motion may be terminated by any member moving the "previous question". Upon a proper second, the Chairman shall call for a vote on the motion of the previous question. If approved by a majority of those voting, the Chairman shall immediately call for a vote on the original motion under consideration. A motion of the previous question shall not be subject to debate and shall take precedence over any other matter.
6. *Motion to Reconsider.* Any decision made by the Board may be reconsidered if a motion to reconsider is made at the same meeting or an adjourned meeting held on the same day at which the matter was decided. The motion to reconsider may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the matter for discussion in the exact position it occupied before it was voted upon.
7. *Motion to Rescind.* Any decision made by the Board, except for zoning map amendments, special use permit decisions, and ordinances, (these exceptions shall only be subject to reconsideration as provided above) may be rescinded by a majority vote of all elected members of the Board. The motion to rescind may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Zoning map amendments, special use permit decisions and ordinances may be rescinded or repealed only upon meeting all the legal requirements necessary for taking action on such matters as if it were a new matter before the Board for consideration.

G. *Amendment of Rules of Procedure*

These Rules of Procedure may be amended by a majority vote of the Board at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

H. *Suspension of Rules of Procedure*

These Rules of Procedure may be suspended by the majority vote of the Board members present and voting. The motion to suspend a rule may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to suspend a rule, if approved, is to make that rule inapplicable to the matter before the Board. Provided, however, that approval of a motion to suspend the rule shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

I. Necessary rules of procedure not covered by these Rules of Procedures shall be governed by Robert's Rules of Order.

1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004, 1-5-2005)

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Agenda Item No. 10. Boards and Commissions Policy, Adoption of.

Mr. Rooker requested that the Board take a few moments to review the policy prior to the vote.

Ms. Thomas noted that there is a change proposed which deals with posting appointment positions on the County's website, email, public service announcements. She indicated her approval of this, as more people are using this source.

Mr. Boyd mentioned that there are several boards with no term limits, and suggested that the Board consider those. Ms. Thomas noted that the Agricultural/Forestry Advisory Committee has no term set.

Mr. Tucker and Mr. Davis stated that the policy could be revisited.

Mr. Wyant asked if every prospective commission and board member was interviewed. Mr. Tucker responded that the Board reviews the applications, and decides who to interview, adding that sometimes the Board appoints someone just based on the application.

Mr. Bowerman commented that he did not feel it was necessary to interview everyone who the Board appoints.

Ms. Thomas noted the term "selected" in the interview candidate section.

Mr. Rooker commented that he was surprised to see language in paragraph 3 that states "all newly created county-wide boards and commissions that have power to impact the health, safety, and welfare of the residents of the county shall be comprised of representatives from each of the magisterial districts."

Ms. Thomas agreed that she was also surprised to see that.

Mr. Davis explained that if the positions have "significant impact" that have county-wide implications to the health, safety, and welfare, then the policy is to have broad representation.

Ms. Thomas commented that when committees are appointed, the Board has strived to make sure different segments of the population are represented, rather than magisterial district.

Mr. Davis said that the magisterial district language is just the Board's policy, but appointments could be made based on other criteria.

Mr. Tucker suggested working on some new language, as many committees are appointed more by function.

Mr. Rooker suggested removing the magisterial district language. He also suggested adding language to paragraph 4 to indicate that the Board may extend advertised deadlines for application. He wants it to be clear that appointments may be made without interviews. He also suggested taking out the sentence in paragraph 7 that indicates applicants would be interviewed in the order of the earliest effective date. Mr. Rooker mentioned that the first sentence in paragraph 8 indicates specific dates by which things will take place, and he is not certain those dates are met.

Mr. Tucker stated that he would present the new language at the Board's January 12th meeting.

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Agenda Item No. 11a. Recognition of DSS Food Stamp Program.

Mr. Rooker indicated that at the State Department of Social Services meeting, the Albemarle County Department of Social Services received an award in recognition of having a payment accuracy rate of 100 percent for individual and family food stamps for fiscal year 2003. He added that the department also received an award for negative action accuracy rate of 100 percent for the same year, which means that any cases staff denied or closed were done in accordance with established policy 100 percent of the time.

Mr. Rooker stated that this is an incredible achievement, especially in light of rising food stamp caseloads, policy changes, and challenges associated with welfare reform. He expressed the county's pride for the department's performance, and asked Director of Social Services Kathy Ralston to come forward.

Ms. Ralston recognized her staff members, the "unsung heroes" in local government.

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Agenda Item No. 11b. Boards and Commissions Certificates of Appreciation.

Mr. Rooker recognized Jenny Greenwood, a long-time member of the Housing Committee who worked on the original mission and strategies of the committee, and helped to advise staff and the Board

in implementing those strategies. Her work was instrumental in assisting the county with establishing an affordable housing policy. He then presented Ms. Greenwood with a Certificate of Appreciation for her work.

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Mr. Rooker then recognized Robert Vernon for his service as a member of the Historic Preservation Committee from 2001 to 2004, in which time he served the county with "judicious advice" on mapping and database issues, raising awareness for the need for technology and information exchange county-wide, and promoting public accessibility of historic resources information. Mr. Vernon has been a "consistent advocate" in protecting the county's wealth of historic and cultural resources. He then presented Mr. Vernon with a Certificate of Appreciation for his service.

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Agenda Item No. 12. From the Public: Matters Not Listed on the Agenda.

Ms. Theresa Tapscott introduced herself as Executive Director of the Albemarle Housing Improvement Program, and updated the Board on her organizations efforts. She explained that they are in the final stages of renovating the Whitewood Village Apartments, now called "Park's Edge." Ms. Tapscott stated that all apartments have received their certificates of occupancy, and the homes are now at 75 percent capacity, with the remainder to be filled in the next few months. She indicated that the services program, including a community center with support services such as employment counseling, family and children's issues, have partnered with the Piedmont Family YMCA's afterschool program. Ms. Tapscott indicated that Greer staff have given positive feedback on the positive effects this has had on the children at Park's Edge. She noted that there is a 4-H program, and they are bussing children to the City of Charlottesville to participate in Computers4Kids.

Ms. Tapscott said AHIP's rehabilitation and emergency repair programs are still working, but they are trying hard to find funding for new homeowners and recently received \$275,00 from the Federal Home Loan Bank in Atlanta to assist 50 families. She explained that the Virginia Department of Housing and Community Development is sponsoring a new demonstration rural rehabilitation program, and AHIP can apply for up to \$250,000 to be used in all areas of the county instead of one specific neighborhood, as with CDBG funds. Ms. Tapscott said that this will help families who have been on their waiting list for assistance, and they could complete a minimum of eight rehabilitation projects with the \$250,000. She thanked the Board for their support.

Mr. Bowerman commented that AHIP has done an outstanding job. Ms. Tapscott has made quite an impact on the community.

Mr. Wyant asked about the Esmont project.

Ms. Tapscott said that they are in the last phase of that CDBG project, with four homes occupied and the fifth to be closed in the coming weeks. She added that AHIP owns some properties on Rio Road, and they are working with Weatherhill Homes to build some elderly apartments and homes.

Mr. Rooker thanked Ms. Tapscott for her report and for her work.

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Agenda Item No. 13. Consent Agenda. **Motion** was offered by Mr. Boyd, **seconded** by Ms. Thomas, to approve items 13.1 to 13.3, and to accept the remaining items as information. (Discussions regarding individual items are included with that item.) Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.

NAYS: None.

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Item 13.1. Resolution to accept road(s) in Highlands at Mechums River, Section 2C, Subdivision, into the State Secondary System of Highways.

**At the request of the County's Engineering Department, the Board adopted the following resolution:**

#### **RESOLUTION**

WHEREAS, the street(s) in **Highlands at Mechums River Subdivision, § 2C**, described on the attached Additions Form SR-5(A) dated **January 5, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Highlands at Mechums River Subdivision, § 2C**, as described on the attached Additions Form SR-5(A)

dated **January 5, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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

- 1) **Amber Ridge Road (State Route 1244)** from the intersection of Mechums River Road (Route 1241) to the intersection of Morewood Lane (Route 1269), as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.05 mile; and from the intersection of Morewood Lane (Route 1269) to the cul-de-sac, as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.17 mile.
- 2) **Morewood Lane (State Route 1269)** from the intersection of Amber Ridge Road (Route 1244) to the cul-de-sac, as shown on plat recorded 03/10/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2398, pages 661-675, with a 50-foot right-of-way width, for a length of 0.11 mile.

Total Mileage - 0.33 mile.

Item 13.2. Requested FY 2005 Appropriations.

It was noted in the Executive Summary that Code of Virginia §15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the current fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget or the sum of \$500,000, whichever is lesser, must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds. The total of this additional FY 2005 appropriation (No. 2005-0039) is in the amount of \$117,089.90 various education programs and donations. It is anticipated that this appropriation will be incorporated into the next budget amendment, possibly in February. A detailed description of the appropriation is provided on Attachment A of the executive summary.

**By the recorded vote set out above, the Board adopted the following Resolution of Appropriation.**

COUNTY OF ALBEMARLE

APPROPRIATION NO. 2005-039

DATE: 01/05/05

EXPLANATION: VARIOUS EDUCATION PROGRAMS AND DONATIONS

TYPE	FUND	DEPT	OBJECTACCOUNT DESCRIPTION	SUB LEDGER	GENERAL LEDGER		
				CODE	AMOUNT	DEBIT	CREDIT
1	3131	61311	160200 Stipends	J 1	33,642.26		
1	3131	61311	210000 FICA	J 1	2,786.82		
1	3308	61101	601300 Instructional Supplies	J 1	46,719.12		
1	3302	61101	112100 Salaries - Teacher	J 1	4,656.00		
1	3302	61101	210000 FICA	J 1	357.00		
1	3302	61101	221000 VRS	J 1	597.00		
1	3302	61101	601300 Instructional Supplies	J 1	8,813.00		
1	3302	61101	800700 Data Proc Equip	J 1	2,489.33		
1	3104	60204	312500 Prof Svc - Inst	J 1	468.00		
1	3104	60206	312500 Prof Svc - Inst	J 1	446.00		
1	3104	60253	312500 Prof Svc - Inst	J 1	935.00		
1	3104	60252	601300 Instructional Supplies	J 1	500.00		
1	3104	60253	601300 Instructional Supplies	J 1	500.00		
1	3104	60254	601300 Instructional Supplies	J 1	500.00		
1	3104	60301	601300 Instructional Supplies	J 1	500.00		
1	3104	60302	601300 Instructional Supplies	J 1	628.03		
1	3104	60304	601300 Instructional Supplies	J 1	500.00		
1	3104	60252	312500 Prof Svc - Inst	J 1	6,500.00		
1	2212	61411	580500 Staff Dev	J 1	100.00		
1	2214	61101	601300 Instructional Supplies	J 1	1,600.00		
1	2301	61101	601200 Books/Subscriptions	J 1	1,837.38		
1	3502	60606	601300 Instructional Supplies	J 1	2,014.96		
2	3131	33000	330125 Tech Sub - Grant	J 2	36,429.08		
2	3308	33000	330001 Calculator Grant	J 2	46,719.12		
2	3302	33000	330001 Reading First Grant	J 2	16,912.33		
2	3104	24000	240329 Va Comm Arts - Greer	J 2	468.00		
2	3104	24000	240362 Va Comm Arts - Jouett	J 2	935.00		

2	3104	24000	240365	Va Comm Arts - M-L	J 2	446.00		
2	3104	18000	189900	Wal-Mart Grants	J 2	3,128.03		
2	3104	18000	181221	Upton Grant	J 2	6,500.00		
2	2000	18100	181109	Donations	J 2	1,700.00		
2	2000	18000	189900	Misc Revenue	J 2	1,837.38		
2	3502	51000	510100	Fund Balance	J 2	2,014.96		
	2000		0501	Est Revenue			3,537.38	
			0701	Appropriation				3,537.38
	3131		0501	Est Revenue		36,429.08		
			0701	Appropriation				36,429.08
	3308		0501	Est Revenue		46,719.12		
			0701	Appropriation				46,719.12
	3302		0501	Est Revenue		16,912.33		
			0701	Appropriation				16,912.33
	3104		0501	Est Revenue		11,477.03		
			0701	Appropriation				11,477.03
	3502		0501	Est Revenue		2,014.96		
			0701	Appropriation				2,014.96
TOTAL						234,179.80	117,089.90	17,089.90

Item 13.3. Jefferson-Madison Regional Library Bookmobile Funding Request.

It is noted in the Executive Summary that in a letter received from Mr. John Halliday, Director of the Jefferson-Madison Regional Library, he requests the use of prior year carry-over operating funds, in addition to previously approved library maintenance and repair funds in the County's capital budget, to help fund the County's share of a new Bookmobile. Mr. Halliday explains that the County's share of the Bookmobile cost is \$145,360 or 79 percent of the total cost of the bookmobile of \$184,000. To fund the \$145,360, the Library proposes using \$56,761 in prior year carry-over funds, plus \$88,599 in unused maintenance and repair funds that have already been budgeted in the County's CIP.

The Library has previously justified the need for a new Bookmobile since the current one is becoming expensive to maintain and is frequently out of service. Using previously budgeted funds to fund the County's share of the bookmobile seems to be good funding alternative. Staff recommends approval for the Jefferson-Madison Regional Library to utilize \$56,761 in prior year carry-over funds, as well as \$88,599 in previously budgeted repair and maintenance funds in the County's CIP. This approved expenditure requires no additional funds from the County.

(Ms. Thomas suggested that the bookmobile try to partner with country stores to use them as drop-off locations for books that have been ordered, since many people have difficulty getting to the bookmobile during its service hours. Mr. Rooker asked staff to prepare a letter to Mr. Halliday with this suggestion.)

