

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 14, 2007, at 6:00 p.m., in the Lane Auditorium of the County Office Building on McIntire Road, Charlottesville, Virginia.

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 6:00 p.m., by the Chairman, Mr. Boyd.

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

Agenda Item No. 4. Recognition – Proclamation: The Month of the Young Child, April, 2007.

Mr. Boyd read the following proclamation into the record indicating the County would be recognizing, in conjunction with the Central Virginia Association for the Education of Young Children, the month of April, 2007, as the month of the Young Child.

**THE MONTH OF THE YOUNG CHILD
APRIL, 2007**

WHEREAS, *the Central Virginia Association for the Education of Young Children is celebrating **The Month of the Young Child in April, 2007**, in conjunction with the Virginia Association for Early Childhood Education and the National Association for the Education of Young Children; and*

WHEREAS, *these organizations are working to improve early learning opportunities, which are crucial to the growth and development of young children and to building better futures for everyone in Albemarle County, Virginia; and*

WHEREAS, *all young children and their families across the country and in Albemarle County, Virginia, deserve access to high-quality early education and care; and*

WHEREAS, *recognizing and supporting the people, programs, and policies are committed to high-quality early childhood education is the right choice for children;*

NOW, THEREFORE, BE IT RESOLVED, *that, I, Kenneth C. Boyd, Chairman, on behalf of the Board of Supervisors of Albemarle County, Virginia, do hereby proclaim **APRIL, 2007, as THE MONTH OF THE YOUNG CHILD** in Albemarle County, and encourage all citizens to work toward high-quality early childhood development education for all children in our community.*

The Chairman presented the proclamation to Ms. Julia Broom who expressed her appreciation to the Board.

Agenda Item No. 5. From the Board: Committee Reports and Matters Not Listed on the Agenda.

There were none at this time.

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

Mr. Boyd said the Board would hear the speakers who have signed to speak for about 15 to 20 minutes. Anyone who does not get a chance to speak now can do so at the end of this meeting.

Mr. Michael Matthews, President of the Albemarle Housing Improvement Program Board, addressed the Board and introduced staff members Ms. Theresa Tapscott and Ms. Jennifer Jacobs. He said for 30 years AHIP has provided an essential service to the community helping over 2,500 residents. He presented the County with a mock check for \$90,000 (from the Crozet Crossing Trust Fund) as repayment of a loan the County extended to AHIP in 2003. He said this loan enabled AHIP to build Camp Springs, five new single family homes in the Porters-Yancey neighborhood and make other improvements in the community. The homes are energy efficient and environmentally sustainable, and cost about \$130,000 each. Camp Springs received the Best Housing Development award from the Virginia Housing Award and was recognized by the General Assembly. The loan helped leverage \$750,000 in other funding and additional volunteer time.

Mr. Steve Gissendanner, President of the Albemarle Education Association, addressed the Board. He said the Board's task for the budget next year is harder but he would ask them to support the

living wage initiative. He suggested the Board ask developers to pay their fair share, and also ask the State for other means to raise revenues.

Mr. David Oberg addressed the Board. He said the greatest investment the County can make is in its children. He emphasized that if seven-cents is cut from the tax rate, the future of children would be sacrificed and that's wrong.

Ms. Patty Marbury addressed the Board, stating she is PTO President at Crozet Elementary School and a mother of two children in County schools. She suggested that without full funding of the education budget it will be a struggle to achieve a world-class educational system. She said schools do fundraising to bring more money in, but decreasing the tax rate would mean parents would end up paying for computers, sports equipment, etc., which not every family can afford. She said teachers might leave and go to other counties. She noted the 2006 Citizens Survey showed citizens rated education and safety as the most important items for the County to invest in. Eighty percent also feel the County is giving them a good return for their tax dollars. More citizens favor increasing tax rates than decreasing them.

Ms. Margie Shepherd addressed the Board. She said the Board just stated a week ago how important strategic initiatives are, and now they are contemplating a large tax cut. She suggested they read the Citizens survey on the things that are important to the area – schools, parks, preservation, safety – things that bring quality of life to the area. She added that the Board should follow its own priorities, keep its promises, and fund the Schools budget.

Ms. Janet Webster addressed the Board on behalf of the Henley Middle School PTO. She urged the Board to fully fund the Schools budget, noting they have encouraged growth in the community while highlighting the quality school system. In the end it will cost. She stressed that students will become citizens in the community and should be well-prepared for their careers and lives.

Ms. Tracy Walker addressed the Board, stating she is a lifelong resident of the County and the mother of a first grader. She said the message sent by cutting the Schools budget is that education is no longer a priority. This could lead to larger class sizes, outdated textbooks and technology, and shifting costs onto parents for transportation and supplies.

Ms. Jackie Lombardo addressed the Board, stating she has three children currently in Albemarle County Schools. She thinks the majority of Albemarle County residents have supported full funding of education; not doing so sets the County up for failure. She emphasized that fully-funded schools support the entire community's future. To properly take care of the children is to properly take care of the future.

Mr. Andy Wojick, a resident of Cismont, addressed the Board, stating that only half of his road is paved. He said the Board is forgetting the neighbors. Who thinks their taxes are more important than their neighbors?

Mr. Andy Trevor Przyoski addressed the Board. He believes everyone is here because they love what they do. He loves to teach but it is getting increasingly hard to do. He said teachers want to be shown respect for their skills and knowledge. He has a student who has moved around a lot and this student said Albemarle is the only high school he's attended where he's felt loved and supported by teachers.

Mr. Charlie Trachta addressed the Board, stating his property assessments have increased by 100 percent. The average Albemarle teacher's salary in 2006-07 was lower than comparative communities. He said the cost of running schools now is driven largely by the SOLs and the No Child Left behind Act. People who are already here are being taxed with higher assessments to make it more affordable for those who may come. He thinks this helps the developers. He said the Planning Commission just approved a project with 500 more homes and there are several such developments "in the pipeline."

Mr. Ken Ferguson addressed the Board, stating he is a teacher and a parent. He emphasized that there are efforts being made to recruit teachers from the business community. He chose Albemarle for its support of small class sizes and the young child, and its commitment to teacher training and education as well as technology. He drives to work from outside the County, and budget cuts will take away the things that are appealing about Albemarle schools.

Mr. Boyd closed this comment period, but indicated he would reopen it at the end of the meeting.

Mr. Rooker said the School Board had met with legislators to ask them for additional money for the SOQs. It could mean millions of dollars for the County to offset the high cost of living. Albemarle has

been said to have the second highest cost of living in Virginia, but no legislators have agreed to carry this proposal forward to the General Assembly. Over the years, the percentage of money the State provides for education has been declining, which means the local share has increased substantially. He urged the audience to contact their legislators and implore them to include Albemarle County as one of the designated counties in the State to receive the “cost to compete funds.”

Mr. Boyd said there is to be a joint meeting with the School Board next Wednesday, March 21 at 1:00 p.m.

Agenda Item No. 7. Consent Agenda. Ms. Thomas **moved** to approve Item 7.1 on the Consent Agenda and to accept Item 7.2 as information. Mr. Wyant **seconded** the motion, which passed by the following recorded vote:

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

Item 7.1. Approval of Minutes: July 12 and December 13, 2006.

Mr. Slutzky had read the minutes of December 13, 2006 (Pages 1 to 20 ending at Item No. 8) and found them to be in order as presented.

Mr. Rooker had read the minutes of December 13, 2006 (Page 20 beginning at Item No. 8 to the end and found them to be in order as presented.

By the recorded vote set out above, the Board approved the minutes which had been read.

Item 7.2. Digital Government Annual Report 2006.

It was noted in the Executive Summary that Albemarle County has an active digital government program encompassing a website, A-mail, E-news service, and podcasting, among other features. This Annual Report provides an overview of activity related to these initiatives for 2006. It contains statistics on a variety of functions related to digital government initiatives. Highlights for a few of those functions are mentioned below. Generally speaking, significant increases in usage have been experienced in all phases of the County's online services resulting in improved customer accessibility and convenience and efficiencies and cost savings to staff.

General statistics provide the best overall picture of website usage which continues to climb in all major categories.

	2005	2006	Percent Change
Average Page Views Per Day*	16,171	25,859	+60%
Average Page Visits Per Day**	2,449	3,830	+56%
Total Number of Files Downloaded	1,070,802	1,299,831	+21%

Customer Usage Highlights: These data allow staff to see when customers are using the website. An analysis of the data indicates the website clearly is meeting its primary goal of providing 24-hour a day, seven-day a week service – providing a true self-service opportunity for users. Weekend days average about 72 percent of the average traffic for a weekday. More visits occur between 5:00 p.m. and 8:00 a.m. than during regular working hours.

Downloaded highlights: This section gives the top 20 downloaded files from the Albemarle County Website and the number of times they were downloaded. Downloads are important because they reflect the level of productivity occurring on the website – the downloads reflect visits or phone calls that did not have to be made to a County facility, and copying and mailing time and expense that staff did not have to incur as a result of citizens using these download opportunities. A total of 5,000 unique documents were downloaded at least once. Approximately 200 unique documents were downloaded at least 1,000 times. Sixty documents were downloaded at least 2,500 times. Master plan documents are getting significant downloads (Crozet–7,785; Places29–5,101; Pantops–2,345).

A-Mail Highlights: A-mail is a service of Albemarle County's Community Relations Office to notify the public about the services, programs, and events important to residents, visitors, businesses and the greater community. Users of this service receive meeting notices, announcements and periodic updates on major events related to the topics they are most interested in. Subscribers can choose from several interest groups and only receive A-mails for topics in which they are interested.

	2005	2006	Percent Change
Average messages sent per month	6	8	+33.33%

Average number of subscribers per message	606	800	+32.01%
Total number of subscribers for all lists	1136	2181	+91.99%

This report was received as information only.

Agenda Item No. 8. **Public Hearing:** SP-2006-037, Camp Watermarks Amendment (Sign #24). Proposed: Amend existing special use permit, extending camp sessions allowed from 4 weeks per year to 16 weeks per year.

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

Section: 31.2.4.1; 10.2.2.20; 5.1.05.

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

Entrance Corridor: No.

Location: 1145 James River Drive, west of Route 726 and Hatton Ferry Road.

Tax Map/Parcel: TM 136, Parcels 6B, 9D, 9D1, 9E.

Magisterial District: Scottsville.

(Notice of this public hearing was advertised in the Daily Progress on February 26 and March 5, 2007.)

