

An adjourned and night meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 11, 2007, at 3:00 p.m., County Office Building on McIntire Road, Charlottesville, Virginia. This meeting was adjourned from April 4, 2007.

PRESENT: Mr. Ken C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Mr. David Slutzky, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Acting Clerk, Diane B. Mullins, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 3:02 p.m., by the Chairman, Mr. Boyd.

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Agenda Item No. 2a. Adopt FY 2007/08 Capital and Operating Budgets.

Mr. Tucker briefly reviewed the order for the day's discussion through a brief slide presentation. Staff will review a couple of scenarios showing the impact on schools and the impact on General Government based on tax rates the Board may adopt. The next item on the agenda will be setting the 2007 tax rate, and then adoption of the 2007/08 operating and capital budgets.

He presented information on how much would be required to provide FY08 compensation and benefits for school employees – about \$7.5 million, and explained the recommended budget would have provided approximately \$1.3 million for new initiatives, mandates, or other cost increases. He further explained that the 70-cent level the Board took to public hearing last week provided approximately \$1 million over and above the salary need for mandates, new initiatives, etc; that a 69-cent rate would provide about \$100,000 above the needed funding for salaries and compensation; and that a 68-cent rate would not provide enough to cover the compensation and would create an \$800,000 deficit. According to the School Board, Mr. Tucker said, it will be receiving about \$1 million in additional federal and state funds over the current FY07 fiscal year.

Mr. Rooker asked if the slide presented was for the existing employee base without any additions. Mr. Tucker confirmed that it was.

Mr. Tucker presented information on items that could be eliminated or removed if a lower tax rate is selected; in each scenario down to 68-cents, there would be reserves left. He confirmed that much of the East Rivanna and police personnel expenses are one-time costs.

Mr. Tucker reported that the County is anticipating a five percent reassessment (four percent for new construction) increase each year, and other assumptions are funding of the revenue-sharing agreement with the City, a two-cent transfer to the CIP, funding of mandates, operations funding at two percent, four additional officer positions, and a 60/40 split. He explained that in the next fiscal year, there would be about \$260,000 under the 70-cent rate; under the 69-cent rate it would be under \$300,000; and under the 68-cent rate about \$100,000. Mr. Tucker noted that in FY09, there would be about a \$1.8 million reserve.

He mentioned that the impact of a rate reduction in the current year would be \$3.3 million, and the impact on the current year at 70 cents would be \$3.9 million that would have to be made up; at the 69-cent rate it would be \$4.7 million; and at 68 cents the County would need \$5.5 million in the current year. Mr. Tucker said that the \$1 million Board reserve could be used, as could anticipated revenue surplus of about \$2 million, \$1/2 million in expenditure savings, use of about \$4 million of the FY06 surplus to capital (at the 70-cent rate). He noted that the County would cover the school's share so they wouldn't have to deal with it this year, and he has shared that with the School Board; however, they have put a hold-back on their expenditures for the remainder of the year but would like some commitment from the Board that it concurs with that.

Mr. Tucker said that the schools' share at 70 cents would be \$2.3 million of the \$3.9 million; at the 69-cent rate, their share is \$2.8 out of \$4.9 million; at 68 cents, the total would be \$3.3 out of \$5.5 million.

Ms. Thomas noted that picking up the schools' share does not increase the bottom line.

Mr. Rooker commented that he supports having the County pick that up, as it would be very difficult for the schools to make up that shortfall.

Mr. Boyd agreed, adding that he has told the School Board chair that he supports that.

Ms. Thomas agreed also, but said it might need to be re-thought depending on the tax rate adopted.

Mr. Tucker said that it would have to come out of the FY06 surplus.

Mr. Breeden noted that it would have an impact on the capital budget, adding that the surplus is about \$9.2 million from FY06 that typically would have been transferred to CIP.

Mr. Tucker mentioned that a rate must be set by April 15<sup>th</sup>, but the budget does not have to be adopted by that date. He added that the rate would obviously impact how much the Board has in its budget, and referenced budgets he presented at 70 cents, 69 cents, and 68 cents.

Ms. Thomas commented that they have been focusing on the tax rate, instead of addressing the need.

Mr. Boyd replied that the time to do that was earlier in discussions, not at this point.

Ms. Thomas said that the Board has made a mistake by not laying it out more clearly, and can see why the public is concerned.

Mr. Boyd responded that he would like for the County to reevaluate the budget process.

Mr. Rooker emphasized that there is in-depth information presented to the Board every year, and he feels that the board has had a picture of what the budget would look like at various rates, what the proposed initiatives are and what they cost, and that the Board did spend time going through the separate department budgets. He also noted that some expenses are due to mandates that the County has no control over – such as the jail and juvenile detention facility. Mr. Rooker said that a 58-cent budget wouldn't even come close to funding the mandates.

Mr. Boyd said that there is a fallacy in looking at it that way, because it does not provide consideration for items that might not currently need to be in the budget.

Mr. Rooker stated that he has mentioned doing efficiency studies on each department, but he feels it is reckless to presume there is waste. He said that comparing Albemarle to other like organizations is a good measure of efficiency, and the County has a very low tax rate in the context of similar localities. Mr. Rooker commented that he supports looking at benchmarks or hiring a consultant to do an efficiency study in one or more departments.

Mr. Slutzky added that you can always cut a budget, but there are consequences to becoming a more urbanized locality, including additional capital needs. He said that focusing the discussion on how to tighten up the budget this year might cause the Board to lose sight of the fact that money might need to be spent now in anticipation of future needs. Mr. Slutzky said that the tax rate and budget should be very different discussions.

Mr. Rooker said that it's only through large decisions that you're going to "wring large dollars" out of the budget if that is your goal.

Mr. Tucker noted that a penny is valued at \$1.6 million, and a lot of nitpicking must be done, or the strategic plan (and overall direction to staff) would need to be changed. He said that individual departments will go in and review their budgets to see if there are extraneous items. Mr. Tucker commented that it would be helpful if the Board could come to relative consensus on items to be reviewed, so staff is not spending a lot of time on analyzing individual items. He believes that large savings are found in big dollar items, such as in two percent of our operations, or eliminating a percentage off of the salary increases.

Mr. Dorrier commented on the \$9 million surplus in 2006 and a 30 percent assessment increase over two years. He believes that what the Board has seen in the year 2007 goes down as a watershed year because the Board came face to face with a tax revolt. He said that the Board needs to listen to this, noting that the Board does not deal with the budget in the strategic plan. Mr. Dorrier also added that the assessment process needs to be dealt with on the state level so that it reflects the reality of what's happening in the economy. He said that he would like to set up a "blue ribbon committee" to look at the budgeting process, including CEOs, etc.

Mr. Boyd said that he's been advocating for eight years to have the budget processed overhauled.

Mr. Wyant commented that he's been concerned that the accounting models might not be on, and perhaps that needs to be looked at.

Mr. Rooker said that the assessment process is done as a matter of state law, and whatever changes happen there need to be responded to. He noted that the County adopted a policy of paying employees based on objective standards, and he supported that. However, Mr. Rooker said, schools' salaries and benefits are not going to be fully funded if a 68-cent tax rate is adopted. He believes that looking at rates that don't cover the objective standards that the Board has established is a waste of time.

Mr. Boyd stated that he agrees philosophically, but those standards were changed three or four years ago and many of those employees (teachers) were put in the top quartile.

Mr. Rooker pointed out that Mr. Boyd had voted in favor of that, and it was reaffirmed again in October of 2006.

Ms. Thomas noted that this is the third year the Board has done it, and it is starting to have an effect in retention rates, etc., and the Board has agreed to this.

Mr. Slutzky asked Mr. Boyd if he supports employees being in the top quartile or not.

Mr. Boyd replied that he believes administrative cuts could offset this and pay teachers more.

Mr. Slutzky responded that there is a national standard to spend 65 cents of the school dollar on instructional costs, and Albemarle is at 74 cents. He does not feel that is an issue of us being too fat in administration.

Ms. Thomas added that there are no more employees in the central office now than there were five years ago.

Mr. Boyd said that the County could stay in the quartile with more fiscal responsibility in the school budgets, noting that Albemarle cannot do that and keep the lowest student-teacher ratio in the state.

Mr. Slutzky emphasized that voters want the Board to create a world class education system, and he is not certain what Mr. Boyd is saying here.

Mr. Boyd responded that world class does not necessarily mean most expensive.

Mr. Slutzky replied that the target is the upper quartile.

Mr. Rooker noted that on a per capita basis, schools spent \$1,371 per student based on total population.

Mr. Boyd said that you must go by per pupil spending.

Mr. Rooker said that the state average is \$1,456 per capita, and Albemarle is \$1,371.

Mr. Boyd responded that that isn't a valid comparison.

Mr. Rooker stated that he is open to reviewing other data, but none has been presented. He added that Albemarle performs much better than other school systems around the state, and is not funding at an inordinately high rate to get those results.

Mr. Dorrier commented that the Board is spending the money wisely.

Mr. Boyd said that he looked at a comparison not long ago that showed Albemarle at 9<sup>th</sup> in the state for spending, but expressed concern about continuing to fund that on the backs of the taxpayers.

Mr. Slutzky said that Albemarle is paying less per capita, and he is not sure what Mr. Boyd is advocating here.

Mr. Boyd explained that the original compensation committee did not necessarily endorse paying everyone in the upper quartile, and that group looked at localities that compete specifically with Albemarle for teachers. He said that he is not sure that the school budget should continue to climb just because the revenues do. Mr. Boyd added that the only way to cut a budget is to be told that you won't be given the money, noting that UVA was able to economize under the Wilder cuts.

Mr. Slutzky stated that there is more to a budget than just cutting, and the County has committed to a strategic vision that has been endorsed by citizens and expressed through the survey.

Mr. Wyant added that there are also a lot of people that can not afford to pay their taxes, and the budget must be balanced to accommodate both.

Mr. Rooker asked for a comparable county in the state that is operating on less than 60 cents. He expressed that no locality is even close.

Mr. Slutzky noted that Roanoke is at \$1.11.

Mr. Boyd said that if home prices are less, then a higher tax rate is not going to generate more revenue.

Mr. Rooker stated that the per capita rate is what should be looked at, and Albemarle's is very efficient.

Mr. Slutzky said that the County is doing a phenomenal job, especially when the low unemployment rate is considered.

Mr. Wyant asked about median income in other localities.

Mr. Dorrier commented that the County should go to the City and get the revenue-sharing agreement changed.

Mr. Rooker replied that he has spoken with people in the City about this, and they are interested in getting more money, not less.

Mr. Boyd tried to clarify his position on whether he supported pay in the top quartile. He said that he supports keeping teachers' pay up, but said that Albemarle has more teachers per student than other school systems, and that is hindering the ability to keep up with that top sector.

Mr. Rooker said that this budget has been worked on for six months, and the school budget could have been obtained fairly easily.

Mr. Boyd commented that it's the School Board's job to determine how many teachers they need relative to pay.