**By the recorded vote set out above, the Board approved the Jefferson-Madison Regional Library utilizing \$56,761 in prior year carry-over funds, as well as \$88,599 in previously budgeted repair and maintenance funds in the County's Capital Improvement Program, to help fund the County's share of a new Bookmobile.**

Item 13.4. Copy of letter dated December 10, 2004, from John Shepherd, Manager of Zoning Administration, to Richard P. Bell, IV, re: Official Determination of Development Rights and Parcels – Tax Map 56B, Parcel 32 (property of Shirley L. Hathaway and Charles F. Leake III) - Section 10.3.1, **was received for information.**

Item 13.5. Copy of letter dated December 16, 2004, from John Shepherd, Manager of Zoning Administration, to Tommy Brannock, re: Official Determination of Development Rights and Parcels – Tax Map 58, Parcel 8A (property of Kevin and Coleen O'Rourke) - Section 10.3.1, **was received for information.**

(Ms. Thomas indicated that she received a call saying that this item would be appealed, and this raised the issue to her that more attention needs to be paid to some of these items that pertain to development rights.

Mr. Boyd asked if these were usually dealt with administratively.

Mr. Rooker pointed out that appeals go to the Board of Zoning Appeals. He added that sale or subdivision of property can bring the development rights items to the agenda.)

Item 13.6. Albemarle County Service Authority's Comprehensive Annual Financial Report for fiscal year ended June 30, 2004, **was received for information.**

Item 13.7. Copy of draft Planning Commission minutes for December 7, 2004, **was received for information.**

Item 13.8. VDOT Monthly Report, **was received for information.**

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Agenda Item 14. Transportation Matters not listed on the Agenda.

Mr. Brent Sprinkle addressed the Board, introducing Mr. James Utterback as the new VDOT District Administrator. Mr. Sprinkle said that he did not have any specific issues to bring up, but offered to answer questions on any current projects.

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Mr. Wyant asked VDOT to look into the water issue in the road on the dead end portion of Blufton Road (Route 672) in Brown's Cove. Mr. Sprinkle said he would pass the information onto the appropriate personnel at VDOT.

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Ms. Thomas said that she has been in contact with VDOT about the Dry Bridge bridge.

She added that she did not want the guardrail request to "fall through the cracks," as VDOT administration changes hands.

Ms. Thomas said she is a member of the Board of Scenic Virginia which annually awards the VDOT Residency that does the nicest job in following VDOT's procedures and guidelines for trimming trees along the side of the road. She would like to nominate this district someday for that award.

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Mr. Bowerman expressed concern about the safety aspects of the improvements on Route 606, Dickerson Road, near the Airport. Mr. Sprinkle commented that District personnel recently held a meeting and are looking into some additional actions that they can take until the work is complete.

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Mr. Dorrier reiterated the need for a warning sign near the intersection of Route 708 and Route 20 South at the turnoff to Walton School. Mr. Sprinkle said he will pass information on to VDOT traffic personnel.

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Mr. Rooker said he has received calls from constituents about late night noise from work being done on the Route 29/250 bridge. Mr. Sprinkle said the contractor is repainting the bridge as a maintenance project and because of traffic concerns, the work is being done at night. Hopefully, the contractor will be finished in a few weeks.

Mr. Rooker said a number of residents have expressed concern about the speed with which vehicles are traveling on Hydraulic Road, pass the Rock Store. Trucks are apparently using this route to get to the work site for Hollymead Town Center. The residents have asked if a safety sign can be installed to slow traffic traveling through the area.

Mr. Wyant suggested extending the center turn lane, and Mr. Sprinkle acknowledged that this option was offered to traffic engineering to consider.

Mr. Rooker noted that the preliminary plans for Georgetown did not include a three-lane road, but included additional turn lanes. Mr. Sprinkle responded that VDOT is looking at three lanes because of the large number of turn lanes.

Mr. Rooker stated that the concept in place was developed by working with the Georgetown Road Task Force over a long period of time. He would not like to see that plan abandoned without notifying that community and giving them have an opportunity to participate in it. Mr. Sprinkle replied that the new recommendations would be "overlaid" with the existing plan and go to public hearing with it.

Mr. Rooker said they do not want to make changes to the plans that drive up the cost inordinately. This project has already been delayed a number of times, and the cost estimates keep accelerating. He does not want to end up with a project that may do more but never get built because we never get the money to do it. He added that funds from another project have been allocated to Georgetown Road this year to try to move it forward, noting that a lot of the improvements are safety and sidewalk improvements. Mr. Rooker emphasized that the road is the heaviest traffic pedestrian and bus route in the county for children going to school.

Mr. Rooker mentioned the Southern Parkway – a connector south of I-64 considered important to the county – noting that the county has asked for the road to be determined as a secondary road but it has "sat at VDOT for years."

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**NonAgenda.** The Board took a recess at 9:40 a.m., and reconvened at 9:55 a.m.

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Agenda Item No. 15. Piedmont Virginia Community College (PVCC) Update, Dr. Frank Friedman.

Dr. Frank Friedman, President of Piedmont Virginia Community College (PVCC) addressed the Board. He reported that for the year that ended June 30, Piedmont's full-time enrollment increased by two percent to a new record, noting that since 1995 the school is up 25 percent. Dr. Friedman explained that 35 percent of their enrollment remains from Albemarle County. He said that for the Fall semester, they had 4,350 students, and their student body seems to be getting younger. He explained that there are more students from high schools attending, as university enrollment is increasingly competitive. Dr. Friedman noted that they have lost some enrollment in the 30 to 50 age group.

Mr. Bowerman asked if demographics were affecting that trend. Dr. Friedman agreed, and said that the economy also impacts this trend. He added that the tuition has increased over the last two years in response to state budget cuts.

Dr. Friedman explained that the number of high school students taking courses through dual enrollment doubled this year. He said that in Albemarle County alone, PVCC has 300 students taking college courses at their high schools, not including night students, and they get high school and college course credits simultaneously. Dr. Friedman mentioned that the governor is pushing dual enrollment, and it is a "wonderful thing" for students and families.

In response to Mr. Rooker's question about students in dual enrollment, Dr. Friedman said that PVCC is tracking those students to see how many end up at the community college. Dr. Friedman said he estimates that 25 percent or so will end up at PVCC, and the rest will go elsewhere, noting that the credits are portable.

Dr. Friedman said that his Board met with the School Board three years ago with the goal of increasing growth in the program. Dual enrollment has tripled since that time. He added that Albemarle schools graduated 833 students in June, and 172 – or 21 percent – are enrolled at Piedmont. He added that over time, one out of three graduates end up at PVCC for at least one course.

Dr. Friedman stated that his demand for night courses – mostly an adult market – goes beyond what they can serve, and they could not do it without the partnership with the county school system. He explained that there were 31 night courses this past semester held at Albemarle High School, enrolling over 600 students, and 60 students at Monticello. He noted that this past fall, there were 36 courses with 764 enrollees on internet classes, mostly Albemarle residents.

He said that PVCC received a federal grant last January to open a Friday night and weekend section for their Associate Degree in Nursing program. Dr. Friedman said that 70 students are accepted each fall to the day session, and 40 attended the new night/weekend program; the first graduates of that new session would graduate in May for a total of 95 or so nursing graduates from PVCC this spring.

Dr. Friedman said that the Surgical Technology program has become a regional provider through teleconferencing in Lynchburg, Winchester, and Roanoke at those community college sites. He mentioned that the enrollment has doubled in that program.

Dr. Friedman stated that the Business Education Roundtables – where educators meet with the business community to share dialogue about how students can meet real business needs – have been wonderfully successful, with 75 employers working with PVCC. He added that the Virginia Department of education awarded the college with a statewide "Creating Excellence" award.

Dr. Friedman said that PVCC has also been working with wine growers on their needs, and the college received a grant to establish courses in that industry.

He reported that 80 percent of transfers out of PVCC have been accepted at their first college choice.

Dr. Friedman stated that Mika Crousey was recognized with two awards: the "1st Team All-USA Academic Team" for community colleges (20 students out of 5 million) and was acknowledged in USA Today. He mentioned that President Bush presented the award to the 17 year-old. Dr. Friedman said that Mika received an award from the Coca-Cola Foundation as the "Outstanding Community College Student in Virginia."

Dr. Friedman reported that PVCC is planning to renovate their main building, which is now a \$3.5 million project. He indicated that he has addressed the state legislature for the extra funds needed for the project. Dr. Friedman said that they are in the design phase for a new science building slated to open in 2007, and they have \$6 million from the state, but they are already \$1.3 million short according to the architect. He explained that the science and tech building will allow PVCC to expand healthcare programs, and they are meeting with the University of Virginia and Martha Jefferson Hospital to consider their highest needs other than nursing – such as respiratory therapy, physical therapy assistant, medical imaging.

Dr. Friedman stated that PVCC hopes to expand into culinary arts, hotel/restaurant management, and construction trades also. They are short on facilities and faculty in those areas, but they are trying to work those areas so that they can make major moves in those curricular areas to try to mesh with the local economy and where jobs are.

Dr. Friedman concluded by thanking the Board for their work in helping PVCC.

Mr. Dorrier asked him to mention the partnership with Old Dominion for students to receive a four-year degree.

Dr. Friedman stated that their goal is to try to offer four-year degrees on their campus, and PVCC provides facilities for Mary Baldwin College and Old Dominion University to offer Bachelor's and Master's Degree programs at night. He indicated that ODU just celebrated their 10th anniversary of that program, and signed a new agreement that guarantees that if you graduate from PVCC with a certain GPA you will be admitted to ODU.

In response to Mr. Rooker's question, Dr. Friedman stated that there are links on the PVCC site to university partnerships.

Ms. Thomas asked about agricultural programs.

Dr. Friedman responded that PVCC has expanded horticulture and landscape offerings and viticulture. He stated that marketing of agricultural products is often the issue raised by those in the industry, rather than the actual growing, and so PVCC is responding to those needs as well.

Dr. Friedman noted that Fred Copeland, PVCC Board Chair, was in attendance. He stated that his excellent board was highly committed to the college.

Mr. Rooker commented that PVCC is a "fantastic asset to the community" and he thanked Dr. Friedman for his work, noting the college's flexibility in tailoring programs to the specific needs of the community.

Dr. Friedman added that Lindsay Dorrier, Jr., Mr. Dorrier's son, has been doing an internship with PVCC as he prepares his future to be a college president.

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Agenda Item No. 16. Streamwatch Presentation, John Murphy. (Removed from the agenda; to be rescheduled to another date.)

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Agenda Item No. 17. Appeal: Belle Vista Preliminary Subdivision Plat, private road waiver request. TM 69, P 50C, consisting of 76.513 acs. Property zoned RA. Loc on Critzer's Shop Rd (Rt 151) approx 0.2 mls S of its intersec w/ Rockfish Gap Turnpike (Rt 250). White Hall Dist.

This appeal came to the Board in the following letter dated November 23, 2004, from Mr. Tom Gale, Roudabush, Gale & Assoc., Inc.

"On behalf of the applicant for the Belle Vista preliminary subdivision plat, I am hereby appealing the Planning Commissions' decision to deny the private road waiver requested for this subdivision. In an effort to support the rationale for making this appeal, please consider the following:

Design Considerations:

This property has a physical uniqueness, which regardless of the number of by right lots the applicant would pursue, would dictate a road corridor in the exact same location as the proposed road corridor. It is important to note that if the applicant chose to not subdivide this property and pursue a building permit for the property, a private driveway in exactly the same location as the proposed private road would be desired/needed. If the applicant were to only pursue two lots, this would obviously be true as well.

For the applicant to shorten the road and pursue a state standard road for rolling terrain, the cul-de-sac location would arguably have to be in a difficult and undesirable location, and a shortened road would not allow direct access to three building sites, which is the minimum number of lots required for VDOT to accept a state road.

Safety Considerations:

At the Planning Commission meeting, the issue of safety was raised from a comment by the VDOT Residency for denying the waiver request to utilize public road mountainous terrain standards. Specifically, the response letter from VDOT by Jim Bryan alluded to the issue of the safety being a factor in his decision.

Although I am not in any way qualified as a safety expert, I would like to acknowledge that I agree that mountainous terrain standards, and in turn, private road standards, are not as safe as rolling terrain standards due to the steeper grades allowed for mountainous terrain. However, because there are areas in Albemarle County that the County has recognized cannot meet a rolling terrain standard, private roads have been an alternative in Albemarle County if certain conditions, as cited in the County Code are met. To the extent that the applicable code condition has been met, and that all safety criteria required by VDOT's mountain terrain standards would have to be met for this private road request, to bring up safety as an issue would seem to question the legitimacy of the County Code. By applying VDOT and County road standards, it is implicit that an adequate level of safety standards exist.

In conclusion, I had two pre-application meetings with County staff at the beginning of this project because it became obvious after a brief review of the property that the front portion of the property made it difficult to access the desirable upper region to the rear of the property. The proposed road corridor was a result of what the physical constraints of the property dictated, and offers no flexibility to be changed other than being shortened, and yielding inferior results in terms of environmental impact. In working with County staff on this project, I feel that they made every effort to explore other alternatives for this property, which would put the County's best interest ahead of the applicant's desires. However, due to the lack of satisfactory alternatives given by the physical constraints of this property, they reached the most logical recommendation to approve the private road request.

On behalf of the applicant, your consideration on this matter is very much appreciated."

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**(Note:** The following executive summary was provided to the Board.) The applicant proposes to subdivide Tax Map 69, Parcel 50C, consisting of 76.513 acres, into five parcels. All five parcels will gain their frontage and access from a proposed private road. The property is zoned Rural Areas and is located in the White Hall District on Critzer's Shop Road (Route 151) approximately 0.2 miles south of its intersection with Rockfish Gap Turnpike (Route 250). The Comprehensive Plan designates this property for rural area uses in Rural Area 3.

With the request for use of private roads, the Planning Commission must determine if the standards have been met for approval under Section 14-232 of the Subdivision Ordinance. This section of the ordinance requires that a subdivider demonstrate to the reasonable satisfaction of the Commission that approval of a private road will alleviate a clearly demonstrable danger of significant degradation to the environment of the site or adjacent properties which would be occasioned by the construction of a public road in the same alignment.

