

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 4, 2006, at 9:00 a.m., Room 241 in the County Office Building on McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Mr. David L. Slutzky, 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 J. Moyers.

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

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

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Agenda Item No. 4. Election of Chairman.

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

Ms. Thomas **moved** to elect Mr. Dennis S. Rooker as Chairman of the Board for Calendar Year 2006. Mr. Dorrier **seconded** the nomination. With no other nominations, Mr. Tucker closed the floor for nominations and requested that the Clerk call the roll. The motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Ms. Thomas, Mr. Slutzky and Mr. Wyant.

NAYS: None.

ABSTAIN: Mr. Rooker.

Mr. Rooker assumed the Chairmanship and expressed appreciation to the Board for their confidence in him by reelecting him as Chairman for the year. It has been a pleasure working with everyone. He believes the Board will have a successful year as it moves forward in accomplishing all the things it needs to do.

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

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

AYES: Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Slutzky and Mr. Wyant.

NAYS: None.

ABSTAIN: Mr. Boyd.

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

Mr. Rooker indicated that Ms. Ella Carey had expressed a desire to continue serving as Clerk to the Board for Calendar Year 2006 and Ms. Debi Moyers as Senior Deputy Clerk to the Board for Calendar Year 2006.

**Motion** to make these appointments was made by Ms. Thomas. 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, Mr. Slutzky and Mr. Wyant.

NAYS: None.

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

Mr. Rooker recommended that the Board retain its current meeting dates of the first Wednesday of the month at 9:00 a.m., and the second Wednesday of the month at 6:00 p.m., with meetings to be held in the County Office Building at 401 McIntire Road, Charlottesville.

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

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

NAYS: None.

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

Mr. Rooker said the proposed dates for hearing Zoning Text Amendments are: September 13, and December 13, 2006 and March 21 and June 13, 2007.

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

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

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

Mr. Slutzky commented that in Section D – Order of Business, there are two references to the number of days and there is no indication as to whether the days are business or calendar days. Ms. Thomas suggesting clarifying the language to state “two **business** days prior to the county’s deadline for submitting public hearing advertisements,” in the fourth paragraph, and “nine **calendar** days” in the last paragraph.”

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

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

## **RULES OF PROCEDURE ALBEMARLE BOARD OF COUNTY SUPERVISORS**

### **A. *Officers***

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

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

The Board at its annual meeting shall designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board. The duties of the Clerk shall be those set forth in Virginia Code Section 15. 2-1539 and such additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code Section 15.2-1416)

### **C. *Meetings***

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

If the Chairman (or Vice Chairman, if the Chairman is unable to act) finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, such meeting shall be continued to the next regular meeting

date. Such finding shall be communicated to the members of the Board and to the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code Section 15.2-1416)

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

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

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

D. *Order of Business*

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

The procedures for receiving comment from the public for matters not on the agenda shall be at the discretion of the Board. Unless otherwise decided, individuals will be allowed a three-minute time limit in which to speak during the time set aside on the agenda for "From the Public: Matters Not Listed on the Agenda".

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

It is the Board's preference that a public hearing should not be advertised until all of the final materials for a zoning application have been received by the County and are available for public review. To achieve this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County no later than two business days prior to the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks advance notice of the deadline.

If the applicant does not submit the required materials by this date, the public hearing shall not be advertised unless the applicant demonstrates to the satisfaction of the Director of Community Development that good cause exists for the public hearing to be advertised. If not advertised, a new public hearing date will be scheduled. If the public hearing is held without final materials being available for review throughout the advertisement period due to a late submittal of documents, or because substantial revisions or amendments are made to the submitted materials after the public hearing has been advertised, it will be the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application, unless the Board finds that the deferral would not be in the public interest or not forward the purposes of this policy.

Final signed proffers shall be submitted to the County no later than nine calendar days prior to the date of the advertised public hearing. This policy is not intended to prevent changes made in proffers at the public hearing resulting from comments received from the public or from Board members at the public hearing.

E. *Quorum*

A majority of the members of the Board shall constitute a quorum for any meeting of the Board. If during a meeting less than a majority of the Board remains present, no action can be taken

except to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code Section 15.2-1415)

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

F. *Voting Procedures*

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

G. *Amendment of Rules of Procedure*

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

H. *Suspension of Rules of Procedure*

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

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

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(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006).

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

**Motion** to adopt the current Boards and Commissions Policy was offered by Ms. Thomas, **seconded** by Mr. Dorrier, and carried by the following recorded vote:

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

**ALBEMARLE COUNTY BOARD OF SUPERVISORS  
POLICY FOR BOARDS AND COMMISSIONS**

**A. CREATION OF NEW BOARDS AND COMMISSIONS**

1. On an annual basis the list of active boards and commissions will be purged of all bodies not required by Federal, State, County or other regulations, which have not met at least once during the prior twelve-month period.

2. Whenever possible and appropriate, the functions and activities of boards and commissions will be combined, rather than encouraging the creation of new bodies.

3. Any newly created task force or ad hoc committee which is intended to serve for a limited time period may be comprised of magisterial or at-large members at the discretion of the Board of Supervisors. The appointment process shall follow that adopted in Section B for other magisterial and/or at-large positions.

**B. APPOINTMENTS TO BOARDS AND COMMISSIONS**

1. All appointments to boards and commissions based upon magisterial district boundaries will be made by the members of the Board of Supervisors. All magisterial positions will be advertised. At the discretion of the supervisor of that district, selected applicants may be interviewed for the position.

2. Prior to each day Board meeting, the Clerk will provide the Board a list of expired terms and vacancies that will occur within the next sixty days. The Board will then advise the Clerk which vacancies to advertise.

3. In an effort to reach as many citizens as possible, notice of boards and commissions with appointment positions available will be published through available venues, such as, but not limited to, the County's website, A-mail, public service announcements and local newspapers. Interested citizens will be provided a brief description of the duties and functions of each board, length of term of the appointment, frequency of meetings, and qualifications necessary to fill the position. An explanation of the appointment process for both magisterial and at-large appointments will also be sent to all applicants.

4. All interested applicants will have a minimum of thirty days from the date of the first notice to complete and return to the Clerk of the Board of Supervisors a detailed application, with the understanding that such application may be released to the public, if requested. No applications will be accepted if they are postmarked after the advertised deadline, however, the Board, at its discretion, may extend the deadline.

5. Once the deadline for accepting applications is reached, the Clerk will distribute all applications received to the members of the Board of Supervisors prior to the day meeting for their review. For magisterial appointments, the Clerk will forward applications as they are received to the supervisor of that district who will then recommend his/her appointment.

6. From the pool of qualified candidates, the Board of Supervisors, at their discretion, may make an appointment without conducting an interview, or may select applicants to interview for the vacant positions. The Clerk will then schedule interviews with applicants to be held during the next day meeting.

For magisterial appointments, the decision to interview selected candidates will be determined by the supervisor of that district.

7. All efforts will be made to interview selected applicants and make appointments within ninety days after the application deadline. For designated agency appointments to boards and commissions, the agency will be asked to recommend a person for appointment by the Board of Supervisors.

8. All vacancies will be filled as they occur.

9. All incumbents will be allowed to serve on a board or commission without his/her position being readvertised unless, based on attendance and performance, the chairman of the body or a member of the Board of Supervisors requests the Board of Supervisors to do otherwise.

10. If a member of a board or commission does not participate in at least fifty percent of a board's or commission's meetings, the chairman of the body may request the Board of Supervisors terminate the appointment and refill it during the next scheduled advertising period.

### **C. ADOPTION**

This policy shall be reviewed and readopted by the Board of Supervisors in January.

(Amended and/or Readopted 01-07-98; 02-12-2005; 01-04-2006)

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Agenda Item No. 11a. Recognition: Robert Walters.

Mr. Rooker said he would like to take this opportunity of behalf of the Board of Supervisors to recognize Robert J. Walters, Albemarle County's Chief of Administration and Taxation, as the first local government official to be certified as both a Master Governmental Deputy Treasurer and Master Deputy Commissioner of the Revenue. Mr. Walters achieved this certification under the Master Certification program administered by the University of Virginia's Weldon Cooper Center for Public Service and the School of Continuing and Professional Studies, which was developed to enhance the professionalism of local government officials and staff.

The certification programs require that participants take four mandatory courses in their field and pass a comprehensive exam in each course. In addition, the participant must earn a minimum of forty hours of continuing education credits in each program. To receive the designation in both programs, Robert had to pass the examination in eight different courses and earn eighty hours of continuing education credits.

The Board congratulates Mr. Walters on these certifications that demonstrate his outstanding professionalism and commitment to excellence in his career field and thank him for his hard work and service on behalf of the citizens of Albemarle County.

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Agenda Item No. 11b. Recognition: Delegate Mitch Van Yahres.

**Moved to later in the meeting.**

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

Mr. Rhett Ripplinger, coordinator for the Rivanna Citizens Committee, said their group is drafting their own Comprehensive Plan Amendment for the Village to be submitted to the County by the March 1<sup>st</sup> filing deadline. He congratulated Board members who were re-elected. He proposed three "New Year's resolutions" for the Board: (1) The Board of Supervisors shall instruct the Planning Commission and Planning staff to schedule and conduct a master plan for the village of Rivanna designated development area. The citizens of the village of Rivanna shall be invited to participate in the preparation of this plan, and the master plan shall be completed before any zoning map amendments in the village of Rivanna are forwarded to the Board for consideration by the Planning Commission. Now that the village is interconnected, "it's time to get a master plan and put it into context." (2) The Board of Supervisors shall accept the 27 acres proffered on December 5, 1990 and hold it in perpetuity for a school or other public use. (3) The Board of Supervisors shall arrange for a member of the Planning Commission to represent the citizens of the village of Rivanna and work extensively with them in preparing for the master plan for the village of Rivanna.

Mr. Ripplinger stated that the citizens think that the "smart-growth philosophy" of the Comprehensive Plan is good for the county and the citizens of the village of Rivanna, but they disagree with the profile of the village as amended by the Kessler Group and approved by the Board of Supervisors on May 15, 2002.

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Mr. Brian Wheeler, President of the Ivy Community Association, urged the Board to appeal to the Virginia Supreme Court the recent Faulconer decision. He said that this is a situation where the Board needs to do what is right, not necessarily what is easy. Mr. Wheeler said that Judge Peatross could not see how Virginia law allows the Board to say no to a by-right industrial development that had off-site

impacts. The Zoning Ordinance gives the Board that authority. Judge Peatross argued that Code Section 26.12.1 is part of the Zoning Ordinance and not the Site Plan Ordinance, and suggested that the Board cannot rely on it to raise objections. Mr. Wheeler asked if Judge Peatross was saying that the Board couldn't deny an industrial site plan if Faulconer presented an office that was 70 feet in height and had above-ground utilities. In his opinion Section 26 says you cannot do that in Albemarle. He said that Judge Peatross also found that the external roads were found to be inadequate, and the only remedy would be for the county to require Faulconer to upgrade them. Mr. Wheeler asked the Board to go to the Supreme Court and enforce what is the county's Zoning Ordinance. In his mind, this is the cost of doing business. He added that if Albemarle is unsuccessful at the Supreme Court, the Board can rest assured that the community will work with them to get the enabling legislation in Richmond.

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Ms. Nancy Dresner, who lives on Brocks Mill Road in the Stony Point area, requested the Board to add Brocks Mill Road to the list of secondary roads for pave in place. Brocks Mill Road is an old public road that is privately maintained. Ms. Dresner said that she determined through her own research that Brocks Mill Road is a 30-foot wide public right of way dating back to the 1700's. She added that Doctor's Crossing is actually Brocks Mill Road. She presented the research to both the county and VDOT, and they confirmed her findings that it is a public road that is privately maintained. Ms. Dresner said that it's possible the state maintenance ended when the state assumed those responsibilities in the 1930's, perhaps because there were so few houses on it. She noted that in 1949, a landowner came before the Board to request that public maintenance be resumed but that request was denied because there were only two families on the road. There are currently seven houses that use the 5/10 mile section of road, and one of the new property owners subdivided their land into five parcels and has already put in an access road and has begun clearing the land. The post office delivers mail on Brocks Mill Road. She concluded by asking the Board for VDOT maintenance because it is a major public historic road, and the traffic on the road now justifies its maintenance.

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Mr. Tom Loach commented on Old Trail rezoning report by Planning staff. He noted that the staff report is missing several important things: the methodology and data analysis that staff used in their decision on the Old Trail rezoning. The Old Trail rezoning was one of the largest in the county, and was the first rezoning to take place for a community with a master plan. The report essentially invalidates the Crozet Master Plan as understood by the community, as it states that instead of a buildout population of between 11,200 and 12,000 it has now been changed to reflect a population of over 24,000 – about half the size the city of Charlottesville. Mr. Loach said that he does not believe anyone in Crozet would have agreed to cooperate in the master planning process if they knew there would be a plan for 24,000 people. If the report is approved, this Board will squander what little creditability it has with growth area residents and poison the water for any further master planning in Albemarle County. He concluded that if this is approved, it will mean the death of master planning in the county.

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Mr. Shawn Paul Evans, a resident of Albemarle County, urged the Board to appeal to the Virginia Supreme Court the recent decision on Faulconer Construction. He emphasized that Board members need to send a message that localities need the ability to ensure new development does not adversely impact the safety of surrounding communities. Mr. Evans stated that the Board unanimously voted to deny the current site plan, and the amount of public outcry along with that Board solidarity on the issue require that they take every action necessary to ensure the safety of the community. He also stated that the Board should create a zoning text amendment that differentiates between light and heavy contractors or businesses, so that problems like Faulconer can be prevented in other parts of the county. Clarifying this issue in the Zoning Ordinance will save the county money on future appeals and lawsuits.

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Mr. Jeff Werner, of Piedmont Environmental Council, gave Board members a petition with almost 1,000 signatures collected which expressed citizen concerns that the current rate and type of growth in the Albemarle/Charlottesville region is threatening their quality of life. Mr. Werner read the petition, citing concerns about "increased traffic, increased taxes, loss of farmland, and the degradation of our water and air quality." He noted that during the November elections, PEC collected those signatures at just six of the county's 29 polling stations, and decided to collect signatures at just the three magisterial districts without a county supervisor on the ballot. Mr. Werner said that he and his colleagues' experience getting signatures reinforced the need to continue their work to protect the rural area and work towards a growth area that is some place special, not the "anywhere, USA" it is becoming.

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Mr. Neil Williamson, of Free Enterprise Forum, asked that when the County considers ordinance changes and policy changes, they take some effort to determine the fiscal impact those changes will make on the County. The Free Enterprise Forum asks that those changes that have an affect on the development of the county also include an impact statement with regard to the potential homeowner. These statements could be easily obtained by working with industry to speak to where the costs are occurring and how they will occur, such as a policy for a second layer of pavement in a subdivision. Every ordinance that comes forward has an impact on homeowners. He asked if the Board is interested in creating housing affordability across all price levels.

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Mr. John Martin, who lives in Free Union, asked the Board not to join TJPED. He emphasized that TJPED is not a government organization, but is a private one that is not subject to the Freedom of

Information Act and does not have open meetings. He thinks it would be inappropriate for the Board to join that organization.

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Agenda Item No. 13. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve items 13.1 and 13.2, and to accept the remaining items as information. Roll was called, and the motion carried by the following recorded vote:

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

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Item No. 13.1. Approval of Minutes: June 1, 2005.

Ms. Thomas had read the minutes of June 1, 2005 as assigned her and found them to be in order.

**By the above-recorded vote, the Board approved the minutes as read.**

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Item No. 13.2. Request by Qwest Communications Corporation for Underground Right-of way License for facilities at Darden Towe Park.

The executive summary states that Qwest Communications Corporation has requested permission to install underground fiber optic facilities across a portion of Darden Towe Park. The proposed facilities will be exclusively for governmental use. It is a part of a Richmond to Charlottesville link. Darden Towe Park is jointly owned by the County and the City of Charlottesville. The installation is proposed to be authorized by an Underground Right-of-Way License Agreement. This Agreement must be authorized by both the County and City.

Qwest Communications Corporation is requesting the County and City to approve an Underground Right-of-Way License Agreement permitting it to install fiber optic facilities across a portion of Darden Towe Park. The proposed location of the fiber optic facilities will not interfere with park activities. If a conflict arises in the future, Qwest agrees that the facilities will be relocated at no expense to the County or City. The installation will not necessitate substantial land disturbance and will not damage existing trees. Because of legal limitations placed on cities, the term of the proposed Agreement is five years. A fair market value annual fee will be charged for the License. City Council is considering this request at its January 3, 2006 meeting.

The Director of Parks and Recreation has reviewed the request and does not object to the proposal. The County Attorney has reviewed the proposed Agreement and finds that it addresses the County's legal issues and concerns.

This request has no budget impact.

Staff recommends that the Board authorize the County Executive to execute the Underground Right-of-Way License Agreement for Darden Towe Park requested by Qwest Communications Corporation in a form reviewed and approved by the County Attorney.

**By the above-recorded vote, the Board authorized the County Executive to execute the Underground Right-of-Way License Agreement for Darden Towe Park requested by Qwest Communications Corporation in a form reviewed and approved by the County Attorney.**

**(The agreement is set out below:)**

#### **UNDERGROUND RIGHT-OF-WAY LICENSE**

Permission is hereby granted by the **CITY OF CHARLOTTESVILLE** and the **COUNTY OF ALBEMARLE**, political subdivisions of the Commonwealth of Virginia and the joint owners of the property that is subject to this License (hereinafter referred to as "Licensors") to **QWEST COMMUNICATIONS CORPORATION**, a corporation authorized to transact business in Virginia (hereinafter referred to as "Licensee") to make excavation into the real property owned by Licensors and as described herein, under the terms and conditions set forth in this License.

**1. Term:**

This License shall be valid for a period of five (5) years beginning January 1, 2006 and ending December 31, 2010, unless this License is terminated as provided herein.

**2. Rights Not Exclusive:**

Nothing contained in this License shall ever be held or construed to confer upon Licensee, its successors and / or assigns, exclusive rights or privileges of any nature whatsoever.

**3. Conditions of Use:**

- a. Prior to beginning any work on the property subject to this License, Licensee shall submit detailed engineering drawings to the County of Albemarle for approval, and obtain from the County any permits or approvals that may be required by the County or any other governing authority for the installation of a total of approximately 4,500 linear feet of fiber optic cable at the location more specifically described in section 4 herein. Licensee is further required, before beginning any excavation on the property described herein, to contact all applicable utility companies for location of buried cable, water or sewer services or mains, electric lines, gas lines, and the like. All construction allowed under this License shall be accomplished under the supervision and direction of the County Engineer, or such other person as the County of Albemarle may designate. Licensee shall not unnecessarily obstruct or impair traffic upon any street, road or other public way within Albemarle County and shall comply with all of the County's rules and regulations designed to prevent damage to trees and shrubbery that may be caused by its installation hereunder.
- b. Upon making an opening in any portion of the property subject to this License for the purpose of laying, constructing, repairing and/or maintaining Licensee's System, Licensee shall, without unnecessary delay, replace and restore the same to its former condition as nearly as possible, and in full compliance with the provisions of the County of Albemarle's policies, rules, regulations and/or ordinances. Licensee shall re-sod disturbed grassed areas and replace all excavated areas to their original or better condition in order to minimize the disruption of public property. Licensee shall, at its sole cost, repair paving cuts in a good workmanlike manner to specifications outlined by the County.
- c. Licensee shall provide safe passageway for pedestrians and vehicles through, in and around the work site areas. Work shall be performed at night, if requested by the County, so as not to impede the regular use of Darden Towe Park. Licensee shall use directional boring in all areas where possible unless otherwise required or approved by the County of Albemarle. Licensee shall meet all local and State requirements for traffic control and notify the County at least 24 hours prior to the commencement of work or the accessing of conduit installed pursuant to this License, except in cases of emergency.
- d. Licensee shall not cut or install any ditches or trenches within the root zone of any tree but rather shall bore under the same unless written permission to do otherwise is provided in advance by the County Engineer or his designee.
- e. The work authorized by this License shall be the installation, repair and maintenance of two (2) two-inch (2") conduits containing fiber optic cable. All cables, wires, conduits and other facilities or equipment of Licensee within Darden Towe Park shall be placed underground.
- f. Licensee shall file with the County Engineer true and correct maps or plats of all existing and proposed installations and the types of equipment and facilities installed or constructed, properly identified and described as to the type of equipment and facility by appropriate symbols and marks and which shall include annotations of all public property, public ways, street, road and conduits where the work is to be undertaken. Maps shall be drawn in a scale and in such detail so as to allow proper review and interpretation by the County Engineer, and the same will be filed with the County not less than ten (10) working days before any excavation or installation of said cable or equipment or facilities commences.
- g. If, at any time during the term of this Permit, Licensors shall determine, in their sole discretion, that the conduit, wires, cable, and equipment of Licensee installed pursuant to this License should be relocated, Licensee, upon reasonable notice from Licensors, shall remove, relay and relocate its wires, cables and equipment at its own expense and within reasonable time schedules established by Licensors, to another location mutually agreeable to Licensors and Licensee. Should Licensee refuse or fail to remove its equipment or plant as provided for herein within 45 days after written notification, Licensors shall have the right to do such work or cause it to be done and the full cost thereof shall be chargeable to the Licensee, or in the alternative, to consider such failure by the Licensee to remove its equipment or plant as abandonment of all ownership rights in said property. Upon relocation, Licensee shall prepare at its own expense and provide to Licensors a revised survey plat that shows the new location of Licensee's wires, cables and equipment.
- h. Licensee shall keep Licensors fully informed as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, operation and repair of Licensee's System installed hereunder. Licensee shall report to Licensors such other information relating to the Licensee as Licensors may consider useful and shall comply with Licensors' determination of forms for reports, the time for reports, the frequency with which any reports are to be made, and if reports are to be made under oath. Licensors may at any time make inquiries pertaining to Licensee's operation of its System within Albemarle County. Licensee shall respond to such inquiries on a timely basis.

- i. Licensee shall, install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of all applicable County codes, ordinances and regulations, and in such a manner that they will not interfere with any existing installations of the County or of a public utility serving the residents of the County of Albemarle or the City of Charlottesville.