Ms. Joan McDowell, Planner, addressed the Board, stating that in May, 2006 the Board approved a special use permit for Camp Watermarks allowing for the operation of a faith-based agricultural camp within an existing farm. After managing a summer of camp sessions, the applicants – Travis and Angela Critzer – wish to amend the existing permit to be allowed to extend the number of camp sessions from four to 16 week-long sessions per calendar year. Camp activities and accommodations would remain unchanged and include nine cabins, a recreation hall/dining facility, basketball and skateboarding areas, a fishing lake, fire pit, and nearby animal paddock. One of the primary goals of Camp Watermarks is to provide nature and agricultural experiences for children who normally have limited exposure to outdoor and/or agricultural environments. The maximum number of children from eight to 18 years old would be 36 to 45 children for each week-long session, and farming/forestry will continue with the primary activity on the Critzer's farm and the camp remains a secondary use.

Ms. McDowell said the Critzer farm is located on the James River Road west of Hatton Ferry Road and near the town of Scottsville. The surrounding landscape is comprised of forest, open pasture, agricultural fields as well as residential and agricultural buildings. Immediately adjacent to the Critzer property on the west is an Ag/Forestal District. Immediately to the south are the CSX railroad tracks and the banks of the James River. A notable characteristic of the Critzer property is a deep, wooded ravine along the eastern boundary of Parcel 136(9E) extending from the eastern edge of the camp facilities to the James River.

Ms. McDowell said the camp facilities are well integrated into the surrounding landscape. Both staff and campers will continue to use a bus which picks them up at Effort Baptist Church in Palmyra and then transports them to the camp. She said staff recommended approval of this special use permit subject to the 11 conditions listed in the staff's report (amended from those conditions on SP-2005-34). The Planning Commission, at its meeting on February 6, 2007, unanimously recommended approval subject to those same conditions.

Mr. Boyd asked Board members if they had questions for staff.

Ms. Thomas asked about the lighting. She thinks that originally it was subject to such a condition in the special use permit. She would like to continue with the original condition which read: "All site lighting exclusively for camp use must either emit 3,000 lumens or less or be full cut off fixtures. Lighting issues must be resolved prior to the issuance of a clearance for the commencement of the use." With the expansion of the use, she does not know any reason not to continue that condition.

Ms. Amy Arnold, the staff Project Manager, addressed the Board. She went to the Critzer's Farm yesterday and did an inventory of the lighting. She showed a slide indicating which lights emit more than 3,000 lumens which is the ordinance cutoff for shielded lighting. Part of the ordinance also says that any of these lights which have been in place previous to October, 2001, are legally non-conforming. The applicant has stated that these six fixtures were in place prior to that date. If the Board wishes to place a condition on these lights, that is possible.

Mr. Davis said the Lighting Ordinance adopted in 2001 would have applied to the fixtures Ms. Arnold referred to, but because they were there, the Lighting Ordinance did not capture those. However, for any of the appurtenances on the property that are related to this special use permit, the Board has the authority to put conditions on granting of the special use permit. If these lights are related to the proposed use, the Board could condition them including requiring them to retrofit those existing lights.

Ms. Thomas said she does not understand because the Board has a list of the conditions which were placed on the original special use permit limiting the lights to 3,000 lumens or less. Why were the lights not already changed to meet the special permit conditions? Ms. Arnold said she understands that condition was eliminated before the original special use permit was approved. The conditions before the Board tonight are the conditions associated with the special use permit as approved.

Mr. Boyd pointed out that it doesn't matter because the Board can change the conditions now.

Ms. Thomas agreed.

Mr. Wyant asked if the previous conditions still apply whether they are stated this time or not. Mr. Davis said he thinks that condition was originally recommended when the Board saw the special use permit but it was eliminated. There was not a lighting condition imposed on the previous approval, probably because the Lighting Ordinance had just been adopted and it was felt it was adequate to address existing and proposed lighting conditions, but it did not capture the nonconforming lights.

With no further questions for staff at this time, Mr. Boyd opened the public hearing and asked the applicants to speak first.

Travis and Angie Critzer, the applicants, addressed the Board. Mr. Critzer said they are asking for the amendment to operate Watermarks Camp for 16 weeks a year. Now that it is open and operating the response from the surrounding community is greater than anticipated. He said they are trying to preserve their land so the generations to come will have it to enjoy. A lot of questions have been raised about traffic, lighting, noise levels, and other things. Between himself, his wife and adopted father, they own eight parcels of land totaling over 200 acres. With their current division rights and the 21 acres lots they could easily sell and/or develop, and 30 building sites would create at least 120 more vehicle trips on James River Road and that does not include trips to the grocery store, doctor's visits, schools, etc. The noise and lighting from 30 more homes and the families living on the properties would cause more detriment to the community than their groups visiting for a short period of time. He said they could sell and/or develop the property, but chose to stay in southern Albemarle County. They feel it is their calling to step forward and make a difference in young people's lives by creating a place where they can experience God and express themselves in a loving, caring environment. He asked that the Board approve this amendment. As to the lights, the property is deeply wooded and they have no neighbors. The lights have been in place for 15 years, and no one has ever complained about the lights. The building the lights are on is a farm shop and continues to be a shop when the camp is not operating.

Mr. Kevin Fletcher addressed the Board to express his support for Camp Watermarks. He said it fits into what the Comprehensive Plan asks for in the rural areas. It helps to preserve the rural lifestyle and sense of community in Albemarle. He can think of nothing that fits better in the community than a faith-based camp for children. The Critzers are an asset to the community and the camp is an asset to the community. He asked that the Board approve the request.

Mr. Scott Morrell addressed the Board, stating that he has been Mr. Critzer's neighbor since 1979, and the camp has provided no noticeable impact to the surrounding area. He supports what they are doing for the children.

Mr. Tommy Tapscott addressed the Board, stating he agrees with Mr. Morrell. It is not noticeable when the camp is or isn't operating. He notices no change in traffic from the camp, and as to the lighting, the lights that the power company installs put out more light and can be seen from a further distance. He said this camp helps the kids.

Mr. Peter Way addressed the Board, saying he came to support this effort. He said the community is 100 percent behind this operation. What Mr. Critzer is doing is superior and important for the welfare of the community and the County. He asked that the Board approve this request, since it is a good thing for the County.

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

Mr. Davis said in reviewing the Board's minutes, it appears that the Planning Commission had removed the lighting condition to which Ms. Thomas referred prior to the Board's vote on the original special use permit.

Ms. Thomas said her concern about lighting relates more to "dark skies and energy" than it does to whether a neighbor is concerned about a light. She said they can be full cutoff fixtures which means the lights can remain powerful if light is needed on the ground, but there is a shield on top so the light does not go up into the sky. That would be her reason for wanting to capture wording of the condition that was dropped, which would be an additional condition and it would read: "All site lighting exclusively for camp use must either emit 3,000 lumens or less or be full cutoff fixtures."

Mr. Dorrier said he has been to the site, and the property is located far away from other buildings. He doesn't see a useful purpose putting in that condition except to keep the lights from shining on the Critzer's dwelling.

Ms. Thomas replied that a full cutoff fixture does not keep the light from the ground, but keeps it from going up into the sky which helps the County with the dark sky, and helps children all over the County to be able to see stars. That is quickly disappearing because there is too much light pollution going up into the sky. She does not think it puts a crimp in the program in any way.

Mr. Dorrier asked if it was a recommended condition at one time.

Mr. Davis said it was a proposed condition at one time, but was eliminated by the Planning Commission and was not adopted by the Board. It has never been a condition. He said the condition

which was proposed by the Commission contained the term "offsite lighting exclusively for camp use." The recent site visit by staff revealed that there was only one nonconforming light being used for the camp. Other lights were for both camp use and agricultural uses on the property, so only one light would be addressed by Ms. Thomas' proposed condition. If the Board wants a condition to address the nonconforming lights, he will suggest some alternative language.

Ms. Thomas asked if Mr. Davis has that language now. Mr. Davis said it could state: "All exterior lighting fixtures shall be full cutoff luminaire, fully shielded and arranged or directed to reflect away from adjoining properties and away from adjacent roads." That is the standard condition that used to be imposed prior to adoption of the Lighting Ordinance.

Mr. Boyd asked if other Board members are in agreement with Ms. Thomas' suggestion.

Mr. Wyant said this camp is on 89 acres, and the Board is discussing one light. He does not think the light will make that much difference on this amount of acreage. If they make improvements in the future, then they can go to the full cutoff fixtures.

Mr. Rooker asked if the condition should say "any added lighting." Mr. Davis said any future lighting added on the site would be subject to the provisions of the ordinance. It would not be grandfathered. The ordinance addresses everything on the site except residential lighting.

Mr. Dorrier said Mr. Critzer will not be required to change his present lighting. Mr. Davis said that is correct.

Mr. Dorrier said he will then make a **motion** to approve the special use permit.

Mr. Slutzky interrupted to say he thinks there needs to be more discussion. Personally, he supports this use, but over this micro-management issue of the lighting, the Board has adopted an ordinance which requires that new lighting fixtures be differential to the dark skies issue. This is an opportunity to take some grandfathered lights and bring them into compliance with the existing ordinance. He is not sure that is unduly burdensome so he thinks that condition should be added; however, if only two Board members think that is necessary, then the Board can move on and approve the request.

Mr. Boyd said he doesn't have a problem with the existing lighting, and the ordinance will apply to any new lighting.

Mr. Slutzky asked if the Board should apply the condition while it can, or leave it alone.

Mr. Boyd said in this instance, he thinks the Board should leave the lighting as it is. As Mr. Davis said, any new lighting will be controlled by the ordinance.

Mr. Slutzky said the Board adopted the Lighting Ordinance because it felt there was a public good to be served by imposing that requirement. He asked if Mr. Boyd was saying that in this instance he would not want to impose that condition.

Mr. Boyd said he was saying that he did not think the Board should go back and impose the condition on existing fixtures. If it was a new fixture he would agree.

Mr. Wyant asked if this special use permit covers all structures on the property, including future structures.

Mr. Davis said any new construction would have to comply with the ordinance. Any fixtures which were on the property prior to 2001 when the Lighting Ordinance was adopted are nonconforming and do not have to comply unless the Board makes it a condition of this special use permit.

Mr. Rooker said they are not judged to be in connection with this use. Mr. Davis said they are nonconforming fixtures. This use does not require that condition unless the Board imposes it.

Mr. Rooker said he thought it was said earlier that there is only one light among these which would be covered by the ordinance. Mr. Davis said there is only one light under the old proposed condition which Ms. Thomas read that said it had to be exclusively for this use. There is only one light which is exclusively related to this use; there are other lights that are shared by this use and other uses on the property.

Mr. Rooker said if this use were not being made for the property, the existing lighting would be in place, and would not be subject to the ordinance. Mr. Davis said he understands that all of this lighting already exists. One light will be for the part of the property which is to be used for the camp. As to the other lights, some are used for the camp and also for other purposes. The proposed condition that existed in 2005 only applied to the lights that were for exclusive use of the camp which is just one light. Although there are other existing lights, they are not used exclusively for the camp.

