

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 12, 2006, in the County Office Building on McIntire Road, Charlottesville, Virginia. The meeting started at 5:30 p.m. with a tour of the Lane Auditorium; there was not a quorum of the Board present until 5:45 p.m. The regularly scheduled meeting began at 6:10 p.m. in Room 241, with the first hour of this meeting being conducted without electric power.

PRESENT: Mr. Ken C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Mr. David 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, Acting Clerk, Diane Mullins, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The Board members met in the Lane Auditorium to review the reconstruction taking place. There was not a quorum of the Board until about 5:45 p.m. and no discussion took place as a Board.

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Agenda Item No. 2. Recess. The Board recessed and reconvened immediately in Meeting Room 241.

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Agenda Item No. 3. Call to Order. The meeting was called to order at 6:10 p.m., by the Chairman, Mr. Rooker. There was a power outage in the building at the time, but since it was still daylight, the meeting proceeded without lights.

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Agenda Item No. 4. Pledge of Allegiance.  
Agenda Item No. 6. Moment of Silence.

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Agenda Item No. 6. From the Public: Matters Not Listed on the Agenda.

Mr. Brooks Marshall spoke concerning family division rights. He said that he had wanted to subdivide his land in December, 2005 but VDOT approval of an entrance to the property was needed prior to approval of a family division plat. He would like to see a change made in the Code to allow an intergenerational pass-through so children can live on the land they grew up on. He said a family division had not been a problem in the past.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve Items 7.1 and 7.2 on the Consent agenda, and to accept Item 7.3 as information. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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Item 7.1. Amendment of Commission on Children and Families (CCF) Agreement.

It was noted in the staff's report that beginning in 2005, the Executive and Redesign Committee of the Commission on Children and Families embarked on a planning and research project to determine how the Commission could address organizational challenges and become more effective in improving outcomes for local children and families. The Report's findings come from a historic review of CCF documents, interviews, discussions with stakeholders and a review of similar organizations identified as among the best in the country.

From this research, three major goals were identified:

Goal 1. Increase Impact: Place children and their families at the forefront of the localities planning and investment agendas;

Goal 2: Build Capacity: Increase the resources available to the Charlottesville/Albemarle community to understand and meet the current and emerging needs of children and their families;

Goal 3: Improve Efficiency: Restructure the composition of the CCF to focus member's attention on the research, planning, coordination and community problem-solving necessary for preventing risk factors and addressing children and family needs.

Under this last goal, one of the strategies to improve efficiency was to revise the charter and membership to more accurately reflect and address CCF's core purpose of improving outcomes for children and their families.

To strengthen CCF's efficiency and effectiveness, the Commission recommends adding the Chiefs of Police and Parks and Recreation directors from both the City and the County as members of the Commission. In addition, the Commission is also requesting the addition of an elected School Board

member from each jurisdiction, those members to be nominated by their respective School Boards, and appointed by the respective locality.

The addition of the Police Chiefs and the Parks and Recreation Directors will increase the capacity of the Commission to address children and youth issues on a broader or more systemic scale. Both of these functional areas are directly impacted by youth and youth activities and need to be at the table when the Commission brings the community together to address community-wide issues, such as teen violence, increased gang activity, after-school activities for youth, domestic violence, child abuse, etc. The emphasis on prevention strategies to overcome or lessen at-risk youth behaviors in the community also requires input from both of these major functional areas of public safety and recreation.

The Commission also feels the addition of a School Board member from each jurisdiction will increase the knowledge and involvement of both school divisions, who have perhaps the greatest impact on and contact with our children, youth and their families. Coordination between the school divisions and community agencies and programs is critically important to the success of any community prevention and early intervention strategy for improving the health and safety of our children.

Both Police Chiefs and Parks and Recreation Directors have agreed to serve if appointed. Both School Divisions have been notified of this pending recommendation and will follow with a nomination of one of their members to the Commission.

There are several other minor recommended changes to the approved agreement:

1. Revise the agreement to allow the three non-voting members, i.e., representatives of the County Executive's Office and the City Manager's Office and the United Way Director, to be voting members.
2. Delete the sections of the agreement that were required by State grant funding requirements. There are several sections of the original agreement and the subsequent amendments that addressed specific requirements set out by the Virginia Delinquency Prevention and Youth Development Act Grant. Since the State no longer provides any funding assistance, the Commission does not need to conform to their requirements, most of which centered on requiring a majority of citizen members on the Commission and having agency members be appointed by name, not position.

Staff recommends that the Board authorize the Chairman of the Board to execute the Agreement to replace the existing Agreement regarding the Commission on Children and Families.

**(Discussion:** Mr. Boyd said there are 27 people on the CCF Board and that is a large group. He had previously requested a matrix listing the services provided by CCF and other agencies which provide those same services. He would like to be sure there is no overlap in services.)

**By the recorded vote set out above, the Board authorized the Chairman of the Board to execute an Agreement to replace the existing Agreement regarding the Commission on Children and Families.**

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

**AGREEMENT BETWEEN THE  
ALBEMARLE COUNTY BOARD OF SUPERVISORS  
AND THE CHARLOTTESVILLE CITY COUNCIL ON  
THE COMMISSION ON CHILDREN AND FAMILIES**

The Albemarle County Board of Supervisors (the "County") and the Charlottesville City Council (the "City") agree to join together to form the Commission on Children and Families (the "Commission") whose sole responsibility shall be to plan, coordinate, monitor and evaluate a community wide system of children and family agencies. The intended goal of the Commission is to improve services to children, youth and families, to be accountable for the efficient use of public/private resources and to be responsive to the changing needs of the community. In doing so, we agree to the following:

- 1) With respect to the STRUCTURE OF THE COMMISSION, the City and the County agree that:
  - a) The Commission shall consist of twenty-eight voting members. Eleven of the voting members shall be citizen representatives ("Citizen Members"): five appointed by the County, five appointed by the City and one jointly appointed private service provider. Of the eleven citizen members, at least one appointee from each jurisdiction must be a parent, and at least one appointee from each jurisdiction must be a youth under the age of eighteen years at the time his or her appointment takes effect. Fourteen of the voting members shall be as follows ("Agency Members"): the School Division Superintendent from both the City and the County; one elected School Board member from both the City and the County; the Director of the Department of Social Services from both the City and the County; the Chief of Police from both the City and the County; the Director of Parks and Recreation from both the City and the County; the Director of the Sixteenth District Court Services Unit; the Director of the Thomas Jefferson Health District; the Director of Region Ten Community Services Board; a representative of the University of Virginia; an Albemarle Assistant County Executive; a Charlottesville Assistant City Manager; and the President of the United Way-Thomas Jefferson Area.

- b) Terms of Appointment. Each Citizen Member of the Commission shall be appointed for a term that shall expire three years from the first day of July of the year of appointment, except the youth Citizen Members shall be appointed for a term that shall expire one year from the first day of July of the year of appointment. With the exception of the private service provider representative, each Citizen Member shall be eligible for reappointment to one additional term of the same length as the initial appointment. The private service provider shall not be eligible for reappointment to a second term. Notwithstanding the foregoing, any Citizen Member, including the private service provider, who is initially appointed to fill a vacancy, may serve an additional successive term. Appointments shall be staggered for continuity. Each Agency Member of the Commission shall serve for as long as they hold their public office or until replaced by the appointing authority.
  - c) Manner of Appointments. The City and/or County shall appoint the specific individuals representing that locality who will serve on the Commission, unless the member is solely designated by his position or office, and by identifying the date upon which that individual's appointed term will expire, if applicable. The representative of the University of Virginia will be jointly appointed by the City and the County.
- 2) With respect to the RESPONSIBILITIES OF THE COMMISSION, the City and the County agree that the Commission shall:
- a) Adhere to the responsibilities of the Community Policy and Management Team set forth in Virginia Code Section 2.2-5200 et seq.;
  - b) Provide comprehensive short and long range planning for children and family services within the Charlottesville/Albemarle community;
  - c) Make program and funding recommendations to the City and County governing bodies within the budgetary procedures and guidelines set by each jurisdiction;
  - d) Review and evaluate current service delivery systems to ensure that the needs of children and families are being met effectively and efficiently;
  - e) Identify and encourage new and innovative approaches to program development for children and families;
  - f) Identify additional public and private funding sources for children and youth programs;
  - g) Participate in the yearly evaluation of the director of Commission staff;
  - h) Provide structured opportunities for community input and participation on the needs of families, e.g. public hearings workshops focus groups and work teams;
  - i) Provide an annual report to the Board of Supervisors and City Council to insure that the County and City are in agreement with the policy and direction set by the Commission.
- 3) With respect to STAFFING OF THE COMMISSION, the City and the County agree that:
- a) Staff will be hired, supervised and evaluated as mutually agreed upon by the City and the County with assistance and input from the Commission;
  - b) Staff will be employees of the City of Charlottesville subject to all personnel policies and entitled to all its benefits.
- 4) With respect to FUNDING OF THE COMMISSION, the City and the County intend to:
- a) Provide an annual contribution as mutually agreed upon for the operation of the Commission;
  - b) Direct the Commission on Children and Families to actively seek funding for children and family projects from other sources, including public and private grants, local service groups and the business community;
  - c) Pool all Comprehensive Services Act (CSA) administrative funds for the operations of the Commission. Each jurisdiction will continue to provide the required matching funds for CSA services according to the state formula subject to annual appropriation;
  - d) The City of Charlottesville will provide fiscal and legal services to the Commission for an administrative fee equal to two percent (2%) of the Commission's operating budget.

ALBEMARLE COUNTY BOARD OF SUPERVISORS  
BY: \_\_\_\_\_  
CHAIRMAN

CITY OF CHARLOTTESVILLE  
BY: \_\_\_\_\_  
MAYOR

Item 7.2. JAUNT Funding Request.

It was noted in the staff's report that JAUNT has informed the County that its State funding allocation for FY 2006-07 has been reduced by nearly \$27,000. This reduction will result in an \$11,350 shortfall in funding for service in Albemarle County. The Virginia Department of Rail and Public Transportation imposed the reduction on all public transportation providers based on a State-mandated formula used to derive the transportation budget for the upcoming year. Due to the budget impasse at the General Assembly, the Commonwealth Transportation Board was required to adopt a FY '07 transportation budget for localities based on the November, 2005 estimated revenues from the Department of Taxation.

JAUNT has provided two options for addressing the shortfall: 1) eliminate the Sunday service and the twice-weekly Coveseville route; or 2) turn down eight requests for service each day. The Executive Director of JAUNT believes the first option of eliminating the Sunday service and the twice-weekly Coveseville route is the only viable option to address this shortage. It is her opinion that the second option of turning down requests for service would be in violation of the Americans with Disabilities Act. Neither the Sunday service nor the Coveseville route is mandated by the ADA. JAUNT indicated they made other budget reductions to address this shortage, but feel further cuts would affect their ability to provide core services. Also, while raising rural fares is a possibility, they don't consider it a viable option. They indicated that requests for additional funds have also been made to the other localities they serve.

Every Sunday JAUNT provides transportation for approximately 20 to 25 Albemarle residents with disabilities. About half of these trips are to church, nearly half are for work, and the rest include things such as nursing home visits and grocery shopping. Most live in the urban area (some in nursing homes), but JAUNT also has a few additional rural riders each week. The Coveseville twice a week route averages about 17 riders a month. Most of the riders of the Sunday service and the Coveseville route are regular users and are dependent on JAUNT for their transportation needs.

Staff believes that both options proposed by JAUNT for addressing the budget shortfall would negatively impact some of the County's most at-risk citizens. Therefore, staff recommends that the County fund the shortfall this year, but re-evaluate this issue and services levels during the upcoming budget process to determine if additional funding should be continued in subsequent fiscal years. If the shortfall cannot be funded, staff recommends that the Board advise JAUNT to pursue other options to offset the \$11,350 shortfall. Staff recommends that the Board approve an additional one-time amount of \$11,350 for JAUNT for FY '07 from the Board's Reserve.

**(Discussion:** Mr. Boyd said he feels this is such a small amount, JAUNT should be able to absorb it in their budget. Mr. Tucker said staff recommended approval because they did not want to lose any services if JAUNT could not find the money.)

**By the recorded vote set out above, the Board approved staff's recommendation to approve an additional one-time amount of \$11,350 for JAUNT FY '07 from the Board's Reserve Fund.**

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Item 7.3. Copy of Application of Columbia Gas of Virginia, Inc. for Approval of a Performance Based Rate Regulation Methodology Pursuant to Va. Code § 56-235.6, State Corporation Commission No: PUE-2005-00098 and Commonwealth of Virginia, ex rel., State Corporation Commission Ex Parte, In Re: Investigation of the Justness and Reasonableness of Current Rates, Charges, and Terms and Conditions of Service, State Corporation Commission Case No.: PUE-2005-00100, **was received as information.**

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Agenda Item No. 8a. Recognition: Richard "Jake" Washburne, Registrar.

Mr. Richard "Jake" Washburne, newly employed County Registrar was present with Mr. Will Harvey, Chairman of the Electoral Board, to be introduced to the Board.

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Agenda Item No. 8b. Yordanka Slavova, Intern from Bulgaria.

Ms. Yordanka Slavova and Ms. Nina Yordanova, interns from Bulgaria who are working for the County and the City this summer, were introduced. Ms. Slavova offered to share a CD with more detailed information on her native city with the Board.

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Agenda Item No. 9. **Public Hearing:** Polling Place Ordinance Amendment (Northside Precinct Polling Place Change). (Notice of this public hearing was published in the Daily Progress on 26 and July 3, 2006.)