**4. Permit Specifications; Payment:**

- a. The right-of-way occupancy permitted under this License shall be approximately 4,500 linear feet of Licensee's System, to be installed in Darden Towe Park in the location shown on the attached survey plat prepared by Thomas B. Lincoln Land Surveyor Inc. and dated January 6, 2006, revised February 10, 2006, a copy of which is attached to this License as Exhibit A.
- b. The granting of this License is conditioned upon the payment by Licensee to Licensors of the annual sum of One Thousand, Six Hundred Eighty and 00/100 Dollars (\$1,680.00), which represents the fee for the use of approximately 45,000 square feet of property in Albemarle County that is subject to this License. Annual payments shall be due and payable on or before January 10th of each year commencing for the year 2006 and shall be due and payable at a like date each year during the term of the Permit. In the event that Licensee's payments are not timely made, a ten percent (10%) surcharge shall be due and payable to Licensors. All payments by Licensee pursuant to this License shall be made to the County of Albemarle, as agent of the Licensors.

**5. Safety Requirements:**

- a. Licensee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injury to the public or to constitute a nuisance. Licensee shall install such equipment and employ such personnel to maintain its facilities so as to assure efficient service, and shall have the equipment and personnel necessary to make repairs promptly.
- b. Licensee shall install and maintain its System in accordance with the requirements of applicable building codes and regulations of the County of Albemarle and the statutes and regulations of appropriate Federal and State agencies, including but not limited to the Federal Communications Commission and the U.S. Army Corps of Engineers, which may now be in effect or enacted, and in such a manner that will not interfere with any installations of the County of Albemarle or the City of Charlottesville or of any public utility serving residents of the County of Albemarle or the City of Charlottesville.
- c. Licensee's System, wherever situated, or located, shall at all times be kept and maintained in a safe operating condition and in good order and repair.

**6. Liability and Indemnification:**

- a. By acceptance of this License, Licensee agrees that it shall indemnify, protect and hold forever harmless the Licensors, their elected officials, officers, agents, representatives and employees, and their successors, legal representatives and assigns, from any and all claims of every kind and nature whatsoever, and from liabilities, losses, costs, judgments, penalties, damages, and expenses, including reasonable attorney's fees and expenses of litigation incurred in the defense of any such claim arising out of or relating to the installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this License, including but not limited to claims for injury or death to any person or persons, or damages to any property, as may be incurred by or asserted against Licensors, or either of them, their elected officials, officers, agents, representatives and/or employees, directly or indirectly, by reason of the installation, operation or maintenance by the Licensee of the Licensee's System within the area subject to this License. Licensee shall pay, and by acceptance of this Permit, the Licensee specifically agrees that it will pay all damages and penalties which Licensors, or either of them, may legally be required to pay as a result of installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this Permit. These damages or penalties shall include, all damages arising from the installation, operation or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Permit, and Licensors shall not be responsible in any manner for any damage to the System and which may be caused by Licensee or other persons regardless of the cause of damage.
- b. Licensee shall pay, and by its acceptance of this License, specifically agrees that it will pay, all expenses incurred by Licensors, or either of them, in defending itself with regard to all damages and penalties mentioned in subsection (a) and (b) above in the following minimum amounts, whichever is greater.
- c. Licensee shall maintain, and by its acceptance of this License, specifically agrees that it will provide throughout the term of the Permit, workers compensation insurance in such amounts of coverage as required by the Commonwealth of Virginia and liability insurance

coverage with regard to all damages mentioned in subsections (a) and (b) above in the following minimum amounts, whichever is greater:

1. General Liability Insurance-public liability including premises, products and completed operations.
  - (a) Bodily injury liability \$1,000,000 each person \$2,000,000 each occurrence
  - (b) Property damage liability \$1,000,000 each occurrence
  - (c) Or, in lieu of (a) and (b) above, bodily injury and property damage-\$2,000,000 combined single limit.
2. Comprehensive Automobile Liability Insurance including owned, non-owned and hired vehicles.
  - (a) Bodily injury liability \$1,000,000 each person \$2,000,000 each occurrence
  - (b) Property damage liability \$1,000,000 each occurrence
  - (c) Or, in lieu of (a) and (b) above, bodily injury and property damage-\$2,000,000 combined single limit.
- d. Licensee agrees that all insurance contracts providing any of the above-required coverage will be issued by one or more insurance carriers duly authorized to do business in the Commonwealth of Virginia and will contain the following required provisions:
  1. Both of the Licensors, their elected officials, officers, agents, employees and representatives shall be named as additional named insureds (as the interests of each may appear) as to all applicable coverage:
  2. All such contracts shall provide for thirty (30) days notice to both Licensors prior to cancellation, revocation, nonrenewable or any material change:
  3. All "deductible amounts" contained in all such contracts providing such insurance coverage shall not exceed \$10,000 in the aggregate: and
  4. The notice required by this Section shall be delivered to the persons specified in Section 10 herein by certified mail, return receipt requested. The amount and conditions of said liability and comprehensive insurance may be increased upon sixty (60) days written notice by Licensors should the protection afforded by this insurance be deemed by Licensors to be insufficient for the risk created by this License. At no time, however, will any such increase in the amount of required liability and comprehensive insurance exceed that which is customarily required of other franchises or contractors of services for similar situations of risk.
  5. Prior to the commencement of any work pursuant to this License and at least annually thereafter Licensee shall furnish Licensors a certificate from the insurance carrier(s) providing such insurance coverage certifying that such coverage is in full force and effect. Such certificates shall be in such form as is approved by legal counsel for Licensors and shall contain a provision requiring not less than thirty (30) days notice to Licensors prior to cancellation, non-renewal or any material change.

**7. Licensors' Rights in License:**

- a. Licensee shall construct, maintain and operate said System in the locations described in Exhibit A and will at all times comply with all reasonable requirements, regulations, laws and ordinances now in force, and which may hereafter be adopted by the County of Albemarle and be applicable to the construction, repair or maintenance of said system or use of the property subject to this License. Failure of the Licensee to comply with any of the terms of this License or failure to pay the License fees prescribed by this Agreement shall be cause for Licensors to revoke this License. Without limiting the generality of the foregoing, Licensors also reserve the right to terminate and cancel this License and all rights and privileges of the Licensee hereunder in the event that the Licensee: (1) violates any rule, order or determination of Albemarle County made pursuant to this License, except where such violation is without fault or through excusable neglect; (2) becomes insolvent, unable or unwilling to pay its legal debts, or is adjudged a bankrupt; (3) attempts to evade any of the provisions of this License; (4) practices any fraud or deceit upon the Licensors, or either of them or; (5) fails to begin construction of its System within one hundred eighty (180) days from the date this License is granted and to continue such construction without unreasonable delay or interruption until completed.
- b. Licensors' right to revoke this License may be exercised only after written notice of default and a thirty (30) day period for Licensee to cure such default except for any act of default involving the payment of money or failing to provide any insurance coverage required hereunder in which event said thirty (30) day period shall be reduced to three (3) business days. The right is hereby reserved to the County of Albemarle to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such

additional regulations of general applications to all similarly situated Licensees as it shall find necessary in the exercise of its police power provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

**8. Assignment:**

The License granted pursuant to this Agreement shall not be assigned by the Licensee without the prior written consent of the Licensors, which consent may be granted or withheld in Licensors' sole discretion; provided, however, that Licensee may assign this License to a governmental entity without consent of the Licensors, and provided further that the sale or transfer of a controlling interest in Licensee shall not be considered an assignment within the meaning of this paragraph.

**9. Notice:**

For the purpose of giving notice as provided for in this Permit, the following addresses are provided:

For the Licensee:

Qwest Communications Corporation  
700 West Mineral Avenue  
Littleton, Colorado 80120  
Attention: Right-of-Way & Franchising

And

Qwest Communications Corporation  
1801 California Street 52nd Floor  
Denver, Colorado 80202  
Attention: General Counsel

For the Licensors:

Gary B. O'Connell  
City Manager  
P. O. Box 911  
Charlottesville, VA 22902

With a copy to:

S. Craig Brown  
City Attorney  
P. O. Box 911  
Charlottesville, VA 22902

And

Robert W. Tucker  
County Executive  
401 McIntire Road  
Charlottesville, VA 22902

With a copy to:

Larry W. Davis  
County Attorney  
401 McIntire Road  
Charlottesville, VA 22902

Unless and until a different address is provided in writing by Licensee to Licensors, the placing of notices in the United States Mail addressed to the Licensee as set forth above by registered or certified mail, return receipt requested, shall constitute compliance with the provisions of this Section.

**10. Miscellaneous:**

If any section, subsection, sentence, clause, phrase or portion of this Permit is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent, and severable provision and such holding shall not affect the validity of the remaining portions hereof. This Permit shall be interpreted and construed in accordance with the laws of the Commonwealth of Virginia. All claims, disputes and other matters in question between the Licensee and Licensors, or either of them, arising out of or relating to this Permit, or the breach thereof, shall be decided in a state or federal court in the Commonwealth of Virginia that has subject matter jurisdiction over the claim or dispute. The

Licensee, by accepting this Permit, specifically consents to venue in either state or federal court in Virginia and waives any right to contest venue in Virginia.

**WHEREFORE**, this Permit has been authorized by the City Council of the City of Charlottesville, Virginia in an open meeting on January 3, 2006 and by the Board of Supervisors of Albemarle County, Virginia in an open meeting on January 4, 2006, and each governing body has authorized the execution of this License by the City Manager and County Executive, respectively, as attested by the Clerk of each governing body, and the Licensee has accepted the terms and conditions of this License as evidenced by its corporate presents which have been executed by and through its authorized officers and the seal of the corporation affixed.

This \_\_\_\_\_ day of January, 2006.

**Licensee:**  
**Qwest Communications Corporation**

By: Colleen Liffrog  
Title: Director of Engineering

**Licensors:**  
**City of Charlottesville**

By: Gary B. O'Connell  
Title: City Manager

**County of Albemarle**

By: Robert W. Tucker  
Title: County Executive

Item No. 13.3. Copy of the Albemarle County Service Authority's *Comprehensive Annual Financial Report* for the fiscal year ended June 30, 2005, **was received for information.**

Item No. 13.4. Copy of Albemarle County Service Authority Board of Directors minutes for October 20, 2005, **was received for information.**

Item No. 13.5. Copy of notice of application, dated November 8, 2005, of Columbia Gas of Virginia, Inc., filed with the State Corporation Commission, re: for authorization to implement a gas cost hedging program (Case No. PUE-2005-00087), **was received for information.**

Item No. 13.6. Copy of notice of application, dated November 18, 2005, of joint petition of Level 3 Communications, LLC., Leucadia National Corporation and WilTel Communications Group, LLC, filed with the State Corporation Commission, re: for approval of an indirect transfer of control of WilTel Communications of Virginia, Inc. (Case No. PUC-2005-00152), **was received for information.**

Item No. 13.7. Copy of letter dated December 19, 2005 from John Shepherd, Manager of Zoning Administration, to John Griffin, Zobrist Law Group, **re: *Official Determination of Development Rights and Parcels – Tax Map 27, Parcel 16 (property of Adam C. and Mary L. Wyant, Trustees of the Adam C. Wyant Revocable Trust) - Section 10.3.1., was received for information.***

Agenda Item No. 14. Transportation Matters.

Item No. 14a. Six Year Secondary Road Plan (continued from December 7, 2005).

Mr. David Benish, Chief of Planning, presented the following executive summary:

"The Board reviewed the proposed Priority List of Secondary Road Improvements on December 7, 2005 and received public comment at a public hearing on December 14, 2005.

As part of its review of the proposed Priority List, the Board requested additional information on the following:

- Recommended funding allocation for unpaved road funds including funds allocated to Rural Rustic Projects (RRR) and Regular Paving Projects. VDOT has provided a draft of the Secondary System Road Improvement Program (Attachment B). Pages 2 and 3 the attachment are a preliminary draft of the funding breakdown for unpaved road projects (page 2, RRR projects; page 3, Regular Paving projects). The "Balance to Complete" and "Comments" columns in each table are confusing and need to be finalized by VDOT. A final draft of pages 2 and 3 will be provided by VDOT by the January 4<sup>th</sup> Board meeting. The last four rows of the spreadsheet on page 3 provide a breakdown of total

funding for unpaved roads and the proposed distribution between regular paving projects and RRR projects. For FY 06-07, a total of \$737,381 is projected to be available for unpaved roads. \$300,000 is proposed for RRR projects and \$476,305 proposed for Regular paving projects. The projects scheduled for advertisement in FY06-07 are Rt. 633, Heard's Mountain Road (RRR) and Route 643, Rio Mills Road (Regular Paving project).

- Potential for Scottsville to receive Revenue Sharing funds without impacting the County's revenue sharing fund allocation. As of the date of this report, staff has attempted to contact Butch Davies, but has not been able to yet determine if the Town of Scottsville's request for Revenue Sharing funding (\$100,000) for a road improvement project could be funded without reducing the County total revenue sharing allocation. Staff will report on this issue at the January work session. Staff has determined from VDOT that no additional modifications are needed to the County's Priority list in order for Scottsville to make a request for Revenue Sharing funds. A final decision on this issue can be made outside of the Six Year Plan approval process.

The Board also directed staff to request VDOT develop cost estimates for two projects during the upcoming year for consideration during next year's review of the Six Year Secondary Plan and County Priority List Secondary Road improvements. These projects are 1) shoulder paving/trail development (for bike use/safety/maintenance purposes) for Barracks/Garth Road; and, 2) the Route 795 (Hardware Street) and Route 20 intersection in Scottsville. Staff will work with VDOT to further evaluate these projects and provide information to Board during next year's Six Year Plan review.

Staff recommends approval of the attached County Priority List of Secondary Road Improvements and VDOT Six Year Secondary Road System Improvement Program based on the County's priorities."

Mr. Rooker asked staff to draft a letter under his signature to Butch Davies regarding Scottsville's Revenue Sharing request.

Mr. Benish reported that he thinks it may be feasible to fold Doctor's Crossing into the rural rustic road program.

Mr. Boyd commented that he was having trouble following the chart of expenditures related to rural rustic roads.

Mr. Benish explained that on Page 2 there is a listing of funding for rural rustic roads, which shows \$140,000 in FY 2005-06, and FY 2006-07 shows the \$300,000 allocation of funding, being distributed to priorities 17-120. He noted that the list goes by road numbers, not names, which is somewhat confusing.

Mr. Boyd noted that in the case of Rocky Hollow Road, a big portion is already allocated for 2006-07 and the rest would be allocated in 2007-08.

Mr. Rooker commented that it might make more sense to commit the funding needed to complete a project rather than wait for the next year when the costs will likely increase.

Mr. Benish said that other than the revenue-sharing, the \$500,000/\$1 million is the only source of matching funds. He stated that there is a "forces question" as to whether VDOT can manage the four rural rustic projects slated for the next biennial process.

Mr. Jim Utterback, VDOT Engineer, said that VDOT dedicated state forces to building rustic roads, which has meant tremendous savings. He stated that the bid for Route 640 was \$350,000, so VDOT did it quite a bit cheaper.

Mr. Boyd pointed out that many residents do not understand why they never seem to get up to the top of the list. Mr. Utterback said that if the Board wants to move a project up it impacts other projects on the system.

Mr. Dorrier commented that the process needs to be clarified for the public.

Mr. Utterback commented that once you pave a road, you need to add signage and keep up with maintenance. Before the county goes "head over heels" on these rustic roads, VDOT wants to see how well they perform. He added that the cost savings is the upside, but the maintenance of the roads is the downside, adding that construction costs have increased considerably.

Mr. Boyd asked how the numbers can be considered accurate if the costs keep increasing. Mr. Utterback responded that perhaps if the bid comes back higher, it can be brought back to the Board.

Mr. Tucker agreed that Mr. Utterback won't know the project cost until it is bid. He can bring it back to the Board for consideration of additional funding if necessary.

Mr. Rooker said that there may not be a way to be more accurate, as those numbers are not available until the project is bid out.

Ms. Thomas commented that the Heards Mountain Road is contingent on Nelson County's part.

Mr. Benish said that VDOT staff tries to look at the purpose of the project, not just the category it fits into; for example Doctor's Crossing.

Mr. Boyd asked if some of the money accrued for Doctor's Crossing could be used for spot improvements.

Mr. Rooker responded that it would need to be decided whether it would be better to make spot improvements or wait and improve the road as a whole.

Ms. Thomas commented that the reason rural rustic road funding became available is because the legislature lifted the liability provision for road engineers who do county projects. She said that VDOT is encouraged not to get into the position of spot repairs as it does not yield a particularly good result.

Mr. Rooker noted that in 2005-06, the county had \$3.935 million, and in 2006-07 the county got \$3.6 million. What we're really fighting here is perpetually declining dollars for more projects which cost more and more on our list. He added that the Board needs to approve the six-year secondary road priority list, and that does not necessarily mean that the estimated costs presented will remain exactly as they are. Mr. Rooker said that he is also not in favor of shifting paved road funds into the unpaved road fund. He added that these figures are based on the best estimates VDOT has today of what the projects will cost.

Mr. Utterback noted that the Heards Mountain project will be a significant cost.

Ms. Thomas mentioned that Sunset Avenue, Midway Road, and Old Lynchburg all might need updated traffic counts. She asked if Owensville Road (Priority #35) could be considered for a roundabout. She commented that there may be additional costs in the future for railroad crossings on Route 29 South.

Mr. Benish said that staff has to request new traffic counts in the intervening year.

**Motion** was then offered by Mr. Dorrier to adopt the County Priority list of Secondary Road Improvements and VDOT Six Year Secondary Road Plan as presented and recommended for funding. Ms. Thomas **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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There were several comments from Board members that the format of the plan is somewhat confusing.

Mr. Rooker added that from the public standpoint, it might be helpful to develop a one-page explanation of what the secondary road priority list is, and how it fits into transportation funding for the area and actual building of projects.

**(The Six Year Plan is set out on the following pages.)**



















Item No. 14b. VDOT Monthly Report for December 2005.  
Item No. 14c. Transportation Matters not Listed on the Agenda.

Mr. Wyant asked if Brocks Mill Road was a VDOT road and maintained privately. Mr. Utterback said he understands it is a private road but will verify.

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Ms. Thomas asked if the letter Mr. Utterback sent out regarding political signs in the right-of-way had any effect. Mr. Utterback said he will follow-up.

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Mr. Rooker spoke about a letter he received from Butch Davies and handed a copy to Board members in which Mr. Davies mentioned a couple of projects that are being funded. Mr. Tucker said that he has asked for clarification on Mr. Davies mention of "a Route 64 West exit," to determine which exit and what intersection. Mr. Utterback responded that there is one in the program for the ramp coming down onto Route 250 and that may be the one Mr. Davies is talking about.

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Mr. Rooker asked if the state was still planning to do broad-based ramp improvements as was previously planned, such as the on ramp onto Route 29 South that has a weaving pattern. Mr. Tucker asked staff to get clarification on that.

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Mr. Boyd reiterated Brocks Mill Road request and wants to move it forward.

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Mr. Slutzky mentioned that when he was campaigning he received a lot of feedback from constituents asking for a light at the intersection of Dunlora and Rio Road. He asked how old the traffic counts were that VDOT used to determine a light was not needed at that location. Mr. Utterback said that VDOT did the counts last spring and the right-turn movements did not warrant a signal.

Mr. Slutzky noted that since the Belvedere project was approved, that might ultimately influence traffic flows through that intersection. He asked if the projected additional traffic might justify placing the light there now. Mr. Slutzky expressed concern as several residents have had accidents at the intersection.

Mr. Tucker added that it might be helpful for someone on the Planning staff to participate in that process, as it may have something to do with the proffers in terms of how quickly those improvements might be done. Mr. Rooker noted that the placement of the Meadow Creek Parkway will affect all of that.

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Agenda Item No. 15. Presentation: Department of Social Services Annual Report.

Ms. Kathy Ralston, Director of Social Services, addressed the Board and introduced the current DSS Board Chairman, Brenda Doremus-Daniel.

Ms. Daniel presented the Fiscal Year 2005 Annual Report, and introduced other Board members in attendance: Claude Foster, and Beth McIvor, former Board member. She pointed out that there is a letter in the Board packet that includes information on "Friends of Albemarle County of Social Services," comprised of citizens willing to serve as advocates for the department. Ms. Daniel added that they have identified a communication plan to get the DSS Strategic Plan out into the community.

She reported that the leadership team of the department had identified seven "critical" measures to focus on in the last three years, which they are using as a benchmark for the department's success. Ms. Daniel said that there has been progress on three of the seven measures in FY 2005, and they have maintained two others at very high standards. She added that there were no more than two foster care placements for any child in a 12-month period. Improvements in the timeliness of the processing of Medicaid applications continues to be struggle for the department.

Ms. Daniel noted that for the past three years, they have had a very high success rate with children in the Family Support Program – 99 percent of the children do not require out of home placements.

Mr. Rooker asked about the difficulty with timeliness in Medicaid process. Ms. Daniel responded that timeliness has been affected because the state standard for caseloads is much higher than what the department is able to staff. She added that it can take up to a year for a new hire to be trained, while new applications continue to come in. Ms. Ralston said that the combination of understaffing and growth in caseload leads to this problem.

Ms. Daniel noted that the Energy Assistance Program is new to the report, as is the section on opportunities and challenges facing the department in light of changing demographics in Albemarle.

She stated that over \$61.0 million came into the community in FY 2005, much of it because of state and federal programs operated by the department. Ms. Daniel said that these funds also go into support of the community such as doctors, landlords, grocers, etc. as the clients use them. She concluded by stating how pleased she is with such a committed, dedicated staff that works so hard to meet the needs of the citizens of the county.

Mr. Rooker commented that one of the unmet needs is 52 percent of potentially eligible food stamp households are in the program and 48 percent are not. What ways are there of reaching eligible people who do not sign up for the program. Ms. Ralston responded that the department is a little "nervous" about doing outreach because of the lack of staff. She noted that the state has received a large federal grant for outreach services and food stamps, but this area is not targeted. Other areas around the state more heavily targeted are the Richmond, Tidewater and Northern Virginia. She pointed out that the 52 percent participation rate is a state figure that is based on census. There are always reasons why people may not be eligible; i.e. too much resources, no household qualifying people, etc. Also that figure includes students and most students are not eligible for food stamps because parental income has to be taken into account.

Mr. Boyd commented that nationally there is under-utilization of food stamps.

Ms. Daniel also noted that the minimum amount given for food stamps is \$10, and it may just not be worth it to some people, especially elderly who are intimidated by the system.

Mr. Wyant asked if the critical measures and goals were changed from time to time. Ms. Daniel replied that staff wanted to do them for three years, and the leadership team would be identifying new critical measures and goals for next year.