Mr. Dorrier **moved** for approval of SP-2006-037 with the eleven conditions as presented. Mr. Wyant **seconded** the motion, which passed by the following recorded vote:

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

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

1. The improvements, and the scale and location of the improvements authorized by Special Use Permit 2006-37 Camp Watermarks, shall be in general accord with the concept application plan dated February 22, 2006, prepared by Angela and Travis Critzer, and titled Watermarks Christian Ministries Camp (Attachment D). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. Compliance with the Virginia Statewide Fire Prevention Code shall be verified by the Fire Marshall prior to issuance of a zoning compliance clearance and the commencement of the special use;
3. Compliance with the Virginia State Department of Health regarding minimum septic requirements shall be required prior to the commencement of the special use;
4. Compliance with the Virginia State Department of Health regarding kitchen and food service approvals shall be verified by the Health Department prior to clearance and the commencement of the special use permit;
5. Total number of staff (in addition to the applicant and their family) on site at one time shall be limited to ten (10);
6. Camp sessions shall be limited to a maximum of sixteen (16), each one (1) week long, overnight sessions per year;
7. The maximum number of children per session shall be limited to forty-five (45);
8. The maximum number of bus or van trips (round trips) to and from the camp, each session shall be six (6). Bus or van trips shall be the primary means of transportation for the children;
9. Outdoor amplified sounds or bull horns shall be prohibited;
10. Compliance with VDOT requirements for the entrance shall be verified prior to the issuance of a zoning compliance clearance for the commencement of the special use; and
11. Compliance with the Virginia State Department of Health regarding water supply shall be verified by the Health Department prior to issuance of a zoning compliance clearance and the commencement of the special use.

Agenda Item No. 9. **Public Hearing:** SP-2006-038, Montessori Community School – Amendment (Signs #49 & 50).

Proposed: Amend existing special use permit for a private school to allow for replacement of modular trailers with permanent buildings for 40,700 square feet of total building area on a 6.71 acre site.

Zoning Category/General Usage: CO Commercial Office - offices, supporting commercial and service uses; and residential use by special use permit (15 units/acre).

Section: 23.2.2.9 Private School.

Comprehensive Plan Land Use/Density: Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 3 (Pantops) Development Area.

Entrance Corridor: Yes.

Location: 305 Rolkin Road, adjacent to the NW of the intersection of Rolkin Road and Richmond Road (Route 250).

Tax Map/Parcel: TMP 78-12A and 12A1.

Magisterial District: Rivanna.

(Notice of this public hearing was advertised in the Daily Progress on February 26 and March 5, 2007.)

Ms. Elaine Echols, Principal Planner, summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board. She said this request is to replace existing modular trailers onsite with permanent buildings and a revised layout at the existing school; there is no increase in enrollment. She said the school is located on Route 250 East and the zoning on the property is C-1. Under the proposed plan the old 1924 house on the site would remain but an old carriage house on the site would be moved. The new facility will have a number of buildings with the same footprint, although they will be two and three stories, with new playgrounds, additional parking and an amphitheatre.

Ms. Echols showed the concept plan to the Board. To the rear of the parking lot there is a large amount of green space which is to remain although the Planning Commission granted waivers for disturbance of that area which will then be replanted. She said the school wants to build the buildings into the topography a little better. Staff believes the proposal conforms to the Comprehensive Plan which designates this area as Urban Density Residential, and this is a use which supports residential uses in that category.

Ms. Echols said the Planning Commission discussed a number of issues, including a zoning violation caused by construction of the fence. There is abatement of that violation going on now. The ARB has asked for replacement of the fence by August, 2008 in conjunction with Phase One improvements, and the other ARB conditions listed in the staff's report. She said the buffer to the residential uses to the rear of the property was discussed. It is 20 feet in one place, but is wider in most areas. Re-vegetation would take place and path and interpretative areas would be allowed. There was a discussion about LEED certification, and the applicant would not commit to that because their philosophy is one that teaches sustainability, and they believe their site design will reflect that.

Ms. Echols said staff found favorable factors to the request which include the school continuing to provide expanded opportunities to the community; the land use plan supports the use; and, the new plan will be sensitive to the topography. Staff found no detrimental impacts or unfavorable factors so recommended approval of the special use permit with conditions which replace those on the existing permit. The Planning Commission, at its meeting on February 20, 2007, unanimously recommended approval subject to the conditions recommended by staff.

Ms. Thomas said the site is up on a hill and there's nothing in the conditions to address lighting. Ms. Echols said the lighting has to conform to lighting regulations, and the ARB will carefully consider that when reviewing the plan. Mr. Davis said the regulations require that the lights be shielded and reflected away from adjoining properties, and have no spillover onto adjacent properties more than one-half foot candle. Those regulations will deal with most of the issues Ms. Thomas is concerned about.

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

Mr. Neal Deputy, the Concept Plan Architect and the applicant for the school, spoke. He thanked County staff, the ARB, and the Planning Commission for their guidance and support of this application. He said the school began in 1985 and moved to the current site in 1991. It currently occupies 6.7 acres of CO property operating as a private educational institution under a special use permit. He said this request is for an amendment to that permit to allow for construction of permanent structures to replace the aging modular trailers. This has been a six-month process resulting in the plans presented tonight which emphasize retaining the current historic structure, replacing the trailers with new sustainable, environmentally-friendly structures, placement of structures that work with the topography, consolidation of new structures to ease access between buildings, connection of buildings with colonnades creating outdoor spaces, relegating parking to the rear of the site, and reforesting a large portion of the site to encourage the health and vigor of native wildlife.

Mr. Deputy said this has been a wonderful project for him as an architect to work on. It is a great project for the County and the greater Pantops area and it has been judged to be in conformity with the Comprehensive Plan. There were no unfavorable factors cited in the staff's report, and there are several favorable factors cited, and it is in harmony with the intent of the Zoning Ordinance. He said there are members of the Montessori School's Buildings and Grounds Committee present tonight along with some faculty members and representatives of McKee, Carson. He offered to answer questions.

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

Mr. Wyant **moved** for approval of SP-2006-038 with the conditions recommended by the Planning Commission. Mr. Dorrier **seconded** the motion, which passed by the following recorded vote:

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

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

1. Maximum enrollment shall be three hundred (300) students;
2. The site shall be developed in general accord with the plan entitled Montessori Pantops Mountain Community School Sheets SP01-SP-03, prepared by Neal R. Deputy, Architecture & Master Planning, last revised January 16, 2007;
3. Fencing shall be provided at a minimum around the perimeter of the Central Lawn, Lower Elementary Playground, and Children's House Playground, or at other locations as required by the County to ensure safety of children adjacent to Route 250 and Rolkin Road. Final design of the fence shall be subject to review and approval by the Architectural Review Board. However, to address safety concerns, the fence details shall include:
 - At least forty-eight (48) inches tall;
 - No more than a two (2) inch gap under the fence;
 - Openings shall be small enough a four (4) inch sphere will not pass through;
 - No ornamental indentations can be used as a ladder;
 - Maximum mesh size for chain link fences is two and one-quarter (2-1/4) inches; and
 - Maximum mesh size for diagonal lattice fences is one and three-quarter (1-3/4) inches.

Agenda Item No. 10. **Public Hearing:** SP-2006-039, Pantops Veterinary Hospital Signs #54 & 55).

Proposed: Special Use Permit (SP) request for Veterinary Hospital at Rivers Edge Offices in a 6,600 total square foot building on a 1.32 acre parcel.

Zoning Category/General Usage: C-1 Commercial - retail sales and service uses; and residential use by special use permit (15 units/acre).

Section: 22.2.2(5) and 5.1.11.

Comprehensive Plan Land Use/Density: Regional Service - regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre) in Neighborhood 3

(Pantops) Development Area.

Entrance Corridor: Yes.

Location: West side of Stony Point Road (Route 20), 0.1 miles north of its intersection with Richmond Road (Route 250).

Tax Map/Parcel: TMP 78-58G3.

Magisterial District: Rivanna.

(Notice of this public hearing was advertised in the Daily Progress on February 26 and March 5, 2007.)

Ms. Elaine Echols, Principal Planner, said this request is to allow for a portion of a building that's under construction to be used as a veterinary hospital. She said this is a new building in the River's Edge Office Complex. This use is in conformity with the Comprehensive Plan since it is a regional service designation. Staff looked at some issues that might be related to a veterinary use, i.e., noise and conflicts with pedestrians. As to any noise problems, there are no outdoor kennels proposed; all activity will be inside the building. The building is located near an active commercial area and is located more than 200 feet from any adjoining residences. She noted the building is two stories, and the ground level is where the veterinary office will be located. It will also have a separate entrance at the back of the structure and a dog walking area in the floodplain away from other buildings. There is no outdoor exercise area.

Ms. Echols said staff feels the land use plan supports this use because the vet will be located on the ground level of the building separated from the other uses. They found no detrimental impacts on surrounding properties. Staff recommended a number of conditions which were also recommended by the Planning Commission. She said the applicant requested a change in Condition No. 1 because he wanted it to be clear that the special use permit and all the conditions affect just the 3,300 square foot portion of the building for the veterinary clinic. That condition will be changed from: "The plan shows the building to be 3,300 square feet. Any additional square footage for the veterinary office and hospital use will require an amendment to this Special Use Permit (SP-2006-039)." to "The plan shows the total floor area of the building to be used for the veterinary office and hospital as 3,300 square feet. Any additional square footage for the veterinary office and hospital use will require an amendment to this Special Use Permit (SP-2006-039)."

Ms. Thomas asked if there is any visibility impact from the River side that should be taken into consideration. Ms. Echols said the building is already under construction as a by-right use. Staff did not look at the site itself counting on County regulations to deal with individual site development issues. The only thing that might be visible from the River would be the dog walking area.

Mr. Wyant asked the different between a "dog walking area" and an "exercise area." Ms. Echols said a lot of veterinarians have fenced areas where they let the animals loose in those areas. That is not allowed under this permit.

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

Dr. Helda Stuart, a practicing veterinarian, addressed the Board. She asked that the Board support her application for a veterinary hospital. She offered to answer questions.

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

Mr. Rooker **moved** for approval of SP-2006-039 with the six conditions recommended by the Commission with the change in Condition No. 1 as stated by staff this evening. Mr. Wyant **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

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

1. The plan shows the total floor area of the building to be used for the veterinary office and hospital as three thousand three hundred (3,300) square feet. Any additional square footage for the veterinary office and hospital use will require an amendment to this Special Use Permit (SP-2006-0039);
 2. No overnight boarding use, other than for those animals under medical care shall take place at the veterinary hospital;
 3. The building shall be sound-proofed and air-conditioned;
 4. The outside area for walking of animals shall be limited to the flood plain area adjacent to the building as identified in Attachment F;
 5. A separate entrance and exit shall be provided for the clinic in accordance with Section 5.1.11d; and
 6. No outdoor exercise area shall be permitted.
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Agenda Item No. 11. **Public Hearing:** SP-2006-041, Gray Television (Signs #62 & 64).

