

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 3, 2005, at 9:00 a.m., Room 241, County Office Building, 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 Senior Deputy Clerk, Debi Moyers.

Agenda Item No. 1. The meeting was called to order at 9:02 a.m., by the Chairman, Mr. Rooker.

---

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

---

Agenda Item No. 4. Other Matters Not Listed on the Agenda from the Public.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board. Mr. Werner thanked the Board for considering a tax incentive for solar energy and recycling equipment. He presented information on the historic markers for the Southwest Mountains and the Monticello Wine Company. Mr. Werner noted that both projects are consistent with PEC's mission of preserving and promoting the Piedmont's historic resources. He pointed out that the Department of Historic Resources approved two historic markers for the Southwest Mountains Rural Historic District – one located at the Keswick Post Office (already approved) and one on Route 20 (pending).

Mr. Werner said that he has been working with VDOT and the county's preservation planner and resident Lynn Levine. They have identified a site at the old "Bobbi's Grocery," across from the intersection with Turkey Sag Road. He mentioned that the Monticello Wine Company marker would be placed on Perry Drive in Charlottesville, and presented some historic photographs of the winery. Mr. Werner noted that the city and county designated the community "the wine capital of Virginia" at that time. He added that he is working on this project with Neil Williamson, and the marker will likely be in place by the end of September in time for a community wine festival the first weekend in October. Mr. Werner concluded by thanking the Board for their support of viticulture in Albemarle County.

---

Mr. Tom Loach addressed the Board, noting that growth area residents comprise over 50 percent of the county's population but are not well represented on the Rural Focus Committee. He also noted that the Mountaintop Protection Committee does not have representation from any growth area community or organization. Mr. Loach commented that the county's land use tax policy has just "lined the pockets of the wealthy," and continues to allow Board members to influence them for their votes with low and middle income resident money. He emphasized that the policy has not demonstrated a return on investment for the taxpayer dollar, adding that the Board has two constituencies – wealthy landowners and wealthy developers, thus relegating everyone else to "second class citizenship." Mr. Loach said that while \$800,000 was cut from the school budget, \$9 million was given in tax incentives to rural landowners. He stated that Crozet has been waiting 12 years for sidewalks, 12 years for a new library, four years for the implementation of a downtown plan, and is a "poster child for neglect of our growth area communities."

---

Mr. Charlie Trachta addressed the Board to report on a recent U.S. Supreme Court ruling allowing for the seizure of private land by local government so that a developer could acquire a piece of property under the guise that the community would be better off. Mr. Trachta said that this would permit a public entity to condemn private property and transfer it to private developers, with the local government getting a development to bring in higher tax revenue and a developer getting cheaper land, and the landowner would get fair market value for their homes. However, paying only fair market value would force families out of the county. Mr. Trachta said that he met with a county planner to discuss the ruling, who told him that the county could claim eminent domain, for instance, if it needed sidewalks. He stated that the threat of land seizure should be removed from any type of consideration before any developer could bring this subject up.

---

Agenda Item No. 5. Recognitions:

a. Certificate of Appreciation.

Mr. Rooker recognized Mr. Sterling Robinson for his dedicated service as a member of the Charlottesville-Albemarle Commission on Children and Families from July 1, 1999 to June 30, 2005. Mr. Rooker stated: "As a county citizen representative on the CCF, Mr. Robinson has been a passionate and committed advocate for needed services for children and their families. As part of the CCF leadership team, Mr. Robinson served on the CCF Executive Committee for two years. Mr. Robinson also served on the CCF as [their] representative to the youth council of the Thomas Jefferson Planning District Commission, and brought information to commissioners about youth career exploration and employment. CCF members are grateful for Mr. Robinson's participation, and hope he will continue to stay involved in

the work of CCF to improve outcomes for children and families.” Mr. Rooker presented a certificate on behalf of the Board to Mr. Robinson, and wished him luck on future endeavors.

---

b. Bruce Woodzell, Election to International Executive Board.

Mr. Rooker recognized Mr. Bruce Woodzell, the Albemarle County Assessor, who has won an elected position on the International Association of Assessing Officers Executive Board. He said that Mr. Woodzell won a long election to represent more than 7,000 of the IAAO’s members and primarily serve as the eastern region which serves the U.S. and Europe. Mr. Rooker noted that Mr. Woodzell was born and raised in Albemarle County and has worked for the county since 1979 beginning as a buyer in the purchasing division and becoming an assessor in 1988. Mr. Woodzell has been a member of the IAAO for 17 years, has served on the Virginia Association of Assessing Officers since 1981, and has served as president of VAAO from 2001-2002. Mr. Rooker expressed appreciation for Mr. Woodzell’s long service to the citizens of Albemarle County and are proud of his continued success and achievement of this prestigious leadership position.

Mr. Woodzell said that this honor has brought great pleasure to him as an employee of Albemarle County, and thanked his staff, his bosses, and the Board.

---

c. Dan Eggleston, Named Chief Fire Officer by International Accreditation Commission.

Mr. Rooker recognized the Director of Fire and Rescue, Mr. Dan Eggleston, for his recent designation of Chief Fire Officer (CFO), given to individuals who demonstrate excellence in experience, education, professional development, professional contributions, association membership, community involvement, and technical competencies. He noted that Chief Eggleston is one of only 23 CFOs in Virginia, and one of only 459 CFOs internationally. Mr. Rooker said that since he joined Albemarle County Fire and Rescue in 1992, the chief has served the system with “strong leadership and vision,” and has actively supported the mission and values of the county to continue the advancement of Albemarle County’s emergency services. On behalf of the Board, Mr. Rooker congratulated Mr. Eggleston for his significant contributions to the improving the safety and well-being of the citizens of Albemarle County.

Mr. Eggleston said that he is fortunate to live in a nice community and said the recognition means a lot to him.

---

Agenda Item No. 6. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Bowerman to approve Items 6.1 (as noted) through 6.3, and to accept Items 6.5 through 6.10 for information (discussions are included with the agenda items). (A separate motion was taken on Item 6.4.) Roll was called, and the motion carried by the following recorded vote:

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

---

Item 6.1. Approval of Minutes: August 4, 2004; March 2, April 18(A) and April 20, 2005.

Mr. Rooker had read August 4, 2004, Pages 19 (begin Item #9) – end and found them to be in order as presented.

Mr. Dorrier had read March 2, 2005, and found them to be in order as presented.

Mr. Boyd had read April 20, 2005, and found them to be in order as presented.

**By the recorded vote set out above, the minutes which had been read were approved. The remaining minutes will be placed on the next agenda.**

---

Item 6.2. Adopt resolution to issue Virginia Public School Authority (VPSA) Refinancing Bond.

The County of Albemarle issued school bonds through the Virginia Public School Authority in 1992, 1993, and 1994. The total of these three bond issues was \$39,495,000.

Based on current interest rates, the VPSA has elected to refund (refinance) a number of its outstanding bond issues. As a result of the refunding, the VPSA will realize a substantial savings in interest which will be shared with the localities. It is anticipated that the County of Albemarle will receive a refund of \$825,142. The refund is restricted to be used for the cost of public school capital purposes and must be used within 6 months of receipt. In order to participate in this refunding, the County Board of Supervisors must adopt a Resolution authorizing the execution and delivery of a Continuing Disclosure Agreement and a Use of Proceeds Certificate. The County is not considered a “Material Obligated Person” and is not required to provide Annual Reports or Reports of Listed Events.

The \$825,142 interest savings will be deposited to the CIP fund for school construction projects.

Staff recommends that the Board adopt the attached Resolution authorizing the attached:

- Continuing Disclosure Agreement and
- Use of Proceeds Certificate.

(Mr. Boyd asked if the school refinancing proceeds cashflow would be one lump sum. Mr. Foley responded that the money would be coming as one lump sum approximately 30 days after approval and 30 days after Mr. Wiggins signs the affidavits and forwards them to staff.

Mr. Boyd asked if it was possible to transfer the money back to the CIP. Mr. Tucker replied that he believes the monies can be used as the county sees fit.

Mr. Davis stated that the revenues must be used for school purposes, but it could replace other funding already allocated to the schools.

Mr. Wyant commented that this is technically a savings.

Mr. Tucker added that it should be used for capital projects.)

**By the recorded vote set out above, the Board adopted the following resolution:**

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL FINANCING BONDS (1987 RESOLUTION) REFUNDING SERIES 2003 D, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE COUNTY OF ALBEMARLE GENERAL OBLIGATION SCHOOL BONDS, 1992B SERIES, 1993 SERIES AND REFUNDING SERIES 1994A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES CONTEMPLATED HEREBY**

**WHEREAS**, the Virginia Public School Authority (the "Authority") pursuant to (i) a bond resolution adopted on August 13, 1987, as amended and supplemented (the "1987 Resolution") and (ii) a bond resolution adopted on October 23, 1997, as amended, restated and supplemented (the "1997 Resolution") issued bonds (respectively, the "1987 Resolution Bonds" and the "1997 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia;

**WHEREAS**, the Authority used a portion of the proceeds of certain 1987 Resolution Bonds to purchase certain duly authorized and issued general obligation school bonds of the County of Albemarle, Virginia (the "County") designated the Albemarle County School Bonds, Series of 1989B and 1991 Series B ("Prior Local School Bonds");

**WHEREAS**, the Authority has issued under the 1987 Resolution several series of 1987 Resolution Bonds designated as "School Financing Bonds (1987 Resolution) 1992 Series B" (the "Series 1992 B Bonds"), "School Financing Bonds (1987 Resolution) 1993 Refunding Series B" (the "Series 1993 B Bonds") and "School Financing Bonds (1987 Resolution) 1993 Series C" (the "Series 1993 C Bonds");

**WHEREAS**, the Authority refunded certain 1987 Resolution Bonds with a portion of the proceeds of its Series 1993 B Bonds and, in connection therewith, the County exchanged its Prior Local School Bonds with a duly authorized and issued general obligation school bond designated the County of Albemarle General Obligation School Bond, Refunding Series 1994 A (the "1994 A Local School Bond");

**WHEREAS**, the Authority used a portion of the proceeds of the Series 1992 B Bonds and Series 1993 C Bonds to purchase certain duly authorized and issued general obligation school bonds of the County designated the County of Albemarle General Obligation School Bonds, 1992B Series and 1993 Series (together with the 1994 A Local School Bond, the "Local School Bonds");

**WHEREAS**, the Authority refunded its Series 1992 B Bonds, Series 1993 B Bonds and Series 1993 C Bonds ("Refunded Bonds") with a portion of the proceeds of its Virginia Public School Authority School Financing Bonds (1997 Resolution) Refunding Series 2003 D (the "Refunding Bonds") issued pursuant to the 1997 Resolution;

**WHEREAS**, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution;

**WHEREAS**, the Authority is required to assist the underwriters (the "Underwriters") of the Refunding Bonds with their duty to comply with Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule");

**WHEREAS**, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule, and;

**WHEREAS**, the Board of Supervisors of the County of Albemarle, Virginia considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:**

1. Continuing Disclosure Agreement.

The Chairman of the Board of Supervisors, the Director of Finance and such officer or officers as they may designate are hereby authorized to enter into a Continuing Disclosure Agreement in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Use of Proceeds Certificate.

The Chairman of the Board of Supervisors, the Director of Finance and such officer or officers as they may designate are hereby authorized to enter into a Use of Proceeds Certificate in the form attached as Appendix B hereto, containing such covenants as may be necessary in order for compliance with any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

3. Further Actions.

The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

4. Effective Date.

This resolution shall take effect immediately.

---

Item 6.3. Ellerslie Drive and Grand Cru Drive Road Name Change Request.

Pursuant to Part I, Section 6 (e) of the Albemarle County Road Naming and Property Numbering Manual, road name change requests are forwarded to the Board of Supervisors for approval upon validation of the following:

Landowners of more than fifty (50) percent of the parcels served by the road in question have signed a petition in favor of a common road name, and that the proposed road name is otherwise consistent with other road name guidelines (not a duplicate name, is limited to three words, does not exceed sixteen characters and/or spaces, etc.) outlined in the Manual.

This change in the name of a portion of Ellerslie Drive to Grand Cru Drive and the existing Grand Cru Drive to Winery Hill Drive is at the request of the sole landowner (see Attachment A-on file in the Clerk's office). The proposed road names are common road names within the meaning of the Manual and are consistent with the Manual's other road name guidelines referred to above. Maps indicating the location of the roads are also attached (Attachments B and C).

There is no anticipated budget impact. The landowner will be responsible for costs associated with new signage.

Approve the changes in road names of a portion of Ellerslie Drive to Grand Cru Drive and the existing Grand Cru Drive to Winery Hill Drive and grant staff the authority to coordinate/implement the above referenced changes.

**By the recorded vote set out above, the name change request was approved.**

---

Item 6.4. Procedures and expected costs of property tax incentives for solar energy and recycling equipment.

The Board of Supervisors has asked County staff to review the issue of property tax incentives for solar energy and recycling equipment. *Virginia Code* § 58.1-3661 permits localities to exempt or partially exempt certified solar energy equipment, facilities, or devices and certified recycling equipment, facilities, or devices from local taxation. The following report discusses the issue and the potential impact on Albemarle County, both financially and administratively, if the Board were to approve such an exemption. The report also reviews the experiences of other jurisdictions that have implemented the exemption.

Definitions:

*Virginia Code* § 58.1-3661 defines certified solar energy equipment, facilities, or devices as "any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity." Certified recycling equipment, facilities, or devices are defined as "machinery and equipment which is certified by the Department of Waste Management as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth." In order to qualify for tax exemption, equipment must meet these criteria defined in the *Virginia Code*.

Administration:

Based on staff interpretation of the *Virginia Code*, property would continue to be assessed at fair market value. The County Assessor would then deduct the certified value of qualifying solar equipment, facilities, or devices on the property. Under *Virginia Code* § 58.1-3661(E), that value is presumed to be "not less than the normal cost of purchasing and installing" the equipment. That value would be deducted from the property's overall fair market value, and the owner taxed on the resulting reduced property value. The exemption would apply to both new and existing equipment. The process would be the same for recycling equipment, with the exception that Department of Waste Management, instead of the County Assessor, would certify the value of the recycling equipment. Any exemption for solar or recycling

equipment would be effective for the next succeeding tax year after the application, and would have to be for a term of not less than five years, as required by state law

Other Jurisdictions:

- Loudoun County – Loudoun has approved the exemption and has one or two qualifying homes. Administratively, Loudoun adds the cost, as certified by the Chief Building Inspector, of the qualifying equipment to the value of the property, and then exempts that same cost, resulting in no net addition or reduction for the property owner. As previously noted, this use of the cost approach differs from Albemarle County's use of the sales approach in residential assessments.
- City of Alexandria – Alexandria has approved the exemption and reports having handled only a couple of exemptions several years ago.
- Arlington County – Arlington has approved the exemption and reports having not exempted any solar energy equipment in the past twenty years.
- City of Roanoke – Roanoke has approved the exemption. It reports that no one has requested it yet but expects about 30 properties to be requesting this exemption soon.
- City of Charlottesville – Charlottesville does have an ordinance, but no participants.

