

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 14, 2007, at 2:00 p.m. in Room 235 of the County Office Building on McIntire Road, Charlottesville, Virginia. This meeting was adjourned from February 7, 2007. The regular night meeting began at 6:00 p.m. in the Lane Auditorium of the County Office Building.

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, Clerk, Ella W. Carey, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 2:00 p.m. by the Chairman, Mr. Boyd.

Agenda Item No. 2. Work Session: Business Plan (CIP) (continued from February 7, 2007).

Mr. Foley reported that the intent of today's presentation is to have an overview by functional area of the Business Plan and to identify issues which will be discussed further in March when the CIP comes back to the Board.

Mr. Foley said the CIP fund is just under \$220 million, with 45 percent going to the schools, the library, the human development category, and community development, and investments in infrastructure being third. He presented information on revenues, including a large share (40 percent) from VPSA bond financing, cash put into the CIP through the Board's formula, and any carry-over.

Mr. Boyd asked if funds for general government were based on proposals put forth or on prior history. Mr. Foley responded that ordinarily staff has used cash for general government figures and VPSA borrowings for schools. Mr. Foley stated that only in one other circumstance has financing been done and that was through lease-revenue bonds for the County Office Building-Fifth Street project, the 800 MHz project, and the Juvenile Court Building. Mr. Foley emphasized that one of the County's strengths in the past has been the ability to use cash for projects, with the exception of schools.

Regarding court projects, Mr. Foley indicated that the largest is \$7.19 million for the Levy Building renovations and a small amount for other projects. He stated that that building was originally purchased by the County for future General District Court needs, and during the Juvenile Court process the opportunity arose to use it for those purposes. Mr. Foley added that there is a study to go on in 2008 to determine what the total needs are, calculated on the best estimate of needs for the General District Court with square footage information based on a Mosley Architects study conducted a few years ago.

Mr. Rooker asked if there was information available showing that General District Court facilities are insufficient. Mr. Foley replied that the study to be done in the coming year is going to update those numbers and reflect caseloads.

Mr. Boyd noted that the Levy Building was not even in the picture until three years ago, and now there is \$5.7 million assigned to remodel it. He asked if that money was shifted from previous plans to expand courts or if it is a new initiative. Mr. Foley responded that the study originally planned for all of the courts to be done, but the priority focused on the General District Court as the next project. Mr. Foley said there was a conscious decision by the Board to purchase the Levy Building at that time.

Mr. Boyd said the reason for buying the Levy Building was to acquire temporary space for the Juvenile Court. Mr. Foley replied that the purchase was in anticipation of needing a General District Court facility, and the County paid rent for about six years for that building.

Mr. Rooker asked if the plan was for a 30,000 square-foot building, adding that it would be helpful to revisit the needs study for usage.

Mr. Wyant asked if staff is waiting for the Juvenile Court to move out before doing the study. Mr. Foley replied that they planned to start the study sooner, but it will be a couple years before the Juvenile & Domestic Relations Court process is finished.

Ms. Thomas said there are a lot of questions about use of the Old Jail Building. Mr. Foley said money is in this CIP just to stabilize the facility, adding that the budget figure now is adequate to accomplish that.

Mr. Rooker commented that there may be a historic value, and he wondered if it could be used for something functional.

Ms. Thomas noted that she has visited several old jails, and it is interesting to see how communities have adapted use for those. Mr. Foley mentioned that there is also the issue of partnering with the City.

Regarding public safety, Mr. Foley said there is an allocation for replacement of fire equipment as well as funding assigned for new facilities. He said the proposed Ivy and Pantops fire stations need sites to be identified.

Mr. Dorrier asked if there were sufficient volunteers to run both of those stations. Mr. Foley replied that in the case of the Northern Fire Station there has been outreach in the community to see if there is staffing available for that site, and at Monticello there were career and volunteers recruited. Mr. Foley said that it is hoped career staff will run the stations, with volunteers working with them. Mr. Foley said it has been difficult to recruit volunteers, and he offered to share information about staff efforts. Mr. Foley stated that currently there is not sufficient volunteer staff to serve the volunteer stations, adding that the East Rivanna Station, which currently serves Pantops, is requesting six paid firefighters to supplement their volunteers.

Mr. Boyd asked how the Board could help with the volunteer recruitment/incentive process as this is an important effort as it relates to cost. Mr. Foley responded that Albemarle is a leader in this regard, with the County picking up 100 percent of the cost of equipment, training, insurance, etc., and this prevents each station from having to do a lot of fundraising.

Mr. Boyd asked if staff could suggest some things the Board could implement as incentives for firefighters to volunteer.

Mr. Rooker commented that the County has to accept the fact that regardless of volunteers there is going to be continued investment in career staff and equipment. Mr. Rooker stated that the Board should look at the projected ongoing expense associated with each new station since there are equipment expenses with building projects. Mr. Foley replied that the County had all of the operating impacts of opening the new stations built into the five-year model previously reviewed, and they were built on worst-case scenarios.

Mr. Slutzky asked if fire department response times are being met in the growth areas. Mr. Foley said that is a difficult question to answer. Mr. Foley stated that data shows the response time goals are not being met because there has been no station in the northern area. Mr. Foley added that the next priority is clearly on Pantops, and Ivy was only included because an analysis indicated it is a densely populated area with poor coverage.

Ms. Thomas said one of the things driving the need for an Ivy station is the insurance costs of the people who live in that area; insurance is based on mileage from a fire station.

Mr. Foley pointed out that the Pantops cost is lower because there is a shared cost with the City, although there will be no firm figure on that until the consolidated study is completed. He added that the Pantops station is full-service, and Ivy is a sub-station with the five-mile perimeter being the goal to address the insurance concerns.

Mr. Rooker commented that the County is going down a road of growing fire stations much more rapidly than the population. Mr. Foley said the partnership with the East Rivanna Fire Department will continue to help cover the Pantops area. Mr. Foley stated that when the study results come out there will be a decision made between the County and City, with input and recommendations from staff.

Ms. Thomas said she is concerned about the public safety training facility. She stated that she is glad to see the cost of that has been reduced by the recommendation from the CIP Oversight Committee. Mr. Foley said staff had already recommended a reduced version; the facility is designed to be used by the County and City police and fire personnel. Mr. Foley added that the situation now with the firing range of the Rivanna Rifle Club is tentative; the police do all of their training there.

Mr. Boyd said he spoke with people there who indicated that the police may continue to use the facility.

Mr. Foley reported on public works expenses, noting that the largest is for maintenance and replacement projects for County facilities.

Ms. Thomas said she was unaware the County had decided to go to use of centers instead of curb pickup and that discussion needs to take place before \$1.5 million is spent on establishing centers. Mr. Tucker agreed that discussion would eventually come before the Board.

Mr. Slutzky commented that he would be interested in getting information on how consumers can create demand for recycled items in addition to just encouraging recycling.

Mr. Wyant said that the City of Waynesboro is a good resource for information on progressive recycling measures.

Mr. Dorrier asked if Charlottesville is a part of the local recycling effort. Mr. Tucker replied that they handle that on their own, and the Rivanna Solid Waste Authority handles that.

Mr. Rooker also noted that solutions in the City might not necessarily work in the County because of the difference in distance for collection. He added that the County found out recently that some of the recycled material was actually being taken to a landfill. Mr. Foley indicated that the Board could delay planning for these in the CIP if they are not ready to move forward with this now.

Board members discussed the issue of County storage needs. Mr. Slutzky asked the cost of digitizing information compared to the cost of storing documents. Mr. Boyd recalled spending money on

digitizing equipment. Mr. Foley suggested that staff bring back information on that process and associated costs.

Mr. Foley pointed out that the \$1.4 million is not included in the total expenses or revenue for the landfill, and it is not factored into the overall total cost.

Mr. Foley reported that in the area of neighborhood and community development, the County would be putting in \$2.0 million plus a year in the Transportation Improvement Program over a five-year period. He noted that the regional transportation figure is small because so far the only allocations have been for such things as alignment studies, and the total amount must be decided by the Board for regional versus local projects. He said that there is no money currently in that budget specifically for construction, adding that there is \$10.6 million total set aside over the next five years. Mr. Foley noted that money is set aside to match VDOT monies. He indicated that in terms of real decisions the Board needs to make, they could move some money out of the sidewalk program into general transportation needs but that would obviously have an impact.

Mr. Slutzky suggested that perhaps staff would have recommendations on other transportation items.

Ms. Thomas pointed out that there is a study for the regional transit system.

Mr. Slutzky said that only covers transit, and there should be some focus put on transportation as a whole.

Mr. Rooker mentioned that there is a 20-year transportation plan, and there are projects already being planned such as the Eastern Connector and the Southern Connector. He stated that there are a number of projects which the County could accelerate; the capital side of transit does not appear to be huge. He said the operational side is not really a CIP matter. He added that there has been consideration of moving money so that the Meadow Creek Parkway, Jarman's Gap Road, and Georgetown Road projects stay on schedule.

Ms. Thomas noted that Reservoir Road is going to become of great importance as it is going to be necessary to build the dam and provide the water. She stated that it might turn out to be funded by the Rivanna Authority, but it might not. Ms. Thomas said that either way it is local people that are going to be paying for it.

Mr. Foley stated previous discussions of the strategic plan included identification of transportation and urban infrastructure needs, and he assumed that would increase costs beyond what is in this CIP. He added that staff has already identified some scenarios that indicate this money is not adequate to meet assumptions for every master plan that is completed. He said that beyond that, staff could bring back information about the Six-Year Road Plan priorities that might be supplemented as well as any available information on the regional plans.

Mr. Foley emphasized that there is a \$2.0 million reserve based on what is in here now, so if there are significant changes cash-wise, that would be a significant problem. He added that if some of that is used for debt service instead of cash, then the County can buy \$20.0 million worth of roads.

Mr. Rooker added that the longer the money sits with projects not being done, the less valuable it becomes.

Mr. Foley noted there is money in this CIP for street improvement types of projects but not at a significant level. He mentioned that there is also additional money allocated for the YMCA pool.

Ms. Thomas mentioned that a competitive pool does not pay its way according to the group who presented the project.

Mr. Boyd noted that there is a local private group that had considered fundraising for the pool. Mr. Foley said the CIP Oversight Committee would be reviewing that.

Mr. Boyd noted that there are numerous soccer fields planned. He asked if Albemarle is providing facilities for regional teams as well as the County. Mr. Tucker responded that there actually is that much of a demand for soccer facilities in the area. Mr. Foley agreed to bring back more information on soccer fields and usage here.

Mr. Foley reported that library items have been in the CIP for quite a while. He stated that there was a library study done that drove the numbers that were in here.

Mr. Rooker noted that the northern library plan would put it in a center of activity as it currently is and that is a sensible spot as it relates to Places 29.

Mr. Slutzky said perhaps the County should consider the "power of the Internet" and rethink a large capital investment that might lead to a facility that is essentially "a dinosaur."

Mr. Rooker added that there are colleges that are actually moving away from books.

Ms. Thomas said before the Board goes too far down that road, they should get information from the County's libraries as usage is actually up at local branches.

Mr. Wyant said the CIP Oversight Committee has been looking at that, and the facility on Route 29 North currently rents for \$220,000 per year. Mr. Foley stated that the size and contents of the library would definitely be a part of the discussion as it moves forward.

Mr. Rooker said he can not imagine the Forest Lakes area as being a good location for a library.

Mr. Wyant noted that the site in the North Pointe development has five acres available. Mr. Foley said all of that information would be brought back to the Board in March as would information about the Crozet library and its possible size/mixed-use options.

Mr. Foley briefly mentioned the allocations for the ACE program, stormwater management, information technology, and the GIS.

Mr. Foley said the schools' CIP projects total \$99.0 million and include the Brownsville and Crozet Elementary Schools' additions.

Mr. Rooker commented that it would be helpful to have items noted that are mandated, such as stormwater management, and items that are optional ranked by priority.

Mr. Foley responded that staff does that in the evaluation process with criteria for capital projects influencing their ranking in priority.

Mr. Foley reported that using master planning for road and infrastructure improvements, there was about a \$40 million shortfall for what is in the CIP. Mr. Foley said that the majority of it, about two-thirds, was related to transportation, and he mentioned that there is a smaller amount in regional and a larger amount in local because it is not certain yet how the Board wants to commit those funds.

Ms. Thomas commented that the revenue stream will greatly impact these things, too.

Mr. Foley said he thinks what we are saying with this CIP is you cannot fund the future based on the current revenues going into the CIP, and if we make a different level of commitment to some of these things, we will either have to reallocate resources or we will have to come up with some other resources or some other methods of financing.

Mr. Tucker emphasized that the Board needs to give staff some clear direction on where they want to go, including real numbers.

Mr. Slutzky stated that it is going to be important to establish the projected revenue.

Mr. Dorrier commented that what should be focused on now is expenditures for next year.

Mr. Tucker agreed, adding that the capital budget needs to be established for next year, and Mr. Foley is trying to show what would be available over the next five or ten years. Mr. Tucker said he thinks the Board is getting down to the real hard decisions.

Mr. Wyant said that the ones that have already been established as priorities should be acted upon first.

Agenda Item No. 3. Tour of Newly Renovated Community Development Offices. (Due to time constraints, this item was eliminated from today's agenda.)

(NonAgenda. At 3:18 p.m., the Board recessed.)

Agenda Item No. 4a. Joint meeting with School Board - Collocation and Development of Public Facilities.

SCHOOL BOARD PRESENT: Ms. Sue Bell Friedman; Mr. Stephen Koleszar; Ms. Diantha McKeel; Ms. Barbara Massie Mouly; Ms. Pamela Moynihan; Mr. Jon Stokes; and Mr. Brian Wheeler.

SCHOOL BOARD ABSENT: None

OTHER STAFF PRESENT: Dr. Pamela Moran, Superintendent; Ms. Roxanne White, Assistant County Executive; Mr. Tom Foley, Assistant County Executive; Ms. Diane Behrens, Executive Director for Support Services; Ms. Kimberly Suyes, Director of Human Resources; Ms. Lorna Gerome, Human Resources Manager for Compensation and Benefits; and Ms. Denise Boyd, School Board Clerk.

Note: At 3:30 p.m., Mr. Boyd called the Board of Supervisors back into session, and Ms. Friedman called the School Board to order.

Ms. Behrens reported that there is currently discussion taking place about co-locating facilities, and the schools were approached by the Jefferson Institute of Lifelong Learning (JILL) to see if there is interest from the County in pursuing that.

Mr. Foley commented that regardless of a long-term or short-term approach, there are some very important questions that would need to be answered, such as the design process for Albemarle High School.

In response to Mr. Boyd's question as to whether other localities would be involved, Ms. McKeel explained that the JILL situation is something that came forward to the Albemarle School Division. She said that once the discussion takes place about the larger concept, then it can move forward as an actual plan if the Board agrees.

Ms. McKeel said that if you consider models in other states, the designs are such that all members of the community use the co-located facilities.

Ms. Friedman stated that this actually shows that philosophically the locality supports the concept from the pre-building phase rather than wait until the building is already constructed.

Ms. Behrens noted that there are already uses that take place in school buildings after-hours, but there have never been things happening during school hours so it is a different concept. She emphasized that there are all kinds of things that could be located, but it is a very different philosophy as far as having students interact with other people during the school day.