Proposed: Amendment to conditions of SP-2005-014 in order to allow placement of one additional antenna on an existing tower and to allow greater flexibility for future anticipated changes.

Zoning Category/General Usage: RA, Rural Area - Agriculture, Single Family (incl. modular homes).

Section: 10.2.2 (6) Special Use Permit, which allows for Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances, unmanned telephone exchange centers; microwave and radio-wave transmission and relay towers, substations and appurtenances.

Comprehensive Plan Land Use: Rural Areas in Rural Area 4.

Location: Tax Map 91, Parcel 281, located on Carter's Mountain Trail [private], approximately 1 mile south of its intersection with the Thomas Jefferson Parkway [State Route 53].

Magisterial District: Scottsville.

(Notice of this public hearing was advertised in the Daily Progress on February 26 and March 5, 2007.)

Mr. David Pennock addressed the Board, stating this proposal is for three amendments to the conditions of SP-2005-014. He said In 2004, a special use permit was approved to allow the replacement of an existing tower with a larger tower, which at the time was intended to accommodate two broadcast antennas and some smaller equipment; it was modified in 2005 (SP-2005-014) to allow the addition of a third antenna and to change out some of the smaller equipment. Since that time, the FCC has pushed forward with requirements for all analog signals to be replaced by January, 2009 with digital signals, and that's the impetus for this application. The first amendment is to Condition No. 1 to allow a change to the configuration of the antennae on the tower. The second is an amendment to Condition No. 1 to provide more flexibility for future modifications as changes in technology necessitate. Finally, the applicant requests an amendment to Condition No. 10 in order to extend the period of time to August 1, 2007, for the Channel 27 antenna to remain on the PBS tower. The lease area for the tower is within Tax Map 91, Parcel 28, a 234.16 acre parcel zoned RA, Rural Areas. It is located in the Scottsville Magisterial District on Carters Mountain Trail, one mile south of the Thomas Jefferson Parkway (U.S. Route 53) at the top of the mountain.

For further clarification, the staff report states: "SP-2004-003 approved installation of a new 149-foot tall tower with a 40-1/2 foot tall antenna rod extending from its top as a replacement of an existing tower. At that time, the proposed configuration was for the top-mounted antenna (Channel 19, CBS), a side-mounted antenna rod (Channel 16, ABC), five dishes, and two YAGI antennae. Subsequently, SP-2005-014 was approved as an amendment to allow the relocation of a FOX antenna (Channel 27) from an adjacent tower (known as the PBS tower), for a total of one top-mounted antenna and two side-mounted antennae. Due to technical difficulties and a delay with Federal Communications Commission (FCC) permitting, the applicant delayed the relocation of this FOX antenna, and instead added an additional Channel 16 antenna in its place in order to facilitate a transfer from analog to digital broadcast. The FCC has moved forward with a requirement that all television stations broadcast using only a digital signal by January 1, 2009.

The applicant still intends to pursue the original purpose of SP-2005-014 which was to accommodate the relocation of the FOX antenna. Thus, this proposal requests an amendment to Condition No. 1 of SP-2005-014 in order to substitute a new drawing in place of the schematic drawings initialed YQA and dated June 16, 2005. The new configuration would reflect a very similar configuration. However, the previously approved Channel 27 antenna (FOX analog broadcast) will be replaced with the already installed digital Channel 16 antenna. In addition, the Channel 16 analog antenna will be replaced with a Channel 40 digital antenna (the FOX digital broadcast). At no time will more than three antennae (one top-mounted and two side-mounted) be in place. In addition, one previously approved dish antenna will be removed and a tower cam will be located.

Changes in legislation and technology continually necessitate changes in equipment. Thus, the applicant also proposes to add a statement to Condition No. 1 in order to facilitate small changes without the need to amend the special permit each time. The proposed new condition is "The facility including the tower and its attachments (and ground equipment) building shall be sized, located and built in general accord with the tower elevations and antenna schematic drawing dated October 20, 2006, except as may be modified by like or similar antenna and other equipment, which such antenna and other equipment may be smaller in size, and provided no additional antenna or other equipment (other than the existing Channel 19 antenna) is mounted above the top of the tower."

The last proposed change is to Condition No. 10 of SP-2005-041. The previously approved language require that "The existing Gray TV antenna on the PBS tower located on Tax Map 91, Parcel 28E, shall be removed within 90 days after the new antenna authorized by this special use permit is operational." Due to the requirement for digital broadcasting, the applicant no longer intends to relocate the FOX analog antenna that is currently located on the PBS tower. Instead, they will be replacing it with a digital antenna on the new tower. Thus, the change would allow the operation of both antennae temporarily. The proposed language is "The existing Gray TV antenna on the PBS tower located on Tax Map 91, Parcel 28E, shall be removed on or before August 1, 2007."

Mr. Pennock offered to answer questions.

Ms. Thomas said she has her usual question about lighting. She knows that on cell phone towers the Board attached a condition saying there could be no lighting except during periods of repairing. She asked staff why that condition was not included on this request, and was informed it had not been done in the past on TV antennas, only on cell phone antennas. She is not certain it's necessary to put a condition on related to lighting that is close to the ground. She asked if this has been an issue in the past. Mr. Pennock responded it hasn't been an issue before.

Mr. Davis said it is a supplemental condition now for wireless facilities, so it is a legal requirement for all of them at this time. He thinks the County's Lighting Ordinance applies to this type of structure, which would require that the facility meet those requirements with some exceptions required by Federal law. There may be some FAA requirements which would be exempt from the Ordinance, and it also exempts security lighting which is on for only 15 minutes or less. It exempts temporary lighting for repairs. He thinks those regulations cover Ms. Thomas' question.

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

Ms. Valerie Long addressed the Board on behalf of the Gray Television Group. She said Mr. Pennock had adequately summarized the request, noting that they are not adding any antennas or lighting to the top of the tower. There is no light on the top of the tower now. In 2005, the FAA said there was no need for a light at the height they proposed. She offered to answer questions.

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

Mr. Rooker said the Board's biggest concern is with the visual impact of towers, so he is glad this won't add to what's visible in this tower structure.

Mr. Dorrier immediately **moved** to approve SP-2006-041 with the ten conditions recommended by the Planning Commission. Mr. Rooker **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

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

1. The facility including the tower, its attachments and the ground equipment building shall be sized, located and built in general accord with the construction plans and schematic drawings initialed SBW and dated May 5, 2004, and revised tower elevations and antenna schematic drawing dated October 20, 2006, and initialed DEP, subject to maximum height and width restrictions in conditions three (3) and five (5), except as may be modified by like or similar antenna and other equipment, which such antenna and other equipment may be of equal or smaller size (except as may be approved by the Zoning Administrator), and provided no additional antenna or other equipment (other than the existing Channel 19 antenna and lightning rod) is mounted above the top of the tower);
 2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings construction of the facility. Planning staff shall review the revised plans to ensure all appropriate conditions of the special use permit have been addressed;
 3. The height of the tower structure shall not exceed one hundred fifty (150) feet and the top of the antenna, including the lightning rod, shall not exceed one hundred ninety (190) feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend higher than the tallest portion of the top-mounted antenna;
 4. Antennas supporting services other than television broadcasting shall not be attached to extend above a total height of the tower itself;
 5. The width of each side of the tower shall not exceed fifty (50) inches in width;
 6. The existing guyed tower that currently supports this facility shall be removed within sixty (60) days of the completion of the new tower; (***This condition has been met as of 6/28/05***)
 7. The short existing tower, owned by Adelphia Cable Company shall be removed within ninety (90) days of the discontinuance of its use and in any case no later than October 31, 2004; (***This condition has been met as of 6/28/05***)
 8. The new ground equipment building shall be painted a natural, dark brown color, and screened on its eastern and western sides with evergreens or a mixture of trees deemed acceptable by the County's Landscape Planner; (***This condition has been met as of 11/28/06***)
 9. No building permit for additional antenna installation or modification shall be issued until the unauthorized microwave dish is removed; (***This condition has been met as of 11/28/06***) and
 10. The existing Gray TV antenna on the PBS tower located on Tax Map 91, Parcel 28E shall be removed on or before February, 2009.
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Agenda Item No. 12. **Public Hearing:** SP-2006-042, Charlottesville Day School (Sign #76).
Proposed: Request for special use permit to increase number of students at existing school from 85 to 250.

Zoning Category/General Usage: Planned Unit Development - residential (3-34 units/acre), commercial, and industrial uses. SECTION: 20.4.2(i) private school.

Comprehensive Plan Land Use/Density: Urban Density Residential - residential (6-34 units/acre) and supportive uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 1.

Entrance Corridor: No.

Location: 200 Four Seasons Drive, approximately 1450 feet from intersection of Four Seasons Drive and Rio Road West.

Tax Map/Parcel: 061X2-4D, 061X1-4A, 061X2-4B.

Magisterial District: Rio.

(Notice of this public hearing was advertised in the Daily Progress on February 26 and March 5, 2007.)

Ms. Elaine Echols, Principal Planner, said this special use permit request is to increase the number of students in this school from 85 to 250. The school is located within the Four Seasons development. She said this is a unique facility in a unique area. The building contains a number of different uses, including a commercial recreational use which has a long history in the neighborhood. It seems to be a successful use in this location although there are periodical conflicts with neighbors. Staff found that the property is designated as Urban Density Residential and the use is in general conformity with the Comprehensive Plan. There were some potential problems relating to increased traffic, but it was determined that parents tend to park and walk their children to school; a traffic study done by the applicant indicated there are plenty of parking spaces so the traffic impacts will not be that much in this particular neighborhood. She qualified that statement because there is a lot of activity at this location. There is a water park, a summer camp, an after-school program, a number of different activities taking place here. She said this use probably has the least of the impacts except as the neighbors indicated with noise during recess in the daytime.

Ms. Echols said when the Planning Commission reviewed this request, they asked that the neighbors present at the public hearing and the applicant get together to see if they could alleviate some of their concerns. The neighbors who spoke at the public hearing were mostly concerned with all of the other uses ACAC has. She indicated they did meet and the applicant, Chris Craytor, wrote the Board a letter dated March 6, 2007, which is part of the Board's packet of materials tonight.