Mr. Slutzky asked him if he felt the County could afford to maintain the 25<sup>th</sup> quartile. He emphasized that the Board needs to decide the rate today, and asked if Mr. Boyd feels they can maintain that benchmark.

Mr. Boyd said that it's up to the School Board how it's spent.

Ms. Thomas noted that people are feeling "hit in the stomach" when they get their assessments, and her constituents have talked about things that they now cannot afford. She said that the County provides some of the same services that people are saying they cannot afford – such as Medicare, meals on wheels, etc. – and that needs to be put out on the table so that people understand. Ms. Thomas suggested laying out an explanation of services and the agencies that provide them, along with the marginal (three percent) increases they are getting.

Mr. Rooker said that a \$300,000 house in the County at a 70-cent tax rate pays about \$2,100 annually in real estate taxes; one child in the school system costs \$12,000. He noted that he pays property taxes like everyone else, even though he does not have kids in the schools now. Services aren't free. We do have to pay for them. What the Board is talking about today is how to raise the revenue in a reasonable way to pay for the services people expect to receive. He added that striking a reasonable balance is not going to be funding a budget with no salary increases.

Mr. Dorrier responded that that does not consider the people who cannot afford to pay their taxes, such as Doris Davis – wife of a 30-year County policeman – who says that she cannot afford to pay taxes or give the property to her children.

Mr. Rooker commented that there are also people who cannot afford to put gas in their vehicles, and the County unfortunately cannot base their budget on people's ability to pay. He said that perhaps that person could qualify for the elderly and disabled tax relief.

Mr. Slutzky said that the hardship cases are very compelling, but so are the arguments that the school budget should be fully funded.

Mr. Slutzky asked if it would be possible to enact a program where additional tax relief could be provided.

Mr. Tucker replied that the County would have to go through the General Assembly for that enabling legislation.

Ms. Thomas said that the County has land use tax assessment, and that option is available for people with land; she also said that reverse mortgages could be helpful.

Mr. Rooker stated that the tax from land use is about five-cents per \$100 of fair market value, and the state dictates that; he added that 70% of the land in the County is paying less than what is paid to the City in revenue-sharing on that land, so that essentially is a fiscal loss.

Mr. Boyd emphasized that the bottom line is the County is taking in millions and millions more with increased assessments, and this year he would like to give a break to the taxpayers.

Mr. Slutzky also noted that more money has to go out, through the revenue-sharing agreement, unfunded mandates, fuel costs, etc.

Mr. Boyd responded that there is nothing that indicates there will be less money to spend this year than last year.

Ms. Thomas said that the Board discussed paying staff a legitimate salary increase, as the cost of living goes up as well.

Mr. Rooker stated that it is unrealistic to have a substantial cut in the budget without affecting what people are paid. He added that if there were not increases in salaries, teachers and other professionals would likely look for work in other localities, and it does not seem that what the County is paying is out of line with the University and the City.

Mr. Slutzky said that what the County pays is still below that.

Mr. Dorrier stated that he does not think the Board has asked hard enough questions of each department when they request additional staff.

Mr. Slutzky replied that they certainly have asked a lot of those questions, especially of law enforcement and public safety.

Ms. Thomas commented that the County is 22 employees short of what state and federal guidelines say they should have in the Social Services Department.

Mr. Wyant noted the \$9 million surplus and \$3.5 million on the windfall, and made a motion to approve a 65-cent tax rate.

**Motion** was offered by Mr. Wyant, and **seconded** by Mr. Dorrier, to approve a 65-cent tax rate. Roll was called, and the motion **failed** by the following recorded vote:

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

Mr. Rooker noted that the surplus year also saw a 35 to 40 percent increase in the cost of capital projects already in the budget, and the question is whether you want to take the increase of that cost and in effect subsidize the budget one time, because next year you would not have those funds. He does not think that is a fiscally responsible budget, but a politically expedient budget, one that is not fiscally sustainable.

Mr. Rooker said that he would like to get into a situation where the Board does not have to rely so heavily on the real estate tax. There are not many tools to use, but there is an opportunity through increasing decal fees.

Mr. Wyant said there is still a burden through this increase.

Mr. Rooker said the burden should be funded in different ways. This is a way to pull off burden from the real estate tax. He feels the increase might make it more palatable for some members of the Board to support a rate that is lower than they might accept.

**Motion** was offered by Mr. Rooker, **seconded** by Mr. Slutzky, for approval of the \$10 added to the decal fee. Roll was called, and the motion carried by the following recorded vote:

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

Mr. Wyant commented that the burden is just essentially being shifted with that approach.

Mr. Rooker said that there must be a way found to raise the revenues to fund County government in a way that is efficient and effectively delivers services.

Ms. Thomas stated that through legislation, the General Assembly has given localities the option of doing this, and the County should take advantage of it as a way of relieving the real estate tax as being the sole support for the budget.

Mr. Tucker said that the decal fee would bring in an additional \$1 million.

Mr. Slutzky noted that a penny on the rate is \$1.6 million, so that wouldn't be a full penny.

Mr. Tucker confirmed that the new legislation would allow the County to go to \$38.50.

Ms. Thomas said that last year, that \$1 million amount was determined by the County to go into transportation since that funding from the state has been flat.

**Motion** was offered by Mr. Rooker, **seconded** by Ms. Thomas, for approval of a 69-cent real estate tax rate. Roll was called, and the motion **failed** by the following recorded vote:

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

**Motion** was offered by Mr. Wyant, **seconded** by Mr. Rooker, for approval of a 68-cent tax rate. Roll was called, and the motion **carried** by the following recorded vote:

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

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Agenda Item No. 2b. Adopt Calendar Year 2007 Tax Levy Resolution.

Mr. Tucker said, based on the Board's previous action, it needed to adopt the Calendar Year 2007 Tax Levy Resolution as follows:

"Be it resolved that the Board of Supervisors of Albemarle County, Virginia, does hereby set a County levy for calendar year 2007 for general accounting purposes at 68 cents on every \$100 of assessed value of real estate, at 68 cents on every \$100 of assessed value of manufactured homes, at 68 cents for every \$100 of assessed value of public service assessments, and \$4.28 on every \$100 of assessed value of personal property; and \$4.28 of every \$100 of assessed value of machinery and tools. Further order that the Director of Finance of Albemarle County assess and collect all taxes on all taxable real estate and all taxable personal property."

**Motion** was offered by Mr. Wyant, **seconded** by Mr. Rooker, to adopt the resolution to set the 2007 Calendar Year tax rates as set out above. Roll was called and the motion carried by the following recorded vote:

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

Mr. Tucker then suggested deferring adoption of the FY 2007/08 capital and operating budgets until May 9<sup>th</sup> so that the language can be revised to reflect the new tax rates.

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The Board recessed at 5:15 p.m.

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Agenda Item No. 3. The meeting was called back to order at 6:00 p.m., by the Chairman, Mr. Boyd.

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Agenda Item No. 4. Pledge of Allegiance.  
Agenda Item No. 5. Moment of Silence

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Agenda Item No. 6. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Rooker reported that he had received a summary of House Bill 3202, and suggested that staff contact VDOT as soon as possible to see how this impacts road funds for priority projects. He also said that the governor's bill included some provisions for impact fees, and everyone who spoke on the budget seemed to support having developers share the cost to the extent permitted. Mr. Rooker commented that he would like to know what the County is enabled to do as soon as possible, given that there are several developments pending right now that could be affected.

Ms. Thomas said that if the County does not enact these measures, the General Assembly could say that they have granted something that has not being used.

Mr. Davis added that the impact fee legislation only allows impact fees for roads and not for general impacts of development and his staff is already looking at it.

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Mr. Wyant commented that the Board needs to be clear on what its meeting procedures are.

Mr. Davis said that that's decided every year when the Board adopts Rules and Procedures, and if they are to be amended then that needs to be done according to those rules. He said that under Robert's Rules, the Chairman cannot make a motion or second it unless it has been an established practice or custom of the Board.

Mr. Wyant suggested adding a discussion of the Board's Rules of Procedures at a future meeting.

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Ms. Thomas noted that VACo is holding a meeting in Fluvanna on April 19<sup>th</sup> on its legislative program. Mr. Dorrier said that he was interested in attending.

Mr. Tucker said that Board members should get information from staff prior to the meeting, as this is early in the year for this type of meeting.

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Ms. Thomas said that on May 10<sup>th</sup> from 5:30 to 7:00 at Sage Moon, there would be an event for elected officials held by the AIDS service group.

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Mr. Boyd commented that he understands that the strategy regarding staff salaries was agreed upon jointly by both Boards, not just recommended by staff.

Mr. Tucker said that he wants to make sure that the Board is comfortable with staff figuring out how to cover the impact of the tax reduction for the current year's budget.

Board members concurred that it was there understanding that staff would cover the FY 2007 reduction in revenue for the School Division and local government from reserve funds.

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Agenda Item No. 7. From the Public: Matters Not Listed on the Agenda.

There were none.

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Agenda Item No. 8. Consent Agenda.

Mr. Rooker **moved** that Items 8.1 through 8.3 on the Consent Agenda be approved and that Items 8.4 and 8.5 be accepted as information. Mr. Wyant **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

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Item 8.1. Resolution of the Industrial Development Authority authorizing the issuance of revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$60,000,000 for Martha Jefferson Hospital.

The following letter dated April 10, 2007, was received from Scott Goodman, Secretary, Industrial Development Authority of Albemarle County, Virginia:

"Martha Jefferson Hospital and MJH Foundation, both nonprofit Virginia non-stock corporations (collectively, "Martha Jefferson Health Services") have requested that the Industrial Development Authority of Albemarle County, Virginia ("Authority") assist in (a) refinancing all or a portion of the Authority's \$50,000,000 Hospital Revenue Bonds, Series 2002 issued on October 31, 2002 to finance or refinance (1) the acquisition, construction and equipping of a three-story healthcare and medical office facility, including without limitation a diagnostic imagine center, an urgent care center, an outpatient surgery center, a women's health center and a prenatal diagnostic center, located at Peter Jefferson Place business office park in Albemarle County, Virginia, (2) the acquisition of approximately 84 acres of land located at Peter Jefferson Place business office park, and (3) the acquisition, renovation, construction or equipping of capital expenditures at Martha Jefferson Health Services' healthcare facilities in the City of Charlottesville, Virginia and Albemarle County, Virginia, including without limitation the costs of routine capital expenditures, a MRI scanner, accounting systems, angiography equipment and renovation, and a linear accelerator, (b) financing additional capital improvements, and (c) financing a debt service reserve fund and costs of issuance for the bonds by the issuance of its revenue bonds in the amount not to exceed \$60,000,000 ("Bonds").