Ms. Thomas said that the League of Women Voters actually did a study on community schools in about 1991, and she noted that it makes a tremendous amount of sense. Ms. Thomas added that the schools became more security-conscious and hesitated at her suggestion of the library at Monticello High School. She mentioned that a county in Portland, Oregon has had a very successful shared library which is located beneath affordable housing apartments. Ms. Thomas added that there are studies that show students behave better when there are adults and older people around.

Mr. Rooker stated that philosophically he supports the shared building uses as it is harder and harder to find sites for public facilities in the growth area. He said if the schools are comfortable and would not mind co-locating, it makes a great deal of sense.

Ms. McKeel noted that there are schools that actually have a bank branch built in where students can intern.

Mr. Slutzky said that he would support the shared use but not if it meant a business being located at a school site in the rural area. He commented that there would need to be consideration if a school were to expand to accommodate additional student population.

Mr. Wheeler commented that the schools have just now started to explore this so more information would be needed, but he supports the concept. He also said that he supports the green building and LEED approaches for the facility.

Mr. Koleszar said that there has always been a great partnership with Parks and Recreation to share facilities, and this just takes it a step further. He said this is just another way to strengthen the community by bringing more people together in a common place.

Mr. Boyd commented that he does not see this as a big philosophical departure, but he is concerned about loading staff up with more and more work.

Ms. Behrens agreed that it would take some staff time, but the difference with this project is the feasibility study would need to address the cost and what the cost would be.

Mr. Rooker said that philosophically everyone here seems to be on Board, but the question is just how it should move forward and when.

Mr. Wyant cautioned that this needs to be considered carefully because of concerns with safety of students depending on how the buildings are shared.

Mr. Tucker pointed out that is an issue, but time is tight because of the planned expansion to Albemarle High School this summer. He said that the JILL item should be acted upon immediately, with a future discussion to take place on the broader issue of co-location in general.

Mr. Foley noted that deciding on the JILL item would actually help facilitate that discussion.

Ms. McKeel said that the JILL project offers a case study with a concrete example to co-locate a facility with a specific purpose.

Ms. Thomas stated that she likes the term "case study", and if multi-use buildings are the goal, then it should be placed with other goals.

Mr. Stokes said that he is supportive generally of the multi-use idea, but he is concerned about security of schools and about going forward with a specific project.

Ms. Friedman stated that the JILL project could be considered now and that would help bring the discussion forward. Mr. Rooker agreed that would be a good start for this.

Ms. Moynihan said that the JILL project is not the same as a library, which is a defined public use. She also emphasized that there are legal issues with having a private non-profit use the building, and she wondered if it might open the door for other organizations who want to use it. She said, "I do think there are some things that really do need to be worked out."

Mr. Foley clarified that staff did not bring this forward with a recommendation, but just presented it for Board discussion.

Mr. Wyant emphasized the importance of working out the larger conceptual issues prior to talking through an agreement with JILL.

Ms. Thomas noted that this might be a good way to get a slightly bigger building ahead of time in the event of future needed expansion.

Agenda Item No. 4b. Revised Calendar for CIP Process.

Mr. Tucker stated that staff included in the report the charge and role of the oversight committee, noting that the County created that committee last year with two Board of Supervisors members, two School Board members, and one Planning Commission member as well as citizen and staff members to provide oversight to the CIP process for schools and local government. He said that the School Board did not have sufficient time last year to review the CIP, but this year staff has tried to build some time here so they have time to review the CIP.

Ms. Friedman said that there is a proposed CIP calendar, and if there are any specific items the School Board members would like to see added, deleted, or rearranged, then they should identify them at this point and then come back at a later time.

Mr. Stokes expressed frustration that there was not time to see the CIP request before the oversight committee saw it, and he said that he appreciates this calendar which allows time to do that. He asked if there might be built into the process a joint discussion about the CIP oversight committee's review.

Mr. Boyd stated that he would like to see how much money is available before informing staff of priorities.

Mr. Tucker said that there is a limit now as to how much can be allocated from the CIP based on the Board's formula.

Mr. Rooker noted that the Board exercises that discretion now, and the long-range CIP is somewhat of a wish list as priorities may change. He added that when the Board went through their business plan, they sort of established what those costs would be.

Mr. Tucker stated that it is difficult to put a cap on a number because the amount changes every year, and the oversight committee looks at that in relationship to the needs that have been set.

Agenda Item No. 4c. Living Wage Report.

Ms. Gerome said that at the joint Board meeting in October, the Superintendent and County Executive were asked to build their budget with the \$9.75 minimum around the budget projections. She stated that there would also be a joint Board committee established to look at the issue of living wage and come back with recommendations. Ms. Gerome said that the group has met about four times over the last several months, and the group included Brian Wheeler, Jon Stokes, David Wyant, David Slutzky, Roxanne White, Jackson Zimmerman, Kimberley Suyes, and herself.

Mr. Slutzky commented that as part of the oversight committee's work, they agreed not to end up necessarily at \$9.75 but that served instead as a placeholder with the joint committee working to determine the actual living wage. He added the group looked at what objective standard could be used in determining a living wage such as federal, local, etc., and they decided to use local data, which brought them to a figure of \$10.75 and then \$11.07 with an inflation factor. Mr. Slutzky emphasized that the committee also did not want to undermine what Human Resources has been doing as far as pay scale progression, and compression was, therefore, a concern. He added that his position would be to pay the \$11.07 in accordance with the full compression projected in the staff report and apply it to all County and school division employees.

Mr. Wheeler pointed out that the committee debated whether the market rate was actually viable, and he wants to implement the living wage as a "moral and educational" initiative. He said that he could support a phasing of the living wage, and he would like it to be revisited every October as part of HR discussions related to compensation.

Mr. Stokes said that he agreed that it is a moral and educational issue, but it is also a financial issue. He commented that with an option at \$9.75, the cost would be close to \$1 million to make that

happen just in the school system. He said it is going to be a balancing issue, and we cannot lose track of the financial impact on our budget.

Ms. McKeel asked if the \$11.07 takes into account the health benefits.

Ms. Gerome replied that the amount considered for health care for a family of four for a month was \$400 but that does not include everything.

Mr. Rooker stated that HR has spent a great deal of time on research for competitive market wages, including comparable markets from around the State and individual analysis of each job, and this would "subjectively establish" target pay bands that have nothing to do with market data gathered every year.

Mr. Wheeler said that he believes this process must be abandoned because it is resulting in a minimum number that does not result in a wage that allows for self-sufficiency.

Mr. Rooker commented that the County should run like a business, and it has come a long way to make that happen. He added that 80 percent of the budget is personnel, and abandoning objective standard with respect to that portion of the budget is concerning.

Mr. Slutzky responded that the idea is to use the objective standards of these two bodies, the EPI and self-sufficiency standards, so there is a reasonable basis for which to establish what employees of the County can be paid to have them not in poverty.

Ms. Moynihan asked how these organizations are determined to be objective.

Ms. Gerome emphasized that the market-based strategy seems to be working, although a few positions such as highly technical jobs and engineers are an exception.

Ms. Thomas said that if other businesses are paying the \$9.75, then the County should be doing the same. She asked if there is also an obligation for Albemarle to be a model employer, adding that it might not be possible to get to the living wage within one year.

Mr. Stokes pointed out that some of the \$9.75 wage-earners may just be using it for part-time jobs, but staff's recommendation is to have compression move along the scale so it would affect everyone.

Mr. Koleszar said that paying the above-market wage would help change wages for everyone in that group and that will improve the market overall. He added that the \$8.60 an hour originated from a living wage campaign several years ago, and he said that it needs to be done even if the full \$11.07 can not be reached.

Mr. Rooker commented that in the case of the University and other entities, once positions become too expensive it becomes an economic decision to outsource.

Ms. Moran said that there still seems to be some uncertainty with how to move forward with the living wage, and she is concerned that it might actually hurt the families it is supposed to help. Ms. Moran said that she was just not really comfortable with making a commitment this year.

Ms. Friedman stated that there are other priorities that also need to be considered as adoption of a living wage might preclude those from moving forward.

Mr. Boyd said that the whole concept of coming up with a living wage is a "subjective exercise." He stated that he would like to know how much of the estimated \$2.7 million would go to the people at the bottom of the scale. Mr. Boyd said that while there are moral obligations to the employees, there are also moral obligations to the taxpayers who are paying more and more for their property taxes.

Mr. Rooker said that the Boards must make choices, and if the County is going to invest this kind of money to apply in a socially conscious way in the community, then using it for living wages might not be what he would support.

Ms. Thomas stated that she does not want staff to spend time getting more information if there is not support for the concept of living wage.

Mr. Boyd replied that the initial estimate of \$85,000 has now jumped to \$2.7 million.

Ms. McKeel commented that she is very concerned that the schools first need to meet the priorities set for core instructional services for kids whose parents would essentially be served by the living wage. She said that it is possible that those services would be cut in order to fund the living wage initiative. Ms. McKeel said the Board of Supervisors have the purse-strings, not the School Board.

Ms. Friedman stated that if this is an important priority for citizens then it should be worth additional tax money, adding that she could not as a School Board member cut core instructional services.

Ms. Gerome explained that the EPI and self-sufficiency standards had local data for the Albemarle/Charlottesville MSA, and that is why those two criteria were chosen for comparison.

Mr. Wyant asked if staff has compressed in the past when other market studies have been done.

Ms. Gerome replied that if they did a study and found that one position was below market, they would address that and move everyone on the scale.

Mr. Rooker commented that he would be interested in a very small level of compression, and he is not certain that HR would approve of that. He said once you abandon your objective criteria, all of the sudden, you then have a pay band that is not adjusted throughout.

Mr. Slutzky stated that HR has not been asked to balance wage adjustments with social priorities. He noted, however, that does not mean the County can not compress at a smaller scale or agree to something less for a living wage number than the two objective standards came up with. He noted that the City paid \$9.75 last year so that number will likely climb. Mr. Slutzky said he could understand scaling back the scope, but would like to see us do something.

Mr. Rooker said that he is not supportive of the plan that is presented, and he is concerned about disrupting the County's entire pay plan because of a social concept. He said he was not embarrassed that the County starts people at a wage of \$8.81. He does not know how many people are actually in these categories that are being thrown around. He said that he is not going to support something that essentially throws out the entire criteria established for setting pay, adding that the real problem with the scenario is the compression issue.

Mr. Wyant stated that he agrees, and he prefers a system that is market-driven.

Ms. Thomas mentioned that she appreciates the comments, and she also appreciates the students and others who brought this issue to the community's attention. She emphasized that the County should be a "model employer" and start slowly with small steps of decompression. Ms. Thomas noted that getting employees to \$11.07 would mean 2-cents on the tax rate.

Mr. Dorrier commented that this is a good first step, and it needs to be approached on a graduated scale.

Mr. Boyd said that this is a subjective analysis, and he does not see how this could be funded this year. He also added that there may be a better way to invest in the community to yield higher wages.

Mr. Koleszar stated that realistically the County should be looking at the \$9.75 number and not the \$11.07 number.

Mr. Stokes commented that he is interested in supporting a living wage but not at the cost of important educational priorities. He said that adopting the living wage without compression "would be a disaster," and staff would not be recommending that from a morale standpoint. He also stated that the Board of Supervisors holds the purse-strings and if they want to pay for it, the School Board will be happy to implement it.

Mr. Rooker clarified that this seems to indicate the School Board would not be prepared to make budgetary accommodations for the living wage.

Mr. Wheeler said that if the County does not go to \$9.75, Mr. Zimmerman has indicated the fallback number from the previous methodology was \$9.10.

Ms. Moynihan commented that the living wage is an excellent concept, and she supports it. She stated, however, she does not support this plan because she does not appreciate its objectivity. She added that she would go with \$9.75 as long as others support it.

Ms. Friedman stated that the 2-cents in reserve could make it doable for the schools at \$9.75.

Mr. Boyd said that he is not willing to move forward on this especially in light of so many people paying 30 percent more in taxes on their property.

Mr. Rooker commented that he is concerned primarily with disrupting an entire pay plan.

At Ms. Moran's request, Mr. Zimmerman reported that 80 percent of total cost of school division and local government employees is covered in the first seven steps. He said that this means there is a declining level of compression as you move along the scale, and if there was no compression the Board could perhaps implement a merit system.

Ms. Moran commented that she would not want to get into a position where revenues flatten out and positions must be cut, adding that she would like to see this in terms of long-term costs.

Mr. Koleszar said that the whole imbalance is the fact that teacher's salaries are projected to go up faster than other salaries and the inflation rate. He said that entire difference, shortfall, is in teacher salaries.

Ms. Thomas asked about looking at it the opposite way, and taking a fixed amount of money, such as a half million dollars, and seeing what could be done with it.

Mr. Rooker responded that if the County had \$500,000 then perhaps the better investment would be in daycare for people who are at the lower end of the pay structure.

Mr. Boyd said that he is not prepared to earmark an amount because the Board has not seen the budget yet.

The Boards agreed that the living wage discussion would be postponed until the revenue reports are available from staff.

Agenda Item No. 5. Recess. At 5:36 p.m., the Board recessed and reconvened in the Lane Auditorium at 6:05 p.m.

Agenda Item No. 6. Call to Order. The meeting was called to order at 6:06 p.m. by the Chairman, Mr. Boyd.

Agenda Item No. 7. Pledge of Allegiance.
Agenda Item No. 8. Moment of Silence.

Agenda Item No. 9. From the Public: Matters Not Listed for Public Hearing on the Agenda.

There were no other matters from the public tonight.

Agenda Item No. 10. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Rooker reported that he and Mr. Boyd had met with City officials regarding transportation funding and routes in the County. He said that they tried to establish a long-term formula for establishing pricing, and they arrived at "a fair formula" that gives the County equal credit for Federal and State contributions and prices transit on a per-hour basis. Mr. Rooker said that they have looked at getting final numbers for extending transit to the County Office Building - 5th Street as well as to Southwood mobile home park. Mr. Rooker said they also discussed decreasing the head time on Route 5, which goes to Barracks Road and out Georgetown Road to the northern part of the County, and adding buses to that route would increase ridership more than any other change that could be made to the system. He added that final costs would be available in time for the Board's budget deliberations this year.

Mr. Boyd agreed that the meeting was very productive, and he said he is excited about the possibility of offering more transportation options for residents.

Ms. Thomas noted her surprise at how much the transportation study would cost, adding that the focus should be on improvements to existing services as well as new riders.

Mr. Slutzky said that the MPO would make a point of addressing that concern and make sure that the emphasis is equal in the contract.

Ms. Thomas reported that she has been hearing a lot about the sewer system situation, as there are some capacity problems and issues related to meeting new sewage treatment plant standards. She said that she would be interested in getting a report from Mr. Tucker and Mr. Graham about the situation through the Rivanna Water and Sewer Authority. Mr. Slutzky and Mr. Rooker agreed that they would like that information as well.

Mr. Rooker noted that there was an issue related to Albemarle Place and the capacity of the interceptors and sewer system. He said, "It could result in that development being delayed depending up on how quickly that solution for increasing capacity is implemented."

Mr. Wyant added that is also an issue in Crozet from Old Trail to the interceptor.

Ms. Thomas stated that a constituent on Route 29 South has noticed that Appalachian Power has left their tree-trimming residue in piles from Coveseville northward. She said that APCO has indicated they just plan to leave it there, adding that it does not seem to meet Entrance Corridor standards. She requested that a letter be written to Appalachian Power Company regarding clearing of debris after tree trimming under their power lines.