Mr. Tucker said Virginia Code § 24.2-307 requires that the Board establish polling places by ordinance. Albemarle County Code § 2-102(C)(4) establishes the Buck Mountain Episcopal Church as the polling place for the Northside Precinct in the Rio Magisterial District. The Buck Mountain Episcopal Church has limited floor space for polling place purposes. It is used to its capacity when voting machines are in place on voting days. Due to the growing population in the precinct, an additional voting machine will be needed for future elections. It will be difficult to fit this additional voting machine into the space available while meeting Virginia Code requirements for spacing voting machines. Access for the

handicapped as required by the Americans with Disabilities Act at the current site is provided by an uncovered 36-inch wide temporary ramp. The vehicular access to the parking lot is problematic because it is located at a dangerous curve on Earlysville Road. Despite police and VDOT assistance at the site on voting days, there are often near-collisions. Because of the limitations at the existing polling place, the Electoral Board looked for an alternative location. It became aware that the Earlysville Volunteer Fire Station was being expanded with an additional room at the rear of the building. This room has more than adequate floor space for the needs of this polling place. The building is well known and easily identified in the community. It has safer vehicular access, better handicapped access, better parking, better lighting, air conditioning, a covered entrance, a lobby area, and greater potential to accommodate the future space needs of the polling place. The Earlysville Volunteer Fire Department has agreed to make the space available for this use.

Mr. Tucker said that after holding a public hearing, staff recommends that the Board adopt the amended ordinance to change the polling place from the Buck Mountain Episcopal Church to the Earlysville Volunteer Fire Station in the Northside Precinct of the Rio Magisterial District.

With no questions for staff, the public hearing was opened. With no one from the public rising to speak, the public hearing was closed and the matter placed before the Board.

**Motion** was offered by Mr. Slutzky, **seconded** by Mr. Wyant, to adopt An Ordinance to Amend Chapter 2, Administration, Article I, Elections, of the Code of the County of Albemarle, Virginia, by amending Sec. 2-102, Rio Magisterial District.

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

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

NAYS: None.

(**Note:** The ordinance as adopted is set out in full below.)

#### **ORDINANCE NO. 06-2(2)**

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE I, ELECTIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 2, Administration, Article I, Elections, is hereby amended and reordained as follows:

#### **By Amending:**

Sec. 2-102 Rio Magisterial District

#### **Chapter 2. Administration**

#### **Article I. Elections**

#### **Sec. 2-102 Rio Magisterial District.**

The Rio Magisterial District shall be bounded, and contain voting precincts and polling places, as follows:

A. *Description of district:* Beginning at the intersection of the South Fork Rivanna River and its intersection with the northeastern limits of the City of Charlottesville; then meandering north and west along the South Fork Rivanna River to its intersection with Seminole Trail (U.S. Route 29); then northeast along Seminole Trail to its intersection with the North Fork Rivanna River; then meandering along the North Fork Rivanna River northwest to its intersection with Dickerson Road (State Route 606); then south along Dickerson Road to its intersection with Earlysville Road (State Route 743); then northwest along Earlysville Road to its intersection with Buck Mountain Road (State Route 663); then northwest along Buck Mountain Road (State Route 663) to its intersection with Buck Mountain Road (State Route 664); then northwest along Buck Mountain Road (State Route 664) to its intersection with Buck Mountain Road (State Route 665); then southwest along Buck Mountain Road (State Route 665) to its intersection with Bleak House Road (State Route 662); then south along Bleak House Road to its intersection with Reas Ford Road (State Route 660); then south along Reas Ford Road to its intersection with the South Fork Rivanna River; then meandering southeast along the South Fork Rivanna River to its intersection with Earlysville Road (State Route 743); then south along Earlysville Road to its intersection with Hydraulic Road (State Route 743); then southwest along Hydraulic Road to its intersection with Whitewood Road; then east on Whitewood Road to its intersection with Greenbrier Drive; then east on Greenbrier Drive to its intersection with Seminole Trail (U.S. Route 29); then south on Seminole Trail to its intersection with the northern limits of the City of Charlottesville; then following the limits of the City of Charlottesville east to its intersection with the South Fork Rivanna River, the point of origin.

B. *Voting precincts:* The district shall be divided into five (5) voting precincts, as described herein:

1. *Agnor-Hurt Precinct*: Beginning at Seminole Trail (U.S. Route 29) and its intersection with Greenbrier Drive; then northeast along Seminole Trail to its intersection with the South Fork Rivanna River; then meandering west and south along the South Fork Rivanna River to its intersection with Earlysville Road (State Route 743); then south along Earlysville Road to its intersection with Hydraulic Road (State Route 743); then southwest along Hydraulic Road to its intersection with Whitewood Road; then east on Whitewood Road to its intersection with Greenbrier Drive; then east along Greenbrier Drive to its intersection with Seminole Trail, the point of origin.

2. *Branchlands Precinct*: Beginning at the northern city limits of Charlottesville and its intersection with Rio Road East (State Route 631) and the Southern Railroad right-of-way; then northwest on Rio Road East to its intersection with Seminole Trail (U.S. Route 29); then south on Seminole Trail to the northern city limits of Charlottesville; then east with the city limits to its intersection with the Southern Railroad right-of-way and Rio Road East, the point of origin.

3. *Dunlora Precinct*: Beginning at Rio Road East (State Route 631) at its intersection with the Southern Railroad right-of-way; then northeast along the Southern Railroad right-of-way to its intersection with the South Fork Rivanna River; then meandering southeast along the South Fork Rivanna River to its intersection with the Charlottesville City limits; then following northwest along the Charlottesville City limits to the intersection with Rio Road East and the Southern Railroad right-of-way, the point of origin.

4. *Northside Precinct*: Beginning at the intersection of Seminole Trail (U.S. Route 29) and the South Fork Rivanna River; then northeast on Seminole Trail to its intersection with the North Fork Rivanna River; then meandering northwest to its intersection with Dickerson Road (State Route 606); then south along Dickerson Road to its intersection with Earlysville Road (State Route 743); then northwest along Earlysville Road to its intersection with Buck Mountain Road (State Route 663); then northwest along Buck Mountain Road (State Route 663) to its intersection with Buck Mountain Road (State Route 664); then northwest along Buck Mountain Road (State Route 664) to its intersection with Buck Mountain Road (State Route 665); then southwest along Buck Mountain Road (State Route 665) to its intersection with Bleak House Road (State Route 662); then south along Bleak House Road to its intersection with Reas Ford Road (State Route 660); then South along Reas Ford Road to its intersection with the South Fork Rivanna River; then meandering eastward to its intersection with Seminole Trail (U.S. Route 29), the point of origin.

5. *Woodbrook Precinct*: Beginning at the northern city limits of Charlottesville and its intersection with Rio Road East (State Route 631) and the Southern Railroad right-of-way; then northeast with the Southern Railroad right-of-way to its intersection with the South Fork Rivanna River; then meandering northwest with the South Fork Rivanna River to its intersection with Seminole Trail (U.S. Route 29); then south on Seminole Trail to its intersection with Rio Road East (State Route 631); then southeast on Rio Road East to its intersection with the Southern Railroad right-of-way and the northern city limits of Charlottesville, the point of origin.

C. *Polling places*: Each voting precinct shall have a polling place at the location identified below:

1. *Agnor-Hurt Precinct*: Agnor-Hurt Elementary School, 3201 Berkmar Drive.
2. *Branchlands Precinct*: Senior Center, 674 Hillsdale Drive.
3. *Dunlora Precinct*: Charlottesville-Albemarle Technical Education Center, 1000 East Rio Road.
4. *Northside Precinct*: Earlysville Volunteer Fire Station, 283 Reas Ford Road.
5. *Woodbrook Precinct*: Woodbrook Elementary School, 100 Woodbrook Drive.

(8-19-71, § 1; 9-5-72; 7-15-81; Code 1988, § 6-1; 5-15-91; Ord. 95-6(1), 1-11-95; Ord. 98-A(1), 8-5-98, § 2-100(1), § 2-101; Ord. 01-2(1), 5-9-01; Ord. 06-2(2), 7-12-06)

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44). Agenda Item No. 10. **Public Hearing**: SP-2006-005, Damon or Nadejda Galeassi (Signs #32,

Proposed: Home Occupation-Class B: roofing business; one shed 10'x15'; parking two pickup trucks and one small dump truck; helpers off site.

Zoning Category/General Usage: RA-Rural Areas: agricultural, forestal and fishery uses; residential density (0.5 unit/acre).

Section: 10.2.2.31, Home Occupation-Class B; 5.2, Home Occupations.

Comprehensive Plan Lane Use/Density: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre).

Location: 5066 Giannini Lane, Schuyler.

Tax Map/Parcel: TM 126, P 31H5.

Magisterial District: Scottsville.

(Notice of this public hearing was published in the Daily Progress on June 26 and July 3, 2006.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said the applicant has requested a Special Use Permit for a Home Occupation-Class B, proposing the construction of one shed for material and equipment storage to support a roofing business. The proposal includes parking two pickup trucks and a small dump truck in the driveway. Employees do not report to this property for work assignments, equipment or materials. The property includes a single-family residence and circular drive; the remainder of the site is primarily wooded.

Mr. Cilimberg said staff found factors favorable to the request: 1) the use proposes minimal impacts on the site; no reduction in the surrounding woodland will be necessary. 2) The 10-foot x 15-foot shed needs no footing, requiring minimal earth disturbance. 3) The use will not demand increases in local infrastructure or services. 4) It supports the economy of the County provided by low impact, small businesses. 5) The proposal is fully supported by the Quarries Neighborhood Association. Staff found no factors which are unfavorable.

Mr. Cilimberg said the immediate area is comprised of mature, mixed deciduous/evergreen woodland with scattered residences. The Galeassi property is part of 'The Quarries', a residential housing development established seven years ago. The town of Schuyler is located approximately two miles to the southwest in neighboring Nelson County at the intersection of Route 617 and Route 800. Nearby clearings are characterized by pasture, hedgerows, agricultural buildings and quarry sites. In addition, a trucking company is located on Route 800, approximately 0.2 miles away from this parcel. Mr. Galeassi currently has a Home Occupation-Class A permit (HO-2006-26). The proposed construction of a shed for the storage of materials associated with the home occupation requires a Home Occupation-Class B permit.

Mr. Cilimberg said staff had recommended approval of this petition with conditions. At its meeting on June 13, 2006, the Planning Commission recommended approval subject to six conditions.

With no questions for staff, Mr. Rooker opened the public hearing and asked the applicant to speak.

Mr. Galeassi said he is a roofing contractor. The stress free way to maintain his business is to have it on his property. He does not plan to have a roofing shop.

With no one from the public rising to speak, the hearing was closed and the matter placed before the Board.

**Motion** was immediately offered by Mr. Dorrier to approve SP-2006-005 subject to the conditions recommended by the Commission. The motion was **seconded** by Mr. Wyant. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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

1. Special Use Permit 2006-05 shall be developed in general accord with the concept plan, titled "Plan 'B'" amended by Damon Galeassi in April of 2006 (Attachment A [on file]). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. The proposed shed shall be constructed no larger than ten (10) feet by fifteen (15) feet;
3. Employees shall not report to this property for work assignments, equipment, or materials;
4. All materials associated with this home occupation shall be stored in the proposed shed;
5. No deliveries of materials associated with this home occupation shall be made to this site;
6. Vehicles parked on site associated with this home occupation shall be limited to two (2) pickup trucks and one (1) small dump truck.

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Agenda Item No. 11. **Public Hearing:** SP-2006-006, Mount Calvary Baptist Church (Sign #54).

Proposed: Construction, new church building.

Zoning Category/General Usage: RA-Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); VR Village Residential.

Section: Section 12.2.2.15.

Comprehensive Plan Land Use/Density: Rural Areas-preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (0.5 unit/ acre).

Location: 3045 Morgantown Road, Charlottesville.

Tax Map/Parcel: TM 58A1, P 20.

Magisterial District: Samuel Miller.

(Notice of this public hearing was published in the Daily Progress on June 26 and July 3, 2006.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said the parcel is located at 3045 Morgantown Road, is zoned Village Residential, and is located in an area identified as the village of Ivy Depot which is an

important example of an historic crossroads community. The applicant has requested a Special Use Permit to allow for the construction of a two-story, approximately 6,640 square foot (70' x 45'), church building and expanded parking area to support an increase in sanctuary seating from 135 to 200.

Mr. Cilimberg said the proposal includes the demolition of an 1890's frame church building currently located on the site, a gravel entrance and parking area, a modern cemetery to the south of the parking area, and a wooded area that includes a portion of an historic cemetery identified as the "Cooper Family Cemetery." As the visual focus of this portion of Morgantown Road, the placement and scale of the church building has been an integral part of the historic patterning of this crossroads community since the mid 1890's. Use of surrounding properties is in small-scale, single-family residential buildings with small farms to the north, east and west, and with the railroad tracks along the south edge of the property. Factors favorable to this request are: Retention of this congregation on this site with its relationship to the surrounding community, its physical place within the crossroads community of Ivy Depot, and the historic significance of the congregation, and support of Rural Area goals is integral to the fabric of the local community.

Mr. Cilimberg said staff usually asks for rural area churches to comply with Section 21, Commercial, standards for setbacks and buffers. However, in this case, there are identifiable circumstances that would warrant lesser setbacks. There is a retaining wall on the west side of the existing church with a grade change of approximately two or three feet, placing the parcel to the west of the church property at a higher elevation. Given the difference in elevation and the fact that there are no parking setback requirements in the Village Residential zoning district there does not seem to be a public benefit in imposing a parking setback in this area.

Mr. Cilimberg said the vehicular entrance into the site and parking are proposed along the eastern side of the new church building near the parcel boundary of the residence located immediately to the east. Staff is concerned about the proximity of the proposed parking to the neighboring house and in order to minimize the impacts of parked cars on that house, staff recommends that parking along the east property boundary begin no closer to Morgantown Road (Route 738) than the south face of the neighboring residence and that a mixed planting of trees and shrubs be located in place of the proposed parking area from the south face of the building north to Morgantown Road. The Planning Division has been contacted by a nearby property owner voicing concern over an ongoing drainage issue that involves the church property. It is clear that the local topography includes a large swale that initiates near the church site and directs the flow of water to the southeast and across neighboring parcels. The Current Development division has indicated that existing drainage conditions are not addressed during the site plan review process, but that stormwater runoff requirements address any increase in runoff onto neighboring property. Staff has suggested to the applicant that the concerns of the neighbors to the east regarding stormwater runoff be addressed as part of the church's stormwater management plan.