Several jurisdictions, including the City of Virginia Beach, City of Newport News, City of Manassas, Goochland County, Henrico County, Chesterfield County, and the City of Petersburg, report not offering this exemption.

Approximately 20 parcels in the County are presently marked as having solar heat. However, with no tax incentives currently in place, a significant number of parcels may have unreported solar equipment. The true number of taxpayers owning this equipment or seeking this exemption really cannot be known unless and until such an exemption is offered. Without a complete count of eligible owners, staff cannot determine the exact impact on the County, in terms of either foregone revenue or staff resources needed to administer the program. Assuming that there were only 20 parcels with qualifying equipment and if the equipment on each parcel cost \$10,000, exempting all such equipment would reduce property tax revenues by \$1,480 per year.

Staff is presenting this report to the Board for informational purposes only. If the Board wishes to implement this program, state law requires that it be authorized by local ordinance.

(Ms. Thomas commented that the language "if the Board implements this program" wasn't strong enough, as she feels the program should definitely be implemented. She had a conversation with a constituent who was asking about this tax provision, and it is unclear in this information if the intent is to go forward with an ordinance and public hearing or not.

Mr. Tucker suggested adopting a Resolution of Intent to prepare an ordinance.

Mr. Boyd noted that in other counties, it has not been taken advantage of.

Ms. Thomas said that that would mean a lesser impact on the budget, but for the few people who are wondering whether or not they should do it, it would give them direction.

Mr. Boyd expressed concern that it might create new administrative costs.

Mr. Rooker noted that at least 20 parcels in the county are presently marked as having solar heat, as well as others that may not be known.

Mr. Davis pointed out that the landowner would need to make an application that goes to the Building Department, who would certify that the equipment would meet the standards set forth in the State Code, and once that certification is made, then it is processed through the tax department.)

**Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to authorize staff to prepare a Resolution of Intent for an ordinance related to tax incentives for solar energy and to set it for public hearing at the earliest possible time. Roll was called, and the motion carried by the following recorded vote:

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

---

Item 6.5. Copy of resolution adopted by the Board of Directors of the Rivanna Water & Sewer Authority concerning rate schedule for FY 2006, **received for information**.

---

Item 6.6. Copy of letter dated July 13, 2005 from Mr. John Shepherd, Manager of Zoning Administration, to Ms. Linda Lloyd, re: Official Determination of Development Rights and Parcels – Tax Map 126, Parcel 21 (property of Mitchell O. Carr) - Section 10.3.1., **received for information**.

---

Item 6.7. VDOT Monthly Report for August, 2005, **received as information**.

---

Item 6.8. Copy of Albemarle County Service Authority Board of Directors' minutes for April 18, May 19 and June 9, 2005, **received for information.**

---

Item 6.9. Copy of Planning Commission minutes for March 29 and April 5, 2005, **received for information.**

---

Item 6.10. Historic Preservation Committee Update, **received for information.**

The Historic Preservation Plan was adopted in the Fall of 2000. In April 2001 the Board of Supervisors adopted the *Priority Recommendations for Historic Preservation in Albemarle County* (the "Priority Recommendations") (Attachment A) as the action agenda to be used for the implementation of the Plan. The original Priority Recommendations are taken directly from the adopted Historic Preservation Plan. The Board also approved recommendation #1 for implementation, thereby establishing a standing Historic Preservation Committee. Members were appointed and the new Historic Preservation Committee held its first meeting on January 8, 2002.

An overview of the Historic Preservation Committee's accomplishments to date and ongoing work is included as Attachment B. The overview is organized around work being undertaken by subcommittees of the Historic Preservation Committee. It provides a status on the Priority Recommendations (Attachment A) and includes a discussion of recommended actions for the Board's consideration. In summary, Priority Recommendations 1, 3 and 4 are complete. Work on Priority Recommendations 2 and 5 through 11 is ongoing. The Committee requests Board action on issues related to Priority Recommendations 2, 7 and 9, as summarized below and discussed in Attachment B.

1. Priority Recommendation #2.

Following a Committee discussion about the loss of an historic resource with potential local significance and the impact a comprehensive database could have had on that situation, in early 2004 the Historic Preservation Committee discussed its role in current development review and public inquiries, noting that the Committee includes members with experience and expertise that could assist staff in various work areas. **Wanting to make use of the resources already assembled, and noting that clarification is needed regarding the specific role of Committee members, the Committee recommends that Priority Recommendation #2 be amended by adding the following text:**

*Historic Preservation Committee members should be available to staff for consultation, recommendations regarding significance of cultural resources, and for site inspections, as needed, in order to provide assistance in the development of the database and in staff's review of development proposals.*

2. Country Stores Recommendations/Priority Recommendation #7.

Following the Committee's review of the "Rural Commercial" section of the Rural Areas chapter of the Comprehensive Plan, a subcommittee embarked on a project to identify the remaining country stores in Albemarle County. A presentation on the Committee's research and recommendations on the treatment of country stores was made to the Board of Supervisors on May 7, 2003. The Committee subsequently asked that the country store recommendations be included in the Rural Areas plan, but it was suggested instead that the Historic Preservation Plan be amended to include the Committee recommendations. **The Committee, wanting to formalize the country store recommendations, recommends that the Albemarle County Historic Preservation Plan be amended by adding the "Position Statement on Albemarle County's Historic Country Stores" as contained in Appendix H.**

3. Multiple Property Nominations/Priority Recommendation #7.

The Committee's work on the Country Stores project led to the conclusion that other significant building types exist throughout the County, and that the Historic Preservation Plan recommendation regarding nomination of particular County villages to the State and National Registers overlooks other significant County resources. Committee members agreed that these significant building types should be surveyed and that multiple property nominations should be completed for them. A multiple property nomination is a streamlined method for nominating groups of related significant properties to the National Register of Historic Places. It facilitates future evaluation and listing of individual resources, should individual property owners choose to pursue listing on the National Register. **Consequently, the Committee recommends that, to the Historic Preservation Plan recommendation that currently reads, "The County should encourage or actively seek designation on the Virginia and National Registers of all potentially eligible villages (Advance Mills, Crozet, White Hall, and Yancey Mills) as identified in the Historic Architectural Survey of Albemarle County Villages," the following text should be added:**

*The County should encourage or actively seek multiple property nominations for building types significant to the history of the County, such as country stores, schools, barns, churches, etc.*

4. Priority Recommendation #9.

In the Spring of 2004 the Committee discussed viewsheds and questioned the equity of singling out one viewshed (Monticello) in the County. While Monticello is a unique resource, the

Committee noted that its significance does not diminish the importance of other existing viewsheds. Such viewsheds contribute greatly to the character and quality of life in the County. Members discussed the possibility of expanding the priority work item to include consideration of additional significant historic viewsheds throughout the County. **As a result, the Committee recommends that the wording of Priority Recommendation #9 be revised to add the following text:**

*Identify significant publicly accessible viewsheds in the County associated with a historic resource or a theme central to the history of the County. Develop recommendations on the treatment of those viewsheds.*

Each of the Historic Preservation Committee's recommendations requires an amendment to either the Historic Preservation Plan or the Priority Recommendations.

This item was intended to provide an update to the Board on the work of the Committee and their recommendations. An analysis of the recommendations and their implications has not been considered by staff at this time. That analysis and additional information for the Board's consideration will be provided at September's day meeting. This information will include possible consideration of a resolution of intent to amend the Comprehensive Plan to address the recommendations of the committee.

(Ms. Thomas said that she would like to see swifter movement with the Historic Preservation Committee's recommendations, as what is included in the executive summary seems "roundabout.")

Mr. Tucker replied that staff had not had a chance to do a thorough review, as the committee would be making a recommendation in September.

Ms. Thomas stated that what is before the Board now is a recommendation.

Mr. Tucker responded that the committee had planned to do a presentation to the Board, and staff could not fit it into today's agenda.

Mr. Dorrier said that he feels it would be worthwhile to hear the group's presentation on country stores in September.

Mr. Wyant commented that there has been a lot of discussion in his district regarding preserving country stores, and whether it entails the business or just the structure. He added that there are regulations that hamper preservation of historic structures in the county.

Ms. Thomas suggested that Mr. Wyant come to the committee meeting in August.

Mr. Wyant said that he has been hesitant to get involved because of his personal interest in rural happenings.

Mr. Bowerman pointed out that it would be unlikely that Mr. Wyant would be voting on items if he had a very close connection.)

---

Agenda Item No. 7. Transportation Matters:

a. Signage in VDOT right-of-way.

Mr. Graham highlighted the executive summary which was forwarded to Board members. The executive summary presents alternative strategies for reducing the number of illegal signs placed in public rights of way. While removal of these signs is a VDOT responsibility, the question is whether the County can effectively improve the removal of these signs. Signs, typically of a temporary nature, erected along our roadways not only contribute to visual clutter but also negatively impact the scenic quality of the County. These are often numerous "popsicle signs" advertising a product or service which are erected on weekends along major roads. These signs can also include real estate "For Sale" signs made of a permanent material. This proliferation of signs and difficulty in removal is a common problem for localities throughout the Commonwealth. Removal of signs reduces the visual clutter and is expected to discourage the continued use of these signs.

Staff has discussed this issue with Jim Utterback, the Charlottesville Resident Administrator. VDOT does remove many of these signs as part of regular operations, but does not have work teams responsible for removal of signs. Signs are routinely removed when found to block sight distance, preparation for mowing, and similar operations. The authority to deal with this issue has been primarily given to VDOT rather than to local governments. Through Virginia Code Section 33.1-373, VDOT has authority to remove all the signs from the right of way, recover the costs of the removal, and to impose a \$100 civil fine for each sign. There is a rebuttable presumption that the sign was placed by the entity the sign advertises. This presumption allows VDOT to prosecute in a civil process without having to catch the offenders in the act of placing the signs. The local VDOT office does not aggressively seek costs or fines for these violations and believes the effort required to collect the costs and fines would often exceed the amounts that could be collected.

After discussing this issue with Jim Utterback, it appears the County would need to supplement VDOT's effort to improve removal. Based on the experience of other counties, the Albemarle could be authorized to provide this service for VDOT. Virginia Code Section 33.1-375.1

enables VDOT to enter into agreements with local governments to authorize the local governments to act as agents for VDOT to remove the signs. However, any fines collected are required by state law to be paid into the Highway Maintenance and Operating Fund. Below are several options to address this issue which could stand alone or be combined:

1. The County could contract for the removal of these signs. This would be similar to VDOT's mowing contractors removing these signs prior to mowing. The cost of such a program has not been thoroughly explored, but it appears there could be opportunities to use the same contractors as currently providing litter removal for VDOT.
2. The County could direct staff to perform this function. This would require changing priorities for other services and could result in some reduction in current service levels. While zoning and building inspectors are already in the field, Community Development would recommend against utilizing inspectors for sign removal. Their current workload can already result in lengthy response times for violation investigations and our ability to assure next-day inspections would be put at risk if staff resources were diverted to this program.
3. The County could pay staff overtime to provide this as a supplemental service. This would potentially increase cost, but could provide a reasonable method of experimenting with effectiveness over several months. Additionally, there would be the need to train staff on identifying limits of the public right of way and confrontation training for situations where the business owner finds staff removing their signs.
4. The County could continue to rely on VDOT and use a public education campaign to make violators aware of the current laws and of the possibility that VDOT could fine them for violations.

For alternatives 1-3, it is staff's opinion that removal would need to occur every week or every other week to maintain effectiveness. Additionally, it is believed it would be more effective to remove signs at the beginning of weekends soon after they are usually erected. With these strategies, staff believes it is important for the Board to recognize this program is potentially controversial. Staff anticipates confrontations with business owners whose signs are removed, but believes that confrontation may also come from residents whose signs for garage sales, political candidates, and lost pets are also removed. Some of the challenges inherent in a sign removal program in addition to the question regarding the frequency of removal are:

- A. It is often difficult to determine the edge of right of way. It changes in width on any given road and is rarely marked.
- B. Deciding which roadways will be patrolled is important. For example, would staff focus on the entrance corridors or expand onto other streets?
- C. Would staff dispose of all signs? For example, some metal real estate signs are relatively expensive. If we don't dispose of all signs, then we need a process for storage and retrieval by the owner.
- D. It is not recommended that removal criteria be based on the content of the sign. There could be public backlash for the removal of signs advertising political candidates, garage sales, lost pets, etc.
- E. Because the cost of the "popsicle" retail signs is relatively low, removal may not prevent the erection of future signs. This could lead to the need for enforcement action, which is believed to be a much more extensive time and process commitment.

If option 3 were used, the budget impact of funding a team of inspectors to do this once a week for three months is estimated at \$7,500. As discussed above, the cost of using VDOT's contractors has not been thoroughly investigated, but would likely require a similar budget. While the County might recover some of its costs through VDOT, both staff and VDOT recommend against pursuing enforcement due to the extensive and costly time involved in an enforcement process. It is believed option 4 could be done at a relatively low cost by appealing directly to businesses as well as professional groups (e.g. Charlottesville Area Association of Realtors).

If the Board is interested in supplementing VDOT's effort, staff would recommend a phased approach. The first phase would use option 4; emphasizing public education regarding the law and that visual clutter is unacceptable. After three months, staff would report back to the Board on the effectiveness of this effort. At that time, the Board could decide if it desires to accelerate removal through contracting the service with VDOT or overtime for staff.

---

Ms. McCulley, Zoning Administrator, said that this would be a proactive program responding to citizen complaints. This year, there will be a projected 338 zoning complaints, up 28 percent over last year and staff predicts that trend will continue as the county urbanizes. Ms. McCulley noted that enforcement is actually "priority #7" for staff, and there are six items ahead of it, including inspection of new construction. Except for a very small percentage of construction projects, staff is conducting zoning inspections to make sure that they are in compliance in terms of use, setbacks, proffers, codes of development, safe and convenient access, etc. Ms. McCulley stated that with the Neighborhood Model form of development and with more "customized" recommendations, the workload continues to increase. She suggested coming back to the Board in the future to discuss zoning enforcement in more depth.

Mr. Rooker asked if there were staff members whose role is specifically to deal with zoning violations. Ms. McCulley responded there are not, explaining that there are five zoning inspectors who each deal with violations in addition to inspections, posting signs, light meter tests, and other requests.

She added that there are pros and cons to having one person dealing just with violations, as it is a challenging line of work.