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

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

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

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

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia ("Authority"), has considered the application of Martha Jefferson Hospital and MJH Foundation, both nonprofit Virginia non-stock corporations (collectively, "Martha Jefferson Health Services") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$60,000,000 ("Bonds") to assist Martha Jefferson Health Services in (a) refinancing all or a portion of the Authority's \$50,000,000 Hospital Revenue Bonds, Series 2002 issued on October 31, 2002 to finance or refinance (1) the acquisition, construction and equipping of a three-story healthcare and medical office facility, including without limitation a diagnostic imagine center, an urgent care center, an outpatient surgery center, a women's health center and a prenatal diagnostic center, located at Peter Jefferson Place business office park, (2) the acquisition of approximately 84 acres of land located at Peter Jefferson Place business office park in Albemarle County, Virginia, and (3) the acquisition, renovation, construction or equipping of capital expenditures at Martha Jefferson Health Services' healthcare facilities in the City of Charlottesville, Virginia and Albemarle County, Virginia, including without limitation the costs of routine capital expenditures, a MRI scanner, accounting systems, angiography equipment and renovation, and a linear accelerator, (b) financing additional capital improvements, and (c) financing a debt service reserve fund and costs of issuance for the bonds (collectively, the "Project"), and has held a public hearing on April 10, 2007;

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

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

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

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

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

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

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Item 8.2. Resolution of Support for Application to the Virginia Department of Transportation for Multimodal Corridor Plan for the US 29 and US 33 Development Areas in Greene County.

It was noted in a memorandum date March 27, 2007 from Harrison Rue, Executive Director, Thomas Jefferson Planning District Commission that the purpose is to provide background information and a Resolution of Support in support of the "Multimodal Corridor Plan for the US 29 and US 33 Development Areas in Greene County" application by the Thomas Jefferson Planning District Commission to the Virginia Department of Transportation Multimodal Office, under the Local and Regional Corridor Planning Grant Program. TJPDC is requesting \$150,000, with a 10% in-kind match to be provided by Greene County staff.

Greene County faces significant development pressures from housing, retail and service growth. This study will analyze future growth patterns, help Greene County update their Comprehensive Plan, and develop multimodal transportation solutions for the US 29 and 33 corridors to accommodate that growth. It will include strategies for improvements to 29 and 33, a better-connected network of local roads to protect through-capacity, pedestrian and bicycle improvements in the developing areas, improved business access, and coordination between Greene County Transit and regional transit service.

Deliverables include a multimodal plan and action agenda to ease congestion, improve access management, increase multimodal travel options and tie land use and transportation investments together. Implementation will be through the Greene County Comprehensive Plan, VDOT project programming, and coordination of developer and business investments.

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

**RESOLUTION OF SUPPORT  
APPLICATION TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION  
FOR  
"MULTIMODAL CORRIDOR PLAN FOR THE US 29 AND  
US 33 DEVELOPMENT AREAS IN GREENE COUNTY"**

**Whereas,** this study will enhance the MPO's US 29 North Corridor Study and will approach the study recognizing the unique needs and factors in Greene County; and

**Whereas,** the project is consistent with the goals of the VDOT Local and Regional Corridor Planning Grant Program, the Greene County Comprehensive Plan, and the United Jefferson Area Mobility Plan (UnJAM 2025); and

**Whereas,** this project will coordinate transportation land and use planning for the US 29 and US 33 corridors in Greene County; and

**Whereas,** this study will provide a multimodal plan and action agenda to ease congestion, improve access management, increase multimodal travel options and tie land use and transportation investments together.

**Now, Therefore, Be It Resolved,** that the Albemarle County Board of Supervisors does support application to the VDOT Local and Regional Planning Grant Program by the Thomas Jefferson Planning District Commission for the "Multimodal Corridor Plan for the US 29 and US 33 Development Areas in Greene County"

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Item 8.3. Resolution of the Industrial Development Authority authorizing the issuance of revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$30,000,000 for Thomas Jefferson Foundation, Inc.

The following letter dated April 10, 2007, was received from Scott Goodman, Secretary, Industrial Development Authority of Albemarle County, Virginia:

"Thomas Jefferson Foundation, Inc. ("Borrower") has requested that the Industrial Development Authority of Albemarle County, Virginia ("Authority"), assist the Borrower in financing the construction and equipping of a Visitor and Education Center for Thomas Jefferson's Monticello ("Project") in Albemarle County, Virginia, by the issuance of its revenue bonds in an amount not to exceed \$30,000,000 ("Bonds").

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

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

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

**R E S O L U T I O N  
OF THE BOARD OF SUPERVISORS OF  
ALBEMARLE COUNTY, VIRGINIA**

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia ("Authority"), has considered the application of Thomas Jefferson Foundation, Inc. ("Borrower") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$30,000,000 ("Bonds") to assist in the financing of the Borrower's constructing and equipping of a Visitor and Education Center consisting of approximately 42,000 square feet ("Project") to be located at 931 Thomas Jefferson Parkway, in Albemarle County, Virginia, and has held a public hearing on April 10, 2007;

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

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

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

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

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

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

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Item 8.4. Copy of letter dated March 30, 2007, from John Shepherd, Manager of Zoning Administration, to James C. McDaniel, Jr. and Nancy S. McDaniel, *re: OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS -- Tax Map 135, Parcels 15A, 18, 19, 22 & 22E-Scottsville District (Property of James C. McDaniel, Jr. & Nancy S. McDaniel) Section 10.3.1, was received as information.*

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Item 8.5. Board to Board, Communications report of activities from the Albemarle County School Board, dated April 4, 2007, **was received as information.**

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Agenda Item No. 9. Public Hearing: Housing Choice Voucher Annual Plan. (Notice of this public hearing was advertised in the Daily Progress on March 28 and April 3, 2007.)

Mr. Ron White, Director of Housing, addressed the Board, stating that this is the former Section 8 Housing Program. An Annual Plan must be submitted to HUD each year. He said that part of the requirement is a 45-day public notice period, which began by advertising of the plan availability on March 7<sup>th</sup>; the plan will be submitted on April 20<sup>th</sup>. Mr. White explained that they convened a resident advisory board, asking 12 program participants to provide feedback and there were no recommendations for changes. He said that they are asking for approval of the submission from the Board and a signature from Mr. Tucker for certifications and assurances that go along with the Plan.

Ms. Thomas said that the Board has been criticized for not doing anything for the lowest income citizens, and asked Mr. White to comment on that.

Mr. White replied that a lot of what the Housing Office is allowed to do is dictated by HUD, so they do not have a lot of choice. The County does provide about \$200,000 in operating support of this activity. He added that as of April 1<sup>st</sup>, they are assisting about 403 families; the majority of them have incomes below 30 percent of the area median income. Mr. White said that the expenditures in April averaged about \$500 in assistance for each family, primarily low income households that are under the 30 percent median income. He noted that they are at 94 percent of utilization of authorized vouchers – 429 total; and at 96 percent of budget, so they will not be able to get up to 429.

Mr. Rooker commented that the average income level at Park's Edge is around \$10,000.

Mr. White confirmed this, adding that the Housing Office provides direct assistance to 24 of the 96 units, but a number of the others also have the vouchers. He explained that each family has to pay 30 percent of their income towards rent, and the program picks up the rest – it could range from \$100 to \$900 per family. Mr. White said that the rents range from \$700+ for a two-bedroom dwelling.

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

Mr. Rooker **moved** for approval to submit the proposed Annual Plan, and authorized the County Executive to execute the PHA Certifications of Compliance. Ms. Thomas **seconded** the motion, which passed by the following recorded vote:

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

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Agenda Item No. 10. Public Hearing: SP-2006-008. SOCA South Fork Expansion (Sign #66). PROPOSAL: Soccer club/office with outdoor field and training courts, one indoor arena. ZONING CATEGORY/GENERAL USAGE: RA - Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH Flood Hazard Overlay to provide safety and protection from flooding. SECTION: 10.2.2.2 (Clubs, lodges, civic, patriotic, fraternal); 5.1.02 (Clubs, Lodges). COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre). LOCATION: 1717 Polo Grounds Road (Rt. 643), 1.2 miles east of the intersection with US 29 North. TAX MAP/PARCEL: TM 46 Parcels 22 and 22C. Rivanna District. (Notice of this public hearing was advertised in the Daily Progress on March 26 and April 2, 2007.)

Mr. Cilimberg reported that the property is off of Polo Grounds Road, on the north side of the South Fork Rivanna River, immediately to the east of the existing soccer fields. He pointed out the area designated rural area in the Comp Plan between the urban area and the Hollymead development area, and noted that the field would be for all seasons, and would be lighted in the future. Mr. Cilimberg said that the building would be in excess of 30,000 square feet and there would be additional offices and support space, along with the lighted field; the existing complex is to the west.

He reported that the Planning Commission unanimously recommended denial, primarily because the request does not conform with the land use plan policy – which stipulates that this area in a critical section of the rural area remain in an open state as a buffer between the urban area and the community of Hollymead. Mr. Cilimberg also said that the Commission felt the soils on site could not support septic fields, and the proposed use could only be supported by an extension of public sewer to the site. He added that they were also concerned that the proposed use includes a very large structure for the rural areas not in keeping with the Comprehensive Plan intent to maintain this particular area as a buffer, and future dwellings might be impacted by noise. Mr. Cilimberg said that the Commission cited numerous public safety impacts and increasing traffic through the one-lane railroad underpass on Polo Grounds Road would be a problem.

Following that hearing, he said, the applicant submitted a revised request for the Board's consideration and included some changes in the plan – such as reduced building heights to minimize visibility, vegetative screening from the west, and a berm to the east that would be planted to shield the property from adjacent residents. Mr. Cilimberg said that they have proposed a walking trail connection on the adjacent SOCA property from Polo Grounds Road to the Rivanna River to tie into the greenway

system of the County. He added that the applicant does not intend to install lighting for four to five years and not until County ordinances have been revised to exempt light poles from the 35-foot structure height limit in the RA zoning district. Mr. Cilimberg noted that the applicant has retracted a request for four non-SOCA events per year and extended operating hours for times a year. He said that reduced operating hours for the indoor and outdoor fields is also proposed and seasonal limitations on the use of outdoor lighting are proposed. Mr. Cilimberg said that the vehicle trips, according to the applicant, would be reduced from 667 trips to 644 trips per day, and there have been concerns regarding the underpass – VDOT has estimated that only four percent of traffic generated by the use would take that route.

Mr. Cilimberg reported that the revisions do not address some of the Commission's main concerns – the appropriateness of the use in a location that the Comp. Plan reserves for open space, the necessity of extending sewer service for a rural areas use, the large scale of the structure (over 39,000 square feet) in the rural areas, and fairly minimal traffic reduction. He said that staff recommends denial, but if the Board should desire further guidance on the applicant's changes they can refer it back to the Commission.

Mr. Wyant said that he understood that the parcel did have septic, and asked for clarification. Mr. Cilimberg replied that they cannot likely provide for the sewage treatment necessary through just a private system, and connecting to the public system would mean a jurisdictional area change not currently authorized.