Both Engineering and Planning staff support the use of a private road for the subdivision because the difference in earthwork during construction will be much less than if constructing a public road. After reviewing and analyzing the supporting earthwork computations submitted by the applicant, Current Development Engineering staff agree that the degradation to the environment will be greater than 30 percent for the public road when compared to the private road.

Per Section 14-234(c), the Commission may authorize one or more private roads to be constructed in a subdivision if it finds that one or more of the circumstances described in section 14-232 exists and that:

**The private road will be adequate to carry the traffic volume which may be reasonably expected to be generated by the subdivision;** The private road will be adequate to carry the traffic volume expected to be generated.

**The Comprehensive Plan does not provide for a public street in the approximate location of the proposed private road;** The Comprehensive Plan does not provide for a public street in the location of this private road.

**The fee of the private road will be owned by the owner of each lot abutting the right-of-way thereof or by an association composed of the owners of all lots in the subdivision, subject in either case to any easement for the benefit of all lots served by the road;** The fee of the private road will be owned by the owner of each lot abutting the right-of-way and through a required road maintenance agreement, all of the users of the road will be responsible for the maintenance and repair of the road within the right-of-way.

**Except where required by the commission to serve a specific public purpose, the private road will not serve through traffic nor intersect the state highway system in more than one location;** The private road will not serve through traffic, nor intersect the state highway system in more than one location.

**If applicable, the private road has been approved in accordance with section 30.3, flood hazard overlay district, of the zoning ordinance and other applicable law.** Not applicable.

Staff finds that all the requirements outlined in Section 14-234(c) regarding private roads have been met. Staff recommends approval of the use of a private road with conditions.

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Mr. Bill Fritz, Chief of Current Development, addressed the Board, noting that he had more detailed information available on the road plan (public versus private). Mr. Fritz stated that the application was reviewed by the Planning Commission and denied by a 5-2 vote; the subdivision was reviewed administratively and could have been approved subject to the approval of the private road request. He stated that the applicant is proposing a five-lot subdivision on Critzer's Shop Road in the Whitehall District of Albemarle County.

Mr. Fritz explained that the applicant submitted a subdivision plat, and prior to submitting that plat, the applicant pursued giving a modification of VDOT road standards to allow the construction of a public road built to mountainous terrain standards; that request was not approved by VDOT, who indicated that rolling terrain standards must be used. The applicant, Mr. Fritz said, then filed an application for a private road that allows up to 16 percent grade. He explained that engineering reviewed

a public and private road plan within the same alignment to determine if the earthwork for a public road was 30 percent greater than the earthwork involved for a private road, and determined that it was substantially more than the 30 percent.

He continued to report that the applicant is building a road to meet the more than six lot category of road requirement because there is one remaining development right in the subdivision. Mr. Fritz indicated that during the Planning Commission review, it was their opinion that approval of the modification to allow a private road built to mountainous terrain standards would facilitate development that would not otherwise occur. Because of that finding, he said, staff was unable to recommend approval of the subdivision.

Mr. Boyd asked if staff was in favor of the proposal. Mr. Fritz affirmed this, noting that staff analysis was largely limited to the provision of the Subdivision Ordinance where you compare the earthwork involved for a public versus private road, and one criteria for granting a private road is if the earthwork is 30 percent greater for the installation of a public road.

Ms. Thomas asked when staff takes into consideration the fact that this allows for more development in the rural area than would otherwise have been allowed. Mr. Fritz replied that staff looks to determine if the applicant is locating the public road in a poor location or if it is a reasonable alignment; this particular alignment follows an existing road. That is not to say that it could be relocated and result in less earthwork or shortened to have a public-private road mixed, so staff does not exhaust all options for alternative alignments.

Mr. Rooker stated that in the past, the Engineering Department and staff have made the recommendation largely based upon whether it met the 30 percent rule. The policy issue as to whether the waiver shall be granted is up to the Commission, and they can look at the issues they feel are important in making a determination. He added that to exceed the 30 percent earthwork rule, Planning Commission approval is required.

Board members agreed that it would be helpful to see the road profiles, which Mr. Fritz then presented.

Mr. Fritz noted that the entrance location is fixed because the applicant has limited road frontage. He showed the proposed road alignments on the illustrations he provided, noting that the private road is at-grade at the cul-de-sac. Mr. Fritz mentioned that the private road allows the 16 percent grade, but the public road allows for a 10 percent grade.

Mr. Rooker asked Mr. Fritz to explain the rationale that the Planning Commission used that stated that allowing a private road would allow development that otherwise would not take place. Mr. Fritz explained that the amount of earthwork involved is rather extensive, and results in the road to be laid deep in the property, which makes a fairly unattractive layout for the lots and the general appearance of the subdivision. He added that the cost of construction is much greater, also.

Mr. Dorrier asked if the road was straight or switchback. Mr. Fritz answered that once someone enters and crosses the swale, they do not go back and forth in switchbacks.

Mr. Wyant asked about the culvert size on the private versus public road. Mr. Cilimberg noted that the Planning Commission felt that the road design with that kind of cut would not actually be developable, and would not be practical to create. He confirmed Mr. Dorrier's comment that the Comprehensive Plan does not provide for a public street in the location of this private road, because the plan does not show these types of roads in the rural areas.

Ms. Thomas asked if it would be possible to get a driveway down to the cul-de-sac if it were 40 feet below. Mr. Cilimberg stated that Commissioners believed that that type of design would not work. Mr. Fritz said they would not be able to go straight up, it would have to meander.

Mr. Boyd asked if there was a pattern established in considering public versus private roads. Ms. Thomas responded that the Comp Plan policy is that the county does not encourage development numbers in the rural area, and this is a situation where it would be encouraged by making it easier for the developer, or holding to the public road standards. She added that the Board also shies away from private roads, recognizing maintenance concerns.

Mr. Bowerman commented that County policy does not encourage or facilitate maximum density.

Mr. Rooker stated that generally speaking, the Planning Commission deals with the requests, but this is an appeal of their decision. He mentioned that when he served on the Commission, an applicant had to demonstrate they were within the 30 percent rule to qualify at all, and the private road matter was discretionary to the commission based on their analysis of all the facts and circumstances. Mr. Rooker noted a letter from VDOT to the applicant that states that there are safety concerns with the terrain standards.

Mr. Fritz mentioned that mountainous terrain standards are approved in the western part of the state, but the issues of most concern pertained to maintenance, as the Fire Marshal expressed.

Mr. Rooker noted that there are two safety issues: the ability for emergency equipment to access the site, and the safety of roads themselves for traffic.

Mr. Fritz said that the maintenance issue is to keep a road in safe driving condition.

Mr. Graham pointed out that VDOT does accept a 16 percent road grade for operational safety, and if the road were 10 miles to the west, that is an acceptable public road. The real reason that VDOT does not want the mountainous terrain standard here is the Culpeper District buys their equipment assuming they are maintaining roads on a rolling terrain standard. Snowplowing is the main issue. He added that Staunton buys equipment assuming mountainous terrain, so the safety issue is for those people who are pushing the snow and need to clear the roads adequately.

Mr. Boyd said that he was still not certain why the Planning Commission denied the request.

Mr. Rooker stated that it is rare when a determination is made that that by looking at the plan it is unlikely a development would go forward absent private roads. He added that the determination as to whether to grant a waiver is not typically made on that basis because this issue hasn't come up that often, and when it does it is debated long and hard by the commission.

Mr. Davis indicated that staff analysis focuses on the environmental degradation issue, and if that finding is presented to the Commission, they have typically approved a private road request. However, he said, there has been an evolving discussion of this issue and they have honed in on the issue of whether that criteria has been demonstrated adequately to justify the private road in all circumstances. Mr. Davis said that they have come to the conclusion that that standard alone does not always justify having a private road, and in this particular case because of the characteristics of this public road – where they found it would probably not ever be built – making the comparison of the private versus public road didn't show the 30 percent degradation standard because they weren't matching the private road to something that had a practical future. He added that the Planning Commission seems to be less likely to grant these without serious scrutiny.

Mr. Wyant noted that the 30 percent rule is volume of earthwork, and asked about the environmental degradation standard. Mr. Rooker emphasized that an applicant must meet the 30 percent degradation standard to bring the application forward, but the granting of the private road is discretionary.

Mr. Davis explained that under the ordinance, there are certain standards the applicants have in order for waivers to be granted, but the ordinance clearly says the waiver is the exception, as it does not encourage private roads. He noted that as long as the Planning Commission's decision is not "arbitrary and capricious," the waiver does not have to be granted. Mr. Davis mentioned that if the denial is upheld, the applicant would need to redesign it to public road standards or resubmit another private road scenario to the commission.

Mr. Wyant asked if the Commission had denied the private or public road. Mr. Cilimberg responded that they denied the private road.

Mr. Davis explained that the applicant tried to get an exception from VDOT with a 60 percent grade, which was denied.

Mr. Bowerman mentioned that 15 years ago, there was no rolling terrain standard.

Mr. Dorrier asked about the five lot versus six lot standard. Mr. Fritz replied that three to five lots has one standard, six or more lots automatically require VDOT standards. He added that the remaining development right makes a six-lot subdivision.

Mr. Rooker asked what would happen if the applicant dropped down to five lots. Mr. Fritz replied that the difference in grading would be even greater, because the road for that standard is even smaller. Answering Mr. Wyant's earlier question, Mr. Fritz explained that the increase in earthwork would be 299 percent.

Mr. Rooker asked if the road could be relocated and the applicant construct a public road. Mr. Fritz responded that they would still have to request a private road, and still have to do the comparison of public versus private.

Mr. Rooker asked if the applicant could relocate the road and build a public road, or build a public standard road that served two or three lots that might not have all the cut and fill. Mr. Fritz replied that it might be an option to build a public road for a shorter distance, and they had not looked at that in terms of alignment and frontage.

Mr. Tom Gail, representing the applicant Mark Rhodes, addressed the Board. Mr. Gail indicated that Exhibit A shows the slopes on the property which are 15 percent or greater. He also presented Exhibit B which showed the Terrain Classification Guidelines in the VDOT subdivision design requirements manual, which give the guidelines for when mountainous terrain is appropriate.

He noted that there was some confusion at the Planning Commission meeting. He explained that he met with staff twice before going forward with the application, and he knew that they needed mountainous terrain standards to serve this property. Mr. Gail said that issues came up in his meetings with staff regarding alternative locations. He stated that he has to convince everyone that the private road is in the best possible location, and no other location will work. That is essentially what he has here. He said that staff made their own review and came to the same conclusion because of the physical constraints of the property.

Mr. Gail said that whether the property is subdivided or not, the road would need to be in the same location, as the slopes are 15 percent or greater and make road alignment difficult without using the mountainous terrain standard. The road location was critical and he thinks he has the road in the only place possible to develop this property. He said that they met all of VDOT's design criteria for the public road – geometric, terrain classification – but VDOT does not have the equipment to adequately maintain mountainous terrain standard roads. Mr. Gail said that they backed off and pursued a private road instead, adding that Jim Bryan of VDOT agreed the road is in the best possible location.

Mr. Gail read the last sentence in the second paragraph of the denial letter: "In order for the preliminary plat to be approved, the subdivider must either amend the plat to show that all roads would be public roads, or provide the commission with alignment of a private road that meets the requirements of the Albemarle County Code Sections 14.232-14.234."

Mr. Gail said that there is a 40-foot cut on the property, and he knows that a rolling standard cannot be used to put a road on this property. He mentioned that the private road meets all code requirements, but he understands the Commission has certain discretion including the environmental degradation issue. He emphasized that he does not see any other options for the road location.

Mr. Wyant asked Mr. Gail if there was a public road to where the grade is met, could he not do something beyond that. Mr. Gail replied that there must be a cul-de-sac, and that is a poor location to put one. He also indicated that for a public road, there must be three residents on the road, and there would not be access to three homes that way without extremely long driveways. Mr. Gail emphasized that they are trying to use the existing woods road.

Mr. Wyant asked if the public versus private road status would affect the size of the culverts. Mr. Gail responded that it would not make any difference, as the standard is the same.

Mr. Bowerman said that the division rights exist, but the lots do not.

Mr. Dorrier asked if there were private roads in the County now with 16 percent grades. Mr. Gail replied that Rosemont and Ashcroft have them, and Brown's Mountain has some very steep stretches.

Mr. Boyd said that the Planning Commission is denying this based on the fact that this development wouldn't happen without a private road. Mr. Gail stated that Mr. Riley was concerned about the 40-foot cut.

Mr. Boyd said he was reading into the denial that the Planning Commission did that based on the fact that if it gave approval for the private road, the County would be promoting development in the rural area which is against the Comprehensive Plan in the rural area whereby development might not happen.

Mr. Bowerman commented that development might happen, but it might not happen at this density.

Mr. Gail said that this is an "oddball" piece of property where a private road certainly applies. He said that Mr. Riley was making the argument that a 40-foot cut could not be done. Mr. Gail explained that if he had had a 15 or 20 foot cut it might have been acceptable.

Mr. Rooker stated that there is a policy decision to be made by the Commission, and the Board needs to decide whether they want to uphold that decision.

Mr. Gail commented that if this type of road is not what the County wants, the ordinance needs to be changed because it supports private roads in certain situations. He is looking for the discretion there and does not see it.

Mr. Wyant asked if the road design was up to five lots, or more than five. Mr. Gail responded that it was made for more than five, as the sixth development right might be used.

Mr. Wyant asked why this design was not shown. Mr. Gail replied that the design is for six, as the applicant wants to retain that option.

Mr. Rooker stated that the issue is whether they want to use private road standards to enable lots to be developed in the rural areas that would not otherwise be developable. He added that the decision to grant a private road or not is discretionary with the Planning Commission. It is supposed to be the exception, not the rule. The County has a policy against fostering development in the rural areas. Mr. Rooker said the question is whether the Board follows through with that policy.

Mr. Wyant commented that the road standards do not match up to what is in the Comprehensive Plan, noting that the applicant meets the road standards. Ms. Thomas responded only in comparison to a hypothetical road, not a road that he actually was going to build.