Mr. Dorrier asked if changes in Medicaid would affect the department. Ms. Daniel replied that the changes have had a very big impact, and the caseworkers that deal with it are practically financial advisers. In response to Ms. Thomas question about declining contributions to non-profits due to Katrina aid, Ms. Daniel replied that non-profits are suffering nationwide.

Mr. Rooker thanked Ms. Daniel and the department for their work.

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Agenda Item No. 16. Discussion: Creation of Community Development Authorities or Service Districts.

Mr. Davis summarized the following executive summary which was forwarded to Board members:

"In 2003, the Board of Supervisors accepted proffers in ZMA 01-07 (Albemarle Place), ZMA 01-19 (Hollymead Town Center Area B), ZMA 01-20 (Hollymead Town Center Area C), and ZMA 02-02 (Hollymead Town Center Area D) that generally provided that upon the request of the County that the owners of property used for non-residential purposes would petition and consent to the creation of a community development ("CDA") authority that could impose a special tax not greater than twenty-five cents (\$.25) per \$100 of the assessed value of the property. The purpose of the proffered CDA was limited to funding improvements related to or associated with Route 29. The wording of each voluntary proffer varied somewhat from one another but was generally consistent. [Attachment A-on file]

In 2004, the County retained John O'Neill from the law firm of Hunton & Williams to provide an overview of CDA's and to explore the possibilities of creating a CDA relating to the Albemarle Place and the Hollymead Town Center developments. On April 7, 2004, Mr. O'Neill presented information to the Board regarding CDA's and alternative special service districts. The Board requested additional information comparing CDA's and service districts. That information was provided to the Board in a comparative chart on April 14, 2004. No action was taken by the Board to proceed with either approach.

In September of this year, the Board asked staff to revisit this issue.

The purpose of the CDA proffers in the Albemarle Place and Hollymead Town Center rezonings was to provide a possible funding option to address road improvements related to Route 29 and roads associated with Route 29. At the time the proffers were offered there was no specific plan or time table for establishing such a CDA nor were specific road improvements identified that would be funded by a future CDA. The intent was to provide a mechanism for non-residential property to pay a special tax to fund, in part, road improvements necessary to meet the increased traffic resulting from these developments when the improvements were identified. It was anticipated that the Route 29 traffic study would identify improvements that would require additional revenue sources to implement them.

When this issue was reviewed in 2004, a number of obstacles were identified that made the formation of a CDA complicated. As a result, Mr. O'Neill suggested that the County consider the use of a service district in lieu of a CDA if it desired to create a special tax district.

Attachment B provides information regarding special tax CDA's (This attachment only addresses special tax CDA's and does not address CDA's funded by special assessments. Assessment CDA's are different in how and what improvements may be funded), Attachment C provides information regarding service districts, and Attachment D provides an updated chart comparing CDA's and service districts.

***One obstacle to creating a CDA is that the CDA must consist of a single "tract" of land and that 51% of the property owners based on acreage or value must petition for the creation of the CDA.*** The proffers only commit the property owners of land "used for non-residential purposes" to petition for the creation of a CDA. As shown in Attachment A, only Hollymead Town Center Area B consists of only non-residential uses. The other three developments have a potential mix of residential and non-residential uses. The specific location of the residential uses cannot yet be determined because site plans have not been submitted or approved identifying the exact location of the residential and non-residential properties. [Attachment E] The documents creating a CDA must specifically identify all

property that will be included in the CDA. In addition, the Hollymead Town Center Area B proffer makes its CDA proffer contingent upon the CDA including all of the other non-residential properties in the other Hollymead Town Center areas. The proffer for Hollymead Town Center Area C only commits the property owners of property in Area C previously zoned Light Industry (L-I) to be included in the CDA. Some non-residential property in Area C previously zoned Highway Commercial (HC) may have to be involuntarily included in the CDA to meet the Area B contingency. It also may be difficult to draw a CDA that connects all the non-residential property in a single tract. The extent of this cannot be determined until the uses of the property can be reasonably identified. Again, it is unknown when development plans will be finalized so that the use of the properties can be determined.

**Another obstacle is that only improvements located outside of the CDA that “serve” the CDA may be funded by the special tax collected by the CDA.** The petition to create the CDA must describe the facilities proposed to be financed by the CDA. In order to determine that infrastructure and improvements outside the CDA serve the CDA district, studies of an acceptable consultant would be necessary. The Board is required to make a legislative finding that the improvements are necessary to meet the increased demands on the County as a result of the development within the CDA district. Unless the nature of the improvements is known at the time the CDA is created, this finding becomes more difficult.

**A CDA is a separate political subdivision.** Once created, a CDA is limited to act only within the powers granted to it in the enabling ordinance. The enabling ordinance can only be adopted upon the petition of the landowners. After the ordinance is adopted and finalized, it is recorded in the land records for each tax map parcel in the district and the CDA Articles of Incorporation are filed with the State Corporation Commission. A CDA board is required to carry out the purposes of the CDA. Unless the Board of Supervisors appoints its own members to be the CDA board, however, the CDA board can act independently within the powers granted to it. There is no flexibility to amend a CDA after it is created without the consent of the majority of the property owners within the CDA. A CDA has the authority to issue revenue bonds but bond counsel indicates that it would be difficult for a special tax district CDA to market such bonds based on the limited revenue stream. The amount of the bonds would also be limited by the revenue stream. No special tax CDA's, to date, have been created in Virginia.

**A service district can create the “same” special tax that could be imposed by a CDA.** A service district can levy and collect a special tax to fund transportation improvements and road construction within the service district. Whereas a CDA is limited to a special tax rate of twenty five cents (\$.25), there is no legal limit on the amount of the service district tax. The taxes that are collected are required to be segregated in a separate fund and can be used only for the improvements identified in the ordinance creating the district.

**A service district is created by an ordinance that defines the boundaries of the district and any areas within the boundary that are excluded from the district.** The creation of a service district does not require a petition or consent of the property owners. There must be a reasonable basis to include or exclude property from the district. The purpose of the district is to “provide additional, more complete, or more timely governmental services within the district”. The district could include Route 29 and the properties identified within Albemarle Place and Hollymead Town Center and any other properties deemed appropriate by the Board of Supervisors. Whether it would be appropriate to expand the service district to include other properties would need to be studied. No improvements could be constructed outside the boundaries of the district.

**A service district is not a separate political subdivision.** A service district is created, controlled, and can be amended at the discretion of the Board of Supervisors. A service district could be created when deemed appropriate to start collecting the revenue generated by a special tax. The properties included in the district could be adjusted after their use (residential, non-residential) has been established. A service district has no independent authority to issue bonds. There is uncertainty whether the County could issue “revenue” bonds based on the proceeds of the special tax. If the bonds could be issued, the amount of the bonds would be limited by the projected revenue stream.

There could be substantial expense incurred to create a CDA depending upon whether the property owners cooperate in the formation of the CDA, the expense of the legal documents necessary to establish it, and the cost of consultants to establish that the improvements “serve” the CDA district. These costs could be funded by the special tax collected by the CDA. A service district could be created at less expense. Both a CDA and service district would require staff time to establish the districts, collect the taxes, and administer the projects for the benefit of the district. Whether additional staff would be necessary would depend on the extent of the districts, whether existing software could be used to implement the tax collection, and the nature of the projects to be constructed.

If the Board desires to create a mechanism to collect special taxes on the non-residential properties in the Albemarle Place and Hollymead Town Center developments to fund transportation improvements related to Route 29, staff recommends that the more efficient approach would be to explore the creation of a service district rather than a special tax CDA. Although only consent to the CDA approach was proffered by these property owners, the effective fiscal impact of the service district approach would be the same as the proffered CDA if the service district tax was limited to twenty five cents. Legally the consent of the property owners would not be required to create a service district. Either approach would require additional staff analysis and study.”

Mr. Rooker said that when Area A comes up for rezoning, the idea was to put the proffer in at that time. Mr. Davis replied that he is not sure that proffer would be voluntarily put forth, and that matter is currently scheduled to go before the Planning Commission.

Mr. Davis added that in Albemarle Place, it is a challenge to identify where non-residential development would be, as there is a mix of residential and commercial.

Mr. Rooker summarized that the recommendation is to explore creation of a service district rather than CDAs, to accomplish the same goal in mind when the proffers were made.

Mr. Davis said that a primary decision is whether or not it is practical to consider the CDA, and staff's recommendation is that it is not a practical approach. He stated that the second decision is whether the Board is interested in creating a service district as an alternative, which has less obstacles in its formation although will have significant issues.

Mr. Tucker clarified that staff is saying there would be further study needed to pursue the second option – creating a service district.

Ms. Thomas said that one glaring difference is the ability to issue bonds, and it would be best to clarify that first before staff does a great deal of work.

Mr. Davis replied that it is going to be very difficult for a special tax district CDA to issue bonds. He added that the other factor is the amount of money that can be generated from these properties, which is roughly estimated at \$130,000 in revenue at present. Mr. Davis acknowledged that it is hard to estimate out the residential values at this point, but with Area B already built out that revenue figure applies.

Mr. Boyd said before pursuing all the legal aspects he would like to see some sort of financial model that is specific in terms of what they are talking about. He is concerned that they may be creating more expense than what is generated in revenue.

Mr. Dorrier commented that the rationale for the district is to help pay for needed infrastructure.

Mr. Rooker said that these properties will likely generate an additional \$300,000 to \$400,000 a year that could be used for transportation projects in the Route 29 Corridor. That was what was anticipated when the properties were rezoned, that they would make that kind of a contribution. And projects like walkovers from Hollymead Town Center and Forest Lakes, etc., – those kinds of things might be financed by these funds. Those are in our transportation plan and there is no way we are going to get them financed from looking at our dollars earlier. He added that the Board should at least consider ways to capture revenues that were proffered when the rezoning were approved.

Mr. Boyd said that if it is going to cost \$100,000 to collect those revenues, that is a concern. We are talking about additional staff to set up these districts. He said that Albemarle Place was projected to provide an increase of \$7.0 million in tax dollars, and he'd rather look at earmarking some of that to road improvement projects rather than creating another "bureaucracy."

Mr. Rooker said that those revenues would be realized anyway, and the question is whether the county can receive anything that is over and above the normal revenues gained from those projects. He added that the county would be remiss if they did not at least look at putting something in place that would provide additional revenue. Mr. Rooker noted that the Funding Options group talked about and recommended creation of service districts.

Mr. Davis said that the Board has the ability to create the boundaries of a service district, but there must be a reasonable basis for how they are created – it cannot be arbitrary, so a major decision would be defining those boundaries. He added that two major decisions would be whether residential property would be included, and whether other properties outside of the rezoned areas should be included.

Mr. Dorrier asked if any counties in the state had other working service districts.

Mr. Davis replied that Spotsylvania is currently developing one to build a road including all the property owners around the road, and there are other models, but none quite like what is being considered for Albemarle. The enabling authority to do roads was just added two years ago.

Mr. Wyant asked what the pros and cons would be to do one in the Crozet Development Area.

Mr. Davis replied that you could create a service district to provide a great number of improvements for an area that you've identified the boundaries of, but the end result is it is an additional tax burden above and beyond the normal tax rate.

Ms. Thomas commented that it might drive people out of the growth area into the rural areas.

Mr. Rooker pointed out that the Route 29 situation involved property owners that voluntarily proffered to have an augmented tax.

Mr. Davis noted that a service district does not require the consent of the property owners.

Mr. Rooker reiterated that the areas being considered proffered to have an augmented tax.

Ms. Thomas said that the Board needs to be more precise in their direction to staff.

Mr. Rooker explained that when Hollymead Town Center was approved, and Albemarle Place was approved, one of the things they proffered was that they would have a 25-cent additional tax on their commercial property to help fund transportation improvements. He said that the Board had discussed putting a CDA in place, and Mr. Davis has determined that there are more difficulties with that than anticipated; therefore, it looks like a service district might be a better way to go.

Mr. Slutzky asked if the original proffers had a limit of 25-cents, or if there was an implied limit because it is a CDA.

Mr. Davis replied that by state code, a CDA is limited to 25 cents unless there is unanimous consent by property owners to have a higher rate.

Mr. Rooker said that he would not support going beyond what the landowners had proffered.

Mr. Slutzky asked if other options were considered.

Mr. Davis responded that there may not be other options with this particular set of circumstances. He said that the intent of the proffers was to make improvements to Route 29 that were not part of the required improvements for the developments. He added that in a CDA district, you can make improvements onsite or offsite if they were identified as being necessary. Mr. Davis added that one key analysis staff will need to do is financial projections, because it is based on assessed value which does not reach its full level until buildout.

Mr. Slutzky asked if a developer were to participate in a CDA, if those bonds could be used to fund infrastructure that the developer might normally have proffered on their own to make them a less expensive undertaking so they could invest in other projects.

Mr. Davis replied that that has been discussed with North Pointe, and a CDA could be used for necessary public infrastructure. It gets complicated to include outside improvements. He added that this is a significant undertaking for staff to get information, and if there is not a firm interest from the Board it would be good to know that.

Mr. Rooker asked about the financial information first, in spreadsheet, so the Board could look at that when available.

Mr. Davis agreed to work with the Finance staff and provide that information as soon as possible.

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**(Note:** At 11:03 a.m., the Board held a recess and reconvened at 11:13 a.m.)

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Agenda Item No. 17. Update on removal of signs in VDOT right-of-way.

Due to the lateness in the hour, the Chairman suggested this item be deferred to later in the meeting.

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Agenda Item No. 18. Discussion: Overlot grading.

Mr. Graham summarized the following executive summary which had been forwarded to Board members:

“In April of 2005, the County adopted amendments to the Subdivision Ordinance. One of the proposed amendments that was not adopted was new provisions to regulate lot grading. In recognition of concerns expressed by the building community over the lot grading provisions, staff advised the Board that a working group of staff and building community representatives could work on these provisions to see if consensus was possible. The Board agreed with this proposal and Supervisor Wyant agreed to represent the Board on this working group. While the recommendation was scheduled to be brought back to the Board in July 2005, the work required more time. The proposal before you today represents the compromise reached between the development community and staff with Mr. Wyant’s assistance.

In discussing this recommendation, it is important to recognize both what it does, and what it does not do. This recommendation does not implement the recommendations of the Neighborhood Model principle of “Site Planning that Respects Terrain” or address any aesthetic quality of design. It does address the long standing County issues of drainage across lots, stabilizing slopes, and safe and convenient access to property. Of these three issues, only the drainage across lots is a new issue. Stabilizing slopes and “Safe and Convenient Access” are both existing County requirements and the efforts of the committee were focused on agreeing to formalizing expectations. Formalizing the expectations reduces the uncertainty for the builder/developer and expedites the approval process. That language is included in Attachment A. These changes are administrative policy and as proposed, do not require ordinance amendments.

With regard to lot drainage, the County has experienced numerous complaints from homeowners over the years and the emphasis of this section focused on addressing the reasons for those complaints. That recommendation is included in Attachment B. This provision eliminates large open ditches on the smaller residential lots and assures drainage ways are created such that dwellings should not flood. Perhaps the most important part of this recommendation is that it effectively defines when the County will

get involved in drainage complaints and when the County will consider the drainage complaint a private matter for homeowners to resolve. If a future complaint relates to what the County approves with the grading plan, the Board should anticipate there is an expectation that the County will provide some assurance to that part of the drainage. Conversely, if the drainage complaint relates to things not considered as part of this grading plan, staff would presume this to be a private matter. Through this approach the County would have a role in assuring that new lots are graded to prevent the flooding of new homes. Before approving a house for occupancy, County staff would verify that the grading plan was followed. The County's role is not anticipated to extend to drainage modifications made by homeowners through home improvements such as fences, planting beds, and grading changes.

The grading plans are intended to reduce future County expenditures by assuring that proper grading is in place. This should reduce the number of drainage complaints the County responds to on an annual basis and result in a long-term reduction in drainage expenses for the County. There are front-end expenses for the review of grading plans. It is estimated this will affect reviews of approximately 15-20 subdivisions per year, with each grading plan requiring approximately 1 day of staff time to complete. That is roughly equivalent to 1/12 of a FTE. However, it is anticipated this additional review time will be offset by a reduction in time spent on drainage complaints.

If the Board finds these provisions acceptable, staff will bring forward a resolution of intent to amend the subdivision, zoning, and water protection ordinances to include requirements for the drainage grading plan. In addition, staff will use the attached description of safe and convenient access as an administrative policy for guidance."

Mr. Rooker mentioned that the Board took out the requirement for overlot grading from the prior subdivision ordinance amendment as a result of public comment received.

Mr. Graham acknowledged this, stating that the changes that have occurred through this process since then have been limited to staff and representatives of the development community.

Ms. Thomas thanked Mr. Wyant for his participation. She characterized the proposal as a "drainage" rather than a "grading" ordinance as it does not really make the buildings respect the terrain but takes care of the damage to the house at the end of the line.

Mr. Wyant stated that the biggest concern was the drainage, and developments may need to provide a drainage or overlot grading plan to protect future houses.

Mr. Rooker noted that homeowners have come in with "horror stories," and it seems that this addresses the primary concerns people have. He agreed with Ms. Thomas that he would have liked to have seen more done with the entire overlot grading issue, rather than just the focus on drainage.

Mr. Boyd said that his only concern is that he does not want to "strip mine" areas such as Hollymead because of the overlot grading requirements, as it might actually create erosion problems.

Ms. Thomas said that it does not force developers to "not seed" their cleared land.

Mr. Rooker said that this actually helps with drainage, and Hollymead is no different than any other development in terms of land disturbance. He does not think that there is anything in this requirement – if the Board adopts it – that would contribute toward drainage problems anywhere in the county. He thinks it would be the contrary.

Mr. Graham said that Hollymead did not have to grade in that way, but exercised their rights under the current county ordinance. He said that the county could certainly tighten mass grading abilities.

Mr. Rooker said if you want to avoid what happened out there, then you tighten up the ordinance on the way that the grading is done.

**Motion** was then offered by Mr. Wyant to have staff bring forth a resolution of intent to amend the zoning, subdivision, and water protection ordinances to include requirements for the drainage grading plan as presented in the staff report today. Mr. Dorrier **seconded** the motion.

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

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

NAYS: None.

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Agenda Item No. 19. Discussion: Old Trail Village and Crozet Master Plan Build-Out Potential.

Mr. Cilimberg summarized the following executive summary which had been forwarded to Board members:

"The Crozet Master Plan was adopted by the Board of Supervisors on December 1, 2004. The first major rezoning approved under the guidance of the master plan was ZMA 2004-024 Old Trail Village, which was approved on September 14, 2005 as a Neighborhood Model District with the potential of up to 2,275 residential units. The Crozet Community has raised a number of questions regarding the density/maximum number of dwelling units that were approved with Old Trail and questions its consistency with the Crozet Master Plan. Following the approval of ZMA, and to better respond to

continued concerns from the community, the Board of Supervisors requested that build out information provided by the Consultants as part of their Master Plan report be fully examined and explained. In addition, the Board has asked that Staff detail the comparative analysis performed of Old Trail Village to the Crozet Master Plan.

**Community of Crozet Residential Build-out Information:**

The Crozet Master Plan is based on several basic assumptions that are articulated on Page 4 of the Plan as follows:

*“Service Planning standards form the analytical basis for evaluating needs within the community. In most cases, this analysis ties directly to population, which is projected to reach 11,200 – 12,000 in a twenty-year build-out. This build-out number compares with the current population of 3,000 within the Crozet Development Area, and a by-right population build-out under current zoning of 12,500.”*

This assumption presumes a population figure of 12,000 by the Year 2024, which is the planning horizon for the Master Plan. It does not presume that the population of Crozet will be established at the by-right population build-out figure of 12,552 (see Attachment A, from Appendix E of the July 9, 2003 Crozet Master Plan as provided to the county by the consultant) cited in the Plan as an absolute ceiling in perpetuity.

This is an important point of clarity for the future implementation of the Master Plan. Establishing the by-right population build-out of 12,552 as an absolute ceiling for Crozet’s maximum population in perpetuity is not consistent with possible densities recommended in the Land Use Plan for Crozet that was in the Comprehensive Plan prior to the adoption of the Master Plan, nor is it consistent with the Master Plan densities as they currently exist. Establishing that ceiling would not permit any increase in density beyond what would be achieved by by-right development, although the form of the development would change to a more compact, urban-style pattern.

As a reference, the 1996 Land Use Plan for Crozet which was in effect prior to the adoption of the Master Plan established an **added** population for Crozet of between 7,114 and 17,300. (These figures are contained in Table II: Albemarle County Development Areas – Total Developable Acres in the Land Use Section of the Comprehensive Plan.)

As opposed to the 1996 Land Use Plan for Crozet, the Master Plan utilizes net density possibilities for each land use designation rather than gross density. Therefore, in applying the net residential multipliers to determine development under the plan, the gross acreage in each land use category should not be used. On average, about 80% of the gross acreage is developable after subtracting undevelopable land, open space, amenities, roads and infrastructure. Also, there are several mixed use land use categories in the Crozet Master Plan. In these areas, additional acreage being developed in non-residential uses should be subtracted before applying the net residential multipliers. Applying these factors, the following ultimate build-out estimates are derived:

Dwelling Unit DU)/Population Build Out Estimates (Undeveloped Areas of Crozet, Units in Developed Areas, and Old Trail Approvals)	Min DU's	Min Pop.	Mid DU's	Mid Pop.	Max DU's'	Max Pop.
Crozet Master Plan Land Use - 80% Net Developable Area, 50% CT5, 25% CT6	2828	7441	4894	12236	7071	16334
Old Trail Area Land Use Application Approvals - 80% Net Developable Area, 50% CT5, Approved By-right	802	2110	1677	4191	1819	4201
Existing Dwelling Units in Crozet (December, 2005)	1389	3504	1389	3504	1389	3504
<b>Totals</b>	<b>4941</b>	<b>13055</b>	<b>7960</b>	<b>19931</b>	<b>10279</b>	<b>24039</b>

As the table indicates, estimated population at the high end of the range does significantly exceed the 2024 planning horizon figure of 12,000. **It is important to note that these figures represent a complete build-out scenario, not what is expected to be achieved in the Master Plan’s 20 year horizon.**

There are a number of factors that influence whether the projected figures will actually be achieved during the life of the Master Plan. These factors include the County’s rate of growth, market demand for various housing types, housing costs, and the adequacy of infrastructure to support the development. Experience with other large scale developments has shown that growth often occurs differently than the original expectations. For example, South Forest Lakes developed approximately 62.5% of its approved units – 1200 units were approved by ZMA 91-04, and 750 were developed. That experience with lower density than planned has been repeated throughout the County’s Development Areas. Looking in Crozet, major developments such as Highlands and Western Ridge both developed at lower densities than possible. If Old Trail follows these trends, we will see it develop more in the range of 1,400 to 1,600 units than the possible 2,200+ units. By creating the flexibility for higher density, the possibility of reaching mid-range densities is improved and that is consistent with the County’s goals for its development areas.