Mr. Cilimberg said the applicant has indicated that the congregation of Mount Calvary has spent several years discussing options and raising funds to either build a new structure or renovate the existing building in a manner that would support what is an active, growing church community. The importance of the history of the congregation on this site and in the existing 1890's church building is acknowledged by the congregation which indicated that the decision to demolish the existing 1890's church has not been an easy one, but they have decided to pursue that course of action. The applicant indicated the existing church building has serious structural problems and emphasized the need for a safe and accessible meeting place.

Mr. Cilimberg said in order to minimize disruption in the overall village pattern of Ivy Depot, to avoid featuring a parking lot at the Morgantown Road edge, and to allow a church building to continue its predominant presence in the village, staff recommended that the new church building be located as close to the footprint of the existing church as zoning setbacks will allow. The standard Village Residential setbacks cannot be waived or modified without a variance from the Board of Zoning Appeals. However, Section 4.11.1 will allow a stairway or porch to project four-feet into the front and side setbacks. The setback from Morgantown Road under Village Residential zoning is 25 feet measured from the edge of the prescriptive easement. This setback and allowance for front porch projections, when applied to the proposed church building, places the face of the new church 10 feet to the south of the face of the existing church. It is staff's opinion that the resulting building placement falls within an appropriate range for maintaining the physical continuity of the village of Ivy Depot.

Mr. Cilimberg said given the proposed parking and drainfields being located in the southern portion of the site, confirming the exact location of the Cooper Family Cemetery has been of concern to staff. The portion of the site that contains the cemetery is wooded, making the location and extent of the cemetery difficult to clearly determine. Dr. Lynn Rainville, an anthropology/archeology faculty member of Sweetbriar College, specializing in identifying and mapping early African-American cemeteries in Virginia donated her time on behalf of the applicant and Albemarle County to locate the Cooper Family Cemetery. With the permission of the applicant and a neighboring property owner, Dr. Rainville has mapped not only the Cooper Family Cemetery, but the 20th century cemetery on this site, as well as the historic Mount Calvary Baptist Church Cemetery located on a parcel adjacent to Murray Elementary School. Dr. Rainville has identified and mapped 50 graves on site and has indicated that there may be over 100 individuals buried in the cemetery, but that the intensity of the undergrowth in April/May when the mapping occurred made total numbers difficult to assess. In order to preserve the Cooper Family Cemetery staff recommended that permanent fencing be installed on the portion of the perimeter of the cemetery known as the "Cooper Family Cemetery" located on the property known as Tax Map 58A(1), Parcel 20. Staff also recommended that the location and extent of the boundary of the "Cooper Family Cemetery" on Parcel 58A1-20 be located in the field by Dr. Lynn Rainville and that the fencing be fully installed and functioning before any site disturbance occurs.

Mr. Cilimberg said the concept plan includes both primary and reserve drainfields and parking spanning a new cemetery and the wooded portion of the site that contains the Cooper Family Cemetery. The Health Department has indicated that in order to be approved, any portion of a parking area located above a primary or reserve drainfield must be paved and include a construction cross-section unique to this condition. Drainfields must be located a minimum of five feet from the property boundaries, but there is no minimum distance required between a cemetery and a drainfield.

Mr. Cilimberg said due to the increased traffic volume expected for Sunday services, the Virginia Department of Transportation and the County Engineer have required that the ingress/egress from Route 738 (Morgantown Road) be consolidated into a single entrance that meets the requirements set out in "VDOT Minimum Standards for Entrances to Private Streets", which includes a 24-foot minimum travelway at the entrance. The concept plan includes an entrance measuring 20-feet wide. Staff recommended that the entrance width be adjusted to meet VDOT standards during site plan review. VDOT and the County Engineer also required the addition of a 12-foot wide by 48-foot long right-turn taper for access to the entrance from eastbound Morgantown Road. The required taper is included on the concept plan.

Mr. Cilimberg said Route 738 lies within a 30-foot prescriptive easement centered on the roadway. The County Engineer recommended dedication to public use of a 15-foot right-of-way along the front of the property in anticipation of future improvements along Morgantown Road. However, after researching the conditions along Morgantown Road and determining that there are no other existing dedicated right-of-ways from Route 250 west to Murray Elementary and that there are no future plans to increase the width of Morgantown Road, both the County Engineer and Planning staff concluded that no public service would be served by dedicating a public right-of-way and, therefore, recommended that the parcel remain as currently configured.

Mr. Cilimberg said that under Section 4.12.6, the Zoning Administrator determines the number of parking spaces required for churches in the rural areas of the Comprehensive Plan. Based on the parking study submitted by the applicant, Zoning has established that required parking will fall somewhere in the range of 56 to 88 spaces. Zoning has suggested reducing the length of the parking spaces from 18 feet to 16 feet in any area where the parking will overhang grass, such as adjacent to the cemetery. The reduction in parking space length will not be appropriate when adjacent to areas containing required site plantings. Zoning has also suggested that parking be angled, which is more space efficient. All of the parking shown on the final site plan will have to meet the standards determined for required parking.

Mr. Cilimberg said based on the findings in this report, staff recommended approval of SP-2006-006 subject to eight conditions. He said that on June 13, 2006, the Planning Commission had unanimously recommended approval subject to the same conditions. He offered to answer questions.

With no questions for staff, Mr. Rooker opened the public hearing and asked the applicant to speak.

Mr. David Burnette was present to speak for the Rev. Tracie Daniels, pastor of Mount Calvary Baptist Church. He said it is their desire to erect a new worshipping facility to not only meet their current physical and spiritual needs, but also the future needs of this growing church family. He said the majority of their members grew up in the Ivy community, so desire to continue to worship and progress in ministry in the Ivy area. Their current facility was built in 1890, and was replaced when the original building was destroyed by fire. After much prayer and consideration, they want to build a new worship facility which will support this ever-changing community.

Mr. Burnette said the congregation has worked to keep the church building modernized. The church had a major renovation in the 1960s. An addition was added to the rear and the interior was redone replacing all the woodwork that previously adorned the sanctuary. In the 1980s, siding was installed because of the deteriorated condition of the external boards. The siding covered all of the decorative features about the church. In the 1990s they had to replace the furnace and air-conditioning. When the old furnace was removed, part of the outer wall (including the foundation) caved in. The church was advised some years ago by an engineer that the cost to correctly fix the current building would exceed the cost of a new building. They then researched the availability of land for purchase in the Ivy area, but the cost was prohibitive. He asked those members of the church present tonight to stand. There were approximately 20 people who stood.

Mr. Burnette then showed to the Board a short PowerPoint presentation showing the conditions of the church. He asked that the Board consider the needs of the church and approve their request for a special use permit.

With no one else from the public rising to speak, the hearing was closed and the matter placed before the Board.

Ms. Thomas said at the Planning Commission hearing, an issue was raised as to whether there is any way to preserve the existing building. She expressed concern that to take down the building would keep the area from being designated historic and people would lose tax credits. On the other hand she celebrates the fact that there is a strong church here. She was struck by the craftsmanship that went into the original structure and she appreciates the fact that the church is going back to its original location.

Ms. Thomas then offered **motion** to approve SP-2006-006, Mount Calvary Baptist Church, subject to the conditions recommended by the Planning Commission. The motion was **seconded** by Mr. Dorrier.

Mr. Rooker suggested asking the architect to consider incorporating any parts of the old building into the new church.

At this time, Mr. Rooker asked that the roll be called. The motion carried by the following recorded vote:

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

NAYS: None.

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

1. Special Use Permit 2006-06 shall be developed in general accord with the concept plan dated May 31, 2006, prepared by Dex Sanders, architect, and titled "Masterplan Mount Calvary Baptist Church" (Attachment F [on file]). Important elements of the concept plan include the following:
  - The church shall be located as close to Route 738 as possible to maintain the overall hierarchy of buildings along Morgantown Road and their placement related to one another and to the street;
  - To protect the adjacent dwelling to the east, no parking shall be located in the area labeled mixed trees and shrubs adjacent to the dwelling on the east side of the church property;
2. The ingress/egress from Route 738 (Morgantown Road) shall be consolidated into a single entrance that meets VDOT Minimum Standards for Entrances to Private Street requirements;
3. A twelve-foot (12') wide by forty-eight foot (48') long right-turn taper shall be constructed for access to the entrance from eastbound Morgantown Road;
4. Two (2), ten-foot (10'), one-way travel lanes shall be required to access the parking area to the south of the new cemetery. In order to reduce as much as possible the amount of retaining wall needed, the specific length of these travelways, their configuration, and the arrangement of the parking area shall be determined at final site plan review;
5. The existing 1890's church building shall be documented using the Secretary of the Interior's Standards for Historical Documentation prior to any disturbance of the site. Copies of the documentation of the building shall be provided to the Virginia Department of Historic Resources and the Albemarle County Historic Preservation Planner;
6. Permanent fencing shall be installed on the portion of the perimeter of the cemetery known as the 'Cooper Family Cemetery' that is located on the property known as Tax Map 58A(1) Parcel 20. The location and extent of the boundary of the 'Cooper Family Cemetery' (labeled 'Old Cemetery' on the concept plan) on Parcel 58A1-20 shall be located in the field and fencing shall be fully installed as approved by the Director of Planning direction before any site disturbance occurs;
7. Any area of platted cemetery that is proposed to be used as parking area shall be formally abandoned prior to site plan approval; and
8. Construction of the church as shown on the concept plan shall commence within five (5) years of the date of approval of this special use permit or it shall expire.

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Agenda Item No. 12. **Public Hearing:** SP-2005-008, Tortilleria Y Panaderia La Michoacana (Sign #31).

Proposed: Home Occupation-Class B for catering business.

Zoning Category/General Usage: VR-Village Residential; EC Entrance Corridor Overlay.

Section: Section 10.2.2.31 Home Occupation-Class B.

Comprehensive Plan Land Use/Density: Rural Area.

Location: 3808 Monacan Trail (Rt 29), south of intersection of Monacan Trail and Plank Rd (Rt 712/Rt 692).

Tax Map/Parcel: TM 99, Parcel 27A1, contains 2.007 acres.

Magisterial District: Samuel Miller.

(Notice of this public hearing was published in the Daily Progress on June 26 and July 3, 2006.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said the applicant has requested a Special Use Permit for a Home Occupation-Class B, proposing the construction of one shed for a kitchen to support a catering business. The shed is located adjacent to the house on the south side and is constructed on a concrete pad. The finished shed measures 18 feet by 20 feet. The applicant currently has a Home Occupation-Class A (HO-2004-140) that was approved on March 25, 2004. The immediate context is comprised of mature, mixed deciduous/evergreen woodland with scattered residences. The site is located on the west side of Route 29 south, just beyond the intersection of Route 29 and Plank Road at North Garden.

Mr. Cilimberg said Mr. and Mrs. Gaona currently have a Home Occupation-Class A (HO-2004-140) for a catering business. The Gaonas prepare food that is delivered and sold at construction sites, local soccer games, and, for the past three years, the Albemarle County Fair. In response to demand for their food, the Gaonas constructed a shed to contain a larger kitchen dedicated solely to the Home Occupation. A complaint was filed about the construction and the Gaonas were found in violation for constructing the shed without a Special Use Permit, the proper building permits or required inspections. The violation was abated when the Gaonas applied for a Special Use Permit in February, 2005. Due to multiple complications with their well, septic system, and Health Department requirements for the kitchen, the Gaona's application for a Special Use Permit was indefinitely deferred on March 24, 2005. Since that

time, the Gaonas have worked with the Health Department to comply with required standards by digging a new well, establishing an adequate septic system, and establishing an appropriate kitchen configuration.

Mr. Cilimberg said the neighbor immediately adjacent to the southern boundary of the property has expressed concerns about the location of the shed in relation to their property and about aromas resulting from cooking. The applicant has agreed to ease the concerns of their neighbor by planting a 100-foot long buffer of evergreen trees or tall shrubs, six-feet tall on planting, along the boundary between the two properties. The proposed location of this planted buffer is included in the concept plan. The proposed buffer will not reduce cooking aromas, but will reduce visibility of activities resulting from the home occupation.

Mr. Cilimberg said while the establishment of a home occupation supports the economy of the County provided by low impact, small businesses, the scale and invisibility of home occupations is critical to maintaining the character of the Rural Areas. The proposed out-building will be visible from both the adjacent public travelways and nearby property, but is not out of character with the surrounding area. There are two panel trucks and a mobile trailer parked on the site. One of the panel trucks and the trailer are used to transport food from the Gaona residence to construction sites where food is vended. The proposed use does not increase traffic on nearby roads, nor does it constitute activity of a scale and intensity that is inconsistent with the character of the Rural Areas. The applicant has indicated that employees do not report to this property for work assignments, equipment or materials. The Gaona family will continue to serve as the sole employees of the business. Staff feels the overall intensity of use on this parcel will not increase to a degree with this home occupation that would impact the character of the surrounding district.

Mr. Cilimberg said while this proposed use does not directly contribute to the purpose and intent of the Rural Area ordinance, it is staff's opinion that the low intensity of the use is not contrary to the purpose and intent. In particular, this proposal does not impact the wooded portion of the Gaona property. This parcel and the adjacent properties are zoned Rural Areas and Village Residential. Staff opinion is that the addition of a kitchen/shed to the Gaona property would not affect and may complement some of the uses permitted by right in the district, particularly the Gaona's participation as a vendor at the Albemarle County Fair over the past few years. This participation helps support the rural tradition of agricultural fairs.

Mr. Cilimberg said the accessory structure proposed by the applicant is a 18-foot by 20-foot shed, located immediately adjacent to the south side of the Gaona residence. The shed is constructed of sheet metal and is of similar scale and type as other buildings in the Rural Areas. The proposed use does not increase traffic on nearby roads, nor does it constitute activity of a scale and intensity that is inconsistent with the character of the Rural Areas. It is the opinion of staff that the proposed home occupation is in keeping with the additional regulations provided in Section 5.0 of the Zoning Ordinance.