Mr. Graham reported that there are four alternatives considered to supplement VDOT's effort: (1) to contract services; (2) to have staff rearrange their priorities and make this a priority; (3) pay staff overtime to provide this service outside of regular business hours; and (4) try an educational campaign first. He noted that staff would like to try the educational campaign first, with inspectors surveying primary routes – Route 250 and U.S. 29 – then do follow up calls to the violators. Mr. Graham said that the alternative would be to proceed with a program to remove the signs, either contracting for removal or having staff do it on an overtime basis.

Ms. Thomas noted that she agrees with alternative #4, but wondered how citizens might be able to become involved also, similar to the "Adopt a Highway" program. She suggested perhaps putting stickers on the signs that say "there is a violation" might work, and the community might be willing to get involved since they have expressed concern about the signs.

Mr. Boyd mentioned that on his way to the county fair, he noticed a number of political signs in the right of way. He asked about how to differentiate between commercial and non-commercial signs.

Mr. Rooker asked if there could be a distinction made. Mr. Davis responded that state law does not make that distinction.

Mr. Rooker added that the state owns the right of way, and does not allow it to be used. He said that regardless of what approach is taken, the county needs to get permission from VDOT. Mr. Rooker said that it would be helpful if the county could enforce the state ban on the signs in the right of way. He suggested calling the number on the signs, rather than removing them. Mr. Rooker expressed his support for alternative #4, adding that the commercial people who put signs up repeatedly ought to be stopped first, rather than one-time yard sale people.

Mr. Bowerman said that he is guessing most of the commercial sign-placers are unaware that it is banned.

Mr. Tucker suggested starting with the education campaign first, then moving on to enforcement if necessary after a few months.

**Motion** was then offered by Ms. Thomas to approve staff's Option #4 which is to continue to rely on VDOT for enforcement and use a public education campaign to make violators aware of current laws.

Mr. Graham asked about a motion for enabling legislation.

Ms. Thomas pointed out that Mr. Tucker had not wanted to do that until the public education piece had had time to move forward.

Mr. Wyant said that people in the Adopt a Highway program could be used since they are already out there.

Ms. Thomas then added to her motion to request staff to work with the Route 250 West Committee on the education program.

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

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

NAYS: None.

---

b. Other Transportation Matters.

Mr. Jim Utterback made the following comments:

- Notified the Board that Jimmy Kesterson, permit specialist and VDOT veteran for 40+ years, passed away.
- Pointed out in the monthly report that the Airport Road project has an estimated completion date of November 1<sup>st</sup>. Was originally scheduled for completion September 2<sup>nd</sup>.
- Pointed out on the 2<sup>nd</sup> page, the Georgetown Road project, in which VDOT is trying to schedule the scoping in September. Going to be a consultant design project. CIM planned for Spring 2006.
- Trying to schedule scoping on Dickerson Road this month. Number of issues that have to be scoped on that roadway.
- Pointed out on the 3<sup>rd</sup> page, under Traffic Engineering, Route 250 and Tillman Road, there was a request to upgrade to a full signal. Traffic Engineers recommended against it. Will look at again next Spring.
- Allen Road which was recently paved has been posted with a speed limit.
- Noted on the last page of the monthly report, under Maintenance Budget, VDOT did not list an actual for July yet. He pointed out the maintenance budget is about \$12.8 million

this year which is a decrease of over \$1.0 million from last year. VDOT overspent by five percent last year. Mr. Rooker asked what geographic area the \$12.8 million is expended over. Mr. Utterback stated Albemarle and Greene Counties.

- Regarding the painting of the lines on Route 53, the contractor inadvertently painted double solid yellow lines on two old passing zones to make them no passing zones. This has been reviewed by VDOT Traffic Engineers and one of the zones will be redone to allow passing. Passing will be permitted in the 45 mile-per-hour zone and no passing in the 55 mile per hour zone.
- Mentioned the timing of the signals at Hollymead Town Center. VDOT is working on addressing the issues.
- Updated the Board on proposed maintenance on I-64.
- Contractor is back working on Blenheim Road and have committed to staying until the work is completed.
- Discussed with Nelson County paving of Heards Mountain Road. VDOT asked that when they pave their portion of the road, they do the entire section.
- Just received on Monday, FAA approval for temporary signal at Route 743/606. Mr. Bowerman asked how long the sign would be temporary. Mr. Benish responded two to three years. Mr. Bowerman commented that there is a sight distance problem there, and VDOT is concerned about the hill not being cut down enough.
- Curve has been marked but not painted yet on Buck Mountain Road/Route 810.
- Superintendent could not find the drainage issue on Buck Mountain/St. George Avenue.
- VDOT is laying the base coat on Gilbert Station Road. Section VDOT is working on should be complete in the next week or so.
- VDOT recommended on Rocky Hollow Road to install 25 mph curve signage.

---

Mr. Wyant made the following comments:

- Asked about paving on I-64 in front of the guardrail. Wanted to know if that is for drainage and the height of the guardrail. Mr. Utterback replied that VDOT is basically raising all the guardrails.
- Asked what the designation N501 stands for on Dickerson Road. Asked is it because Dickerson Road is a gravel road and uses state forces. Mr. Utterback replied, "Yes".
- Asked VDOT to accelerate the Jarmans Gap Road project.
- Coming up from the Reservoir to the Rock Store you have difficulty seeing the speed limit sign. Asked VDOT to look at placement of 45 mph sign which is almost right behind yield sign.
- Asked about the drainage problem at Berkmar Drive behind Wal-Mart.

Mr. Benish reported that the Planning Commission had reviewed the Old Trail development in a work session and expressed concern about the status of Jarman's Gap Road and implored the Board of Supervisors to make every possible effort to complete that project as soon as possible. He mentioned that that would probably be presented to the Board in writing soon, as the Commission feels it is a very high priority.

Mr. Rooker asked about using revenue sharing monies for that project. Mr. Tucker replied that other projects have already been slated for the revenue sharing money.

Ms. Thomas asked if revenue sharing money could be used for contract engineering expenses. Mr. Utterback said that that could be put on the Jarman's Gap project to move up the preliminary engineering.

Mr. Benish said that Jarman's Gap has already received two infusions of revenue sharing funds.

---

Ms. Thomas made the following comments:

- Asked VDOT to look at the asphalt pavement on Overlook Drive in Sherwood Farm because the paving of the road is deteriorating at the edges.

Ms. Thomas discussed the increased speed limit on Route 29 South. She said that the legislature's decision to increase the speed limit on Route 29 South to the North Carolina border was supposed to be "pursuant to an engineering study." Ms. Thomas referenced a resolution before the Board that notes "the study completed in 2003, does not propose an increased speed limit, and describes conditions which suggests the roadway is not suitable for increased speed." She noted that public hearings that were held during this process pointed out the road was already dangerous with the existing speed limit, and the report points out two high-crash segments and lane widths of less than 12 feet. Ms. Thomas added that the report finds there is a "village-like situation" around crossroads store, and there are segments where sight distance and/or lane-widening are needed. She added that a 1998 study shows that the speed limit was exceeded most of the time, and there are 44 median breaks as well as 214 side-access points.

Ms. Thomas concluded that the resolution presented requests that VDOT retain the present speed limit on the Route 29 South corridor for the safety of persons who must use that road, including school buses, occasional walk and bike users, persons who must enter and exit in order to get into their

homes and small businesses along that road, as well as the North Garden Fire Department, the Albemarle County Fair, Apple Harvest Festival, and similar community events.

Mr. Rooker expressed his support for the resolution, and asked if anyone opposed it.

Mr. Utterback commented that the signs have already been installed.

Mr. Wyant asked if the traffic study showed the geometry of the road to be suitable for 60, and if all other data had been taken into account. Mr. Utterback replied that it is his understanding that all of those things had been taken into consideration.

**Motion** was offered by Ms. Thomas to adopt a resolution requesting that VDOT return the speed limit to 55 mph on the 29 South Corridor in Albemarle County. The motion was **seconded** by Mr. Bowerman. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

## RESOLUTION

**Whereas**, the Route 29 Corridor Development Study (Combined Phases II/III) North Carolina to I-64 was completed in 2003; and

**Whereas**, that study does not propose increasing the speed limit of Route 29 in Albemarle County, but does describe conditions in Albemarle County which suggest that the roadway is not suitable for increased speed; and

**Whereas**, at public hearings held during the Corridor Development Study comments were made by persons living near and/or using Route 29 about the dangerous conditions created by speeding traffic on the road; and

**Whereas**, the Technical Report of the Corridor Study points out at least two "high crash segments" or dangerous intersections (VA 692 and VA 708, with crash rates of 1.65 and 1.75 per million vehicle miles) [p118], points out that lane widths are frequently less than 12 feet pp 183, 184]; and

**Whereas** the Existing Conditions Report points out the village-like situation around Crossroads Store, points out several segments needing improved sight distance and/or lane widening [p23]; points out that even when studied in 1998, traffic exceeded the 55 mph limit much of the time [pp A-118 to A-136], lists 44 median breaks in Albemarle [pp17-18], and found only 4.9% to 10% of the traffic consisted of trucks and buses, and found 214 side access points [p14] ; and

**Whereas** the Albemarle County Board of Supervisors adopted the Corridor Study and made suggestions regarding its recommendations in April, 2001, without any suggestion of increasing the speed limit;

**Now, Therefore, Be It Resolved**, that the Albemarle County Board of Supervisors requests the Virginia Department of Transportation to return the speed limit to 55 mph on the 29 South corridor in Albemarle County for the safety of persons who must use that road, including school buses, occasional walk and bike-users, persons who must enter and exit in order to get to their homes and to the small businesses on this road, as well as the North Garden Fire Department and the Albemarle County Fair, Apple Harvest Festival and similar community events which draw traffic that must cross or slowly enter and exit the road.

---

Mr. Bowerman made the following comments:

- On Rio Road at the Seminole Square/Fashion Square East intersection, there is a raised concrete island that appears to be abandoned. There are lots of weeds. Requested VDOT provide some maintenance.

---

Mr. Rooker made the following comments:

- Requested VDOT also provide maintenance along Hydraulic Road, Whitewood Road and Berkmar Drive.
- Requested VDOT remain on schedule for the Georgetown Road project and to inform him when scoping is underway.

---

Mr. Boyd made the following comments:

- The additional four-tenths mile on Gilbert Station Road could be paved for no extra money. Mr. Rooker agreed that completing it while the equipment and contractor are there makes sense. Mr. Utterback said that it would be helpful to have a motion to support the extension.

**Motion** was offered by Mr. Boyd to extend the current project on Route 640, Gilbert Station Road, another four-tenths mile to Ashleigh Subdivision. The motion was **seconded** by Mr. Wyant. Roll was called and the motion carried by the following recorded vote:

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

---

Mr. Dorrier made the following comments:

- Suggested a "School Bus Stop" sign on the north and south sides of Route 708 be installed to slow people down as they are coming over Carter's Bridge onto Route 20 South. He added that the arrow signs that were painted on the roadway are pointing in the wrong direction. Mr. Utterback said that intersection was identified as a performance metric for safety improvements. First step VDOT is doing is the "in pavement" markings which are the "slow" and "arrows".

---

Agenda Item No. 8. Presentation on Nutrient Loading at Moores Creek, Tom Frederick, RWSA.

Mr. Tom Frederick, Executive Director of the Rivanna Water and Sewer Authority presented the following information. The Rivanna Water & Sewer Authority (RWSA) operates five wastewater treatment plants for the City of Charlottesville and Albemarle County. The largest of these plants is the Moores Creek WWTP, with a design capacity of 15 million gallons per day (MGD), presently operating within a range of 9.5 MGD to 11.0 MGD on an annual average basis. Each wastewater plant in Virginia operates under what is called a VPDES Permit issued by the Department of Environmental Quality (DEQ), which establishes enforceable limits for the quality of treatment of the wastewater. The Moores Creek WWTP consistently meets all permit conditions, and this facility has been certified by DEQ for Environmental Excellence (E2 Program). During an informational meeting sponsored by the League of Women Voters in Charlottesville on July 20, 2005, Mr. Keith Fowler of DEQ described RWSA's operation of the Moores Creek WWTP as "exemplary".

VPDES Permits are renewed every five years by DEQ. The Moores Creek WWTP permit is presently up for renewal, and a draft permit was prepared by DEQ and advertised for public comment. The comment period ends July 30, 2005.

The Rivanna Water & Sewer Authority is strongly committed to compliance with all provisions of VPDES Permits. Toward this objective, the Authority's staff also thoroughly reviews proposed changes in new permits to be sure that the conditions drafted by DEQ are achievable, and includes legal consultation in these reviews as appropriate. The Authority's staff reviewed a draft last fall prepared by DEQ and requested several issues be clarified, most of them minor. All of these issues were quickly resolved with the DEQ regional staff in Harrisonburg, with the exception of a draft condition to establish interim limits for total nitrogen and total phosphorus at the Moores Creek WWTP. The remainder of this fact sheet addresses the nutrient issues.

#### Nutrient Issues in Virginia

The Commonwealth of Virginia is part of an effort by six states and the District of Columbia set up to provide for clean-up of the Chesapeake Bay sufficient to remove the Bay from the U S Environmental Protection Agency's list of impaired waters by 2010.

DEQ has also identified a section of the James River, approximately between Hopewell and Williamsburg (called the "lower tidal fresh"), as nutrient enriched. RWSA is not aware that DEQ has identified any adverse effects from nutrients in the waters of the Rivanna River, or the sections of the James River above the "fall line" (west of Richmond).

The Moores Creek WWTP discharges treated water to Moores Creek near the confluence with the Rivanna River. This water then flows down the Rivanna River to the James River at Columbia. Once in the James River, this water eventually reaches the "lower tidal fresh" section of the James River, at which, according to DEQ, total nitrogen has been naturally attenuated to 61% of its strength at Moores Creek. Several much larger WWTP dischargers in the Richmond area, including the City of Richmond, Henrico County, Chesterfield County, City of Hopewell, the South Central Wastewater Authority (Petersburg), and several industrial facilities discharge much larger volumes of nutrients (compared with Moores Creek WWTP) in the "tidal fresh" sections of the James River with little or no attenuation.

Treated water from the Moores Creek WWTP has ZERO affect on the quality of the main stem of the Chesapeake Bay. That is because this water flows down the James River to the Chesapeake Bay at Newport News and the Norfolk area, a very short distance from where the Bay enters the Atlantic Ocean.