Ms. Echols explained that favorable factors to this request are: It provides opportunities for additional students to be enrolled in the school. Unfavorable factors include: Concern was expressed by owners of nearby properties that there may be additional noise; staff believes the request is comparable to the number of students that have previously been approved for the site. She said staff recommended approval subject to conditions, and the Planning Commission, at its meeting on February 20, 2007, recommended approval subject to only two conditions. "The maximum enrollment will be increased to 250 students", and "the normal hours of operation would be from 7:30 a.m. to 6:00 p.m. with occasional evening and weekend use."

Mr. Rooker asked the definition of "occasional use" and wondered if that is an enforceable condition. Mr. Davis said he does know of a "hard and fast" definition; it would be subject to the Zoning Administrator's interpretation.

Mr. Rooker said he thinks there should be a numerical limit on occasional uses so the condition is enforceable.

Mr. Boyd asked Mr. Rooker what that limit might be.

Mr. Rooker suggested hearing from the applicant and letting him indicate how many evening and weekend uses are expected, and then the Board might fashion a numerical limit agreeable to the applicant, but which might help the neighbors know there wouldn't be uses going on all the time.

Mr. Wyant asked if there are enough parking places for all the activities. Ms. Echols said for this particular use, "yes." The hours of operation are opposite from many of the uses in that area. During the summer, the school is not in session, and during the school year, the other uses like the swimming pool and the after-school program, and the day camp are not in session. She said there are problems related to overuse of the parking lot that do not relate to the school, but relate to ACAC uses on the site. She thinks most of that conflict occurs when there are swim meets.

Mr. Boyd said the swim events would happen even if the school were not there. Ms. Echols said that is true. The school is a function on its own, and the ACAC activities function on their own. The school leases from ACAC because the space is not used. When ACAC has its programs in operation, the school is not operating.

Ms. Thomas asked if time limits are ever put on special use permits. Mr. Davis said that is rarely done. The Board may have the authority to do that, but usually in situations where people are making substantial improvements that is not recommended. In a situation where there are existing facilities and there is not a substantial investment, he thinks it could be a reasonable condition.

Ms. Thomas said she is not sure it is reasonable, and suggested that the applicant address her question. She was impressed that it took something like this request to get the applicant and ACAC and the neighbors all talking and dealing with issues that have been around for a while.

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

Ms. Valerie Long addressed the Board on behalf of the applicant. Also present was Ms. Stacy Burns, the head of the Charlottesville Day School and several parents of current students, as well as Mr. Joe Wallace, a traffic engineer from Dominion Services. She said Mr. Chris Craytor, the representative of the property owner, was not able to be here today. He met with representatives of the homeowner's association since the Planning Commission's meeting and the lines of communication are more open now than they were in the past. One of the first things they did after that meeting was to move some of the buses that are used, not for the day school, but for the after-school program that ACAC operates. The buses were very close to residences and it was made clear that it was a problem. The parking issues that arise mostly during some of the large events like the swim teams were also discussed. ACAC has leased a parking lot across from Four Seasons Drive to use for overflow parking, but it appears that might not be enough. Some of the participants were parking on the homeowner's association property, so the property owners will be posting "no parking" signs, and will have additional security monitor parking and directing people to the appropriate parking locations.

Ms. Long said they worked with the association and extended an invitation to host its periodic meetings on ACAC property. Hopefully this will help keep the lines of communication open. ACAC was not even aware of some of these issues, and only found about them at the Commission meeting. She offered to answer questions.

Mr. Boyd said what Ms. Long just talked about has nothing to do with operation of the school. He thinks the parking related to the swim meets has been an ongoing situation with the existing use. Ms. Long said those uses have been going on for several years. The school has only been in operation for less than a year. The vast majority of the issues raised at the Commission meeting were unrelated to the school, but they wanted to address them as best as they could. There were comments about noise from the children during recess, so they are trying to address that issue. They are also talking with the neighbors about planting some evergreen trees along the border between the edge of the playground and some nearby residences. She does not know how much sound mutation that will provide, but it will provide some visual screening.

Mr. Rooker said there is no amplified sound from the school. Ms. Long said that is correct. There is an amplification system at the water park for the swim meets. That was another issue raised by the neighbors. She said to respond to the question about what constitutes occasional use, they would be happy to agree to a condition that sets a limit. She spoke with Ms. Burns and asked for some examples of types of evening uses they have in mind, and there are things like a graduation ceremony, school-wide sing-alongs, all-school circle parties, a pool party at the beginning and end of each school year, parties for the parents, holiday events, etc. She suggested that the limit might be set at 12 per year which would be about one per month.

Mr. Boyd said if the Board puts such a condition on the permit and the school needs more, they would have to come back for an amendment to the permit. Mr. Long said that is correct.

Mr. Boyd said he is not concerned about that given the nature of the school. He is surprised that there have been problems with ACAC and the neighborhood.

Mr. Rooker said he does not know what the condition means if there is no numeric limit. That is why he asked the applicant to make a recommendation. If 12 sounds like a reasonable number, he hopes it will be incorporated into the condition. Mr. Davis pointed out that this application does run with the land. Another school could replace this school and take advantage of this special permit.

Mr. Rooker said the original idea was that the school would operate between 7:30 a.m. and 6:00 p.m., and he has no problem with that, or the occasional use, but he does think there needs to be some reasonable number in the condition so it is enforceable. If 12 is a reasonable number, then he is agreeable.

Mr. Boyd asked if the number should be increased. Ms. Long said the applicant would prefer the maximum amount of flexibility; 20 per year is far more than necessary, but they don't want to have to come back and ask for an additional number. Maybe there could be language included which would allow the Zoning Administrator additional discretion.

Mr. Boyd suggested that it be 20.

Mr. Rooker said 20 is fine with him.

Mr. Wyant also agreed to 20.

Mr. Sliwinski Kvzysztof said he represents the Four Seasons Learning Center. He said that in order to save time, he had written everything down and he handed to the Board his written remarks (Copy on file).

Mr. Lance Wysant addressed the Board. He has two children who attend the school. He said

that last year he had his children in the same facility, but it was a Montessori School at the time. He has been on the playground many times with the students, and he can't tell the difference in the laughs, etc. of the children in the two schools.

Ms. Stacy Burns said she is the head of the Charlottesville Day School. She said the school has children from two years old through second grade. They are adding a grade per year to get to fifth grade, possibly through eighth grade. This increase to 250 will be over a period of time. At this time, they will be adding just the next grade level and siblings. They look forward to serving the community better.

Mr. Keith Roots said he has a son at the school. They chose CDS based on the strength of their proposed mission and the school has exceeded their expectations. There has been tremendous intellectual and emotional growth in their three-year old. They are so pleased that they will be moving their five-year old child from another facility to this school next year.

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

Mr. Slutzky immediately **moved** for approval of SP-2006-042 including the two conditions recommended by the Commission, with Condition No. 2 being modified to define "occasional use" as no more than 20 times per year. Mr. Davis suggested adding to the end of that sentence "not to exceed 20 per year." He thinks that will be adequate.

Mr. Rooker **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

1. Maximum enrollment will be two hundred fifty (250) students; and
2. Normal hours of operation for school shall be from 7:30 a.m. to 6:00 p.m. with occasional uses in the evenings and weekends, not to exceed twenty (20) per year.

(**Note:** The Board recessed at 7:56 p.m., and reconvened at 8:06 p.m.)

Not Docketed: Mr. Boyd said that at this time the Board would hear more comments under the item listed as "Matters Not Listed for Public Hearing on the Agenda from the Public."

Ms. Mary Dobmeier addressed the Board, stating she is a first-year teacher at Henley Middle School. She chose to teach in Albemarle because she loves the area and because of the caliber of students, parents, administrators and staff; and, also because of the commitment to success, not only in words and mission statements but in actions that support the fundamental principles that are the basis of education. She said the County's mission statement emphasizes rigor, relevance, and relationships. This has impacted her experience in the County. Experienced teachers in the building offer guidance, support and advice that cannot be found in any new teacher textbooks or training sessions. These teachers have helped her learn and grow and will be some of the most influential people she will meet in her career. She said her strengths come in the form of extensive training using technology. She thinks new and younger teachers choose Albemarle County because of its commitment to technology. She said energy, time and money have been placed into the new teacher recruitment and retention programs. If the schools are not adequately funded, new teachers will look elsewhere to find a school system that supports the kind of education they have trained to and want to offer students. It is imperative that Albemarle County Schools remain on the cutting edge to allow the rigor that new and seasoned teachers have the energy to provide. The caliber of the students in Albemarle County is above average; shouldn't the staff and education offered be as well? (Time expired) She asked the Board to fully fund the School budget as an investment in the future. She asked those present who support full funding of the budget to stand.

Mr. Billy Haun, principal of Monticello High School, addressed the Board. He emphasized that County schools offer many programs that go beyond the traditional educational offerings for students that help them compete in the global market. He said enrichment opportunities better prepare students for life beyond school. These programs are funded from either special funding assistance from the School Board or directly from the Monticello High School operating budget. Without funds these programs will not exist and students will not have an avenue to display these talents. He said there are many programs which are unique to Monticello High School. Every school in the County has enrichment programs which serve the needs of many students to extend their education beyond the minimum standards of the "No Child Left behind Act." He said that Act has affected the Albemarle County School System just as it has all school systems in the country. Even though he may disagree with some of its regulations and procedures, he agrees with the intent of the Federal law. The Schools should be held responsible for educating all students. He said the County Schools are doing a great job of meeting or exceeding in certain areas the "No Child Left Behind" regulations and accreditation standards. (Time Expired) He said not all of the students have been reached yet. There is much work left to be done to meet those standards.

Ms. Kimberleigh Wells addressed the Board, indicating she is a member of the IMPACT Executive Committee. She said it has come to IMPACT's attention that the Board decided to send only two of its members to participate at IMPACT's meeting tomorrow night. She understands there is a concern about the Freedom of Information Act which necessitates that a public meeting be called whenever more than two officials engage in public business. She said IMPACT originally planned to

adhere to the law by escorting only two Supervisors into the meeting at one time. It has been suggested that although this may technically meet the letter of the law, it still violates the spirit of the law. Members of IMPACT believe the true spirit of the FOIA is to keep public officials from conducting public business in private without including the public in the discussion. They do not believe the spirit of the Act is to prevent public officials from engaging with the gathered people, especially when the invitation is made by the people themselves. If there is any break in the Act, they believe it is caused by the Board's decision not to call a public meeting. IMPACT is concerned that the FOIA is being used contrary to its true spirit to prevent public engagement. She said IMPACT sent all Board members an e-mail on Monday evening saying they would adjust their format to allow each Board member to speak regardless of the answer. A third concern heard was that if the Board called a public meeting, it would have set a precedent. She said if any organization spends six months doing research and then mobilizes the support of 1000+ constituents, they think the Board has a civic duty to respond. There should be no fear of setting a precedent for listening to and responding (Time Expired) to people when they are gathered as a collective body.