Mr. Cilimberg said the Virginia Department of Transportation (VDOT) has determined that the existing sight lines at the vehicular entrance to the Gaona property are adequate. However, VDOT recommended that the Gaonas provide entrance conditions that meet *VDOT Minimum Standards for Entrances to Private Street*. The applicant has agreed to comply with this recommendation. The Gaonas have worked with the Virginia State Health Department to comply with well, septic and commercial kitchen standards. Mr. Eric Meyer of the Health Department has confirmed compliance of the building and systems infrastructure with these standards.

Mr. Cilimberg said staff identified the following factors favorable to this application: 1) It supports the economy of the County provided by low impact, small businesses; 2) The shed/kitchen is of similar scale and type as other buildings in the Rural Areas; 3) The proposed use does not increase traffic on nearby roads, nor does it constitute activity of a scale and intensity that is inconsistent with the character of the Rural Areas; and 4) This proposal does not impact the wooded portion of the Gaona property, which represents a majority of the parcel. Staff has identified the following factor unfavorable to this application: The negative impact expressed by the neighbor to the south due to the location of the shed and aromas from cooking

Mr. Cilimberg said staff recommended approval of SP-2005-008 subject to conditions. The Planning Commission, at its meeting on June 20, 2006, also recommended approval subject to seven of those conditions, but reworded Condition No. 8 to read: "The applicant shall plant and maintain a 100 foot long continuous buffer adjacent to the southern parcel boundary. The buffer shall begin 15 feet from the westernmost trunks of the existing cluster of large deciduous trees located at the intersection of parcels 27A1, 27A2 and Route 29 South. The plants comprising the buffer shall be evergreen trees or large shrubs (6 foot tall minimum upon planting; 8 foot minimum mature height); mixed species or a monoculture. The trees/shrubs shall be planted a minimum of 8 feet on center for the continuous 100 foot length. Suggested species include: *Juniperus virginiana* (Virginia red cedar) and *Ilex opaca* (American holly). The approximate location of the buffer is indicated on the concept plan (Attachment A)." He offered to answer questions.

Mr. Slutzky asked what triggered the need for this special use permit. Mr. Cilimberg said it is because of the use of the shed, which is outside of the home.

Ms. Thomas said if there will be no increase in traffic, how do they get their deliveries. Mr. Cilimberg said Mr. Gaona goes out and purchases supplies.

Mr. Rooker asked if they are allowed to have five trucks. Mr. Cilimberg said Condition No. 6 limits vehicles to one panel truck and one trailer. They can have vehicles offsite, but only one on site.

With no further questions for staff, the public hearing was opened. Mr. Rooker asked the applicant to speak.

Mr. Diaz was present and translated for the Gaonas.

Ms. Thomas asked the reason for the increased space for the kitchen. Mr. Diaz said the Gaona's would like to be able to cater parties in order to increase their business.

Mr. Wyant asked how they get their supplies. Mr. Diaz said Mr. Gaona goes out and buys them.

Ms. Thomas asked if the business increases will Mr. Gaona continue to buy his supplies. Mr. Diaz said "yes."

Mr. Wyant asked if they sell mostly to business parties. Mr. Diaz said that everyday they sell from the truck and on the weekends they cater.

Mr. Dorrier asked if it is Mexican food.

Ms. Thomas mentioned the neighbor's concern about odors from the kitchen. She asked if this new facility will help that situation. Mr. Diaz said there is nothing they can do about the smell in the air. He does not think it is that strong.

Ms. Thomas asked if the trees planted had been done because he was told to do so. Mr. Diaz said somebody told him to plant the trees.

Mr. Wyant asked if the Gaona's understand the conditions. Mr. Diaz said they do.

With no further questions for the applicant, Mr. Rooker asked if there was anyone present who wished to speak.

Mr. David Franzen was present to represent Ms. Rachel Walker, the adjoining property owner who opposes this request. He asked others who oppose the request to stand (there were six people who stood). He said that after working for many years Ms. Walker is now disabled, so is in the position of having to be careful about the value of her property. Ms. Walker went to the Health Department and was told they had not given approval for a commissary on the Gaona property. He asked that the Board defer this request until the Health Department has issued a permit. He said the shed was located under the power line and there was concern expressed about that location, so the shed has been moved. He showed a picture of Ms. Walker's driveway. He said the applicant had concrete that they drive over, but it is on Ms. Walker's property and it has not been repaired. The applicant built a drive all the way around his house and the shed has a sliding window.

Mr. Franzen said the expansion of this permit is premature citing seven deficiencies. Mr. Gaona already has a Class A permit. A Class B allows construction of accessory buildings. The proposed accessory building will be of a scale larger than nearby building. The shed will be used for large scale food preparation and commercial production. It does not look like a home occupation. The neighbors do not feel it is an appropriate use. Ms. Walker is concerned about safety. The applicant has gone forward without going through proper procedures. He continues to operate. There will be an increase in traffic. It is already noisy.

With no one else from the public rising to speak, the hearing was closed and the matter placed before the Board.

Ms. Thomas said she has been looking for a way to solve this dilemma. This is a conflict about what two families want for their neighborhood. She walked over the property today, and this is a classic dilemma. These people have a home occupation and are looking for ingenious ways to make money. They go to construction sites at lunchtime and sell their product. Whether the Board grants a permit now or later, the Health Department still has to approve the facilities. She thinks there will be more oversight of the operation than at present. She is interested to know what the other Board members have decided.

Mr. Rooker said he could not support the application. He thinks the addition is large compared to the size of the house. This is a potential large-scale use of the property for most of the day. There have been violations and he has no assurance there will not continue to be violations. He thinks approval would be disregarding the neighboring people.

Mr. Wyant asked about buffering from the adjacent property. Mr. Cilimberg said he had not been to the site.

Mr. Dorrier mentioned the fact that there is a caterer in Scottsville who travels around the area. He asked if there had been any complaints about that business. Mr. Cilimberg said complaints would go to the Zoning office, so he does not know.

Mr. Dorrier said he sees that as a precedent to this request.

Mr. Rooker said it depends on the size of the property. If he lived in the rural area and were close to this business, he would be upset.

Mr. Dorrier asked if the Gaona's are citizens of the United States. Mr. Diaz said "yes."

Mr. Wyant asked about setbacks. Mr. Cilimberg said they are within the setback regulations. This property is zoned Village Residential. The next property is zoned Rural Areas, so there are different setbacks on the two properties.

Mr. Wyant asked if the violations had been cleared. Mr. Cilimberg said to remedy the last violation, which is to run the business from the shed, they need this special use permit.

Mr. Rooker said the required setback is only 15 feet from the neighbor.

Mr. Wyant asked about the tree buffer. (**Note:** The lights came back on at 7:15 p.m.) Mr. Cilimberg said the conditions say where the buffer will start.

Ms. Thomas said the boundary of the property is laid out. Mr. Cilimberg referred to Page 6 of Attachment "A" and said it shows the general location.

Mr. Rooker asked Ms. Thomas if she would like to make a motion.

Ms. Thomas said she has seldom agonized so much over a decision. She knows that does not help the rest of the Board members, but she will **move** for approval of SP-2005-08 subject to the eight conditions recommended by the Planning Commission. She is doing this because she thinks that with these conditions it will be under more oversight than it is now and there is a reasonable effort being made to conduct the business within the standards that have been set.

Mr. Rooker asked if Ms. Thomas would consider a condition that would provide that no commercial delivery trucks will be allowed to make food deliveries to the site.

Ms. Thomas said she would agree to that since the applicant says that does not happen now. She suggested saying "no deliveries to the site." She thinks the Board has included similar conditions on other permits.

Mr. Rooker suggested it say "No commercial deliveries to the site."

Mr. Tucker said there could be UPS deliveries to the site at times.

Mr. Davis suggested wording the condition "No commercial delivery of food products shall be permitted on site."

Mr. Wyant said there could be delivery of paper products related to the food business.

Mr. Rooker suggested Mr. Davis word the condition.

Ms. Thomas suggested the condition read: "No commercial delivery of food products or sales on the site." Although the applicant has said they do not make sales on the site that is not part of the recommended conditions.

Mr. Davis suggested there be two additional conditions. Condition No. 8 would read: "There shall be no delivery of food products or business materials on site." The ninth condition would read: "There shall be no onsite sales of food products."

Mr. Cilimberg said there is a minor technicality in Condition No. 7. It refers to Attachment "A" which has two letters referenced, one as to the shed location and the other to the location of the planted buffer. It does not include a reference to a condition because at the time staff did not know what those numbers would be. He said by the Board's action, it should also reference Condition No. 7.

Mr. Wyant said he was bothered by the pictures shown by Mr. Franzen of the driveway coming across the neighbor's parcel. He hopes this applicant can keep the driveway within the bounds of his property. He asked how that can be enforced. He asked if the tree buffer will help in that instance.

Mr. Rooker said it will help if it goes the entire length of the area that has the buildings on it. He thinks it is unfortunate that the lots are so long and narrow. If the operation was set back substantially from the house rather than completely adjacent to the neighbor's property, he would feel differently.

Ms. Thomas said they tried to set it forward, but that location was too close to Route 29.

Mr. Boyd asked if that is an option.

Ms. Thomas said the lot is too steep.

Mr. Boyd said he has been torn over this decision. He favors innovative ways for the community and its people to make money. This Board has been very traditional in appropriate placement of businesses. At this time, he believes this business is not of an appropriate scale for this property in deference to the neighbors. He is undecided and having a tough time making a decision.

Ms. Thomas said she appreciates Mr. Boyd sharing the tough time with her. She said she did make a motion which has not been seconded.

Mr. Rooker said there are nine conditions now.

Ms. Thomas agreed that her motion included all nine conditions.

Mr. Wyant then **seconded** Ms. Thomas' motion. He said his grandmother did a lot of catering and he understands the concerns of the neighbors. But, he thinks the buffer of trees will help them be a good neighbor. He noticed the driveway of the parcel to the north even goes onto their property. He hopes there will be some agreement about that situation. He will support the request.

Mr. Boyd said he assumes that the way Ms. Thomas made the motion that she is in favor of the request.

Mr. Thomas said Mr. Boyd knows that sometimes people make a motion opposite of what they are thinking in order that it will fail. But that is not what she is doing.

Mr. Boyd said he will vote on her side.

Mr. Davis asked that the Board clarify that Condition No. 8 should read: "There shall be no commercial deliveries of food products or related business products to the site." He asked if that was the intention.

Ms. Thomas said "yes."

Mr. Dorrier asked if he could add another condition reading: "There shall be no loud music playing past nine o'clock."

Mr. Davis said the condition needs to be related to the home occupation. The County has noise ordinances which are applicable throughout the County that the Board has generally relied upon to address noise issues.

Ms. Thomas asked that Mr. Davis read Condition No. 9 again. Mr. Davis said it should read: "There shall be no onsite sales of food products."

At this time, roll was called, and the motion carried by the following recorded vote:

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

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

1. Special Use Permit 2005-08 shall be developed in general accord with the concept plan, titled 'Gaona Home Occupation' (Attachment A, reference Condition #7 [on file]) and dated June 8, 2006. However, the Zoning Administrator may approve revisions to the concept plan to allow compliance with the Zoning Ordinance;
2. The proposed shed shall be constructed no larger than eighteen (18) feet by twenty (20) feet;
3. The entrance from Route 29 South shall meet VDOT Minimum Standards for Entrances to Private Street requirements;
4. No more than two (2) employees other than persons living on the property are permitted to come to this site for any work-related purpose;
5. The hours of operation of this home occupation shall be limited to 8:00 a.m. until 6:00 p.m.
6. Vehicles parked on site associated with this home occupation shall be limited to one (1) panel truck and one (1) trailer;
7. The applicant shall plant and maintain a one hundred (100) foot long continuous buffer adjacent to the southern parcel boundary. The buffer shall begin fifteen (15) feet from the westernmost trunks of the existing cluster of large deciduous trees located at the intersection of parcels 27A1, 27A2 and Route 29 South. The plants comprising the buffer shall be evergreen trees or large shrubs (six [6] feet tall minimum upon planting; eight [8] feet minimum mature height); mixed species or a monoculture. The trees/shrubs shall be planted a minimum of eight (8) feet on center for the continuous one hundred (100) foot length. Suggested species include: *Juniperus virginiana* (Virginia red cedar) and *Ilex opaca* (American holly). The approximate location of the buffer is indicated on the concept plan (Attachment A [on file]);
8. There shall be no delivery of food products or business materials on site; and
9. There shall be no on-site sales of food products.

**(Note:** Mr. Cilimberg noted that Attachment "A" says "Ref. Condition #" and does not have the number "7" after it. It has been so marked on the copy in the staff report in the Board's Office.)

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Agenda Item No. 13. Public Hearing: SP-2006-010, Charlottesville Waldorf School Amendment (Sign #11).

Proposed: Amendment of Special Use Permit to allow for revisions to approved concept plan.

Zoning Category/General Usage: R-4 Residential (4 units/acre).

Section: 15.2.2.5 which allows for private schools in R-4 residential by special use permit.

Comprehensive Plan Land Use/Density: Urban Density Residential-residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood Two.

Entrance Corridor: Yes.

Location: 734 Rio Road, near the intersection of Penn Park Road and Rio Road. Tax Map/Parcel: Tax Map 61, P 17.

Magisterial District: Rio

(Notice of this public hearing was published in the Daily Progress on June 26 and July 3, 2006.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said the applicant proposes an amendment to an existing special use permit for the Waldorf School. The proposal is to build a building of approximately 6,300 square feet 200 feet to the west of the existing house (along Rio Road) that is currently housing the early childhood learning program. When the initial special use permit was approved, the school's buildings were clustered toward the middle of the parcel. However, in 2003 the aforementioned house was purchased by a friend of the school and offered for the early childhood learning program. In order to use this building for the school's purposes, an amendment of the existing special use permit was pursued by the Waldorf School through SP-2003-04. This amendment was approved with conditions on June 3, 2003. This shifted the campus closer to Rio Road and also provided a "face" for the school on Rio Road. The change proposed with the current amendment is to place a proposed building in between the house and the originally-proposed (and retained) location of the main school building (to be built during a later phase). The original approved concept plan clustered the entire campus roughly 500 feet from Rio Road.