Mr. Rooker asked about the Comprehensive Plan recommendation for open space. Mr. Cilimberg responded that this space is designated for a rural area buffer between two development areas, and is intended to have the rural area zoning allowances; obviously there are uses allowed for the rural area and the open space allowance was being sensitive to uses such as the existing soccer fields.

Mr. Rooker asked if any other uses required a special use permit. Mr. Cilimberg said that the soccer fields did, the church previously did, residential uses do not, and agricultural/forestral districts do not.

Mr. Dorrier asked if there was a construction concern nearby. Mr. Cilimberg replied that there is a contractor located nearby who does excavating work. Mr. Dorrier said that there were some large trucks next door when he visited the site.

Mr. Boyd asked if they could put a light up to 35 feet there now. Mr. Cilimberg responded that they could, and the Commission said they would want a condition to address that.

Mr. Rooker commented that there are no conditions before the Board right now, as the Commission didn't generate them as part of their process.

Mr. Davis said that the Board could have either staff or the Commission draft conditions for recommendation.

Mr. Cilimberg noted that there are conditions from the original staff report presented to the Commission, but they would not be totally applicable given what the applicant has changed in the proposal.

Mr. Rooker noted that the hours of operation had been changed, and said that he read this as meaning they wouldn't operate during dark. Mr. Davis agreed, saying that after lights were installed they would play at night.

Mr. Slutzky asked if there were other places in the designated growth areas of the County where the County might be able to make acreage available to put up a similar structure. Mr. Cilimberg responded that Pat Mullaney, Director of Parks and Recreation, might be able to comment on that.

Mr. Mullaney replied that they could talk to Darden Towe Park, and high school shared property might be a possibility or the property across from Monticello High School.

The Chairman opened the public hearing, and asked the applicant to come forward to make comments.

Mr. Bill Mueller, Executive Director of SOCA, addressed the Board. He asked project supporters to stand, and they did so. He explained that he would like for the project to be evaluated on its merits, and SOCA is committed to having facilities that will enable them to meet needs in the community. Mr. Mueller noted that SOCA provides programming to the community, and is celebrating its 25<sup>th</sup> anniversary this year; over 6,300 families are recent or current participants, and 9,500 registrations are anticipated this year with 4,000 players in each primary season. He emphasized their community service and said their ability to serve is limited by a lack of playing field resources. Mr. Mueller said that they are currently turning players away from the program, and County government identified athletic fields as a serious need in the recreational needs assessment study done in 2003.

Mr. Mueller said that the vision of this project is to help meet that identified need, and they want to get the project right for all concerned. He explained that they are asking for two playing fields – one full-sized outdoor lit field and one small covered field. Mr. Mueller said that as interest in soccer grows along with population, the need for athletic facilities will only grow, and the use will be exactly as the South Fork Soccer Park fields are – the outdoor and indoor fields used for practice and playing local recreational soccer games. He stated that the games would be attended by players, coaches, referees, and family

members – no huge crowds or spectator events – with no stadium and no amplified sound or PA system, scoreboard, or ticketed events.

Mr. Mueller said that this proposal is dramatically different from the one reviewed by the Planning Commission, and SOCA has agreed to align hours of use with staff recommendations, they have also eliminated all requests for extended hours or uses other than SOCA or other non-profit athletic users. He stated that they have lowered the height of the building, added berms and additional landscaping to soften any views, and have agreed to turn off lights for seven months of the year and would never be on past 9:30 p.m. Mr. Mueller stated that they have added walking trail access for neighborhood use, providing access to the river, as well as neighborhood access to the outdoor training courts.

He noted that the concern seems to revolve around the building and lights, but the use will not involve large-attendance events; they are asking for permission to light the outdoor field in the future using the best available full-cutoff dark sky lighting, with 20 foot-candles, the lowest recommended safe level of lighting for athletics. He said that Scott Stadium is lit at 150-foot candles, and St. Anne's has 30-50 foot-candles. Mr. Mueller emphasized that SOCA is committed to providing a model of best practices sports lighting for the community. He said that the core issue for the Board is whether they can approve the SP request for athletic fields in the rural area, adding that they are allowable with the SP – such as Cove Creek and Simpson baseball parks. "What we are proposing is a club use of recreational facilities."

Mr. Mueller said that the proposed site is the best site for this project, as the proposed property is used by the current owner as a construction debris dumping ground, and the current special use permit is for a church with parking and a sewer. The site in question is neither natural, rural, pastoral, nor protected from a more intensive development than this proposal. He said that it would use the fill area for the outdoor field, the pit for the indoor field, and will preserve the existing house and mature trees and shield all parking from view from the road. Mr. Mueller said that the 2003 recreational needs assessment study has identified a critical shortage of sports facilities, especially indoors, and said that the greatest challenge to overcome this is funding; the report specifically identifies a strategy of targeted partnerships with service providers such as SOCA. He said that SOCA is offering to provide the fields and the service at no cost to taxpayers, and in order to do that they must find land in the rural area. Mr. Mueller said that there is hardly a rural location in the County with less impact and greater ease of access for its users, and the adjacency to their existing site is of critical importance.

He explained that the indoor fields would be used when the outdoor fields are not – such as during the winter – so the uses would not be on top of each other. Mr. Mueller said that normal traffic would be dramatically less than peak use, and peak use would mean one car every 90 seconds along Polo Grounds Road – recently improved. He stated that only four percent would travel under the underpass, and SOCA does not provide directions to the park using that route.

Mr. Dorrier asked about the truck business located next to the field. Mr. Mueller replied that it is W.A. Wells Excavating.

Mr. Boyd reviewed the policy for speakers, noting that over 40 had signed up to speak.

Mr. Tom Twomey addressed the Board, stating that he lives a few properties away from the field. He encouraged them to reject the request for the reasons the Planning Commission stipulated, noting "discouraged uses contrary to the County's growth management policies including, but not limited to, swim and tennis clubs." Mr. Twomey said that the arena is huge and clearly contrary to those policies, and also said that SOCA has extensive use of school and park fields. He stated that it is a good and equitable arrangement. He stated that if SOCA were to finance \$2 million for 30 years at six percent, their cost would be \$12,000 per month; if they have 6,000 families participating that would be only \$2 per month per family. Mr. Toomey said that approval by the Board would set a precedent that would bring into question the validity of the Comprehensive Plan altogether.

Mr. Steven Levine addressed the Board, stating that he appeared before the Planning Commission as well on this item, but he still does not support this plan, as it is ostensibly the same as the earlier one. He emphasized that it is a large complex that will result in increased traffic, disturbance of residents with light and noise, and further compromise of the rural area. It does not belong in an RA district. Mr. Levine said that the long-term consequences in the County would be significant, as the best way to preserve the quality of life is to uphold the Comprehensive Plan, and special use permits will render the ordinance useless. He emphasized that the population pressure in the County is already immense, and the quiet neighborhoods are unlikely to remain as such in the long run unless the zoning ordinances are upheld. Mr. Levine asked Board members to consider whether they would like this facility in their own backyards.

Mr. Jim Masloff addressed the Board, stating that he appreciates SOCA and what they do and that he has a young family. Mr. Masloff said that he is a former Division I scholarship athlete and he loves sports, and added that he is the head of a non-profit that serves disabled people. He encouraged the Board to uphold the Planning Commission's decision as the location is simply inappropriate. Mr. Masloff added that this is a tremendous increase in the footprint for the facility, and the request flies in the face of all the guidelines in the County by which all citizens are requested to operate. He emphasized that SOCA simply needs to find a better location.

Mr. F.A. and Ms. Lynn Iachetta addressed the Board, stating that there shouldn't be any light towers in this location, and noted that the condition on this road 17 years ago was far different than it is today. He emphasized that running sewer out to the property will encourage further development in the

area. Mr. Iachetta said that Mr. Wells has had that business for 49 years, and built it up to what it is now – including putting up two houses. He believes this is a different situation than the proposed SOCA facility.

Ms. Jimmie Lou Reid addressed the Board, stating that she has owned property here since 1952 and Mr. Wells business was grandfathered in. Ms. Reid said that the County is developing 600 acres for a park that will lie in Albemarle and Orange, and surely there would be enough room for soccer fields there.

Mr. Nat Howe addressed the Board, stating that he is opposed to this project in its present location. Mr. Howe said that he is not opposed to soccer or sports, and expressed concern about the tenuosness of the entrances in and out of the County. He stated that the SOCA project is the wrong project in an inappropriate place – a rural area. Mr. Howe also said that these conditions might not endure that long, and that is not a great concession. He mentioned that he was part of the first discussion over SOCA's fields, when they said they only needed five, and suggested that they might have support from outside the County represented here today. Mr. Howe emphasized that this is a small, diverse, and well-established community that provides little impact to the community.

Mr. Phil Beard addressed the Board, stating that he lives nearby in a residential neighborhood that will undoubtedly be negatively impacted by the added traffic congestion and noise from additional activity at the current SOCA location. He encouraged the Board to uphold the Planning Commission's decision and deny the special use permit.

Mr. Arthur Watson of Proffit Road addressed the Board, stating that he is a former soccer coach and supporter of the Polo Grounds development. Mr. Watson said that he is against this proposal because it is really a commercial building and this is a rural area. He cited safety concerns about the roads leading to this site, and he does not understand why that discussion hasn't arisen yet.

Ms. Anne Mallek addressed the Board, stating that this application will affect all rural areas in the County because this is a land use decision, not a popularity contest. She said that while she admires SOCA, that is not the issue tonight. Ms. Mallek said that these structures are not incidental to agricultural and forestal uses nor can they revert to those uses if the current plans go away. She noted that this could easily evolve into a commercial use with future changes, and also expressed concern about the lights on the site.

Ms. Ann Eddins addressed the Board, stating that she and her husband Jim have lived on Polo Grounds Road for 16 years. She said that this is already a joint venture with ACAC, a commercial partner, and the ideal location would include adequate roads and parking and would be within walking distance for families with children. Ms. Eddins said that the only teams that played year round when she lived in Northern Virginia were traveling teams, and they used school fields if necessary, or outdoor fields. She emphasized that the winters are getting warmer, and there's no reason to put an indoor field where it does not belong.

Mr. Daniel Bluestone addressed the Board, stating that it's very important that the Board support the Planning Commission, especially given the unanimous decision from them. He suggested that SOCA have decentralized facilities put in different parts of the County rather than concentrated in one site.

Mr. Martin Rosen addressed the Board, urging them to vote against the proposal for the SOCA facility on Polo Grounds Road. He said that Albemarle is a very special place to live, in part because of local government's commitment to upholding the ordinance and the Comprehensive Plan.

Ms. Abby Davidson addressed the Board, stating that she plays on one team for SOCA, and presented a letter that she wrote in favor of the new facility.

Mr. David Madigan addressed the Board, stating that he lives in Forest Lakes North and has three children are very active in SOCA. He commented that this facility enhances the property in the community and provides an amenity for families. Mr. Madigan said that this athletic facility won't bring down the value of the surrounding properties and would likely enhance them.