Mr. Presley Thach addressed the Board, stating he is a member of the IMPACT Committee and would deliver comments left by Mr. Michael Kelly who could not remain at the meeting. He cares deeply about issues that affect the County and its lifestyle, and issues of social justice. They were disappointed that the Supervisors would only send two representatives to the IMPACT meeting tomorrow night. The meeting will consist of over 1000 area residents who will gather to speak and listen to issues they think are important to the functioning of Albemarle County. Their solution is to invite all Supervisors to attend that portion of the meeting to share the information that has been derived over six months of intensive research including meetings with most of the Supervisors. He thinks the Board's constituents need to see them receive the information, listen to them and take them seriously. Prior to the discussion section of the IMPACT meeting, the Supervisors who are present only to listen to the research will be escorted from the room by somebody in the IMPACT group. While not a perfect solution, from IMPACT's perspective it is a realistic way to handle the restrictions imposed on the Supervisors by itself. They hope to see all members present at the meeting tomorrow night in some capacity. (Time expired) They also hope the Board will support their proposals.

Ms. Barbara Edwards said she is the principal of Broadus Wood Elementary School. She said Albemarle Schools are built on their strengths – students and personnel – and this locality is the best of the three in which she has worked. She said the initiatives for languages, technology, K-2 teacher support, literacy, and the additional programs included in the Superintendent's proposed budget are an integral part of making the students the best in the State. This strength comes from the support the budget affords the students, and this support system shouldn't be weakened for the students, much less the teachers. She said that maintaining smaller classes and teacher salaries that come close to the competitive market salary is just as essential to the educational program as the cement is to the foundation of the buildings. She asked that the Board support the Superintendent's proposed budget.

Ms. Amy Morris said she has been a first grade teacher at Broadus Wood for seven years. She urged the Supervisors to fully fund the Superintendent's proposed budget because it's good for the children, it's good for the community, and it's the right thing to do. She said this will ensure that many vital and enriching programs remain intact. Children need to be exposed to art, music, PE, and other languages in order to explore their interests and boost their creativity. It will ensure that the County is able to attract and retain the highest quality teachers because the quality of the teacher in the classroom impacts a child's success and overall experience in school. She thinks full funding of the Superintendent's budget is good for the community since successful students become a successful and educated citizenry who contribute to the community in positive ways. She urged the Supervisors to fully fund the Superintendent's budget because it is the right thing to do.

Ms. Chris Lombardi said she is representing the Student Assistance Program in the high schools in Albemarle County. She said this program began in 1982 to help kids deal with prevention issues on substance abuse. Over the years, the program has grown and expanded to include gang-related violence prevention, bullying, self-harming behaviors, teen suicide and other destructive behaviors. She said a budget cut would impact their program and maybe even eliminate it from the high schools. She asked that the Supervisors support the Superintendent's budget proposal.

Mr. Jeff Werner said he feels obligated to speak tonight. He is a member of the St. Mark Lutheran Church council. He does not speak for the council, but wanted to offer support to the Supervisors for their decision as to how to handle IMPACT's request. He is involved in advocacy work in the community, and if there is anything that Albemarle County does well, it is to deliberate issues openly. The Supervisors rely on staff input and the Planning Commission, and public input, and often rely on lengthy public discussion before making decisions. That makes this a special community. He is allowed three minutes to speak, and that is about 500 words which go quickly. He is disappointed that IMPACT is providing each of the Supervisors one minute to respond to each of their questions. He knows from experience that it is a struggle to get something down to three minutes. If there is to be an open and honest deliberation in the community by elected officials, he suggests that happen, but that is not what he sees in this meeting. He has expressed his concern to his church council. He thinks these are huge issues and issues which the community needs to tackle. But, this is not the way to do it. He knows what Albemarle County has done in the way of affordable housing, and he applauds the Supervisor's effort. He does not see that reflected in IMPACT's research. He is troubled by that. As one person tonight swimming against a huge tide he offers his support for the Supervisor's decision and encourages them to engage in the discussion, but he encourages them to participate in a format that allows them as elected officials to debate the issues and not be thrust into a "yes" or "no" situation with a single minute to ineffectively and inappropriately state a position.

Mr. Jim Honeycutt read some statements from an essay by David Bradley who works for the Center on Budget and Policy Priorities in Washington, D.C. The title of the article is *Property Taxes and Perspective*. He said property taxes grow because the economy grows causing new buildings to be built and increasing the value of existing buildings. Economic growth leads to income growth. It is far more appropriate to consider property tax levels as a percent of income, not as nominal dollars if the information is to be conveyed to the public. Property tax collections as a share of national income are still low by historical standards in the last half century. Property taxes through 2000 nationwide are still lower than they were in the 60s, 70s, 90s and just slightly higher than in the 80s. One reason property tax collections rose recently was that the underlying value of residential and business property has risen. As a result, many local governments have been able to realize increased revenue from property taxes without raising taxes. The data presented do not support claims of current property tax crisis. The recent uptick in property tax collections may tempt anti-tax interests, voter initiative sponsors, and/or policymakers in some states into stroking voter resentment against property taxes with the aim of sweeping cuts or caps on local property taxes. But, the facts are at odds with tax revolt rhetoric since property tax collections as a share of income are well below levels in previous decades, and since historic patterns suggest that property taxes are likely to decline again as economic recovery gains strength. Property taxes remain the single most significant source of revenue for most local governments; therefore, a crucial source of funding for local services like K-12 education, police, fire and human services. If policymakers or sponsors of voter initiatives overreact to recent short-term changes in property tax levels by endorsing sweeping, permanent cuts in property taxes, the results are likely to be a reduction in those services, increased burden in taxes, or both. He encouraged that as the Supervisors consider the budget, it look at longer term historical property tax trends and that property taxes not be cut at this time. He said property taxes are an investment and he has made a wonderful investment in Albemarle County. He has spent about \$15,000 in property taxes and reaped \$150,000 in property equity. He just turned that over to reinvest in Albemarle County. If the Supervisors were going to cut services in taxes he would rather reinvest that money somewhere where the return would be greater. He said the County's Mission Statement says there should be prudent use of public funds. "Prudent" means good judgment, not frugality.

Ms. Rhonda Miska said she is the Social Justice Minister and the Hispanic Minister at the Church of the Incarnation. She is also on the Executive Committee of IMPACT. She said there was some erroneous information given tonight by another speaker. She said there have been multiple meetings where the members of the Supervisors have had an opportunity to speak as long as they wanted, and to deliberate among themselves. She said IMPACT has modified its process in order to allow the members to speak tomorrow night at the IMPACT meeting. She said they included County staff members in their research process, and it was that staff who said the County's Affordable Housing Program is not looking at the group IMPACT is looking at which is that of 0% – 30% of the area median income. She said IMPACT considered many groups in their research which has been lengthy. She invited Mr. Werner to speak to IMPACT's Executive Committee in order to clarify their process and respond to his concerns.

Agenda Item No. 13. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Boyd asked if any Board member had a matter to address which was not a part of today's agenda.

Mr. Slutzky said he had nothing other than an interest in talking about the IMPACT issue. He has said from the beginning that he would like to attend their meeting, and he intends to do so. He will honor the discussion held the other day, but if there is any desire on the part of any Board member other than Mr. Boyd and himself to attend, there may be a strategic reason why the Board would reconvene tomorrow night as a process matter. He asked if anybody had changed their thinking about whether they want to go tomorrow in light of the Board's discussions.

Mr. Rooker said he will address this issue based on what other people say. He has been straight-forward with the IMPACT group every time he has met with them. He has been consistent in what he has said about process. He thinks the issues they are addressing are important. His concern is in letting third party groups call Board meetings. If the Board goes down that road, many groups could ask this Board to appear before them and give them a "yes" or "no" answer on their series of important issues. In his mind, that is not the way the Board has dealt with issues over the years, and he does not think it is a wise way to govern. The issues raised are serious issues. The Board has spent many hours in meetings about affordable housing. There is a County Housing Committee and they were asked to review initiatives on housing. Those issues bubble up through a process, and most of the members of the Committee are citizens in the community who know more about housing than he does. He respects their opinion.

Mr. Rooker said his concern is getting into a forum where public officials are making decisions on matters without deliberation, without staff reports, without committee input, and without the opportunity of other citizens to have input on those issues. As Mr. Werner said, the Board could be invited to Taxpayers' for Rate Reductions or the Blue Ridge Homebuilders' and asked to say "yes" or "no" on their list of issues. He said the Board could get in a mode of making decisions on important public issues involving millions of dollars of taxpayer's money without any deliberation. He does not think it is wise to get caught up in a process that operates like that. He said he handed out something to the IMPACT Committee stating this position, so it is no surprise to them. He said the transit issue is one the Board has been working on. At least half of their proposal is something which most of the Board members would support putting into effect. The other half is something that would be considered after it had a staff

report giving some indication of support, but it would have to be judged against other potential transit solutions in the community.

Mr. Rooker said if four members of the Board plan to go to this meeting the wisest course would be to adjourn this meeting to the IMPACT meeting. He does not think the Board should do that because he does not think four people should go. If four people go, it is a Board meeting. After talking to Mr. Davis, the Board's counsel, he feels that violates the spirit of the Freedom of Information Act, so he does not think the Board should go into a situation where it violates the spirit of the FOIA. But, if four people decide they want to go to meeting, the proper route is to adjourn this meeting to tomorrow night at Martin Luther King Center at seven o'clock. Then, whoever wants to go can go and participate in that forum.

Mr. Wyant said he thinks these are all important issues. He said the Board has a process it follows, and he supports staying with that process. He would entertain having an open forum and having a discussion with IMPACT coming in at some time. Also, there are other groups working on these issues in the community. He said those in the region have to come together to work on these issues. A lot of times the Board asks for staff reports because staff does the research. There is no staff report on this at this time. He has other commitments for tomorrow night so he will not be able to attend.

Ms. Thomas said she feels weary because she had her arm twisted so long by IMPACT yesterday she is surprised it is still in its socket. She said IMPACT is a new development in the community getting 26 congregations involved in taking up major social issues and having committees and doing research, and she thinks 20 of them have never taken up social issues before. She does not want this Board to pour cold water on that aspect. She usually goes to everything to which she is invited, whether it is a bunch of Brownie Scouts who want to tell her something, or whatever; she always goes and listens. She would be glad to go tomorrow night and listen, but she is not happy to be put in a position where four of the Board members are asked to make some commitment. There are so many aspects to every decision the Board makes even when there is well-intentioned or well-done research. They would be hearing the collective opinion of one group of 26 congregations.