Mr. Rooker said that the 30 percent standard must be met in order to come forward with an application, and whether or not to allow the private road is discretionary with the Planning Commission based on their analysis of all the facts and circumstances. One of the facts and circumstances here is this is a piece of property that probably is not developable with a public road, so you are enabling development to occur in the rural area. He added that the question is "do we allow the use of private roads in the rural area solely for the purpose for increasing the number of lots." Mr. Rooker stated that he falls on the side of supporting the Planning Commission.

Mr. Boyd asked where that line should be drawn, and wondered if the Board would set some kind of cutoff with their action.

Mr. Gail said that Mr. Rodney Thomas indicated that the Planning Commission needed a work session on that issue, because there may be a shifting in the policy, and staff may need direction.

Ms. Thomas said that that "shift" may actually be increased pressure to develop in the rural areas.

Mr. Dorrier stated that he believes the application pushes the standards to the limit, but does meet the standards because it is under six lots and a private road is requested that the planning staff agreed with. It has met the technical requirements of the ordinance. He agreed that perhaps there needs to be a discussion on policy for mountainous roads.

Mr. Davis emphasized that the issue underlying the Planning Commission's decision was the criteria for environmental degradation and felt that in order to compare the proposed private road they had to have a feasible public road, and without that they could not make that determination that there's been a significant environmental degradation.

Mr. Rooker commented that if every private road that met the technical standards were automatically approved, there would not need to be a Planning Commission decision. This is a discretionary decision based upon looking at a number of factors, in their view, and it does not meet that factor because of what Mr. Davis just said.

Mr. Dorrier said that some questions about where to end the public road need to be asked.

Mr. Bowerman stated that the issue is how many lots are served by the road. It is clear that the County does not have a policy on increasing the density throughout the rural areas by allowing the type of infrastructure that regardless of the degradation would allow that density to occur. He added that the County's policy on the rural areas is clearly not that. There is no guarantee that because six division rights exist that six division rights can be used.

Mr. Dorrier asked if it would be better to have fewer lots. Mr. Rooker said that the applicant would have to present a different plan with fewer lots if he so chose, but that is not what the Board has before it.

**Motion** was then offered by Mr. Wyant, **seconded** by Mr. Dorrier, to overturn the Planning Commission's denial of SUB-2004-0077, Belle Vista. Roll was called, and the motion failed by the following recorded vote:

AYES: Mr. Dorrier and Mr. Wyant.

NAYS: Mr. Bowerman, Mr. Boyd, Mr. Rooker and Ms. Thomas.

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**(Agenda Items No. 18 and 19 were discussed concurrently)**

Agenda Item No. 18. Family Support Program Evaluation Results.

Ms. Roxanne White, Assistant County Executive, summarized the following information from the Executive Summary provided to the Board. In 1996/97 the Board approved the addition of one Family Support Worker in the Department of Social Services to work in the elementary schools with children and families at risk of abuse and neglect. At that time the focus was on Stone Robinson and Greer Elementary. In 1998, the Virginia Department of Social Services provided an opportunity for the department to pilot an extensive prevention program expanding the Family Support concept into all elementary schools in the County. The State was particularly interested in Albemarle because of the connection among the Human Services Plan, the Neighborhood Team, the department's Strategic Plan, the work of the Commission on Children and Families, and the existing community network of early intervention providers for the zero to six-year old population that formed a continuum of services for at-risk families. Utilizing funds from Title IV-E of the Social Security Act, the department embarked on the design and implementation of an expanded program that became fully operational in January 1999. The new funds not only allowed expansion of the Family Support Program, but also the expansion of Bright Stars through the hiring of a full-time Coordinator and additional hours for the Bright Stars Family Coordinators.

The Board of Supervisors expressed interest in learning more about the results of this program over time and the department contracted with the Weldon Cooper Center to conduct an evaluation of the program. The Weldon Cooper Center contracted with Dr. Bruce Gansneder of the Curry School of Education, University of Virginia, for the study. While the department has provided the Board with progress reports on the program over the past five years, this is the first time the Board has received study results from an independent evaluator.

To evaluate the effectiveness of the Family Support Program, an evaluation team was assembled with representatives from the Department of Social Services, the Family Support Program, the School System, Weldon Cooper and the Curry School of Education. Weldon Cooper designed an evaluation for the County's Family Support Program that would focus on the program's processes and procedures, as well as begin to identify trend data that could be followed to track both short-term and long-term results of the interventions. The evaluation focused on program process and procedure, description of activities, contacts and services provided, who was served, how many were served and whether the program was

addressing the Title IV-E Pre-placement Prevention requirements. It also went beyond that to determine interventions that were "successes" and to build an information system that could be used over time to manage and evaluate the program.

The Executive Summary (on page 4 of the report) provides information on Weldon Cooper's process for gathering the information and then designing an ongoing data collection system. It also includes a brief listing of the project results, which were:

1. Development of new or revised instruments to assess and document children and family characteristics and the Family Support Program interventions;
2. A web-integrated information system to input, store and retrieve all the information;
3. An analysis of the descriptive data for the children and families, as well as the services provided;
4. An assessment of the short-term impact of the program and the capacity to assess the long-term impact.

The Executive Summary also provides relevant information on the family characteristics, school performance, family risk factors and then a description of the case management services provided to the children and their families and the interventions and their relationship to school performance. All of this summary data is backed up by more detailed data found in pages 12 through 41 of the full report.

The most compelling part of the evaluation, in addition to the data that the department has collected since the end of the study in 2002, is in the conclusion section found on page 9, where the report finds that the "Family Support Program interventions are both addressing problem areas and beginning to make a difference. Data also indicates that the Family Support Program directs its services to meet child and family needs and provides more interventions in areas of specific need." The conclusion further states that although it is difficult to prove a causal relationship between services and the improvements, "the correlations between services provided and improvement in client needs is promising". It also indicates that further study will be needed to determine the long-term impact of the program.

The most valuable benefit to the Department of Social Services from Weldon Cooper's evaluation project has been the establishment of an effective and ongoing data collection system that continues to provide the department with trend data on the children and families enrolled in the program, as well as the effectiveness of the services that are being provided. This information is then used by the department to make program improvements, change service delivery and most importantly to try to correlate services to desirable long-term outcomes. Some of the additional data that will be presented to the Board on January 5th will be the decreasing number of children, particularly younger children, going into foster care, as well as the continuing reports back from the schools on positive behavior changes, attendance, grades, etc., as a result of the Family Support Program interventions.

As you are aware, the Family Support Program has recently learned of severe cutbacks in Federal reimbursement dollars that may seriously impact the ability to continue the program. Staff has been working diligently over the past several weeks to develop a plan of action to keep the program going, at least on a temporary basis until permanent funding is secured. More complete financial information on the Family Support Program will be shared with the Board at the January 5 meeting.

This information is provided for the Board's information and does not require any action at this time. This Executive Summary provides background for the bound report provided by Weldon Cooper.

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Agenda Item No. 19. Bright Stars Annual Report.

Ms. Charity Haines, of the Department of Social Services, then summarized the following Executive Summary for this item. The Bright Stars Program began in 1995 in Albemarle County Schools with the first classroom at Stone Robinson Elementary School. Today the program serves six schools and 96 four-year olds and their families in the following schools: Stone Robinson, Agnor-Hurt, Greer, Scottsville, Woodbrook, and Cale. Bright Stars is an early intervention program for at risk four-year old children and their families that attempts to increase learning opportunities by addressing risk factors that affect school performance. At risk factors are based on a variety of criteria that include such things as parental illiteracy, poverty, domestic violence, substance abuse, chronic illness, criminal activity, developmental disabilities and behavioral, oral language, social or personal difficulties. Funding for the program is partially offset by state dollars from the Virginia Pre-School Initiative but these funds only support 33 percent of program. The remaining funding for the program comes from local government, the schools and a small grant from Martha Jefferson Hospital that provides dental care support for the children.

The annual report provided to the Board for 2003-2004 is a summary of the year in review and does not include Woodbrook Elementary since that program just began in the fall of 2004. The report provides demographic and program information as well as curriculum, results of test scores, comparative data and impact on families. Finally, there is information from recent surveys of parents, teachers and other staff regarding the program.

More than half of the children that were served in Bright Stars remain at or above grade level in math and reading through the third grade, although there are still children scoring below grade level, producing a challenge for the program to determine the factors that contribute to those children still not keeping up with educational grade levels. Of the twenty-eight former Bright Stars students taking the third grade reading/writing SOL, twenty passed while eight did not pass.

Families have many opportunities to be involved in the program and 97.5 percent of families attended at least one family event during the school year. Families also benefit from case management services provided by Family Coordinators. Case management services to families at one school resulted in three parents either obtaining their GED, post high school training or enrolling for college level courses; three parents improving their housing situation; and one parent applying for and being hired into a more responsible benefit-paying job.

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In response to Ms. Thomas' question, Ms. Haines explained that the PALS testing measures what children know about upper case letters, lower case letters, words, print, rhyming, letter sounds, how to open a book. She said that in 2002 and 2003, 97 percent of the students met or exceeded the benchmark score, and one class went from 0 percent to 100 percent over the year. Ms. Haines added that students are able to sustain the scores also, and 85 percent of Bright Stars participants were able to maintain their gains through their kindergarten year, with 81 percent able to maintain their gains through their first grade year.

Ms. Haines emphasized that Bright Stars is getting families involved in their children's schools from very early on, and the program hosts 20 events per year; in 2003-2004, 95 percent of families attended at least one family event, with an average of five events attended per family. She said that the year before had even better attendance. Ms. Haines indicated that families have said that they like the variety of times for family events and the interaction with their neighbors. She said that some parents make it to the events even though they work two jobs and have limited transportation.

Ms. Haines said that these kinds of successes are being achieved with children and families who are very complex according to the Bright Stars "Risk Rating Scale." She said that there has been an increase in the risk points each year, with families entering the program with higher needs. In spite of that, they are still achieving success. She added that 20 percent of participants are Hispanic, and there is also an increase in Sudanese families, and the program has had to provide interpreters in some classes.

Ms. Haines concluded that in order for gains to continue, these families need ongoing support, adding that moving families towards increased self-sufficiency takes time and takes outside intervention in many cases.

Ms. Ralston, Director of Social Services, addressed the Board, noting that Weldon Cooper did a study for the county on the Family Support Program, and she presented the results.

Ms. Ralston said that the study was done between 2000 and 2002, with both long-term and short-term results considered. She provided a quick summary of what the report entails:

The highest referral source in the program was teachers;  
The most common referral reasons were emotional behavioral problems and limited social skills;  
half of the children read below grade level;  
The most common problems cited by teachers were behavioral problems as well as academic problems;  
Three-fourths of these students failed their SOL reading, math, history and science tests in this program, although this was in the early days of the SOLs;  
Fewer than one-half were considered ready and prepared for school;  
Sixty-eight percent were referred for child study; 45 percent ended up with an IEP as compared to 16 percent for the regular population in the county; 29 percent ended up with assistance plans;  
and  
Forty percent referred were at risk for abuse and neglect and 44 percent were known to have been referred to child protective services prior to receiving family support services.

Ms. Ralston reported that the most common characteristics of these families is they were poor, almost one-half were single parent households, and they were overwhelmed. She added that the highest risk associated with the parents were associated with discipline, household conflict, and lack of parenting skills. Ms. Ralston said that 33 percent of the families had high trauma risks such as injury, loss, or death, and 26 percent had violence in the household. She said that 42 percent of the parents had a childhood history of risk, including emotional abuse and poverty. Ms. Ralston said that 47 percent of the current parents had a high risk of aggressive, abusive behavior, and the adult relationships had a high risk of physical, emotional, and verbal abuse.

Ms. Ralston added that while there was a low risk of substance abuse in the parent group, there was a high risk of alcohol abuse in both the primary and secondary parent or guardian.

Ms. Ralston stated that in six years, there were 924 kids referred, and 74 percent of them voluntarily worked with the program. She emphasized that it takes a lot of effort to have a family allow intervention by the outside. Ms. Ralston said that their family support workers do an excellent job "joining with families."

Ms. Ralston said that the study period for school-related improvements only covered one year, but attendance improved by three percent, behavior improved 20 percent to 48 percent, academics improved 40 percent - largely related to homework improvement.

Mr. Rooker asked if it was possible to get more statistics, such as what was available with the Bright Stars data.

Ms. Ralston said she would go back and ask the Weldon Cooper Center for more detailed information. She added that there are measurable improvements in attendance and the number of children that miss between six and 31 days decreased by 3 percent. She emphasized that in the post-study period, there have been significant improvements in behavior, as much as 70 percent, as reported by teachers. Ms. Ralston said that in 2004, academics for the group improved by 36 percent.

Mr. Boyd asked how the statistics could be followed if the population is transient.

Ms. Haines said that they try to track families that move, especially if they stay within the county or the area.

Ms. Ralston explained that the short-term and long-term results on family-related issues did not show as much detailed data as they had hoped, but the study did show that 49 percent of the families had a high potential for abuse and neglect, and 2.5 percent of the children were placed outside the home during the study period. She added that in the post-study period, the families with a high potential for abuse and neglect decreased by nine percent in 2004 and 2005; the number of children placed outside the home had decreased from 2.5 percent to one percent to .06 percent.

She said that in the post-study period, more family problems were in the housing, employment, and health insurance categories. The most frequently cited goals by families were securing adequate housing, securing a new job, improved supervision of children, successful counseling, illness stabilization, family becoming aware of community resources, and children doing well in school. Ms. Ralston added that there was an increase in Limited English Proficiency demand, and it has been a challenge for workers to "break into" those families. Ms. Ralston said that there has been a relational improvement in the foster care area since the caseload took off in 1995.

Ms. Ralston said that CSA expenditures steadily rose between 1994 and 2002, with decreases in 2003 and 2004. She said that children in specialized placements – such as therapeutic foster homes and residential facilities – have increased, noting that the number of adolescents in foster care has increased. Ms. Ralston added that there is no cap on vendor increases, with an average of 30 percent increase between 2002 and 2003. She noted that steady population increases impact the care programs also, noting that if just another one percent came into the program, that would yield an estimated increase of \$165,000 in CSA costs.