The Moores Creek WWTP, like many wastewater plants in the Commonwealth and in the nation, is designed to convert ammonia (from human wastes) to nitrates and nitrites (called "nitrification"), but is not designed to convert nitrates and nitrites to nitrogen gas. The Moores Creek WWTP VPDES Permit includes ammonia limits, and the facility is in continuous compliance with these limits. To meet a "total nitrogen" limit, facilities have to be modified and expanded to complete the conversion to nitrogen gas (called "denitrification"). These advanced nutrient removal facilities are complex and require an expensive construction project of many months to complete. Likewise, Moores Creek WWTP is not designed to

biologically or chemically remove phosphorus and would require a similar construction project to economically meet a "total phosphorus" limit. Once these limits are clearly known, a specific budget, financial plan, and a schedule can be established to design and construct the needed improvements, but it is very important to have a clear target. Design decisions are very sensitive to changes in the target; therefore, trying to start design when the target is still moving (as is presently happening) will likely result in wasted engineering costs and numerous starts and stops. The "target" for Moores Creek WWTP will hopefully be defined through decisions made by the State Water Control Board (SWCB) later this year and by DEQ's development of General Permits in 2006 based on the SWCB's decision.

The Rivanna Water & Sewer Authority is committed to doing what is fair and equitable for its facility to meet the goals of the Commonwealth with respect to the James River. RWSA has already included in an adopted capital budget over \$3 million for upgrading the facility to biological nutrient removal (BNR) and will likely be faced with considering additional funding for this project once the SWCB takes final action later this year. Within the past year DEQ has floated at least three different possible standards for our area, and we have shown in parentheses the current order of magnitude cost to the Moores Creek WWTP for each option based on quick estimates obtained from a wastewater consultant. These possible standards for nitrogen include (1) 8 mg/l or parts per million (\$8,000,000); (2) 6.34 mg/l (\$15,000,000); and (3) 4 mg/l (\$30,000,000). We are still obtaining data on the potential annual operation and maintenance costs for these options and intend as soon as we can to provide a "ballpark" estimate of the impact on households receiving public sewer service in the urban area; the cost impact will be significant. DEQ's most recent proposal (released to the public in late June 2005) favors the 4 mg/l (highest cost) option. RWSA is currently attempting to understand the justification (does it add measurable benefit to the environment?) as well as the equity of this latest proposal that would greatly increase Rivanna's costs that would have to be passed on by the City and ACSA in the form of higher retail sewer rates. With respect to equity, we understand that DEQ is proposing that most wastewater plants west of Williamsburg go to this stringent 4 mg/l limit, but they are recommending exemptions with higher limits for the City of Richmond and City of Lynchburg (based on being combined sewer cities) and the City of Hopewell (based on high industrial demand).

The Rivanna Water & Sewer Authority has taken the following additional short-term measures to maximize its treatment within the capabilities of its current facilities:

- All four aeration basins are being operated even though present flows indicate only three are necessary to meet the current permit limits. This has been done to take advantage of even slight gains that may result from operating the facilities as if they were at capacity.
- RWSA has applied for and obtained a State grant to review and look for ways to better optimize its treatment facility operations. RWSA is currently soliciting engineering proposals to perform the optimization, expected to be performed in the next three months.

#### Interim Limits for the VPDES Permit

Recognizing that treatment facilities are designed to meet specific criteria and in many cases cannot immediately adjust to new criteria without time-intensive capital improvements, the U S Environmental Protection Agency has long endorsed a permitting process that allows that when water quality standards need to be amended, a permittee is given the new standard in a clear numerical description, and is given a reasonable amount of time to undertake the financing, design, and construction process to upgrade its facility, before the effective date for enforcement of the new standard. This process is called a compliance schedule. DEQ has used this process frequently over many years in VPDES permit conditions across the Commonwealth.

In the summer of 2004 DEQ was under intense public pressure to complete the development of nutrient standards and published a guidance document on "stop gap" interim limits for WWTPs. At a Senate Committee of the Environment meeting in Westmoreland County in August, where Mr. Bob Burnley, DEQ Director, was an invited speaker, Mr. Burnley stated that DEQ would apply this guidance such that it "is flexible to address situations with facilities that cannot comply with the interim limits without an upgrade."

In October 2004, RWSA had an opportunity to review a draft of DEQ's proposed renewal of a VPDES Permit for Moores Creek WWTP. DEQ had proposed interim limits from the guidance document. RWSA performed a statistical analysis to determine if the present facility could achieve these interim limits and concluded, based on available past data (no growth factor added) that there would be a 33% probability (within one standard deviation) of a violation of these interim standards in any given year if they were imposed as legal requirements before allowing time to upgrade the treatment facility. As a result, RWSA offered three options to DEQ as a counterproposal, each of these options adhering to Mr. Burnley's August 2004 offer to show appropriate flexibility, as follows: (1) express interim limits in the permit as voluntary goals as used by the State of Maryland in a similar situation; (2) set no nutrient limits until the SWCB adopts new water quality standards, after which a compliance schedule would be allowed to achieve compliance with new standards; or (3) modify the interim limits as a permit requirement to a level RWSA's analysis showed could be consistently achieved with existing facilities.

In the 2005 session of the General Assembly, new legislation (HB 2862 and SB 1275) passed called the Nutrient Trading and General Permit Act of 2005. The bill includes many provisions, but with respect to the issue in this summary, the act eliminated the use of interim limits by DEQ in exchange for a firm schedule by which DEQ would complete the development of water quality standards and reopen VPDES permits (including Moores Creek WWTP) through what is called a General Permit for nutrient limits.

In March 2005, RWSA learned through its attorney that Mr. Burnley was considering dropping the issue of establishing interim limits in the Moores Creek VPDES permit. In June 2005, RWSA was notified by the DEQ Harrisonburg office that interim limits had been deleted from the proposed permit and that the draft permit was ready for the public comment period.

Mr. Frederick noted that the Virginia Association of Municipal Wastewater Agencies has raised questions about the standards DEQ is now proposing, adding that if the Water Control Board acts as recommended, RWSA would receive the limitations requiring a \$30 million system. Mr. Frederick said that VAMWA raised some questions about how the DEQ calculations were done, and asked that some additional modeling runs be done by an EPA computer that is the most sophisticated system on the Chesapeake Bay and its tributaries.

Mr. Frederick expressed concern that DEQ has documented environmental problems in the section of the James River between Hopewell and Williamsburg – the “tidal fresh area.” He added that the major portions of nitrogen loads will continue to happen, and many other communities will be forced to stringent standards. RWSA hopes it is not to make up for the exemptions that DEQ have given, but we are asking those questions.

Mr. Rooker suggested that the legislators look at this situation.

Ms. Thomas commented that Richmond and Lynchburg have combined stormwater and sewer systems so that they are treating stormwater runoff, whereas other communities are not. She said that there is a good argument that those plants can have a higher nitrogen level because the entire community is loading into the river as not as great as a community that does not treat its stormwater.

Mr. Frederick responded that RWSA has not proposed a solution as of yet, but has raised the question. He added that the Commonwealth could put some money forward to help communities reduce their loads so that they can meet the same standards as everyone else. Mr. Frederick noted that it appears on the surface that DEQ has made a policy decision that has not been backed by legislative action, and other communities will have to pay for that.

Mr. Thomas said that she is aware of good scientific-based reasons why those cities have different limits.

Mr. Frederick stated that he has only seen policy documents.

Mr. Rooker asked if Mr. Frederick might be able to come back later in the meeting, due to time constraints in this meeting.

Mr. Frederick said that from the information DEQ has shared, it seems very clear that their intent in terms of policy is to put a very heavy burden for the nutrient issues on wastewater treatment plants. He emphasized that there have been many arguments made that there are other sources, and over half of nutrients that enter the James River come from non-point sources across the state. Mr. Frederick said that it could be argued that more money should come from the state if the burden is being put on wastewater treatment facilities. He mentioned that DEQ claims to have money available, but in looking at the numbers, they are woefully short of the burden that they are asking to be carried here.

Mr. Wyant asked if the number four was an average, or a cap. Mr. Frederick replied that four is a maximum number, and the \$30 million facility is built to keep that number even lower. Four is getting very close to what is considered limits of technology, so the margin might not be as broad at that very tight level on a day to day basis.

Mr. Frederick concluded by stating that the next State Water Control Board meeting is the last Tuesday and Wednesday in September.

Mr. Rooker suggested that Board members discuss during lunch whether Mr. Frederick is needed to return later in the meeting.

---

Agenda Item No. 9. Presentation: ArtInPlace – Victoria Byrd.

Mr. Tucker introduced Elizabeth Breeden, President of ArtInPlace. She explained that their mission is to put art in places where it is accessible to the public. Ms. Breeden said that they have two programs currently – one to put art along the busy roadways of Charlottesville, and the Charlottesville in two dimensions program, with paintings at McGuffey Art Center. She said that Bill Bennett of U.Va.'s Art Department was on the jury for the sculpture design this year, and he thought when the ArtInPlace program started five years ago “it was stupid,” as he did not approve of looking at art from a car. But now that he has lived with it for five years, he thinks it is very American as well as modern and endearing. Ms. Breeden said that Chuck Rotgin admired the program also, and the Lynchburg Leaf program, which allows the “very intentional landscaping” along the Route 29 bypass. She said that her program went to VDOT's guidelines for comprehensive roadside management, which is what VDOT set up after Lynchburg's program took off. Ms. Breeden said that those guidelines are due to be enacted in December, and she is before the Board today so that they can start to make a plan for improvements on roadsides. In the design considerations, she said, however, VDOT says “design elements such as statuary are excluded.”

Ms. Breeden proposed to the Board moving forward with a landscape design competition for three locations to be selected in the urban area, explore a donation program for businesses to donate the plant material for those areas, and for the Board to allocate money next fiscal year for supervising the planting and maintenance of those locations. Ms. Breeden asked the Board to commit to two ArtInPlace sculptures on county-owned land, as VDOT will not allow it on state land. She said that this budget would be \$2,000 per sculpture, and two sculptures would be put up for 11 months, then moved. Ms. Breeden introduced Victoria Byrd.

Ms. Byrd addressed the Board, stating that the ArtInPlace proposal is intended to define and communicate Albemarle County's unique character and beauty through the introduction of art in two forms: landscape architecture and sculpture. She said that the landscaping program is modeled after Lynchburg's Leaf program, which is based on the recognition that the Route 29 Expressway is their "front yard," and should be an expression of civic pride. Ms. Byrd said that the Keep Lynchburg Beautiful committee developed a program that would allow corporations to sponsor an interchange and be recognized by small acknowledgement signs. She stated that the program began in 1994 and they have completed 10 acres of landscaping with 76 plant beds, with donations totaling \$1.5 million. She noted that this is the first time businesses, local organizations, and citizens could contribute to the costs of improving VDOT rights-of-way in their locality.

Ms. Byrd explained that this success led to legislation that authorizes local roadside improvement projects on rights of way across Virginia, called the "Comprehensive Roadside Management Program." Scheduled to go into affect this December, she said that the regulations serve as a resource on procedures for approval and criteria used to evaluate each proposal. She noted that public hearings must be held on any proposed local program, and local government must endorse the projects. Responsibility for maintaining the improved roadsides, she said, is laid directly on local government in perpetuity. If the locality fails to adequately maintain the improvements, she said, in the permitted areas, VDOT may return the landscaped area to its original condition – at the permit-holder's expense. She noted that this has set the groundwork for Albemarle to address their urban areas and entrance corridors. Ms. Byrd said her group has inquired in the landscape architect community as to whether there is an interest in donating design services and they have been supportive of the idea. She stated that community donations would fund the site preparation and plant installation, and \$8,000 to \$10,000 per bed will be sought from donors.

Ms. Byrd reported that her group has selected six potential landscaping sites as outlined in the Board packets, with the goal of three being approved by VDOT with land use permits. She said that these sites are prominently displayed and "will immediately communicate the county's dedication to beautification." Ms. Byrd said that they are requesting that the county dedicate the annual maintenance funds beginning next fiscal year, with estimated costs at \$13,100 for plant replacement, mulching, mowing, and fertilizer at the three sites. She also asked that county staff work with VDOT to secure permitting and oversee planting, as well as partnering with ArtInPlace for publicity to raise community awareness and donations. Ms. Byrd said that she hopes the first projects will be a successful catalyst for future improved sites.

Regarding sculpture placement, Ms. Byrd said that ArtInPlace would like to expand the existing program, with new figures erected in locations owned by Albemarle County. She stated that the goal is for the county to select two of the four preliminary sites to install yearly rotating sculptures. Ms. Byrd said that this program requires \$2,000 per year per sculpture for the artists' award and installation. She concluded by thanking the Board for their support.

Mr. Wyant asked if she had spoken with VDOT about working in the right of way, citing his previous experience and safety concerns.

Ms. Byrd replied that she has spoken with Jake Porter, who heads up this project, and has also met with Jim Utterback and Bill Watson. She said that the project would essentially turn the land over to the county to maintain, and the sites are in areas where the speed limits are 35 and 45 miles per hour. Ms. Byrd added that she has also spoken with the city, which has similar projects.

Mr. Wyant stated that it would be best if the county maintains the parcels, so that VDOT does not mow over them. He commented that he has enjoyed the landscaping beds in Lynchburg.

Mr. Tucker recommended that Ms. Byrd bring back a proposal to the Board that could be put in next year's budget.

Mr. Bowerman suggested that it be done in September.

Mr. Rooker noted that the regulations will not be in place until December. He said that this program is a "wonderful way to help improve the aesthetics of the community," and commended Ms. Byrd's group for their work.

Ms. Thomas said she would also like to make sure that the legal issues regarding placement of structures, etc., be reviewed.

Mr. Dorrier asked about including the garden clubs in the landscaping. Mr. Rooker added that perhaps the garden clubs could judge the entries. Ms. Byrd said that she would look into how to get them involved.

---

(Note: At 11:05 a.m., the Board recessed, and reconvened at 11:17 a.m.).

---

Agenda Item No. 10. Discussion: Martha Jefferson Hospital Request for Tax Exemption.

The executive summary states that by letter dated May 23, 2005 (on file), Martha Jefferson Hospital has requested that four of its properties located in the County be exempted from County property taxation. At this time, these properties can be exempted from taxation only if the Board of Supervisors adopts an ordinance exempting the property by special designation. The Board may, at its sole discretion, decide whether or not to proceed to public hearing to consider such an ordinance.

Prior to January 1, 2003, local property tax exemptions could be granted only by the General Assembly. *Virginia Code* §§ 58.1-3606 through 58.1-3622 set out the criteria by which properties of nonprofits could be exempted. Some properties, such as state owned property, churches, some cemeteries, public libraries, and property used exclusively as a hospital were automatically exempt from taxation by classification without any additional legislative action if the property met all the qualifying criteria. At least twice prior to 2003, Martha Jefferson requested exemption for the Crozet Family Medicine and Proffit Road office properties. However, these properties could not qualify for automatic exemption by classification because they were not being exclusively used by the Hospital, as state law required.