Mr. Cilimberg said staff's analysis was related to the Jones and Jones study for the Meadow Creek Parkway that was adopted as part of the Comprehensive Plan several years ago. In previous legislative actions regarding this school in this location, the applicant had been requested to reserve a 40-foot wide area for a future road that would tie into the urban center proposed along Rio Road, south of the entrance to the Meadow Creek Parkway. He said it would be a connection going north from this school property into the adjacent area. As the County's standard for streets has increased or widened since this special use permit was last reviewed, the applicant was asked to provide a reservation that could accommodate travelways, bike lanes, planting strips and sidewalks in both directions. The applicant has increased the width of the reservation in this plan from a width of 40 feet to 52 feet which is reflected on the Concept Plan and labeled "Proposed Road Easement." It is also slightly rotated to better reflect the alignment for this future road illustrated in the Jones and Jones study.

Ms. Thomas said she did not understand that point, and asked Mr. Cilimberg for a fuller explanation. Mr. Cilimberg said the Jones and Jones study shows the road running more parallel to Rio Road, so that angle has been changed on the plans.

Ms. Thomas asked if it is the angle of the road and not the building. Mr. Cilimberg said "yes." It is angled to take advantage of the topography on the site.

Mr. Boyd asked how far that road goes. Mr. Cilimberg said that it would ultimately go into the adjacent parcels, and then there is generally a road system in the Jones and Jones study that shows going all the way to where the Meadow Creek Parkway would intersect Rio Road.

Mr. Boyd asked if that is a road parallel to Rio Road. Mr. Cilimberg said it is parallel for only a particular distance.

Mr. Boyd noted some areas on the map and asked if they are in the development area. Mr. Cilimberg said "yes." The Wetsel property north of the school is a very large undeveloped property. Jones and Jones tried to lay out an urban development scheme, and this is the southern end of that scheme.

Ms. Thomas said a part of the original discussion was to get the building to align with that urban development so it formed an end piece and had the correct kind of angle. That was the reason for her question.

Mr. Slutzky said he has been to the site, and on the site this plan makes sense. Its orientation relative to the topography seems more natural than just the graphic depiction.

Mr. Slutzky asked if the larger building is the one in question. Mr. Cilimberg said the larger building is on the south end of a green that was shown in a plan, and it is more perpendicular to what has been proposed. In this case, they oriented this proposed building to the land. It is not aligned to be directly along the road as you might see in a "downtown" situation because of topography.

Mr. Wyant asked if the land being left for a future connection will connect to Rio Road close to the railroad tracks. Mr. Cilimberg said it will ultimately be part of a road system to be developed as part of the larger plan. He said the site layout anticipates a civic green so the building shown in light blue on the plan is the building which will house the main school. That is on the southern edge of the green and will extend over to the next property.

Mr. Slutzky asked if this is a transitional opportunity for the school to get started in this location rather than with the small building located nearer to Rio Road since they are not in a position financially to build all of what has already been approved. He said they came to him and asked if there were some way to do this interim step. They talked to staff about how to do that consistent with the long-term plan for the site that would save them from having to build a more substantial structure in the near-term. Mr. Cilimberg said the prior plan for this site had everything clustered together as one building complex, so they would have had to move away from that area in order to start building. This is an effort to build the

first building closer to Rio Road and closer to the existing road that has been built on the south side of the house.

Mr. Cilimberg said there is a future greenway trail associated with Meadow Creek that is on the western side that is still shown. Access to that greenway involving this property was removed in the last special use permit approval. The applicant had a concern about student safety and the inability to control movement across their property from people outside of the school. This particular proposal reduces the distance between the school's buildings and Rio Road. The existing house which is being used for the early childhood program, the proposed building, and the main school building are all aligned within a short walking distance to each other. Parking, which was once located perpendicular to the school's access road and some of the facing properties to the south, is now placed farther to the rear of the school buildings.

Mr. Rooker asked the location of parking for the proposed building. Mr. Cilimberg said there is parking behind the house that is part of the early childhood operation. On the site plan, they will have to establish where the new parking will be in association with that parking. On the concept plan, they tried to show basically where some of the primary activities would occur. Until that access is needed, he thinks they would like to use the parking behind the early childhood program operation. On the site plan approved as part of the use of that house, consideration of access and stormwater management were approved and that included the traffic light, the access road and the stormwater pond. In this particular review, staff supplemented what had previously been included in the conditions, with an additional condition reading: "No structure, parking or loading shall be located closer than 20 feet to any residential district." That is to ensure there is an appropriate relationship with neighboring properties which are primarily residential. In addition they included: "A tree screening buffer to the satisfaction of the Agent shall be maintained along two sections of the school property where residential uses exist."

Mr. Cilimberg said the Planning Commission minutes were very confusing. During their June 20 hearing, they were concerned about clarity of the conditions and the proposed changes. The Commission recommended approval at that time, as staff had recommended, but requested that staff review the conditions to make sure they entirely met the intentions of the special use permit and were entirely accurate before being presented to this Board. Staff reviewed the conditions and revised the staff report significantly to give it more clarity. They included an "Attachment G" to give a history of how the conditions now being recommended evolved from prior conditions. He said "Attachment G" is reflected in the updated staff report as are the 13 conditions of approval which were recommended by the Commission, as well as by staff.

Ms. Thomas said the connecting pathway to the greenway is something the Board dropped in 2003 and apparently that is still the case; there will not be a connection. Mr. Cilimberg said in the original approval there was a connection shown so people from certain properties could get to the greenway. That was not included in the second special use permit, but what is included are connections for pedestrians going north and south in certain parts of the property with the intention that it would be available for people to walk the trailheads running along Meadow Creek. As a result, the applicant has dropped any public crossing in (this area here) to get to the greenway trail and instead provided a connection so any walker could go north and south through other pedestrian systems to get to the greenway.

Mr. Rooker asked if there is some reason a path cannot run in the greenway dedication area. Mr. Cilimberg said the greenway dedication area will have a path. The question is how to get to that path through this property. There will be a path running through the greenway, but there is no built facility on this property that gets anyone to that path.

Ms. Thomas said when the children use the greenway they will have to go through some other piece of property to get to it. Mr. Cilimberg said they could cross through the natural area of the School's property. He said the applicant should answer that question and mention their concerns about making an identifiable path across their property to the greenway.

With no further questions for staff, Mr. Rooker opened the public hearing and asked the applicant to speak first.

Mr. Kevin O'Brien said he is the owner's agent for the Waldorf Foundation that is developing this school. He said the school has not changed anything other than the request to put this building in as an interim solution. He said they presently lease a building from the County and that lease has not been renewed, so they need some place to be in the fall of 2007. The "light blue" building is built using a capital campaign and they are not in a position to break ground at this time. They can construct the building which has been proposed in this permit request. The location provides a lot of economies. Previously, in order to get the special use permit for the house, they brought water and sewer to within 50 feet of that area, the driveway is in place, and there is some parking available until such time as the County calls for use of the reservation. He said this site was chosen because of those factors.

Mr. Rooker asked the size of the proposed building. Mr. O'Brien said it is 6,400 square feet.

Mr. Rooker asked if the building is one-story. Mr. O'Brien said that technically it is one-story on grade. Because of the topography, it essentially has a walk-out basement. Every classroom has an entrance on grade, which is also an economy for them. As far as the building orientation and the green, that "light blue" building has not moved. The conditions prescribed that it be in that spot, and that it be within seven degrees of the red property boundary, and its orientation has not changed. He said dedication of the right-of-way was 40-foot wide running perpendicular to the north property boundary. To facilitate the long-range plan, they tilted it and widened it at the request of County staff. He thinks that is

an improvement over the original plan. As to the pedestrian path, originally there was an east/west connector requested. It was felt that it would make it virtually impossible to ensure the policing of strangers on school grounds. He said there is a Habitat house going in south of this property and they have provided a satisfactory east/west connector. The north/south path that goes to Village Square allows people from there to reach the sidewalk the school has already built to get to Pen Park and for people to get into any future development.

Mr. Rooker asked if the sidewalk is dedicated to public use. Mr. Cilimberg said the sidewalk which exists along the entrance to the school would technically not be dedicated until the road is part of the public system.

Mr. Rooker said the question is whether the sidewalk would be available for public use or if it could be closed off. Mr. Davis said that normally the County does not require dedication of a sidewalk unless it is part of a public right-of-way. The County does not maintain sidewalks that are part of a private road system.

Mr. Rooker asked how the Board can ensure that the sidewalk is accessible to the public. Mr. Davis said when the sidewalk becomes part of a roadway it will be dedicated on a site plan.

Mr. Cilimberg said there are a growing number of projects over the years that have pathways and sidewalks that are not publicly dedicated but are publicly used. They do not tend to be dedicated and have to be maintained privately.

Mr. Wyant asked if it can be noted on a plan that these sidewalks are privately maintained, but they are for public use. Mr. Davis said that generally the County distinguishes between pathways that are being maintained by the County. In lots of developments the County obtains an easement and it maintains pathways. He is not aware that the County has done that for sidewalks. He does not remember requiring as a condition that someone have a private sidewalk that is open to public use.

Mr. Rooker said what the applicant just described is not the case then. If there is a private sidewalk that is not open to public use it does not necessarily provide a walkway to the public. Mr. Davis said he believes it would be within the School's power to block that walkway.

Mr. O'Brien said they would like for their school campus to become a part of the surrounding neighborhoods. They found in Crozet that the more the neighbors have a sense of community and ownership of the property, the more it reduces vandalism. Currently, they allow people to use their outdoor basketball courts and fields after hours. When it is the actual neighbors who do that, there are fewer problems and they would like to encourage that.

With no member of the public rising to speak, Mr. Rooker closed the public hearing and placed the matter before the Board.

Mr. Davis asked Mr. Cilimberg for a clarification. He said in the updated staff report there are 13 conditions which include a No. 4 that is not in the action letter of the Planning Commission. Mr. Cilimberg said staff was requested to go back and look at all of the conditions and before that review was completed, the action letter was mailed.

Mr. Davis asked if Mr. Cilimberg was recommending 13 conditions, rather than the 12 shown in the action letter. Mr. Cilimberg said the 13 conditions shown in the amended staff report are the conditions that are recommended.

Mr. Slutzky said with that clarification, he would **move** to approve SP-2006-010 subject to the 13 conditions shown in the amended staff report on Pages 7 and 8. The motion was **seconded** by Mr. Wyant. Roll was called, and the motion carried by the following recorded vote:

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

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

1. Maximum enrollment of the Charlottesville Waldorf School shall be three hundred fifty (350) students, with a maximum of forty (40) staff. Any increase to enrollment or staffing shall require amendment of this special permit;
2. Normal hours of operation for the school shall be from 8:00 a.m. to 6:00 p.m. weekdays, with occasional uses in the evenings and weekend;
3. The approved final site plan shall be in general accord with Drawing 3 titled "Amendment to SP 2001-040", dated May 24, 2006, hereinafter, the "Concept Plan" and shall reflect all required pedestrian and road connections to adjacent properties;
4. A building setback and tree screening buffer to the satisfaction of the agent shall be maintained adjacent to the Village Square residential development to the south and adjacent to Tax Map 61, Parcel 171, as shown on the Concept Plan;
5. The school shall be operated in general accord with the Special Use Permit Application and Justification (SP-2001-040) submitted August 27, 2001, and the Site Development Strategy Narrative submitted via facsimile December 18, 2001; and the stand-alone parking Special Use Permit Application and Justification submitted March 20, 2003, for SP-2003-029;
6. If it is determined to be necessary by the County to provide for inter-parcel access as

- shown on the concept plan and labeled "Proposed Road Easement", the owner shall make the reserved vehicular connection available for such use. This reservation may be relocated or modified so long as it is in general accord with the Concept Plan;
7. If it is determined by the County that alternate access connections are necessary for the properties adjacent to the school's main access road, the owner shall construct vehicular access from this parcel to the property line of Tax Map 61, Parcels 173A and 174 in an appropriate location and manner to be determined in conjunction with the County's review and approval of the site plan for the school, so as not to conflict with access to the private school;
  8. A pedestrian connection shall be made to the parcel or parcels located to the south of the school property as shown on SDP-2003-097;
  9. As a condition of final site plan approval, the owner shall dedicate to Albemarle County area for a greenway along Meadow Creek at the western boundary of the parcel as delineated on the Concept Plan;
  10. No disturbance of the critical slopes located at the western portion of the site or other undisturbed areas identified on the conceptual master plan of the original SP-2001-040 shall occur as a result of site development other than development of a pedestrian access to the greenway. As a condition of final site plan approval, the owner shall submit a tree preservation plan for approval by the Zoning Administrator, addressing in detail the limits of all disturbed areas, diameter and location of trees to be preserved, clearing and limbing policy for trees to be preserved, and supplemental trees and shrubs (if any), and related issues. Screening consisting of an opaque fence and landscaping shall be installed along the shared boundary between Parcels 170 and 172A where deemed necessary by the agent for screening;
  11. As a condition of final site plan approval, the area necessary for a future sidewalk along Rio Road shall be identified and right-of-way dedicated;
  12. No structure, parking, or loading shall be located closer than twenty (20) feet to any residential district. This twenty (20) foot setback shall also include an undisturbed buffer, subject to Section 21.7.3; and
  13. Future amendments to this special use permit shall be evaluated for conformity with the Jones and Jones study (Final Report dated May, 2001) for relationships of building placement and their relationship with open space.

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Agenda Item No. 14. Creating the Rivanna River Basin Commission, Presentation by Ridge Schuyler, Director, Piedmont Program of The Nature Conservancy in Virginia.

Mr. Schuyler said the Nature Conservancy is a science-based non-confrontational conservation organization which works all over the world. The organization is over 50 years old. Their slogan is "Saving the Last Great Places on Earth." They identify those places by doing a thorough scientific analysis of ecosystems. They did an assessment of the entire Piedmont of the United States which stretches from Maryland to Alabama. Within the Piedmont of Virginia, they identified five watersheds which represent the best examples of Piedmont river and stream systems left, and the Rivanna is one of them. He said when the program began five years ago, he decided to focus their work in the Rivanna because it is spectacular and houses two of the forest blocks they are interested in protecting. Their conclusion that the Rivanna is special was reached by the community long before they got here. The *State of the Basin* report in 1998 represented the work of hundreds of volunteer hours that began formally ten years before that time. It was an effort sponsored by the Thomas Jefferson Planning District Commission to look at how to protect this "jewel." That report recognized the management difficulties and importance of protecting the Rivanna and issued a number of recommendations. However, like a lot of reports, the recommendations were "put on the shelf" not because they were not good, but because funding ran out. There was no momentum to continue the work begun by the *State of the Basin* report.