Mr. Jay Everett addressed the Board, stating that his team has been state cup finalists for the last two years and is now playing top quality opponents. He said that an indoor facility would be very helpful for practice and training.

Mr. David Deane addressed the Board. He said he was born in Charlottesville in 1960, and there were four teams playing youth sports in the fall – football – there was no soccer. Mr. Deane said that there are many, many sports and teams going on right now, and there's nowhere to play or practice. He stated that if the SOCA facility is built, it frees up space for other sports, and encouraged the Board to approve it.

Mr. Andrew Halley addressed the Board, stating that he is one of 600 adults who also play in the league. He said that he supports the SOCA special use permit, stating that 96 percent of the traffic would be traveling along Route 29 and Polo Grounds Road.

Mr. Mike Ginsburg, a SOCA coach, addressed the Board in favor of the new facility, stating that he has used every conceivable green location to run practices. He said that many practices could be moved indoors and SOCA needs this expansion to adequately address growth. Mr. Ginsburg said that SOCA has had to turn kids away because of lack of indoor space.

Mr. Geral Long addressed the Board, stating that he moved here from Northern Virginia because of the growth there. He said that he enjoys the rural nature of Benivar, and he shares fellow neighbors concerns about the facility's placement, primarily the traffic it would generate. Mr. Long said that when he bought his property in 1999, the road was insufficient and the only thing that has been added since then is a guardrail.

Ms. Carol Wenger of Carrsbrook addressed the Board, noting that her development is across the river from the park. She said that from her backyard she can see the park, and Carrsbrook residents are aware of this plan. Ms. Wenger said that she is not concerned about the noise because the impact of outdoor noise would be minimal, and the lights would not be on past 9:30 p.m. at night, only a few months of the year, and the bulbs themselves would be covered. She stated that she supports the project and feels the impact would be minimal on surrounding neighborhoods.

Mr. Patrick Grant of Still Meadows addressed the Board, stating that when he bought his house it was before the South Fork development went in, and it is very rare that they hear a lot of noise from the park. Mr. Grant said that his property could be affected by noise, lights, and property values, but he is excited about having facilities close by to where they live. He stated that the County has inadequate facilities for sporting events, and this could help curb health problems such as childhood obesity.

Mr. Brian Cook addressed the Board, stating that he is a former professional soccer player. He said that he moved here three years ago and was excited to hear about SOCA in the community. But, he, also, said that he was appalled at the lack of facilities available for youth playing the sport. Mr. Cook stated that this facility is only one mile off of Route 29 and thus wouldn't impact traffic significantly.

Mr. Reed Tolber addressed the Board, stating that he is impressed with arguments made on both sides. Mr. Tolber said that SOCA's application is supported by what they have done in that area since 2002, and they have not created unusual amounts of noise.

Mr. Clark Coleman addressed the Board, stating that he lives at Forest Lakes North. He said that people must overcome misconceptions and fears, such as the perceived threat of additional traffic to this site. Mr. Coleman said that indoor and outdoor facilities are not used at the same time for more than a few days each year. He stated that people have reacted to the word expansion, and know that when SOCA lets out from its park right now there is significant traffic backup on Polo Grounds Road. Mr. Coleman said that he would be happy to have it in his backyard, and many of the statements that have been made are hypothetical and based in fear.

Mr. Bob Hattie addressed the Board, stating that there is a significant lack of facilities such as this in the County. He emphasized the importance of resurfacing the fields such as those at Darden Towe Park.

Mr. Tim Hegemier addressed the Board, stating that he and his wife grew up in Albemarle County. He said that he played soccer here and his children have the opportunity to do so as well. Mr. Hegemier said that they live in Montgomery Ridge, which is adjacent to the South Fork Park, and many of the residents there are families with children.

Mr. Jon Stokes addressed the Board, stating that it will be a struggle each budget season to maintain and provide county services and facilities, especially desperately needed recreational facilities. He said that the County will need to form partnerships to make this happen, and SOCA is offering this opportunity.

Ms. Jeanne Densmore addressed the Board, stating that she has been a practicing physician in the area for 11 years, and for health reasons sports need to be emphasized to youth in the community. She said that kids need a safe place to play now as well, and organized programs accomplish that.

Mr. Zane Hill, the SOCA outreach coordinator, addressed the Board. He said that SOCA has raised money privately to support scholarships for the soccer program, and referenced refugees here who play in the league. Mr. Hill introduced one of the scholarship recipients.

Ms. Juliette Halamana addressed the Board, stating that she and her four siblings all play soccer in the SOCA league and she would like to play indoors during the cold months.

Ms. Caitlin Natale addressed the Board, stating that she recently turned 18 and looks forward to voting. She also said that she is president of the SCA at Albemarle High School, and soccer has kept her healthy and away from bad influences. Ms. Natalie encouraged the Board to approve the project.

Mr. Nathan Fountain addressed the Board, stating that his family has lived here for 18 years. Mr. Fountain said that the County is in desperate need of community-based family-oriented parks.

Mr. Lecky Stone addressed the Board, stating that he now coaches soccer and he has been on every field in the county. Mr. Stone said that this permit is just for a covered soccer field, not a commercial building. All SOCA wants is a soccer field that is covered. He acknowledged that there may be other locations for fields, but this location makes sense for this park. That is SOCA's choice as to where it wants this built.

Ms. Mary Jean Craddock addressed the Board, stating that she is a member of the Board of Directors of Still Meadows subdivision, located across the Rivanna River from the South Fork soccer field on Polo Grounds Road. She said that Still Meadows supports the position of the Planning Commission

and Piedmont Environmental Council to reject the proposal for lights to be added to an all-weather soccer field, as well as denial of the special use permit for the indoor arena. Ms. Craddock said that they are deeply concerned about the impact of this facility on the community, as a key attraction in the neighborhood in the meadow between the South Fork of the river and the subdivision. She stated the proposed site is visible from their homes, and would have a severe impact on the area, adding that they are concerned about noise and light pollution.

Mr. George Gelnovatch, U.Va.'s head men's soccer coach, addressed the Board, and said that he is a volunteer coach for SOCA. Mr. Gelnovatch said that sports provide opportunities for leadership, ability to communicate, confidence, and teamwork. He stated that over the past 15 years there has been "a real change" and many kids spend a lot of time with computers, X-boxes, TV, etc. Mr. Gelnovatch said that kids involved in these clubs like SOCA develop better skills and abilities, adding that SOCA's resources would be stretched to have to place a new facility in a different location.

Mr. Steve Swanson, U.Va.'s women's soccer coach, addressed the Board. Mr. Swanson said that he's lived here since 2000, was attracted to the community, and said that he was amazed by the number of participants in soccer here. He encouraged the Board to consider that lights would be modern and of minimal impact, and traffic might not be as significant as feared.

Mr. Tom Eckman addressed the Board, stating that he mentors refugee children who participate in SOCA. He said that they should build an indoor facility, but not in this location. Mr. Eckman said that the lachettas have lived there 50 years and it is zoned rural area. That isn't fair. He emphasized that there is other land where this facility could be built, and many participants don't live anywhere near this facility. The field should be built where people can walk to it. Nobody can walk to these facilities where they're being built, so the location just isn't right. Mr. Eckman said that many people will come the back way, and even if four percent come down the hill it's still dangerous. Two fields aren't going to make that big of a difference.

Mr. Fred Gerke addressed the Board on behalf of the Proffit Community Association, stating that SOCA is a wonderful program and an asset to the region. He emphasized that emotions and politics must be set aside and the proposal must be reviewed on its merits, noting that the impact would be the equivalent of a medium sized retail center. Mr. Gerke said that the rural area is being developed little by little, and this project is inappropriate for this site. He noted that the situation on Polo Grounds is already bad, especially in the evening, and the four percent figure is on the low side. Mr. Gerke emphasized that this is not a park – it is a private, gated development.

Mr. John Robinson addressed the Board, stating that he is a strong believer in individual property rights in the community, and the impact this will have is not just on the people who live in the immediate area. Mr. Robinson emphasized the need for sports activities, noting that children become more physically fit and engaged when involved. He said that he understands the frustrations of Polo Grounds Road residents, but each of them agrees that SOCA is needed. Mr. Robinson said that no matter where a facility is built, it will impact some residents.

Ms. Stephanie Polackwich addressed the Board, stating that she opposes the SOCA plan as she can hear the soccer games loud and clear from her home in Still Meadows. Ms. Polackwich said that the special use permit would mean she would hear this noise around the clock, and the lighting poles would be higher than the current 35-feet, as SOCA can apply for a waiver under the County's Dark Skies ordinance. Ms. Polackwich said that the Board has been entrusted to protect the rural areas, and granting a special use permit for a large arena and five outdoor fields in this location will change that neighborhood forever.

Ms. Noelle Klein addressed the Board, stating that she attended a meeting in February where SOCA presented information about the project. Ms. Klein said that SOCA made changes to the proposal – lights out at 9:30 p.m., seven months of the year with no lights, all indoor activities ending by 10:00 p.m., no commercial activity onsite, decreasing height of the building on the side facing the road, including additional barrier plantings on the boundary project site. She stated that the project already intended preservation and refurbishing of the house on the site, planting of native species on land that has already been radically cleared, dark-skies lighting, and synthetic turf that requires no chemicals or mowing. Ms. Klein said that she lives near Fairview Swim Club and her property values have doubled over the last nine years, and the SOCA facility could have the same positive impact.

Ms. Heidi White addressed the Board, stating that she is representing Bentavar, and many in the neighborhood support the special use permit for this facility. She said that property values will only increase with addition of such a well-maintained, youth-oriented recreational facility. Ms. White presented a petition of over 260 names that support the special use permit.

Mr. Ralph Sachs of Northfields subdivision addressed the Board, stating that he believes the Board should support the addition of two soccer fields – one that happens to be covered. Mr. Sachs said that having families pay for a site in another location is unrealistic, as the facility to be built is going to be \$4.5 million.

Ms. LaDelle Holland addressed the Board, stating that three of her four children have played soccer through SOCA, and this club is an extended family. She noted that SOCA wants to take an active role with Parks & Recreation to put in a walking trail along the river, which would be a benefit to everyone. She feels this is a great example of private money for public good, and I ask you to support it.

Mr. Jeff Werner of Piedmont Environmental Council addressed the Board, stating that PEC has worked very hard for 30 years to keep the rural area rural. Mr. Werner said that he has been coaching lacrosse for over 20 years and he understands the issues of field access and the involvement of youth in sports, stating that his nine-year-old son plays soccer through SOCA. The matter before the Board tonight has nothing to do with the benefit of sports, but is simply a land-use issue and the Comprehensive Plan's inherent regulations. Mr. Werner said that the revisions don't address the appropriateness of the use in a location that the Comprehensive Plan says should be reserved for open space uses; the necessity of extended sewer service for a rural use that would be counter to Comprehensive Plan policy; and construction of a 39,000+ square foot structure in the rural area. He said that he is concerned that the rules would be changed for other similar facilities in the rural area.