Ms. Ralston presented information on revenue and expenses, noting that between 1999 and 2002, the county brought in approximately \$3.9 million in federal revenues for prevention services, and there would be another \$680k in 2003-2005. She noted the gap in funding, and mentioned that in mid-2003 they asked for stop-gap funding for the first time; they also received a one-time only family preservation source of funds. Ms. Ralston said that the Family Support Program tried to get more money from Medicaid, but federal funds began to dwindle. She explained the Missouri Decision, when the federal government began "disallowing cases." Ms. Ralston said that there was a federal audit ordered for Virginia in spring 2004, and at that point the state halted payment on claims beginning in August 2003. The County has not had reimbursement on its claims since that time. She mentioned that the federal audit was completed in fall 2004, and additional new rules were announced.

Ms. Ralston reported that in December 2004, the federal government informed them that they were going to apply the new rules retroactive to 2004, which meant that there would not be reimbursed for the claims.

Ms. White addressed the Board, noting that the feds changed the rules midstream, which is unfortunate now that the programs are working.

Mr. Rooker asked about Delegate Steve Landes' offer to set up something to look at these issues. Ms. White agreed to write him a letter to explain where things stand now, but she felt it was important to pull people together locally first.

Ms. White noted that the revenue shortfall now is \$250,000, and they are proposing using Bright Stars carryover funds to offset it. She said that the School Superintendent is very much in favor of the program, and the request will be made to the School Board. She said that if the funding cannot be identified, they would need to terminate the seven Family Support Workers.

Mr. Wyant commented that this is not the first time the federal funding has been short, and wondered how that had been dealt with in the past.

Mr. Tucker said that they budgeted for those shortfalls, but the most recent was not anticipated so it could not be planned for.

Ms. White said that the current program design could be supported by other federal funds for the program, but that still leaves a \$300,000 shortfall. She added that the other option might be to shorten the timeframe, reduce the number of families served, or target fewer schools. Ms. White stated that they are talking with the schools to see how the situation could be mitigated.

Ms. White asked the Board for their approval of use of the Bright Stars carryover funding.

**Motion** was then offered by Mr. Boyd, **seconded** by Ms. Thomas, to approve use of the Bright Stars carryover funds for FY 2005. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Mr. Rooker asked if they would always be in the situation of budgeting without knowing what comes from the federal government. Ms. Ralston said that she hoped it would not be the case, now that the federal audit has been completed. She stated that the 4-E program is so restrictive now they are looking to other sources of federal funding.

Ms. Thomas asked if state funds would be available for this. Ms. White responded that she was not sure the state would fund a local program like this, noting that the 4-E fund situation has forced cuts in lots of agencies.

Ms. Thomas emphasized that it is always hard to get funding for preventative programs.

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Agenda Item No. 20. Closed Session.

At 12:15 p.m., **motion** was offered by Mr. Dorrier that the Board adjourn into closed session 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 discuss with legal counsel and staff specific legal matters regarding a matter relating to taxation of real property.

The motion was **seconded** by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 21. Certify Closed Session. At 2:10 p.m., the Board reconvened into open session.

**Motion** was immediately offered by Mr. Dorrier, that the Board certify by a recorded vote that to the best of each Board member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed or considered in the closed session.

The motion was **seconded** by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 22. Appointments.

Mr. Bowerman said it is the desire of the Board to amend the bylaws of the Police Department Citizens Advisory Committee to change the number of citizen members from four to five. He then made a **motion** to that affect. Mr. Boyd **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Mr. Bowerman made a **motion** to appoint Stephen F. Smith and Clarence W. Roberts to the Police Department Citizens Advisory Committee, with said terms to expire March 5, 2006

Mr. Boyd made a **motion** to appoint A. Bruce Dotson, Steve Taylor, and Janna Crutchfield to the Housing Committee, with said terms to expire December 31, 2007.

Mr. Boyd made a **motion** to appoint Marilyn Minrath to the Police Department Citizens Advisory Committee, with said term to expire December 31, 2007.

Mr. Boyd made a **motion** to appoint John deKoven Bowen, III, and to reappoint Craig G. Van de Castle to the Public Recreational Facilities Authority, with said term to expire December 13, 2007.

Mr. Wyant **seconded** the motions.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 23. SP-2004-040. Mount Fair Farm (Signs #73 & 95). Public Hearing on a request to permit fill in the floodplain for purpose of constructing 2 stream crossings for second driveway/farm road, in accord w/Sec 30.3.05.2.2(3) of the Zoning Ord which allows for fill in the floodplain. TM 26, P 33, contains 75.3 acs. Znd RA. Loc at NW corner of intersec of St Rt 810 & St Rt 673. White Hall Dist. (Notice of this public hearing was published in the Daily Progress on December 21 and December 28, 2004.)

Mr. Fritz said this proposal is for activity in the floodplain at the intersection of Slam Gate Road and Brown's Gap Turnpike, and includes a culvert for a driveway, bridges for a driveway, dam with a footbridge, excavation for a pond and an entrance location. He explained that the project was originally scheduled and went to the Planning Commission on October 26th, where there were some concerns about the amount of information available at that time, and the ability of staff to make positive findings. He added that there was also concern that there was activity going on in the water protection areas of the streams, but it was later determined that those activities were exempt from the Water Resource Protection Ordinance as they are agricultural. Mr. Fritz noted that the purpose of this proposal is to allow for the establishment or enhancement of a horse-breeding operation on the property, and the location of the road allow access to the fields for moving equipment, etc.

Mr. Fritz reported that the application was originally heard by the Planning Commission and deferred. Staff had not been able to recommend approval of the request for the following reasons:

1. *The applicant has not provided the County with enough information to analyze the impacts to public health, safety and general welfare in terms of post-construction floodplain levels.*

Since the October meeting the applicant has submitted information to engineering staff detailing the hydrology, and revising the plan to better delineate buffer areas, and provide sketch plans for the bridge crossings. The applicant has indicated that further information is forthcoming with regard to the hydraulic computations evaluating flood level impacts at the driveway crossings and the dam. Considering the applicant's wish to stay on the current schedule, and the fact that this is an area of FEMA approximated floodplain, for which the applicant is providing more information than was available to FEMA, staff is recommending that the applicant send this information to FEMA and obtain a map revision. With a FEMA map revision, the official flood levels become the new flood levels, and the County Ordinance requirement for no increase in the flood levels is unquestionably met.

2. *The location of the driveway and extent of buffer disturbance do not appear necessary for reasonable use of the parcel as a horse farm.*
3. *The applicant has not provided an alternate design to eliminate unnecessary stream buffer disturbance.*
4. *The Water Protection Ordinance disallows unnecessary stream buffer disturbance.*

At the October meeting the applicant had appealed the Water Protection Ordinance Program Authority's decision not to allow stream buffer disturbance to the Board of Supervisors. Upon further review, staff determined that the Water Protection Ordinance is not applicable to agricultural uses and so the appeal was not necessary. Therefore the disturbances of the stream buffers shown on the applicant's plans can be approved as is, but staff recommends that conditions of approval include the review and approval of an erosion and sediment control plan and a stream buffer mitigation plan.

Mr. Fritz said staff and the Planning Commission recommends approval of SP-2004-040 with conditions.

The Chairman asked the applicant for comments

The applicant's representative, Ken Collier of Hughes, Goodall, Leary, and Ryan, addressed the Board. He was present to answer questions. He had no additional comments to make.

Mr. Wyant asked if VDOT had approved the sight distance of the second entrance on Route 810. Mr. Collier replied that VDOT had been to the site and had no problems with the location. He explained that the entrance was needed to access several pastures, as the barn is towards Slam Gate Road.

The Chairman then opened the public hearing. There being no further public comment, the matter was placed before the Board.

**Motion** was offered by Mr. Wyant, **seconded** by Mr. Bowerman, to approve SP-2004-040 subject to the five conditions recommended. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

(The conditions of approval are set out below:)

1. With the exception of all changes that would be required in order to comply with the conditions listed herein, the site shall be developed in general accord with the plans entitled, "Mount Fair; Albemarle County, Virginia; MacFarlane Residence; Whitehall Virginia," dated revised 11/19/04;
2. Approval and bonding of an erosion and sediment control plan;
3. Approval and bonding of a mitigation plan for buffer disturbance;

4. Federal and state agency approval for stream and wetland disturbances; and
5. FEMA approval of a map revision (LOMR or LOMA).

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**(Note: Agenda Items 24 and 25 will be heard concurrently.)**

Agenda Item No. 24. ZTA-2004-008. Flood Hazard Overlay District (FH). Public Hearing on an Ordinance to amend Sec 30.3.01, Intent, Sec 30.3.02.1, Definitions – Generally, Sec 30.3.02.2, Determination of Floodway & Floodway Fringe in the Approximated Flood Plain, Sec 30.3.05.1.2, By Right W/in the Floodway Fringe, Sec 30.3.07, Amendment of the Flood Hazard Overlay District, & delete Sec 30.3.06.2, Finding of County Engineer, of Chapter 18, Zoning, of the Albemarle County Code. The boundaries of the Flood Hazard Overlay District are those areas w/in the County subject to inundation by the waters of the one hundred year flood, based upon maps resulting from a flood insurance study prepared by the Federal Insurance Administration, Federal Emergency Management Agency (FEMA). Recent detailed studies prepared by FEMA have resulted in new maps that will establish revised boundaries of the Flood Hazard Overlay District. This ordinance would amend Sec 30.3.01, Intent, to also refer to FEMA; amend Sec 30.3.02.1, Definitions -- Generally, to specify that the source for delineating the boundaries of the Flood Hazard Overlay District is the new flood insurance study prepared by FEMA, effective February 4, 2005; amend Sec 30.3.02.2, Determination of Floodway & Floodway Fringe in the Approximated Flood Plain, to provide that the procedure applies only to determine the floodway fringe in the approximated flood plain; amend Sec 30.3.07, Amendment of the Flood Hazard Overlay District, to add that the boundaries of the district may be revised, amended or modified upon completion of an authorized fill operation (superseding & being the basis for deleting Sec 30.3.06.2, Findings of County Engineer), or where changes are indicated through FEMA's issuance of letters of map amendment or letters of map revision; amend Sec 30.3.05.1.2, By Right W/in the Floodway Fringe, to allow pedestrian & multi-use paths w/in County parks & dedicated greenways, & footbridges. (Notice of this public hearing was published in the Daily Progress on December 21 and December 28, 2004.)

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Agenda Item No. 25. ZMA-2004-019. Flood Hazard Overlay District (FH). Public Hearing on a proposed amendment to Chapter 18, Zoning, of the Albemarle County Code, would amend the zoning map to change the boundaries of the Flood Hazard Overlay District (FHOD). The FHOD exists for the purpose of providing safety & protection from flooding by restricting certain uses, development & occupancy of lands w/in the district because they are subject to inundation by the waters of the one hundred year flood. The district's regulations also assure that Albemarle County will continue in the regular program of the National Flood Insurance Program. The boundaries of the FHOD are based upon maps resulting from a flood insurance study prepared by the Federal Insurance Administration, Federal Emergency Management Agency (FEMA) in 1980. Recent detailed studies by FEMA have resulted in the creation of new maps that will establish revised boundaries of the lands subject to inundation by the waters of the one hundred year flood & correspondingly, the boundaries of the FHOD, affecting approx 4,120 Ps w/in Albemarle County. As a result of this proposed amendment to the zoning map, some Ps, or portions thereof, will be placed w/in the FHOD, some will be removed from the FHOD, some will remain in the FHOD but w/the FHOD's boundaries changing, & some will remain in the FHOD but w/no boundary change. The general usage w/in the FHOD includes certain agricultural & recreational uses to public utilities & other public service facilities; various water-related uses such as flood warning aids, water monitoring devices, flood control or environmental restoration measures, dams, docks, bridges, ferries, pump stations; certain retaining walls & revetments; hydroelectric power generation; aircraft land strips; & certain towers & fences. The FHOD also prohibits the establishment of structures designed or intended for human habitation; the storage of various petroleum-based liquids, explosives & other materials; the storage of machinery & vehicles as a primary use; & the stockpiling of debris, logs, junk cars & similar materials. The FHOD does not establish a density range, though it does prohibit establishing structures designed or intended for human habitation. The general usage w/in floodplains described in the Comprehensive Plan discourages development & inappropriate uses, the stripping of land, & the creation of impervious surfaces w/in floodplain lands because such development can result in increased danger to life, health & property, increased flood levels, & degradation of water quality & the natural & man-made environment. The Comprehensive Plan does not establish a density range w/in the FHOD. (Notice of this public hearing was published in the Daily Progress on December 21 and December 28, 2004.)

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The Albemarle County flood insurance study was adopted on December 16, 1980. It was updated in 1990 to include the changes resulting from construction of the Scottsville levee. Due to their age, our maps had become severely outdated, especially within the "urban ring" where significant land changes and development activity had occurred. There has also been a need for more detailed flood elevation information along the major streams in the development areas. Since September 2002, staff have been working with FEMA, Dewberry & Davis (FEMA mapping consultant), and the U.S. Army Corps of Engineers to update the Flood Insurance Rate Maps for the County and expand the "detailed study" areas, where the one hundred-year flood or base flood elevations (BFE's) are determined.

The Executive Summary provided to the Board states that on January 27, 2004, FEMA and U.S. Army Corps representatives met with staff to present the preliminary study and flood maps. A number of improvements had been made to the study and the maps. The most noticeable improvement was that the study and maps for Albemarle County, the City of Charlottesville, and the Town of Scottsville had been consolidated into one set. Other significant improvements are described below.

- Report expanded and updated the community description and flood history.
- Maps reflected the "Letters of Map Revision" FEMA had issued since 1980.