Also prior to January 1, 2003, state law provided that property owned by a qualifying nonprofit organization not automatically exempt by classification could be granted tax-exempt status by the General Assembly by special designation. State law required that the nonprofit first seek a recommendation from the local governing body as to whether the request should be granted before asking the General Assembly to act. Ultimately, however, exemptions by designation were decided by the General Assembly. Martha Jefferson never sought tax-exempt status by designation from the General Assembly.

Prior to 2003, the General Assembly granted 1001 requests throughout the Commonwealth for tax-exempt status by specially designating property owned by nonprofits to be exempt. During this time, however, the Albemarle County Board of Supervisors rarely recommended exemptions for County property owners. As a result, properties of only four Albemarle County nonprofits were exempted by designation under prior state law:

- § 58.1-3650.313. Senior Center, Inc. (1988, c. 672)
- § 58.1-3650.406. The Meadows Housing Corporation (1991, c. 351)
- § 58.1-3650.527. Our Lady of Peace (1993, c. 821)
- § 58.1-3650.657. Jefferson Area Board for the Aging, Inc. (1996, c. 602).

After recommending the last tax exemption request (for JABA), on December 6, 1995, the Albemarle County Board of Supervisors adopted a resolution (attached), establishing a policy against recommending future tax exemptions by designation. The rationale was that instead of permanently reducing the tax base by creating tax-exempt property, qualifying nonprofits could participate in the annual budget process and receive annual appropriations (perhaps in the amount equal to their property tax bills) instead of paying no property taxes. That process provided greater accountability to the County and the public by those nonprofits seeking public support instead of providing them perpetual tax relief.

A state Constitutional amendment, effective January 1, 2003, shifted the authority for granting property tax exemptions from the General Assembly to local governing bodies. On September 1, 2004, pursuant to state law enacted to implement the Constitutional amendment, the Albemarle County Board of Supervisors adopted *Albemarle County Code* § 15-1601 and §15-1602.

Section 15-1601 readopted locally the property tax exemptions by classification that previously existed under state law. One such classification exemption is for hospitals. Under *Albemarle County Code* § 15-1601(A)(5), "Property belonging to and actually and *exclusively* occupied and used by" hospitals (among others) is exempt by classification. If Martha Jefferson meets this exclusive use test, its property will be tax-exempt with no Board action required. However, as described above, Martha Jefferson's previous requests to exempt its properties were denied because the properties were not *exclusively* occupied by the Hospital itself. Whether the future Hospital site is *exclusively* occupied and used by Martha Jefferson itself remains to be seen.

Section 15-1602 established the procedure for the Board to grant tax exemptions by special designation pursuant to the requirements of *Virginia Code* § 58.1-3651, if it chooses to do so. Under current state law and County ordinance, the Board has the discretion as to whether or not to consider a request by a nonprofit to grant tax-exempt status by special designation. If the Board chooses to process the request, it can be approved only by adoption of an ordinance. Before adopting the ordinance the Board must hold a public hearing. The notice of the public hearing must include the assessed value of the property subject to the request and the amount of taxes that would be exempted by the request. In addition, the Board is required by state law to consider eight factors set forth in the *Virginia Code* relating to the nonprofit applicant. Martha Jefferson's letter of May 23, 2005 addresses each of the eight mandatory considerations outlined by state law.

One option available to the Board for some properties granted tax-exempt status is to impose a "payment in lieu of real property taxation," or service charge. *Virginia Code* § 58.1-3400 *et seq.* allows localities to impose service charges on certain tax-exempt properties to offset the cost of providing police and fire protection and (where applicable) refuse disposal collection. Such a service charge cannot exceed either (i) 20% of the real estate tax rate or (ii) the percentage amount of expenditures for police

and fire protection as a percentage of total assessed property values in the County. If the Board so chose, it could exempt some or all of Martha Jefferson's properties from the burden of a full real property tax bill, yet still impose a reduced service charge to cover the cost of police and fire services for these properties. However, unlike exemptions by designation, service charges must be imposed on classes of property and may not be imposed on a case-specific property-by-property basis. The County already has a service charge ordinance (*Albemarle County Code* § 15-1300), but currently exempts all tax-exempt properties, except for some state-owned property, from the charge. Amending the service charge ordinance could result in the imposition of a service charge on Martha Jefferson Hospital properties, but would also apply to all other tax-exempt property granted tax-exempt status by special designation in the future.

The table below shows the parcels for which Martha Jefferson is requesting tax exemption, and the current revenue that would be foregone if these exemptions were granted.

Description	Parcel No.	2005 Assessed Value	Current Annual Tax	Percent Exemption Requested	Requested Exemption Amount
Crozet Family Medicine	056E0-00-00-00100	\$1,590,400	\$11,768.96	100%	\$11,768.96
3263 Proffit Road	032A0-02-00-001A0	\$4,740,000	\$35,076.00	66%	\$23,150.16
Future Hospital Site	07800-00-00-020M0	\$12,027,800	\$89,005.72	100%	\$89,005.72*
Outpatient Care Center	07800-00-00-03110	\$22,645,400	\$167,575.96	92%	\$154,169.88
<b>Total</b>		<b>\$41,003,600</b>	<b>\$303,426.64</b>		<b>\$278,094.72</b>

\*When used by MJH.

As the table reflects, the current annual cost of the requested exemption would be in excess of \$278,000. Because the current assessment of the Future Hospital Site reflects only unimproved land, the assessed value of that Site (and the corresponding tax) would increase dramatically if and when the main hospital were constructed on the property, as Martha Jefferson is planning to do. While the assessed value of the main hospital facility is difficult to project, the current assessed value of the Outpatient Care Center improvement alone is \$18,629,000, representing \$137,854.60 in annual revenue. The City of Charlottesville assesses Martha Jefferson's current improvements downtown in excess of \$30,000,000, not including the underlying land. Comparable facilities in the County would result in additional annual tax revenues in excess of \$222,000. Property granted tax-exempt status by designation does not qualify for tax exemption until such property is put into beneficial use by the qualifying nonprofit. As a result, vacant land cannot qualify for tax exemption, under current state law, as long as the land remains unused, even if the Board grants it tax-exempt status by special designation. Accordingly, the hospital site would continue to be taxed until the hospital or other qualifying use was established.

However, as discussed above, *if* a hospital is in fact constructed on the Future Hospital Site and *if* Martha Jefferson exclusively occupies and uses that Site, that property *may* qualify for an (automatic) exemption by classification, pursuant to *Albemarle County Code* § 15-1601(A)(5), without any further action of the Board. By requiring that Martha Jefferson exclusively occupy and use the Hospital Site, an automatic classification exemption places one constraint on Martha Jefferson that it may or may not choose to meet. If granted tax-exempt status by designation, there is no requirement that the property be exclusively used by Martha Jefferson. However, only the portion used by Martha Jefferson would be tax-exempt.

Mr. Davis said staff recommends that Martha Jefferson's properties not be granted tax-exempt status by special designation, and that the Board's policy of disfavoring the creation of tax-exempt property be reaffirmed. If the Board concurs, then staff recommends that the Board decline to process Martha Jefferson's request. If Martha Jefferson properties qualify for tax exemption by classification by meeting the classification requirements for tax-exempt hospital property, that property would be tax-exempt without any further action by the Board. For property not exempted by classification, the owner can participate with other nonprofits in the County budget process to request County contributions in lieu of tax-exempt status.

Mr. Dorrier commented that it appears that Martha Jefferson has met the eight criteria listed in its letter, and asked if these criteria came from the state. Mr. Davis explained that state legislation mandates before a locality can consider this type of application, the eight criteria be considered. He said that those are carried over from the prior law, but that does not mandate the exemption being granted.

Mr. Rooker emphasized that the Board previously adopted the state categories for automatic exemption. As a policy statement, the Board agreed not to go outside of those categories that were previously state law categories. These properties are not exempt under those categories. Mr. Rooker said that the Board has the option of taking every application on a case by case basis to determine whether to grant additional tax exemptions that do not meet the qualifications of those categories. He stated that the issue is a policy decision – whether or not to overturn the prior Board policy carried over from state law, and thus go down the road of case by case considerations.

Mr. Rooker said he thinks Martha Jefferson is a wonderful community-oriented organization. He personally has supported them for years, but he does not support this application, because he thinks it will send the Board down a road which is a slippery slope of making many, many determinations that are outside the categories based on requests for tax exemption. He added that MJH is now holding vacant

land, and once a hospital is built there that property will automatically meet the criteria for hospital. The Board needs to look at this as a policy decision, not an individual application decision.

Mr. Boyd asked if the outpatient facility on site meets the criteria for hospital.

Mr. Davis said that it is not licensed as a hospital and hence does not meet the criteria. He added that the General Assembly granted over 1,000 exemptions to non-profits, and the Constitution was changed in 2003 which placed these decision-making powers with local governments.

Mr. Bowerman stated that the key is the "compelling circumstance" clause, as the MJH facility is outside of the hospital definition.

Mr. Dorrier said that this situation is unique.

Mr. Rooker said that once MJH moves and builds a hospital, it will be exempt, but right now the question is whether their vacant land qualifies.

Mr. Bowerman pointed out that MJH is seeking exemption for all of its outpatient facilities also.

Mr. Boyd asked if a motion was needed. Mr. Davis said that it would be helpful to have a motion not to advertise the tax exemption request for public hearing, and also bring back on the consent agenda an updated resolution restating the Board policy that addresses the local authority.

**Motion** was offered by Mr. Boyd to deny Martha Jefferson Hospital's request for tax exempt status by special designation and to reaffirm the Board's policy regarding tax-exempt property. The motion was **seconded** by Mr. Bowerman. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

---

Agenda Item No. 11. **Work Session: ZMA-2004-007. Belvedere (Signs #62,76&84).** Request to rezone approx 206.682 acs from R-4 to NMD to allow up to 775 du, w/overall density of 3.74 du/ac, ranging from density of 1.6 du/ac in some areas to 9.4 du in others. TM 61 Ps 154, 157, 158, 160 (portion) & 161, TM 62 Ps 2A (portion) 2B (portion), 2C, 3, 5 & 6A, & TM 62A3 Pl 1. Loc on E side of Rio Rd (Rt 631) immediately E of Southern Railroad. (The Comp Plan designates this property as Neighborhood Density in northern portion of property (3-6 du/ac), Urban Density in middle & southern portions (6-34 du/ac) & Community Service adjac to railroad, in Neighborhood 2. Rio Dist.

The executive summary states that the applicant is seeking to rezone property totaling approximately 206.682 acres from R-4 Residential to NMD, Neighborhood Model District, with proffers. The applicant's request has undergone some revision during the course of review, and the current proposal seeks to allow a range of 602 to 775 residential dwelling units along with two community centers and supporting commercial uses.

On January 13, 2004 the Planning Commission held a pre-proposal work session with representatives from the Belvedere Station Land Trust. At that meeting several substantive issues were identified by staff and changes were requested by the Commission. On February 10, the applicant met with the Planning Commission a second time in a pre-proposal work session to follow up on the requested changes. That process provided the applicant with additional feedback from the Planning Commission. During both pre-proposal work sessions, the applicant expressed willingness to attempt to accommodate the Commission's requests and recommendations. However, certain requests and recommendations were not reflected in the applicant's subsequent submission materials. On June 29, 2004, the Planning Commission held a third work session, providing the applicant further direction as requested in addition to much of the same feedback that had been previously conveyed. The first public hearing for the project was held on December 7, 2004 and a second hearing was held on March 29, 2005. At the conclusion of each of these hearings, the Planning Commission requested an additional work session, due in part to the size of the project, access issues, Comprehensive Plan issues, and unresolved archeological issues related to the Free State community. The applicant asked for deferrals at each hearing, but did not agree to additional work sessions. In advance of both the March 29, 2005 and June 28, 2005 hearings the applicant submitted plans that continued to have issues of substance, did not fully respond to staff or Commission requests and comments, and did not fully meet the technical requirements of the Zoning Ordinance, particularly the Code of Development which had been thoroughly reviewed with the applicant. Following the March 29, 2005 hearing, staff and Planning Commissioner Rodney Thomas worked with the applicant to identify key issues to be resolved. Many issues were discussed and some were addressed, but documents submitted for review in advance of the June 28 hearing did not address certain issues as had been requested.

On June 28, 2005, the Commission recommended denial of the rezoning request by a three to two vote and identified the following substantive reasons for its recommendation:

- The right-of-way for the Northern Free State Connector is reserved for the County to purchase rather than reserved for dedication upon demand by the County.

- The applicant's commitment to affordable housing places the responsibility for providing such housing on individual, future owners of carriage house units and provides no enforcement mechanism.
- The right-of-way problem created because the applicant does not have the 56 feet that staff and VDOT had indicated would be required to accommodate Belvedere Blvd. between the Fairview Swim Club and land owned by Philip Brown.

The staff's June 28 Executive Summary (Attachment A-on file in Clerk's office) contains its detailed analysis and findings. To summarize;

**Staff identified the following factors favorable to this rezoning request:**

1. With NMD zoning, the proposed form of the development more closely embodies Neighborhood Model Principles than a conventional R-4 development.
2. Open space is interspersed throughout the development, alleviating what otherwise might be an overly intensive development pattern.
3. The applicant has conducted a Phase I and initiated a Phase II survey of the historic Free State Community as requested at the December 7, 2004 public hearing.
4. The applicant is showing the correct street section (curb, no gutter pan, and multi-use trail) recommended for the Northern Free State to match Phase I of the Meadow Creek Parkway.
5. The greenway dedication across Belvedere will be an important addition to the Rivanna Trail system.
6. The proffer to contribute \$10,000 for a pedestrian bridge across the Rivanna River to Darden Towe Park is a meaningful contribution to the County's larger trail system and connectivity.

**Staff identified the following substantive issues remaining with the proposal (Those also cited by the Planning Commission in its action are so noted.):**

1. While a plan has been provided showing how Belvedere Boulevard could be accommodated within a 56 feet right-of-way between the Fairview Swim Club and land owned by Philip Brown, no commitment to providing this right-of-way has been made. **(Also cited in Planning Commission action.)**
2. The right-of-way for the Northern Free State Connector is reserved for the County to purchase rather than reserved for dedication upon demand by the County. **(Also cited in Planning Commission action.)**
3. The alignment of Belvedere Boulevard from Rio Road to Roundabout #1 does not accommodate a future widening, as requested by engineering staff.
4. The applicant has not demonstrated that the residential to non-residential mix is appropriate at this location.
5. The applicant's commitment to affordable housing places the responsibility for providing such housing on individual, future owners of carriage house units and provides no enforcement mechanism. **(Also cited in Planning Commission action.)**
6. Regarding the Village Green, conflicts remain between the general development plan and graphic representations offered in the Code.
7. Preservation Areas have been decreased to 3.1 acres (from 83.4 acres) and Conservation Areas have been increased to 91.2 acres (from 10.3 acres).