Mr. Schuyler said he would focus on the first recommendation in the report: "To protect the Rivanna a plan should be developed to guide decision-making related to the preservation and use of the Rivanna River." The key part of this recommendation is the idea that local jurisdictions need to come together with sufficient funding to help guide decision-making related to the Rivanna. The fact that the Rivanna runs through a number of jurisdictions is what presents a lot of management difficulties. He said the Comprehensive Plan of Albemarle contains the following statement: "Water resources do not follow jurisdictional boundaries. Albemarle County is connected hydrologically (through surface water and groundwater) to the City of Charlottesville, Greene County, Fluvanna County, Nelson County, Louisa County, Orange County, and the rest of the Chesapeake Bay watershed." He then showed in a PowerPoint presentation how the jurisdictions align and what part of their land mass is located in the Rivanna watershed.

Mr. Schuyler said one of the objective strategies in the plan was to review and implement the recommendations of the River Basin project. If the Board is willing to join the River Basin Commission it would give life to that strategy from the County's Comprehensive Plan and could address many other items in the Comprehensive Plan. He appeared before this Board on January 7, 2004, seeking support of the County when The Nature Conservancy sought the legislation that authorized the creation of the River Basin Commission. That legislation was passed unanimously by the General Assembly and was signed by Governor Warner on April 12, 2004.

Mr. Schuyler said the idea of a River Basin Commission is to provide guidance for the stewardship and enhancement of the water and natural resources of the river basin. The Commission has 14 members, two from each of the governing bodies of the localities which have the majority of their land in the Rivanna, one each from the two local Soil & Water Conservation Districts, and one citizen from each

locality. He said that Fluvanna County, Greene County and the City of Charlottesville have all agreed to join the Commission.

Mr. Schuyler said when he appeared before the various governing bodies two years ago, they all said he should not come back before them without first having obtained funding. Since 2004 he has been working with the community to raise money for this River Basin Commission and they have raised a substantial amount of private funds which are a perfect kind of match for government grants. They have raised \$450,000 which is earmarked and dedicated for the River Basin Commission. It is his expectation that those funds could be used to match government grants so that amount of money might be doubled. He then offered to answer questions.

Ms. Thomas asked for an example of what kind of scientific things might be learned.

Mr. Schuyler said because the River Basin Commission would be guided by the localities, it would be the Board's decision as to what the Commission looked at. Looking through the Comprehensive Plans of all the localities the issue of sedimentation and the threat it imposes comes up over and over. Each locality has said sedimentation is a major issue, but it is an issue that is very hard "to get your arms around." In 2001, the Thomas Jefferson Water Resources Technical Advisory Commission drafted a set of recommendations specifically concerning sedimentation in the South Fork Rivanna Reservoir and the capacity being lost there. They proposed a study to look into what could be done. Unfortunately, because of its cost that study was never funded. This is an issue the River Basin Commission could address by hiring a group of scientific experts to look at the sources and the solutions to the issue of sedimentation. He has been working with a professor at Virginia Tech who said there has been little research on what kind of strategies actually work to abate the threat of sedimentation. A lot of developers put low impact development practices in the ground, but there has been no examination to see if they work. He would like to see the River Basin Commission break new ground in this area, and then teach up and down the East Coast what works and where resources should be devoted.

Mr. Wyant said if this is done he will be 150 percent behind it. How an aquatic organism is affected is not just seen by the color of the water. He said a research program like that would be a big benefit to this Board. He noticed that the report refers to having a good database. He said there is a lot of data available, but is it the information the Board needs to support the decisions it makes. He said there are a lot of efforts going on now, and he thinks that these efforts concerning water should be coordinated.

Mr. Schuyler said he agrees. The *State of the Basin* report recommended an umbrella group because there are disparate people working on this. There needs to be a unifying effort so everyone can pull in the same direction so efforts are not duplicated. He said this research funding can be used for that purpose.

Mr. Dorrier asked if there is any connection between the Rivanna River Basin Commission and the James River Basin Commission. Mr. Schuyler said the work done in the Rivanna would have application to the James River as a whole, and would have application to the Chesapeake Bay and beyond. He has colleagues up and down the East Coast and all watersheds are facing the problem of sedimentation and nobody seems to have a good way of addressing it.

Mr. Wyant said because of the way tests are run they could cause something to fail. That has always bothered him. That is why he questions the procedures which are followed. Mr. Schuyler said if there were a threat assessment run on sedimentation, he thinks the Commission would be rigorous in the kinds of processes and procedures used.

Mr. Slutzky asked if there a formal linkage between the County's Natural Heritage Committee that advises this Board on ecological issues, and this Commission. Will there be any formal exchange or is it something the Board should provide for? Mr. Schuyler said this Commission does not exist yet.

Mr. Rooker said the County's Biodiversity Committee is generating information and there could be information sharing. Their charge is different.

Mr. Boyd said when this question first came before the Board, he was skeptical because he wondered if just another bureaucratic thing was being created. Since then, he has talked to Mr. Schuyler about where he is headed with this group. It has a more manageable size than first proposed. He now thinks this is a terrific thing, and it will not be funded by this Board. Just solving the sediment issue would be a tremendous value in approving projects. The Board has already talked about increasing local restrictions on sediment control for building. He is 100 percent behind this commission.

Ms. Thomas said the Chesapeake Bay Program needs to know about sedimentation, and that program is always having its funding cut. The health of the whole Chesapeake Bay depends on being able to capture that sediment. Even though there are best management practices, there will be higher demands placed on the wastewater treatment plants if non-point pollution going into the Bay cannot be handled. Either way it will be expensive.

Mr. Rooker said he thinks formation of this Commission is a commendable step. The Board worked with David Hirschman and Steven Bowling trying to identify sources of sedimentation occurring in the South Fork Rivanna Reservoir. It was clear that the state of science had not provided much illumination on the causes or how this problem could be solved. If this Commission does nothing other than contribute to finding answers to those questions, it would have accomplished a lot.

At this time, Ms. Thomas **moved** that the Board adopt the Resolution which has been proposed to become a member of and participate in the Rivanna River Basin Commission. The motion was **seconded** by Mr. Slutzky. Roll was called, and the motion carried by the following recorded vote:

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

**RESOLUTION**  
**Rivanna River Basin Commission**

**WHEREAS** the majority of Albemarle County (67.9%) lies in the Rivanna River watershed; and

**WHEREAS** the Albemarle County Board of Supervisors has recognized in its Comprehensive Plan that “[p]rotection of water resources is essential to Albemarle County and Virginia in general;” and

**WHEREAS** the Comprehensive Plan provides as one of its Principles that “[w]ater resources do not follow jurisdictional boundaries” and that “Albemarle County is connected hydrologically (through surface water and groundwater) to the City of Charlottesville, Greene County, Fluvanna County, Nelson County, Louisa County, Orange County, and the rest of the Chesapeake Bay watershed;” and

**WHEREAS** the statute authorizing the creation of the Rivanna River Basin Commission establishes a framework that will allow the County of Albemarle to work across jurisdictional boundaries to advance its goals for protecting water resources as set forth in its Comprehensive Plan;

**NOW THEREFORE BE IT RESOLVED** that the Board of Supervisors of this jurisdiction hereby agrees to become a member of and participate in the Rivanna River Basin Commission as described in Chapter 5.6 (§62.1-69.45 et seq.) of Title 62.1 of the Code of Virginia.

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Ms. Thomas asked if Mr. Schuyler would comment on the mitigation issues with the City and County.

Mr. Schuyler said at the time the issue of a mitigation plan for the Ragged Mountain Reservoir expansion came up, there was discussion of doing more restoration in the City. The Nature Conservancy told the City they would work with the Corps of Engineers and help pro-manage the Virginia Aquatics Resources Trust Fund. The job of that fund is to find good stream restoration projects. He said if the City had good projects which would meet the mitigation needs of Ragged Mountain, they would probably qualify as good projects for the Trust Fund. Instead of trying to fight over a “piece of pie”, he suggested that the pie be made bigger by going after another source of funding, the Trust Fund. In cooperation with the City, they are in the process of identifying some streams along Meadow Creek that need some serious stream restoration work. They focused on Meadow Creek because they were told a lot of work had been done upstream and they wanted to add to that work to protect the stream in the City. While the project has not yet been approved by the Corps or DEQ, they have had indications that it is a good project. They hope the mitigation plan for the Reservoir can continue as it has been proposed and they can add value to the stream restoration by doing work in the City on the City streams. They are willing to work with the City to find additional sources of funding.

Ms. Thomas asked what kind of measures they are proposing in terms a layman can understand. Mr. Schuyler said they propose 8,000 linear feet of restoration on both banks of Meadow Creek.

Mr. Rooker thanked Mr. Schuyler for the work he is doing in the community.

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Agenda Item No. 15. Appointments: Eastern Connector Alignment Study Committee.

Mr. Mark Graham, Director, Community Development, said this is a follow-up to the Eastern Connector Alignment Study approved by the Board on October 5, 2005. At this point, staff has advertised for a consultant and anticipates having a consultant under contract this summer, with the project ready to proceed no later than September. The final step in starting this project is appointing members to the project steering committee as described in the work plan (on file). That work plan calls for the project steering committee to include one Board member, one Planning Commission member, one County citizen representative and two staff members. Staff requests that the Board appoint one of its members to the project steering committee; that the Board appoint a citizen representative to the committee; the Board confirm that the Planning Commission is to appoint its representative on the committee; and, the Board confirm that the proposed staff representation to the committee (Mark Graham and Juandiego Wade) is appropriate.

Mr. Boyd said he had a question about the scope of the Committee's work. He referred to Attachment “B” of the executive summary concerning the traffic modeling noted in Item No. 3. The report indicated that the model was being finished by the Thomas Jefferson Planning District Commission's consultant and would be available by January, 2006. He asked if the traffic modeling is available. Mr. Graham said no traffic modeling has been done to date. He said there are some updated Route 250 traffic numbers being generated through the PDC along with some of their work in Fluvanna County. They are running the numbers westward on Route 250.

Mr. Boyd said the proposal says traffic modeling should analyze each alternative and include a no-build alternative (High Street in the City), but it is not clear to him what amount of traffic is being siphoned off at High Street. Maybe it is covered by the "U.S. 250 at the Rivanna River" study. He wants to be sure that will be covered. Mr. Graham said the Board originally asked that an alignment south of Route 250 be considered. The City would not agree and the compromise solution agreed to by the City and County was that the southern alignment would not be a considered alternative, but it could be modeled to determine its effectiveness.

Mr. Boyd said that is what he remembers, but there is no mention of High Street in the draft work plan. He wants to be sure it will be studied because it is a major concern of his and a number of other people who have been through this process before. Mr. Graham said it is intended to be done that way. He said staff made this presentation last fall, and the City did not agree so revisions had to be made.

Mr. Boyd said the traffic modeling should be the first step in this process. Mr. Graham said that is the purpose of the steering committee. Once the traffic modeling is done they would talk about the results.

Mr. Rooker said in talking about the Scope of the Project, he wants to be sure that the traffic modeling includes the intersections. There are a number of places noted as being between "X" and "Y" but it does not mention the intersections. He mentions this because a lot of the modeling done for CHART does not include intersection analyses. He said a number of actions are recommended. First, staff asks that the Board appoint one of its members to the Eastern Connector Alignment Project Steering Committee. He asked if Mr. Boyd was interested in serving. Mr. Boyd said "yes."

**Motion** was then offered by Mr. Slutzky to appoint Mr. Ken C. Boyd as a member of the Eastern Connector Alignment Project Steering Committee. 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, Mr. Slutzky, Ms. Thomas and Mr. Wyant.  
NAYS: None.

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Mr. Rooker said staff has asked that the Board appoint a citizen representative. It was agreed that the Board advertise for a citizen representative to the project steering committee.

Mr. Rooker said staff has asked if the Board agrees that the Planning Commission will appoint its representative to the project steering committee. There was such a consensus.

Mr. Rooker said staff has asked that the Board agree that Mr. Juandiego Wade and Mr. Mark Graham will be staff representatives to the project steering committee. It was so agreed.

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Agenda Item No. 16. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Wyant said the Crozet Advisory Committee has been asking what the Board intended their role to be. He said the Committee wants to put together position papers for the Board, but he thought the Board expected them to be its "ambassadors" in the community to make the Board aware of issues. He said they have done papers on growth, the western connector and easements. That is not what he, Lee Catlin and other staff members envisioned the Committee would do. Mr. Tucker said the Board actually developed a charge for that committee.

Mr. Rooker said the Board did develop a Scope of Activity for that committee. He thinks that is what they should be following.

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Ms. Thomas said cultural difference came to the forefront tonight in the case of the home occupation permit for the Gaona's. She wondered if they left this room understanding what happened and what the County expects of them, even what their legal situation is because they will probably have to depend on the woman who was translating to tell them precisely what happened. That leads to something she would like to have on the agenda for a future meeting for information. There is a group called Creciendo Juntas (translated as "Growing Together") that she has been attending. It grew out of problems occurring at the Southwood Mobile Home Park. A policeman on the Southwood Task Force actually started the group. It has now grown far beyond the one location. Also, Mr. Peter Loach who works for the Piedmont Housing Alliance has taken it upon himself and brought together a group of people dealing with the Latino community in many different ways. There are people from churches, people from Albemarle's Social Services Department, people from the Schools, and she has encouraged them to come and talk to this Board. They have developed a webpage for people who deal with the Hispanic community. Also, they are getting the attention of the Governor who wants to come and visit. She said this seems to be unique in the State in the way this has developed. This is the fastest growing segment of the population, and she would like to request that 15 minutes be set aside on an agenda in September to discuss this program.

