

A meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 11, 2007, at 9:00 a.m., in the Lane Auditorium in the County Office Building on McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, Director of Planning, Wayne Cilimberg, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

Agenda Item No. 1. The meeting was called to order at 9:02 a.m., by the Chairman, Mr. Boyd.

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

Agenda Item No. 4. From the Board: Matters Not Listed on the Agenda.

Mr. Slutzky inquired about a request from IMPACT that the County, City and University of Virginia form a Housing Advisory Committee. He asked if it would include Board members, stating that it would be helpful to have one or two on the committee.

Mr. Boyd said that there is a preliminary meeting tomorrow involving City and County representatives to talk about this, and his understanding is that there would be Board representation.

Mr. Rooker mentioned that the County already has a Housing Committee that has followed a process, and it would not be a good idea to form a new committee that circumvents their work.

Mr. Dorrier stated that the existing Housing Committee needs to be broadened, adding that IMPACT is bringing new perspectives to the table.

Mr. Rooker commented that one of the Housing Committee members should be on the new advisory committee. He added that this is the first he has heard of the meeting tomorrow.

Mr. Boyd responded that this group is meeting at the request of the Housing Director.

Mr. Rooker distributed the "U.S. Cool Counties Climate Stabilization Declaration," which a number of counties have adopted and many others are considering. He noted that Fairfax County has participated. Mr. Rooker explained that this relates to carbon emissions caps, and he would like to discuss this in the future for possible adoption. He said if the County is going to be a part of the solution to global warming, our community needs to act responsibly, recognize that there is a problem, and do what it can within its financial constraints to help solve that problem.

Mr. Rooker handed out a letter from Betty Black, the County's representative on the Community Mobility Committee. He said that she spent some time riding the bus system and has some specific recommendations in terms of transit and pedestrian facilities that lead up to transit, such as waiting areas. He provided a copy of the letter Juandiego Wade, Transportation Planner, to review the recommendations.

Mr. Rooker discussed the use of school buildings for other purposes, such as seniors, noting that the Jefferson Institute for Life Long Learning (JILL) had addressed the Board regarding expansion of Albemarle High School to provide space for them during the school's expansion. He said that the architect would need \$10,000 to incorporate the uses JILL might make, and a second stage would be to do a concept plan costing an additional \$150,000. Mr. Rooker emphasized that they are reaching a stage in this process for the design where some preliminary decisions need to be made to keep open the possibility of a multi-use facility. He added that if the high school ever needed that space, they could take it over.

Mr. Tucker said that he received something in writing from JILL yesterday, and he had already scheduled the discussion for the August 1st meeting, after the proposal is reviewed.

Ms. Thomas thanked Ann and Dennis Rooker for hosting a dinner at their house when the Italian contingency visited. She also thanked Lee Catlin and County staff for their assistance. She said that the group would like to have more student and tourism exchanges, including an international golf tournament.

Ms. Thomas said that the Rivanna River Basin Commission and the Historic Preservation Committee have been working on whether the County needs to look at more ordinances. The ACE Committee is encouraging Board members to attend the grand opening of a photo exhibit on July 27th.

Mr. Dorrier said that he met with representatives from IMPACT, and they talked about affordable housing as well as public transit. He stated that he wondered if there is a subcommittee of the Board working on the issue of public transit.

Ms. Thomas replied that the two board representatives on the MPO were working on that.

Mr. Tucker said that the TJPDC is working with consultants to take a look at some regional transportation options.

Mr. Rooker added that there is a whole process in place to create a public transit authority, and there are several interim decisions that would need to be made as well as the creation of the authority itself.

Mr. Slutzky said that IMPACT's agenda has been a focus of the MPO.

Mr. Rooker added that IMPACT would be welcome to address the MPO at any meeting.

Agenda Item No. 5. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Susan Pleiss addressed the Board on behalf of IMPACT, regarding Item 6.5 on the Consent Agenda, the Charlottesville Transit Service recommendation for use of additional transit funding. She said that this item provides a staff recommendation for expanded transit service for an additional quarter million allocated in FY08, and one of IMPACT's priority issues has been to identify service gaps in public transportation with an emphasis on improving access to employment centers and services. Ms. Pleiss said that IMPACT fully supports the recommendation to fund Route 2-B, the new service to Southwood Mobile Home Park, and the County Office Building on 5th Street. She stated that Hispanic ridership from Southwood is growing, but residents are confused by signage and scheduling, and it would be helpful to have the bus route printed in the Spanish Language newspaper. Ms. Pleiss also said that residents would like to see the first bus arrive earlier so they can get to work on time.