Ms. Thomas said that is why she was happy with the response the Board decided on two days ago, which was to have two members go and freely discuss as much as they want and bring whatever information they want since they would not be making a decision for the whole Board because they cannot. That did not make the people from IMPACT who talked to her happy. They want to have four Board members present so they could make a commitment. She thinks that is a poor way to carry out the Board's responsibility to the citizens. If sitting in the audience and listening to the presentation, which is what she would do to almost any group, were possible, she might find it an educational evening and she would learn something from their research. She said Mr. Dorrier still has to speak, and there may be four people who want to be in the room, but she thinks the original idea of having only two people speak and carry on a dialogue is the right way to go. If there were four Board members present, maybe it should be called a special meeting, which is what City Council is going to do. She said it is a learning curve for both IMPACT and the Board. It has not been faced with this type of request before.

Mr. Dorrier said he thinks the meeting has been mischaracterized. He sees it as a meeting with people who have worked on an issue and come up with some recommendations based on facts and figures. He said it is not often the Board has a chance to talk with 1,000 people on a subject of any importance. He thinks the Board needs to reach out to people who want to talk about issues and help solve them. He sees this group as a group of well-meaning citizens. He sees the law as having blinders on. The law says the Board is not to do the public's business in secret, and he agrees with that. He does not think the Board would be doing the public's business in secret. If the Board were there with 1,000 people anything said would be completely open to the press and everybody else. If the Board is prevented from speaking because of the FOIA Act, that is discouraging democracy not encouraging it. He said if the Board members were speaking individually, they could go out before 1,000 people and be questioned about any subject at any time. If more than two people are going tomorrow night from this Board, it is prevented and precluded from saying anything. It does not seem right. This is an election year, and he wants to meet with as many people as he can, wherever he can. He is not willing to just stay away. At first he thought it was a good idea, but the more he thinks about it, the more he thinks it is a bad idea to stay away and let IMPACT think he is stonewalling because he does not show up, but he is really trying to obey the law because the County Attorney says the Board members should not go. It seems to him the whole thing has gotten out of hand, and the best solution is to go and stand up in public and say what you think and reserve the right to change your mind if you learn something different later. If you don't want to say anything, then you don't have to say anything, but at least you are there, and not hiding. That is the way he feels.

Mr. Rooker asked if Mr. Dorrier intends to go to the IMPACT meeting.

Mr. Dorrier said "yes", he does.

Mr. Boyd said the Board has a process, and it is not a process started six months ago or a year ago, but something the Board has been building on for years. At one time he and Mr. Dorrier attended a meeting with over 400 people of the Glenmore Association at their firehouse, and that was sufficient for them. That was a dialogue. They did not ask them to vote. They asked them to come and talk about issues which are of concern to them. He said Ms. Thomas and Mr. Wyant went to a similar large association meeting in Crozet. They were two representatives of the Board present.

Mr. Boyd said this is not something the Board is making up to accommodate the IMPACT group, this is a policy, a procedure, the way the Board has done business for many years before this group came together. He said the IMPACT group is of interest to him because he thinks it is a showing of people

coming together and bringing things to the attention of public officials. His problem is not the FOIA because there is a simple solution to that. The Board would only need to adjourn to the meeting tomorrow night, and any or all of the Board members could attend.

Mr. Boyd said the first time he met with the IMPACT group and was asked to attend this meeting he said he would come if his calendar allowed it. He was not asked if he would come and participate in a Board of Supervisors' meeting called upon IMPACT's behalf. He was asked if he would come to a meeting, so he said "yes". At the second meeting, he had a little more information, and he was asked if he would convene a meeting and he said "no". His point is that he has never been disingenuous with the group. He said he would come when he thought there was going to be a presentation or some dialogue with the Board members. Subsequently, in the second meeting he had with the group he asked for an agenda and a list of the questions. He was given a copy of the questions, and at that time he was told he could say "yes" or "no". In essence, with four members present, it would be taken as a vote on something the Board would do.

Mr. Boyd said he is concerned IMPACT is trying to disguise the real agenda. He said IMPACT is asking that the Board attend and at best give members one minute to explain some of the most difficult challenges in the community. The Board cannot study things in a vacuum like that. As other members have said, when the Board takes on an issue, it must consider funding for transportation and funding for affordable housing along with a large group of people who spoke tonight who are worried about funding for schools.

Mr. Boyd said this was talked about when he met with the group. He asked where the County would get the money. He said the Board could get together another large group called taxpayers who want their taxes reduced. He said these might be good ideas, but as a body, as a board, it has to come together, it has to get staff reports, it has to know the impact of these things on the budget, the impacts on the long-range planning of the County, and then it has to talk about it, it has to have public meetings that are publicized to everybody so people can come and speak. That is the way the Board does business in this County. He is not in favor of reconvening in the IMPACT meeting tomorrow night, and if some other Board member would rather go, he will step down and not go. He believes in the process, it has always been two people.

Mr. Boyd said there have been occasions where more than two have shown up to a public meeting, and that is fine because it was not called for the purpose of conducting County business. It was called for the purpose of information. If that was the intent of the IMPACT meeting the Board would not have any problems with the FOIA. He said he is repeating himself because some have already heard this, and some have not because Board members met individually with members of the IMPACT group. He is not in favor of reconvening tomorrow night based on the agenda IMPACT has, and since it is not going to be a dialogue or a presentation, but just a minute to talk.

Mr. Boyd said as chair of this Board he thought it was appropriate he be one of the people who attend, but he will gladly step down to allow the Board's process to work, which is to have two people attend these meetings. He said if he comes tomorrow night, he will not stand on the stage and say he will vote "yes" or "no" for any item. He will say what he thinks about affordable housing, and what the County is doing. He will tell the proper process and procedure to be followed in order to get the Board's attention to get the issues on the table, and get them collectively looked at with all the other things the Board faces, in order to work within the process and not outside of the process for IMPACT's initiatives. That being said, he does not know where the Board is going with this because if he is overruled then three people can go.

Mr. Slutzky asked for a clarification. He knows the Board members are torn in different ways over this because it embraces the public enthusiasm, but each has regard for process. If the Board were to reconvene, or adjourn the meeting until tomorrow night so four members could be present in the room, he is in favor of attending this thing. He has said he intends to go and the other Board members have been kind in allowing him to do that. Nobody has asked him not to attend. He wants to go in order to hear what they have to say, but also because he is not uncomfortable saying how he views the proposals being brought forward. He would not intend to vote on anything tomorrow. That would be inconsistent with the Board's normal practice. He would not have a sufficient basis by the end of the evening to know for sure because the complexities of the proposals would require more investigation on his part. He might react to a proposal by saying he is strongly inclined that way or he is sympathetic with their objectives. There are a number of things that accurately reflect his personal views, but he does not intend under any circumstances, even if the Board adjourned to that event to vote on anything. As a legal matter, he was going to ask if the County Attorney could speak to that. If there were four Board members present and these members were asked whether or not they were going to support something and they expressed a view, would they have in effect voted? He wanted to make sure he was not unintentionally putting the rest of the Board in a bad spot.

Mr. Davis said the Board would not be voting on anything, only discussing, not technically voting unless there is a proper motion in front of the Board that has been seconded. That is how the Board conducts its business.

Ms. Thomas said there is a difference between making a commitment, which is what she thinks the Board would be asked to do, and using the word "vote" which is kind of shorthand for that term. It would be possible for four Board members to get together in a special called meeting and vote. City Council deals with that by simply having a policy saying they will not do that, but by law they could make motions and vote in a special called meeting. She believes what this Board is being asked for is a commitment so when the time comes to vote, it will vote for a specific route for buses, for example. That

is what she expects would be asked rather than turning it into a public meeting, but it could become a public meeting if the Board were not careful.

Mr. Dorrier said he does not see it as a vote at all. He thinks it is purely a tactic to get a politician to say something on the record one way or another that is not wishy-washy and trying to get the Board members to say what they mean, and mean what they say. He does not see it as a way to trick the Board members into voting for something they are against. He thought it was a way to bring the City together with the County to have a dialogue about the issues of affordable housing and public transit.

Mr. Boyd said that is not the way it was explained to him. They said there were two questions which would be asked, and there was to be a "yes" or "no" answer. Since then they have modified and said the Board member could speak to the "no" answer. He was told a "no" answer is anything other than "yes" so the person speaking cannot say "I support public housing, but I don't know that this is the right proposal." He said asking Board members questions and forcing them to give their opinions (not forcing but asking for a straight-forward honest answer) is fair game. People can ask politicians for their opinion at any point in time. To try and get this Board to convene a meeting at IMPACT's meeting is what he considers not to be fair game. He said every time the Board sits together, anybody can call on them. He has been to two meetings with IMPACT's executive group and he told them what he thinks. He will not say anything different to their congregation because he supports the spirit of their two agenda items. He thinks some of their data is not accurate. They do not have information on all of the things the County is doing at the present.

Mr. Dorrier said the Board would get input for the future on an issue such as affordable housing. He may know more tomorrow than he knows today, so he may reserve the right to change his mind. As information comes along and new issues come along, he may take a different stand on an issue. He does not think this group could lock the Board into something it may say tomorrow night and make it true six months from now.

Mr. Boyd said he does not think so either, and is not worried about that. He is worried about the precedent of the Board convening a meeting, which is required for four people to attend, at someone else's request other than this body. He does not know where that would stop. He was asked some months ago to speak at an ASAP meeting tomorrow night. He backed out of that so he could go to this group's meeting. ASAP could ask four Board members to come to their meeting and speak. They have never asked that it be done but if the Board sets a precedent, it could find itself all over the place. ASAP claims they can put together 300+ people.

Mr. Dorrier asked about a candidate's forum where there are a lot of people running for office.

Mr. Boyd said it is usually only two people, and not always two elected officials. Mr. Davis said a candidate's forum is actually exempted from the FOIA.

Mr. Slutzky asked whether the IMPACT people raised the issue of the Board convening a meeting. He might want the Board to convene a meeting in order to be insulated from anybody coming after him with FOIA recriminations when all he is trying to do is hear what these people have to say and share with them what he believes. He said if more than two Board members are going to attend the meeting he will request that the Board adjourn until tomorrow to protect him. For the record, he has not spoken with people at IMPACT about this, but he expects he will be allowed to speak for more than a minute in order to meaningfully answer the questions they ask. He thinks the one minute response issue may be something the Board is focusing on and it may not be in play.

Mr. Rooker said the one minute was noted in the IMPACT agenda originally provided. He would be happy to be one of the two people attending, but Mr. Slutzky expressed a strong desire that he be person. He has no problem as an individual going before this group. He did go with Mr. Wyant before 400+ citizens in Crozet, and about two-thirds of them were angry. He has no problem going to this meeting as one of two Board representatives as originally proposed. If the Board is going to do it that way, it has to select who the two will be. Obviously, the Chair is the person who should go, if he can. If four people want to go, he does not think it is wise to do it without adjourning this meeting because he thinks it would violate the FOIA. His reason for not thinking this is a good idea is much like Mr. Boyd's, but if four people are going, then the meeting needs to be adjourned to that date in order not to violate the spirit of the FOIA.