Mr. Slutzky asked if that organization offers facilitation services and community dynamics. He asked if they could have helped tonight with the translation.

Ms. Thomas said people who deal with Hispanics meet monthly, but there is no budget and no

organization. She said the high school graduating son of one of the people who have put together the webpage telephoned a lot of County offices speaking Spanish to see what response he would get. Even some offices which have the technical use of a translation service hung up on him. The Police did the best job but they used caller I.D. because the first person could not respond. With caller I.D. they got a native speaker to call him back, but that was 10 to 15 minutes later. There are no activities of the group, it is more of a getting together in a coalition.

Mr. Boyd said when he was a member of the School Board, they had some charettes because of the multi-cultural nature of the School System. He found those roundtable discussions to be fascinating. He said it might be helpful to have some sort of community meeting to talk about the challenges they have with government, permits, language issues, etc.

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Ms. Thomas mentioned the matter brought up by Mr. Marshall at the beginning of the meeting regarding VDOT's requirements for an entrance permit where there are family subdivision rights involved. Mr. Davis said the County has no authority in this matter; these are VDOT requirements. When a third house is added to an existing road, VDOT requires a commercial entrance.

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Mr. Boyd said he was supposed to attend a meeting of the Fiscal Impact Committee today, but the meeting was canceled and he did not get that notice. Since a couple of the members were present they had an impromptu meeting. He has thought about asking that the Fiscal Impact Committee consider a way to distribute the costs of new infrastructure to each new home built (basically countywide). He said in dealing with proffers, someone with a development of only 20 lots cannot be expected to pay for a connector road.

Mr. Slutzky asked if that would be like impact fees.

Mr. Boyd said he thinks proffers are like impact fees. What he is saying is that there is a need for a formula to help the Board decide on the appropriate amount for someone to contribute.

Mr. Davis said that is basically what Chesterfield and Northern Virginia counties have done. On a countywide basis they decide the average cost each residential home would have if they paid their share of the infrastructure. That is usually a very large number. He said the problem with that analysis is that the by-right development does not share in that cost, and the whole expense would never be captured by new development.

Mr. Rooker said it might encourage people to develop in the rural area because that kind of cost would not be imposed in the rural area. If there were not many by-right development rights available, and there were a lot of rezoning requests, it would make sense to do that. He said some Board members went to talk with the people in Chesterfield, and when they came back they discussed whether to quantify expected proffer cash contributions or infrastructure that would apply on all rezonings.

Mr. Boyd said he thought "getting our arms around" meant there is a village, or whatever Crozet is being called now, and there is a master plan with specific designs for what is wanted there. That would be easier than taking it on a countywide basis.

Mr. Rooker asked if Mr. Boyd was suggesting that it be looked at only where there are master planned areas.

Mr. Slutzky said that is an interesting idea, but he thinks the context in which this should be discussed is when the Board gets into discussing proffer guidance, a subject which was delayed until after this fall's rural area protection issues are discussed. He asked if that was a priority item that was shifted backward in the work schedule.

Mr. Boyd said he thought the Board had decided not to look at the proffer issue.

Mr. Slutzky said he thought it had just been delayed.

Mr. Rooker said he does not think it is on the work schedule. Mr. Davis agreed.

Mr. Boyd said he was thinking about this in context of the Fiscal Impact Committee which is struggling with how to best serve the Board.

Mr. Tucker said Mr. Boyd is asking whether the Board would be receptive to the idea of the Fiscal Impact Committee looking at this issue.

Mr. Rooker said he has no objection to them looking at it, and thinks it would be wise to look at the issue. The fairest way would be to have impact fees realized at the time of site plan approval, or building permit issuance, but there is no State enabling legislation allowing the Board to require that.

Ms. Thomas said it is an interesting idea, but she does not think she would be in favor of separating out the fiscal impact of the new house in Crozet from the fiscal impact of a new house in North Pointe. There would also be the fiscal impact of a house in Batesville which should be higher than either of those two if the distance that must be traveled is considered.

Mr. Boyd said when people from the Crozet community come to Board meetings and talk about

infrastructure costs he is having trouble understanding what they are talking about. He could make an argument for Pantops where there are tremendous infrastructure problems also. Crozet is not concerned about that, only about their area. Should the Board be focusing on regional impacts?

Mr. Slutzky said there is infrastructure in Route 29 North that everybody in the County would partake of whereas some of the infrastructure in Crozet would be idiosyncratic. He said there are a million ways that could be considered in "slicing that pie up." Maybe it would be reasonable for the Board to empower the Fiscal Impact Committee to "noodle" on this issue.

Ms. Thomas said she would like to mention two other issues that are not included in the fiscal impact study. One is water projects; it is assumed that the Rivanna and Albemarle County Service Authorities will cover these costs. The cost is never put in, and it is a real cost to the citizens of Albemarle County, mostly public water users, but that is more than half of the residents. That cost never appears in the Fiscal Impact report. She has pointed out that the Rivanna Authority will be faced with an increasing cost per person for the sewage treatment plant because the limit for nitrogen and phosphorus is an absolute limit, not a percentage. As there is more sewage, there will be a higher level of treatment required. Per person, all will be paying more for development.

Ms. Thomas said the other issue has to do with transit and transportation. It has always been assumed that the State would pick up transportation costs. If the County gets into a transit authority, since the County is putting some of its CIP money into transportation, she would like to have transit and transportation impacts appear in the Fiscal Impact reports.

Mr. Boyd said he is a new member of this committee. He was surprised that the CRIM Model they use takes into consideration schools and transportation.

Ms. Thomas said it does not consider transportation, but does consider schools and the County's CIP.

Mr. Rooker said there is no cost allocation for transportation, and that is one of the problems.

Mr. Boyd said he agrees with Ms. Thomas and also thinks that stormwater management should be added. That will be a significant cost.

Mr. Slutzky asked if the Board would like to consider other models.

Mr. Boyd said that has been mentioned, but apparently there are not many models available.

Mr. Rooker said the current model is more of an operating cost analysis, capital expenditure analysis. He thinks it would be alright for the Committee to look at those issues to see if they can provide some additional insight and guidance. It is a complicated issue.

Mr. Slutzky asked Mr. Graham if the Board shelved for later or abandoned developing proffer guidance. Mr. Graham said it was postponed. Mr. Davis said nothing is abandoned forever. Mr. Graham said it was agreed that it could be postponed in order to finish other things in the work plan.

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Mr. Boyd said a couple of meetings ago the Board discussed a proposal by an individual to potentially mitigate some of the costs of constructing the Meadow Creek Parkway. He went back and talked to these people and they are still interested in bringing forward a proposal for development in an area along Rio Road that would help, if not completely solve, some of the present funding shortfall for the Parkway. They gave him a copy of their conceptual design. He knows there is a process involved in moving forward, but these people say that if this is a dead issue with the Board why should they spend money and go through the process. Potentially they would build a large section of the Parkway and the County would not have to condemn and buy their property. It could amount to as much as \$6.0 to \$8.0 million. That could more than cover the County's \$4.0 million shortfall as well as provide funds for other projects. His question is whether he should tell them to move forward and bring this proposal forward, or will the Board not consider the request at all.

Ms. Thomas said she hates to be suspicious, but she would like to know what is on the other side of the coin.

Mr. Rooker said they want to build a development, and they want an entrance onto the Meadow Creek Parkway. One thing the Board needs to understand about the funding for the Meadow Creek Parkway is that there are two parts to it. There is a City part, and a County part. He said that idea surfaced a year or so ago and he thought it was an interesting idea. He suggested these people also talk to the City because right now there is City buy-in to the project. There have been several seats change on the City Council and two people who supported the project are no longer on City Council. There could be a problem in terms of Parkway support. He thinks the Board needs to understand that this would have to be agreeable to both the City and County. In light of the funding problems of both the City and the County, if a proposal like that were to be brought forward, it should contain some funding help for the City in addition to the County. He does not know if one part of the road they propose building would be in the City as well as in the County.

Mr. Boyd said it is all in the County.

Mr. Rooker said the Board might look at allocating some transportation funds to help the City with their part of the costs, but now, Mr. Davis has said the Board cannot do it.

Mr. Slutzky said that at this time it is conditioned on there not being a ramp. Mr. Davis said the City did not want to encourage additional development on the Parkway which would increase traffic.

Mr. Rooker said he had suggested that the property owner try to acquire additional property to expand the Parkway. That might be something the City would be interested in, that might outweigh their concern about an entrance onto the Parkway.

Mr. Boyd said these people are willing to do such things as dedicate park space, in the way of a ballfield, to preserve a lot of the property in open space. He said if it is the City who is in opposition because they don't want any access to the Parkway, will the Board let this "fall by the wayside" because of lack of funding or does it take a lead and tell these developers to bring their proposal forward, and tell them the Board will negotiate with the City.

Mr. Rooker said he is willing to look at the proposal and he thinks the other Board members would be interested in seeing it also. He said it took a long time to get City Council onboard for the project. Now that they are onboard, there are funding problems. The right-of-way costs have increased by an estimated \$4.0 million. The City has lost some of its urban funding for the Parkway. He thinks the Board needs to recognize that if this proposal fundamentally changes the nature of what the City has approved, the Board will have to go to them and get their buy-in.

Mr. Slutzky asked if there is a caveat by the City that the County not approve an additional entrance onto the Parkway.

Mr. Davis said there was a letter from Council that addressed that issue, but he does not remember exactly what it said.

Mr. Boyd said he is not interested in the City being the driving force in what goes on in Albemarle County. He is not interested in the Board always having to agree to their conditions for whatever it wants to do. He thinks the Board is getting "the short end of the stick."

Mr. Rooker said that is probably because the Board has more of an interest in having that project built.

Mr. Slutzky suggested someone tell that developer that this Board does not have a problem, but it needs to take it up with the City Council because there may be an obstacle. It could be suggested that if some of the money were allocated to offset the City's burden in addition to offsetting some of the County's burden, this Board has no problem with that idea.

Mr. Boyd said it was mentioned that if it were \$8.0 million and there was an extra \$4.0 million freed up in State funds, that might be allocated to Hillsdale Drive, which is a project the City wants to get through. He said that would depend on what VDOT would be willing to do. Mr. Davis said that currently County Secondary Road funds cannot be spent in the City.

Mr. Rooker said this developer might look at acquiring additional land that lies mostly in the floodplain on the north side of Pen Park to add to the property. He did suggest that to this developer. They actually mentioned that there is a lot of property north of Pen Park that is not developable and that somebody should consider buying it for parkland.

Mr. Slutzky asked if Mr. Boyd might report back to the developer that this Board in principle is open to the idea of this kind of "horse trading" and the idea of some of the windfall dollars being shared with the City in some form. Does that capture this Board's view?

Mr. Rooker said he is open to looking at all ideas. He said increased parkland would advance the public's interest.

Mr. Boyd said he does not want it to be another 20 years getting the Meadow Creek Parkway built. If there is any solution to the current problem, he wants to get it on the table for discussion.

Mr. Rooker said there must be a plan which also provides some benefit to the City for giving up on something they consider important, an overall parkway design. He said the County's Comprehensive Plan does not include any entrance onto the Parkway. He said the Jones and Jones study did not include any development with an entrance onto the Parkway.

Mr. Boyd said the conceptual plan that he has a copy of does not call for access to the Parkway, but there must be access through some property.

Mr. Rooker asked if that access is to Rio Road.

Mr. Boyd said it is actually to Melbourne Road.

Mr. Rooker said Melbourne Road is in the City. He said the Board needs to look at where right-of-way costs have increased. He understands it has been said that this particular property owner thinks his property is worth more than originally estimated. One of the reasons it was not estimated to be that high

in value was because it did not have access. Now there is a value being put on that property that presumes it has access that it does not have.

Mr. Boyd said he is not interested in this developer at all. He is interested in getting the Meadow Creek Parkway built.

Mr. Wyant agreed.

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Mr. Slutzky mentioned the conflict with opening of the Albemarle County Fair and the joint meetings scheduled for August 1 and August 3 with the Planning Commission to discuss rural area issues. He asked if the meetings could be convened at the Fair. Mr. Tucker said staff found out yesterday that there is this conflict. He sent the Board members an e-mail today saying County staff will man a booth at the Fair to provide the public the same information that will be presented at these meetings. This will give an opportunity for these citizens to give their comments on the Mountain Overlay District and the Phasing and Clustering Ordinances.

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Mr. Slutzky asked if any Board member has a concern with the Metropolitan Planning Organization (MPO) adopting a resolution signaling the intent of forming a joint transit authority.

Mr. Rooker said he had sent a copy of the proposed resolution to the Board members for their review. He said it will be adopted by the MPO if it has the votes. He asked if any Board members had an objection to Mr. Slutzky and Mr. Rooker, as members of the MPO, voting for that resolution.

Mr. Slutzky said he met with Mr. Harrison Rue today and he understands it a little differently. The first step would be for the MPO to adopt the resolution and then ask the Council and the Board to pass the resolution. He said the resolution drafted by MPO staff is fairly benign. It might change slightly in its form from what was shared with the Board members. He just wants to be sure the Board members are in favor of the idea in principle.

Mr. Boyd said he thought the Board gave its support of the idea when it was discussed originally.

Mr. Rooker said it would be a long time before anything happened with this idea. At this time, the MPO is trying to get the University interested in participating. If they do, an authority could possibly get between \$600,000 and \$800,000 more per year for transit operations than the CTS presently gets. The University does not get any Federal or State funds for its transit operation. There could be expanded revenue available to operate transit in the area. It would probably mean that this Board would have to commit more resources to transit because the interest of the other parties in participating is partially to induce the County to increase its transit commitment in its urban area.

Mr. Boyd said he would have no problem increasing the commitment to transit so long as there is an "even playing field."

Mr. Rooker said part of the reason for doing this is the problems faced the last couple of years at budget time. Right now the County is buying transit services from a monopoly provider without any long-term funding commitment formula for processing that service. He said that makes the County subject to significant year-to-year variations in pricing and that makes it difficult to increase transit when the price is not known.

Ms. Thomas said the Board gets periodic reports from CTS and JAUNT. With the Board's participation, CTS was doing a study of their short-range plans. He asked if that study has been completed.