- Maps were based on the topographic mapping provided by the County, City and the Albemarle County Service Authority (ACSA) and reflected the changes in topography and land development activity since 1980.
- Map scales were improved. The earlier map scale was 1" = 2000'. The new map scales are 1" = 500' within the urban ring, Crozet Development Area, and Scottsville. The map scales are 1" = 1000' for the remaining maps, except for the few maps along the edges of the outer perimeter of the County where the scales are 1" = 2000'.
- The "detailed study" areas were expanded along the Rivanna River and North Fork Rivanna River. New "detailed study" areas were added in the Crozet Development Area (Lickinghole Creek, Powells Creek, Slabtown Branch), in Urban Neighborhood 4 (Cows Branch), and in the Hollymead/Piney Mountain Community (Herring Branch, Flat Branch and Tributary to Flat Branch).

FEMA published public notifications of the proposed BFE's in the Daily Progress on February 26, 2004, and March 4, 2004. This notice initiated their 90-day appeal process. The County received notification from FEMA on August 4, 2004, that the 90-day appeal period had been completed, no appeals were received by FEMA, that the BFE's were considered final, and that the flood study and maps would become effective on February 4, 2005.

The Flood Hazard Overlay District (FHOD) is defined in Code Section 18-30.3 as all areas inundated by the one hundred year flood, as delineated by the flood insurance study for the County of Albemarle, dated June 16, 1980. Therefore, the adoption of a zoning text amendment (ZTA) to reference the new flood insurance study and a zoning map amendment (ZMA) to adopt the FHOD map changes is necessary.

As mentioned above the new flood study and maps become effective on February 4, 2005. FEMA has notified the County that prior to February 4, 2005, the County is required, as a condition of continued eligibility in the National Flood Insurance Program, to show evidence of adoption of the FEMA floodplain regulations. This includes adoption of the effective flood maps and study report to which the regulations apply and the modifications made by this map revision.

Text Modifications: At the November 16, 2004, work session, staff described the text amendments that would be necessary to assure continued eligibility in the National Flood Insurance Program and to provide the clarity needed for implementation of these regulations. The Planning Commission concurred with staff and the text amendments have been included in the ordinance. Staff also presented additional text modifications for consideration. The Commission expressed their opinion that the suggested modifications should be developed through a process of "public involvement", such as roundtable discussions, input from the development community, or other means used in the past amendments. However, it was noted by Mr. Wayne Cilimberg that during the special use permit hearing for the Old Mills Trail (Rivanna River Greenway) the Board of Supervisors had instructed staff to pursue the by-right construction of trails within the Floodway Fringe. The Commission agreed to include the recommended amendment to 30.3.05.1.2(3) as provided in Appendix C of the November 16, 2004, Staff Report.

To supplement this text amendment, the Commission requested that the County Engineer include information on the design standards for pedestrian and multi-use trails. These documents are included as Attachments B, C and D (all on file in the Clerk's office). Attachment B summarizes the result of staff's research of existing sidewalk, pedestrian path, bike trail and multi-use path standards. Attachment C is a worksheet used for developing County standards. Attachment D is the Design Manual section providing the County pedestrian and multi-use facility criteria. Staff recommends the approval of the ordinance amendment provided as Attachment A and the associated zoning map amendments.

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It was noted in the Executive Summary that a public hearing was held by the Planning Commission on December 7, 2004, on the proposed zoning map and text amendments. The Commission supported the zoning map and text changes necessary to assure continued eligibility in the National Flood Insurance Program and to provide the clarity needed for implementation of these regulations. The Commission, however, did not support the proposed addition to Section 30.3.05.1.2 that would allow pedestrian and multi-use paths within County-owned or operated parks and Greenways as a by-right use. The Commission noted fairness and the concern that public projects should be held to the same review procedures and requirements as private projects as the primary reason for its decision not to recommend the amendment. However, staff feels the proposed amendment will assure the same level of technical review and facilitate the implementation of the County trail system. As proposed, the ordinance will require that any filling of land be approved by the county engineer in accordance with Section 30.3.06.1(1) through (5). Staff recommends that the ordinance allow County-created pedestrian and multi-use paths to be a by-right use. As requested by the Commission, staff incorporated additional terms and revised definitions in Section 30.3.02.1 of the proposed ordinance to clarify the terms "floodway fringe" and "floodplain."

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Mr. Jack Kelsey, County Engineer, explained that the FEMA flood maps and flood study for the county had been generated in 1980, and has been revised and updated. The new maps become effective February 4, 2005. In order to continue eligibility to provide the National Flood Insurance Program, evidence must be submitted to FEMA that the new study and maps have been adopted prior to

the effective date of the maps in the study. He added that since the overlay district is defined by the flood maps and study, it has generated the need for the zoning map amendment and zoning text amendment.

Mr. Kelsey said that at a Planning Commission work session, staff introduced three by-right amendments that staff recommended: one to allow pedestrian trails within county-owned and operated parks and greenways as a by-right use rather than requiring a special use permit; allowing fill in the floodplain for low-water crossings to provide access to existing parcels of record; and to allow fill in the floodplain for temporary erosion-control measures and permanent stormwater facilities where needed.

He mentioned that after the work sessions, and based on the discussions, only one of those – the pedestrian trails – was forwarded to public hearing. Mr. Kelsey stated that after the public hearing, the Planning Commission decided not to recommend approval for that amendment, noting that fairness and concern that public projects should be held to the same review procedures and requirements as private projects. He said that it is worth noting that county-owned trails and greenways are subject to Planning Commission review for compliance with the Comp Plan, and staff feels that the level of technical review being proposed under the amendment as written should assure that these facilities are designed to meet criteria. Mr. Kelsey emphasized that the amendment should continue forward and has been included in the proposed text language. He added that staff has had conversations with the Parks staff, and they are concerned that without such an amendment to allow them to construct new trails or repair and maintain existing trails, it could result in hundreds of special use applications to be reviewed by staff and the Board.

Mr. Kelsey said that at the public hearing, the Planning Commission requested that staff review and revise some of the definitions that are provided in the Flood Hazard Overlay sections of the zoning text; there was confusion about floodplain and floodway fringe and how it relates to the ordinance and FEMA regulations. He explained that staff has provided some revisions which are included as proposed text. Mr. Kelsey concluded that as a result of the floodplain changes, there have been impacts to properties and dwellings; in some cases, they were removed, and in some cases, they were added. He noted that some of the impacts were caused by FEMA map-drafting errors, and some were exaggerated by the errors and oversights. Mr. Kelsey said that the only way to make corrections is for FEMA to issue a letter of map amendment, or letter of map revision to those property owners. He noted that staff has been contacted by some of those owners asking for county assistance in providing information or facilitating the application to FEMA; staff would appreciate direction from the Board.

Mr. Rooker asked if some of the properties were mistakenly included because of information provided by the county.

Mr. Kelsey responded that the new mapping was generated by the county's aerial mapping, which is provided to FEMA and used along with their detailed study areas. He noted that the maps are at five-foot contour intervals, yet when the maps are matched up to the floodplains, there are areas that are higher than the floodplain that they had included in their floodplain areas that should not be.

Mr. Rooker asked if the contour used caused the discrepancy.

Mr. Kelsey replied that the information provided was good, but some of the map lines were drawn incorrectly by FEMA. He confirmed that the county's information was good, but the FEMA use of that information was flawed. Mr. Kelsey concluded that staff is recommending that the Board approve the zoning text and zoning map amendments.

Mr. Rooker opened the public hearings. There being no further public comment, the hearing was closed and the matter was placed before the Board.

Ms. Thomas asked staff to elaborate on the by-right greenway use.

Mr. Kelsey explained that without the by-right change, any time that a new trail were to be constructed or repaired that required fill, it would be considered fill in the floodplain. The ordinance currently does not place a limit on how much fill. Any fill is "fill" and it requires a special use permit. He added that even putting in a footbridge would generate the need for a special permit.

Mr. Bowerman asked if these requirements are the same as the City. Mr. Kelsey responded that the issues are the same, but the requirement for a special permit to fill in the floodplain is a county regulation, not a FEMA requirement.

Mr. Boyd pointed out that there are two issues: maintenance of existing greenways and building a new one. He asked if there might be a way to write the text so that new paths would require the full process, citing an example of a recent proposal to put a new path to go through to a stormwater runoff area, that caused "quite a stir" because no public hearing was held.

Mr. Rooker stated that that situation involved the stormwater facility, which is a little bit different.

Mr. Pat Mullaney, Director of Parks and Recreation, said that they are focused on sections of trail that are already identified in the Comp Plan as greenways, and have already gone through an approval process, or trail sections that may arise from master planning processes such as Crozet. He mentioned that the Comp Plan section that talks about trail locations does not say they "may" be put in these locations, it says they "should" be put in these locations. He does not think they should be required to get a special use permit every time they want to put a trail in an area that was already identified as a location

for a trail. He added that there should be a special use permit required for a trail that is not already in an approved plan.

Mr. Boyd asked if the ordinance specifies that has to be done. Mr. Mullaney responded that it might have to be amended in that way.

Mr. Wyant asked the difference between multi-use and shared paths. Mr. Mullaney explained that a multi-use path would be a bicycle or pedestrian trail. Mr. Wyant stated that the amount of stone used should correspond to the level and type of use.

Mr. Rooker asked about the process for building a path that is not in an approved plan.

Mr. Cilimberg replied that the most obvious one is in compliance with the Comprehensive Plan review, explaining that if there is a public facility that has not been specifically identified in the plan, it goes through Planning Commission review for compliance, and that review is reported to the Board for their review. He encouraged the Board to allow that to be the process to enable both bodies to review those particular paths, noting that there are a number already identified in the plan that would not go through the compliance review. Mr. Cilimberg emphasized that if the Board wanted to have a notification process for those paths' development that is a "different issue," not an ordinance issue under the floodplain revisions.

Mr. Davis said that that would be more of a "good neighbor" policy.

Mr. Kelsey confirmed for Ms. Thomas that hundreds of landowners have contacted Engineering staff about the FEMA discrepancies.

Mr. Dorrier noted that he had met with Glenmore residents about their concerns.

Mr. Kelsey reported that those property owners understand that a letter of map amendment is necessary, and they are proceeding with collecting the information needed to do that. He noted that there are areas that are definitely higher than what is shown by FEMA as floodplain.

Mr. Dorrier asked how to handle citizen concerns. Mr. Kelsey agreed that they could be referred to county Engineering staff.

**Motion** was offered by Mr. Wyant, **seconded** by Mr. Boyd, to adopt the proposed ordinance and associated language, effective February 4, 2005. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

#### **ORDINANCE NO. 05-18(1)**

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article III, District Regulations, is hereby amended and reordained as follows:

#### **By Amending:**

Sec. 30.3.01	Intent
Sec. 30.3.02.1	Definitions
Sec. 30.3.02.2	Determination of Floodway and Floodway Fringe in the Approximated Flood Plain
Sec. 30.3.05.1.2	By Right Within the Floodway Fringe
Sec. 30.3.07	Amendment of the Flood Hazard Overlay District

#### **By Repealing:**

Sec. 30.3.06.2	Finding of the County Engineer
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### **Chapter 18. Zoning**

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

#### **30.3 FLOOD HAZARD OVERLAY DISTRICT – FH**

##### **30.3.01 INTENT**

It is intended that the flood hazard overlay district hereby and hereafter created shall be for the purpose of providing safety and protection from flooding. More specifically, these provisions are intended to restrict the unwise use, development and occupancy of lands subject to inundation which may result in: danger to life and property; public costs for flood control measures and/or rescue and relief efforts; soil erosion, sedimentation and siltation; pollution of water resources; and general degradation of the natural and man-made environment.

It is further intended that these provisions shall be adequate for qualification and continuation of Albemarle County on the regular program of the National Flood Insurance Program as administered by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA). To these ends, provisions have been developed in accordance with regulations governing the regular program.

(§ 30.3.01, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

### **30.3.02 APPLICATION**

#### **30.3.02.1 DEFINITIONS—GENERALLY**

The flood hazard overlay district shall include all areas subject to inundation by the waters of the one hundred year flood. The source of this delineation shall be the Flood Insurance Study for Albemarle County and Incorporated Areas and the Independent City of Charlottesville prepared by FEMA, effective on and after February 04, 2005 (the "flood study").

The following definitions shall apply in the administration and interpretation of this section 30.3:

1. *One-hundred year flood*: The term "one-hundred year flood" is a design storm of a specific intensity and duration with a return frequency of one-hundred years or a one-percent probability of being equaled or exceeded in a given year. The term "one-hundred year flood" is also referred to as the one (1)-percent annual chance flood.
2. *Base flood elevation (BFE)*: The term "base flood elevation" is the one-hundred year flood elevation that has been determined at a cross section of a stream reach, as designated in the flood study.
3. *Flood plain*: The term "flood plain" means any land susceptible to being inundated by the flood waters generated by a one-hundred year flood, as designated in the flood study.
4. *Floodway*: The term "floodway" means the stream channel and that portion of the adjacent flood plain that must be reserved to carry and discharge the waters of the one-hundred year flood, as designated in the flood study, without increasing the flood water surface elevation at any point more than one (1) foot above the base flood elevation and provided that hazardous velocities are not produced.
5. *Floodway fringe*: The term "floodway fringe" means that portion of the flood plain that lies between the floodway and the outer limits of the flood plain, as designated in the flood study. For the sole purpose of determining permissible uses under sections 30.3.05.1.2 and 30.3.05.2.2, the floodway fringe also shall include the approximated flood plain.
6. *Approximated flood plain*: The term "approximated flood plain" means those flood plain regions where base flood elevations have not been determined, as designated in the flood study.
7. *Development*: The term "development" means, for the purposes of this section only, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
8. *Substantial improvement*: The term "substantial improvement" means, for the purposes of this section only, any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged, the market value before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or the Virginia Historic Landmarks Commission.
9. *Start of construction*: The term "start of construction" means, for the purposes of this section only includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. (Added 6-10-87)

(§ 30.3.02.1, 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05)

### **30.3.02.2 DETERMINATION OF FLOODWAY FRINGE IN THE APPROXIMATED FLOOD PLAIN**

Except for such uses permitted in the floodway in accordance with section 30.3.5, no use, structure or building shall be established and no rezoning petition, site development plan, subdivision plat, building permit or other county approval shall be given for lands located within any approximated flood plain, prior to verification by the county engineer as to the limits of the floodway fringe within such lands. In his determination of the limits of the floodway fringe, and one hundred year flood elevation, the county engineer may request assistance from the Federal Insurance Administration, the United States Army Corps of Engineers, and such other qualified agencies and persons as he deems appropriate. The county engineer shall require the applicant to provide such information as he deems reasonably necessary to make his determination. The cost of such determination shall be borne entirely by the applicant.