Mr. Davis responded that there is no applicable local ordinance, and the power company is answerable to the State Corporation Commission as to how they operate, and perhaps APCO would voluntarily take care of the matter instead.

Mr. Rooker commented that staff had raised concerns about sewer capacity with Albemarle Place going back to the original Comprehensive Plan change and brought it to the attention of the applicant at that time.

Mr. Wyant suggested that the Board matters actually go first so that the public has an opportunity to comment during their other matters item. He asked that this agenda item be moved before "comments from the public" on future agendas.

Agenda Item No. 11. Consent Agenda. Ms. Thomas **moved** for approval of the Consent Agenda. Mr. Wyant **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

Item 11.1. Approval of Minutes: June 7, June 14, and September 13, 2006.

Mr. Boyd and Mr. Dorrier said that they needed to pull their minutes (June 7, 2006) from the agenda.

By the above recorded vote, the Board approved the minutes as read, and the minutes noted minutes were forwarded to the next agenda.

Item 11.2. SOCA South Fork Expansion – Request to amend the Albemarle County Service Authority Jurisdictional Area to provide sewer service to Tax Map 46, Parcels 22 and 22C, located adjacent to the SOCA sports facility on Polo Grounds Road. (Removed from agenda.)

In response to Mr. Wyant's question about why this was removed from the agenda, Mr. Tucker stated that staff would bring the jurisdictional area forward simultaneously with the Special Use Permit, and this is just to authorize a Resolution of Intent to make that happen.

Mr. Davis noted that the recommendation is not to go to public hearing unless the Board pulls it from the Consent Agenda and changes it.

Mr. Benish said that the intent was for the Board to be able to look at the land use issue as well as the jurisdictional area.

Mr. Benish noted that in reviewing the Special Use Permit for Item 11.2, the Board would set the public hearing and one month later act on the jurisdictional area.

At this time, Mr. Rooker **moved** to defer Item 11.2 indefinitely. Ms. Thomas **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

Item 11.3. Resolution - Acceptance of FY 2004-05 and FY 2005-06 landowners' offers to sell conservation easements.

The executive summary states that ACE regulations require each landowner who desires to sell a conservation easement to submit a written offer to the County to sell the easement for a fixed price, determined by an appraisal and subject to an adjustment based on adjusted gross income. The easement is also subject to the terms and conditions contained in a proposed deed of easement negotiated by the parties. The regulations also require that, if the Board accepts the offer, it must do so in writing and only after an action by the Board authorizing acceptance. The Board is not required to accept an offer to sell a conservation easement. Either the Albemarle County Public Recreational Facilities Authority (PRFA) or the Virginia Outdoors Foundation (VOF) may be co-holders of the easements.

Acceptance of FY 2004-05 landowners' offers to sell a conservation easement – On July 5, 2006, the Board of Supervisors approved the appraisals of six FY 2004-05 applications and approved extending invitations to acquire easements on all of those properties. By January 2007, the Board of Supervisors had formally accepted offers from five of the six properties (Vieille, Boyle, Donnelly Metcalf/South and Davey). Rock Mills Land Trust was the only applicant who had not submitted an offer to sell an easement to the County. Since the January meeting the remaining applicant, Rock Mills Land Trust, has submitted an offer to the County.

Acceptance of FY 2005-06 landowners' offers to sell a conservation easement – On November 1, 2006, the Board of Supervisors approved the appraisals of five FY 2005-06 applications and approved extending invitations to acquire easements on those properties. On January 10, 2007, the Board of Supervisors formally accepted offers submitted by three applicants from this five-applicant class (Motley, Fields and Huckleberry Hills Farm). The remaining two applicants (Hook and Chester) had not yet

submitted their offers to sell easements to the County. Since the January meeting the remaining two applicants, Hook and Chester, have submitted offers to the County.

Acceptance of FY 2004-05 landowners' offers to sell a conservation easement - From the Round 5 (FY 2004-05) applicant pool, the County recently received an offer to sell a conservation easement from Rock Mills Land Trust. This easement will be co-held by the County and the PRFA.

Owner	Tax Map-Parcel Number	Price	Co-holder	DR's Eliminated
Rock Mills Land Trust	TM 74, Parcel 19 (136.540 acres)	\$322,400	PRFA	14
	<u>TM 74, Parcel 20 (9.000 acres)</u>			
	Total (145.540 acres)			

This easement will provide the following conservation values: 1) elimination of 14 development rights; 2) protection of a property in the watershed of the South Fork of the Rivanna River reservoir; 3) approximately 5,000 feet of stream frontage protected by riparian forest buffers; and 4) 145.540 acres of permanently protected land.

Acceptance of FY 2005-06 landowners' offers to sell a conservation easement - From the Round 6 (FY 2005-06) applicant pool, the County recently received offers to sell conservation easements from Hook and Chester.

Owner	Tax Map-Parcel Number	Price	Co-holder	DR's Eliminated
Hook	TM 84, Parcel 11B "A" (114.000 acres)	\$0 (donated)	PRFA	10
	<u>TM 84, Parcel 11B "B" (7.000 acres)</u>			
	Total (121.000 acres)			
Chester	TM 65, Parcel 11 (22.011 acres)	\$309,760	PRFA	11
	TM 65, Parcel 11B (2.450 acres)			
	<u>TM 84, Parcel 11C (52.000 acres)</u>			
	Total (76.461 acres)			

The Hook and Chester easements will provide the following conservation values: 1) elimination of 21 development rights; 2) protection of a property in the watershed of the South Fork of the Rivanna River reservoir; 3) approximately 5,000 feet of stream frontage protected by riparian forest buffers; 4) nearly 2,000 feet of common boundary with other properties currently protected by easement; and 5) 197.461 acres of permanently protected land.

A summary of all the conservation values protected by the ACE Program after six rounds of applications is found in Attachment "D". This attachment also shows the conservation values for each of the six classes.

For the first four years of the ACE program, in which the County acquired easements on sixteen properties and protected 3,759 acres, the County's net cost was approximately \$3,125,737 out of the County's budgeted funds of \$3,872,500. Although a portion of unspent funds can be attributed to applicant attrition (approved applicants withdrawing or not making offers to sell), \$357,933 was also leveraged from outside contributions and additional savings were realized from adjustments of easement value from the income grid (see Attachment "C"). If the County acquires easements on all eleven applicants from FY 2004-05 and FY 2005-06 as currently valued, the County will have acquired easements on twenty-seven properties and protected 5,497 acres at a cost of up to \$6,012,099. The County's budgeted funds of \$5,872,500 for that period combined with additional funding from outside contributions (\$489,433) will cover the cost.

For a cash flow analysis of the FY 2004-05 and FY 2005-06 applicant pools, see attachment "E". This analysis projects cash flows and net acquisition costs (after annual ACE appropriations and easement acquisition costs) for each applicant class. Also provided is information on total available funds as of FY06-07, and the amount of those funds obligated for remaining easement purchases through to the current round of the program (Round 7, FY06-07).

Funding for the purchase of conservation easements from both applicant classes comes from the CIP-Planning-Conservation budget (line-item 9010-81010-580409) and the CIP-Tourism-Conservation budget (line-item #9010-72030-580416), a budget previously approved by the Board to fund ACE properties with "tourism value".

The following recommendations are provided for action by the Albemarle County Board of Supervisors:

- 1) Adopt the attached Resolution (Attachment A) accepting FY 2004-05 applicant's offer (from Rock Mills Land Trust) to sell a conservation easement to the County, for the price specified and subject to the terms and conditions contained in the proposed deed of easement, and authorize the County Executive to sign the final deed of easement for each property.
- 2) Adopt the attached Resolution (Attachment B) accepting FY 2005-06 applicants' offers (from Hook and Chester) to donate and sell a conservation easement to the County, respectively, for the price (Chester) specified and subject to the terms and conditions contained in the proposed deeds of easement, and authorize the County Executive to sign the final deed of easement for each property.

By the above-recorded vote, the Board adopted the following Resolution accepting FY 2004-05 applicant's offer (from Rock Mills Land Trust) to sell a conservation easement to the County, for the price specified and subject to the terms and conditions contained in the proposed deed of easement, and authorize the County Executive to sign the final deed of easement for each property:

**RESOLUTION ACCEPTING OFFER TO SELL
A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

WHEREAS, the County has received an offer to sell a conservation easement under the ACE Program from the owner of the following properties:

Rock Mills Land Trust	TM 74, Parcel 19	(136.540 acres)
	TM 74, Parcel 20	(9.000 acres)
	<u>Total</u>	<u>(145.540 acres)</u>

WHEREAS, the owner offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County's invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby accepts the offer to sell a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

By the above-recorded vote, the Board adopted the following Resolution accepting FY 2005-06 applicants' offers (from Hook and Chester) to donate and sell a conservation easement to the County, respectively, for the price (Chester) specified and subject to the terms and conditions contained in the proposed deeds of easement, and authorize the County Executive to sign the final deed of easement for each property:

**RESOLUTION ACCEPTING OFFER TO SELL
A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

WHEREAS, the County has received an offer to sell a conservation easement under the ACE Program from the owner(s) of the following properties:

Hook	TM 84, Parcel 11B "A"	(114.000 acres)
	TM 84, Parcel 11B "B"	(7.000 acres)
	<u>Total</u>	<u>(121.000 acres)</u>
Chester	TM 65, Parcel 11	(22.011 acres)
	TM 65, Parcel 11B	(2.450 acres)
	TM 65, Parcel 11C	(52.000 acres)
	<u>Total</u>	<u>(76.461 acres)</u>

WHEREAS, the owner(s) offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County's invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner; and

WHEREAS, the owner of the Hook property has advised the County that she desires to donate the conservation easement.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby accepts the offer to donate (Hook) and to sell (Chester) a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

Item 11.4. Resolution Authorizing Funding for the Regional Transit Authority Plan.

In recent months, the Albemarle County Board of Supervisors, Charlottesville City Council and Charlottesville-Albemarle Metropolitan Planning Organization (MPO) have held discussions regarding improvements to public transportation services, including the creation of a Regional Transit Authority. The MPO Policy Board has approved a scope of work to create a Regional Transit Authority Plan (RTAP), which will outline how to implement the regional transit vision adopted by the MPO, City, and County. An

overview of both the scope of work and funding is available in Attachment A. The full scope of work is available in Attachment B. The Board's approval of the resolution authorizing funding (Attachment C) is requested.

This request will have a one-time cost of \$50,000 for the County. The \$50,000 expenditure consists of a \$5,000 local match for a grant and an additional \$45,000 to complete the identified scope of work. The total local match for the grant and costs not covered by the grant are shared equally with the City. Further funding details are available in Attachment A (see "RTAP Funding").

Staff recommends the Board approve the Resolution Authorizing Funding for the Regional Transit Authority Plan (Attachment C). If approved, staff will prepare an appropriation to come forward to the Board as a budget amendment.

By the above-recorded vote, the Board adopted the following Resolution Authorizing Funding for the Regional Transit Authority Plan:

**Resolution Authorizing Funding for the
Regional Transit Authority Plan**

WHEREAS, The Charlottesville-Albemarle Metropolitan Planning Organization (MPO) Policy Board has authorized Harrison Rue, Executive Director of the Thomas Jefferson Planning District Commission (TJPDC) as fiscal agent for the MPO, to execute and file an application to the Department of Rail and Public Transportation, Commonwealth of Virginia, hereafter referred to as "Department," for a grant of financial assistance in the amount of \$100,000 to defray the costs for the development of the Regional Transit Authority Plan (RTAP) and to accept from the Department grants in such amounts as may be awarded, and to authorize MPO Staff to furnish to the Department such documents and other information as may be required for processing the grant request; and

WHEREAS, a grant of financial assistance from the Department requires a local match of 10% and the 10% local match for this grant of financial assistance is \$10,000; and

WHEREAS, the costs of the local match of \$10,000 will be distributed equally between the City of Charlottesville and County of Albemarle, with each contributing \$5,000; and

WHEREAS, The Charlottesville-Albemarle Metropolitan Planning Organization (MPO) Policy Board has approved the Regional Transit Authority Plan (RTAP) Scope of Work budget estimate with \$100,000 funded by the Department and \$100,000 funded by combined equal contribution from the County of Albemarle and City of Charlottesville; and

WHEREAS, The Charlottesville-Albemarle MPO Policy Board has recommended that the County of Albemarle and City of Charlottesville contribute \$50,000 each to the RTAP which includes \$5,000 from each jurisdiction to fund the 10% local match required by the Department.

NOW, THEREFORE BE IT RESOLVED that the County of Albemarle will provide funds in the amount of \$50,000, to contribute to the Regional Transit Authority Plan, of which \$5,000 will be used to match the State funds in the ratio as required and \$45,000 will fund its share of the remaining costs of the approved Scope of Work approved by unanimous vote of the MPO Policy Board.

Item 11.5. Resolution of the Industrial Development Authority authorizing the issuance of Colorado Health Facilities Authority revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$51,000,000 for the benefit of Global Country of World Peace.

The following letter dated February 6, 2007, was received from Mr. Daniel M. Siegel, Sands Anderson Marks & Miller, to Ms. Ella W. Carey, Clerk:

"As promised, enclosed with this e-mail is a proposed Resolution for presentation to the Board of Supervisors at its meeting on Wednesday, February 14th, following a public hearing held on February 13th by the Industrial Development Authority of Albemarle County, Virginia, at the request of the applicant, Global Country of World Peace (**the "Borrower"**).

The Borrower seeks to finance a number of regional and local health and health related facilities in various locations throughout the country through the issuance of revenue bonds by the Colorado Health Facilities Authority (**the "Colorado Authority"**) in a maximum aggregate principal amount of up to \$51,000,000 (**the "Bonds"**), including a facility located at Whitewood Road at the SW corner of Whitewood Road and Oak Forest Drive in Albemarle County, Virginia (lot B, Division of Parcel 26, with a proposed street address of 109 Whitewood Road, Charlottesville, VA) (**the "Albemarle Facilities"**). No more than \$3,500,000 from the issue of Bonds will be used for the Albemarle Facilities.

The Albemarle Facilities will consist of an approximately 12,000 square foot two-story facility in which the Borrower intends to conduct health and wellness activities or related support activities.

The Bonds are expected to be sold or placed with a large national tax exempt bond fund, the

same fund which purchased approximately \$21 million of such Bonds in December of 2006 for the Borrower.

Federal tax law (Section 147(f) of the Internal Revenue Code of 1986, as amended) requires that public approval be obtained from the highest applicable elected representative of the governmental unit in which the issuer is located and by the highest applicable elected representative of the governmental unit in which the facility to be financed is located.

In this instance, the Issuer, the Colorado Authority, as a state issuer, must obtain the approval from the Governor of Colorado.

In order for the Albemarle Facilities to be included as one of the Facilities to be financed by the Bonds, a public hearing must be held and approval must be obtained by the Board of Supervisors. In Virginia, this process is generally accomplished by a public hearing being held by the local industrial development authority on behalf of the County, which is the purpose for the request and public hearing

Prior to submission for approval to the Albemarle County Board of Supervisors, we are seeking the recommendation of the Albemarle Authority after the holding of its public hearing.”