Mr. Bill Balke addressed the Board, stating that new lighting technology would greatly minimize the impact of the field lights. He said that this isn't a land use issue, this is a society issue. Mr. Balke said that this is the right thing for this community, and is transformative.

Ms. Sally Smithwick addressed the Board, stating that she and her husband bought their property a few years ago. She said that she fully supports opportunities for children to play in sports fields, but she counted on the zoning to protect rural property rights. Ms. Smithwick said that the new facility would be a violation of zoning, and the money it would take to build it could buy about 100 acres in the rural area outside of town.

Ms. Donna DeYoung addressed the Board, stating that she moved here from Bucks County, PA which also changed from a rural area to a more urban one. Ms. DeYoung said that SOCA is the best youth sports organization that she's been involved in, and Charlottesville is becoming known for it. SOCA is trying to help children. She asked the Board to consider the children of the community when making their decision.

Ms. Mary Jo Natale addressed the Board, stating that her backyard adjoins this facility, and she cannot imagine why they wouldn't support this proposal. She said that this is a gift towards providing adequate recreational facilities in the county, noting that Albemarle is far behind other localities in what it provides in this regard.

Mr. Bo Campbell addressed the Board, stating that he has grandchildren involved in SOCA. He said that his house is probably the closest one to the soccer field and there is definitely noise when the game is going on. Mr. Campbell commented that he will be able to see the lighted field from his home, and his primary concern is that the expansion might eventually have SOCA coming back and asking for additional hours, lighting times, etc. He stated that he encourages the Board to uphold the Commission's decision, and if not they should ban the lights.

Mr. Matt Wilson addressed the Board, stating that 295 people signed a petition outside the meeting in support of this project. Mr. Wilson said that in 1990, Covenant Church received approval of a special use permit for an 800-person sanctuary, parking lot, and sewer connection. He stated that the SOCA site would keep noise and lights in, and the elements out. Mr. Wilson described the merits of SOCA as an organization, noting that the new facility would be the same quality as other SOCA projects.

Ms. Lisa Mirvelli of Still Meadows addressed the Board, stating that there needs to be a two-third majority vote in order for an item to be considered representative of the neighborhood. She said that the neighborhood does not take the position that Ms. Craddock portrayed, and what SOCA is asking for is not going to create any more noise.

Ms. Andrea Larson addressed the Board, stating that she has two children that have been involved with SOCA. She reiterated the merits of the organization and its willingness to partner to try to advance the soccer programs for young people in the community. Ms. Larson said that there will always be people who oppose, but the Board's challenge is to try to look at the common good provided here. This is about a gift. SOCA is bringing a gift to our community, a huge financial gift. There will be no additional taxes imposed on anyone for this facility. She added that this is about what kind of quality of life will be provided for children and the community as it goes forward.

Mr. Dave Wilson addressed the Board, stating that he is a city resident and a former SOCA Board member. He said that the County put restrictions on SOCA when they built the first field, but SOCA has lived up to every one of them.

Ms. Christine Grimshaw addressed the Board, stating that SOCA has helped boost her confidence, character, and personality, and has helped her make friends. Several of her friends and fellow players spoke in support of the new fields.

An individual whose name was inaudible addressed the Board, stating that she does speak out against more shopping centers, but does support this project as a soccer player and parent of two soccer players. She stated that SOCA has helped her daughter in a positive, motivating way, and stated that she plays in the adult league.

Mr. Joe Lombardo, a SOCA coach, addressed the Board and expressed support for this project. He said that he didn't hear any valid reasoning as to why it cannot go forward, especially in light of the concessions the organization has made after the Planning Commission hearing.

The applicant summarized his previous position. Mr. Mueller emphasized that this project does not really provide a precedent – it is a unique use as recreational athletics, it is a unique organization, and

it is a unique site. He said that the site is not easily reversible to agricultural or forestal use, and they hope to turn it into a gem. Mr. Mueller said that SOCA would gladly comply with any restrictions, and this is not a commercial operation. He noted that ACAC has been a good sponsor, but they are not in a joint venture with SOCA. Mr. Mueller said the maximum numbers are not normal, but are peaks that will occur on random days each year. He stated that the organization is not rich, and pumps its money right back into the community, and said that their total payroll is \$340,000 for 10 employees. Regarding traffic, Mr. Mueller said that total volume is spread out over the course of the day and there are not massive surges of peak traffic. He concluded by saying that he hopes the Board envisions a future with this facility in the community.

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

Mr. Boyd said that this is located in his district and this is a very difficult decision. He stated that everyone realizes the contribution SOCA makes to the community, and there is an obvious need for more sports facilities here. Mr. Boyd also said that he is sympathetic to neighbors who have expressed concern about noise and light pollution. He commented that all members of this Board are committed to preserving rural areas, but perhaps their ideas as to how to accomplish that are different. Mr. Boyd stated that he is not going to support this proposal tonight, but he will do everything in his power to try to help SOCA find another site in this community.

Mr. Slutzky commented that this is a very difficult decision for him also, and he heard a very compelling argument that SOCA provides an extraordinary service; but what he did not hear was a compelling argument as to why the Board should step over their commitment to preserving the rural areas and grant the special use permit. He said that the County has an obligation to be proactive in providing space for an indoor facility and a good number of additional athletic fields. Mr. Slutzky explained that he is going to vote against this and uphold the Comprehensive Plan, but vowed to step up and work with staff to help find an alternative location that is inside the designated growth area.

Mr. Rooker stated that both Mr. Boyd and Mr. Slutzky have framed the issues well, and the speakers tonight have been exceptionally well-spoken. He said that there are arguments both ways, but the overriding issue is that this is a 39,000 square foot building in the rural areas, and he has never approved a use of that scale in the rural area. He lives across from Albemarle High School and has never felt that the sounds from the fields detract from his property. He emphasized that everyone thinks that SOCA is a fabulous organization that contributes to the community, but the key issue is whether everyone plays by the rules. Mr. Rooker explained that the Board has tried to protect the rural area but not allowing uses of this size and scale in it, and it would be a mistake to do that here. He agreed that the County needs to work with SOCA to find an appropriate location for the facility, and he met with a group several years ago who had already identified other locations.

Mr. Wyant said that he has spent a lifetime involved with athletics as a player and a referee, and it is difficult to schedule around field usage. He also stated that he supports protection of the rural areas, and there is another proposed facility in the works for other indoor sports fields that would be located not far from this site. Mr. Wyant said that he is concerned about lights, but that can be addressed through technology. He stated that he could not support this for protection of the rural area.

Mr. Dorrier commented that this is already in existence in the rural area, as games go on every day there and have been since 2002. He said that he has problems with saying now that SOCA cannot put two fields in. Mr. Dorrier stated that SOCA has worked very hard to deal with the problems that impact the neighborhood, and he feels the Board should send it back to the Commission.

Ms. Thomas stated that she sees disappointment in the audience, and she does not think the community could have spoken any better about the issues. She said that the reason the Board has been talking about the rural area is that the site is a buffer area between two sections of the community that have been designated as development areas, and the buffer area is a rather precious piece of the rural area. Ms. Thomas stated that whatever the Board does in the rural area becomes a precedent, and the courts look at that closely when they make a decision regarding other sites in the rural area. She said that the lighting issue was adequately addressed, and she does not feel this is a "NIMBY" issue at all.

Mr. Rooker said that it's the 39,000 square foot building that would be out of character with the area, not the addition of extra fields. He said that when he was on the Planning Commission, SOCA had said a few years ago that they wouldn't need to expand their use, and this is a testament to how they have grown.

Mr. Rooker **moved** for denial of SP-2006-0008. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

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

Mr. Boyd reiterated the Board's commitment to helping SOCA find another location for the facility.

Mr. Slutzky asked staff to work with SOCA and Mr. Mueller to find an alternate site.

Ms. Thomas commented that there is land across the street.

Mr. Rooker noted that PVCC might be amenable to collocation on their grounds with the YMCA site.

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Agenda Item No. 11. Request to set public hearing to amend the Jurisdictional Area Boundary to provide sewer service to Tax Map 46, Parcel 22 and 22C located adjacent to the SOCA sports facility on Polo Grounds Road.

Mr. Rooker **moved** not to go to public hearing for the jurisdictional boundary adjustment associated with SP-2006-0008. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

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

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**(Note:** The Board took a brief recess, and then reconvened.)

Agenda Item No. 12. Public Hearing: ZMA-2006-005, Avinity (Sign #75). PROPOSAL: Rezone approximately 9.5 acres from R-1 Residential (1 unit/acre) to PRD Planned Residential Development (3-34 units per acre with limited commercial use) for a maximum of 124 units at a density of 13.26 units/acre, with proffers. PROFFERS: Yes. EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 4. ENTRANCE CORRIDOR: Yes. LOCATION: Avon Street Extended (Route 742) approx. 1/2 mile south of intersection with Mill Creek Drive. TAX MAP/PARCEL: TMP 91-14, 90-35J, 90-35K, 90-35L. Scottsville District. (Notice of this public hearing was advertised in the Daily Progress on March 26 and April 2, 2007.)

Mr. Cilimberg reported that this request would allow a rezoning to 124 units from an existing potential of 13 dwelling units, and would involve using density bonuses. He said that the proposal went to the Planning Commission on March 20<sup>th</sup> for public hearing, and staff recommended approval as did the Commission. Mr. Cilimberg said that the site is south of Cale Elementary School, noting some pictures which show the boundaries. He noted that the development would have private streets, 15 percent affordable housing, and \$3,200 per unit for CIP projects. Mr. Cilimberg said that staff recommended approval with some changes to proffer language, and there were also some waivers involved that the Commission acted on.

Since the recommendation for approval, he reported, the applicant has addressed the issues raised by the Planning Commission - \$16,500 per unit in lieu of affordable housing units; proffers corrected; screen provided in the back of the site to help mitigate visual impact; and other notes clarifying the plan. Mr. Cilimberg said that the affordable housing aspect was the most significant, and there continues to be some question as to how the impacts are being addressed through cash proffers. He stated that the housing director has said in general that providing affordable units is the goal of the policy, and cash is the exception; the Commission agrees and is looking for some assurance that if the units are not being occupied cash could be provided. Mr. Cilimberg said that Mr. White has indicated that this proposal would set a precedent if cash is accepted outright.

Mr. Cilimberg said that there are two options: Option A is the fairly typical one and has been reviewed and accepted by staff; Option B would try to address the Planning Commission's recommendation. He stated that staff recommends approval provided the Board can accept the Option A proffer.

Mr. Ron White, Director of Housing, explained that he is recommending the standard language that has been recommended in other proffers where once the affordable units are built there's a period of time when qualified purchasers are sought; if they are not found in that timeframe those units would still count as affordable. He said that the Commission had concerns with that because they were afraid of losing affordable units and not having access to cash. Mr. White said that their suggestion was getting cash from the developer if there was not a qualified buyer 60 days after the 90-day notice period, but it's hard to imagine that any developer would build the housing because the housing would already be being built during that 90-day period.