Mr. Benish said for the reasons noted in this Executive Summary, staff and the Planning Commission have not recommended approval of this rezoning. This summary is offered for the Board's information and reference for its work session and public hearing. Should the Board resolve the substantive issues, technical and clerical corrections to the application plan, proffers and code of development will need to be made before the Board can take favorable action on this rezoning.

Mr. Bowerman commented that even if the Board addresses substantive issues such as lower-cost housing, the item might not be ready for a public hearing next week.

Mr. Benish said that the proffer language may be influenced by the Board's commitment to affordable housing.

Mr. Bowerman said that he had heard there had been resolution to the right of way issue.

Mr. Sean Dougherty, County Planner, replied that to his knowledge, there has been no resolution of the applicant acquiring sufficient right of way, and VDOT has said that all transportation modes must be accommodated – bicycles, pedestrians, and motorists – which requires a bare minimum of 58 feet.

Mr. Rooker suggested addressing the three main issues, starting with the right of way as being discussed now.

Mr. Dougherty explained that there is an easement of 44 feet that passes between two parcels – the Fairview Swim Club and Phillip Brown's parcels. He stated that a boulevard that has a section of 100 feet narrows down to 44 feet, and the applicant wants to get the right of way but has not gotten it yet. Mr. Dougherty said that two 18-foot travelways, 11 feet for car travel, a 4-foot bike lane, 2-foot gutter lane, 4-foot planting strip, 5-foot sidewalk, and 1 foot behind each curb would be needed, as well as 4 feet in the middle for traffic circles for a total of 58 feet. He stated that there has not been any movement with the adjacent owners mentioned to grant the additional right of way needed.

Mr. Dougherty confirmed that that the distance from which they lose sufficient right of way is no more than 150 to 200 feet, but it becomes two pie shapes that constrain various modes of transportation.

Mr. Bowerman asked how much right of way actually exists in the applicant's proposal.

Mr. Dougherty replied that there is 44.15 feet, and 58 feet is needed. He added that they have tried to get down to the minimum with VDOT, and that has been 58 feet because of the need for multiple transportation modes.

Mr. Bowerman pointed out that the applicant does not own the property, and there is a lot of pressure put on the adjacent landowners to give up the right of way. He added that he was under the impression that the needed difference was less than what was presented.

Mr. Boyd asked if the planting strip would be removed, the project could move forward. Mr. Dougherty said that VDOT has not been particularly flexible on the planting strip issue.

Mr. Rooker suggested deciding on what the Board has control over, not what the applicant might have to deal with VDOT on.

Mr. Frank Stoner, addressed the Board, stating that he has met with Chuck Proctor, who says that it is a county issue, and they should be the ones to provide a waiver because the bike lanes are a county requirement – not a VDOT one. He agreed that this is a site plan issue, not a rezoning issue. Mr. Stoner said that he has proposed a divided median boulevard style road, which is not a VDOT requirement, and if that were reduced to a two-lane road with a lesser right of way all facilities except the planting strip can be fit into the narrowest part of the funnel.

Mr. Rooker said that the divided road has a much better look and feel for the neighborhood, but agreed that if all modes of transportation could be accommodated then the development should not be stopped, as the road will likely have more provisions than 90 percent of other county roads.

Ms. Thomas asked how long the stretch would be without a median strip. Mr. Stoner replied that there is about 120 feet of taper that would not accommodate the median.

Mr. Wyant wondered about keeping the median small and narrowing the bike lane slightly. Mr. Davis said that VDOT might not accept "tapering down" of medians.

Mr. Stoner mentioned that he and his partners have had some very productive discussions with Fairview, and they are meeting with their attorneys. He again stated that they believe it is a site plan issue, not a rezoning issue.

Mr. Rooker agreed that it is a site plan issue but the question is whether the Board should impose requirements that may be dealt with at the site plan level, at the rezoning.

Mr. Bowerman said that what needs to be affirmed is whether or not the Board is willing at the site plan level to accept a smaller right of way, and if so, staff has a clear idea of what needs to be done at the site plan stage.

Ms. Thomas said that the Board would be saying with their action that they are committed to the three modes of transportation, as well as to safety. She emphasized that it would be up to the engineers as to whether the median is adequate for safety, and would need to be handled by VDOT, the engineers, and the neighboring landowners.

Mr. Rooker expressed his agreement. We want safe accommodations of the three modes of transportation. We have a preference for the preservation of the right of way consistently if it can be achieved. He thinks the Board supports the applicant accomplishing that within a constrained right of way, and would not deny the development on that basis.

Mr. Wyant added that VDOT can determine whether or not it is safe.

Mr. Davis had the Board confirm that they are expecting a VDOT-approved roadway, and the application plan containing specific references to roadways would have to be modified prior to the Board taking action on it; otherwise it would not be consistent with the application plan.

Mr. Rooker suggested having an alternative shown so there would be one with the full right of way and the alternative with a constrained right of way, as long as VDOT approves it.

### **Alignment of Belvedere Avenue**

Mr. Dougherty reported that it was recommended that Belvedere Boulevard be built to one side of the right of way being reserved for the northern Free State connector, so that a widening could be accommodated to one side. The road is close to the property line, so if it does need to be widened in the future it would be widened toward Blocks 1 and Block 2. He said that Mr. Kelsey, County Engineer, had recommended that the road come on the other side of the right of way, leaving the one side for widening. Mr. Dougherty emphasized that one side should be left for widening in the future, so that the road would not have to encroach into the development if built.

Mr. Rooker said that part of the issue is whether there is a plan in the future to make the road a four-lane road, which is a policy issue for the Board to consider.

Ms. Thomas stated it has been a priority for the Board, and she views it as a very important part of having a pattern of transportation facilities in this area to provide alternatives to Route 29. She noted that there had been resistance to it because of fear it would preclude a western bypass, but the conventional wisdom now envisions Berkmar Drive Extended on one side of Route 29, and this new road on the other side.

Mr. Bowerman said that he did not understand why that had to be considered at this point.

Mr. Rooker pointed out that what was once called the "Meadow Creek Parkway North" never qualified for primary road funds under that definition, so the chance of that getting funded with secondary road funds is never going to happen. We went through this - this would be built now as a two-lane road. It would be a corridor that could be extended across the river perhaps at some point in the future if and when funds were available, and it could be extended as a two-lane road. Berkmar is a two-lane road and there has been no discussion on making that a four-lane road.

Mr. Bowerman pointed out that the Belvedere road is intended to accommodate multiple modes of transportation.

Mr. Don Skelly addressed the Board, stating that they are fairly flexible on this point. He explained that the reason they had located the road to the western side of the hundred-foot right of way was simply a short-term concern with trying to provide the most effective and most attractive pathway which comes down from Rio Road and allows a connection through to the greenway and other amenities within Belvedere for the general public. He added that by locating a road to the right it allowed more of a buffer between denser, multi-family areas and allowed the path to meander. He said that moving it to the east might aid the construction of a four-lane road, but in the short term would require a less aesthetically attractive multi-modal path. He confirmed that it places the path crossing a reasonably busy road and ending up in the railroad corridor.

Mr. Rooker said that the tradeoff is how that is balanced with the possibility that this might eventually be a four-lane road. That might be 25 years from now.

Mr. Skelly said that he had spoken with Jack Kelsey, who said that the road would likely have to be reconstructed to go to a full four-lane parkway, thus mitigating the savings realized now by constructing two lanes on the one side.

Mr. Rooker said that he feels it would be short-sighted not to provide flexibility in one of the few potential corridors for alternate transportation. Other Board members agreed.

Mr. Rooker said that there is an issue of how the right of way might be handled by the applicant, and asked Mr. Benish and Mr. Dougherty to articulate that point.

Mr. Benish stated that the applicant is proposing to reserve the right of way for a certain period of time for the county to purchase later. He said that what has typically been asked for when requesting public lands consistent with the Comprehensive Plan is to request a reservation to be dedicated to the county upon demand of the county. Under this proposal, it is a reservation to reserve the area for future purchase as opposed to reservation for dedication.

Mr. Davis explained that the reservation is only for ten years, and would need to be purchased rather than dedicated.

Mr. Rooker said that the 10-year period is too short, and needs to be at least 20.

Mr. Bowerman said that he does not recall putting time limits on reservations in the past. Mr. Davis said that it was done with Albemarle Place, with the interchange reserved for dedication for 20 years.

At Mr. Wyant's request, Mr. Dougherty pointed out on a map where the right of way would be reserved, and how far along it would continue past the construction. Mr. Dougherty said that the distances are 1,500 feet and 2,100 feet along the parcels.

Mr. Rooker stated that the three issues are the length of time the proffer would be open, whether it would be made available to the county on demand or paid for, and what the price is.

Mr. Stoner pointed out that the rezoning area does not include the piece to the north, and what is proffered is the dedication of right of way across the area being rezoned. He added that the area behind

that is not part of the rezoning because there was a lack of clarity about which way the road was going to go. Mr. Stoner added that Mr. Kelsey has recommended that the alignment continue along the railroad tracks for the balance of the property. He expressed concern that if the county was to abandon plans for the road in two years, he does not want to be "stuck" in a situation for 18 years when the property just sits. They are building a \$2.3 million road that is already funded at this point, and desperately needed. They are doing their share.

Mr. Bowerman asked Mr. Stoner if he was suggesting a reversion clause that allowed that right of way to go back to the developer if the road plans were abandoned. Mr. Stoner said that he would like to have a way out if the county decides not to use the land.

Mr. Davis stated that the mechanism would be to amend the proffer.

Mr. Rooker said that the right of way should be available on demand, and the county should have at least 20 years.

Mr. Wyant added that if the road plan were abandoned, the land would go back to the developer.

Mr. Boyd asked if the county is asking for a "\$3 million proffer." Mr. Rooker said there was no mention of \$3.0 million; the applicant said he was building a \$2.3 million road.

Mr. Stoner said that their offer was to sell it for what they paid for it - \$40,000 per acre. It is \$150,000 to \$200,000 total.

Mr. Rooker stated that it could be argued whether that property is that valuable, whether or not it is developable, etc. He emphasized that the road is being used in the subdivision and for other properties along there that might be developed. If the county built the road through there, then the developer would benefit from building of the road.

Mr. Rooker said that the other issue raised was the affordable housing issue.

Mr. Dougherty explained that the developer is proposing 119 "carriage house units," a rental dwelling unit over a garage. He said that the staff's concern is that there is no guarantee that any of these would be offered as an affordable product, and no guarantee that they would be offered as a rental product. It is possible that an affluent person might decide just to put a studio over their garage. Mr. Dougherty said it could also be argued that rentals would be a secondary source of income people. There is just no guarantee that it is affordable housing, that it will be affordable, and that it will even be available. He added that it would be the choice of the owner to do with that space what they wish and charge any price that they want in rent.

Mr. Ron White, Director of Housing, addressed the Board. He agreed with Mr. Dougherty that there is no good mechanism for ensuring that the units would be affordable. It is relying on the market. There is some argument you can make that the nature of the units more than likely would be in the affordable range if they were rented. But one thing that is clear: they would not be family units. These would be units that would be probably occupied by one or two people. They are generally one bedroom or efficiencies. He said that there have been some good write-ups on how accessory units benefit downtown structures, but this is different because it is a totally new development, and he cannot find a lot of data on the success of that.

Mr. Dorrier asked if the incentive is the density. Mr. White responded that this project may not be bumping up against its maximum density to begin with. He said that there are other projects – such as Wickham Pond – that have a density bonus because it is proposing some accessory units.

Mr. Wyant asked if the Affordable Housing Committee recommended rentals versus ownership. Mr. White replied that the mechanisms they talked about would ensure long-term affordability or be tied to a property that would work better with home ownership. He provided the Board with some information on accessory uses and affordable housing. Mr. White said that he has met with Mr. Stoner and the Planning Commission, and the Affordable Housing office realizes that the Neighborhood Model talks about a mix of units and a mix of affordability. They prefer to see the mix of affordability scattered throughout a mix of units rather than being all one type.

Mr. Rooker commented that this actually enhances that concept. Mr. White said that accessory could be recognized as one component, and asked if there could possibly be some affordable rental units and townhouse units for sale.

Ms. Thomas stated that she would like for some portion of these to be on the rental market, and asked what portion could be used. She would not like to have them not count at all, but it seems to her the Board should settle on some proportion that is likely to be affordable.

Mr. White said that he does not have any guidance on that, as the accessory structure use is "a new animal." He added that with this many accessory units, no more than 50 percent would likely be rental units over time.

Mr. Rooker commented that perhaps people would use the structures for parents, teenagers, etc.

Mr. Wyant said that it is possible that the rental income could allow people to live in the home affordably, and allow the renter to live affordably.

Mr. Skelly reported that California, Maryland, and Washington, all have passed legislation requiring all municipalities above a certain population to make accessory dwelling units or carriage-house flats a by-right use, recognizing that affordable housing is a wide-ranging problem. He said that there are many people in need of affordable housing, and this type of unit attracts young singles, young teachers not seeking a multi-family environment, and the elderly. He added that the income from an accessory unit can ease the affordability of the main home also, emphasizing that a broader range of options will help accommodate more needs than a single type of housing.

Mr. Rooker asked if the applicant would consider doing this plus chipping in \$1,000 per unit into the affordable housing fund.

Mr. Stoner said that the Planning Commission rejected the idea of cash proffers last night, adding that if the development does not move forward the county would have to pay for that road.

Mr. Rooker stated that he does not know if the county would spend substantial funds on this road if the development were not being built. He said that a \$1,000 per unit contribution would be substantially lower than other developments have done.

Mr. Tucker said that he understands that Mr. Rooker is endorsing the contribution in principle, but is not necessarily fixed on that figure.

Mr. Boyd commented that this is another situation where we are penalizing people for coming forward with Neighborhood Model plans. He noted that the property could be built by right and probably realize close to the same number of units.

Mr. Rooker said that the development will be a lot more saleable than the older style of development, citing Old Trail as an example.

Mr. Boyd stated that the message is still being sent that it is cheaper to build by right.

Ms. Thomas responded that the real message being sent is that the county is serious about affordable housing, and the applicant has come up with a good serious proposal although it does not contain a large number of affordable units. She suggested spending more time on this issue in the near future.

Mr. Stoner said that he is willing to work with staff on the proffers, noting that they are under somewhat of a time constraint.

Mr. Skelly stated that the reviews of the proffers are largely grammatical, with the exception of the right of way dedication.

Mr. Davis mentioned that he might not have time to review them in detail by Friday.

Mr. Rooker asked if it should be brought to public hearing next week.

Mr. Bowerman commented that it is unlikely to be given a clean approval next week.