With respect to potential growth rates in Crozet, staff believes there are a couple of points to consider. First, it will require an 8% annual population growth for Crozet to reach 12,000 people in 20

years. This would require about 160 new dwelling units (DU's) per year in Crozet. Since 1995, the average number of DU's per year has been 64 with a low of 35 in 1995 and a high of 127 in 2004. Through the third quarter of this year, new DU's in Crozet have totaled 195\* - the quarterly totals were 77 in the 1<sup>st</sup> Quarter, 71 in the 2<sup>nd</sup> Quarter and 47 in the 3<sup>rd</sup> Quarter. As the actual growth in Crozet is regularly reported to the Board in reports on development activity provided by Community Development, this can be easily monitored. The County Board can then consider the actual growth rates versus anticipated growth rates when it revisits the master plan and decide if adjustments are appropriate.

Second, to reach a 12,000 population by 2024 requires Crozet to have a density of approximately 2,600 people per square mile. That density is closer to the density of Charlottesville (about 2/3 of Charlottesville's density) than what has historically been seen in Albemarle County's development areas. While that reflects good land use planning, it will also require Crozet be viewed as more of a self-sustaining community than a suburban bedroom community. In that regard, Old Trail pushes Crozet towards the goal of the master plan.

**Given these factors, staff believes that 12,000 population is a reasonable estimate for the 20 year planning horizon of Crozet as assumed in the methodology of the Master Plan, but should not be considered as the ultimate potential build-out.**

The Board of Supervisors has a number of options at its disposal to keep population within the estimated range of 12,000 by the Year 2024, if that is the desired approach to the Crozet Development Area.

- The Master Plan will be reviewed after five years, at which time the densities for the land use designations can be adjusted to lower levels if necessary based on what is actually happening with growth in Crozet.

*\* This figure has been corrected from an earlier version of this summary which listed the total as 47.*

- During rezoning applications, the Board can be made aware of the impact of the proposed development towards the population target to assist them in decision-making related to specific projects.
- The density levels can be adjusted downward by an amendment to the Comprehensive Plan if so desired.

It is important to note that infrastructure and service levels need to keep pace with the actual population figures and development activity to ensure the adequacy of those items as opposed to being tied only to projected numbers. There is an important provision mentioned in the Plan to match infrastructure with what is actually occurring in Crozet over the life of the Master Plan. As is noted in Section II – Strategies for Implementation (page 17):

*“The projected population and dollar figures associated with the recommended capital improvements set forth in this section are estimates prepared by the Renaissance Planning Group, the technical consultants for the Crozet Master Plan, and represent anticipated levels considered to be accurate at the time of the final report (July 9, 2003). The County's Capital Improvement Program (CIP), based on a two-year financial cycle, is the final authority for funding policy, including funding level, timing and sources associated with specific improvements. **The actual programming of projects in the CIP will be based on the real timing of population growth, actual development activity that occurs and availability of funding from the sources anticipated in this section.**”*

#### **Comparison of ZMA 2004-024 Old Trail Village with Crozet Master Plan:**

The Old Trail development did present land use tables by Master Plan land use type with densities for the rezoning that were analyzed by staff at the time of the rezoning in comparison to the Master Plan. While staff's analysis at that time indicated that the dwelling units resulting from the rezoning would be within the upper range of what the Master Plan calls for, the recent analysis by staff using digitized maps that were not available at the time of rezoning indicates the maximum number of units that could theoretically result in Old Trail are greater than the Master Plan maximum by approximately 10%. It should be noted that the developer's densities did not discount for undevelopable areas or for potential non-residential in mixed used settings.

The area represented as Old Trail Village during the rezoning process, including the rezoned area and those areas developing under by-right zoning, has been compared with the Master Plan land use designations for that area. Using the County's Geographic Information System (GIS), the **gross** acreage for each Crozet Transect (CT) type has been totaled for the Old Trail Village Area and then acreage totals have been multiplied by the **net** density ranges indicated in Table 1 of the Crozet Master Plan. The maximum number of units in the Master Plan for the area represented as Old Trail, based on gross acreage, is 2317 du's/acre. ZMA 04-24 was approved for up to 2275 units in a mixed use setting. In addition, the total of units for the by-right portion of the area represented as Old Trail during the rezoning process is 291 units, a total of 2566 units. This is 249 units more than what the Crozet Master Plan indicated for the area.

As was explained earlier in this report, to get a realistic maximum of potential development in Crozet the net density multipliers should not be applied to the gross acreage. It is not expected that the maximum number of units approved with the Old Trail Village rezoning will be achieved. Some portions of Old Trail Village may develop without residential components and the mix of housing types that the developer chooses to build may lower densities. The factors influencing what actually will get built have been explained in an earlier section of this report. Given all of these considerations, staff believes that

the residential units that will be created as part of the Old Trail development will fall within the guidelines of the Master Plan, more in the range of 1,400 to 1,600 units.

<b>Gross Totals for Old Trail Residential Units– Master Plan vs. Approved</b>	<b>Min</b>	<b>Mid</b>	<b>Max</b>
Old Trail Crozet Master Plan Residential Unit Totals - Gross Total	1050	1643	2317
Old Trail Area Land Use Application Residential Unit Approvals - Gross Total	930	2266	2566
<b>Totals for Old Trail Residential Units Adjusted for Mixed Use Areas and Undevelopable Areas – Master Plan Vs. Approved</b>			
Old Trail Crozet Master Plan Residential Unit Totals - 80% Net Developable Area, 50% CT5,	723	1168	1676
Old Trail Area Land Use Application Residential Unit Approvals - 80% Net Developable Area, 50% CT5, Approved By-right	802	1677	1819

*This table includes the by-right units that were not part of the rezoning application.*

**Crozet Development Area Statistics:**

As part of their July 2003 final report to the County, the consultants included the table entitled "Crozet Development Area Statistics, Existing and New Development Combined." (See Attachment B from Appendix B of the July 9, 2003 Crozet Master Plan as provided to the County by the consultant). The table is characterized by the consultants as their "best judgment" of a scenario of how the development area would fully develop. It is based primarily on the predictions, calculations and illustrations done for three prototypical sub-areas -- a neighborhood, a hamlet, and downtown. One prototype was done for each sub-area, then, the estimates for commercial square footage, employment square footage, retail square footage, and residential units were duplicated (exactly) for each sub-area shown on the plan. Existing development was included to the extent that it was included in the prototype as the existing condition. For instance, the existing residential development in Neighborhood 1 would have been duplicated as the existing development in Neighborhood 2, 3, 4, etc. Furthermore, there are some areas shown with CT designations that do not appear to be accounted for in this table. That includes the CT3 area along Route 250 on either side of the north-south connector roads that became Old Trail Boulevard. For these reasons, the table is one scenario for possible development, but should not be used as a "commitment" to a specific number of dwellings for Old Trail, which includes portions of Hamlets 2 and 3, Neighborhoods 5 and 6, and District 3 as labeled in the table. This table, along with the rest of the consultant's Appendices, was not included in the Comprehensive Plan amendment for the Crozet Master Plan as recommended by the Planning Commission and adopted by the Board of Supervisors.

**Summary**

- The Master Plan envisions a population of 12,000 by Year 2024, which is a 20-year planning horizon, not an ultimate, never to be exceeded, population. That population increase would represent an 8% annual growth rate for Crozet over 20 years, which staff considers a reasonable, but fairly aggressive, growth rate. Staff currently tracks development activity and can project the annual growth rate based on actual development.
- While it is possible for Crozet to have a higher ultimate population than 12,000, there is considerably more development that can occur before reaching the anticipated 20 year planning horizon. The Board will have opportunities to adjust the ultimate density of Crozet if they believe development is creating too high a population. This can be accomplished by tracking development activity and reviewing the master plan every five years.
- The infrastructure planned for Crozet supports this anticipated 20 year planning horizon figure. Future infrastructure to support additional population growth, if any, would need to be considered along with land use during the five-year review of the master plan.
- Old Trail was approved with the theoretical possibility that it could develop slightly above the high end of the Master Plan density range. Experience with other major rezonings (e.g. South Forest Lakes) leads staff to believe Old Trail will likely develop closer to the mid range rather than this high end. As Old Trail is not anticipated to develop much faster than 100 units per year, this assumption can be validated during the five year Master Plan reviews without compromising the County's ability to compensate. Even if Old Trail developed faster than this for several years, there would still be adequate time for the Board to compensate with the master plan, if determined appropriate.

There may be additional infrastructure needs for the Community of Crozet in the future, beyond those identified in the Master Plan, if the projected planning horizon figure of 12,000 is greatly exceeded.

Staff recommends that the Board affirm their understanding with regard to the 2024 population estimate of the Crozet Master Plan as the basis for meeting infrastructure and service needs and identify preferred options to monitor future compliance with that target."

Mr. Rooker commented that based on the 1996 Comp Plan, there could have been a population density of almost 34,000, citing information from the Piedmont Environmental Council.

Mr. Gilimberg said that he has not seen that, and the figure Planning is working with is 17,000 maximum, using the table in the Comp Plan that was adopted. In response to Mr. Rooker's question, he stated that staff did not to a GIS analysis to the Comp Plan, but only to the Crozet Master Plan. He noted that when the master plan is evaluated, the complete population of Crozet would be between 13,000 and 24,000, and they would be above the figure of 12,000 that would likely occur between now and 2020. A

population of 12,000 in 20 years is a reasonable number, based on a yearly development under approved projects in Crozet.

He added that he also felt comfortable that the Board has a review of the plan every five years and could monitor that to see if development is in line with what the plan calls for. Mr. Cilimberg said that staff needs to know if a cap of 12,000 is intended for Crozet, although they did not get that impression in the master planning process; he added that the Board could also look at the plan every year instead of every five years. He noted that the master plan also includes information about potential funding sources for infrastructure, so there is intent to program facilities and infrastructure to accommodate the growth in Crozet.

Mr. Rooker said that at some point, he would like to get a GIS look at what was permitted before Comp Plan changes were done to adopt the master plan. He stated that it was understood that the change to adopt it would not result in density beyond what would have already been permitted under the old Comprehensive Plan. He thinks it is important to understand the potential population that was permitted under the Comp Plan before we adopted this master plan.

Mr. Wyant commented that only the gross density, not the net, was available at the time. He said that the other problem with the master plan is the different format, where the plan moved away from a conceptual plan into a more specific document.

Mr. Cilimberg said the rezoning “reordered the CT designations that were in the master plan.”

Mr. Rooker stated that the two things “pretty well match,” and you are always going to find things out when you get on the ground that are somewhat different than a plan that is done in a more general way. The Comp Plan is general in nature and the master plan is more detailed, but certainly when you start doing a site plan, it gets a whole lot more detailed. He added that he thinks there is a remarkable match between the master plan and what was ultimately approved and he thinks the Board recognized that at the time it voted for this. Mr. Rooker said that there is a potential buildout of 2,200 homes if every piece of property is maximized to potential density, but the reality is that almost never happens. He noted that Forest Lakes South built out to about 60 percent of permitted density, and said that the Board is sometimes disappointed because the area is not capable of housing as many people as expected.

Mr. Wyant said that a key issue is going to be monitoring the growth towards the 12,000 by 2024.

Mr. Tucker said that there is a built-in monitoring system by code to review this every five years, but the Board could evaluate it each year if they wanted to.

Mr. Rooker commented that when this was approved, it was not increasing the potential population buildout over what was permitted at a maximum in the prior Comp Plan. He added that the master plan actually reduces the population over what the Comp Plan might allow.

Mr. Dorrier asked about the provision of infrastructure as the area grows, and the eight percent figure given.

Mr. Cilimberg replied that the eight percent figure is used to show how the population would increase to reach the figure of 12,000, and the growth percentage figure has not even really been reached. He explained that the master plan identified infrastructure needs based upon getting to a 12,000 population in the 20-year period, using an estimate of projected population growth. Mr. Cilimberg said that it also identified what source would be paying for that infrastructure, and the county portion is programmed through the CIP. He added that the county has followed the Crozet Master Plan in making recommendations for the CIP. Mr. Cilimberg noted that there were a few facilities in the Old Trail plan that were part of their commitment for the development approval – such as the building of Western Avenue, which would be a result of Old Trail being built completely through from Jarman’s Gap Road to Route 250.

Mr. Boyd asked if we are building faster than we anticipated we were going to build. He also asked if we are behind on providing the infrastructure that we projected was needed.

Mr. Cilimberg responded that the county is only one year into the master plan and isn’t really behind, but it is going to be important to monitor how the development is progressing. The staff thinks that the upwards of 160 a year that gets to that population of 12,000 in 2024 is reasonable, but at this point none of it has been experienced yet.

Mr. Boyd asked what the “red flags” are, or if they are just perceived.

Mr. Tucker replied that issues like Jarman’s Gap Road improvements are raising those flags, although the plan has been in place for years to widen the road, and there has been lots of development on that stretch. He added that the VDOT funding once again has just not been there to keep up with the needed improvements.

Ms. Thomas said that people were led to believe that there was something about master planning that was not going to harm, but was going to come up with as many people as would have been done without the plan. She stated that the area could have been built without any connecting roads, parks, trails, etc., and all those commitments are in the master plan. Ms. Thomas said that she regrets there was an error of 140 or 200 houses, but hopefully this situation has cemented everyone to pay more attention to things like infrastructure and interconnections.

She emphasized that she does not see a damaging of that commitment by the technical explanation of the numbers and she does not see anything in that approval that will end up with a project that is less attractive or less connected to the community or less enriching of that whole community than it would have been if it had developed without that master plan. She thinks the county is on the right track.

Mr. Rooker said that the Board has tried to – in the CIP – match the projected investments with the projected increase in population. He noted that if one area is developing ahead of schedule, then the CIP might be adjusted to address infrastructure needs. Mr. Rooker pointed out that a traffic analysis has been done on key intersections in Crozet, and there is not one road section that is at a greater than 1:1 volume capacity ratio, and the average is about 70 percent, which is not the case with many other county roads. He added that Georgetown Road takes about seven times the traffic per capacity than Jarman's Gap Road.

Mr. Rooker emphasized that the county has a plan for Crozet that he thinks is a very good one in terms of our projected capital investments to try to match population growth. He added that the 20-year buildout projection for Crozet is "way in excess" of what we have actually seen occur anywhere in the county. We are growing at about 1.8 percent county-wide. Mr. Rooker pointed out that there have been 47 building permits this year in nine months, well below the 160 you would need to get to in order to match the projected growth in the Comp Plan.

Mr. Dorrier asked why the county projected out at the high end. Mr. Rooker replied that that was a cautious approach. Ms. Thomas said that it helps spur the county on to address the infrastructure to assume a higher number.

Mr. Tucker commented that the best approach is planning for the maximum, but the reality is that kind of buildout has not been seen with the larger developments such as Forest Lakes. What drives these developments is going to be the market and what we have experienced is it just has not built to the maximum that developments have approvals for.

Mr. Dorrier said that there was a "reaction of fear" from the public regarding Glenmore, as they figured all the houses would be built over a year or so.

Mr. Slutzky commented that it is important not to relate the expenditures to the hypothetical, but rather put resources where there is real development happening. He is worried about maybe being swayed by the number of units and making capital expenditure judgments based on that capacity, when in fact it is somewhere else that the buildout is really more near-term.

Mr. Cilimberg mentioned that the School Advisory Planning Committee came forward with a recommendation a few years ago for a southern elementary school in the near-term, and the growth didn't really bear that out. He noted that it was evaluated yearly and determined that the school was not needed immediately.

Mr. Rooker agreed that you need to be careful in putting taxpayer dollars "way out in front of projected development."

Mr. Tucker said you may program funds for those things, but every two years you are getting a good look at what is happening. You do not really appropriate any funds or commit any funds until the year that you are planning on actually making a lot of the improvements.

Mr. Dorrier stated that it is important to assure the citizens of Crozet that the Board and the county will keep on top of the development pace and associated population increase there.

Mr. Rooker said that staff is asking for an affirmation of the Board's understanding regarding the 2024 population estimates as a basis for meeting infrastructure and service needs.

**Motion** was then offered by Mr. Wyant, **seconded** by Ms. Thomas, to affirm the Board's understanding regarding the 2024 population estimate of the Crozet Master Plan as the basis for meeting infrastructure and service needs.

Roll was called and carried by the following recorded vote:

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

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Agenda Item No. 20. Closed Session.

At 12:17 p.m., **motion** was offered by Mr. Slutzky that the Board adjourn into closed session under subsection (1) to consider appointments to boards, committees, and commissions; under subsection (7) to discuss with legal counsel matters of pending litigation regarding a site plan denial, an appeal of a tax assessment, and a personnel dispute; under subsection (7) to discuss with legal counsel and staff a specific matter requiring legal advice related to public safety operations; and under subsection (7) to discuss with legal counsel and staff a specific matter requiring legal advice related to an interjurisdictional agreement for joint court facilities and the negotiation of a related contract.

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. Slutzky and Mr. Wyant.  
NAYS: None.

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

At 2:08 p.m., **motion** was offered by Mr. Slutzky, 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, Mr. Slutzky and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 22. Boards and Commissions: Vacancies/Appointments.

**Motion** was offered by Mr. Boyd, **seconded** by Mr. Dorrier, to make the following appointments/reappointments:

- **APPOINT** Betty Black to the Community Mobility Committee with said term to expire January 12, 2007;
- **REAPPOINT** Brenda Doremus-Daniel, as the Rio District representative on the Social Services Board, with said term to expire December 31, 2009;
- **REAPPOINT** C. Marshall Thompson, as the Rio District representative on the Equalization Board, with said term to expire December 31, 2006;
- **APPOINT** Blake Hurt, as the Rivanna District representative on the Industrial Development Authority, with said term to expire December 19, 2010;
- **REAPPOINT** Thomas McQueeney, as the Rio District representative on the Industrial Development Authority, with said term to expire December 19, 2010;
- **APPOINT** Christian Schoenewald to the RSWA Citizens Advisory Committee with said term to expire December 31, 2007;
- **APPOINT** Eric Strucko, as the Samuel Miller District representative on the Planning Commission, with said term to expire December 31, 2009;
- **APPOINT** Jon Cannon, as the Rio District representative on the Planning Commission, with said term to expire December 31, 2009;
- **REAPPOINT** Marcia Joseph, as the At-Large representative on the Planning Commission, with said term to expire December 31, 2007;
- **APPOINT** Lindsay Dorrier to the Jail Authority Board with said term to expire December 31, 2007; and
- **REQUEST** that Robert Wilcox act as an advisor to the Community Mobility Committee on railway issues.

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

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

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**NonAgenda.** Falconer Construction Company Ruling.

Mr. Davis reported that on December 14<sup>th</sup>, the Circuit Court rendered a decision in the Falconer Construction Company site plan appeal brought to the court because of the county's denial of the plan. He said that unless directed otherwise, the final order entered this week would conclude the litigation.

Ms. Thomas offered **motion, seconded** by Mr. Slutzky, to appeal the decision in the case of the Falconer Construction to the Virginia Supreme Court.

Mr. Rooker said that he strongly supported the condition put on the special use permit approval that required for the adequacy of the facilities – establishment of roads leading to the site – which was challenged by the developer in court, and the court rendered a decision against the county. He strongly supports adequate public facilities legislation, and the county, along with VaCo, have sought this at the state legislative level. Mr. Rooker noted that it has never even made it out of committee, but the Governor-elect has indicated a desire to push for adequate public facilities legislation. He noted that other localities have expressed concern that rulings might further erode their abilities to require any offsite improvements with respect to site plan approval. Mr. Rooker said that there is also a concern that the legislature will take the position that they do not want to act on legislation that is under appeal to the state supreme court.

Mr. Rooker said that Mr. Davis has advised the Board that it is unlikely under Virginia law and the precedents already established by the Supreme Court that the county would prevail on appeal. So for that reason, he will not support the motion.



The five (5) new appropriations are as follows:

- One (1) appropriation (#2006037) totaling \$427,856.09 reappropriating funds for the Physical Fitness Equipment Grant;
- Two (2) appropriations (#2006038 and #2006039) totaling \$114,274.18 for various Education Donations and Programs;
- One (1) appropriation (#2006040) in the amount of \$75,000.00 funding the fire services consolidation study; and
- One (1) appropriation (#2006041) providing funding for the APCO Emergency Medical Dispatch system in the amount of \$10,200.00

A detailed description of these requests is provided on Attachment A.

Staff recommends approval of the FY 2006 Budget Amendment in the amount of \$806,085.28 after the public hearing, and then approval of Appropriations #2006037, #2006038, #2006039, #2006040, and #2006041 to provide funds for various General Government, School, and ECC programs as described in Attachment A.

**Appropriation #2006037** **\$427,856.09**

The Department of Homeland Security awarded the Albemarle County Department of Fire and Rescue a 2004 Office of Domestic Preparedness federal grant during FY2005. These grant funds were not completely expended during FY2005 and will require reappropriation to the current year.

**Appropriation #2006038** **\$6,682.87**

At its meeting on November 10, 2005 the Albemarle County School Board approved the following appropriation requests:

Red Hill Elementary School received a donation in the amount of \$1,950.00. This donation will go towards the purchase of classroom supplies and materials at Red Hill Elementary School.

Scottsville Elementary School received a donation in the amount of \$2,500.00. This donation will be used to support efforts and hard work, specifically in the area of helping students learn how to read at Scottsville Elementary School.

Baker Butler Elementary School received a donation in the amount of \$2,232.87. This donation will be used to purchase three LCD projectors for Baker Butler Elementary School.

**Appropriation #2006039** **\$107,591.31**

At its meeting on December 1, 2005 the Albemarle County School Board approved the following appropriation requests:

Henley Middle School received a donation in the amount of \$4,780.00 from their Parent and Teacher Support Organization. This donation will be used to pay the salaries for two positions: \$3,780.00 for the At-Risk Program and \$1,000.00 for the library night at Henley Middle School.

Cale Elementary School has received two anonymous donations totaling \$1,500.00. These donations will be used to support the miscellaneous classroom needs of the students at Cale Elementary School.