Ms. Pleiss said that the second recommendation is to improve service frequency on Route 5 by adding a bus and having busses run every 30 minutes instead of the current 45 minutes, but this does not address the existing gap on this route which is lack of evening service. She said that Route 5 currently runs to 7:00 p.m., and IMPACT has asked for an additional five hours of service to provide access to jobs at the University of Virginia for people working evening shifts at the medical center and on grounds. Ms. Pleiss added that there are also lots of retail businesses and nursing homes with evening shifts. She noted that the IRC settles many families who live in apartment complexes along Route 5 and who work these evening shifts which end at 10:30 p.m. or 11:00 p.m.

Ms. Pleiss added that the staff recommendations only look at maximizing ridership return. She emphasized that transit riders on both day and night shifts are from households that do not own an automobile, about 55 to 60 percent.

Ms. Allison Mitchell addressed the Board, presenting a slide show regarding Gilbert Station Road. She noted that .4 miles of loose gravel road will be left unpaved between two paved sections of the entire six miles of Gilbert Station Road. Ms. Mitchell said that the bridge over the creek within the four mile stretch has pavement on either side of that bridge, and residents have to use automatic traction control or all wheel drive to get up the hill. She noted that the .4 miles is continuously in a washboard state. She said that Burnley Road and Burnley Station Road are paved, and they have a steep access ridge which is similar. Ms. Mitchell said that residents would like the section paved and speed limit signs added. She stated that if this is not possible, they would like to be on the priority list for a no-plan project with VDOT. She noted that increased maintenance is needed because of drainage issues. Ms. Mitchell also said that the Norfolk Southern's railroad bridge needs to be repaired.

Mr. Tom Twomey addressed the Board on behalf of IMPACT, which is comprised of 25 diverse church congregations and thousands of members committed to social justice. He said that they are focusing on the working poor, who make less than \$20,000 a year and who are essential workers in keeping the community running smoothly. Mr. Twomey said that a recent study showed that there are an estimated 6,000 families in the planning district who earn less than \$20,000 a year. He said for this population, there is a deficit of 4,000 units of affordable housing, and they must sacrifice other needs or become homeless, live with other families, or leave the area. Mr. Twomey reported that in 2003, 84 schoolchildren became homeless; in 2004 it was 219; in 2005 it was 284; and in 2007 it was 320. He said this illustrates the problem of inadequate affordable housing. Mr. Twomey said that IMPACT has met with many top level business officials in the community, and they are aware of the housing crisis as it affects their employees and are supportive of IMPACT's work. He said that the group recommends that the County form a high level task force with the City of Charlottesville and the University of Virginia. He also said that the group wants them to develop a plan to add at least 150 affordable housing units over the next five years for families earning \$20,000 or less and that they remain affordable for at least 15 years. Mr. Twomey said that Leonard Sandridge of the University of Virginia has committed a high level

representative to the task force, and IMPACT has met individually with each Board of Supervisors member. He concluded by saying that the Board should provide the strong leadership and necessary funding for the formation and success of the task force.

Mr. Paul Newland, an officer of the Advance Mills Village Homeowners' Association, addressed the Board. He thanked the Board, Juandiego Wade, and Alan Sumpter for their attention to issues related to the neighborhood. Mr. Newland said that there are only two homes in the area that can be reasonably expected to represent the area at the turn of the century, as all the other homes, the original country store, and the mill are gone, destroyed by fire over 60 years ago. He stated that the replacement store was demolished in the spring of 2007. Mr. Newland said that the bridge under discussion today was a 20th century, all metal pratt-truss bridge, and was never part of the original community but was moved here in the 1940s when the original bridge was demolished due to structural failure. He said that there are 900 bridges like this around the country as they are the most commonly used truss type for spans under 250 feet. Mr. Newland said this is clearly not a unique bridge. He stated that for the estimated amount of traffic, there should be a 20 to 30 ton capacity bridge and that would carry all school busses, fire equipment, and rescue vehicles.

Mr. Bob Overstreet, an Advance Mills resident, addressed the Board to present the concerns of his neighbor Barbara Stevens, who could not attend today. Mr. Overstreet said that the access to this area has been hindered for years because of weight restrictions and the bridge closing. He explained that the biggest issue with busses is that children are riding over Durrett Ridge Road, and Ms. Stevens has said that this route is the worst in the County. Mr. Overstreet said that the Route 641 and US Route 29 intersection is very unsafe, with numerous accidents; a traffic light was promised but is still not there. He stated that the postal service has switched to Ruckersville, further excluding this area, and he asked why this area is not reaping the benefits of their tax dollars. Mr. Overstreet commented that they should not risk the safety of children just to save an old broken-down bridge that has no real historical value.