By the above-recorded vote, the Board adopted the following Resolution:

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
ALBEMARLE COUNTY, VIRGINIA APPROVING THE ISSUANCE OF COLORADO HEALTH
FACILITIES AUTHORITY REVENUE BONDS IN A MAXIMUM AGGREGATE PRINCIPAL
AMOUNT OF \$51,000,000 FOR THE PURPOSES OF FINANCING AND REFINANCING THE
COSTS OF ACQUISITION, CONSTRUCTION, IMPROVEMENT, RENOVATION,
REMODELING, FURNISHING AND EQUIPPING OF CERTAIN HEALTH FACILITIES AND
CERTAIN OTHER MATTERS RELATING THERETO**

WHEREAS, there has been described to the Industrial Development Authority of Albemarle County, Virginia (**the “Albemarle Authority”**) in a public hearing on behalf of the County of Albemarle, Virginia (**“Albemarle County”**) the plan of financing of Global Country of World Peace (**the “Borrower”**), an Iowa nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (**the “Code”**) which has its principal place of business at 1900 Capital Blvd., Fairfield, Iowa 52566;

WHEREAS, the Borrower has requested that the Colorado Health Facilities Authority (**the “Colorado Issuer”**) issue its revenue bonds (**the “Bonds”**) in one or more series in a maximum amount of a total of \$51,000,000;

WHEREAS, the Borrower has represented that the proceeds of the Bonds will be used to: (a) finance the costs of acquisition, construction, improvement, renovation, remodeling, furnishing and equipping of certain health and health related support facilities of the Borrower, including but not limited to (i) regional peace center facilities to be located on approximately 450 acres at 137 Waldemere Road, Livingston Manor, New York; on approximately 1160 combined acres at 20043 70 Road, Lebanon Kansas and 17022 100 Road, Smith Center, Kansas; on approximately 668 acres at 160 Echota and Old Fort Road, Asheville, North Carolina; on approximately 522 acres at 00000 Lost Valley Road, 1000 feet southeast of the corner of Blackwood Drive and Canebrake Road, Boulevard, California; and on approximately 52 acres at 21650 Ballenger Road, Cedarpines Park, California; and (ii) local peace center facilities at the approximately three acres adjacent to the northern boundary of 1068 Elkton Drive, Colorado Springs, Colorado; 5504 Edson Road, N. Bethesda, Maryland; 380 Parkland Plaza, Ann Arbor, Michigan; 399 Ruth Street S., St. Paul, Minnesota; 968 154th Street, Pleasant Dale, Nebraska; 1929 Greentree Road, Cherry Hill, New Jersey; 9450 Transit Road, E. Amherst, New York; 1669 Pittsford Victor Road, Perinton, New York; .28 miles west of Old Willets Path on the south side of Route 25, Smithtown, Long Island, New York; 999 Rocky Ridge, Asheville, North Carolina; 971 Beaver Grade Road, Coraopolis, Pennsylvania; 3254 East Main Road, Portsmouth, Rhode Island; One Alpha Lane, Hixson, Tennessee; 7901 Centre Park Drive, Austin, Texas; Whitewood Road at the SW corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street address of 109 Whitewood Road) (**collectively, the “Facilities”**); (b) fund capitalized interest on the Bonds, if any; (c) fund any required debt service reserve fund; and (d) pay certain costs of issuance of the Bonds, including initial costs of any credit enhancement. Each local peace center or related facility will consist of an approximately 12,000 square foot two-story facility in which the Borrower intends to conduct health and wellness activities or related support activities. Each regional peace center will consist of at least one, but not more than four of the same approximately 12,000 square foot facility where the Borrower intends to conduct health and wellness activities or related support activities. No more than \$10,000,000 of the proceeds of the Bonds is expected to be spent in any single location. No more than \$3,500,000 of the proceeds of the Bonds will be used to finance Facilities located at Whitewood Road at the SW corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street address of 109 Whitewood Road). The Borrower will be the owner and operator of the Facilities and will be the party responsible for all costs of the Facilities and all costs of the issuance of and debt service on the Bonds;

WHEREAS, the Facilities located on Whitewood Road at the corner of Whitewood and Oak Forest Drive, in Charlottesville, Virginia (Lot B, Div of Parcel 26, with a proposed street

address of 109 Whitewood Road) (the "Albemarle Facilities") to be financed or refinanced are located within the territorial limits of Albemarle County;

WHEREAS, that there has been published, at least 14 days prior to the date of the meeting of the Albemarle Authority in which the public hearing was held, in a newspaper of general circulation within Albemarle County, a notice that a public hearing regarding the Bonds would be held on the date thereof; and

WHEREAS, such public hearing was conducted on February 13, 2007, by the Albemarle Authority on behalf of the Board of Supervisors of Albemarle County, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, the issuance of the Bonds by the Colorado Issuer will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, Albemarle County or the Albemarle Authority;

WHEREAS, the Borrower described the benefits to Albemarle County and requested the Albemarle Authority recommend to the Board of Supervisors of Albemarle County its approval of and concurrence with the issuance of the Bonds by the Colorado Issuer in such amounts as may be necessary to finance the cost of the Facilities;

WHEREAS, the Albemarle Authority after public hearing, has recommended that the Board of Supervisors approve of and concur with the issuance of the Bonds by the Colorado Issuer in such amounts as may be necessary to finance the cost of the Facilities,

WHEREAS, Section 147(f) of the Code provides that both the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located and the governmental unit on behalf of which such bonds are issued must approve the issuance of the bonds after public hearing; and

WHEREAS, the Albemarle Facilities included within the Facilities to be financed through the issuance of the Bonds is located in Albemarle County and the Board of Supervisors of Albemarle County constitutes the highest elected governmental unit of Albemarle County; and

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

1. The Board of Supervisors of Albemarle County following the public hearing by the Albemarle Authority on behalf of the Board of Supervisors of Albemarle County, hereby approves and concurs with the financing of the Albemarle Facilities and the issuance of the Bonds by the Colorado Issuer for the benefit of the Borrower, as required by Section 147(f) of the Code.
2. The approval of and concurrence with the issuance of the Bonds, as required by said Section 147(f) of the Code, do not constitute an endorsement of the Bonds or the creditworthiness of the Borrower or otherwise indicate that the Albemarle Facilities possesses any economic viability. The issuance of the Bonds by the Colorado Issuer will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, the Albemarle Authority or Albemarle County, Virginia. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Albemarle Authority and Albemarle County, Virginia shall be obligated to pay the Bonds, or the interest thereon, or other costs incident thereto, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the Albemarle Authority and Albemarle County, Virginia, will be pledged to payment of principal of such Bonds or the interest thereon or other costs incidental thereto.
3. The Chairman or Vice Chairman of the Board of Supervisors, County Administrator, Clerk of the Board of Supervisors or other County officials are hereby authorized and directed to take such action and to execute and deliver such certificates or documents which they deem necessary or advisable in order to carry out, give effect to and comply with terms and intent of this resolution.
4. This resolution shall take effect immediately upon its adoption.

Item 11.6. Resolution of the Industrial Development Authority authorizing the issuance of revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$45,000,000 for Westminster-Canterbury of the Blue Ridge.

The following letter dated February 13, 2007, was received from the Chairman of the Albemarle County Industrial Development Authority:

"Westminster-Canterbury of the Blue Ridge ("Borrower") has requested that the Industrial Development Authority of Albemarle County, Virginia ("Authority"), assist the Borrower^{Δ} in (a) refinancing all or a portion of the Authority's \$69,815,000 Residential Care Facility Mortgage Revenue Bonds, Series 2001A issued on October 12, 2001 to finance or refinance a variety of capital projects at the Borrower's continuing care retirement community ("Facility"), located at 250

Pantops Mountain Drive in Albemarle County, Virginia (b) financing additional capital improvements to the Facility, and (c) financing a debt service reserve fund and costs of issuance for the bonds by the issuance of its revenue bonds in the amount not to exceed \$45,000,000 ("Bonds").

As set forth in the resolution of the Authority attached hereto ("Resolution"), the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the proposed refinancing of the Project and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

Attached hereto is (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval."

By the above-recorded vote, the Board adopted the following Resolution:

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ALBEMARLE, VIRGINIA**

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia ("Authority"), has considered the application of Westminster-Canterbury of the Blue Ridge ("Borrower") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$45,000,000 ("Bonds") to assist the Borrower in (a) refinancing all or a portion of the Authority's \$69,815,000 Residential Care Facility Mortgage Revenue Bonds, Series 2001A issued on October 12, 2001 to finance or refinance various of capital projects at the Borrower's continuing care retirement community ("Facility"), located at 250 Pantops Mountain Drive in Albemarle County, Virginia (b) financing additional capital improvements to the Facility, and (c) financing a debt service reserve fund and costs of issuance for the bonds (collectively, the "Project"), and has held a public hearing on February 13, 2007.

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the County of Albemarle, Virginia ("County"); the Project is located in the County and the Board of Supervisors of the County of Albemarle, Virginia ("Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

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

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended to permit the Authority to assist in the refinancing of the Project.
2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.
3. This resolution shall take effect immediately upon its adoption.

Item 11.7. FY 2007 Second Quarter Financial Report, was received as information.

The executive summary states that the attached Quarterly Financial Report provides information on the County's General Fund operations and Fund Balance as of December 31, 2006. The Financial Report includes a bar chart that compares current fiscal year revenue and expenditure data with data from the previous fiscal year.

(\$ in Millions)

A. Attachment A: Financial Report:

1. Revenues:

The Department of Finance estimates that General Fund revenues will exceed appropriations by \$2.182 million, 1.1%, an increase of \$0.410 million from the December 6, 2006 Financial Report. Transfers from other funds will exceed appropriations by

\$0.027 million. Total revenue, use of other funds, and use of fund balance will exceed appropriations by \$2.208 million, 1.1%.

- a. Real Estate tax revenues are estimated to exceed appropriations by \$0.698 million, 0.7%, a \$0.948 million increase from the last Financial Report. The overall increase is due to a greater than anticipated 2006 new construction and the finalization of the 2007 reassessment. The Budget was prepared based on a 22.5%, net of land use, estimated reassessment increase. The actual increase was 25.3%, an incremental increase of 2.8%.
 - b. Personal Property tax revenues are estimated to exceed appropriations by \$0.743 million, 4.5%, a \$0.300 million decrease from the last Financial Report. The decrease is due to the lower than anticipated 2006 second half tax bill total. The overall greater than appropriation increase continues to be the result of frozen state PPTR payments shifting the tax burden from the state to the taxpayer and an increase in vehicle assessments.
 - c. Business License tax revenues are estimated to exceed appropriations by \$0.244 million, 2.7%, a \$0.001 decrease from the last Financial Report. The overall increase is due to the continuing strong economy.
 - d. Utility tax revenues are estimated to be \$0.241 million, 3.1%, less than appropriations, a \$0.091 million decrease from the last Financial Report. The decrease is due to the continued mild weather conditions. Weather conditions are volatile and can change unexpectedly significantly affecting revenues.
 - e. Food and Beverage tax revenues are estimated to exceed appropriations by \$0.200 million, 3.9%, a \$0.150 million increase from the last Financial Report. The increase is attributed to the continued growth in convenience food preparation as evident by the increased number of restaurants.
 - f. Other Local tax revenues are estimated to exceed appropriations by \$0.347 million, 3.7%, a \$0.032 million decrease from the last Financial Report. Vehicle License tax revenues are expected to exceed appropriations by \$0.200 million due to the increased number of vehicles as well as the number of vehicles subject to the tax. Bank Franchise tax revenues are expected to exceed appropriations by \$0.150 million due to additional deposits with local branches.
 - g. Other Local revenues are estimated to exceed appropriations by \$0.540 million, 10.9%, a \$0.185 million increase from the last Financial Report. Interest revenues are expected to exceed appropriation by \$0.475 million due to higher yields and larger cash balances. Law enforcement service fees continue to increase due to additional billable services.
 - h. State revenues are estimated to be \$0.147 million, 0.6% less than appropriations, a \$0.113 million increase from the last Financial Report. The overall decrease is due to the continued shift from state to federal reimbursement for social service expenditures. Activity since the last Financial Report has shown a reduction in the rate of change.
 - i. Other categories are estimated to vary less than \$0.100 million from appropriations.
2. Expenditures:
Total Expenditures, including transfers, are within appropriate levels at 45.1% for the first six months.
- a. Departmental expenditures are at 44.3% of appropriations.
 - b. No attempt has been made to estimate expenditures.
3. Revised Revenues less Revised Expenditure Appropriations:
- a. Revised revenues less appropriated expenditures project a \$2.208 million increase by the end of the fiscal year based on January revenue updates.
 - b. Fund Balance available February 14, 2007 is \$0.784 million. This is net a reduction for an estimated \$9.225 million transfer to the CIP fund. The \$0.784 million may be used for other projects at the Board's discretion and approval.
 - c. Projected End-of-Year Available Funds are \$2.991 million. This reflects the audited FY06 fund balance, revised FY07 revenue estimates, supplemental appropriations, and the proposed CIP transfer.

B. Attachment B: Budget Comparison Report:

The bar-chart report tracks changes in revenue and expenditure changes over time.

1. Only two revenue categories, Other Local Taxes and State Revenue, project decreases over last year actual revenues.
2. Expenditures in all categories except Non-School Transfers are expected to increase over FY06.

C. Attachment C: Fund Balance Report:

The report indicates that the County:

1. Has an Audited FY06 Fund Balance of \$25.079 million at June 30, 2006,
2. Appropriated \$2.020 million for FY07 projects,
3. Has a remaining FY06 Fund Balance of \$23.059 million at December 31, 2006,
4. Reserved \$13.000 million for cash flow purposes,
5. Has approved a \$0.50 million appropriation after December 31, 2006,
6. Has a preliminary \$9.225 million CIP transfer commitment, and
7. Has Unobligated Funds Available of \$0.784 million at February 14, 2007.

This report is based on audited financial data for FY06 and six months of operations for FY07. Staff will utilize this data as the basis for the FY08 Budget.

It is important to remember that any change in the County's real estate tax rate will impact both the FY07 and FY08 Budgeted tax revenues. Staff estimates that each one cent reduction in the real estate tax rate will reduce tax revenues in FY07 by approximately \$750,000.

This report has been prepared for your information. No action is required.

Item 11.8. Copy of letter dated December 29, 2006, from John Shepherd, Manager of Zoning Administration, to Brian S. Ray, Inc., re: OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS -- Tax Map 120, Parcel 16-Scottsville Magisterial District (Property of Margaret R. Van Clief Revocable Trust) Section 10.3.1, was received as information.

Agenda Item No. 12. **Public Hearing:** 2007/08-2012/13 Six Year Secondary Road Plan. (Notice of this public hearing was published in the *Daily Progress February 5, 2007.*)

Mr. David Benish, Chief of Planning, reported that this hearing is an opportunity for the public to provide input on the County's priority list for secondary road improvements, and the Board held a work session on this item on January 3rd. He said that this hearing also includes Board action on VDOT's plan, which is intended to reflect County priorities and allocate funding for these projects.

Mr. Benish mentioned that in January the Board requested a version of the County's priority list that reflected the funding allocations proposed by VDOT to cover those projects, which has been provided in Attachment A. He said that information would essentially be the same information as VDOT's six-year plan, and the only difference is that the County's version is a total project cost whereas VDOT gives funding by the six years of the plan. Mr. Benish noted that Attachment B is VDOT bridge priorities, with four projects as identified in the County's priority list and the VDOT secondary road plan. He said, "They are consistent with the County's priorities."