The 2002 General Assembly appropriated funds to support the Teacher Mentor Program for participating school divisions. This program is for beginning and experienced teachers new to Albemarle County Public Schools to conduct mentor workshops and work with principals so that mentors can provide teachers with meaningful and individualized induction into the teaching profession. Funding for FY05/06 from the state was increased by \$1,231.33 from the original budget amount of \$8,354. There is also a local fund balance in the amount of \$79.98 from FY04/05 and may be reappropriated for FY05/06.

The English Literacy/Civics Partnership Project grant is federally funded. This EL/Civics grant is a natural follow-up to the ABE, EL/Civics, Migrant Education, and Workplace services we offer currently. It is designed to fully integrate ESOL students into the Charlottesville/Albemarle community, thus expanding and completing the "Web" that was introduced in the first EL/Civics round of grants in the spring of 2001 with Albemarle County's "Web Project." The "Partnership Project" will place special emphasis on incorporating civics education into ESOL classes. It will use already identified strengths to improve and enhance not only the ESOL learners' English language proficiency, but also their understanding of and access to civic institutions in the Central Virginia area. An anticipated corollary result of the project is an improved understanding in the community at large of how the community is a better place when all of its citizens can participate to the fullest extent of their potential. The project is designed to employ those methodologies that have led to success in the past, to trust project participants to be able to do great things, and to aim for a community where teaching and learning are reciprocal, i.e., a community which puts the emphasis on how we are the same rather than how we are different and a community that recognizes that all teachers learn and all learners teach. The competitive Adult Education Grant has been funded through June 2007 and, as in all ABE classes, the targeted participants are parents of Albemarle County students.

**Appropriation #2006040** **\$75,000.00**

As part of a continuing review and long term planning process focused on providing efficient and cost-effective fire and rescue service to the Albemarle County and Charlottesville community, County and City officials are developing an RFP for consulting services to provide an objective assessment of possible

opportunities for the county and city to work together offering consolidated fire and possibly rescue services. The purpose of the study is to see what advantages would exist to both jurisdictions if there was to be consolidation of any or all services.

The City and County currently operate under a shared service agreement. This study would evaluate the options to regional consolidation. The Request for Proposal does not imply any suggested course of action, but rather will initiate a consultant assessment process to identify options and issues related to partial or full consolidation of services that will help guide necessary decision-making at the Board of Supervisors and City Council level. City and County volunteer and career staff will play an important part in the data gathering and issue identification portions of the consultant process. No personnel will lose their jobs or experience a reduction in salary or loss of benefits as a result of any consolidation actions that might arise from this study.

While the Charlottesville/Albemarle County community has continued to grow and urbanize over time, creating new needs and demands for the overall fire response system, there has never been an objective assessment of issues related to the possible consolidation of any or all of the fire service functions. This study will look at how services are currently being provided, and identify how the joint resources of the city and county could best be utilized.

Expected evaluation criteria of any type of a cooperative effort would include:

- Increased efficiency
- Improved effectiveness
- Enhanced/improved services
- Reduced costs
- Coordination of regional planning
- Standardization of services and programs
- Potentially reduced ISO insurance rating

County and city officials believe that this objective consultant assessment will help articulate critical issues and assemble data that will be important factors in future decisions regarding the direction of long term fire service in the region.

The cost of the study is anticipated to be approximately \$75,000.00 with one-half being funded by the City of Charlottesville and the County's portion, \$37,500.00, being funded from the General Fund Balance.

**Appropriation #2006041 \$10,200.00**

At their meeting on November 15<sup>th</sup> the ECC Management Board approved the use of \$10,200.00 from the ECC Fund Balance to purchase the APCO Emergency Medical Dispatch pre-arrival instructions system.

At the present time the ECC uses an in-house protocol system developed by our Medical Director. The State of Virginia Department of EMS does not recognize our present system which does not allow us to be accredited by the Commonwealth. Dr. George Lindbeck, our medical director has approved us upgrading to the APCO system so we can meet state requirements.

The Chairman opened the public hearing. No one came forward to speak, so the public hearing was closed.

**Motion** was offered by Mr. Boyd, to approve the FY 2006 budget amendment in the amount of \$806,085.28 and to approve appropriations #2006037, #2006038, #2006038, #2006040 and #2006041. Mr. Wyant **seconded** the motion.

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

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

**COUNTY OF ALBEMARLE  
 APPROPRIATION**

**APP #** 2006037  
**DATE** \_\_\_\_\_  
**BATCH#** \_\_\_\_\_

**EXPLANATION:** Reappropriation for Physical Fitness Equipment Grant

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER			GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT	
1	1567	32015	392000	Contractual Services	J	1	144,980.00		
1	1567	32015	800100	Mac. & Equip.	J	1	282,876.09		
2	1567	18110	181109	Contributions	J	2	8,600.00		
2	1567	33000	300001	Grant Revenue-Fed'l	J	2	15,835.00		
2	1567	51000	512004	Transfer fr. Gen'l Fund	J	2	25,545.00		
2	1567	51000	510100	Grant F/b	J	2	377,876.09		
1	1000	32011	311000	Fire/Rescue-Health Svc	J	1	(1,120.00)		

1	1000	32012	311000	Fire/Rescue-Health Svc	J	1	(1,680.00)		
1	1000	32013	311000	Fire/Rescue-Health Svc	J	1	(3,400.00)		
1	1000	32015	311000	Fire/Rescue-Health Svc	J	1	(12,670.54)		
1	1000	32019	311000	Fire/Rescue-Health Svc	J	1	(6,674.46)		
1	1000	32015	930200	Transfer to Grants	J	1	25,545.00		
	1567		0501	Est. Revenue				427,856.09	
	1567		0701	Appropriation					427,856.09
<b>TOTAL</b>							<b>855,712.18</b>	<b>427,856.09</b>	<b>427,856.09</b>

**COUNTY OF ALBEMARLE  
 APPROPRIATION**

**APP #** 2006038  
**DATE** \_\_\_\_\_  
**BATCH#** \_\_\_\_\_

**EXPLANATION:** VARIOUS EDUCATION DONATIONS

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	2000	18100	181109	Donation	J	2	6,682.87		
1	2207	61101	601300	Inst/Rec Supplies	J	1	1,950.00		
1	2209	61101	601200	Books & Subscriptions	J	1	2,500.00		
1	2217	61101	800700	Data Process Equip	J	1	2,232.87		
	2000		0501	Est. Revenue				6,682.87	
			0701	Appropriation					6,682.87
<b>TOTAL</b>							<b>13,365.74</b>	<b>6,682.87</b>	<b>6,682.87</b>

**COUNTY OF ALBEMARLE  
 APPROPRIATION**

**APP #** 2006039  
**DATE** \_\_\_\_\_  
**BATCH#** \_\_\_\_\_

**EXPLANATION:** VARIOUS EDUCATION PROGRAMS, DONATIONS AND GRANTS

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	2000	18100	181109	Donation	J	2	6,280.00		
2	3151	24000	240380	Teacher Mentor Prog.	J	2	1,231.33		
2	3151	51000	510100	Approp. - Fund Balance	J	2	79.98		
2	3221	33000	330001	Grant Rev. - Federal	J	2	100,000.00		
1	2252	61101	134100	Part-Time Teacher Aid	J	1	4,780.00		
1	2214	61101	601300	Inst/Rec Supplies	J	1	1,500.00		
1	3151	61311	580500	Staff Development	J	1	1,311.31		
1	3221	61101	111400	Salaries-Other Mgmt	J	1	6,730.00		
1	3221	61101	114100	Salaries-Teacher Aid	J	1	7,800.00		
1	3221	61101	132100	PT/Wages Teacher	J	1	50,400.00		
1	3221	61101	135000	PT/Wages Office Clerical	J	1	4,000.00		
1	3221	61101	210000	FICA	J	1	5,273.00		
1	3221	61101	221000	VRS	J	1	820.00		
1	3221	61101	231000	Health Insurance	J	1	490.00		
1	3221	61101	232000	Dental Insurance	J	1	17.00		
1	3221	61101	312700	Prof. Ser Consultant	J	1	9,250.00		
1	3221	61101	520100	Postal Services	J	1	100.00		
1	3221	61101	550100	Travel/Training	J	1	500.00		
1	3221	61101	601300	Educ & Rec. Supplies	J	1	4,800.00		
1	3221	61101	601700	Copy Expenses	J	1	3,000.00		
1	3221	61101	800100	Mach. & Equip.	J	1	3,820.00		
	2000		0501	Est. Revenue				6,280.00	
			0701	Appropriation					6,280.00
	3151		0501	Est. Revenue				1,311.31	
			0701	Appropriation					1,311.31
	3221		0501	Est. Revenue				100,000.00	
			0701	Appropriation					100,000.00
<b>TOTAL</b>							<b>212,182.62</b>	<b>107,591.31</b>	<b>107,591.31</b>

**COUNTY OF ALBEMARLE  
 APPROPRIATION**

APP # 2006040  
 DATE \_\_\_\_\_  
 BATCH# \_\_\_\_\_

**EXPLANATION:** Funding of Consolidation Study of Fire Services

					SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT
1	1000	32011	312760	Consolidation Study Fire	J 1	75,000.00		
2	1000	19000	190247	City Share-Fire Study	J 2	37,500.00		
2	1000	51000	510100	Approp-Fund Balance	J 2	37,500.00		
	1000		0501	Est. Revenue			75,000.00	
			0701	Appropriation				75,000.00
<b>TOTAL</b>						<b>150,000.00</b>	<b>75,000.00</b>	<b>75,000.00</b>

**COUNTY OF ALBEMARLE  
 APPROPRIATION**

APP # 2006041  
 DATE \_\_\_\_\_  
 BATCH# \_\_\_\_\_

**EXPLANATION:** Funding for APCO Emergency Medical Dispatch system

					SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT
1	4100	31041	312500	Prof. Svcs. Instructional	J 1	10,200.00		
2	4100	51000	510100	Appr.- Fund Balance	J 2	10,200.00		
	4100		0501	Est. Revenue			10,200.00	
			0701	Appropriation				10,200.00
<b>TOTAL</b>						<b>20,400.00</b>	<b>10,200.00</b>	<b>10,200.00</b>

Agenda Item No. 24. **Public hearing** to amend the Jurisdictional Area Boundary of the Albemarle County Service Authority to provide water and sewer service to Tax Map 55, Parcel 50 (Chitester property), an approximate 2-acre parcel located in the Crozet community on the W side of Buck Rd (Rt 789), near its intersection with St. George Avenue. White Hall Dist. (Advertised in the Daily Progress on December 19 and December 26, 2005

Mr. Benish presented the following executive summary:

“The applicant is requesting ACSA Jurisdictional Area designation for water and sewer service to an approximately 2-acre parcel located on the west side of Buck Road (Route 789), near its intersection with St. George Avenue. (See Attachment A) The property is located within the designated Crozet Development Area, in the Whitehall Magisterial District. The parcel is currently designated for “water only to existing structures.” The applicant is requesting water and sewer service for an addition to be constructed on an existing house. The existing septic system located on site would not be adequate to serve the expanded structure. The applicant prefers to connect to public sewer, and that connection would be consistent with County utility policies. The properties adjacent to the north and south of this parcel are similarly designated (water only to existing structures). The properties across Buck Road to the east are designated for water and sewer service. The Board reviewed this request at its December 7<sup>th</sup> Board meeting, and directed that the request be scheduled for public hearing.

The subject property is located in the Crozet Development Area. The water supply for Crozet is provided by the Beaver Creek Reservoir. Sewer service is provided by the Moore’s Creek Treatment Plant via the Crozet Interceptor.

The Comprehensive Plan provides the following concerning the provision of water and sewer service to the Development Areas:

“General Principle: Urban Areas, Communities, and Villages are to be served by public water and sewer (p. 114).”

“Provide water and sewer service only to areas within the ACSA Jurisdictional Areas (p. 130).”

“Follow the boundaries of the designated Development Areas in delineating Jurisdictional Areas (p.130).”

The Comprehensive Plan recommends serving the Development Areas with public water and sewer service. This parcel is located within the Crozet Development Area, so designating it as part of the ACSA Jurisdictional Area for public water and sewer service would align with County policy.

As a general policy, staff has advised that public utility capacity should be reserved to support development of designated Development Areas. Since this property is located within a designated Development Area, the provision of both water and sewer service to the property would be consistent with the Comprehensive Plan public utility policy. Therefore, staff recommends the Board of Supervisors approve this request for public water and sewer service to Tax Map 55, Parcel 50."

Mr. Wyant asked if the water and sewer was just for existing structures. Mr. Benish responded that it would actually be unlimited on that site as it would be in any development area.

Public comment was invited. None was offered, and the matter was placed before the Board.

**Motion** was offered by Mr. Wyant, to approve the request to amend the jurisdictional area boundary of the Albemarle County Service Authority to provide water and sewer to Tax Map 55, Parcel 50, located in the Crozet Community. 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, Mr. Slutzky and Mr. Wyant.  
NAYS: None.

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Agenda Item No. 25. **Public hearing** on an ordinance to amend Chapter 15, Taxation, of the Albemarle County Code, by adding Section 15-1103, Personal property tax relief. The proposed ordinance would adopt the specific criteria for the allocation of the Commonwealth's payments to the County under the Personal Property Tax Relief Act of 1998. For qualifying vehicles with assessed values of \$1,000 or less, relief would be provided for 100% of the personal property tax. For qualifying vehicles with assessed values of more than \$1,000, relief would be provided at an equal percentage fixed annually and applied to the first \$20,000 in value of each such qualifying vehicle calculated so as to fully use all available state PPTRA relief. In addition, the County would be authorized to issue supplemental personal property tax bills in the full amount of tax due, without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, for unpaid personal property taxes for tax years prior to 2006. The proposed effective date of this ordinance is January 1, 2006. (Advertised in the Daily Progress on December 19 and December 26, 2005)

Mr. Robert Walters, Chief of Administration and Taxation, presented the following executive summary:

"In 2004 and 2005, the General Assembly, as part of a budget compromise, substantially altered the Personal Property Tax Relief Act of 1998 (PPTRA). Under the original PPTRA, individual taxpayers paid a percentage of their local personal property taxes, and the state reimbursed localities the remaining balance. In 2005, taxpayers' relief funded by the state was seventy (70%) percent of the tax. However, because of the growing cost of the PPTRA, the 2004 General Assembly elected to freeze the state's future PPTRA obligations at \$950 million per year. Localities will now only receive annually from the state a fixed amount of state dollars for personal property tax relief. State law requires the Board to elect how to allocate this relief among personal property tax taxpayers. The implementation must be approved by ordinance or resolution.

At its December 7, 2005 meeting the Board directed staff to advertise for public hearing an ordinance implementing the "specific relief option".

As noted above, beginning July 1, 2006, PPTRA reimbursements to localities will be capped at \$950 million. This change will mark a shift from a vehicle-based entitlement program to a fixed, annual block grant program. Future payments to localities will be based on their percentage share of 2004 tax year personal property tax collections to total 2004 state personal property tax collections. The amount of funds to be remitted to Albemarle County, estimated at \$15 million, will be known March 1, 2006. With that amount fixed for the foreseeable future, the percentage relief individual taxpayers will actually receive each year will decline as that fixed amount is spread over an ever-increasing personal property tax base.

There are primarily two options available to the Board to provide personal property tax relief. *Virginia Code* § 58.1-3524(C), adopted by the 2004 General Assembly, enables localities each year to set two personal property tax rates: one for the value of each qualifying vehicle that is in excess of \$20,000, and a second lower value for each qualifying vehicle that is not in excess of \$20,000. The lower rate is required to off-set the amount of dollars funded by the state for personal property tax relief.

The 2005 Appropriations Act provides a simpler, more precise alternative. Item 503.E. of that Act permits a locality to provide by ordinance or resolution, or as part of its annual budget, specific criteria for the allocation of the Commonwealth's payments among the owners of qualifying vehicles. The Act requires that the locality's tax bills provide a general description of the criteria upon which relief has been allocated and set out the specific dollar amount of relief so allocated.

If the Board elects this "specific relief" alternative, Finance staff would annually calculate the percentage of relief available to each taxpayer spread equally among qualifying tax payers, and it would be reflected on the personal property tax bills without any additional action by the Board.

The draft ordinance proposed by staff implements this “specific relief” alternative, and also adopts two other discretionary provisions:

1. It continues to provide 100% car tax relief for qualified vehicles assessed at \$1,000 or less.
2. It authorizes supplemental tax bills to be issued by the County for tax year 2005 and for prior years for 100% of the personal property tax which remains due and owing as of September 1, 2006 or such earlier date as reimbursement is no longer available from the Commonwealth. The state will not reimburse the County for what had been the state’s share for delinquent bills after that date. Delinquent taxpayers would be billed for the unpaid state share for delinquent bills after State reimbursements are no longer funded.

The County will not experience a fiscal impact as a result of the change in state law. The County will continue to receive full personal property tax revenues; only the *source* of those revenues will change. Under the PPTRA, the state has paid a share (currently 70%) of personal tax revenue that would otherwise come from individual taxpayers. With the state now limiting its personal property tax relief commitment to a fixed amount, individual taxpayers will shoulder a steadily increasing share of their personal property tax bills.

The loss of state revenue is estimated below:  
(Expressed in millions)

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	
Estimated PPTR \$	\$14.4	\$15.5	\$16.2	\$16.9	\$17.7	\$18.5	
Frozen PPTR \$	<u>N/A</u>	<u>\$15.5</u>	<u>\$15.0</u>	<u>\$15.0</u>	<u>\$15.0</u>	<u>\$15.0</u>	
Loss of state funding	<u>N/A</u>	<u>\$0.0</u>	<u>\$1.2</u>	<u>\$1.9</u>	<u>\$2.7</u>	<u>\$3.5</u>	

The \$950.0 million state cap was derived to approximate the 2006 PPTR payments for current, not delinquent, tax bills at a 70% rate. The 70% rate has been used since 2001. The estimated \$15.0 million payment to the County of Albemarle for 2006 current year tax bills approximates the estimated PPTR reimbursement at the 70% rate. The \$15.5 million shown above for FY06 includes delinquent taxes, which will no longer be reimbursed by the state in FY06 and thereafter. Future payments are frozen at the estimated \$15.0 million and will result in loss of future state revenues. The loss of state revenue would be offset by additional local taxpayer funds. The state’s payment for the tax year 2005 and prior year outstanding bills is eliminated for FY07 and thereafter. The loss is included above.

Staff recommends at the conclusion of the public hearing that the Board adopt the attached proposed ordinance which:

1. Establishes the “specific relief” structure for personal property tax relief,
2. Continues to provide 100% relief for qualified vehicles assessed at \$1,000 or less, and
3. Authorizes the supplemental billing of outstanding PPTR reimbursements which remain due and owing as of September 1, 2006 or such earlier date as reimbursement is no longer available from the Commonwealth.”

Ms. Thomas said that at the state level, every time a new car is purchased or increases in value, everyone has to pay a higher percentage of their tax obligation when there are more taxes to be levied. It is a rather strange situation that is not of the county’s choosing.

Mr. Rooker said that when the legislature voted to start reducing personal property tax, they said that they would never do what they have now done, that they would never pass legislation that capped out the amount of reimbursement to localities for the lost revenue. Legislation such as this or ordinances such as this are being passed throughout the state.

The Chairman opened the public hearing. No one came forward to speak and the public hearing was closed.

**Motion** was then offered by Ms. Thomas, **seconded** by Mr. Dorrier, to adopt an ordinance to amend Chapter 15, Taxation of the County Code to provide for Personal Property Tax Relief.

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

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

#### **ORDINANCE NO. 06-15(1)**

AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, ARTICLE XI, PERSONAL PROPERTY – IN GENERAL, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

**WHEREAS** the Personal Property Tax Relief Act of 1998, Virginia Code §§ 58.1-3523 *et seq.* (“PPTRA”), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act, hereinafter cited as the “2005 Appropriations Act”); and

**WHEREAS** these legislative enactments require the county to take affirmative steps to implement these changes, and to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised; and

**WHEREAS** these legislative enactments provide for the appropriation to the county, commencing in 2006, of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to the personal property tax ("PPT") on such vehicles, and provide the opportunity for the county to fashion a program of tax relief that serves the best interests of its citizenry;

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, Article XI, Personal Property – In General, is hereby amended and reordained as follows:

**By Adding:**  
Sec. 15-1103 Personal property tax relief

## CHAPTER 15. TAXATION

### ARTICLE XI. PERSONAL PROPERTY - IN GENERAL

\* \* \* \* \*

#### **Sec. 15-1103 Personal property tax relief.**

A. Purpose; definitions; relation to other sections.

1. The purpose of this section is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998, Virginia Code §§ 58.1-3523 *et seq.* ("PPTRA") effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

2. Terms used in this section that have defined meanings set forth in the PPTRA shall have the same meanings as set forth in Virginia Code § 58.1-3523.

3. To the extent that the provisions of this section conflict with any other provision of the county code, this section shall control.

B. Method of computing and reflecting tax relief.

1. For tax years commencing in 2006, the county adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the PPTRA and the reporting of such specific dollar relief on the tax bill.

2. Any amount of the PPTRA relief not used within the county's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.

3. Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

C. Allocation of relief among taxpayers.

1. Allocation of the PPTRA relief shall be provided in accordance with the general provisions of this section.

2. Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.

3. Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle, that is calculated fully to use all available state PPTRA relief.

D. Transitional provisions.

1. Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the county director of finance is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

2. Penalty with respect to bills issued pursuant to subsection (D)(1) of this section shall be computed on the entire amount of tax owed. Interest with respect to bills issued pursuant to subsection (D)(1) of this section shall be computed at the percentage provided in section 15-100 (E) from the due date of the supplemental personal property tax bill provided for in subsection (D)(1) herein.

**State law reference** – Va. Code § 58.1-3524(C); Item 503, Chapter 951, 2005 Acts of Assembly  
(Ord. 06-15(1), 1-4-06, effective 1-1-06)

**This ordinance shall be effective on and after January 1, 2006.**

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Agenda Item No. 26. **ZMA-2004-017. Wickham Pond (Sign #64). Public hearing** on a request to rezone 20.52 from RA to NMD to allow combination of 107 single -family detached & condominium/ townhouse residential units. TM 56 P 92. Loc on 5023 Three Notch'd Rd (Rt 240) approx 1,000 ft from intersec of Rt 240 & Highlands Drive, also known as entrance to The Highlands Subdivision. (The Crozet Master Plan of the Comp Plan designates this property as Development Area Preserve [CT-1], Urban General [CT-4] & Urban Edge [CT-3]. White Hall Dist (**deferred from December 7, 2005**).