Mr. George Ackerman addressed the Board, stating that he lives in Advance Mills and is concerned about the consequences of the bridge closure on a critical medical emergency in our part of the County. He said that distances are great enough within the County for vehicles even under optimal conditions with all roads being open, and the Earlysville Volunteer Fire Company in conjunction with the Charlottesville Albemarle Rescue Squad has a first responder group. Mr. Ackerman stated that they are among the first to respond to medical emergencies and motor vehicle accidents, and because of continuing problems with the bridge they are not able to effectively carry out their role in a timely manner in the northern communities of the County, specifically the section of Advance Mills on the north side of the bridge. He explained that his family experienced medical emergencies, and the Stony Point crew responded even though they are three times as far as Earlysville; the responding team the second time came from the McIntire Road/250 station, which is even further away. Mr. Ackerman emphasized that if an event had been critical, there is no way the paramedical teams could make up for lost time getting to an emergency. He said that with a functional bridge, Earlysville could respond in five to ten minutes.

Mr. John Mallard of Advance Mills addressed the Board, stating that there are virtually no emergency services for the area. He added that the Executive Summary prepared for this meeting points this out: "the recent bridge closure has had minimal impact on fire rescue service because heavy fire rescue apparatus, including ambulances, has been unable to cross the bridge for some time." Mr. Mallard added that this also affects school bus and police service as well as property values. He stated that they receive no emergency fire service unless the Earlysville Volunteer Fire Department goes to Airport Road north into Greene, turns by Sheetz onto Route 607, and then travels about five miles to Advance Mills. Mr. Mallard said that Albemarle's roads have small bridges that are totally inadequate for heavy fire equipment. He also noted that there have been dangerous incidents on the roads leading to Advance Mills.

Mr. Greg Kane addressed the Board, stating that the Advance Mills community is quietly tucked in the northern part of the County and residents do not ask much from state or local government. He said that they fund the upkeep of roads, pay for snowplowing, and recognize their obligations to pay for County services outside of the immediate community. Mr. Kane said that Route 743 north of the bridge and Durrett Ridge Road is used extensively by cyclists and is very dangerous, yet residents have not complained about the lack of bike lanes. He reported that in 1999, the bridge weight capacity dropped by 30 percent, down to eight tons, and the County did not replace the bridge at that time. Mr. Kane said that the 1995 study done on Advance Mills showed the bridge as one of the best preserved metal truss bridges in the County, and it also lists the bridge under the section of reconstruction of growth (1865-1917), but it was not installed until 1943. He concluded by saying that the residents want a temporary bridge installed to meet needs, a 30-ton bridge if necessary, and the community wants to be fully engaged in both the temporary and long-term solutions.

Mr. Jay Sanderford, Pastor of Blue Ridge Presbyterian Church and a resident of Advance Mills, addressed the Board. He stated that the bridge closure has had a dramatic and adverse impact on the development and growth of his congregation, and their board endorses a quick and prompt temporary and permanent solution to the closure of Route 743 at the North Fork of the Rivanna River. Mr. Sanderford said that members of the church from Earlysville and Free Union have been cut off from access to the church as there are no reasonable alternative routes. He stated that this matter devastates

the hearts of small and large communities. Mr. Sanderford added that on Durrett Ridge Road, he hauls horses and is tired of being run off the road into the ditch because somebody will not yield. He emphasized that the road has two 90-degree blind turns; it is inadequately maintained; and it has a low-water bridge. Mr. Sanderford concluded that it just does not work.

Mr. Al Dougherty addressed the Board, stating that he lives north of the Route 743 bridge. He said that the temporary replacement bridge being contemplated could be a structurally sound 20 to 30 ton bridge that could last easily for ten or more years within the budget and handle all needed fire and rescue equipment. Mr. Dougherty said that recent discussions with ACRO Bridges, VDOT's proposed supplier, indicates the proposed bridge is certified by the Federal Highway Works Administration at a 20-ton capacity; they have also similar models served by 25 to 30 tons they would substitute for little or no additional cost. He said their estimate for the 30-ton bridge is an increase of ten percent for the basic structure that appears to be less than \$40,000. Mr. Dougherty indicated that a six to ten year lifespan with no maintenance can be easily achieved, and this would allow VDOT adequate time to complete the final project. He also said that this would accommodate Earlysville fire trucks and school busses, and he emphasized that the current alternative routes are inadequate and dangerous.

Mr. Steven Meeks addressed the Board, stating that he supports preservation of the Advance Mills Bridge as staff recommends. He noted that the Department of Historic Resources made the designation for the bridge after a full documentation of the entire area, and historic districts include not only the two houses mentioned by the previous speaker, but all the accessory structures, an old schoolhouse, and the bridge itself.