Mr. Slutzky asked if there was any strategic benefit to having the bridge over the Rivanna to allow for Berkmar to go through at least appear on this list.

Mr. Benish said that the most important place to have that identified would be in Attachment C which is the Board's priority list, and VDOT would then look at that priority and identify it as a bridge. He noted that by following it, they should be putting it on their list.

In response to Mr. Wyant's question about the capacity of the bridges that were noted by the fire and rescue committee as areas of concern, Mr. Benish said that Mr. Wade followed up with VDOT and found those bridges are actually along segments of private roads. He said that they would, therefore, not be eligible for funding, but staff will continue to look into that.

Board members expressed concern about the project list being able to be enlarged and projected for the public to see. Mr. Benish noted that it would not be legible if it were enlarged.

Mr. Benish commented that the Jarman's Gap project shows a surplus of \$7 million, but the costs available to VDOT are not reflective of what the residency feels the ultimate cost would be. He said that Route 702/Reservoir Road has been added as a priority for possible improvements to be coordinated with improvements to the Ragged Mountain Reservoir dam.

Mr. Slutzky asked who would determine how those costs would be covered, the ratepayers or the County.

Mr. Benish responded that the item should get on the priority list so that information on cost-share and improvements can be established. He added that the service authority would likely have to bid either through the contract for construction or through a "partnership of commitment" through the City and County.

Ms. Thomas said that if it were done through revenue-sharing, VDOT would provide significant input and Rivanna might not be able to use that.

Mr. Rooker stated that there is a limited amount of revenue-sharing and if it is allocated here then it is taken away from other projects. He said the road is not adequate to handle the construction equipment necessary to get to the dam for the purpose of increasing the capacity there.

Mr. Benish said that in terms of other projects on the list, staff has not assessed where it belongs in terms of priority. He stated staff put it at the bottom of the list. He added that the last priority is unpaved road projects, and the way this is presented does not substantively change what the Board's policy has been.

Mr. Boyd asked about the Reservoir Road project that Mr. Slutzky mentioned, and he wanted to make sure it is on the list.

Mr. Rooker replied that it is in the long-range transportation plan, and it is a recognized project on that list.

Mr. Benish noted that because of Places 29's traffic study, staff has waited on some of the Route 29 improvements until that comes forward.

Mr. Benish said that the County takes completed projects off whereas VDOT has to leave them on for a while for budgeting purposes.

Ms. Thomas commented that it used to be roads were not put on the list until the County was sure right of way would be donated, and she said that she is not sure that people on Midway Road and Pounding Creek Road would agree to that. She added that she has received a letter from people on White Mountain Road concerning the right of way there. Ms. Thomas said that the count on Midway Road seems a little off as there are very few houses along the curve of the road there. She also noted that Decca Lane would likely not get right of way from its residents.

In response to Mr. Wyant's concern about treatments for "trouble spots" where the buses are going off the road in White Mountain, Mr. Benish said that the issue is a cost estimate shown which typically is not done until right of way is available. He noted that these projects are not in the six-year plan, and he is not certain of all the details here.

Mr. Rooker asked if the December 2008 advertisement date for Jarman's Gap was firm at this point.

Mr. Benish said that he believes that date is actually June 2009, and VDOT is looking for final cost estimates on that project.

Mr. Sumpter noted that the final cost estimate includes breaking it into phases, and once that is adopted, funds can be assigned specifically for the phase that would be constructed. He said that phase would be more than the entire original estimate for the whole road, and the advertisement would, therefore, include just a section of the road. Mr. Sumpter said that the first phase to Jarman Lake Road is \$13.8 million, and the entire project is \$17 million.

Mr. Benish said that the secondary plan shows \$17.5 million.

Mr. Sumpter stated that the first section could be started sooner by breaking it up, but leaving it all would make the project move further out.

Mr. Benish mentioned that this is also based in part on the agreed-to scope of the project which changed after the public hearing to transition to a rural section and pathways on one side as opposed to the original project which was more of a full urban section all the way to the edge.

Mr. Sumpter added that there has been some significant development since the original scoping and estimates of the project, which has increased it from \$10.7 million to the \$17 million.

Mr. Rooker asked what the scope of the development has to do with the project cost.

Mr. Sumpter explained that there is greater right of way cost as property values increase, but the scope of the project has not changed.

Mr. Boyd asked about Maxfield Road, noting that it has been switched from regular paving to rustic rural.

Mr. Sumpter confirmed that Maxfield Road is now rural rustic.

Mr. Benish noted that at the time the list was done, the criteria was uncertain, but now the road is eligible for rural rustic.

In response to Mr. Boyd's question, Mr. Sumpter said that there is enough funding to move forward with it as a rural rustic road project. Mr. Boyd noted that the traffic count has been increased to 1,000 vehicle trips per day, adding that there is \$191,000 set aside for it.

Board members agreed to put it on the list for this year.

Ms. Thomas said that the White Mountain Road (Route 736) description says that one section does not meet VDOT requirements, and she said that was confusing to her.

Mr. Benish responded that this information was "early reconnaissance" on whether the project met rural rustic road criteria. He stated that there was some general indication that this might not be fully eligible for that program, and some criteria have changed.

Mr. Sumpter stated that sometimes in certain areas, there can be spot improvements with limited distance surface treatments done.

Mr. Benish commented that perhaps there were some geometric issues with White Mountain.

Ms. Thomas responded that it is very confusing because of the numbering of the project.

With no further questions for staff, Mr. Boyd opened the public hearing.

Mr. Doug Arrington addressed the Board, stating that he has a two-part issue with Old Lynchburg Road. He explained that the 600 to 1,000 block of the road, where 5th Street Extended goes from four lanes to two lanes, is very curvy. Mr. Arrington wondered if the Biscuit Run project right of way could be proffered to the County so that the road could be improved. He also said that there are other projects such as Whittington coming up that will add houses. Mr. Arrington noted that with Mosby Mountain, the Ambrose Commons bridge TIA has "bogus numbers" for peak hour traffic, and 80 percent of the traffic exits on the south side of that curvy part of the road. He suggested that perhaps a section of Old Lynchburg Road could be designated as a greenway to reduce traffic speed.

Mr. Eugene Carr addressed the Board to address issues with Route 647 in Cismont, noting that the road has not been maintained in a few years.

Mr. Ronald Hahn addressed the Board, stating that he moved onto White Mountain Road (Route 736) 33 years ago, and improvements have been promised that have never been done. He presented a letter from Tommy Harvey, Chief of Rockfish Valley Fire Department, who would be the first responders to any fire along that road. The letter indicates Mr. Harvey's concern about the narrowness of the road, which does not allow for a fire truck and a vehicle to pass one another. Mr. Hahn also said that he has spoken with other officials about issues with this road as well as landowners who have indicated their willingness to give right of way for widening.

Ms. Thomas noted that this project is far down on the list, but perhaps spot improvements could be done.

Mr. Sumpter stated that spot improvements are scheduled at the dead-end section of the road.

Mr. Benish replied that the confusion on the list is that the project goes to the dead-end.

Mr. Boyd said that perhaps some clarification could be provided to residents, and Mr. Wyant agreed to coordinate that effort.

Ms. Allison Hill addressed the Board. She stated that she lives on the section of Old Lynchburg Road that goes from Dudley Mountain to Red Hill Road, a four-mile stretch that currently has no center line. She described the dangerous conditions on the road, and she asked that a stripe be put in the center even if it requires widening. Ms. Hill commented that this is the road to Walnut Creek park, which had over 15,000 visitors last summer.

Mr. Rooker asked Mr. Sumpter about using the separate "safety money" set aside.

Mr. Sumpter responded that the road needs to be 18 feet wide, and it may not qualify. He added that he would have his engineering staff look into it.

Ms. Raye Beard addressed the Board, stating that at the end of Maxfield Road, the in-state maintenance is in the wrong place. She said she would be glad to abandon her property at the end of that road for the County if necessary.

Mr. Rooker pointed out that the data presented shows a loss of another 30 percent of secondary road funding, which is already down 35 percent to 40 percent from three or four years ago. He said that unless something changes, we are going to have a heck of a time getting any of these projects done.

Ms. Thomas added that with Biscuit Run, the County should be sure that the right of way for Old Lynchburg Road is dedicated as it is below the line for allocation at this point.

Mr. Benish responded that right of way for Biscuit Run and Route 20 should be "a given" and through rezoning, proffers would address traffic issues and impacts. He asked if it was acceptable to add Berkmar Drive to the list.

Mr. Rooker suggested that it be put on the end of the list, adding that there are no traffic studies for it currently, but it would be part of the overall Places 29 study.

Mr. Benish placed the item as Priority #22 just ahead of Reservoir Road. Regarding Maxfield Road, he noted that the Board just needs to give some direction to move forward with that as a construction project.

In response to Mr. Wyant's question about the Advance Mills Bridge, Mr. Sumpter stated that there are five or six possible alignments being considered, and VDOT will meet with the community there to get their input. Mr. Sumpter said that the project may happen with 2011 or 2012 with Federal monies for bridges.

Ms. Thomas noted that time is right around when State money runs out for matches.

Mr. Sumpter mentioned that the conversion for Maxfield Road has just occurred in the last couple weeks.

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

At this time, Mr. Rooker **moved** for approval of Six-Year Secondary Road Improvements as reflected in Attachment C as modified by adding Berkmar Bridge, and to authorize the County Executive to sign the VDOT secondary system construction program for Albemarle County consistent with the County's priority list. Mr. Rooker clarified that his motion includes Maxfield Road's addition to the rural rustic road program for construction in the coming year. Mr. Wyant **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

(The Six Year Road Plan is set out on the attached pages)

Agenda Item No. 13. **Public Hearing:** Water Protection Ordinance. Illicit Discharges and Connections. An ordinance to amend Sections 17-102, Purposes, 17-104, Definitions, 17-105, Designation of program authority; powers and duties, 17-300, Applicability, 17-301, Designation of water resources areas, 17-402, Tier 2 Assessments, 17-403, Tier 3 Assessments and 17-404, Tier 4 Assessments, and to add Sections 17-107, Relation of chapter to other laws, 17-500, Applicability, 17-501, Illicit discharges prohibited; exempt and authorized discharges, 17-502, Illicit connections prohibited, 17-503, Dumping prohibited, 17-504, Maintaining the functional performance of streams, 17-505, Inspections and monitoring, 17-506, Discovery, containment, cleanup and notification of discharge, and 17-507, Penalties and remedies, to Chapter 17, Water Protection, of the Albemarle County Code. The purpose of this ordinance is to implement a program to detect and eliminate illicit discharges and connections to its storm sewer system, and this ordinance (sections 17-500 through 17-507) would prohibit non-stormwater discharges and connections and the dumping of refuse and pollutants into storm sewer systems, as required under Albemarle County's Virginia Pollutant Discharge Elimination System (VPDES) permit, require that the functional performance of streams be maintained, and establish a program for monitoring, inspections, and enforcement. This ordinance also would make corresponding changes to Sections 17-102, Purposes, and 17-104, Definitions, and 17-105, Designation of program authority; powers and duties, as well as make other changes to various definitions in Section 17-104, Definitions and add Section 17-107, Relation of chapter to other laws, to explain how Chapter 17 relates to other laws. This ordinance also would amend Section 17-300 to make regulations pertaining to stormwater management and water quality applicable to all uses, rather than only residential, commercial, industrial, and institutional uses; amend Section 17-301 to include those areas within the watershed of public water supply intakes, including the North Fork Rivanna River intake, as water supply protection areas; and amend Sections 17-402, 17-403, and 17-404 to refer to chapter 2, rather than chapter 5, of the design standards manual. (Notice of this public hearing was published in the *Daily Progress* on January 29 and February 5, 2007.)

Mr. Greg Harper addressed the Board, reporting that most of the proposed amendments have to do with a County water resource protection program, Illicit Discharge Detection and Elimination (IDDE), but staff will also address other issues in this presentation. He said that some of the amendments being proposed are mandated by the State; in particular, with regard to prohibition of non-stormwater discharges to the County drainage system and the broadening of the geographic area beyond just that system. Mr. Harper said that there is a permit from the State Department of Conservation and Recreation which allows the County to operate a storm sewer system, a series of pipes and ponds that convey stormwater. He noted that the permit states that the County must effectively prohibit non-stormwater discharges into the County's MS4.

Mr. Harper explained that non-stormwater discharges do not normally come off of a road, parking lot or building. He further explained that non-stormwater discharges should not be discharged, and they are through connections or dumping. He said that studies have shown that these pollutants can significantly impact the receiving streams and can contribute as much pollutants as actual stormwater. Mr. Harper said that MS4 stands for "municipal separate storm/sewer system," and only ten miles or so of total system lies within County-owned property. He said, therefore, staff would like to broaden these rules to cover all publicly or privately owned sewer systems and all natural channels and streams. Mr. Harper confirmed that intermittent streams and manmade channels would all be included.

Mr. Harper said that there are exceptions such as runoff for public safety activities as in firefighting, waterline flushing, landscape irrigation and lawn watering, and non-point discharges associated with agricultural operations that could be significant but are associated either with non-point sources or serve the County in some other way.

Mr. Davis noted that under Section B, if a private party wanted to maintain a stormwater facility they would need to get a permit from Mr. Harper's division, and the County is held to the same standards although it does not need to get a permit from itself.

Mr. Slutzky asked if Albemarle does any street-washing.

Mr. Harper replied that it does not, but the ordinance amendments attempt to address possible future needs.

Mr. Slutzky noted that those things could be discharged into another system.

Mr. Davis said that if Mr. Harper's department finds that a particular activity creates an adverse impact, such as cleaning up spills, then that could be prohibited.

Mr. Harper explained that another proposed amendment is to designate the watershed of the north fork of the Rivanna River intake as a water supply protection area as this has no specific protection at this point in time. He noted that this protection was afforded to reservoirs but should be extended. He stated that intake serves the northern development areas, and there is so much sediment in that area that the plant has to be occasionally shut down. Mr. Harper noted that Tom Frederick of RWSA endorses the intent to designate this as a water protection area which would incorporate 100-foot buffers on all intermittent streams and would result in slightly more stringent stormwater management requirements for development in the watershed.

Mr. Boyd expressed concern that this proposed amendment was not properly advertised.

Ms. Thomas said that it was properly advertised, as this was advertised for the designation of this area.

Mr. Rooker added that it was also mentioned at a prior meeting as being part of this.

Mr. Harper explained that if someone were developing land, they would need to maintain 100 feet from the edge of the stream into the property as well as maintain it as a vegetative buffer. He said that this currently applies to all land in the water protection area with 25-feet required for agricultural land.

Mr. Davis added that there are other exceptions for specific situations such as properties that would not realize adequate use with such restrictions.

Mr. Harper reported that the County currently has a rule that requires a 25-foot buffer along a stream on lands that are used as croplands. He noted, however, in the applicability section there are several uses that are listed that this ordinance applies to, such as residential, industrial, commercial, or institutional, and agricultural is not included. He suggested removing the limited uses, adding that there are some other smaller changes recommended.

Mr. Davis said that the regulations in the ordinance would not change from what they are now, which is 25 feet for croplands and 100 feet for other uses, and this clarifies the ambiguity regarding the applicability to rural property. Mr. Davis said, "All this does now is just reconcile that conflict, so the rules haven't changed from what everyone has believed the requirements have been. All we're doing is just making a technical correction in the ordinance."