Mr. Cilimberg summarized the following executive summary which was forwarded to Board members:

“On October 12, 2005, the Board of Supervisors reviewed the rezoning request by Weather Hill Development, LLC at a public hearing. During this meeting, the Board requested the following additional information on the level of service for traffic on Route 240, plans for Eastern Avenue, impact on infrastructure, and the long term maintenance and cost of the stormwater facility. The Board also requested discussion with the Director of Housing regarding the affordable housing proffer. The item was deferred until December 7, 2005.

#### Level of Service on Route 240

The applicant has submitted a traffic study completed by the Renaissance Planning Group, which has been reviewed by staff and VDOT. The Renaissance Planning Group worked collaboratively with others to complete the Crozet Development Area Master Plan. The attached memo (copy on file in the Clerk's office) describes the parameters by which the study was completed and explains the results of the study.

The Renaissance Group has concluded that with the addition of the future Wickham Pond traffic all intersections evaluated will have acceptable levels of service (LOS) except the intersection of Route 240 and Route 250 east. As stated in the attached memo, this intersection's 2010 LOS will be an "F" both with and without the Wickham Pond traffic. Staff and VDOT have reviewed additional information given by the applicant and all parties agree that the impact of Wickham Pond equates to 6.8 percent of the delay at this intersection.

As to the section of Route 240 serving Wickham Pond, the applicant provided an analysis of volume to capacity ratio (V/C) instead of LOS. The attached memo compares the existing V/C ratio for Route 240, the Wickham Pond build out V/C ratio and the Crozet Master Plan V/C ratio. In conclusion, no V/C ratio would be over 1.00 on any of the analyzed road segments with a Wickham Pond build out, an acceptable result.

#### Eastern Avenue

The Crozet Master Plan recommends the construction of Eastern Avenue. Eastern Avenue includes a bridge over Lickinghole Creek, a bridge or underpass to cross the CSX tracks to the north, and numerous connections to neighborhood streets. The Master Plan states that the private sector should be responsible for funding and building Eastern Avenue with the exception of Lickinghole Creek bridge. In terms of the private sector building Eastern Avenue, staff anticipates that this will occur as development occurs in the areas where Eastern Avenue is proposed. The areas where Eastern Avenue would be built have not begun to develop as yet. Some may be subject to re-zoning in the future. Eastern Avenue design, engineering and ultimate bridge construction are not currently included in the County's CIP and are subject to transportation funding decisions still to be made by the Board.

#### Stormwater Facility

The maintenance and cost of the stormwater facility is the responsibility of the applicant. During the site plan process, the applicant is required to submit a maintenance agreement for the stormwater facility. The County requires the applicant submit an easement dedicated to public use regarding the stormwater facility in case the County should ever need to take over the facility at some point in the future; however, it is not the County's intent to be responsible for stormwater facilities located in private developments. The applicant is in the process of purchasing the adjacent property which shares the pond that will be used for the stormwater facility. A rezoning request has recently been submitted for Wickham Pond II.

#### Affordable Housing

The Director of Housing previously provided a Grow Smart article called Accessory Apartments: An Affordable Housing Strategy electronically to the Board (copy on file in the Clerk's office). The Director has been invited and plans to attend the Board meeting so that there can be additional discussion regarding the affordable housing proffer.

Previously the Planning Commission and staff recommended approval of the rezoning with the offered proffers. The purpose of this summary is to give the Board the information requested during its October 12<sup>th</sup> public hearing.”

Mr. Cilimberg said that the county has received new set of proffers from the applicant that would increase the cash contribution from \$1,000 per lot to \$3,225.81 per lot – for a new total of over \$300,000; and also drops the requirement that the county spend that money within 10 years of the last payment of contribution. He added that the other proffers remain unchanged.

Mr. Rooker asked Mr. Cilimberg to point out the location of the project in the master plan. Mr. Cilimberg indicated the location on the map before the Board and stated that it is just west of the Highlands project. In response to Ms. Thomas question, Mr. Cilimberg said that the project is in the upper end of the density range as allowed by the master plan and provides interconnection to an area on the western side that is subject to a second rezoning, which is of comparable density.

Mr. Boyd pointed out that the money being proffered was for infrastructure, not for affordable housing. Mr. Cilimberg confirmed this, stating that the applicant's intent is to have the cash address improvements as the county might choose in Crozet, perhaps the Eastern Avenue project.

Citing concerns about the cost of traffic lights and if the level of service "E" at Route 240/250 is 6.8 percent, Ms. Thomas asked what the cost of improvements would be to raise that level of service. Mr. Cilimberg said that if the intersection were to include a traffic circle, the cost would be greater. It would not be that expensive just to achieve signalization.

There being no other questions from the Board at this time, the public hearing was opened.

The applicant, Mr. Vito Cetta of Weather Hill Homes, addressed the Board. Mr. Cetta mentioned that until recently, Crozet had zoning designations that were higher than by-right, but the master plan process changed those designations to accommodate more carefully planned developments. He emphasized that his plan is consistent with density, road patterns, and open space of the master plan, adding that he worked with the neighbors from the Highlands to resolve their concerns. Mr. Cetta said that the ARB has approved the plan, and he has acquired seven properties to the east and west of the entrance so that VDOT has the proper rights-of-way. He noted that the Planning Commission approved his plan unanimously, noting that it met all 12 standards of the Neighborhood Model.

Mr. Cetta said that they have provided affordable housing through 14 accessory apartments, and there has been no money to "subsidize a buyer," so the cash proffers and rentals help cover that. He stated that they have been good architects and builders, and he is proud of their project such as Ednam, Parkside, and Waylands Grant. He thinks they have done exactly what the Comp Plan calls for in the growth area. If this project is not in the growth area, then it would have to be in the rural areas.

Mr. Mark Powell addressed the Board, noting that they are proffering \$300,000 that might be used for the Eastern Connector, signalization, schools, etc. He added that they want to be "part of the solution" for infrastructure. Mr. Powell said that Weather Hill has three other projects they are working on in Crozet, and using the same formula as Wickham would be willing to proffer an additional \$750,000 over an eight-year development period.

Mr. Jared Ohmer of Renaissance Planning Group addressed the Board, stating that Weather Hill asked his firm to do the study for Wickham Pond. He noted that the numbers coming online each year are actually "too aggressive," and may not be realized until 2013 or 2014. He said that there may need to be some intersection improvements at Route 250/240, but all intersections would be improved with the development of Eastern Avenue and all of the local connector roads, and improved services such as shopping to be located in Crozet.

Mr. Eric Antmann, President of the Western Ridge Owners Association, addressed the Board. He pointed out the location of Western Ridge's clubhouse. This development includes 180 homes, and the residents had concerns about how their views would be impacted. Mr. Antmann said that based on the plans presented, Weather Hill seems to be a well-designed neighborhood. He encouraged the Board to pursue all elements of the Crozet Master Plan "in tandem," including infrastructure and other public services. Mr. Antmann said that he would like the northern terminus of Eastern Avenue to be built as shown, not cutting through Western Ridge. He added that the subdivisions are piling up, and there is disbelief among constituents that all elements of the master plan are being brought up simultaneously.

Mr. Don Rich addressed the Board, stating that Wickham Pond will be right in his backyard, but he believes it will be a nice development and he supports it. He emphasized the need for improvements at the Route 240/250 intersection.

Mr. Tom Loach addressed the Board, stating that this is a great project, but the annual CIP impact will be \$151,000 and the annual operating impact will be \$88,000 for a total of \$239,000 a year. He asked how this was offset by commercial development stipulated in the Crozet Master Plan, but that analysis had never been done. Mr. Loach said that the by-right analysis shows a net impact of \$3,000 and a CIP impact of \$7,000. When you deal with partial data and you do not look at the end consequence, this essentially is about a quarter of a million dollar tax increase for the residents of the county. Mr. Loach emphasized that this is a good development, but without a lot of data to support it.

Ms. Mary Rice addressed the Board. Ms. Rice stated that this is a difficult place for a "responsible Crozet citizen to be in." She said that Mr. Cetta has done some very nice developments, but expressed concern that it is not good planning to knowingly add more traffic to an intersection that is already an "E" level of service. Ms. Rice said that minimizing the dwelling units in each rezoning will at least lessen the harm done in this already bad situation. She emphasized that the answer to traffic

problems along Route 250 will not be a widening of that route, but rather an expensive Eastern Avenue. Ms. Rice acknowledged that the CIP is behind on funding projects in Crozet, which has bred skepticism about infrastructure promises such as the sidewalk from Crozet Pizza to the hardware store. She emphasized that the past is not a telling of the future in Crozet, because the subdivision rezonings currently in the pipeline there add up to 3,000 units – for a population of 11,000. Ms. Rice encouraged the Board to look very carefully at each rezoning and also look at affordable housing.

Mr. Hugh Marr said that he moved from Roanoke to get away from “out of control development,” and came to the Charlottesville because there were growth areas as well as open space areas. He stated that he does not understand how a rural property can be zoned for dense development when Route 240 is already overcrowded.

Mr. Cetta stated that he is very sympathetic to the fact that people do not want change. In fact, he likes Charlottesville better now than when he went to school here in the 1950's. He said that Crozet will be a wonderful urban community if the county follows through with the master plan.

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

Mr. Wyant asked to hear from Ron White, Director of Housing.

Mr. White said that the expected rents for Weather Hill's two-bedroom units would certainly be in the affordable range. He said that the efficiency unit would also fall in that range. Mr. White noted that there is very little rental property available in Crozet, and the density allowed for in the master plan would allow for these affordable units.

Mr. Wyant commented that rental units do create additional parking needs. Mr. Cilimberg responded that the parking is reviewed during the site plan process.

Mr. White said that with the single-family projects, they have the ability to maintain affordability for up to five years, but with individually owned rental units, he is not sure that they have that control. Their desire is to see a mix in use. Mr. White said that the county has seen affordable rental as not being a big issue, but affordable home ownership has been the bigger issue. He said that with condo conversions, that may “flip.” He noted that with Old Trail, there are 15 percent of units dedicated as affordable, but they would need to be designated on each individual site plan because five years from now, the need may be totally different. On the larger developments, they want to see the mix and the flexibility.

Mr. Rooker asked if an owner could use an accessory unit for their own needs rather than renting it out. Mr. White replied that that is a possibility, and there is no good way of controlling what the market will bear. He noted that the Belvedere carriage houses are the largest cluster of accessory units.

Mr. Wyant asked about the impact analysis that accompanies the rezonings. Mr. Cilimberg replied that the prior report the Board received had an analysis based on earlier project submittal, which was done in May and provided as an attachment dated July 19<sup>th</sup> to the Planning Commission.

Mr. Rooker said that every neighborhood has a negative fiscal impact because of factors such as children in the homes going to school – which costs the county about \$12,000 per year per child – and a \$300,000 home only provides about \$2,400 per year in taxes. He added that fire, rescue, parks, etc. add to those costs. Residential building by itself is never going to show a positive fiscal impact, and the more affordable you get the houses, the worst the fiscal impact.

Mr. Cilimberg said that the hope is that there would be less impact in communities like Crozet, where people would be able to live, work, and shop in the area rather than having to commute.

Ms. Thomas stated that her hope is that this particular development is helpful to Crozet, and if there are not alternative places for people to live they will move to the rural areas. We are not hurting the rural areas by having this kind of development. She does hope the Board will do more in the future to protect the rural areas.

Mr. Rooker emphasized that the Board has taken steps to protect the rural areas. He said that he is not going to support the rezoning. Mr. Rooker explained that Mr. Cetta has built out a number of good developments in Crozet and other locations in Albemarle. This is a good design. Mr. Rooker said that Board members should consider the fact that they have approved a substantial number of housing units in Crozet already, such as Old Trail, which will build out much of the infrastructure called for in that area. This development has the right features, but is at the wrong time. He thinks the Board should target their approvals to developments that are actually going to build out a substantial amount of the infrastructure that is necessary in Crozet for ultimately infill sites like this one. This is not going to build any substantial infrastructure that is important [to Crozet].

Mr. Boyd disagreed, stating that he wants to make sure there is a place for the “small” developer, and approving just developments that can afford to put in roads, etc. would open the door for the larger northern Virginia type developers.

Mr. Wyant commented that he has been discussing with local developers in Crozet the possibility of using seed money to help build the Eastern Connector, adding that it would need to be determined what parcel would connect Route 240 and Route 250. He suggested taking the \$300,000 to begin the Eastern Connector, and asking future developers in Crozet to add to that effort. Mr. Wyant said that the

other item needing attention and funding is the downtown area of Crozet. We have got to look at some ways to build this infrastructure. He liked what I saw being contributed with this project.

Mr. Rooker responded that \$300,000 paid out over seven or eight years is not going to do a whole lot toward funding major improvements in Crozet. The impact of the people is probably going to be a lot greater than that one-time payment of \$300,000 over a period of eight years. He added the developer's promise of an additional \$750,000 would involve yet another rezoning, with more homes and more people. Regarding the comments about big versus small developers, this development is not in that kind of location, and so he can't really do anything. He is not going to be constructing any major infrastructure that is going to benefit people outside of his development because of where he is located.

Mr. Rooker asked if the Board wants to approve infill sites when we have not gotten the sites developed that are going to contribute pieces or all of major infrastructure components that we know are necessary to fulfill the master plan there?

Mr. Wyant asked Mr. Rooker how he proposes that the Eastern Connector get built. Mr. Rooker replied that the only thing all this development is going to do is contribute traffic. It's not going to contribute a solution. He would be content to sit back and wait until the infrastructure is coming forward on that side of Crozet. He asked what the public good is coming out of a big upzoning that increases density by 20 times. Mr. Rooker said that Old Trail is going to help build out the infrastructure contemplated in the master plan for that side of the county, in contrast the Wickham Pond project is just an infill piece of property. He thinks the Board is making a mistake by systematically going around and allowing infill pieces of property to be upzoned substantially in areas that are not going to contribute significantly to the infrastructure necessary to handle the increase in density.

Mr. Dorrier commented that the only way to take pressure off the rural area is to support infill and the Neighborhood Model, which is what this is.

Mr. Rooker said that the county needs to watch where the lots are developing, as they have already approved rezonings in the growth areas. We're not in a mode right now where there are no lots coming on lots in the growth areas. We've got substantially more coming on line than the community's ever consumed over a period of three or four years. He emphasized that not every project needs to be approved when the developer brings it forward, but rather the Board can make a judgment as to what the appropriate time is. He thinks the Board has the right to set the time on when things are appropriate to come forward in the community.

Mr. Dorrier said that the Board has a duty to work with the developer and bring the infrastructure up to speed. Mr. Rooker responded that the infrastructure on that side of the county is not up to speed, and if it is to be brought up to speed, the county needs to work with developers to make that happen, along with some allocation of public funds.

Mr. Wyant stated that there needs to be some way to get the Eastern side of the infrastructure built. Mr. Rooker said that this will add to the burdens on the infrastructure, not help it. He emphasized that there are adequate sites coming online now to accommodate growth in Crozet for the next ten years. He does not think we should approve projects like this, given all the facts and circumstances we have in Crozet right now.

Mr. Dorrier said that there are developments that have traffic problems, and this is inside the growth area as well as meeting the Neighborhood Model criteria.

Mr. Slutzky commented that not all of these units are going to be built immediately, and the rezoning won't cause new people to arrive in the county. What it will do is impact where they can go. It might mean that there is one less person moving into Old Trail. He is not sure that approving this per se is going to up the overall cost burden on the infrastructure." He added that this is a particularly good example of good design inside a master planned area of the designated growth area. He thinks our big challenge here on the Board is to really tackle the challenges that the county has – we have to figure out how to put some constraints on the dynamic of growth in the rural areas. Mr. Slutzky said that maybe it is time to talk proactively about phasing, clustering and mountaintop protection and honoring proposals for development inside the growth area that are consistent with the Neighborhood Model design.

Mr. Rooker said that there is a lot of property in the county designated that might be rezoned, but that does not mean it has to be rezoned "today." He noted that there is limited demand, and it would be helpful to the county and Crozet if the rezonings are being done in a way that strategically helps satisfy the infrastructure requirements as opposed to approving infill sites that do not do that.

At this time **motion** was offered by Mr. Dorrier to approve ZMA-2004-017 as proffered by the applicant. Mr. Wyant **seconded** the motion. He then asked if the proffer could be designated for the Eastern Connector.

Mr. Davis responded that that decision would happen during the CIP process.

Ms. Thomas said that she appreciates all of Mr. Rooker's points, but believes that this is the kind of zoning wanted here. She indicated that the issues raised should be discussed in more detail by the Board at another time.

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

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

Original Proffer X

### PROFFER FORM

Date of Proffer Signature: 1/04/06  
ZMA# 2004-17  
Tax Map 56 Parcel Number 92

20.52 Acres to be rezoned from RA to NMD (Neighborhood Model Development) in accordance with the Code of Development (dated July 8, 2005) and Application Plan (dated July 8, 2005)

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions and (2) such conditions have a reasonable relation to the rezoning request.

1. The owner shall contribute \$300,000 cash to the County's capital improvement program for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements, schools, libraries, fire and rescue, parks or any other public use serving the Community of Crozet as identified in the Comprehensive Plan. Contributions shall be made in increments of \$3,225.81 cash per lot, prior to or at the time of issuance of a building permit for any improvement thereon.
2. There shall be a maximum of 107 dwelling units on 93 lots in the development. Ninety-three units are illustrated on the General Development Plan, identified as the Application Plan, prepared by Terra Concepts, PC, dated May 2, 2005, last revised July 8, 2005 (the "General Development Plan"). Fourteen of the 93 units are identified on the General Development Plan as housing types "E" and "F". These fourteen units shall be constructed and maintained as two-family dwellings as defined in the Virginia Uniform Statewide Building Code. The declaration of covenants for Wickham Pond shall contain this language for the 14 units: "The townhouse units on Lots 57-66 and Lots 1, 14, 17 and 18 within Wickham Pond are constructed and must be maintained as a two-family dwelling as defined in the Virginia Uniform Statewide Building Code."
3. In order to protect views from abutting lots within the Highlands Subdivision, the lot lines for Parcels 48 through 54, and the building locations thereon shall be in substantial accord with such lot lines and building locations as shown on the General Development Plan. Variations to such lot lines and building locations may be authorized under Zoning Ordinance § 8, including Zoning Ordinance § 8.5.5.3 provided that, in addition to all other applicable requirements, the Director determines that the variations do not materially and adversely affect such views to a greater degree than if such lots were platted and developed in the locations shown on the General Development Plan.

Marc C. Powell (signed)                      Weather Hill Holdings, Ltd.                      January 4, 2006

Agenda Item No. 27. **SP-2005-010. Bart Neumann - Boat Dock 315 Rivanwood Place (Sign #42). Public hearing** on PROPOSED: Private boat dock on the South Fork Rivanna Reservoir. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH--Flood Hazard: overlay to provide safety and protection from flooding. SECTION: 30.3.05.2.1(2) Water Related Uses within the Floodway. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre). LOCATION: Dock to be placed at west side of the Reservoir (TMP 45-67A), approximately 0.60 mile upstream of the Earlysville Road (Route 743) bridge crossing. Dock to serve Neumann property (TMP 45-185). MAGISTERIAL DISTRICT: Rio. (Advertised in the Daily Progress on December 19 and December 26, 2005)

Mr. Cilimberg reported that this request is to install a private boat dock in the floodplain of the South Fork Rivanna Reservoir. The RWSA has reviewed the application and approved the construction permit for the dock. He said that the city has supported the application by adding their signature to the special use permit application. The addition of the proposed dock would not appear to create adverse impacts or detract from primary use of the reservoir – the public water supply – but staff realizes that a proliferation of residential boat docks could potentially detract from its' primary use.

Regarding this particular parcel, Mr. Cilimberg said, it was in existence prior to the adoption of the Water Protection Ordinance and the resulting 200-foot vegetation buffer requirement. He added that the existing lot improvements and lot configuration prevent the establishment of vegetation within the full width of the buffer. Mr. Cilimberg pointed out that the area is currently a narrow strip of woody vegetation and a mowed yard, and the buffer can be enhanced by eliminating a portion of the mowed area and allowing for natural regeneration of vegetation. He said that staff recommends that the existing buffer be enhanced by discontinuing mowing the area between the normal pool elevation of the reservoir and the elevation of the edge of the floodplain to allow establishment of additional vegetation immediately adjacent to the water, which will provide water quality benefit.

Mr. Cilimberg concluded that staff and Planning Commission have recommended approval with four conditions associated with lighting and restricting impacts for the required 200-foot vegetative stream buffer.

Public comment was invited. There being no comments, the matter was placed before the Board.

**Motion** was offered by Mr. Slutzky to approve SP-2005-010 subject to the four conditions recommended by the Planning Commission. Mr. Boyd **seconded** the motion.

Ms. Thomas said this is actually a controversial item because of the potential threat to the reservoir, but staff and the Planning Commission have worked hard to minimize the impact.

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

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

NAYS: None.

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

1. There shall be no lighting within twenty-five (25) horizontal feet of the Reservoir, measured from the elevation of normal pool, which is Elevation 382. See Attachment H (copy on file in Clerk's office);
2. There shall be no removal of vegetation or earth disturbance within the two hundred (200)-foot stream buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 390. See Attachment H;
3. There shall be no other structures, such as decking or stairs, constructed in the two hundred (200)-foot stream buffer; and
4. Vegetation shall be allowed to naturally regenerate in the buffer area between the normal pool elevation of the Reservoir (Elevation 382) and the elevation of the edge of the floodplain (Elevation 390), where mowing has historically taken place. See Attachment H.

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Agenda Item No. 28. **SP-2005-030. Michael Caplin Boat Dock (Sign #47). Public hearing** on PROPOSED: Private boat dock on the South Fork Rivanna Reservoir. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH-- Flood Hazard: overlay to provide safety and protection from flooding. SECTION: 30.3.05.2.1(2) Water Related Uses within the Floodway. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre). LOCATION: Dock to be placed at west side of the Reservoir (TMP 45-67A), approximately 0.70 mile upstream of the Earlysville Road (Route 743) bridge crossing. Dock to serve Caplin property (TMP 45-187). MAGISTERIAL DISTRICT: Rio. (Advertised in the Daily Progress on December 19 and December 26, 2005)

Mr. Cilimberg reported that the findings for this dock are the same as the previous, as it is adjacent to the Neumann property, and the parcels existed prior to the establishment of the Water Protection Ordinance. He noted that the existing lot improvements and configurations prevent establishing the full width of buffer here as well, but there is currently a buffer of woody vegetation between the normal pool elevation of the reservoir and the elevation of the edge of the floodplain. Mr. Cilimberg said that the existing vegetation does provide water quality benefit, which staff recommends be preserved.