(§ 30.3.02.2, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 05-18(1), 1-5-05, effective 2-5-05)

### **30.3.05.1.2 BY RIGHT WITHIN THE FLOODWAY FRINGE**

1. Uses permitted by right in the floodway.
2. Accessory structures to uses permitted by right in the floodway, excluding structures for human habitation; provided that any such structure permitted shall be firmly anchored to prevent flotation, collapse or lateral movement due to flooding.
3. Pedestrian and multi-use paths that are within county owned or operated parks and greenways; provided that any filling of land has been approved by the county engineer in accordance with section 30.3.06.1(1) through (5); and any footbridges necessary to cross tributary streams, watercourses and swales have been approved by the county engineer.

(§ 30.3.05.1.2, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

### **30.3.06.2 Repealed**

### **30.3.07 AMENDMENT OF THE FLOOD HAZARD OVERLAY DISTRICT**

The delineation of the flood hazard overlay district may be revised, amended and modified by the board of supervisors in compliance with the National Flood Insurance Program when any of the following conditions are met:

1. Upon completion of a fill operation in accordance with section 30.3.06.1; and, county engineer receipt of notification from FEMA that a map amendment based on the placement of fill has been issued; and, at such time as the county engineer is reasonably satisfied that such fill is stabilized, at a finished grade above the one hundred year flood elevation, and in compliance with any related conditions imposed by the board of supervisors in approval of a special use permit; the county engineer shall notify the board of supervisors of such finding. The board of supervisors shall review such finding for amendment of the flood hazard overlay district as generally provided in section 33.0 and particularly provided in section 30.3.07. In the event of amendment, lands deleted from the flood hazard overlay district shall enjoy all uses of the underlying zone, as such uses are permitted therein.
2. There are changes through natural or other causes.
3. There are changes indicated by FEMA issuance of letters of map amendment (LOMA) or letters of map revision (LOMR).
4. There are changes indicated by future detailed hydrologic and hydraulic studies.

All such changes are subject to the review and approval of FEMA.

(§ 30.3.07, 12-10-80; Ord. 05-18(1), 1-5-05, effective 2-5-05)

This ordinance shall be effective on and after February 5, 2005.

**Motion** was then offered by Mr. Wyant, **seconded** by Ms. Thomas, to adopt the FEMA Flood Maps as set out in the staff report, effective February 4, 2005. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 26. Rural Areas Comprehensive Plan Amendment (CPA-2003-006), Work Session.

Mr. Cilimberg said that at its work session on December 1, 2004, the Board accepted an updated draft of the Rural Areas Comprehensive Plan amendment that reflected the changes made by the Board at its two previous work sessions. At that work session Ms. Thomas submitted some additional changes,

and the Board members requested that those changes be incorporated into the draft. There were 17 suggested revisions and those have been made and a new draft of the plan provided to the Board members for today's meeting. Staff believes the changes proposed are generally consistent with the intent of the Planning Commission's recommendations and the decisions reached by the Board in its work sessions. However, No. 15, on Page 42, adds Strategy 19 stating that the County should adopt the Chesapeake Bay Act's provision regarding maintenance of septic tank systems. That was not a strategy discussed by the Commission. The Bay Act requires pumping of septic systems every five years. That would be a new feature in the plan. Staff does feel that the 17 points, in combination with the changes suggested by the Board in its work sessions meets the Board's intent for the rural areas. He asked that the Board make a decision today since the amendment is to be advertised for a public hearing on February 9, 2005. He then offered to answer questions.

Mr. Rooker asked if any Board member had a question about **No. 1** which states: "Goals have been added at the beginning of each major section. The Goals summarize the intent of the policies contained in each section of the plan."

**There were no comments.**

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As to **No. 2**: "Page 9 - added stronger emphasis on tourism economy."

**There were no comments.**

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As to **No. 3**: "Page 11 - a) added "watershed protection" to Guiding Principle 1.2 Forestry Resources. Addition brings attention to the role forestry resources play in watershed protection; b) added "permanently" to Guiding Principle 1.3 Land Preservation; c) added "open space" to Guiding Principle 1.4 Land Conservation."

Mr. Wyant asked if the word "permanently" should also be added to Guiding Principle 1.1 for agriculture and Guiding Principle 1.2 for forestry.

Ms. Thomas said she has been confused as to what land preservation is and how it differs from land conservation. The Commission came up with these two terms and discussed them at length. The concept in 1.4 is more qualitative (Land Conservation - Protect Albemarle County's rural land through planned management of open spaces to prevent exploitation, destruction, or neglect.). What will be done with the land in order to conserve natural resources? The concept in 1.3 is a long-term, permanent preservation of rural land (Land Preservation - Permanently preserve and protect Albemarle County's rural land as an essential and finite resource.). For instance: a conservation easement or a riparian easement has a private trust such as The Nature Conservancy holding the land. "Permanent" was added to 1.3 because that is what the Commission was thinking of when they talked about land preservation as distinct from land conservation.

Mr. Wyant again asked about permanent protection of agricultural and forestry resources. He thinks all of this plus protection of water resources is something that should be done permanently. Ms. McDowell said all of these are of equal importance, but the language further defines a legal easement on a piece of property as opposed to something voluntary.

Mr. Wyant said if the word "permanent" is used he thinks it should be applied to both agriculture and forestry resources. Mr. Cilimberg said 1.3 is inclusive of agriculture and forestry resources where it is an element of conservation easements.

Mr. Rooker said he does not think the County can enforce agricultural use on a property in a permanent way, whereas it may have the power through acquisition of conservation easements, etc., to permanently preserve the land.

Mr. Bowerman suggested saying "through" at the end of the sentence and adding "open space easements."

Mr. Rooker said he does not think the wording should be limiting.

Ms. Thomas asked if there is some "umbrella" term over easements. Mr. Davis suggested saying "by public ownership or by easement."

Mr. Wyant felt that would be clearer to anyone reading this principle. He asked if these are all publicly held easements.

Mr. Davis said the Open Space Land Act requires that all open space easements be held by public entities. Conservation easements in the statutory sense are for the most part held by private entities.

**The language "by public ownership or by easement" was agreed to by consensus.**

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As to **No. 4**: "Page 12 - a) Building Principle 10, changed 'considered' to 'include the goals of the TJPDC Sustainability Council.' These goals have been previously adopted into the Natural Resources

and Cultural Assets Plan chapter of the Comprehensive Plan; b) changed 'provide' to 'foster' tools that would allow alternatives for smaller lots."

**There were no comments from Board members.**

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As to **No. 5**: "Page 15 - added the protection of "working farms" to the strategy to protect prime agricultural soils from non-agricultural development.

**There were no comments from Board members.**

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As to **No. 6**: "Page 16 - added Strategies 11 and 12 to recognize and protect wine production and to support creation and operation of farmers' markets."

Mr. Wyant asked if this implies just to farmers' markets. He thinks the Board should encourage the little roadside stands one sees in the rural areas. He said those are what makes the rural area and are a way for these people to make a living.

Mr. Rooker suggested changing the sentence to read: "Support the marketing of farm products in the creation and operation of farmers' markets."

Ms. Thomas said that language would also support the County spending staff time on helping the farmers market their goods. She said a staff member had asked her if No. 11 should single out wine production or whether it should talk about a variety of agricultural production including wine production.

**The Board agreed by consensus to change No. 12 to read: "Support the marketing of farm products in the creation and operation of farmers' markets."**

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As to **No. 7**: "Page 18 - renamed 'Conservation Uses' to 'Land Conservation'."

Ms. Thomas said there has been a good deal of comment made about this particular Principle. There is a problem with defining "conservation" and "preservation". Can they be measured? Farm production can be measured and timbering can be measured. When land is in the Land Use program, the County looks to be sure there is farming taking place, or that there is a forest management plan. How will the County know when there is conservation taking place? She has no problem with returning the title of this section to "Conservation Uses." Some people who spoke to her were jarred by the term "Land Conservation." If the term "conservation uses" embodies more of what the public is interested in, she does not think it changes much. Through all of the community meetings held on this Comprehensive Plan amendment, it came up again and again that people think there is something called conservation. There is farming, there is forestry, and then there is the third category of something being protective of natural resources. The Comprehensive Plan already contains a chapter on Natural Resources. Soon there will be a chapter on bio-diversity.

Ms. Thomas said how to embody "conservation" into the Comprehensive Plan has been a puzzle. She received a couple of e-mails which suggested that it had not been sufficiently embodied in the words of the amendment. She made a suggestion, but is open to others making alternative suggestions. She thinks a good definition of conservation is needed because this plan suggests that a lot of land in the County be put into clusters. Then a good deal of land ends up in preservation tracts. If those preservation tracts are supposed to meet a public purpose, then that conservation purpose needs to be defined first in order to have them held by an easement. The words put here will be important; it is not just an academic exercise.

Mr. Rooker said he does not have a problem with the language proposed in this draft. He thinks Mr. Tom Oliva sent everyone an e-mail about the goal for this section titled "Land Conservation." Mr. Rooker said he had no problem with that recommendation either. Should the Board leave this draft as proposed and wait until after the public hearing to discuss it further?

Ms. Thomas said she will suggest that the title be changed back to "Conservation Uses."

Mr. Boyd said he does not know what the sentence in the third paragraph under that goal means ("It is recognized in the State Land Evaluation Advisory Council [SLEAC] provisions for land use that may be covered by the use-value taxation program [commonly called 'land use tax.']").

Ms. Thomas said a member of the public at an earlier hearing suggested that the County's land use taxation program include provision for conservation lands, not just for agricultural and forestal lands. SLEAC recognizes those provisions.

Mr. Boyd asked if this language is intended to be a definition of open space land use for conservation.

Mr. Cilimberg said he believes the sentence is incomplete.

Mr. Rooker suggested saying "conservation uses are recognized ..."

Ms. Thomas said "It" stands for conservation uses, but if you don't read it that way it sounds like an incomplete sentence.

Mr. Rooker suggested the sentence read: "Conservation use is recognized ... as qualified for use-value taxation."

Mr. Wyant felt the sentence should be "Conservation uses are ..."

Mr. Rooker then restated the sentence to read: "**Conservation uses are recognized in the State Land Evaluation Advisory Council (SLEAC) provisions as uses that qualify for the use-value taxation program (commonly called "land use tax").**"

Ms. Thomas agreed to that language.

Mr. Wyant asked if there is a chance there is nothing in the agricultural or forestal land use, and this would give some conservation easements an opportunity to get into land use?

Mr. Rooker said it is just a statement of fact.

Mr. Cilimberg said those lands already qualify for land use taxation.

Ms. Thomas said they have that option now, but it is under utilized.

Mr. Dorrier asked why the last sentence on Page 18 was deleted (The community profits as well from the preservation of scenic and cultural resources, which not only enriches lives, but which are important components of a thriving tourism industry, and as a setting for traditional rural activities such as hunting, fishing, hiking and horseback riding.).

Ms. McDowell said in order to make the draft more legible, whole sections were deleted, and the words moved to other places.

Mr. Boyd said he also wondered about that. But, it seems that throughout this draft all references to the ACE program have been eliminated. He did not see that it had been added anywhere.

Ms. Thomas said she had the same question about Page 20. Everything is removed, and she did not see where it was put back in. Ms. McDowell said all of that language was moved to Page 22. Mr. Cilimberg said ACE is discussed under the section titled "Land Preservation or Voluntary Land Conservation".

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As to **No. 8:** "Page 19 - a) changed 'can' to 'may' regarding the level of protection afforded by conservation; b) added information regarding raising public awareness of funding for conservation and the value of funding and implementing conservation measures as in order to achieve conservation on private lands; c) added statement regarding importance of monitoring easement properties."

**There were no changes recommended.**

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As to **No. 9:** Page 20 - a) relocated and changed name of *Voluntary Land Conservation Programs* to *Land Preservation or Voluntary Land Conservation* (begins on Page 22); b) relocated strategies (Page 24)."

**There were no changed recommended.**

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As to **No. 10:** Page 21 - replaced Strategy 1; added "and protect" to Strategy 3.

**There were no changed recommended.**

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As to **No. 11:** Pages 22, 23, 24 - a) relocated renamed section; b) added paragraph that ties the need for conservation easements to other chapters of the Comprehensive Plan.

Ms. McDowell said Mr. Dorrier asked about one paragraph that was deleted on Page 18. She said that paragraph was moved to the bottom of Page 22 as the second paragraph under "Land Preservation or Voluntary Land Conservation."

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Mr. Wyant said before going to the next recommended change, he would like to talk about "Crossroads Communities" on Page 25. He said the report states that boundaries are defined by historic structures. He thinks it will be very difficult to define those communities in that way. He said every community named was at the crossing of two roads, and that is where stores were located. He does not see the significance of a boundary for these communities unless the County has something planned for them in the future.

Mr. Rooker said Mr. Wyant is referring to the last paragraph on Page 25 where it says "The boundaries of crossroads communities should be well defined to ensure the rural character of the area is

maintained. The boundaries should correspond to parcels that have been identified as historical sites, or potential historical sites that could be converted to uses, such as country stores or small doctor/dentist offices that would serve the immediate surrounding area.” He thinks the question concerns the second sentence. What is meant by the word “historical”? Does that imply some kind of designation or simply that they have existed as crossroads communities in the past? He does not think these are areas that carry any potential for designation. He read this to mean that these communities exist today, have existed for some period of time. The idea is that the boundaries not be expanded for commercial use in the rural areas beyond those areas that have been historically used for that purpose.

Mr. Wyant said he does not want growth occurring around these centers creating another new growth area. He is not sure that they even need a boundary.