In response to Mr. Boyd's question about expansion of area, Mr. Harper clarified that this would affect about 50 miles of stream. Mr. Harper noted that perennial streams are already subject to a 100-foot buffer.

Mr. Harper estimated that 20 percent of the watershed for the intake supply area lies within Albemarle, and the other 80 percent lies outside of the County.

Ms. Thomas noted that Albemarle is lucky to have most of its overall watershed falling within the County borders.

With no further questions for staff, Mr. Boyd opened the public hearing.

Mr. Tom Olivier of the Piedmont Group of the Sierra Club addressed the Board, noting that the group supports the proposed amendments to the ordinance. Mr. Olivier commented that the list of exemptions from illicit discharges seems "lengthy and heterogeneous," and the rationale is not clear.

Mr. John Martin of Free Union also expressed his support for the amendments, stating that this is something that needs to be done and should be done for the County. Mr. Martin stated that the exemptions are "inconsistent with water conservation and with drought management procedures," and excess lawn watering does not need to happen. Mr. Martin said that irrigation systems should not produce runoff into streams.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board, expressing the organization's support for the ordinance amendments. He said that there would be a benefit to the community in terms of water quality and treatment.

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

Ms. Thomas asked about removing exemption #7 for yard runoff, noting that the only time you would need a permit would be if your watering caused runoff.

Mr. Rooker stated that watering edges would likely lead to some runoff, and he suggested giving brochures regarding best management practices for lawn watering.

Mr. Harper said that it would be legitimate to make this type of discharge illegal, but it would be difficult to enforce and cite people for a violation.

Mr. Davis noted that part of the permit process is an educational process about providing cleaner discharges. Mr. Davis said, "This is a pretty serious ordinance in a lot of respects....a violation of this ordinance can be enforced by civil penalties up to \$32,000 a day. A willful violation is a Class 1 misdemeanor, and a knowing violation is a felony." He said that staff did not want to enact something that greatly impacted how people conducted their daily lives, but if there was a situation where someone was causing excessive runoff, a landowner could be cited.

Mr. Boyd commented that although this affects almost 1,250 acres without individual landowner notice, the County followed the correct process and this is a good ordinance.

Ms. Thomas noted that Albemarle has a reputation in the State for being a leader in this area, and she looks forward to staff's information on implementation.

At this time, Mr. Rooker **moved** to adopt An Ordinance to Amend Chapter 17, Water Protection, of the Code of the County of Albemarle, Virginia, By Amending Article I, General, Article III, Stormwater Management and Water Quality, Article IV, Groundwater Assessments, and By Adding Article V, Illicit

Discharges And Connections. Ms. Thomas **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

ORDINANCE NO. 07-17()

AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA, BY AMENDING ARTICLE I, GENERAL, ARTICLE III, STORMWATER MANAGEMENT AND WATER QUALITY, ARTICLE IV, GROUNDWATER ASSESSMENTS, AND BY ADDING ARTICLE V, ILLICIT DISCHARGES AND CONNECTIONS

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection, is amended and reordained as follows:

By Amending:

- Sec. 17-102 Purposes
- Sec. 17-104 Definitions
- Sec. 17-105 Designation of program authority; powers and duties
- Sec. 17-300 Applicability
- Sec. 17-301 Designation of water resources areas
- Sec. 17-402 Tier 2 Assessments
- Sec. 17-403 Tier 3 Assessments
- Sec. 17-404 Tier 4 Assessments

By Adding:

- Sec. 17-107 Relation of chapter to other laws
- Sec. 17-500 Applicability
- Sec. 17-501 Illicit discharges prohibited; exempt and authorized discharges
- Sec. 17-502 Illicit connections prohibited
- Sec. 17-503 Dumping prohibited
- Sec. 17-504 Maintaining the functional performance of streams
- Sec. 17-505 Inspections and monitoring
- Sec. 17-506 Discovery, containment, cleanup and notification of discharge
- Sec. 17-507 Penalties and remedies

CHAPTER 17

WATER PROTECTION

ARTICLE I. GENERAL

Sec. 17-102 Purposes.

The Board of Supervisors finds that this chapter is necessary to protect the health, safety, and general welfare of the citizens of the County and the Commonwealth of Virginia and to prevent water from being rendered dangerous to the health of persons living in the County, and is supported by the findings of watershed studies that have been conducted. Therefore, the specific purposes of this chapter are to:

1. inhibit the deterioration of State waters and waterways resulting from land disturbing activities;
2. protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment;
3. protect against and minimize the pollution and eutrophication of public drinking water supplies resulting from land development;
4. control nonpoint source pollution, erosion and sedimentation, and stream channel erosion;
5. maintain the integrity of existing stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;
6. protect the condition of State waters for all reasonable public uses and ecological functions;
7. provide for the long-term responsibility for and maintenance of stormwater management facilities and best management practices;
8. regulate the discharge of pollutants into storm drainage systems and State waters by prohibiting illicit discharges and connections, and the dumping of refuse and pollutants; the Board of Supervisors hereby determines that applying such regulations to not only the

County's municipal separate storm sewer system but also to privately owned and operated storm drainage systems and State waters is necessary to prevent any further degradation to water resources;

9. facilitate the integration of stormwater management and pollution control with other County ordinances, programs, policies, and the comprehensive plan; and

10. promote the long-term sustainability of groundwater resources.

(§ 7-1, 6-18-75, § 2, 2-11-87, 3-18-92; § 19.1-4, 9-29-77, art. I, § 1, 7-11-90; § 19.2-2, 6-19-91, § 2; § 19.3-3, 2-11-98; Code 1988, §§ 7-1, 19.1-4, 19.2-2, 19.3-3; Ord. 98-A(1), 8-5-98; Ord. 04-17(1), adopted 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-560 et seq., 10.1-603.1 et seq., §10.1-2108.

Sec. 17-104 Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

...

(4) *Best management practice (BMP)*. The term "best management practice (BMP)" means a practice or combination of practices, including treatment practices, operating procedures, general good housekeeping practices, pollution prevention, prohibitions of activities, education practices, and other management practices, determined by the program authority to be the most effective, practical means of preventing or reducing the amount of water pollution generated by nonpoint sources to a level compatible with water quality goals.

...

(10) *County engineer*. The term "County engineer" means the County engineer within the department of community development or his designee.

...

(12) *Department of community development*. The term "department of community development" means the County department of community development.

(12.1) *Department of general services*. The term "department of general services" means the County department of general services.

...

(20.1) *Hazardous substance*. The term "hazardous substance" means any substance designated as such under the Virginia Code and 40 CFR Part 116 (2000) pursuant to § 311 of the Clean Water Act, codified in 33 U.S.C. § 1251 *et seq.*

(20.2) *Illicit discharge*. The term "illicit discharge" means any discharge to the storm drainage system that is not composed entirely of stormwater, excepting discharges pursuant to a Virginia Pollutant Discharge Elimination System ("VPDES") or Virginia Storm Management Program ("VSMP") permit (other than a VSMP permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and discharges identified by and in compliance with 4 VAC 50-60-1220(C)(2), as delineated in section 17-501.

(20.3) *Illicit connection*. The term "illicit connection" means either:

(a) Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drainage system, and includes but is not limited to: (i) any conveyances that allow sewage, process wastewater, wash water, or pollutants to enter the system; and (ii) any connections to the system from indoor drains and sinks, regardless of whether such connections were previously allowed, permitted, or approved by the County or any other government agency; or

(b) Any drain or conveyance connected to the storm drainage system from a commercial or industrial use that has not been approved by the County in a site plan, subdivision plat, or other plan or permit.

...

(26.1) *Municipal separate storm sewer system ("MS4")*. The term "municipal separate storm sewer system" means all separate storm sewers comprising the system of conveyances, including roads with drainage systems, public streets, catch basins, sidewalks, curbs, gutters, ditches, manmade channels, or storm drains: (i) owned or operated by the County; (ii) designed or used for collecting or conveying stormwater; (iii) that are not a combined sewer; and (iv) that are not part of a publicly owned treatment works.

...

(29.1) *Non-stormwater discharge*. The term "non-stormwater discharge" means any discharge to the storm drainage system or State waters that is not comprised entirely of stormwater.

...

(35.1) *Person*. The term "person" means a natural person, corporation, partnership, sole proprietorship, trust, trustee, joint venture, or any other entity.

...

(36.1) *Pollutant*. The term "pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(a) The term "pollutant" includes, but is not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquids and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(b) The term "pollutant" does not include: (i) sewage from vessels; or (ii) water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the Virginia Soil and Water Conservation Board and if the Board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(36.2) *Premises*. The term "premises" means any building or structure, or any lot or parcel, whether improved or unimproved, and including adjacent curbs, gutters, sidewalks, and planting strips.

(37) *Program authority*. The term "program authority" means the department of community development, and except where the context clearly indicates otherwise, includes any officer or employee of the department of community development or the department of general services authorized by the director of the department of community development to act pursuant to this chapter.

...

(43.1) *Storm drainage system*. The term "storm drainage system" means the municipal separate storm sewer system and any privately owned and maintained improvements by which stormwater is collected and/or conveyed and which ultimately discharges to State waters, including but not limited to, street drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, human-made or altered drainage channels, ponds, and other drainage structures.

(43.2) *Stormwater*. The term "stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

...

(47.1) *Virginia Pollutant Discharge Elimination System (VPDES) permit*. The term "Virginia Pollutant Discharge Elimination System (VPDES) permit" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

...

(§ 7-2, 6-18-75, § 4, 7-9-80, 2-11-87, 3-18-92, § 19.1-5, 9-29-77, art. I, § 2, 9-13-78, 7-11-90, 8-3-94; § 19.2-4, 6-19-91; § 19.3-5, 2-11-98; Code 1988, §§ 7-2, 19.1-5, 19.2-4, 19.3-5; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-560, 10.1-603.2.

Sec. 17-105 Designation of program authority; powers and duties.

A. The Board of Supervisors hereby designates the department of community development as the program authority.

B. The program authority shall administer and enforce this chapter as authorized by law.

C. The program authority shall establish reasonable administrative procedures for the administration of this chapter, including developing and maintaining for Article III a design manual containing information about the content of plans required by Article III, calculation methods, maintenance and inspection procedures, and other information to assist with the implementation and enforcement of Article III. The program authority shall update the design manual periodically. The manual shall be consistent with this chapter and all applicable statutes and regulations.

D. The program authority shall assure that the erosion and sediment control program set forth in article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person.

E. The program authority shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities, land developments, illicit discharges, illicit connections, and prohibited dumping.

F. The program authority is authorized to cooperate with any Federal or State agency in connection with plans for erosion and sediment control or stormwater management. The program authority may also recommend to the County executive any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the County Executive on behalf of the County.

(§ 7-9, 4-21-76, 2-11-87, 3-18-92; § 19.3-6, 2-11-98; Code 1988, §§ 7-9, 19.3-6; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-562, 10.1-603.3, 10.1-603.12:1 *et seq.*

Sec. 17-107 Relation of chapter to other laws

The requirements of this chapter are:

A. Separate from, but supplementary to, all other applicable requirements of the Code. Compliance with the requirements of this chapter shall not be deemed to be compliance with other applicable ordinances or regulations.

B. Separate from, but supplementary to, all other applicable requirements of State or Federal law. If the requirements of this chapter are in direct conflict with mandatory State or Federal requirements, then the State or Federal requirements shall apply.

C. Separate from the requirements, terms or conditions of any private easement, covenant, agreement, or restriction. Neither the County nor any of its officers, employees, or agents shall have any duty to enforce a private easement, covenant, agreement, or restriction.

ARTICLE III. STORMWATER MANAGEMENT AND WATER QUALITY

Sec. 17-300 Applicability.

Each owner shall comply with the requirements of this article prior to commencing any land development, or allowing any land development to occur, on his property and at all times thereafter.

(§ 19.1-6, 9-29-77, art. II, § 1, 10-19-77, 9-13-78, 10-22-80, 7-11-90, 8-3-94; § 19.2-5, 6-19-91, § 5; § 19.3-24, 2-11-98; Code 1988, §§ 19.1-6, 19.2-5, 19.3-24; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.9, 10.1-2108.

Sec. 17-301 Designation of water resources areas.

In order to better effectuate the purposes of this article, all of the land within the County is hereby designated as being within one or more of the following water resources areas:

A. *Development areas:* Development areas are those areas of land within the County designated as development areas in the land use element of the comprehensive plan, and as shown on the official map of the land use element.

B. *Areas of infill and redevelopment:* Areas of infill and redevelopment are those areas of land within the County that are: (i) within a development area; and (ii) designated as areas of infill and redevelopment for purposes of this article by the Board of Supervisors, and as shown on the official map adopted showing such areas. The Board of Supervisors shall designate such areas based on a finding that existing development has altered severely the natural condition of the area, including the presence of vegetation, and that infill and redevelopment activities would serve other community and comprehensive plan goals.

C. *Water supply protection areas:* Water supply protection areas are those areas of land within the County that are within the watershed of a public water supply reservoir or water supply intake, and such areas shall consist of all land within the County that drains naturally to the South Fork Rivanna Reservoir, Beaver Creek Reservoir, Totier Creek Reservoir, Sugar Hollow Reservoir, Ragged Mountain Reservoir, Chris Greene Lake, the North Fork Rivanna River intake, and to any impoundment or water supply intake designated in the future by the Board of Supervisors as a public water supply reservoir.

D. *Other rural land*: Other rural land consists of those areas of land that are not within a development area, an area of infill and redevelopment, or a water supply protection area.

(§ 19.2-6, 6-19-91, § 6; § 19.3-25, 2-11-98; Code 1988, §§ 19.2-6, 19.3-25; Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07)

State law reference--Va. Code § 10.1-2108.

ARTICLE IV. GROUNDWATER ASSESSMENTS

Sec. 17-402 Tier 2 assessments.

A Tier 2 assessment shall consist of the program authority reviewing and evaluating the County's well database, available hydrogeologic studies, and information from the Virginia Department of Health and the Virginia Department of Environmental Quality, as provided in chapter 2 of the design standards manual. Based on this evaluation, the program authority may require that the owner provide additional groundwater assessment data prior to subdivision plat or site plan approval, or may require that a Tier 3 assessment be submitted.

(§ 402, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

Sec. 17-403 Tier 3 assessments.

A Tier 3 assessment shall consist of the following:

A. The owner shall submit a draft groundwater management plan with the preliminary plat or site plan. The groundwater management plan shall comply with the requirements for such plans in chapter 2 of the design standards manual. If the groundwater management plan identifies special areas of concern, such as an off-site resource of high groundwater sensitivity or a previously unknown source of contamination, then the program authority may require additional groundwater assessment data prior to preliminary subdivision plat or site plan approval.

B. The owner shall submit a final groundwater management plan that must be approved by the program authority prior to approval of the final plat or site plan.

C. Any structural measures (*e.g.*, best management practices) shall be bonded as a subdivision plat or site plan improvement.

The program authority may require that a Tier 4 assessment be submitted instead of a Tier 3 assessment if the special areas of concern identified in subsection (A) have not been adequately addressed by the additional groundwater assessment data.

(§17-403, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

Sec. 17-404 Tier 4 assessments.