Mr. White added that the second suggestion was doing something at the site plan stage, but he cannot really support that because it puts his office in the position of forecasting out months or years until those units hit the ground. He said that if there is a glut of affordable housing, then the policy should be revisited, not having something in place that is difficult.

Mr. Rooker asked why it would be detrimental for them to have the option for a cash contribution in lieu of housing. Mr. White responded it wouldn't be detrimental to the policy, but it puts him in a position of being second-guessed because there's not the ability to forecast.

Mr. Rooker commented that if there is no one ready to go into a unit, then that unit is lost and so is a contribution to the fund.

Mr. White said that the intent of the policy is to create affordable housing stock.

Mr. Boyd asked why this was coming up now, as it is not a new issue.

Mr. White replied that perhaps there is a perception by the Commission that there may be a problem down the road in that the units will be built without occupants for them.

Mr. Rooker stated that he respectfully disagrees with Mr. White's position, because it was established before that contributions were needed for down payment assistance, as well as affordable housing units. He does not see how the Board is hurt by having an option to accept cash.

Mr. Dorrier said that the area around Cale Elementary is a likely growth area, and anything that can be done for affordable housing in the area is going to be helpful.

Mr. White reiterated that the idea is to build a supply of affordable housing stock.

Mr. Rooker agreed, but asked what happens if there is no buyer for a house.

Ms. Thomas asked under which circumstances there wouldn't be buyers for affordable houses.

Mr. White said that the concern is more for affordable financing than someone who wants an affordable house, and the market cannot be controlled as far as interest rates go.

Ms. Thomas asked what would happen if an affordable housing client does not take a house, but a workforce housing person does, will that break the proffer?

Mr. White stated that he's presenting something to the Housing Committee tomorrow, and they would like a joint meeting with the Board. He said that his impression from members is that the priority is getting the affordable unit built, and not worry too much about who buys it.

Mr. Slutzky said that prior to the Committee coming back with a recommendation, the Board is facing proposals that contain proffers that have to be addressed now. He is not sure that it is fair to the applicant to punish them for the fact that the Board has not given an answer that it is satisfied with to the Board's own question of how to ensure affordable housing units. Mr. Slutzky asked if the down payment assistance could be a good near-term solution until the housing policy is being ironed out for the long-term. He would be comfortable moving forward with that proffer in this instance for that reason and not try to tell the marketplace that that is the Board's policy going forward until we have a better policy.

Mr. Rooker agreed, saying that it would be unwise to lose the down payment assistance money if a buyer for a unit is not found.

Ms. Thomas commented that it might not be possible to find a buyer that is in the 80% of median income level.

Mr. Davis said that the proffer states there is no price control if an affordable buyer is not provided, and the notice works by having the developer notify the Housing Office within 120 days of when the unit will be finished, and the County has to provide a buyer within 90 days; with 30 days left they could choose to upgrade the unit to increase the value and/or marketability.

At this time the Chairman opened the public hearing, and asked the applicant to come forward.

The applicant, Mr. Mark Keller, of Terra Concepts, addressed the Board. Mr. Keller said that the developers don't want the affordable aspect of this project to go away, and if there is not a family available that meets all the criteria to qualify for a unit that indicates there is not a long line waiting for that kind of non-market unit at this time. He stated that having the \$16,500 could be made available for people who aren't as needy, but might need the down payment assistance. Maybe the credit is there, but maybe the nest-egg is not. Mr. Keller said that it is wise to have a policy with a "fallback position."

Ms. Thomas asked him about the lack of playground and other amenities.

Mr. Keller responded that the Cale Elementary School has a lot of large playfields nearby, and he felt that the best approach would be to provide a pedestrian access to the property. He said that they are proposing two quadrangles of buildings that include a clubhouse with a basement/fitness center and a swimming pool behind that. Mr. Keller said that there are walking trails around the whole inside, and in the back there is a large lawn panel for more free play. He noted that once you are inside the building envelopes, it is a pure pedestrian environment.

There being no other comments, the public hearing was closed.

Mr. Rooker commented that he's not going to support this, because he feels the contribution to infrastructure is inadequate. He noted that Biscuit Run is coming before the Board in the next few months and the discussion there has been for proffers that are higher than this project is offering per unit. Mr. Rooker asked if a precedent would be set by approving a development with proffers that are less per unit without a lot of the amenities that the County is going to try to get from Biscuit Run. He needs to see contributions of about \$10,000 per unit towards infrastructure, and he's not comfortable accepting such a low amount from a development that is increasing the density by ten times. Mr. Rooker commented that the development itself is well done.

Mr. Dorrier commented that the Planning Commission and staff have both recommended approval, and the Board cannot take Biscuit Run into account in reviewing this development.

Mr. Rooker clarified that the proffer made related to affordable housing is fine, but his concern is related to the proffers towards infrastructure in the County, and he has not been in favor of supporting developments with such a low amount.

Mr. Cilimberg pointed out the page that includes average proffer amounts from rezoning over the last three years.

Mr. Rooker said that Hayden Place had provided proffers to address transportation impacts, in a combination of cash and external improvements.

**Motion** was then offered by Mr. Dorrier to approve ZMA-2006-005, as proffered, with Option B.

Mr. Davis clarified that that option provides that the County at or before the site plan approval can opt for cash rather than the affordable unit.

Ms. Thomas said that she was convinced by staff that Option A was better.

Mr. Rooker stated that he would support it except for the level of the cash proffer.

Mr. Slutzky commented that he would like to hear more from Board members about the proffer amounts.

Ms. Thomas said that she has been all over the map with her votes lately, and people are wanting more out of the cost of development, and certainly impact fees could reduce the pressure from the real estate tax. She agreed that she would like for the development to pay for itself in terms of impacts, and she would like to see higher proffers on this one.

Mr. Wyant asked about Hayden Place's amount of over \$9,000 per unit.

Mr. Davis replied that that development factored in the cost of the offsite road improvements into the total cash value then divided by the total number of units.

Mr. Rooker noted that the Board gave credit for improvements that were outside what was immediately adjacent to the property – offsite improvements that weren't associated directly with the project itself.

Mr. Cilimberg mentioned that it included offsite improvements from Hayden Lane going north and south.

Ms. Valerie Long then addressed the Board, noting that in this case there is already a road that is adequate to serve the development, unlike Hayden Place. She said that in addition, they received credit in the amount of \$16,500 for each of the affordable units proffered. Ms. Long said that the Avinty project is proffering \$3,200 for all units – townhouses and condominiums – and is thus proffering more on a per-unit basis; there are no single-family detached units. She added that Avinty has already built a community waterline from Avon Street to the back-side of the property, about 1,300 feet long at a cost of \$50,000.

Mr. Keller confirmed that part of the waterline would serve the community, but it's upsized significantly from what would have been put in.

Ms. Long also said that the Hayden Place project was not subject to ARB review, and this project is and they have approved it along with required provisions that will be applied at the site plan phase, thus increasing costs tremendously.

Mr. Rooker noted that in Prince William County, they have computed their transportation impact fees to be \$20,000 per unit.

Mr. Wyant said that he is still struggling with the proffer amount.

Mr. Slutzky commented that he's never voted against a good development project in the growth area because of his concern about protecting the rural area. He said that what's different tonight is that the Board chose to drop the tax rate, and providing infrastructure is going to be increasingly difficult. He feels the Board must start giving some clear signals about what we're going to do with proffers. Is the Board going to expect more? Has the Board chosen as a Board by reducing the tax rate to shift more of the burden to the proffer side of the equation, or is the Board planning on not charging the developers more proffer money and then not maintain the tax rate and end up not fulfilling the Boards commitment to the community to honor the Comprehensive Plan and the Neighborhood Model vision for the growth areas.

Mr. Rooker said that the community during the budget hearings was very consistent in saying that the County should have development pay for the cost that it imposes on infrastructure, that existing taxpayers don't want to pay for the cost that is incurred as a result of growth. That was a fairly consistent message. He stated that the County has been asking the legislature year after year for impact fees, and if the Board approves one project at a low impact fee rate, then that is held up as an example for the next rezoning. Mr. Rooker said that Fairfax's proffer is \$79,000, Loudon's is over \$40,000, and the \$3,200 number is simply too low.

He added the Board should not be approving development with \$3,200 cash proffers to infrastructure. Mr. Rooker said that providing a waterline that they're going to use is not a significant contribution to public infrastructure. He feels the Board should stop putting ourselves in a position where we are approving things where they then become the example the next time something comes before us, and everybody's scratching their heads saying 'Well last time we did \$3,200.'

Mr. Dorrier said that he could support an increase in the fee, perhaps a compromise at \$5,000.

Mr. Davis stated that an analysis of this could probably define impacts that are greater than \$3,200, but there is no requirement that the Board receive a proffer to address the full impacts and the Board in the past has not had a policy that required that. He said that there is no mandate for approval at all, and if this proposal does not address the impacts they are not obligated to approve the proposal.

Mr. Cilimberg noted that the impacts for cash proffers to recover are capital projects, and there is a total that could be gleaned from the fiscal impact analysis.

Mr. Rooker said that that type of analysis is not always comparable to the impact analysis he has seen for recovery of infrastructure in the form of the cash proffer policies.

In response to Mr. Slutzky's question about total impact of development, Mr. Cilimberg indicated that staff has been unable to do that effectively in the past.

Mr. Boyd said that the Fiscal Impact Committee is trying to factor in transportation costs in their deliberations.

Mr. Rooker emphasized that \$3,200 is not even close.

Ms. Long said that her client would be happy to take a deferral to re-examine the proffers and make those comparisons, adding that the applicant has gone above and beyond the Neighborhood Model. She stated that this project is equal or better in terms of proffers when compared to other recent approvals. She feels it would be a disservice to this application to treat the developer differently in this case and hold the change in the tax rate that occurred mere hours earlier when we're at this point, when there are no other issues that have been identified with this project.

Mr. Cilimberg said that staff is going to need some time to work on calculating value, so it can be based on staff analysis.

Mr. Rooker commented that if they continue to make approvals with inadequate contributions to infrastructure, then it never stops.

Ms. Thomas stated that the Board has just received a storm of protest against the real estate tax, and part of that is that they don't want the burden of this kind of new development and its inhabitants to fall on existing taxpayers of the County.

Ms. Long said that delays just add to the challenge, and they would like to be on the agenda as soon as possible. But she said that the applicant would agree to deferral.

Mr. Davis said that state law will require re-advertisement, and that might not be possible by May.

Mr. Cilimberg clarified the Board's expectations as to what should be brought back.

Board members clarified that they want to pursue Option B for the affordable housing.

Mr. Cilimberg noted that Mr. Allshouse is running this as an average cost model, so every unit that he's calculating the impact of is a unit anywhere in the County. He added that these numbers represent the type of units proposed in this project, and if they were provided anywhere else in a by-right development it would be the same impact.