Mr. Rooker said he thinks the boundary concept needs to be in there otherwise it would imply that there are no boundaries. He asked if the second sentence quoted above could be changed to say: “The boundaries should correspond to the limits of existing and traditional commercial uses within those crossroads communities”.

Ms. McDowell drew the Board’s attention to Page 27, Strategy 4, which says: “Establish boundaries, such as boundaries corresponding with parcels that have been identified as historical sites or potential historical sites, to guide decisions on the location of uses in crossroads communities.”

Mr. Rooker said he is glad Mr. Wyant questioned this paragraph. He is troubled by the use of the word “historical”. Does that mean it has to be a building with historical significance? To him, it means that the area has traditionally existed as a crossroads community with some commercial activity. Ms. McDowell said that was the entire idea behind the language. There were crossroads communities identified in the original Comprehensive Plan. Staff talked to the Historic Preservation Committee to be sure it was in concert with their thinking. Some of the buildings within these areas are of local historic significance. However, historic sites will not necessarily be identified to have expanded uses. The crossroads communities sites have certain historic significance because they either are, or were, crossroads communities as identified in the *Survey of Historic Communities in Albemarle County*.

Mr. Wyant mentioned Strategy 5 on Page 27 which reads: “Establish design standards, such as architectural, renovation, and sign guidelines, to ensure that the scale and scope of businesses maintain the character or the crossroads communities and support the County’s growth management policies.” He previously mentioned that in order for the County to keep up these structures, there must be some flexibility given so people can set up small businesses. Then the owners will have an incentive to maintain that structure. Ms. McDowell agreed. Mr. Wyant said he does not think that regulations are the way to go.

Ms. Thomas said Strategy 1 on Page 26 says: “Encourage the renovation and use of buildings in crossroads communities to provide appropriately scaled services that would only benefit the immediate surrounding area while preserving the rural character. Examples of such services include country stores, small scale offices, day care, and small scale doctor/dentist offices, and public institutional uses, such as post offices, with particular emphasis given to historic buildings as spaces to support the maintenance of these resources.” She believes this is the most important strategy.

Mr. Wyant said from comments he received recently, he would add the word “crafts” to that list. He wants to see the historic structures maintained, but believes the County must allow the people to do something with these structures.

Mr. Tucker said these communities were all identified in the 1970 Comprehensive Plan. If they were identified again and had a special zoning district which allowed these uses by right, that would be an incentive. Some of the uses mentioned are by special use permit only in the rural areas.

Mr. Wyant said if there were boundaries, and then certain things were allowed by right, he would be agreeable.

Mr. Rooker suggested that the second sentence of the last paragraph on Page 25 read: “The boundaries should correspond to parcels that have traditionally served as crossroads communities and that would serve the immediate surrounding area.” As currently worded, he is not sure what the sentence means.

Mr. Tucker said examples of those uses are spelled out in Strategy 1 on Page 26.

Mr. Rooker suggested changing Strategy 4 on Page 27 to track that language.

Ms. Thomas said Strategy 4 could be turned into two different strategies. She thinks it would be useful to identify historic sites to guide decisions of the location of uses in crossroads communities. That is something the Historic Preservation Committee is working on. She does not want to take out the “identified parcels” because that is an important step.

Mr. Wyant thinks it is important that they be identified.

**Ms. Thomas said Strategy 4 could be changed to read: “Identify historical sites or potential historical sites to guide decisions on the location of uses in crossroads communities”.**

Mr. Rooker agreed.

Mr. Cilimberg said this section was only to apply to the seven crossroads communities surveyed and on which a report was presented to the Board. This does not apply generally to any crossroads situation in the County. It only now applies to the seven that were surveyed. If the Board wants this to apply more broadly to where other crossroad communities that have not been surveyed might exist, then the language would need to be changed.

Mr. Rooker said he does not see that Strategy on Page 27 makes it clear that it applies only to the crossroads communities that have been surveyed.

Mr. Davis said it is referred to in the paragraph on the top of Page 26 which states: "The *Survey of Historic Communities in Albemarle County* has been compiled to assist in determining the boundaries of crossroads communities. This inventory provides valuable information, such as aerial photos, tax maps, photographs of structures and photograph reference maps, and National Register of Historic Places and Virginia Landmark Register listings for each crossroads community that has potential to retain its historic and rural character while providing services to the immediate local area."

Mr. Rooker said he would be more comfortable with the Strategy as Ms. Thomas suggested by starting it with the word "Identify." He thinks the County wants to identify historic sites whether or not they have been surveyed.

Mr. Wyant said he does not believe the language is referring to just seven communities.

Ms. Thomas said only five are identified by name in the language, so she is not sure what the others are. Mr. Cilimberg said the report previously given to the Board names seven. It is important that staff understand if the Board wants this section more generally structured for the public hearing.

Mr. Rooker said the language as worded is generally applicable.

Mr. Wyant said he likes the language of Strategy 6 on Page 27: "Encourage the adaptive reuses of historic structures that should promote their maintenance and preservation." He thinks that is the key to keep these structures. He is bothered by "design standards." Each community has its own appearance.

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As to **No. 12:** Page 31 - added sentences advising of the impact of scattering residential development in the rural areas.

Mr. Wyant said he was concerned about the sentence reading: "It also leads to 'accidental house arrest' for elderly residents caught beyond the reach of public transportation."

Ms. Thomas said it is an increasing issue with people who are concerned about aging.

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As to **No. 13:** Page 35 - added emphasis regarding traffic increases on dangerous rural roads.

**There were no comments.**

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As to **No. 14:** Page 37 - added statement that RPD's should not become a justification for extending public services to the rural areas.

Ms. Thomas said she does not see this language on Page 37. Ms. McDowell said that is right, and she is not sure at this moment why she wrote this explanation for No. 14.

Mr. Rooker said he thinks the explanation for No. 14 should be in the language. There was some discussion of that concept at a previous meeting.

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As to **No. 15:** Page 42 - added Strategy 19 stating that the County should adopt the Chesapeake Bay Act's provision regarding maintenance of septic tank systems.

Mr. Wyant said he has a problem with this because pumping of septic tanks every five years does not solve a problem. Within five days there is 1000 gallons back in the 1000-gallon tank so the problem is still there. There is data that shows that septic tanks are the cause of the problem with the Chesapeake Bay as much as tanks at point sources. That is why there is a conference coming up to talk about ways to tax and take care of point sources. He does not endorse this strategy with "maintenance of septic tanks" included. The way to maintain a septic tank is to put Freshman's yeast in it every three months and the tank should not have to be pumped.

Mr. Dorrier said he also has a problem with that stipulation.

Ms. Thomas said the Board is proposing to not change the Comprehensive Plan that allows 50,000 more houses in the rural area. Those will be septic tank systems, and if they are not maintained, they would last no more than 20 years. People have been encouraged for many years to have their septic tanks pumped. It is widely accepted as the way to maintain the efficiency of the tank, but more than the efficiency of the tank it maintains the soil into which the effluent goes because it is the soil that gets clogged with particles and that soil can never be used again. Every area east of I-95 which has

adopted the Chesapeake Bay standards has the system because that is part of the Chesapeake Bay provisions. When the County's Engineer worked for Arlington County, he was in charge of making sure that septic tanks were pumped. She said yeast does not need to be added, but the septic systems must be maintained. There will be an increasing number of septic systems throughout the County. Virginia's regulations on septic systems are considered some of the weakest in the nation and tend to be more concerned about effluent getting to the surface and are not so concerned about polluting groundwater. If the County is not going to reduce the potential for residential development in the rural areas, she thinks there will be problems with septic systems.

Mr. Rooker said he does not think the Board can decide today whether or not to affirmatively adopt the Bay Act provisions, so he suggesting **changing Strategy 19 on Page 42 to read: "Consider adopting the Chesapeake Bay Act's provision regarding maintenance of septic tank systems." He said this item will come to the Board as a separate item at some point in the future for action.**

Ms. Thomas agreed.

Mr. Wyant also agreed, but said that the soils on the east side of I-95 are all sandy soils so the flow is much faster through those soils than through the clay soils in Albemarle. He said he has done a lot of work in this field of study, and done a lot of testing also.

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As to **No. 16:** Page 44 - a) added connections between additional traffic, increased residential development and accidents; b) added caution that fiscal resources are not sufficient to make rural roads safe with increased traffic; and, c) deleted reference to relationship of transportation needs and directing growth into designated areas and the goal that the two main considerations in rural transportation are safety and maintenance.

Mr. Rooker said Ms. Thomas had e-mailed her recommendations to the Board members before the last meeting.

Mr. Boyd said he had one problem with the concept of saying that roads in the rural areas will not be improved just because there is growth in those areas. His constituents often say that they did not promote growth in those areas. When they moved to those areas there was no growth and then suddenly by-right developments were built, and it is not their fault there is an unsafe road situation. He does not know the solution, but he does not agree with just saying road improvements will not be made in rural roads where by-right development occurs.

Mr. Rooker said he does not believe that is what is being said on Page 44. He said the goal says: "Provide safe, effective transportation options while preserving the character of the Rural Areas." He does not see anything in this section which says there will be no improvements made to rural roads.

Mr. Boyd said in several sections it says that improvements to rural roads should not be expected just because there happens to be growth in those areas.

Mr. Rooker said it does not say that on Page 44, although it does point out that "There are not enough fiscal resources to make all rural roads safe, especially when impacted with greatly increased traffic." He thinks that is just a statement of fact.

Ms. McDowell said Mr. Boyd may be referring to what was deleted in the third paragraph "Transportation needs should be carefully analyzed so as not to conflict with the primary goal of the County's growth management policy to direct growth into the designated growth areas and conserve the remainder of the County for Rural Areas and resource protection. The two main considerations in rural transportation issues are providing safe roads and maintaining rural character."

Mr. Wyant said he also questions this language.

Ms. Thomas said she thinks it is a fact that there will not be enough money to make all rural roads safe with the increasing residential development that will take place. She thought suggesting that safe roads could be provided was misleading the public. It does not say that spot improvements will not be made.

Mr. Boyd asked how this relates to the new Rural Rustic Road Program. Would this mean that a road would not be paved using the RRR program?

Ms. Thomas said when she thinks about rural roads and accidents, she thinks of Garth Road. There is no way that road could ever be made safe enough for all the traffic using it now.

Ms. McDowell drew the Board's attention to Page 46, Strategies 1 and 2. No. 1 says to "Focus road improvements on safety improvements such as providing shoulders, guardrails, etc." No. 2 says to "Pursue the Rural Rustic Roads Program as an alternative ...."

Mr. Rooker said that on Page 45 under "Unpaved Roads", the last paragraph says "The Rural Rustic Roads Program would better meet the Building Principles ...." He thinks that is a positive statement that the Board is interested in using that program.

Mr. Boyd said that was acceptable.

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As to **No. 17**: added Objective that addresses maintenance of septic systems while avoiding contamination of wells and waterways.

Mr. Rooker read the third sentence of the added paragraph dealing with septic tank maintenance: "The County should consider adopting those requirements, for the sake of the Bay and to reduce the possibility of failed systems and resulting contamination of wells."

Ms. Thomas said this sentence already uses the word "consider."

**Mr. Davis said Strategy 3 on Page 48 should be changed to read: "Consider adopting tightened standards for maintenance of individual septic systems" so it would be consistent with the other sections.**

Mr. Rooker said he thinks all want to be sure that septic systems do not fail and create pollution problems for groundwater throughout the County. The question is how to do that.

Ms. Thomas said there may be a time when the County is required by the State to put de-nitrification units on septic tanks. It requires a second tank in order to do this.

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Mr. Rooker said that completes discussion of the items which were changed by staff. This draft now reflects all of the changes recommended by the Board.

Mr. Wyant asked if "Attachment B - Chesapeake Bay Preservation Act" is included. Mr. Cilimberg said that is just part of the Executive Summary, not part of the amendment.

Ms. Thomas said she thinks the map "Fatal Traffic Accidents in Albemarle County 1997-2004" should appear somewhere in the Comprehensive Plan. Ms. McDowell said it will be a part of the overall maps in the Plan.

Mr. Rooker said if there were no other comments about this amendment, this has already been set for a public hearing in February.

Mr. Wyant asked if the Board members will receive a revised copy of the amendment before the public hearing. Mr. Cilimberg said a copy will be ready for public distribution soon, and a copy will also be mailed to the Board members.

Mr. Rooker thanked staff for their work on this amendment to date.

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Agenda Item No. 27. From the Board: Matters Not Listed on the Agenda.

Ms. Thomas said she is going to a Smart Growth conference at the end of January and hopes to bring back some information which will be useful.

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Ms. Thomas said the Board just received the Financial Report of the Albemarle County Service Authority. She sat through a horrifying report on Moore's Creek and the E-coli pollution going into that Creek. Some of that can be pinpointed to neighborhoods that do not have public sewer. Buckingham Circle is a major area which uses individual septic tanks. She did not know if anyone corresponds with the ACSA when they make their long-range plans to find out whether they are looking at Moore's Creek. Mr. Tucker said he will talk with Mr. Bill Brent about this question.

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Mr. Rooker said one the water options is expanding the Ragged Mountain facility by raising the dam. He understands there will need to be either repairs to or replacement of that dam in the near future. He asked if the land around that dam is all publicly owned. Mr. Tucker said he is not sure that additional land will be needed. The height of the dam could have an impact on I-64, and that is an issue.

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Ms. Carey asked Board members planned to attend VACo/VML Legislative Day on January 11th. Ms. Thomas said that the day begins with a box lunch at noon and attendees receive a valuable briefing by staff of VML and staff of VACo in their different areas of expertise in the Legislature. Attendees then meet with the individual legislators.

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Agenda Item No. 28. Adjourn.

With no further business to come before the Board, at 3:39 p.m., **motion** was offered by Mr. Bowerman, **seconded** by Mr. Boyd, to adjourn this meeting until January 12, 2005, at 4:00 p.m.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Bowerman, Mr. Boyd, Mr. Dorrier, Mr. Rooker and Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Chairman

Approved by the Board of County Supervisors
Date: 06/08/2005
Initials: DBM