A Tier 4 assessment shall consist of the following:

A. The owner shall submit a draft groundwater management plan and an aquifer testing work plan complying with the requirements for such plans in chapter 2 of the design standards manual, with the preliminary plat, preliminary site plan, or the application for a central water supply. The groundwater management plan must demonstrate to the program authority's satisfaction that the site's groundwater conditions have been considered with the subdivision or site plan's layout and design. The aquifer testing work plan must be approved by the program authority before the owner may conduct aquifer testing as required by subsection (B).

B. After the program authority approves the aquifer testing work plan, the owner shall conduct aquifer testing as provided in the work plan.

C. The owner shall submit a final groundwater management plan and a groundwater assessment report complying with the requirements for such a report in chapter 2 of the design standards manual, based upon the results of the aquifer testing. The final groundwater management plan and the groundwater assessment report must be approved by the program authority prior to final subdivision plat or site plan approval.

D. Any structural measures (*e.g.*, best management practices) shall be bonded as a subdivision plat or site plan improvement.

(§404, Ord. 04-17(1), 12-8-04, effective 2-8-05; Ord. 07-17(1), 2-14-07)

ARTICLE V. ILLICIT DISCHARGES AND CONNECTIONS

Sec. 17-500 Applicability.

This article shall apply to all activities that cause or allow to be caused direct or indirect illicit discharges, illicit connections, and the prohibited dumping of refuse and pollutants, or which negatively impede the flow capacity of the storm drainage system or State waters that (i) are not covered by other articles of this chapter and (ii) are not expressly exempt from this article.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-501 Illicit discharges prohibited; exempt and authorized discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under their control to throw, drain, or otherwise discharge into the storm drainage system or State waters any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct, or continuance of any such illicit discharge to the storm drainage system or State waters is prohibited, subject to the following:

A. *Conditionally exempt discharges.* The following discharges are conditionally exempt from this article:

1. Discharges pursuant to a Virginia Pollutant Discharge Elimination System ("VPDES") or Virginia Storm Management Program ("VSMP") permit (other than a VSMP permit for discharges from the municipal separate storm sewer);
2. Discharges resulting from fire fighting and other public safety activities;
3. Discharges associated with the maintenance or repair of public water, sanitary, and storm sewer lines, and public drinking water reservoirs and drinking water treatment or distributions systems conducted in accordance with applicable Federal and State regulations and standards;
4. Discharges associated with any activity by the County, its employees and agents, in the maintenance of any component of a County-maintained stormwater management facility conducted in accordance with applicable Federal and State regulations and standards;
5. Discharges specified in writing by the program authority as being necessary to protect public health and safety;
6. Water line flushing;
7. Landscape irrigation and lawn watering;
8. Non-point discharges associated with agricultural and silvicultural operations;
9. Diverted stream flows;
10. Rising ground water, springs, uncontaminated ground water infiltration, and pumped ground water;
11. Flows from riparian habitats and wetlands;
12. Discharges from potable water sources, foundation drains, and air conditioning condensation;
13. Water from crawl space pumps and footing drains;
14. House washing and individual car washing on residential lots;
15. De-chlorinated swimming pool discharges having less than 1 part per million chlorine and discharges from hot tubs;
16. Street wash water;
17. Water from washed parking lots or sidewalks to remove algae or oil buildup;
18. Application of salts or other de-icing substances to streets, sidewalks, and parking lots.
19. Discharges associated with dye testing, provided that the program authority is notified in writing before the test.

If the program authority determines that any of these exempted activities are causing adverse impacts to State waters in a specific case, the program authority may revoke the exemption for that specific case and such revocation shall be effective from the date the person responsible for the discharge is informed in writing of the determination that the exemption is revoked.

B. *Discharges authorized by VPDES permit, waiver or waste discharge order.* The prohibition shall not apply to any non-stormwater discharge permitted under a VPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and provided that written approval has been granted for any discharge to the storm drainage system.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-502 Illicit connections prohibited.

The construction, use, maintenance, or continued existence of illicit connections to the storm drainage system is prohibited.

A. *Pre-existing illicit connections.* Any illicit connection previously authorized before the effective date of this chapter shall comply with the requirements of this chapter by December 31, 2007, or such later date as expressly authorized by the program authority upon good cause shown by the person requesting the extension.

B. *Disconnection and redirection.* Any illicit connection shall be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Albemarle County Service Authority.

C. *Locating undocumented connections.* Any drain or conveyance that has not been documented in plans, maps, or their equivalent and which appears to be connected to the storm drainage system shall be located by the owner, occupant, lessee, principal, agent, employee or otherwise, of that property within the time period specified in the written notice of violation from the program authority requiring that the connection be located. The notice shall require that: (i) the location of the drain or conveyance be determined; (ii) the drain or conveyance be identified as a storm sewer, sanitary sewer, or other; and (iii) the outfall location or point of connection to the storm drainage system, sanitary sewer system, or other discharge point be identified. The results of these investigations shall be documented and provided to the program authority.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-503 Dumping prohibited.

No person, whether the owner, occupant, lessee, principal, agent, employee or otherwise, may dump or discharge, or allow any other person to dump or discharge refuse, as that term is defined in section 13-100 of the Code, or any other material or pollutant, natural or synthetic, into the storm drainage system or a natural stream, unless the dumping or discharge is expressly authorized by the Code.

Sec. 17-504 Maintaining the functional performance of the storm drainage system and streams.

The storm drainage system and natural streams shall be maintained as follows:

A. *Keeping the storm drainage system and natural streams free of refuse and other obstacles.* Every person, whether the owner, occupant, lessee, principal, agent, employee, or otherwise, owning, occupying, or otherwise responsible for the condition of the property through which a privately-maintained storm drainage system or natural stream passes, shall maintain the part of such system or stream on the property free of refuse, as that term is defined in section 13-100 of the Code, and other obstacles that would pollute, contaminate, or adversely impact the system's or stream's functional performance.

B. *Maintaining structures within the flood hazard overlay district.* Every person, whether the owner, occupant, lessee, principal, agent, employee or otherwise, owning, occupying, or otherwise responsible for the condition of the property through which a natural stream passes, shall maintain existing privately-owned structures within the flood hazard overlay district established under section 18-30.3 of the Code so that such structures do not become a hazard to the use, function, or physical or ecological integrity of the stream.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7.

Sec. 17-505 Inspections and monitoring.

The program authority is authorized to assure compliance with the requirements of this article as follows:

A. *Inspections and monitoring, generally.* The program authority is authorized to conduct inspections of private property and to conduct monitoring of storm drainage systems, natural streams, and facilities permitted by VPDES permits, in the manner authorized by law to assure compliance with the requirements of this article.

B. *Inspection of records of VPDES permittees.* Every VPDES permittee shall allow the program authority to examine VPDES application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of the permittee's discharge on the quality of State waters, such other information as may be necessary to accomplish the purposes of this article, including records required to be kept under the conditions of the permit, and enforcement records such as inspection reports, notices of violation, and documents detailing the nature of any land disturbing activity that may have occurred, or similar documents, that are not exempt from disclosure under Virginia Code § 10.1-603.12:2.

C. *Monitoring and sampling equipment on VPDES permitted facilities.* The program authority is authorized, either under a condition of the VPDES permit, with the permittee's consent or by court order: (i) to establish on any permitted facility such devices as are necessary in the opinion of the program authority to conduct monitoring and/or sampling of the facility's stormwater discharge; and (ii) to require the permittee to install monitoring equipment as the program authority deems necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the permittee at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

D. *Obligation of VPDES permittee to assure clear access.* At the written or oral request of the program authority, every VPDES permittee shall promptly remove any temporary or permanent obstruction to safe and easy access to the permitted facility to be inspected and/or sampled, and such obstructions shall not be replaced. The costs of removing such obstructions shall be borne by the operator.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7, 10.1-603.12:1, 10.1-603.12:2.

Sec. 17-506 Discovery, containment, cleanup and notification of discharge.

If a discharge occurs or is suspected to have occurred, the following procedures shall apply:

A. *Discovery, containment and cleanup.* Notwithstanding any other requirement of law, as soon as any person responsible for a facility, operation, or activity, or responsible for the emergency response for a facility, operation, or activity, has information of any known or suspected discharge of substances which are resulting or may result in an illicit discharge into the storm drainage system or State waters, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of the discharge.

B. *Notification.* The person identified in subsection (A) also shall provide the following notification of the discharge: (i) if the discharge contains, or may contain, a hazardous substance, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services; and (ii) if the discharge contains, or may contain, only non-hazardous substances, the person shall notify the program authority in person, by phone, by email, or by facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the program authority within five (5) business days of the phone notice.

C. *Record of discharge from commercial or industrial establishment.* If an illicit discharge is from a commercial or industrial establishment, the owner or operator of the establishment shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least two (2) years and a copy thereof shall be provided to the program authority within fifteen (15) days of the date of the discharge.

State law reference--Va. Code §§ 10.1-603.3, 10.1-603.7, 10.1-603.11.

Sec. 17-507 Penalties and remedies.

The penalties and other remedies for a violation of this article shall be as provided in Virginia Code § 10.1-603.14.

State law reference--Va. Code § 10.1-603.14.

Agenda Item No. 14. **Public Hearing:** SP-2006-025, King Family Vineyards – Winery Expansion (Signs #41, 43). Proposal: Expansion of existing farm winery to allow two special events per week (beyond the 12 events per year permitted by right). (Applicant requests indefinite deferral.)

Mr. Davis reported that the applicant is requesting an indefinite deferral, and the Board would need to act on that request.

At this time, Mr. Wyant **moved** to accept the indefinite deferral of the King Family Vineyard item. Mr. Dorrier **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

Agenda Item No. 15. **Public Hearing:** ZMA-2005-007, Haden Place (Signs #12, 13).

Proposal: Rezone 6.69 acres from R-2 Residential (2 units/acre) to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses for 20 single family homes and 14 townhomes.

Proffers: Yes.

Existing Comprehensive Plan Land Use/Density: Community of Crozet; CT-3 Urban Edge: single-family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses.

Entrance Corridor: No.

Location: Between Haden (Rt. 1209) & Killdeer Lanes (Rt. 1215), south of Jarman's Gap Road.

Tax Map/Parcel: TM 55, Parcel 69 & TM 56, Parcel 9.

Magisterial District: White Hall.

(Notice of this public hearing was published in the *Daily Progress* on January 29 and February 5, 2007.)

Mr. Graham reported that this has been before the Board twice before, and the property is located just off of Jarman's Gap Road just north of Ballard Fields (Old Trail). He said that this property is intended for CT-3 development within the Crozet Master Plan, primarily residential, which is consistent with what the applicant is proposing. Mr. Graham said that the applicant proposed to only build a connection to their property line but then came back and proposed connection to Summerford Lane. He noted that the plan presented today has addressed the connection through to Summerford Lane and the construction of the road to Killdeer Lane.

Mr. Graham said that Jack Kelsey worked with VDOT on some traffic counts, and the total projected traffic to Jarman's Gap Road is shown as 541 vehicle trips per day. He added that VDOT concurs with staff that widening to 18 feet and 20 feet for the northern part of the road would suffice for that amount of traffic. Mr. Graham also mentioned that there were frontage improvements proposed for Killdeer Lane to get that to an 18-foot section, and the connection through would be to Summerford Lane with the Ballard Field development to the south. He added that the applicant is providing a cash proffer of \$82,000, and staff values Haden Lane improvements at \$50,000 with Summerford Lane improvements at \$25,000.

Mr. Graham said that the six affordable housing units, using the \$16,500 per unit value, come out to \$99,000; the applicant indicated that they were valuing it on the market value of their house minus the affordable price and estimated that at \$258,000. He said that is an approach that has never been used in evaluating proffers in the past.

Ms. Thomas asked about the existing Haden Lane connecting into the existing Old Trail system as it does not quite connect at this point. She asked if that was something that staff had wanted?

Mr. Graham replied that connection exists but is barricaded because Haden is not wide enough.

Mr. Rooker commented that there are two connections, the center connector and Haden Lane. He said that this greatly improves the situation by helping to diffuse traffic by allowing Old Trail residents to come out a different way as well as getting Haden Place people to come through Old Trail. Mr. Rooker emphasized that the interconnectivity here fosters a sense of community and "significantly improves the plan."

Mr. Slutzky wants to make sure that there is still some incentive to actually offer affordable housing units rather than just buying a way out.

Mr. Graham agreed that there is some basis for saying the value is higher than the \$16,500, but here is nothing to base that on.

Mr. Davis said that the Planning Commission really pushes the applicants to provide the housing rather than the 'in lieu of' payment, and asks the applicant why they are choosing the payment option. He noted that the \$16,500 number originates from the subsidy that the housing office provides to someone who is going into an affordable unit under the current housing program.

Mr. Rooker commented that there are different kinds of units, and it is very difficult to come up with a "one size fits all." He said that the affordable housing proffer is very good with this application, noting that Mr. White had mentioned that the program currently had more units than money.

Mr. Slutzky suggested that the Board reiterate their preference for affordable units and have Ron White come and address the Board on the matter.

Mr. Boyd said that there is an affordable housing policy currently floating through the Planning Commission now.

Mr. Davis noted that there is a staff committee currently working with the housing committee on bringing back a recommendation, and it would eventually come before the Board.

Mr. Graham said that it should be a few months, and this is an “amazingly complex subject.”

Mr. Rooker stated that can not really be dealt with tonight by way of this application.

Mr. Davis commented that the message being sent by this is the County is getting the affordable units. He said that is what the Board is accepting with this application. He is not concerned about an improper message. From a staff standpoint, he thinks we are pretty clear on what that message is right now.”

Mr. Wyant asked about the timing for implementation of the affordable housing here, wondering if it could be phased.

Mr. Davis replied that they created phasing where not more than 15 market-rate units were going to be developed without doing three affordable units, so at least half of the affordable units would come early on in the process. He added that the other three are not restricted by this proffer, but they will have to happen at some point.

Mr. Wyant asked why the barricades were put up at Old Trail.

Mr. Graham responded that Haden Lane was inadequate width, and the applicant is proposing to do that widening from their entrance north to Jarman’s Gap.

In response to Mr. Wyant’s question about offsite improvements, Mr. Kelsey explained that they just had to widen the pavement and provide shoulders and drainage as there is adequate area for it. He added that much of the area has pretty gentle slopes, and they have adequate right of way to do the widening, but if you start pushing out shoulders and ditches, the limits of the existing right away and front yard widths are impacted.

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

The applicant, Wendell Gibson, addressed the Board. He emphasized that his development is the closest to try to go into downtown Crozet, where it needs to be.

Mr. Kelly Strickland addressed the Board, stating that this would be a prime example of residential development near the downtown area, featuring lots of connectivity. He confirmed that there is a drainage divide, and there is a small stormwater management area that is provided.

In response to Mr. Wyant’s question regarding safety along the road shoulders, Mr. Strickland stated that the existing pavement is 16 feet wide and would be widened an additional four feet, which would accommodate up to 1,500 vehicle trips per day. He said that it would be narrow in the right of way to accommodate shoulders, but because it is an “overdesigned road” there is going to be room to give it more room for shoulders. Mr. Strickland explained that he has seen all of the houses there with offstreet parking, and 20 feet is three times as wide as what the capacity would be projected to be, so there is room to have parking without having to pull off the shoulder.