Public comment was invited. There being no comments, the matter was placed before the Board.

Mr. Slutzky **moved** approval of SP-2005-030 subject to the three conditions recommended by the Planning Commission. Mr. Boyd **seconded** the motion.

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

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

NAYS: None.

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

1. There shall be no lighting within twenty-five (25) horizontal feet of the Reservoir, measured from the elevation of the normal pool, which is Elevation 382. See Attachment H (copy on file in Clerk's office);
  2. There shall be no removal of vegetation or earth disturbance within the two hundred (200)-foot buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 390. See Attachment H; and
  3. There shall be no other structures, such as decking or stairs, constructed in the two hundred (200)-foot stream buffer.
-

**(Note:** At this time the Chairman recognized Delegate Mitch Van Yahres upon his retirement from the General Assembly:)

*On behalf of the Albemarle Board of County Supervisors and local government, we would like to honor and recognize*

***Delegate Mitchell Van Yahres***

*for his outstanding service as a local representative to the Virginia House of Delegates for more than two decades, from 1981 to 2005. Delegate Van Yahres was always an accessible legislator who sponsored and advocated legislation to advance and protect the quality of life in our community.*

*Delegate Van Yahres served on critical legislative committees such as the Education Committee, the Finance Committee and the Agriculture Committee, for which he served as chairman.*

*During Delegate Van Yahres' time in the state legislature, his persistence over numerous years resulted in the establishment of a public defender office for Albemarle County and the City of Charlottesville.*

*Delegate Van Yahres was as an early supporter of eliminating the sales tax on food, and for his tireless efforts to promote reading programs and family involvement in our schools and to bring "photo red" traffic light enforcement to the county.*

*Delegate Van Yahres' distinguished service always was accompanied by a big grin, a quick wit and an affable demeanor.*

*We, as a community, are strengthened by the contributions and commitment of citizens such as Delegate Van Yahres whose dedication, professionalism and advocacy make Albemarle County a better place to live and work. We express our deepest appreciation to Delegate Van Yahres for his remarkable service to Albemarle County and to the State of Virginia, and wish him well as he continues in his role as an honorable member of and advocate for this community.*

*Signed and sealed this 4th day of January, 2006.*

Mr. Van Yahres thanked the Board said that it has been a pleasure to work with the Board.

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Agenda Item No. 29. **SP-2004-004 Lewis & Clark Exploratory Center (Sign #89.92,94).** **Public hearing** on a request to allow establishment of the Lewis and Clark Exploratory Center of Virginia, in accord w/Zoning Ord Secs 10.2.2.49 & 13.2.2.13, which allow for historical center & modification to Sec 5.1.42. In addition to 15,000 sq ft bldg, trails & constructed exhibits are proposed. Special events & festivals may also be requested. The park property, TM 62 P 23, contains total of approx 102 acres. 2nd RA, R-1, EC & FHO. The proposed site is located on approx 18 acres at northern end of Darden Towe Park, on W side of Stony Point Rd (Rt 20 N), approx one-half mile N of intersec w/Richmond Rd (Rt 250 E). Rivanna Dist. (Advertised in the Daily Progress on December 19 and December 26, 2005)

Mr. Cilimberg reported that the center is located within Darden Towe Park, and would consist of a 15,000 square foot structure. There are other facilities that have also been proposed. He said that the access to the facility is now proposed along an existing gravel road that circles around the park to the east and along the Rivanna River. The road would be extended approximately one-quarter mile from where it currently ends in the park and would need to be upgraded for access to the site. He said that the expected visitation is 45,000 to 50,000 annually, with 200 trips per day to the site anticipated.

Mr. Cilimberg said that the Commission held their public hearing on the item, but deferred the request to have several issues addressed, including the access to the center which had originally been proposed from Route 20. He stated that the Commission wanted to receive information on the impacts of that new location especially as it related to the 100-year floodplain. Mr. Cilimberg said that a site plan is required for historical centers, and more detailed engineering regarding that access would be a part of the site plan review. Regarding the Eastern Connector location, he said the Commission wanted more information but the study is not expected to be completed before 2007. He said that there was also a question about the proposal meeting the definition of "historical center" under the ordinance. The Zoning Administrator has made the determination that the proposed center does meet the definition.

Mr. Cilimberg reported that staff found the proposal to be consistent with the Comp Plan designation of parks and greenways, given that it will have civic and educational components to its use. He said that staff recommended seven conditions of approval, and the Commission recommended approval with two additional conditions regarding amplified noise and the stipulation of the review under the lease agreement. Mr. Cilimberg said that they also limited the approved area for the special use permit for that area to the south of the creek. The improvements shown on the plan that are north of the creek would not be covered under the permit.

He said that if the Board agrees with the Planning Commission, condition #2 would no longer be necessary as it is in the area north of the creek, and under condition #7, the timber fort and lookout tower would not be necessary.

Public comment was invited.

Ms. Sophie Johnston, a landscape architect with Nelson Bergwoltz Landscape Architects, addressed the Board. She said that she has been working with the center for several years on this project. She emphasized that every effort has been made to make the project site-responsive and ecologically sensitive. Ms. Johnston said that the centerpiece of the center is a 15,000 square foot building that will be built with sustainable materials using sustainable building practices. She said it will have a green roof and will capture and reuse rainwater and will be built into the side of the hill to reduce energy costs. Ms. Johnston said that the building is sited to take advantage of the beautiful views up river, and is situated on the edge of an existing field in order to minimize tree-clearing. She explained that the purpose of the center is to create an interactive educational center for hands-on interpretive exploration of the Lewis & Clark expedition.

Ms. Johnston said that the center will also include outdoor classrooms and demonstration places that will be designed as a transition between the building and the site. She noted that the entrance road is a 1,500-foot road that comes up the hillside just west of the center, and is an extension of the exiting gravel road that skirts the edge of the western side of the park. Ms. Johnston said that a portion of the new road crosses the 100-year floodplain, as does the existing road, but the road and associated grading is outside of the 100-foot setback. She stated that her firm would like to use a permeable paving material, but the engineers have recommended that the road be asphalt because of the slope, and it is planned to be graded to not exceed ten percent of the hillside. Ms. Johnston emphasized that the new location for the road instead of the original one coming off of Route 20 is aesthetically and environmentally much more sensitive.

Ms. Johnston noted that there is a parking lot south of the building that accommodates 83 cars and two buses, and the engineers have recommended asphalt even though her firm would prefer a permeable substance. She said that the area north of Trevillians Creek is an integral part of the center, and now has several trails on the plan. Ms. Johnston said that the trail may be connected to extend the Lewis & Clark center to the birthplace of George Rogers Clark. She said that they are recommending that the upper trail be upgraded to a four and one-half foot wide path to allow more visitors to pass through the woods, and culminate in a rustic timber fort similar to a western fort.

Ms. Johnston said that the tower proposed would not exceed 35 feet and would be tucked in the canopy of the trees to allow visitors to orient themselves in relation to the Blue Ridge and Monticello Mountains. She concluded that they have kept all buildings and site disturbance outside of the critical slope areas apart from a small section that the entrance road passes through, and all are outside of the 100-foot stream setback. Ms. Johnston said that most of the existing cross-country trails are left as they are except for a few that needs to be shifted to accommodate the parking lot and building. She explained that the plan does require a slight shift of the existing dog park – 20 feet up the hill – and the plan also shows how the accessible trail could be accommodated and a pedestrian bridge could be put up to cross the Rivanna into Penn Park.

Mr. Fran Lawrence, President of the Lewis & Clark Exploratory Center, addressed the Board, and said that they are asking for a modification to the Planning Commission's recommendations to allow a small tower and a log fort replica of the explorer's Wood River structure. He emphasized that both are hand-hewn homemade structures that would minimally impact on anything that happens north of the creek and would not have any affect on a decision on the Eastern Connector placement. Mr. Lawrence reminded the Board that the center has committed to accommodate the Eastern Connector should it cross their property. He presented a brief map history of where the explorers originated. Mr. Lawrence asked for those in support of the project to raise their hands.

Mr. Lawrence emphasized that the lease requires the center to bond to complete any improvements, and requires the county and city to approve those improvements. He said that the first phase with pavilion and parking could be used even without the center.

Mr. Boyd asked about the impact of building anything above the creek as it relates to approval of the Eastern Connector.

Mr. Davis responded that that has been an issue, and the county addressed that in the lease, which requires them to make no improvements that would be ultimately in conflict with the Eastern Connector.

Ms. Thomas said that the specific mention was about anything "federally funded."

Mr. Rooker emphasized that he wants to make sure they are not put in a situation where something is created that causes a significant problem for Eastern Connector placement. Mr. Davis responded that this does not create any more problems than we already have.

Mr. Slutzky asked if it would make a difference to spend federal money on the trail that goes across the property. Mr. Davis replied that it is a potential issue, but probably not one that complicates it any more. He said that in section 2.5 of the lease it gives the county and city the right to withdraw any portion of the lease premises that is necessary for future construction of a state highway. Mr. Davis said that the county can withdraw that portion of the lease and require them to remove any improvements. He does not think from the legal standpoint it makes it any worse.

Mr. Slutzky asked if it would be worthwhile to consider having the path that goes across the road separated out and funded separately from federal monies. Mr. Davis responded that staff can look into it, although he doesn't think it will make a difference.

Mr. Wyant said that the criteria are the distance, not necessarily whether it crosses.

Ms. Thomas said that federal funding has been used in Darden Towe Park anyway.

Mr. Davis clarified that the federal funding requirement has to do more with disturbing parkland and requires a different environmental review (4-F) that mandates all reasonable alternatives to be examined before the path is chosen. He reiterated that this project itself doesn't change the legal requirements that must be undergone.

Mr. Pat Mullaney, Director of Parks and Recreation, stated that the grant received for Darden was only state funds, not federal funds.

Public comment was invited.

Ms. Thomas pointed out that she and Mr. Dorrier are members of the Exploratory Center Board, which is not a conflict of interest as stipulated in the FOI act for volunteer members.

Ms. Kay Slaughter addressed the Board, stating that she also serves on the Exploratory Center Board. She noted that the Planning Commission seemed to be mixing up the 4-F discussion. She emphasized that the focus is on the river, and bringing people to the Rivanna to experience the history which is a big part of the project, just as Scottsville has done. Ms. Slaughter said that the Rivanna should be considered the "highway" of the Monacan nation from Route 29 to Fluvanna. She emphasized that the project will hopefully bring more people to experience the natural resources of the park and the river in particular and the history. Ms. Slaughter said that the Center Board will be coming before the Supervisors with a more detailed plan as it emerges.

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

Mr. Boyd asked if a change to the language is needed.

Mr. Cilimberg said that the Board would need to remove the last sentence in condition #1 that restricted the special permit to just the south side of the creek. He stated that everything else in the conditions is applicable to allow the activities on both sides of the creek.

Mr. Boyd then **moved** for approval of SP-2004-004 subject to the nine conditions presented, with the deletion of the last sentence in condition #1. Mr. Dorrier **seconded** the motion.

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

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

NAYS: None.

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

1. The site shall be developed in general accord with all sheets of the plan entitled "Lewis & Clark Exploratory Center," revised October 18, 2005 and prepared by Nelson, Byrd, Woltz. Setbacks indicated in the table on sheets L3.1 and L3.2 do not set increased minimum setbacks;
  2. The top of the Lookout Tower, measured in elevation above mean sea level, shall not exceed [AMSL + 35]. The approved height shall at no time be taller than the tallest tree within twenty-five (25) feet of the Lookout Tower, and shall include any base, foundation or grading that raises the tower above the pre-existing natural ground elevation;
  3. A maximum of twelve (12) special events, in accordance with Section 5.1.42.i, are authorized per calendar year;
  4. A maximum of four (4) festivals, in accordance with Section 5.1.42.j, are authorized per calendar year;
  5. A lighting plan and a landscaping plan shall be submitted, reviewed, and approved by the Architectural Review Board prior to final site plan development plan approval;
  6. In accordance with Section 32.7.9.9, a twenty (20) percent tree canopy shall be required for the site based on the disturbed area for the historical center building, parking, and access road;
  7. Prior to any grading or construction activity, the limits of the one hundred (100)-year flood plain and stream buffers, where adjacent to constructed proposed improvements including the amphitheater, timber fort, lookout tower, entrance road and retaining wall, shall be flagged at ten (10)-foot intervals by a land surveyor to prevent encroachment land disturbing activity, storage of construction equipment or materials, and actual construction of improvements during construction;
  8. Outdoor amplified noise is not allowed on site; and
  9. As stipulated in the lease agreement between the applicant and the City and County, the proposed improvements are to be reviewed by the City and County prior to construction to make sure there are alternative uses available for the improvements should the venture fail.
-

**(NonAgenda.** At 4:12 p.m., the Board took a recess. The Board reconvened at 4:25 p.m., with everyone present)

Due to the time, the Board skipped Agenda Item No. 30 and went to Agenda Item No. 31.

Agenda Item No. 31. **Work Session:** North Pointe Rezoning.

Mr. Mark Graham presented the following executive summary which was provided for information to the Board:

"North Pointe came to the Board in December 2003 with a recommendation for denial from both staff and the Planning Commission. Reasons for recommending denial included:

1. Environmental features had not adequately been protected.
2. The design and form did not:
  - appropriately support pedestrians
  - sufficiently interconnect streets to adjoining properties
  - address the need for amenities in parks and open space
  - relegate parking
  - integrate different housing forms throughout the development
3. Lack of opportunity for Architectural Review Board input on conformity with Entrance Corridor guidelines.
4. Insufficient amount of affordable housing
5. Missing information, including grading and lot standards.
6. Proffers for streets were primarily VDOT requirements, not offers for mitigating additional impacts from the development.
7. Proffers included dependence on the Board's future creation of a Community Development Authority (CDA) for improvements which in other cases would be provided by a developer as standard development costs.
8. Improvements shown on the plan could not meet County/state requirements for streets and stormwater.
9. A proffer for a school site whose size was not acceptable to the School Board and with a sunset so short as to make the proffer meaningless
10. Proffers were confusing and not provided in a legally acceptable form.
11. Standard information requested by the Commission was not provided to adequately assess the proposal.
12. Commercial square footage could not be reasonably absorbed over the next ten years.
13. Lack of an appropriate and equitable contribution to a transportation study for Route 29.

Throughout most of 2004, the Board and a smaller subcommittee appointed by the Board worked with the applicant to try to resolve the outstanding issues identified by both the staff and the Planning Commission. The Board last reviewed this project on November 10, 2004 during a work session. Staff indicated that staff and the applicant were at an impasse on proffers. Staff recommended that the Board vote the project up or down rather than continue to ask the staff and applicant to find mutually agreeable resolution to the outstanding issues. The Board agreed with staff and advised the applicant to bring the project back when the applicant's proffers were ready for a public hearing and action by the Board.

Over the last 14 months, the applicant has resubmitted proffers and a plan three times. The applicant has been working towards developing legally acceptable proffers which could be approved if the Board wished to approve the project

The last submittal is attached to this staff report and is under review for the public hearing scheduled on February 8, 2006. At present, staff has not completed its review of the wording of the proffers submitted December 9, 2005 to advise on whether or not they could be approved in February. Staff would like to focus the Board's attention on the "big picture" issues that will help instruct actions on the rezoning and special use permit in February. If the "big picture" issues are not resolved to the satisfaction of the Board of Supervisors, then whether the proffers are in an acceptable form may be a moot issue.

Between the Planning Commission's public hearing in 2003 and now, many of the issues raised by the Commission have been resolved. These include:

- Identifying and protecting critical environmental features
- Providing interconnections
- Providing sufficient amenities for parks and area for open space
- Integrating different housing types throughout the development
- Proffering the school site for a period of 20 years
- Proffering a library site
- Removing the requirement for the Board to create a CDA for funding improvements to the project
- Taking the project to the ARB for comment
- Providing grading information

The major changes since the Board last saw the proposal include dropping the CDA from the proffers, increasing the donation of money for a transportation study from \$25,000 to \$100,000, providing a calendar date (5 years from approval of the first site plan) for construction of Northwest Passage to

Route 29, and acceptable timing and improvements related to the dedication of land for a school site and library site.

From a staff perspective, the following issues have not been resolved:

1. **Form and design of project** – The Planning Commission did not endorse the design or form of the project before Board review. Changes were made to the design as a result of input from the sub-committee appointed by the Board and the sub-committee was satisfied that the design and form was adequate. Staff, however, believes that the project relies largely on redevelopment of the expansive parking lots at a future date to achieve relegated parking. The large commercial area does not promote a pedestrian orientation.
2. **Commercial absorption rate** – As one of the matters to be considered with a rezoning, the Code of Virginia provides that localities consider “the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies.” Early in this project’s review, the County’s Fiscal Impact Planner performed a study which concluded that the County could not absorb the amount of commercial square footage proposed with Hollymead Town Center, Albemarle Place and North Pointe during a ten-year period. The applicant disputed the County’s study with its own study showing that “leakage” was occurring in the market to Northern Virginia and Richmond that could be captured in Albemarle County. When the discussion regarding over-saturation of the market took place with the Board of Supervisors, most Supervisors did not believe that this issue was as important as allowing market forces to determine the amount of commercial square footage developed over time.

Since that time, the County’s consultants with the Places29 Master Plan study (ZHA) have also identified that the Route 29 corridor has significantly more available commercial space than demand over the next 20 years, suggesting that there is an excess inventory of commercial space even without North Pointe. Two consequences of zoning in excess of demand are stale zoning and vacancies.

- A. **Stale zoning** – Zoning land before a particular use is needed can result in “stale zoning”. Stale zoning occurs when zoning classifications on land no longer represent land uses recommended by the Comprehensive Plan. Undeveloped or underdeveloped land zoned industrially in the County’s designated rural areas represent one example of stale zoning. Stale zoning inhibits the County’s ability to respond to changing conditions and desires of the community. Staff believes this rezoning will result in stale zoning in the commercial portion of the project.
  - B. **Overbuilding and vacancies** – Zoning in excess of demand increases sprawl, with loss of “greenfield areas”, and vacancies in existing developed areas. In Albemarle County, competition for commercial tenants is aggressive and vacancies already exist in shopping centers along Route 29. An oversaturated inventory of commercial space will increase vacancy rates and limit redevelopment opportunities in the Route 29 corridor. North Pointe’s location on the fringe of the commercial area raises questions on its ability to build out its commercial area over the next 20 years. As noted above, staff believes the road improvement proffers that phase Route 29 improvements are structured to create an incentive to build no more than 290,000 square feet of commercial use in the foreseeable future. That fact, combined with the oversaturated market, leads staff to believe it is likely that North Pointe will see no more than 290,000 square feet of commercial space for a prolonged period of time.
3. **Places29 Master Plan process** – Staff believes that prolonged consideration of North Pointe is adversely impacting the Places29 Master Plan process. The consultants and the public do not know if the North Pointe property should be included for consideration and whether it can be considered in developing regional transportation solutions. This rezoning was submitted in 2000 and has been before the Board for more than two years. As a project on the fringes of the development area for which an acceptable plan and proffers have yet to be provided, staff believes that its future land use should be considered as part of the current master plan process.
  4. **Timing for southbound Route 29 improvements** – Improvements needed in the southbound lane include a required third lane, turns and tapers for street entrances, and correction of a vertical curve in the highway. Staff and the Board requested that these improvements take place by a specific a calendar date. The proffers, as written, would result in construction of a varying number of lanes with no date for completion of improvements. The applicant has not been willing to commit to a completion date for these improvements. Additionally, staff believes the road improvement proffers that phase Route 29 improvements are structured to create an incentive to build no more than 290,000 square feet of commercial use in the foreseeable future. Once that threshold is reached, the proffers to address Route 29 impacts require that expensive road improvements be completed. Staff notes that a similar proffer for road improvements with the North Fork development has not resulted in Route 29 road improvements for over a decade and it is not anticipated those road improvements will be done anytime in the foreseeable future. Thus, staff believes the County would see only part of the road improvements within the foreseeable future.

5. **Limitations of Route 29 improvements to available right of way** – Staff requested that the applicant unconditionally proffer Route 29 improvements similar to what has been done with Hollymead Town Center and Albemarle Place. Instead, the applicant limits proffered improvements to existing right of way. If the right-of-way is inadequate, the proffered improvements needed to address the impacts from this project will not be built.
6. **Library block design** – Staff and members of the Board of Supervisors requested that the library block be designed such that more of the buildings faced the street to create a walkable downtown plaza around the library and to better relegate parking. This change has not been made.
7. **Affordable housing** --The County adopted an affordable housing policy in 2004 and since that time almost all legislatively approved residential developments have provided 15% affordable units or an equivalent. While this project was originally designed and submitted before the policy was adopted, the project has now been under review for over five years. The Board of Supervisors has not seen the project for over a year. During the last year, two major rezonings have occurred approving 775 units and 2200 units, respectively. Each of these rezonings provided at least 15% affordable housing or an equivalent. Staff believes this project should not be treated any differently. The current proffer is for 8% affordable units – half for sale, half for rent; and \$300,000 to the County's Housing Initiative Fund. If the Board were to use an equivalent of \$20,000 per unit (as accepted for ZMA 04-02 Fontaine Ave. Townhomes), North Pointe would be providing the equivalent of 10% affordable units. Staff notes that the Board used an equivalent of \$1775 with ZMA 04-07 Belvedere; however, staff believes this equivalent recognized the by-right potential of Belvedere to be similar to the number of units rezoned.
8. **Overlot grading** – The applicant originally proffered an overlot grading plan for the residential sections of the development. Staff advised that the overlot grading plan was more appropriately contained in the special use permit conditions. As a result of overlot grading requirements not being approved with the recent subdivision ordinance amendment, the applicant now opposes the inclusion of any overlot grading requirements in the special use permit conditions. Although the issue of overlot grading in relation to subdivisions has not been resolved at the Board of Supervisors level, it is viewed as essential to this development because of the steepness of terrain and the need for consistency in grading where net density will be between 5 and 6 units per acre.
9. **25-foot landscape area and double rows of parking in Entrance Corridor** -- The Architectural Review Board (ARB) requested that a 25 foot landscape area be provided on the applicant's property between Route 29 and the parking areas. The ARB also requested that double rows of parking adjacent to Route 29 be reduced to a single row of parking in front of the buildings. The ARB asked for an integrated plan for the stormwater facilities and buildings so that the stormwater ponds are features rather than unattractive basins.