Mr. Stoner asked if there was a mechanism currently by which the townhouses remain affordable after they hit the market, noting that the prices of those if they rise might not address the problem. He is committed to affordable housing, but he is cautious about proffering things that they do not understand the implications of, adding that the carriage house concept has worked in other markets.

Due to time constraints, Mr. Rooker suggested that Mr. Stoner come back later in the day for further discussion.

Mr. Dorrier asked for clarification of how many units would be used as carriage houses. Mr. Boyd said that the question is how many of them become actual rental units.

Mr. Skelly said that the minimum would be 103 at minimum density, and would go up to 146 units at full density out of 775.

---

Agenda Item No. 12. Closed Session. At 12:47 p.m., **motion** was made by Mr. Dorrier that the Board adjourn into closed session under subsection (1) to consider appointments to boards, committees, and commissions; under subsection (3) to consider the acquisition of property for recreational facilities; under subsection (3) to consider the acquisition of property for permanent open space; under subsection (7) to discuss with legal counsel and staff specific legal issues regarding an interjurisdictional agreement; under subsection (7) to discuss with legal counsel and staff specific legal issues regarding a settlement agreement; and under subsection (7) to discuss with legal counsel and staff specific legal issues regarding two matters of pending litigation relating to the denial of site plans.

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

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

---

Agenda Item No. 13. Certify Closed Session. At 2:17 p.m., the Board reconvened into open session. (**Note:** Mr. Wyant did not return to meeting).

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

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

ABSENT: Mr. Wyant

NAYS: None.

---

Non-Agenda.

**Motion** was offered by Mr. Boyd to adopt a Resolution Authorizing the Execution of Local Government Guarantee on Behalf of the Rivanna Solid Waste Authority. The motion was **seconded** by Mr. Dorrier. Roll was called and the motion carried by the following recorded vote:

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

ABSENT: Mr. Wyant

NAYS: None.

**RESOLUTION  
AUTHORIZING THE EXECUTION OF  
LOCAL GOVERNMENT GUARANTEE  
ON BEHALF OF THE  
RIVANNA SOLID WASTE AUTHORITY**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors that the County Executive is hereby authorized to execute on behalf of the County, the *Local Government Guarantee*, in a form required by the Department of Environmental Quality and to bind the County to the extent permitted by law, to be executed by the City of Charlottesville and the County of Albemarle on behalf of the Rivanna Solid Waste Authority to guarantee post-closure care or corrective action of facilities of the Rivanna Solid Waste Authority under Solid Waste Permit Number 125.

---

Agenda Item No. 14. Boards and Commissions: Vacancies/Appointments.

Mr. Boyd then offered **motion** to make the following appointment:

Appoint Chad Freckmann to RSWA Citizens Advisory Committee as joint appointee with said term to expire December 31, 2007.

**Second** to the motion was given by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

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

ABSENT: Mr. Wyant

NAYS: None.

---

Mr. Boyd then offered **motion** to make the following reappointments:

Reappoint Rosa Hudson to Jordan Development Corporation with said term to expire August 13, 2006.

Reappoint Dan Maupin and Montie Pace to Land Use Tax Advisory Board with said terms to expire September 1, 2007.

**Second** to the motion was given by Mr. Dorrier. Roll was called, and the motion carried by the following recorded vote:

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

ABSENT: Mr. Wyant

NAYS: None.

---

Agenda Item No. 15. **SP-2005-012. Singleton Studios (Sign #50).** Public hearing on a request to allow Home Occupation Class B for recording studio business in accord w/Sec 10.2.2.31 of the Zoning Ord, which allows Home Occupations Class B. TM 103, P 16D, contains approx 49.4 acs. 2nd RA. Loc at 135 Quandy Farm, which is along Blenheim Rd (Rt 727) approx 1 mile N of intersec of Blenheim

Road & Secretarys Road (Rt 708). Scottsville Dist. (Advertised in The Daily Progress on July 18 and July 25, 2005.)

Mr. Benish reported that this request is for a Home Occupation Class B permit to allow for a small recording studio within an existing barn on a farm located within the rural area of the county. The studio would be used primarily by the applicant, who is a musician and lives in the residence on the property. Mr. Benish said that clients would likely use the studio on evenings and weekends. He stated that the property is located on Blenheim Road approximately one mile north of its intersection with Secretary's Road. Mr. Benish noted that the square footage to be used does exceed the 25 percent in the supplementary regulations but is below the maximum of 1,600 square feet, and staff is comfortable with that modification. He added that the Planning Commission reviewed the request and recommended approval with conditions as outlined in their action letter of July 26.

The Chairman opened the public hearing.

The applicant, Matt Singleton, addressed the Board. He said that this is a small recording studio mainly for personal use, noting that they have taken all necessary steps to ensure neighbors would not be intruded upon by the studio usage.

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

**Motion** was offered by Mr. Dorrier to approve SP-2005-012, subject to the two conditions recommended by the Planning Commission; and approved modification to allow an increase in square footage for the home occupation beyond the 25 percent of the primary dwelling allowed in the ordinance. The motion was **seconded** by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

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

(Note: The conditions of approval are set out in full below.)

1. This Home Occupation shall be conducted in accordance with the application plan Area of Detail (Attachment D [copy on file]); including outdoor lighting plan (Attachment E [copy on file]); and
2. Structures used for this home occupation shall be limited to the building labeled Barn on the plat showing a physical survey plat of the property dated July 17, 1996. (Attachment B [copy on file]).

---

Agenda Item No. 16. **SP-2005-014. Crown Orchard – Grey Television Amendment (Signs #51&54)**. Public hearing on a request to amend condition #1 of SP-2004-003 to allow additional 30.28-foot flush-mounted television antenna to existing tower. This request is being made in accord w/Sec 10.2.2.6 of the Zoning Ord, which allows for microwave, radio-wave transmission & relay towers & appurtenances. TM 91, P 28I, is part of larger parcel identified as TM 91, P 28 which contains 234.165 acres. 2nd RA. Loc on Carter's Mountain Trail, approx 1 mile S of intersec w/Thomas Jefferson Parkway (Rt 53). Scottsville Dist. (Advertised in The Daily Progress on July 18 and July 25, 2005.)

Mr. Bill Fritz, Development Review Manager, reported that this is a request to amend a condition of an existing special use permit, which was reviewed and approved last year, to allow construction of a new tower and antennas on Carter's Mountain. He said that the condition limited the types of antennas to be put on that tower, and the applicant is asking to put an additional antenna on the tower, which causes the need for amendment of the special use permit. Mr. Fritz stated that the applicant is proposing to relocate an antenna that is on one tower on Carter's Mountain to this particular tower. He said that the tower was built last year on top of Carter's Mountain, and was reviewed and determined not to necessitate any new ground construction, road access, utilities, or buildings.

Mr. Fritz noted that the tower is not subject to the personal wireless facility policy, but it is generally consistent with that policy in that it makes use of existing facilities and does not create a negative impact on the community or surrounding areas. He said that it was noted during the Planning Commission review that there was an unauthorized antenna on this tower, and the Commission recommended a condition requiring the removal of that antenna. Mr. Fritz confirmed that the antenna has been removed, so condition 9 could be eliminated. He reported that the Planning Commission recommended approval of this request, by a vote of five to zero, with an additional condition stipulating that an antenna on the PBS tower on the adjacent property be removed within 90 days of placement of the new antenna.

In response to Ms. Thomas' question, Mr. Fritz explained that this application simply moves an antenna from one tower to another but does not affect the number of towers or antenna height.

The Chairman opened the public hearing.

Ms. Valerie Long addressed the Board to represent Grey Television, and introduced Roger Burchett, station manager for their three local stations, and Tim Fried, their Chief Engineer. She noted

that Grey Television now operates three local television stations, CBS-19, ABC-16, and FOX-27. Ms. Long clarified that the antenna is not exactly the same, as it is newer and replaces an outdated antenna being removed.

There being no further public comment, the matter was placed before the Board.

Mr. Dorrier commented that this is consistent with what has been done in the past, and is in keeping with county regulations.

**Motion** was offered by Mr. Dorrier to approve SP-2005-014, subject to the ten conditions recommended by the Planning Commission. The motion was **seconded** by Ms. Thomas. Roll was called, and the motion carried by the following recorded vote:

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

ABSENT: Mr. Wyant

NAYS: None.

(Note: The conditions of approval are set out in full below.)

1. The facility including the tower, its attachments and the new ground equipment building shall be sized, located and built in general accord with the construction plans, tower elevations and schematic drawings initialed SBW and dated May 5, 2004 and initialed YQA and dated June 16, 2005 subject to maximum height and width restrictions in conditions three (3) and five (5). This information is provided in Attachment G (copy on file) of this staff report;
2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings construction of the facility. Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed;
3. The height of the tower structure shall not exceed one hundred fifty (150) feet and the top of the antenna, including the lightning rod, shall not exceed one hundred ninety (190) feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend higher than the tallest portion of the top-mounted antenna;
4. Antennas supporting services other than television broadcasting shall not be attached to extend above a total height of the tower itself;
5. The width of each side of the tower shall not exceed fifty (50) inches in width;
6. The existing guyed tower that currently supports this facility shall be removed within sixty (60) days of the completion of the new tower. This condition has been met as of 6/28/05;
7. The short existing tower, owned by Adelphia Cable Company shall be removed within ninety (90) days of the discontinuance of its use and in any case no later than October 31, 2004. This condition has been met as of 6/28/05;
8. The new ground equipment building shall be painted a natural, dark brown color, and screened on its eastern and western sides with evergreens or a mixture of trees deemed acceptable by the County's Landscape Planner;
9. No building permit for additional antenna installation or modification shall be issued until the unauthorized microwave dish is removed; and
10. The existing Gray TV antenna on the PBS tower located on Tax Map 91, Parcel 28E shall be removed within 90 days after the new antenna authorized by this special use permit is operational.

---

**(Note:** Mr. Bowerman left the meeting at 2:28 p.m.).

---

Agenda Item No. 17. Strategic Plan - Life Long Learning Action Team's Report.

Ms. Lori Allshouse, Strategic Management Coordinator, presented the executive summary to the Board. In the initial development of the County's current Strategic Plan, the Board identified Life Long Learning as one of the County's strategic directions. In April 2004, the Board approved the addition of four strategic Life Long Learning goals to be added to the FY 03/04 – FY 05/06 Strategic Plan. These goals were added so that the County would become more focused on developing and facilitating quality educational opportunities for all by diversifying delivery systems and structures, broadening our approach to providing services to all learners within our community, and linking education and workforce preparation.

In September 2004, a Life Long Learning Implementation Team, consisting of representatives from community organizations, local government and the school system, was created to move forward on the County's four strategic Life Long Learning Goals.

The Life Long Learning Implementation Team worked to identify life long learning opportunities and gaps in the County, to connect the plan with on-going work in appropriate departments and agencies and to move forward in all four strategic goal areas. The team studied demographic data, geographic displays of the needs throughout the County, and invited speakers who shared information about the needs of the adult learner and training in the workforce options. They spent a great deal of their efforts preparing a proposed program for Goal 1.4. This team disbanded per its original charge and timetable. However, prior to disbanding, the team made the following recommendations regarding their view of the next steps the County should undertake in this area:

Goal 1.1 and 1.2: The team recommends that due to the breath of this goal and the need for input and collaboration outside of the County structure that these two goals regarding accessibility and meeting the needs of the changing demographics need a continued effort. The team recommends that the County ensure that these efforts continue in collaboration with schools and community agencies.

Goal 1.3: This goal is to ensure the educational system meets workforce preparation needs. The team recommends that the County staff join efforts with organizations such as the Chamber of Commerce, Workforce Investment Board (WIB) and PVCC. Efforts should include working together to convene businesses and non-profits around the issue of workforce literacy and skills training and to promote the development of one-stop workforce development system. One opportunity identified by the group would be to utilize the existing Business Education Round Table (BERT) and the Workforce Investment Board (WIB) as existing platforms for these efforts. The team recommends that future focus should be on what the schools, PVCC, adult education and UVA could do to better align their work to increase workplace skills and to jointly take action to make sure the entities are addressing these issues in a common way.

Goal 1.4: To position the County as a recognized leader in educational excellence across the board, the Team recommends that the Board review and approve a two level recognition system – a *Quality Recognition Award and Certification Program*. This program was conceptualized by this team, is based upon high quality organizational standards, and was developed by Strumpf Associates. The award would help education and lifelong learning organizations or programs meet research-based standards of program quality and to learn how to measure and document performance outcomes. The Award and Certification Program would promote a set of quality standards against which an organization that promotes any aspect of life long learning can benchmark its current approaches and practices. The system would have two levels of recognition:

1) Award: Any public, private for profit, not for profit organization that delivers education or learning services to Albemarle County residents could use this tool to conduct a self assessment of their operation against quality “learning” standards and submit their assessment to the County. A committee would be established to review the applications and those organizations who demonstrate “promising practices” in accordance with the criteria outlined in the self assessment would receive an award from the County.

The second Level would be certification. This level would also require a self assessment and the completion of an extensive application.

2) Certification: This second level of the proposed program would be certification. To be certified, an organization would complete a self assessment and an application. Outside reviewers would rate the application against the stated criteria and if the score was high enough, they would conduct a site visit to 'certify' that an organization was accomplishing what was stated in their application. The certification would be based on a more extensive and specific set of evidence than the award in the application and on a site visit. Based on how well the organization does against the established criteria, a review committee would *certify* whether an organization or program has the processes and practices in place to continuously improve their education and learning delivery system. To fully implement the second tier of this program, the team recommends that the County partner with another entity which would be the one that conducts the review and provides the official certification. The Chamber of Commerce and the Community Foundation have indicated that they are interested and are willing to engage in future dialog about a potential partnership.

The team recommendations would require staff coordination time and volunteer time, but efforts are not expected to have a specific budget impact.

It is recommended that the Board accept the recommendations from the Life Long Learning Implementation Team. The recommendations are that the County staff:

1) Continue collaboration efforts with the schools and community agencies to move forward on Goals 1.1 and 1.2;

2) Meet with organization such as the Chamber of Commerce, WIB, and PVCC representatives to work together to convene businesses and non-profits around the issue of workforce literacy and skills training;

3) Approve the approach outlined in the attached proposed *Quality Recognition Award and Certification Program* in which the County promotes the self-assessment and award portion of the program and meets with the Chamber of Commerce and/or the Community Foundation to discuss whether they would partner with the County by providing the certification portion of the program.