Mr. Rooker said he has not seen the report.

Ms. Thomas said the consultant interviewed her some months ago. She just wants to be sure the City did not get the results and then did not share them with the County.

Mr. Rooker said they will ask about that study at the next MPO meeting.

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Mr. Tucker said the Development Review Committee has been working for some months now. One item they have discussed is expediting engineering review by staff. He said Mr. Mark Graham, Director of Community Development, has reviewed this with the Planning Commission. He has had roundtable discussions with the development community and he asked that this information be shared with the Board.

Mr. Graham said this relates to engineering review of plans, especially final plans associated with either subdivisions or site plans. He said the task force came to this conclusion about the same time as staff was working internally. He said a detailed checklist has been developed for the final plan stage. He said the engineers, architects and surveyors who submit those plans can use the checklist and verify that they have done everything according to the *Design Standards Manual* and then certify that everything is done correctly. Once they have certified that, staff will do a quick check of the plan and accept the certification. For staff this would mean that the engineers were no longer going through the detailed engineering calculations involved with preparation of a set of plans. Because these people are licensed

professionals in the Commonwealth, it will be assumed that they are doing their job and certifying that they are doing it correctly.

Mr. Graham said in starting this program he would like to note two things: 1) This is optional. No engineer or professional is being required to do this. If they want to continue to have their plans reviewed as in the past, staff will continue to do that. It is something that will be available for those who feel competent they have done their work correctly. 2) This is a pilot program. It is new for the County so staff does not know how it will work, or what kind of adjustments will be necessary. He said these are the plans associated with the final engineering plans for subdivisions and site plans. This will not be the preliminary plans or preliminary plats that go with those plans. It has nothing to do with special use permits. It has nothing to do with any rezonings. These are matters that have been totally administrative before under the ordinance. The program is starting by reserving the right staff has under the ordinance to say that any plan, even if certified, needs that true quality control review. The idea is that those kinds of plans will be identified at the time of preliminary plat review.

Mr. Rooker asked if members of the public were involved in this decision. Mr. Graham said "yes."

Mr. Rooker asked what kinds of comments were received. Mr. Graham said there are some engineers who have concerns about the program. They like the County doing a quality control review of their plans. It is basically a free service to them. These people know it is frustrating at times to wait long periods of time for comments about their plan and then having to respond to those comments. He thinks the engineers would feel the advantage of this program is not with submission of the original plans, but with resubmission of those plans. That could get their plans approved in two submissions, rather than the three or four submissions presently required. He mentioned that a plan one of the engineers is currently working on that has had nine submissions.

Mr. Rooker said if staff comments go back to the engineer and he has to keep resubmitting plans, how can there be a high degree of confidence that the engineer is going to submit something that will be reliable on a second submission. What is the difference in this process?

Mr. Wyant said he thinks that person is probably working on a preliminary plan. This process does not involve the preliminary plan, only the final plan. Mr. Graham said the plan he mentioned was actually a final plan. In that case, staff would probably say there could not be certification on that plan because obviously the engineer did not understand what needed to be done.

Mr. Rooker asked how staff would know that after comments are given the first time they will come back and certify that all the things are done. Mr. Graham said staff will still do a quick check of the resubmitted plan; some things are very obvious and simple to look at. Mr. Tucker said there will be more accountability on the engineer's side because they have their stamp and certification which the County is not getting at the present time. If they are going to certify the plans, they have to put on their stamp, and they are accountable as an engineer that the work is accurate.

Mr. Rooker suggested assuming that it is not accurate and there is a failure of, as an example, the stormwater situation. Does the County sue the engineer? Mr. Graham said if a mistake is found now in that phase, almost all of the mistakes are caught and corrections made. In the future, the same thing will have to happen, mistakes will have to be fixed when found, and engineers will have to come up with a solution.

Mr. Rooker gave an example where there was an undersized stormwater facility that the engineer had signed off on it and then after it was built there were massive stormwater problems. If it were built according to plans approved by the County, what happens then? Mr. Graham said there is some risk associated with this procedure.

Mr. Slutzky said right now the County is checking the plans so it has no way to go after the engineer. If the engineer gets it wrong and puts their stamp on the plans, the County does have someone to go after. Mr. Davis said the experience has been that staff finds mistakes rather than makes them.

Mr. Rooker said there are good and bad things about a program like this. One of the bad things is that there will not be a thorough review so there will not be the opportunity to catch problems. If there are undersized stormwater facilities or other physical problems, it will be the public that pays the price.

Mr. Tucker said this is a pilot program which staff wants to try. Staff will still do spot checking. Staff knows engineers who might have trouble and staff will look at those plans more closely than at others. Since this is a pilot program, this will not be the last opportunity to look at it. He said other localities have such programs, and staff wanted to see if it would be beneficial for Albemarle.

Mr. Rooker asked if it is being done successfully in other localities. Mr. Graham said it is being done primarily in Northern Virginia. They have a more formal process called "The Engineers and Surveyors Institute" where they actually certify their plan reviewers and plan preparers. To set up that program required them to get special State enabling legislation. Staff wants to find out through this pilot whether this effort would be effective. Can the burden be put on the engineer to make sure he is doing his work right?

Mr. Rooker said he does not have a problem with that if there is some reasonable way of assuring accuracy. Mr. Davis said where this happens now is in rural counties which have little or no staff. Mr. Graham said that 95 percent of the counties in Virginia do not do a detailed review. He said the more urban counties do the detailed reviews.

Mr. Slutzky said he knows localities outside of Virginia that have turned to outside consultants when the locality grows and staff cannot keep up with the workload, and the locality is able to recover the fee for services from the applicant. He asked if Albemarle could do that, and is it a good or bad idea. Mr. Graham said there are a lot of questions with that. What happens if that firm makes a mistake?

Ms. Thomas said the Board encourages staff to come up with new ideas, but her level of trust would be with someone working for the County. Also, the loyalty of a certified engineer getting jobs with developers has to be with the developer.

Mr. Wyant said he differs with that opinion because when he puts his stamp on that plan he is held to a higher standard. He said the County would be taking some risks with stormwater contract facilities and soil erosion plans. He said a lot of the work done is on the preliminary plan which has many reviews. He always thought final plans were easier to get through than preliminary plans. He thinks that is what this program is focusing on.

Mr. Slutzky said he is sensitive to the confidence factor mentioned by Mr. Rooker and Ms. Thomas. He is also concerned about the delay variable. He is not interested in compromising the County's confidence or the outcome, and would support the idea of the pilot program. He also is interested in having staff explore the idea of having a captive engineering firm that works for the County so their loyalties are clearly with the public interest, in particular if the County were to recover the fee for service. That could be a way for the County to decide which projects to farm out versus the projects staff would want to review.

Mr. Wyant said he thinks staff could randomly pick the plans to follow all the way through as they come in. If plans are not submitted to the standards in the review, then that person does not get the privilege of using this system. He said VDOT went through this, and if a certain standard was not met over a certain period of time, that person could not use the system.

Ms. Thomas asked how that would be determined.

Mr. Wyant said he can take any plan that has been approved and find mistakes on it. It is not staff. Mistakes are seen all the time, and where the money is made is making it work in the field.

Mr. Slutzky said in the field is where reality catches up. He said the kinds of risks that are likely to survive the field work are the ones staff routinely looks over in its review because there is a higher chance a mistake could slip through.

Mr. Wyant said the person reviewing stormwater facilities has seen enough plans to know if a plan is in "the ballpark" and is most likely done correctly.

Mr. Rooker said he did not know what action was expected of the Board tonight on this matter. He does not like the fact that this was brought to the Board at the end of a meeting, with a handout when it was apparently outlined June 19<sup>th</sup>. He asked why the Board is just seeing this tonight when staff wants to start accepting plans on July 17<sup>th</sup>.

Mr. Tucker said Mr. Graham was trying to get information from others, with the idea that this would be presented to the Board last.

Ms. Thomas said there is no input from others included with the letter.

Mr. Rooker said the Board got no minutes from any other group, only a letter informing the Board this thing will start on July 17<sup>th</sup>. He would like to have time to think about whether he supports this idea.

Mr. Dorrier said if this is a staff initiative, why does it need the Board's approval? Mr. Graham said he thinks it is something staff can decide, but they are talking to everybody before it is tried.

Mr. Wyant asked what the Planning Commission said about this idea. Mr. Graham said they were fairly supportive.

Mr. Wyant said this would be taking a risk and there may be pros and cons the Board did not raise tonight. Mr. Graham said there was one Commissioner who submits plans and he indicated that they like quality control and would like to keep it.

Ms. Thomas asked if that person submits plans in Albemarle. Mr. Graham said he no longer submit plans in this County. He has submitted plans in the past. Mr. Tucker said if the Board would rather delay this pilot program, it can be delayed as long as the Board wants.

Mr. Wyant said he would like to think about it.

Mr. Dorrier said he thinks this is just a matter of "cutting red tape" and he is for that. Mr. Graham said that was the idea.

Mr. Rooker said he is in favor of cutting red tape but sometimes there is a reason for having the red tape. The question here is whether there is a reason for the red tape. He can't draw that conclusion just from looking at a letter. He asked if there are any minutes available from any of the groups who have discussed this idea. Mr. Graham said there are no such minutes.

Mr. Rooker asked about the Planning Commission. Mr. Graham said that meeting was just held last night.

Mr. Wyant asked if the public had been asked for its comments. Mr. Graham said staff has a mailing list comprised of names of people who asked to be notified of anything being done in the Community Development Department. They sent this idea out to the entire mailing list.

Mr. Slutzky said since there is no clear consensus for doing this now, he would like to suggest that this proposal be sent to the Development Review Process Task Force. Mr. Graham said it was discussed with them on June 29, and it will be discussed again tomorrow night.

Mr. Slutzky said that in addition to this proposal, he would suggest that the idea of having the County engage with a private firm when the workload of the department causes reviews to run behind schedule be considered. Also, they should look at ways for the County to recover the cost of those fees from applicants.

Ms. Thomas said she thinks Mr. Slutzky is suggesting there is not enough staff.

Mr. Slutzky said that sometimes that is correct.

Ms. Thomas said one person's delay is another person's lifesaving review. She said the public engineering department exists to protect the public's interest. The interest of private engineering firms hired by developers is to get their plan approved without delay. With the public engineering staff to say that this new idea is to prevent delays, she wants to be sure the public engineering staff realizes preventing delays is not their number one duty.

Mr. Boyd said he does not think that is the way this is couched. He said there has been discussion of this idea at the task force level. Actually this is part of the idea the task force is not addressing because it is ministerial. They took a cursory look at this because Mr. Graham was working on the idea. They also took a look at the idea of consulting out things, but that is to help with the bottlenecks and peaks in work load. He said because staff is so accommodating they are becoming an extension of the developer's staff. Those people are "taking free rides" because they don't have to be so careful with what they do because they know staff will catch it. The idea is to make these people accountable for their work, not to give them an easier ride to get through. He asked what an acceptable risk is in a pilot program to make these engineers more accountable for their work.

Ms. Thomas said her concerns could be met by saying what the goal of the program is. She said the first paragraph is addressed to the members of the development community and it will help them avoid delays. If those are the goals, then she has questions. She wants something that is figuratively addressed to the public as a whole to help make sure the County is doing the best job possible in the engineering of plans that will be put into effect and if they fail, the public will pay. If the goals of this were couched differently, then she would feel better about it. She said no one but staff speaks for the public and a lot is stacked against them. No one looks out for the public except for the much maligned bureaucracy.

Mr. Slutzky said the purpose statement should be revised so it is clear to all the participants in the pilot program that the goal is to enhance the public good, and the objective is to look at a model program and expedite the process where possible. It has to be made clear that the expedition is a secondary consideration. He asked that it be built into the pilot that staff will review the calculations and variables that might be able to survive the build-out process. He asked Ms. Thomas if that covers her concerns.

Ms. Thomas said that goes a long way, but the other side is to know whether the pilot worked.

Mr. Rooker said he would like to see a time period attached to the pilot program. At the end of that time period, it would be looked at to see if it worked. He does not want the program to be approved automatically.

Ms. Thomas said if the process went through faster, after three months the Board would know that. She does not know how it could be a pilot program for 30 percent of the submission for the next three years, and then compare those 30 percent to any failures in the field and to the ones that did not go through this process.

Mr. Wyant commented that he thinks each plan needs to be flushed out.

Mr. Rooker said he does not think the Board can take this conversation any further tonight. Mr. Graham said what he has heard from this conversation is that he should revise the "purpose", look at measuring success, set a definite timeframe for this pilot program, and then the Board would like to see it again before the Department tries to implement it.

Mr. Wyant said that would make sense to him.

Mr. Slutzky said part of the benefit of taking this to the task force is that the task force has public participation. He thinks having that voice in this dialogue is important.

Ms. Thomas said Mr. Boyd said earlier that this is precisely what the task force decided it would not become involved in.

Mr. Boyd said this Board said the task force should not tackle ministerial things; it should look at new development. He had come back to the Board and asked if something like this cropped up if they should look into it. The Board said if it were a common sense thing, they should look at it. He said this was brought up to the task force and Mr. Graham explained it, but it was not vented and discussed.

Mr. Rooker said he would like to know which other counties are doing this, and if any of them are considered Albemarle's peers.

Mr. Boyd said one of the issues the task force has discussed is a way to let the developers know that if they do their job right the first time, it would speed up the process.

Mr. Rooker said he is in favor of having engineers stamp their plans. Whether that is the end of the review process is another question. He thinks that would cause them to be more careful with their submissions. He thinks the committee should look at this, and he would like to have the minutes of the Planning Commission.

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Agenda Item No. 17. Adjourn. At 10:06 p.m., with no further business to come before the Board, **motion** was offered by Mr. Dorrier, **seconded** by Mr. Boyd, to adjourn this meeting to August 1, 2006, at 6:00 p.m., in the Burley Middle School Auditorium for a joint meeting with the Planning Commission to take comments on the proposed Mountain Overlay District.

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

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

NAYS: None.

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Chairman

Approved by the Board of County Supervisors
Date: 04/07/2007
Initials: EWC