The applicant had been responding to the request for the 25-foot landscape area by saying that part of the area could be accommodated in the Route 29 right-of-way and part on the applicant's property. The applicant has proffered that, if the right-of-way is ever needed by VDOT or the landscaping removed, the 25-foot landscape area would be established entirely on the applicant's property. Legally, the applicant can make this proffer; practically, it is unworkable. Although the applicant has made the commitment in writing, in actuality, the future removal of parking and, possibly buildings, is very unlikely. Staff does not believe this proffer appropriately addresses the ARB's request. Double rows of parking adjacent to the entrance corridor have not been removed from the plan. Staff and the applicant agree to disagree. The applicant did proffer that the stormwater management facilities would be integrated into the remainder of the development. Staff believes that this proffer is appropriate and workable.

As presented in the December 2003 Board work session, North Pointe can have a net positive fiscal impact when completely built out. This situation occurs because of the amount of commercial space developed in relation to residential units. The net positive fiscal impact occurs only at build-out, however. As noted with the discussion on timing of improvements, North Pointe will have a disincentive for incremental increases in the commercial uses above 290,000 square feet. As such, residential development is likely to precede commercial development and have a negative fiscal impact for some period of time.

For all of the reasons listed above, staff recommends disapproval of the rezoning. To address concerns with the Places29 process, staff recommends North Pointe be scheduled for a public hearing at the February 8, 2006 Board meeting."

Mr. Boyd said that the minutes from the March 3, 2004 meeting indicate that the only outstanding issues left were affordable housing, the timing of transportation, and the CDA (which has been taken off the table), and wondered if the issues that were not a concern of the Board should be raised again.

Mr. Graham stated that that is the Board's choice, but staff's position would be to include those.

Mr. Rooker commented that it was an issue in staff's mind, and there have been issues with the form and design of the project every time it has come before the Board. He added that there has never been a vote taken on these individual issues, and the Board usually does not do that.

Mr. Boyd said that he is not sure why these issues are coming up again.

Mr. Rooker stated that he does not think every Board member would agree that issues such as commercial absorption rate should not be considered. He said that the Board is required to move forward with the rezoning, but that does not mean those issues are not valid in each Board member's consideration on how to vote.

Mr. Boyd said that he does not recall seeing data on vacant commercial space on Route 29.

Mr. Rooker noted that the decision to hold the item back was the developer's decision, not staff's, and there probably have been things said that not everyone recalls.

Ms. Thomas stated that it may not be possible to work out with the applicant all of the issues, such as commercial space absorption.

Mr. Boyd asked if that issue has been brought up with other rezonings. Ms. Thomas replied that it was brought up with Old Trail, as residents expressed concern about the impact of commercial space.

Mr. Rooker said that the Board required a phasing of the commercial because of that very issue.

Mr. Boyd expressed concern about the Board's inconsistency on what criteria to consider in rezoning applications.

Mr. Dorrier said that he believes the Board's obligation is to evaluate whether an application is the best use for a particular piece of property, noting that he had never heard the term stale zoning.

Mr. Rooker said that stale zoning means there is more commercial zoning – or any other type of zoning – than the market can absorb for some period of time.

Mr. Dorrier asked if that is a legal reason for denying a rezoning. Mr. Rooker replied that whether or not the Board approve a rezoning is discretionary with the Board.

Mr. Greg Kamptner, Deputy County Attorney, said that one matter for the Board to consider in rezonings are the current and future requirements of a community as to land for various purposes as determined by population and economic studies and other studies. He explained that other criteria are: reasonable consideration for the existing use and character of the property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of floodplains, the preservation of agricultural and forestal land, conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the locality.

Mr. Wyant asked whose responsibility it is to provide the Board with that data. He asked if that is supposed to come from the applicant because he does not feel like we get that kind of data.

Mr. Kamptner replied that since the decision is legislative, the information can come from any source, and certainly the applicant, staff, and the public can provide that information. He noted that the Comprehensive Plan is a guide for decisions, but there are other matters to be considered as well.

Mr. Rooker said that if the Board thinks the community is better off not rezoning the property, they can turn the development down. He emphasized that staff never recommended approval of this development, nor did the Planning Commission. Mr. Rooker said that the applicant has made changes to try to resolve some of the issues raised.

Mr. Graham emphasized that staff believes they have gone as far as possible with the applicant, and the item should be moved forward to public hearing. With what they have before them, staff is going to come forward with a recommendation for denial, and it is going to be for those reasons that he has outlined here.

Mr. Boyd said that he would like to see some numbers on commercial vacancy rates on Route 29 North. Mr. Graham said that the Board reviewed that preliminary information, and he would make sure they get that again before the public hearing.

Mr. Rooker stated that there was a fiscal impact study done with a report about commercial absorption, the projects coming on line, and how long it would take for the market to absorb those.

Mr. Graham said that if the greenfield developments such as North Pointe is not being built out, we are not going to have enough incentive under Places29 for redevelopment of currently underdeveloped space. He added that staff's concern is that this will encourage sprawl.

Mr. Dorrier asked about the NGIC site. Mr. Graham said that that the NGIC site would not do much toward that 20-year growth if it only employs 1,500 people.

Mr. Rooker asked staff to produce any reports done on commercial absorption. He said that it would be helpful to have the applicant make a presentation addressing some of these issues.

Mr. Chuck Rotgin, the applicant, stated that the staff reports being discussed were reports done by Steve Allshouse, not committee reports from the Fiscal Impact Committee. He said that there was also a big fiscal impact study done by Integra Realty Associates, which should also be provided to the Board.

Ms. Valerie Long, representing Great Eastern Management Company, addressed the Board. She said that she has been involved with the project for about one year.

Mr. Rooker said that it might be helpful to have some indication as to which versions of the proffers have changed. Mr. Graham said that there have been 12 or so versions to the proffers, but that staff would try to work with the applicant to get that.

Mr. Rooker said that the best way to proceed would be to take each item one by one for discussion.

Ms. Long stated that North Pointe is the only mixed-use community that truly incorporates all of those elements – housing, commercial, office, schools, libraries, parks, open space, river access. She said that it is a pedestrian-oriented community where multiple generations of families will be able to live, work, play, exercise, go to school, church, etc. Ms. Long said that there will be senior housing built also.

Mr. Boyd said that the plan was very different in the beginning than what is being presented now, and the Board spent a lot of time tweaking the design.

Mr. Rooker responded that during the initial review, it was suggested to the applicant that he design the road differently, but the applicant did not want to make that change.

Mr. Graham said that a lot of improvements have been made, but they could not get to that next step to really go to the form that they thought was appropriate here where they would have the parking relegated. It is still that suburban shopping center, and they never could make that final leap.

In response to Mr. Wyant's question about sidewalks, Mr. Graham said that the only way to get from the sidewalk to the building is to walk through a large parking lot.

Mr. Boyd said that his understanding was that it would require large stores to support the development, and small shops would not bring in enough.

Mr. Rooker said that in Old Trail, that has been done, but the North Pointe's applicant's position is that he needs larger stores to attract Route 29 shoppers.

Mr. Boyd commented that the parking lot would not be visible from Route 29.

Mr. Dorrier asked for clarification of the term "expansive parking lots." Mr. Graham replied that they are large parking lots that predominate the view as you approach the building.

Mr. Wyant said that screening would be needed to shield the parking. Mr. Graham replied, "relegated parking."

Ms. Long said that Great Eastern is investing tens of millions into this project, and they are confident that the development can support the commercial space that's been proposed. She noted that their other Route 29 project, Seminole Square, is very successful. Ms. Long said that the special use permit conditions also build in a phasing element for the North Pointe project, and the current form provides that there could not be more than 290,000 square feet of commercial space built until a certain number of residential units are constructed – currently 224. Ms. Long said that the applicant would like that threshold to be lowered to 112. She emphasized that the 290,000 square foot threshold is the number that VDOT and the Great Eastern traffic engineer determined could be developed at North Pointe with a single signalized intersection. Ms. Long said that after that square footage is exceeded, there is a requirement for a second commercial entrance and improvements along with that.

Ms. Long emphasized that the commercial development creates the impacts that generate the need for the proffered improvements as well as the revenue to pay for them. She added that without the development in excess of 290,000 square feet, "there is no impact generated that creates the need for additional road improvements or the revenue."

Mr. Rooker asked how there is any assurance the county does not end up with a 290,000 square foot shopping center and nothing else. Mr. Long said that Great Eastern is confident there will be that market demand.

Mr. Rooker pointed out that the company had a shopping center approved on Route 250 West, and each time Great Eastern talked about the demand, but the ground has not been broken yet.

Ms. Thomas said that it is the county's responsibility to look at all of the commercial area. Brand new retail is always attractive to consumers. The Board's responsibility is to look at the impact of this on the entire commercial area in the county. She noted how many empty commercial properties there are in Lynchburg, partially because of the bypass. She does not doubt anything that the applicant says about it being a popular product being offered, but that should not be what drives the Board's decision-making process.

Mr. Rotgin said that the fiscal impact report done by Integra Realty highlights the demand for retailers to be in this market, and a lot of people in Albemarle County are going elsewhere to shop. He noted that they sent a consultant to Short Pump, and Albemarle had the fifth highest number of decals in the parking lot. Mr. Rotgin said that the commercial reality is there will be some retailers that go, and others to come in their place.

Mr. Wyant asked about the signalization at the 290,000 square foot point.

Mr. Rotgin said that the impact from North Pointe does not result in a third lane being needed for Route 29 on the southbound side. He added that they would like to build one-half of it, and have the University of Virginia build the other one-half. There are no safety issues with the applicant putting 1,000 feet of third lane north and south of that middle entrance. He emphasized that his company would like to have the infrastructure built up front, and not have it be under construction for years and years. The reason they are able to make the size of the proffers is because of the commercial aspect; the residential does not pay for the off-site work. Old Trail is a different kind of development. If you do an overlay of North Pointe, it almost fits like a glove over the Comprehensive Plan Land Use Map except they were asked to add some residential in the southeastern corner. With respect to commercial, Mr. Rotgin noted that the large tenants do not produce a lot of revenue as it is difficult to negotiate with them, but you need them to draw customers so that you can bring in the "downtown" component and be successful. He stated that they would like to get to the size of Seminole Square as quickly as possible – almost 500,000 square feet.

Mr. Wyant asked about the 25-foot buffer requirement.

Mr. Rotgin responded that they have been successful in working with VDOT to get a license or permit in order to plant that area, and all along Route 29 there are large expanses of VDOT right-of-way that will not be used when the third lane or turn lanes are installed. He said that there will be a 50-foot buffer in front of North Pointe, but a good bit of that will be highway right-of-way. Mr. Rotgin said that for the parking adjacent to Route 29 by the big buildings, those spaces will be constructed out of permeable material that could be removed at any point. He said that they can either cut back on square footage so they have sufficient parking, or have a parking deck.

Ms. Long said that they revised the proffers to make it clear that in the event VDOT reclaimed its right-of-way, the applicant would compensate for that loss on-site, so that the 25-foot buffer is always maintained. They also added a sentence to the end of that proffer that says "even if such compensation requires the removal of parking". There is also a note on the application plan pointing to the parking strip at issue that states "parking potentially subject to removal pursuant to proffer 2.1". They tried to go above and beyond that and that they are on notice that they will always maintain that 25-foot buffer. She stated that even after the third lane northbound is added, the buffer area will never be less than 40-feet.

Mr. Ron Keeney of Keeney & Co. Architects addressed the Board, stating that if the fourth lane by VDOT requires the drainage ditch to be moved over further, then the berm would have to be cut into and moved over also to maintain the same visual blockage.

Mr. Graham said that staff's concern is that future Boards might be put in a difficult position if the parking would need to be removed, as it is required parking for that building. He added that it is the landscape buffer that will go away.

Mr. Boyd stated that it would be enforceable by future Boards based on the proffers.

Ms. Thomas commented that it is best not to put future Boards in impossible positions.

Ms. Long mentioned that the margins made on commercial development are not made on the first anchor stores, but on the second wave of tenants where there are more margins made. The margins to be made will outweigh the expenses that you will incur in the form of proffered road improvements.

Mr. Rooker asked what assurances the county has that this will all get done at some time as opposed to ending up with a shopping center that is 290,000 square feet. He said that the applicant's argument is that this is a Neighborhood Model, but if the shopping center sits for 10 years, then it is just a shopping center.

Ms. Long responded that there are no guarantees, but there has been an unbelievably fast pace of residential development in the county over the last few years.

Mr. Rooker said if you are really confident, it would be helpful to translate that confidence into a commitment. He emphasized that he will not support this development with the potential that there might be a shopping center sitting there for 10 years. He does not see it as adding anything to the community right now. Mr. Rooker suggested that the applicant give some assurances that what they are selling as a Neighborhood Model development actually is one. He said that that commitment would be bringing online residential at the same time that commercial is being brought online.

Ms. Long said that the special use permit conditions address that. Mr. Rotgin stated that he will put something either in the special permit conditions or proffers.

Mr. Keeney said that Great Eastern has worked with a number of housing builders in the area who have expressed that this is a marketable product.

Mr. Rooker replied that there should be no problem for the developer to turn that confidence into commitment. He asked for a proposed schedule.

Mr. Tucker commented that currently the public hearing is scheduled for February 8<sup>th</sup>.

Mr. Rooker said that the Board needs to discuss whether this project should be part of the Places29 effort, whether it should just move forward to public hearing, or whether it should be considered after another work session that addresses the outstanding issues.

Mr. Dorrier asked about the Places29 process. Mr. Rooker explained that it is a master planning process similar to that in Crozet.

Ms. Thomas noted that having this project be uncertain is making it difficult for Places29 to be a legitimate planning process.

Mr. Graham agreed that that is staff's concern, as this property is a key component.

Mr. Rooker said that the Board needs to give direction on that.

In response to Mr. Wyant's question, Mr. Graham explained that the Places29 project includes the northern development area up to the GE site.

Mr. Rooker said that the planners in Places29 would prefer to have this project included in the master planning process so that it meets the intent for that area.

Ms. Thomas said that the process could also move forward if a decision was made about this site.

Mr. Rooker agreed, but said the planners would prefer to have this site integrated into the Places29 process.

Mr. Boyd stated that this application is too far into the process to hold it up for Places29.

Mr. Slutzky asked what was happening with Places29 in March. Mr. Graham said that there will be three alternatives brought forth for public input at that time.

Mr. Boyd described the Places29 as more conceptual and less specific.

Mr. Rooker stated that ultimately Places29 would produce a master plan similar to Crozet – showing where high-density commercial should be, where mixed use should be, etc. One way to look at North Pointe is to say this is what it is going to be, so presume that this is here and plan around it. The other way to do it is to say this property – like all other land that is part of the master planning process – is up for recommendation as to what it should be in the master plan.

Mr. Slutzky asked what would happen if Places29 came out with a recommendation to put a parallel road, and said that might change how North Pointe moves forward. That is the fairness issue to the applicant that we have to weigh against trying to have the most vital Places29 exercise we could.

Mr. Boyd said that the North Pointe project seems to help that process by presenting a definitive model.

Mr. Wyant asked if Old Trail was working on their plan while the Crozet master planning process was taking place.

Mr. Rooker explained that Old Trail suspended their rezoning request and participated in the master planning process. They came back and designed a development that basically fit what the master plan recommended for that area. He noted that that is much different than having a developer plan their neighborhood first. The developer decided that he was going to participate in the master planning process.

Ms. Long noted that the North Pointe project is proffering a tremendous amount of road improvements, especially on Route 29, that are exactly what the Places29 process wants – particularly the extra lane in each direction. Approval of this project will go a long way to putting that infrastructure in place. That is a commitment that North Pointe is making, to build that infrastructure. She added that the "spine" through the development is what planning staff has said they must have. It complements the improvements that are to come to the offsite by implementing the basic infrastructural issues in terms of the road both internal and external to 29, and those are big ticket items that are going to be important for the community in this area.

Ms. Long commented that Beights Development had only owned the Crozet property for a year or less when the master planning process had begun, and they had not done much work on their rezoning.

Mr. Rooker recommended that the Board bring this back for another work session. We need to get all the information we can get, so that everybody is prepared to make an intelligent decision on this.

Ms. Thomas stated that the message being sent to Places29 is that something like what has been presented is going to be put in this location. Her concern is that we will get commitments to infrastructure without the advantage that the whole Places29 gives to the public and from consultants and to developers; those minds working together on what is best in that area.

Mr. Rooker said that in fairness to the applicant, he and staff need to have the opportunity to give the Board information on the items of concern. He said he would recommend having them come back for another work session.

Mr. Graham emphasized that staff needs a decision on this because it is uncertain what will happen on 29 – is it a six-lane rural section, or a six-lane urban section. If we want to assume that this is what that property is going to be like, that is fine. That tells us where to start and we can work around that.

Mr. Wyant asked if they had talked with Places29. There is no doubt in his mind that it is going to come back similar to this.

Mr. Rooker said that there is a difference in approving it as is, or making it a part of the master planning process. He would prefer to have the issue come back to the Board in a month.

Mr. Wyant asked what new information would be presented in a month.

Ms. Long explained that all of the northbound improvements and the third lane would be built as part of the first phase, and the southbound lanes are part of the phase three improvements that would have to be built before more than 290,000 square feet of commercial development is built.

Mr. Rooker asked what was available from VDOT on this.

Mr. Graham indicated where the crossovers would be placed with the proffers, and said that the applicant would have to build 1,000 feet on the southbound side – up and down on each side of that – a third lane for stacking and merging distance because of the signal. He said that he has issue with the second crossover because there has to be a vertical curve correction, and that is a very, very expensive improvement, in the millions.

Mr. Graham said his concern is that with the 290,000 square foot trigger before this has to go in, they are not going to go beyond 290,000 square feet and have to construct millions of dollars in road improvements for that little incremental difference. They have to get a mass of considerable amount. We think that this is going to hit 290,000 and it is going to sit there for quite some time. He said that within two miles, there is potential to go back between two and three lanes four times. He is just fearful that we are setting ourselves up to be required to put a large public improvement before they would hit the threshold. Mr. Graham suggested that if the applicant is so confident the demand will be there, he put a calendar date on the proffer, not a square footage date, for completing the road improvements.

Mr. Graham emphasized that North Fork was supposed to build a third lane, but here we are 12 years later and they are no where close to reaching their trigger to build that third lane. He said that in hindsight, staff would have asked for a different proffer.

Ms. Long noted that the library block design is very significant, and staff would like a hard urban plaza with multi-story buildings pushed up close to the street, and Great Eastern would prefer more of an open, airy, landscaped part. She said that the small tenants cannot survive without the parking placement as recommended, and the grade also dictates the best place for the parking.

Ms. Thomas said there are people that enjoy walking along shop fronts instead. People do not like to walk alongside blank buildings, so the side of that building is going to be a very unattractive place to walk.

Mr. Slutzky asked why there could not just be small tenants with storefronts, and just not have parking in front. Ms. Long replied that is because of the road slope and the need for pertinent parking for those tenants.

Mr. Keeney explained that the drop in grade establishes the straight line of the road, and when the building is put against it, there are uneven stories, but if the parking bank is put in front they can “kill the slope.” He added that if the slope is directly against the building, there is no way to put stores into the face of the building.

Mr. Slutzky said that he has been to towns where there are staggered elevations.

Mr. Rotgin stated that these are multi-storied buildings, and the parking is for people on the first floor. He explained that there will be a story and a half climb with retail facing the library, then two stories of office and residential above that. This is a very challenging site that has got critical slopes; it has streams; it has valleys and there are wetlands. They have worked around every bit of that with staff. Mr. Rotgin said that this community has had a ton of thought process going behind it.

Mr. Rooker asked for some closure on the library issue.

Mr. Wyant and Mr. Boyd indicated they do not have a problem with it.

Ms. Thomas said that the block with small businesses could be made a very "walkable" situation, and what is shown now is a very "parkable" situation. She thinks there is a lost opportunity.

Mr. Boyd described it as an agreeable compromise.

Mr. Dorrier said that he does not see an area for relegated parking.

Mr. Rooker noted that staff has done some of its own renditions to accommodate that, and it would be helpful to have those at a future meeting.

Mr. Boyd asked about the status of the proffers.

Mr. Graham replied that staff would provide a black-line copy as well as the current proffers. They have gone through 10 to 12 of these already, and if that is important to the Board, they will provide it.

Ms. Thomas said that it is important for a characterization of the current proffers, not how they have changed over time.

Mr. Graham noted that the proffers have been reviewed as far as issues; the only other question is the form of the proffers.

Mr. Tucker clarified what staff should be providing the Board for the February 8<sup>th</sup> work session: commercial absorption and fiscal impact reports; any analysis of the proffers discussed today; some guarantee that the residential development is concurrent with the commercial development; special use permit conditions related to the overlot grading; and staff renderings of the commercial area as seen before.

Mr. Rooker emphasized that he would like to see some date commitment on the road improvements, rather than just the square footage trigger.

Ms. Thomas said that she would like to see some affordable housing commitment, especially since other developers have come forth with that.

Mr. Graham noted that the library proffer gives the site to the county for a library.

There was no further discussion at this time.

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Agenda Item No. 30. **Work Session:** FY07-FY11 Strategic Plan.

Mr. Rooker suggested that this item be rescheduled to another meeting. Mr. Tucker suggested that it be rescheduled for the afternoon of July 11<sup>th</sup>. Board members concurred.

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Agenda Item No. 32. From the Board: Matters Not Listed on the Agenda.

Mr. Tucker said he would like for the Board to approve additional funding for the Juvenile Court project in the amount of \$1,995,232.00 based on an agreement with the City for a 60/40 split on the parking costs of \$2,872,072 and a \$239.35 per square foot cost for construction of the Sheriff's space of 3,521 square feet.

Motion was **offered** by Mr. Boyd which was **seconded** by Mr. Dorrier to approve the additional funding. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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Mr. Boyd said he wants to include on the agenda for discussion the Gardner dump site and dump sites in general. He started that some of his constituents have concerns about whether the DEQ plan is sufficient.

Ms. Thomas commented that there is a history of looking into this through the Illegal Dumping Task Force.

Mr. Rooker asked that staff provide a report on this issue.

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Agenda Item No. 33. Adjourn to January 11, 2006.

At 6:35 p.m., with no further business to come before the Board, **motion** was offered by Mr. Wyant, **seconded** by Mr. Boyd, to adjourn to January 11, 2006, 2:30 p.m., for work sessions in Room 235. Roll was called and the motion carried by the following recorded vote:

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

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Chairman

Approved by the Board of County Supervisors
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Date: 05/03/2006
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Initials: EWC
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