Mr. Rooker added that the property use is being increased by about 11 times its use.

Mr. Dorrier then **withdrew** his motion.

Mr. Rooker then **moved** to accept the applicant's request for deferral. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

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Agenda Item No. 13. Public Hearing: ZMA-2006-011 Whittington PRD Amendment (Sign #70).  
PROPOSAL: Rezone 182.58 acres from Planned Residential Development (PRD) to PRD with an application plan (see Zoning Ordinance § 8.5.5.5). The PRD district allows residential uses at a density range not to exceed 35 units per acre. The proposed application plan would allow 96 residential units and a residential density of approximately 0.53 residential units per acre. PROFFERS: Yes. EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre). ENTRANCE CORRIDOR: No. LOCATION: Old Lynchburg Road [Route # 631] approximately 500 feet north of the

intersection with Forest Lodge Drive. TAX MAP/PARCEL: 89-95, 90-3, 90-45, 90-46, 90-47, 90-48. Samuel Miller District. (Notice of this public hearing was advertised in the Daily Progress on March 26 and April 2, 2007.)

Mr. Cilimberg reported that there are two rezonings referred to in the report, and it was the second of those in 1980 that had a plan associated with it. He said that this proposal was made in response to a zoning determination stating that the approval of any site development plan or subdivision plat for this property is subject to the approval of an application plan that meets the provisions of section eight of the zoning ordinance. Mr. Cilimberg said that the rezoning did not meet those standards, so the plan presented does not meet those standards and the applicants have the choice of having their plat reviewed under the former or current ordinance.

Mr. Cilimberg explained that two features of the plat will be reviewed under current standards – public roads, which must meet current VDOT standards, and the storm water management features – and they would be reviewed during the subdivision plat review. He added that this proposal is essentially replacing the plan that it exists to meet the section eight requirements, and would replace the 104 lots in the original plan with 96 lots instead. Mr. Cilimberg said that it runs down a ridge that faces eastward and is on Old Lynchburg Road. He noted that the new plan will meet section eight requirements, and the review focuses on whether this is an acceptable plan because the zoning exists.

Mr. Cilimberg noted that the proposal has been made to meet current zoning requirements and does not propose to increase development in the rural areas; it does reduce the lots in the rural areas. If this were a new rezoning, it would undoubtedly be recommended for denial; but it is old planned development zoning so staff recommends approval with associated proffers. He said that the Planning Commission has indicated that this is acceptable.

Mr. Davis explained that in 1980, the Board approved a rezoning to PRD use, but it was subject to having an approvable application plan to allow the development to happen. He said that the only thing this developer lacks is the application plan, and what they have submitted meets all the ordinance requirements. Mr. Davis said that if the Board denied it without reason, they would be denied a reasonable use of their property and that would be a taking of their property. He added that staff would recommend that it be approved as there were no deficiencies found.

Ms. Thomas noted that it could be returned back to rural areas and that would be a spot down zoning. She said that this is an example of what happens when the Board prematurely zones a piece of property, and when there's development where there are no proffers. She said that VDOT has ensured that the entrances off of Lynchburg Road would be improved, but there is no way to get proffers to deal with offsite improvements.

Mr. Cilimberg confirmed that some of the initial acreage was returned to RA in another rezoning.

Public comment was invited.

The applicant, Chris Cooley with Stonehaus, addressed the Board. He clarified that the rezoned property was done so in error, and that is why the number of units is less. Mr. Cooley said that the property owners have been paying taxes on the property as rezoned, so Stonehaus has taken it to develop it with a few additional amenities.

Ms. Thomas said that there would be nice trails, and wondered if the homeowners' association could encourage people to participate in maintenance in return for using the trails.

Mr. Cooley said that the residents of Mosby Mountain were promised trails that they never got, so this is a nice thing for them.

Mr. Craig DuBose addressed the Board, stating that it is a shame to end the evening with this application, and appealed to the developer to do what they intend to do. Mr. DuBose read a few bits from the Stonehaus website, saying that this project will neither enhance nor preserve the rural character of this portion of Old Lynchburg Road. He added that the staff report notes that this proposal is not consistent with the rural areas policy. Mr. DuBose noted that the Planning Commission majority expressed serious reservations about this project, and he is not greatly optimistic that the developer will live up to his words.

Mr. Seth Oldham, Mr. DuBose's neighbor, addressed the Board, stating his disappointment about this proposal. He said that he has lived there for nine years with his family and has enjoyed the woods there, and asked the Board to protect the stream there as much as possible. He also added that he would like to see bike lanes on Old Lynchburg Road.

Ms. Thomas commented that the Board can require everything that they would of a new development, but encouraged Mr. Oldham to keep in touch with engineering so that his intermittent stream continued to be protected.

Mr. Cilimberg said that there would be notification to him as an adjacent property owner.

Mr. Cooley announced that Belvedere and Cascadia were submitted to the LEED N.D. pilot program, and 120 projects would be selected nationwide. He said that Hauser Homes and Churchill Builders were transferring to Earthcraft Homes. Mr. Cooley also offered to walk the site with the neighbors.

In response to Ms. Thomas' question about Earthcraft standards, Mr. Cooley said that he could not commit to an Earthcraft standard tonight.

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

Ms. Thomas **moved** for approval of ZMA 2006-011, Whittington PRD, with proffers as presented, dated February 8, 2007. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

**(The proffers are set out in full below:)**

#### Proffer Form

**Date:** February 8, 2007

**ZMA:** 2006-011

**Tax Map and Parcel Numbers:** 89-95, 90-3, 90-45, 46, 47, 48

214.5 Acres was rezoned from A-i to RPN/RS-1 on November 16, 1977 as ZMA-77-18 and included 12 conditions of approval. On May 21, 1980, condition 8 of said conditions of approval was amended by way of ZMA-80-07. On December 10, 1980, said property was rezoned from RPN/RS-1 to PRD (Planned Residential Development) by way of a comprehensive rezoning of Albemarle County. 14.176 Acres, a portion of Tax Map 89, Parcel 73A, was rezoned from PRD to RA per ZMA-2004-13. This Proffer Form does hereby amend the 12 conditions as approved on November 16, 1977 and amended on May 21, 1980. This amendment is in accordance with the Application Plan titled Whittington, dated June 26, 2006: revised 11/22/06 and prepared by Dominion Development Resources, LLC

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

1. Approval is for a maximum potential of 96 single-family residential lots. Open Space is intended to be held in private ownership by dedication to a homeowners' association. Responsibility for and maintenance of Open Space shall be outlined in the Covenants and Restrictions of the homeowners association. Prior to final plat approval, this document shall be reviewed and approved by the Albemarle County Attorney's office.
2. Each lot shall be at least 40,000 gross square feet in area.
3. All lots shall use internal roads as the sole means of ingress/egress. Direct access from lots to Route 631 will not be permitted.
4. Disturbance of slopes of 25% or greater shall be administratively approved by Albemarle County engineering staff under the following circumstances: Prior to or in conjunction with final plat submittal, the applicant shall submit an overlot grading plan to Albemarle County for engineering staff review. An overlot grading plan is defined as a drawing showing existing and proposed topographic features to be considered in the development of the proposed subdivision, and satisfying the following:
  - a. The plan shall show all proposed streets, building sites, surface drainage, driveways, trails, and other features the agent determines are needed to verify that the plan conforms to the Application Plan Amendment for Whittington, dated June 26, 2006, last revised November 22, 2006 by Dominion Development Resources, LLC.
  - b. The plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet.
  - c. All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from flooding of dwellings in the event a storm sewer fails.
  - d. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the agent finds that the grading recommendations for steeper slopes have adequately addressed the impacts.
  - e. Surface drainage shall not flow across more than three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots. No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.
  - f. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
  - g. The plan shall demonstrate that driveways to lots will not be steeper than twenty (20) percent and shall include grading transitions at the street that the agent determines will allow passenger vehicles to avoid scraping the vehicle body on the driveway or the street.

Additionally, the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length that will be graded no steeper than eight (8) percent.

- h. The plan shall demonstrate that an area at least ten (10) feet in width, measured outward from the face of the structure, has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings. This graded area shall extend from entrances to driveways or walkways connecting the dwelling to the street.
- 5. The minimum building setback from all interior public street right-of-way lines shall be thirty feet.
- 6. Prior to or in conjunction with the first final subdivision plat for the project, the Owner shall dedicate as public right-of-way and convey in fee simple to Albemarle County strips of land no less than fifty-five (55) feet in depth across the Property identified as 55 FT ROW DEDICATION FROM CENTERLINE OF 631" in the locations shown on Sheet No. 2 of the Application Plan Amendment for Whittington, dated June 26, 2006, last revised November 22, 2006, together with the dedication and conveyance of all necessary drainage easements and the conveyance of necessary construction easements for improvements to State Route 631. If the strips of land are not dedicated as part of a subdivision plat, the Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the County Attorney necessary to dedicate and convey the right-of-way.
- 7. Development shall be in general accord with the attached Application Plan titled "Application Plan Amendment for Whittington" dated June 26, 2006, revised 11/22/06, by Dominion Development Resources, LLC.
- 8. The 25 feet screening and landscaping easement shown on the Application Plan shall be planted and maintained to meet current regulations for screening as described in sections 18-32.7.9.8.a and 18-32.7.9.8.c.4 of the Albemarle County Zoning Ordinance. Screening shall be established and completed by the developer of Whittington prior to the issuance of the Certificate of Occupancy for the 3rd dwelling unit. The developer shall also assume short-term responsibility for the maintenance of the screening until a homeowners' association (HOA) for the development has been established. Once established the easement shall be deeded to the HOA. Long-term responsibility for and maintenance of screening within the easement shall be outlined in the Covenants and Restrictions of the HOA. Prior to final plat approval, this document shall be reviewed and approved by the Albemarle County Attorney's office. Additionally, a note alerting affected owners to this easement restriction on their property shall be stated on the final plat for those lots.
- 9. All trails shown on the Application Plan shall be constructed as a Class B "primitive" trail as described in the Greenway Plan, Appendix A, of the current Albemarle County Comprehensive Plan. The trails shall be completed prior to the issuance of the Certificate of Occupancy for the 48th dwelling unit.
- 10. Storm water quality and detention practices shall be as specified in Chapter 17, the Water Protection Ordinance of the Albemarle County Code.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Printed Name of Owner

\_\_\_\_\_  
Date

Agenda Item No. 21. From the Board: Committee Reports and Matters not Listed on the Agenda.

There were none.

Agenda Item No. 15. Adjourn.

At 11:51 p.m., with no further business to come before the Board, Mr. Rooker **moved** for the Board to adjourn to April 11, 2007 at 3:00 p.m. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

\_\_\_\_\_  
Chairman

Approved by the  
Board of County  
Supervisors

Date: 09/12/2007

Initials: EWJ