Mr. Boyd said he agrees, but still feels strongly about this. He will not vote for an adjournment motion, nor will he attend if more people want to go. It is not that he does not want to attend, but he is not in agreement with what is going on. He will not vote for it, or attend if more than two people go.

Mr. Slutzky said he respects Mr. Boyd's candor. He is going to attend the meeting and has said so all along. He asked Mr. Dorrier if he intends on going.

Mr. Dorrier said he intends to go. He considered not speaking because of the problems the Board has, but if the Board is going to call a meeting he needs to say something. If there is going to be a meeting there, he is duty bound to at least give his views.

Mr. Boyd said anybody can make a motion to adjourn. That is the way the Board works; the majority rules.

Mr. Rooker asked if Mr. Boyd would defer to Mr. Dorrier attending.

Mr. Boyd said "sure".

Mr. Rooker said Mr. Dorrier and Mr. Slutzky want to go. He asked Ms. Thomas her feelings about this matter.

Ms. Thomas said she was going to respond favorably to the proposal that she simply go and sit in the audience. She is always interested in receiving more information. With the concern expressed Board members might be asked to make commitments, she would not be interested in speaking up because she would not make a commitment. She does not think they want to hear her opinions if she is not going to make a commitment. She argued with them yesterday that two members attending was actually a more responsive proposal because with two they could have a real dialogue. That did not suit the people she talked to. She thinks it is a responsive proposal for two members to attend and speak and have an open and forthright dialogue. She will go or not go as this discussion ends, but she is not insistent on being one of the two. She likes Mr. Boyd's approach and she thinks he would do a great job as one of the two. She would be sorry if he does not go.

Mr. Dorrier said he sees it as a chance to learn as much as to discuss the issue. He is going to learn as much as to speak, and he thinks Mr. Boyd should come and be a spokesman for the Board since he is now the leader of the Board. He is not trying to push Mr. Boyd out of the way. As a public official, you can't freeze and say nothing because you are a human being and you listen and you absorb what is said and you have to respond.

Mr. Wyant said he would offer an alternative. IMPACT should come to a Board meeting and provide information because the Board's meetings are public meetings. Other folks could come and hear and learn what research has been done by this group. To him, he does not like some of the suggestions occurring because it looks as if there are three or more Board members attending and that is kind of a commitment. That is a majority of the Board, and it would not go and take a vote on anything, but he thinks it would commit the Board even though it would be making decisions outside of a Board meeting. He encourages IMPACT to come and have a work session. He thinks this is of vital importance to all, but he does not like the forum and the approach being taken.

Mr. Boyd said if the Board were to entertain the proposals IMPACT is putting forth, the Board would first get staff reports, and then send it through the Planning Commission, and it would come back to the Board.

Mr. Rooker said it would be the Housing Committee who would consider it.

Mr. Boyd said normally an issue does not start with the Board, but with staff and that is why he is worried. It is the principle involved.

Mr. Wyant said this involves housing and transportation, but there needs to be appropriate people present with the Board in order to have a work session. It may not be the Planning Commission; it is not like dealing with an ordinance change or a site plan, or some of the bigger projects. He said information could be put together on these problems in the community.

Mr. Dorrier said the IMPACT Committee already has the forum scheduled for tomorrow night, and it is now 9:10 p.m. on the night before. If the Board says it is not going to go Thursday night, it will sabotage the 1,000 people who are meeting and maybe they won't volunteer for anything in the future. When there are 1,000 people who are willing to tackle an issue, he says "let's go for it". Perhaps it is not a perfect scenario, but some good can come out of the situation.

Mr. Boyd said if Mr. Dorrier and Mr. Slutzky want to go, that is two members, and it would not break any Board procedures or policies, so he is willing to go along with that. It is an election year for him also. It is tough, but he will do it.

Mr. Slutzky said it sounds like he and Mr. Dorrier are going. He asked if anybody else is planning to go.

Mr. Rooker said if this meeting were adjourned to tomorrow night, he would go. If only two people went, he would go, but he has the same process issues Mr. Boyd has. He will respect the decision of this Board whatever that decision is.

Mr. Boyd said the Board has discussed this matter enough. If somebody wants to make a motion that the Board adjourn to tomorrow night, they can do that.

Mr. Slutzky said there is no need to do that unless a third person intends to be there.

Ms. Thomas said she is the likely third person, and she would rather follow the Board's procedure which is a very responsive procedure. She would not be uncomfortable sitting in the audience and getting all the information available because she thinks IMPACT has done a lot of research. The two who go will have to bring back some good information and not just go for themselves. She was happy with what she thought was a responsive idea when it was discussed for 45 minutes the first time. That was to have two members go, and feel free to discuss freely. She thinks staff has some information the ones who attend could share with the group.

Mr. Boyd asked Mr. Davis if two people sat in the audience, and two people participated, if that still constitutes a meeting.

Mr. Davis said if three or more Board members are at the meeting, and Board members participate in discussion of public business, under the FOIA that is a meeting. If all six Board members were present and did not participate, that would not be a meeting. If three Board members were in attendance and before there was any discussion or participation one left the meeting that would probably not be in violation of the FOIA. But, if three members were present and there was discussion, then the Board would need to have a proper public meeting.

Mr. Boyd said City Council is also involved.

Mr. Davis said he understands City Council has called a special meeting which limits them to only discussing the items which were noticed in the notice for the special meeting. Therefore, they are having a Council meeting there tomorrow night for the limited purpose for which it was noticed.

Ms. Thomas asked if those notices have to be sent further in advance of a meeting.

Mr. Davis said there is a legal process. It has to be done in writing, and must be called by the chair or the vice-chair. Notice has to be delivered to all members and the County Executive and the County Attorney, and unless everyone is present, the Board would be limited to what the meeting was called for unless a written waiver was signed by all the members. Since everyone is not planning to attend, that waiver would be required unless it was specified exactly what would be discussed. It can be done, but the easier way to deal with the issue, as has often been done with this Board, is to adjourn to a meeting rather than calling a special meeting just because of the "hoops you have to jump through" to do it.

Ms. Thomas asked if in Mr. Boyd's view adjourning to such a meeting is contrary to the Board's policy.

Mr. Boyd said "yes". But if he was outvoted, the Board could still adjourn to it. He will not vote for it.

Mr. Rooker said one question concerns IMPACT's agenda. Mr. Davis said he does not know the order of their agenda, but if there will be a presentation of some kind before they involve public officials in the discussion, then he thinks whoever wanted to attend could attend, listen to that presentation, and leave before that component of the meeting started. If that were the case, he could attend part of the meeting.

Mr. Boyd said he would attend part. His problem is with adjourning a special meeting there.

Mr. Rooker asked if anyone knows what IMPACT's agenda involves.

Ms. Thomas said it was explained to her over the telephone that they would take up each item separately, that is, they would discuss their research and their conclusions and then have the public officials respond. That is why they talked in terms of escorting the Board members out because they pictured them coming back for the second topic. Since there is another public meeting going on that same night, she pictured herself going until the public discussion started and then leaving and not staying on the grounds hovering about, so she would miss half of the meeting, but she would hear half of their research results.

Mr. Rooker said the people at IMPACT know there is another very important meeting that night on the maximum daily loads allowed in streams, and potential legislation that would impose significant costs on this County and other counties because of the need to satisfy the requirements of the Chesapeake Bay Act.

Ms. Thomas said this Board had nothing to do with setting that meeting date. This conflict could have been avoided if anyone had asked, but DEQ sets its meetings as they want to.

Mr. Rooker said he would be happy to attend a component of their meeting before that part starts to show support for what their group is doing.

Mr. Boyd asked if Mr. Dorrier would be leaving the meeting at the point they start to have a discussion with the Board.

Mr. Dorrier asked Mr. Boyd to explain.

Mr. Boyd said Ms. Thomas had said she would go for the presentation part and so as not to violate the FOIA leave at the time they started the discussion with Board members. Then, Mr. Slutzky and he would stay for part of the meeting. In that case the Board would not need to convene a special meeting.

Mr. Dorrier said he is not sure that is a good idea. Rather than sit in the audience and not say anything and then leave, he would be interested in what Mr. Slutzky and Mr. Boyd said.

Mr. Rooker said the Board is trying to reach a middle ground here under which the people who would like to attend can attend and not violate the FOIA or violate the procedure problems Mr. Boyd and Mr. Slutzky and he have expressed. This means before part of the meeting started all but two Supervisors would need to leave.

Mr. Dorrier said he would go along with that.

Mr. Rooker said he wants to show support for what this group is doing.

Mr. Boyd said all the Board members want to do that. He is going to break with the Board's tradition and ask Dr. Massey if he would like to come up for a minute. He has heard what this Board has discussed and he wants to see if it is acceptable to IMPACT.

Mr. Slutzky said he would be thrilled if the Board would be allowed to shuffle the agenda so Board members could sit in the audience and hear the entirety of the discussion before having to saunter off.

Ms. Thomas said that would be the entirety of the presentation.

Dr. Massey said IMPACT is willing to work the agenda in a way so as many of the Board members as possible can be present and stay within the confines of what it needs to do. It would be optimal for them if the Board adjourned this meeting to IMPACT's meeting. If all the Board members attend and full information is given on the two issues, and then at some point all except two members leave, there would be more than one minute to speak depending on how many people are there.

Mr. Boyd said the Board understands time constraints.

Dr. Massey said they can get this to work.

Mr. Slutzky said hopefully they will be kind and differential to the fact that this Board is choosing to operate this way and not "beat up on" the members who leave.

Dr. Massey said the entire process is meant to honor the Board members who show up. Nobody will get any withering criticism at all. In fact, they really want to know what the Board feels about these issues.

Mr. Rooker said when he attended the last IMPACT meeting he told them exactly what he thought about all of the issues.

Mr. Boyd said if it will be formatted so the presentation can be made with all Board members there, then Mr. Slutzky and he will stay for the interaction part of it. He is excited about what this group is doing, and the Board is trying to work with the group, but has to do so within its own constraints.

Dr. Massey said they are excited about the Board members being at the meeting. After having individual conversations, they knew the members wanted to attend, so they are glad this could be worked out. It has been a puzzle for them, but they are happy.

Agenda Item No. 14. Adjourn to March 19, 2007, 1:00 p.m.

At 9:23 p.m., with no further business to come before the Board, **motion** was offered by Mr. Wyant, **seconded** by Mr. Rooker, to adjourn this meeting until March 19, 2007, at 1:00 p.m.

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

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

NAYS: None.

Chairman

Approved by the
Board of County
Supervisors

Date: 09/05/2007

Initials: EWJ