We would like to thank the Life Long Learning Team for their efforts. Team members were:

- 1) Tom Gillette            Jefferson Area Board for Aging (JABA)
- 2) David Plunkett        Jefferson-Madison Regional Library
- 3) Marcy Stoll            Piedmont Virginia Community College (PVCC)
- 4) Peter Thompson       The Senior Center
- 5) Peter Warren          Virginia Cooperative Extension Office
- 6) Rudolph Beverly      Monticello Area Community Action Agency (MACCA)
- 7) Vernon Bock          Charlottesville Albemarle Technical Education Center (CATEC)
- 8) Eileen Dean           Albemarle Housing Improvement Program (AHIP)
- 9) Laura Vinzant         Albemarle County Office of Management and Budget
- 10) Lori Allshouse       Albemarle County Executive Office
- 11) Mike Culp            Albemarle County Information Technology Department
- 12) Bruce Benson        Albemarle County Schools – Department of Education Curriculum,  
Instruction, and Technology
- 13) Diane Behrens        Albemarle County Schools – Department of Education Support and  
Planning Services

The team was facilitated by Lori Strumpf of Strumpf Associates

Ms. Thomas commented that it seems an award seems higher than a certification, and asked them to rethink the semantics, although it is probably not worth spending a lot of time on. Board members agreed.

Ms. Allshouse said that they were paralleling the Baldrige criteria whereby certification is the highest level.

Ms. Thomas asked if the group felt it has been worthwhile to work on this, or whether new strategies might be adopted. Ms. Allshouse responded that this community has wonderful lifelong learning opportunities, but there are problems of accessibility. She explained that transportation is an obstacle for some people, and the group discussed having offsite classes, such as Piedmont does. Ms. Allshouse said that the workforce development issue also needs to be addressed through more training.

Ms. Roxanne White said that lifelong learning has been taken up in part by the schools, and there are a lot of groups working on this goal through their own efforts.

Mr. Rooker asked about putting a link on the county's website that link to a page listing various lifelong learning providers and opportunities.

Mr. Dorrier suggested partnering with JABA, as people are living longer.

Ms. Thomas added that there is the Jefferson Institute for Lifelong Learning.

Ms. Allshouse said that there were representatives from JABA and the Senior Center on the team.

Mr. Rooker suggested jointly creating a page with input from JABA, Senior Center, etc.

Ms. Allshouse said that the group has been good for the community, and brought people together with powerful information sharing.

Mr. Rooker commented that the more information compiled and made available, the more likely it is that people can access the opportunities.

---

Agenda Item No. 18. From the Board: Matters Not Listed on the Agenda.

Ms. Thomas updated the Board on the work of the Mountain Overlay District Committee. The Chairman of the Committee has agreed to prepare drafts and bring them back to the group so they are closer to getting language together for an ordinance. She described the probable outcome as a "three-legged stool" – to increase environmental and other protections of land in the overlay district, to require clustering that goes along with rural areas Comp Plan amendment and advise the Board of standards of development so that special conditions in the mountains can be considered, and to have a dollar amount that works on either purchasing of the most strategic mountain face in the community or looking at qualifications to be met under ACE or a parallel program.

Mr. Rooker stated that he had sent out a letter regarding the closing of North Berkshire/Cedar Hill to the City.

Ms. Thomas suggested adding the words "Whereas the Board of Supervisors understands the need to protect neighborhoods from the impacts of through traffic, but believe that..." because she felt the existing language seemed to indicate that perhaps the county did not care about neighborhoods and the impact of speeding traffic.

Mr. Rooker said that he had had a conversation with Mayor David Brown, and stated that the county had an interest in dealing with the problems associated with through traffic, but closing off roads and creating a barrier between the city and county is not the best way to approach that. He noted that

there was a TV-news story about not being able to get home from work after leaving in the morning and then coming back to a closed road.

**Motion** was offered by Ms. Thomas, **seconded** by Mr. Boyd, to adopt the proposed resolution requesting Charlottesville City Council to remove the barriers on North Berkshire Road and consider more customary traffic calming methods. Roll was called, and the motion carried by the following recorded vote:

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

ABSENT: Mr. Wyant, Mr. Bowerman

NAYS: None.

## RESOLUTION

**WHEREAS**, the closing of the North Berkshire Road/Cedar Hill Drive intersection has created concern among both City and County residents; and

**WHEREAS**, North Berkshire Road is located in both the City and County, and has been cut in half by a barrier at the City line; and

**WHEREAS**, this barrier forces all drivers in the northwest section of the County to go out to Route 29 to reach businesses along Angus Road or to visit neighbors in the City; and

**WHEREAS**, the Albemarle County Board of Supervisors believe that this connection is significant to the transportation network and local traffic flow for the residences and businesses in this area, and for the continued strategy of allowing local traffic to avoid using Route 29 for local trips; and

**WHEREAS**, the Board of Supervisors understands the need to protect neighborhoods from the impacts of through traffic but believe that traffic calming measures in this area can be achieved through such things as signage, crosswalks, speed humps and road design, not closing the streets.

**NOW, THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors, does hereby request Charlottesville City Council to remove the barriers on North Berkshire Road and consider more customary traffic calming methods.

---

Mr. Rooker mentioned a letter Mr. Dorrier received from Roger Ray.

Mr. Dorrier said that the county was at fault in this situation, giving a land use tax break about five years ago to areas that had been subdivided. He explained that the landowners subdivided their land, but still qualified for land use taxation. The landowners then found out it was a mistake, and the county sent them a large tax bill going back five years. Mr. Dorrier said that he has received numerous calls and letters about the issue. He noted that the Attorney General has ruled that there is not much that can be done, but he is concerned about creating "ill will."

Mr. Boyd said that he has also received letters, and it is not the fault of the landowner although they will have to pay for it.

Mr. Davis stated that the Board has no ability to change the requirement that the tax assessor collect taxes that should have been assessed and paid. He explained that there is a statute in the Code adopted in the 1980's that says any recorded subdivision lot approved after July 1, 1983 cannot be combined with other property to meet the minimum acreage requirements to qualify for land use. At some point the Assessor's office misapplied that limitation and was allowing some subdivided properties to be combined to meet the minimum requirement for land use taxation, and it was discovered that properties had been given the break in error. Mr. Davis emphasized that staff looked at every way possible to try to avoid unfairly impacting taxpayers, as some relied on that combination and may have been a factor in their decision to subdivide. He said that there is no ability for the county to waive taxes, including the Board of Supervisors. Mr. Davis said that the Attorney General has made the ruling, and not much can be done.

Mr. Rooker said that there is a difference between a taxpayer who just did not get billed, and one who was incorrectly advised at the time of subdivision. He added that Mr. Ray had talked with the Real Estate Department and was assured that he would continue to qualify for tax use.

Mr. Davis noted that in Virginia law, there is no "detrimental reliance upon a governmental mistake," and the law requires that the county or any local government must go back and correct those mistakes for the benefit of the greater public. He said that having land use is a local decision, but the rules for it are all state-mandated and tightly controlled by the state.

Ms. Thomas asked if there might be a way that the county could make a "payment" since the county would now be getting tax monies. Mr. Davis clarified that the tax collection goes back three years.

Ms. Thomas asked if it was in the realm of legal possibility to reimburse them. Mr. Davis replied, "No."

Mr. Dorrier commented that he did not know what authority or power the Board has. Mr. Davis said that the county is obligated to collect the taxes, and if a mistake had been made in their favor the county would be obligated to correct that also.

Mr. Rooker commented that the situation is unfortunate, and asked what the figure was. Mr. Dorrier said that the amount was \$300,000. Mr. Davis stated that 89 taxpayers were affected, and he is not sure how much the total of that is.

Mr. Dorrier said that if the state law changes, there should be some training for assessors. Mr. Davis responded that the law has been on the books since 1983. He added that today the county is much more on top of those types of changes. Mr. Davis explained that there was a dispute with someone who sold off a piece of subdivided property. A notice had been sent to the new owner rather than the bill payer, and there was a dispute as to who would pay back taxes. He said that once staff looked at the system, the problem was uncovered.

Mr. Rooker said that there is a lot more money that should have been collected if you go back as far as 1983.

---

Ms. Thomas said that Mr. Frederick naturally wants to shift the costs someplace else for cleaning up the Chesapeake Bay, and it is a legitimate discussion regarding point and non-point sources that has already taken place repeatedly over the last few years. She said that if the state is really interested in cleaning up the rivers that lead to the Chesapeake Bay, then something different must be done. Ms. Thomas stated that the most effective thing to do that is get cow manure out of the water, but that does not affect Albemarle as much as the counties in the Valley. She noted that the most effective thing other localities can do is hit the point-sources, such as the treatment plants.

Mr. Rooker noted that the regulations would be implemented statewide, and there may be some that are different for different regions depending on the circumstances of that area.

Ms. Thomas said that the part per million standard would be costly for the community and would affect sewage rates significantly.

Mr. Tucker said that who's paying for it is who should be encouraged – the city and service authority rate-payers – and they will be more reluctant to endorse it.

Mr. Boyd stated that he would like to see the numbers as they are spread over fewer consumers.

Ms. Thomas said that the Board may have to decide whether they want to take the position of having RWSA/VAMWA fight the regulations.

Mr. Tucker reminded the Board that there would be a public hearing on the matter in September.

Mr. Rooker said that he does not feel confident to weigh in on the issue of how many parts per million, etc., adding that there are different impacts on different communities. He added that RWSA would have very little impact on permanent regulations imposed by DEQ, and if the county weighs in they would need to be highly informed.

Mr. Boyd said he would like to see more information on the cost benefit of the credits.

---

**(Note: The Board recessed at 3:12 p.m. and reconvened at 3:15 p.m.)**

---

Agenda Item No. 11. **Work Session: ZMA-2004-007. Belvedere (Signs #62,76&84).**  
**(continued from the morning session)**

Mr. Stoner addressed the Board, speaking on the issue of affordable housing offered at Belvedere.

Mr. Rooker said that one way of addressing it was contributing to the housing fund. He stated that if the proffer is just having a certain number of townhomes at a certain price, there may not be a mechanism in the system to keep them in the affordable housing range.

Ms. Thomas said that in other communities, there are agencies or organizations that would buy that home and ensure that they remain affordable through revolving loans, etc. She stated that Piedmont Housing Alliance could serve in that role, but does not currently have the resources to do so.

Mr. Davis commented that the Planning Commission had a work session on affordable housing last night, in which they indicated cash proffers alone would not serve the problems because there is a lack of affordable housing to purchase in the county. They established that affordable housing needs to be produced, and a revolving loan fund is needed to get people into those houses. There has to be a combination program. He added that the challenge is how to do both.

Mr. Rooker said that perhaps this development could do both with the carriage houses and a contribution to the Affordable Housing Fund.

Mr. Boyd asked if this is the first time this has been done – requesting both from developers.

Ms. Thomas said that she knows of at least one in the pipeline. That is an idea that is out there in the building community whether we have officially done it before or not.

Mr. Rooker mentioned that the Board has discussed looking at more creative approaches, as every situation is different. He noted that this development would not qualify under a flat 15 percent scenario, and this is a creative approach.

Mr. Boyd noted that if 50 percent of the carriage houses were used as rentals, it is possible to reach the 15 percent limit. He is concerned that the costs would be passed onto the homebuyers.

Mr. Stoner commented that the affordable housing gets put onto the backs of people buying market-rate homes. He noted that the townhouse is only affordable for the first buyer, as the market rate has been pushed up because of subsidizing the other units.

Mr. Rooker said that he hopes an Affordable Housing Fund that grows over time will hopefully help to provide some assistance. He emphasized that the pricing is generally based on supply and demand, not by what was put into the original unit. As the market continues to move, you'll drive the price up in the market. He does not think that it will mean much in terms of contributing \$750 or \$1,000 to the Affordable Housing Fund when compared to what the units will sell for.

Mr. Stoner pointed out that he sells the lots, not the units. He explained that outside investors and banks get involved from that point on, and the homebuilder or subsequent purchaser is influenced by the market. He commented that booms do not last forever, and the market environment may change and it is unlikely that the trend in Albemarle would continue on pace. Mr. Stoner said that there has been \$2.3 million allocated for the road, and if the county were to build the road then they would proffer a large amount for the Affordable Housing Fund.

Mr. Rooker responded that the road does provide public benefit, but at this point only leads into this subdivision, as Free State Road is not built yet.

Mr. Stoner asked if Mr. Davis could review a proffer to be included next Wednesday for the Board vote.

Mr. Rooker stated that it was decided to go forward with the public hearing next week, and if the proffers are done and the public has had time to see them, the Board can take action or take public comment and decide later. Mr. Rooker said that there were several issues resolved with this application today, so progress has been made.

Mr. Davis said that his office provided several pages of comments to Planning last week, and Mr. Stoner said that he just received those as well. He stated that the Code of Development that is part of the Neighborhood Model District also has to be approved at the time of rezoning, and needs to be in a final form that is acceptable to Planning staff, and that may be more time-intensive than the proffers.

Mr. Stoner said that he could turn his part around in 24-hours.

Mr. Dorrier said that the carriage housing units would be useful as affordable dwellings, more so than cash contributions.

Mr. Rooker agreed that the units are valuable, but he would also like to see contributions because there is no way of knowing what the rent would be. We're taking on faith that these carriage houses – that will be owned by individual landowners, not be somebody that you could deal with on the rates – that people would rent them at a rate that was affordable. Mr. Rooker said that he is confident that may occur some of the time.

Ms. Thomas emphasized that the Board just needs to realize that it is uncertain whether these would be used in that way. It is a partial answer to a 15 percent requirement.

Mr. Stoner said that that figure might change over time, and the individual homeowner is going to be more concerned about who is renting. He added that he went to 12 meetings with the Affordable Housing Committee, and still could not get his "arms around" a comprehensive system that made sense.

Mr. Rooker said that down-payment assistance is something that can be grasped.

Mr. Benish asked how important it is for the Code of Development to be prepared for next week's meeting.

Ms. Thomas asked for some examples of what would be addressed by the Code, and said perhaps the Board does not need to see it before the meeting.

Mr. Tucker suggested summarizing those items and emailing them to the Board by Wednesday, similar to the issues discussed today with Mr. Stoner.

Mr. Rooker said that he does not think he would spend a lot of time reviewing them anyway, as there does not seem to be major changes. Mr. Benish said that there may be important aspects, but the Board may not need to spend a lot of time with them prior to the meeting.

Ms. Thomas said that staff could note what items might be of interest to the Board before sending them out.

---

Agenda Item No. 19. Adjourn to August 9, 2005, 4:00 p.m., for Joint Meeting with School Board.

With no further business to come before the Board, at 3:40 p.m., **motion** was offered by Ms. Thomas, **seconded** by Mr. Boyd to adjourn this meeting until August 9, 2005, 4:00 p.m. for a joint meeting with the School Board.

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

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

ABSENT: Mr. Wyant, Mr. Bowerman

NAYS: None.

---

Chairman

Approved by Board
-------------------

Date: 12/14/2005
------------------

Initials: DM
--------------