Mr. Strickland mentioned that there are at least two parking spaces per unit within the development and onstreet parking spaces inside the development as well as onstreet parking on Haden Lane and Killdeer Lane with full frontage improvements. He said that the road is about 28 feet wide there.

Mr. Kevin Markey addressed the Board, stating that he would like some clarification on the two connections, Summerford Lane and Haden Terrace to Haden Lane. He said that the people on Summerford Lane are not connected to the people on Haden Terrace, and the people from Haden are not going to go out through Summerford. Mr. Markey said there is a little bit of a disconnect. He said that the road is 14-feet wide there, not 16 feet, and his house is seven feet below the crest of the road. He also said that there is no bike path to Crozet Elementary School.

Ms. Donna Markey addressed the Board, stating that not every parcel in this or any growth area is necessarily suited to the Neighborhood Model district, and she proposed Haden Place does not really fit with the existing neighborhood of Haden Lane and Killdeer Lane. She added that combined there are 20 homes on one half to two-acre lots on Haden Lane and Killdeer Lane, and this will increase density by 34 additional residents. Ms. Markey said that she has read the master plan carefully, and Haden Place poses some contradictions to the plan. She stated that the plan describes pedestrian-friendly streets, more livable urban neighborhoods, and appropriate infrastructure, but adding 34 homes will not make Haden Lane more livable. She said it is unsafe to walk from Haden Lane to Crozet Avenue. Ms. Markey said that this proposal will impact traffic, air quality, noise, and onstreet parking on Haden Lane and Killdeer Lane.

Ms. Patty Saul addressed the Board, stating that she has the last house on Killdeer Lane so she has Old Trail beside and behind her and now Haden in front of her. She said it is very difficult to deal with all this growth and development. She added that there should be a way to prevent people from driving through, and she asked the Board to help existing residents deal with this growth. Ms. Saul said that all property owners are struggling with taxes due to increased assessments.

Dr. Shannon Franklin addressed the Board, stating that she looked at various locations in the County and chose Crozet as many residents have expressed an interest in having more businesses to the area. She said that the County needs to ensure well-planned developments, noting that the Haden Place design provides families with a safe, enjoyable environment, and she is pleased that it contains some affordable units. Dr. Franklin encouraged the Board to support the development.

Mr. Rick Dimich addressed the Board, stating that he has located a building materials business in Ivy and that Mr. Gibson is a small local builder and not a big outside developer.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board, stating that everyone he has talked to has spoken highly about Mr. Gibson and this particular project has nice connectivity.

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

Mr. Dorrier described this project as a model development.

Mr. Boyd stated that Mr. Gibson has gone back each time and accommodated the Board's suggestions, and Haden Place offers a nice mix of housing so he also supports the development.

Mr. Rooker said that he has raised the most concerns about the project in its prior iteration, but Mr. Gibson has solved the interconnectivity problem and has established phasing of the affordable units. Mr. Rooker commented that he has voted against a number of developments because of insufficient proffers, and this offers about \$10,000 per unit which is much more reasonable. He added that the one negative is Jarman's Gap Road, and the timing of the units with the improvements of that road will be key in addressing traffic issues there. Mr. Rooker commented that this development is centrally located, and with the interconnectivity, it will be closely linked to the town center area. He said he thinks it is a good project, and he thinks it ought to be approved.

Mr. Slutzky said that he supported the project before, and now that it is improved beyond the original plan, he continues to support it.

Ms. Thomas stated that she believes Killdeer Lane should be closed off for the benefit of those residents, and this proposal has done about everything it could do to make itself a good neighbor, given that it is a higher-density development.

Mr. Wyant said that his primary concern in Crozet has been the downtown, and getting people there is going to be a challenge. He commented that the developer has "stepped up" with the affordable housing.

At this time, Mr. Wyant **moved** for approval of ZMA 2005-007 Haden Place, with the proffers as provided. Mr. Dorrier **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

NAYS: None.

Proffer Form

Date: October 2, 2006
Revisions: 10/05/06

12/01/06
01/24/07
02/05/07

ZMA: 2005-0007
Tax Map and Parcel Numbers: 55-69 and 56-9

69 Acres to be rezoned from R2 to NMD (Neighborhood Model District)
in accordance with the Application Plan titled Haden Place, dated September 4, 2006 revised
January 23, 2007

And prepared by Dominion Development Resources, LLC

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

- 1) **Construction of Off-Site Improvements:** No later than 12 months after approval of the first subdivision plat or site plan within Haden Place, the Applicant shall design and construct at its sole expense the following:

- a. **Haden Lane Road Widening:** Haden Lane, from the southern boundary of Haden Place to Jarman's Gap Road, and from the southern boundary of Haden Place to its terminus at the southern Boundary of Tax Map 56 Parcel 8, shall be widened to a minimum pavement width of 20' and shoulders and ditches shall be installed to the extent allowed within the existing right-of-way. The improvements shall be designed and constructed to the satisfaction of the County Engineer.
- b. **Stormwater Drainage to Powell's Creek:** The Owner shall not request that the County issue a building permit within Haden Place prior to the construction or bonding of an off-site stormwater drainage system to Powell's Creek in general accord to that shown on the General Development Plan.

2) **Interparcel connection to Summerford Lane:**

Final location for dedication of the inter-parcel connection with Ballard Fields will be determined as a condition of first subdivision plat or first site plan approval for any development within Haden Place. The Owner shall design and construct at its sole expense the inter-parcel vehicular connection to Summerford Lane. Said construction shall be completed as designed and approved by the County Engineer, no later than 12 months after approval of the final subdivision plat or final site plan approval for lots within Blocks C, D, E, F, or G as shown on the General Development Plan.

3) **Vehicular Ingress/Egress:**

Vehicular connection from the Proposed Connector Road shown on the ZMA 2005-0007 Application Plan, last revised February 5, 2007 to Killdeer Lane shall be prohibited until such time that sight distance improvements, acceptable to the Virginia Department of Transportation, are made to the intersection of Killdeer Lane and Jarman's Gap Road. The bollards prohibiting vehicular connection from the Proposed Connector Road to Killdeer Lane shall be removed within 60 days of the Virginia Department of Transportation's acceptance of the sight distance improvements.

4) **Future Dedication for Realignment of Killdeer Lane:**

- a. Upon the request of Albemarle County, a fifty (50) foot wide portion of the open space area shown as "Block J" on sheet A5.1 of the Application Plan shall be dedicated to public use, as necessary, for future realignment of Killdeer Lane. The location of the realignment is shown conceptually on the General Development Plan.
- b. If the land dedicated in Proffer 4a is not used for its stated purpose within 10 years of dedication, then the Owner may pursue vacation or abandonment of the dedicated right-of-way.

5) **Cash Proffers:**

The Owner shall contribute a total of \$82,000 cash for the purpose of mitigating traffic impacts from the development. The cash contribution shall be used only for the purpose of funding transportation projects identified in the County's Capital Improvements Program within the Community of Crozet. The cash contribution shall be paid in increments of \$3,200 for each detached market rate unit and \$2,700 for each market rate attached unit, prior to or at the time of issuance of the building permit for each unit. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years from the date of the last payment of the contribution, all unexpended funds shall be applied to project(s) identified in the County's Capital Improvements Program within the Community of Crozet.

6) **Affordable Housing:**

- a. The Owner shall provide six (6) "for sale" residential units of affordable housing in Haden Place as identified on the Application Plan. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median income, such that housing costs consisting of principal, interest, real estate taxes, and homeowner's insurance (PITI) do not exceed 30% of the gross household income. The Albemarle County Office of Housing or its designee shall approve all purchasers of these units. The Owner/builder shall provide the County or its designee a period of 180 days to identify and pre-qualify an eligible purchaser for the affordable units. The 180-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than 120 days prior to anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of purchaser. This proffer shall apply only to the first sale of each of the six (6) units.

- b. Prior to the issuance of the fifteenth building permit for a market rate dwelling unit within Haden Place, the Owner shall obtain certificates of occupancy for three (3) affordable dwelling units. Prior to the issuance of the final building permit for a market rate dwelling unit within Haden Place, the Owner shall obtain certificates of occupancy for all of the affordable dwelling units within Haden Place.

- 7) **Historic Resources:** As a condition of the first preliminary subdivision plat or preliminary site plan approval for any development within Haden Place, the Owner shall provide a reconnaissance level survey performed by an architectural historian or other qualified individual, to adequately provide an archival record of the existing homestead. The survey shall meet the requirements of the Virginia Department of Historic Resources Reconnaissance Survey Field Form, and results shall be included in the Haden Place Code of Development.
- 8) **Overlot Grading Plan:** For any subdivision not requiring a site development plan, the Owner shall submit an Overlot Grading Plan to the satisfaction of the County Engineer. The Owner shall obtain approval of the Overlot Grading Plan by the County Engineer before the first final subdivision plat or site plan is approved within Haden Place. The Owner shall not request that a Certificate of Occupancy be issued for a dwelling unit on a lot if the County Engineer has determined the lot grading is not consistent with the approved grading plans.

Signature of Owner,

Wendell W. Gibson, President
Wendell W. Gibson, Inc.

Wendell W. Gibson
Printed Name of Owner

02-05-2007
Date

Agenda Item No. 16. **Public Hearing:** SP-2006-034, North Pointe - Stream Crossing (Sign #8).
Proposed: Fill in the floodplain of Flat Branch Creek for a road crossing to provide access for residential development.
Zoning Category/General Usage: Planned Development-Mixed Commercial with which allows large-scale commercial uses; and residential by special use permit (15 units/ acre). A special use permit exists for residential use. SECTION: 30.3.05.2.1. of the Zoning Ordinance which allows for fill in the floodplain.
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.
Entrance Corridor: Yes.
Location: East Side of Route 29 North (Seminole Trail) across from Lewis and Clark Drive.
Tax Map/Parcel: 32-22K.
Magisterial District: Rivanna.
(Notice of this public hearing was published in the *Daily Progress* on January 29 and February 5, 2007.)

Mr. Graham reported that this is a stream crossing that was done as part of the North Pointe development, and their northwest passage lines up with Lewis and Clark Drive. He explained that there is a crossing of flat branch there that was done as a special use permit, and was brought forward to the Planning Commission by staff with ten recommended conditions, and they recommended approval. Mr. Graham said that the first five conditions are fairly standard in nature, and conditions #6 to #8 deal with specific landscaping requirements. He stated that staff recommends slight amendments to conditions #9 and #10, where the design planner on staff would review the application rather than the ARB, for reasons of efficiency.

Mr. Wyant asked if the end of the culvert can be seen from the road. Mr. Graham said he believes so, but the final design has not been completed. He added that the culvert color has been removed from condition #10 because there was a question on whether the end of the culvert could be seen.

Mr. Rooker asked if this is a design required by the County Engineering staff. Mr. Graham replied, "yes", because this is a floodplain crossing.

Ms. Thomas commented that she does not mind if the design planner approves this, but she does not want the disagreement between the ARB and the Planning Commission to continue to be aired out by coming to the Board.

Mr. Boyd said that the Development Review Task Force was addressing this, and all three parties had attended. He stated that he had lunch with the chair of both the ARB and the Planning Commission recently, and they are working to move forward with this.

Mr. Boyd opened the public hearing for comments.

Ms. Valerie Long, representing the applicants, addressed the Board, stating that the approval of this permit would allow the construction of the northwest passage, the northernmost entrance of the three entrances into North Pointe, and would enable the development of the residential single family lots. The

applicants are agreeable to the conditions that staff has recommended. She encouraged the Board to approve the request.

Ms. Thomas said she thought this was the last area to be developed or does it allow internal development. Ms. Long said the original intent was to develop the southern area of the property (commercial and mixed area) first, but because of the realization that there would be a lot of time required to obtain DEQ and Army Corp of Engineers' permits necessary to develop those areas, the applicant and developer realized that they could develop the northern residential lots more quickly, and combined with the realization of the continuing demand for single family detached residential units in this community. She believes it was clear when they talked about it during the rezoning approvals that the northern area would be the first area developed.

Mr. Rooker noted that there was no proffer as to which side they would develop first, and he is glad to see that the residential is getting out in front of the commercial. He said that as far as he is concerned, they could stop before they got to the commercial.

Ms. Long said that the proffers do include a phasing provision for the affordable units.

At this time, Mr. Wyant **moved** for approval of SP 2006-034 subject to the 11 conditions recommended by the Planning Commission, with conditions #9 and #10 amended tonight. Mr. Slutzky **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

NAYS: None.

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

1. County and VDOT approval of the final lane configuration for the Northwest Passage over the stream crossing with the final road plans;
2. County and VDOT approval of final design plans and hydrologic/hydraulic computations for the stream crossing;
3. The applicant must obtain a map revision, letter of revision, or letter of amendment as required from the Federal Emergency Management Agency (FEMA) and copy the County Engineer on all correspondence;
4. County approval of a grading and an erosion and sediment control plan prior to the issuance of a grading permit for modification of the existing stream crossing;
5. Natural Resources Manager approval of a stream buffer mitigation plan prior to the issuance of a grading permit for modification of the existing stream crossing;
6. Provide an informal planting of mixed tree and shrub species and sizes to compensate for removed vegetation, and low-growing plants to stabilize slopes in the "proposed landscaping areas" shown on the plan submitted for ARB review entitled "Proposed Entry Layout with Landscaping North West Passage Intersection @ Route 29 North" with revision date of 12-04-06;
7. Provide large shade trees on the north and south sides of Northwest Passage, along the sidewalk and space reserved for the sidewalk, two and one half inch (2½") caliper minimum at planting, forty feet (40') on center, for a minimum distance of four hundred feet (400') from the existing edge of pavement of Route 29 North;
8. Provide trees in the median of Northwest Passage, beginning at the point closest to Route 29 North that can be approved by VDOT and extending for a minimum distance of four hundred feet (400') from the existing edge of pavement of Route 29 North. The planting shall take the form of a continuous informal mix of large, medium and small deciduous trees ranging from one and one-half inches (1½") to two and one half inches (2½") caliper and evergreen trees ranging from four feet (4') to six feet (6') in height;
9. All of the above-noted landscaping shall be shown on the road plans submitted for Northwest Passage. The plans shall include a complete planting schedule keyed to the plan. The plans are subject to approval of the Design Planner;
10. Design details of the retaining walls, including column cap design, pier design, stone finish, other materials, etc., plant size and planting configuration shall be shown on the road plans and are subject to approval of the Design Planner; and
11. If the use, structure, or activity for which this special use permit is issued is not commenced within sixty (60) months after the permit is issued, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate.

Agenda Item No. 17. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Tucker indicated that a representative of Comcast would come before the Board to address the concerns that have been raised.

Ms. Thomas said that she would like to get to the point where the Lighting Ordinance is applied to applications such as Haden Place so that there are not a lot of new developments without those stipulations in place. She stated that she would like for County staff to get to the point where it can require or request applicants to follow the Lighting Ordinance.

Mr. Graham stated that there is a Phase II with lighting that would address that, but Ms. Thomas pointed out that that would only apply to commercial developments.

Mr. Wyant asked if the issue of bonus density and affordable housing would be coming back for more discussion. Mr. Rooker commented that the issue needs to be resolved.

Agenda Item No. 18. Adjourn.

At 9:17 p.m., with no further business to come before the Board, the meeting was adjourned.

Chairman

Approved by the Board of County Supervisors

Date: 09/05/2007

Initials: EWC