Mr. John Martin of Free Union addressed the Board, stating that the Moormans River will be the first casualty in poor planning as the Rivanna Water and Sewer Authority (RWSA) is suggesting that the pipeline from Ragged Mountain to the South Fork Reservoir not be constructed until 2021 whereas it needs to be built simultaneously with the dam. He emphasized that it will take all the four boards working together to protect the river or it would just be pushed out in priority. Mr. Martin also said that the Meadow Creek interceptor will be rebuilt at a cost of \$19.2 million just to accommodate Albemarle Place. He said that it is time for citizens to go to DEQ and ask for a special condition in the permit to have the pipeline built simultaneously with the dam.

Ms. Mimi Tornrose, who lives north of the 743 Bridge on Advance Mills Road, addressed the Board and said she appreciates the deliberation that has to be made in these matters and trusts that there will be fair deliberation given. She emphasized that this is not a new issue, and the reason for the problem is because the matter has not been attended to when it should have been. Ms. Tornrose disagreed with Mr. Tucker's statement that the detour was reasonable and entailed an additional five minutes. She said that the detour is extremely dangerous and is quite a bit more than five minutes, adding that the situation has impacted property values.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board, stating that he is here to speak on historic preservation matters, as the Advance Mills Bridge is listed on the State and National Registers of Historic Places as a "contributing structure" to the Advance Mills Historic District. He said that that term is a specific legal name preferred by the Department of Historic Resources as part of a collection of structures with that designation to comprise a historic district. Mr. Werner stated that he wants to make clear that it is listed, and there are state and federal regulations that must be followed when discussing alteration that may have impact on this historic district. He said that VDOT wants this to go away so perhaps a creative way needs to be established to protect it.

Mr. Dominic Hauslack addressed the Board, stating that he lives in Advance Mills Historic District in one of the older properties, part of the 30 contributing structures listed. He stated that landowners in the district unanimously support the preservation of the bridge, and VDOT actually acknowledged the importance of a similar bridge in Goshen. Mr. Hauslack presented a map showing where residents who support the bridge preservation live. He said they do speak with a different perspective as people who have made the commitment to live in that place and have been attracted to the historic village because of its significance in history and its specific sense of place. Mr. Hauslack concluded by emphasizing that convenience versus preservation is an important debate, and the Friends of the Advance Mills Historic District feel that money is best spent on permanent and lasting improvements such as improvements to Durrett Ridge Road.

Mr. Palmer Birtch of Advance Mills addressed the Board, stating that he supports preservation of the bridge, and isolation, fear-mongering, convenience, and expediency should play no role in a thoughtful and deliberate discussion on the preservation and restoration of the nationally recognized historic district and its irreplaceable historic truss bridge.

Agenda Item No. 6. Consent Agenda.

Motion was offered by Mr. Rooker, **seconded** by Mr. Wyant, to approve Items 6.2 through 6.6, pull Item 6.5 (Charlottesville Transit Service Recommendation for Use of Additional Transit Funding), for

separate action, on the consent agenda, and to accept the remaining items as information. Roll was called, and the motion passed by the recorded vote which follows:

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

Item No. 6.1. Approval of Minutes. **Removed from the agenda.**

Item No. 6.2. FY 2007 Budget Appropriations.

It was noted in the Executive Summary that the Code of Virginia § 15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

In the past, Code of Virginia § 15.2-2507 required a budget amendment public hearing when the amendment exceeded one percent of the total expenditures shown in the currently adopted budget or the sum of \$500,000, whichever is lesser. Effective July 1, 2007, this code section was amended removing the "or the sum of \$500,000 whichever is lesser" from this requirement, therefore, a budget amendment public hearing will only be required after the cumulative appropriations exceed one percent of the currently adopted budget.

The total of this requested FY 2007 appropriation is \$161,375.92. A budget amendment public hearing will be required if future additional cumulative appropriations exceed one percent of the currently adopted budget.

This request involves the approval of two (2) new FY 2007 appropriations as follows:

- One (1) appropriation (#2007087) totaling \$19,865.00 for a Bulletproof Vest Grant; and
- One (1) appropriation (#2007088) totaling \$141,510.92 for various school programs and grants.

Appropriation #2007087 **\$19,865.00**

Revenue Source:	Federal Revenue (Grant)	\$ 9,932.50
	Transfer from General Fund	9,932.50

The Bureau of Justice awards continuous funding towards the purchase of bulletproof vests to the Albemarle County Police Department, Sheriff's Office, and Albemarle Charlottesville Regional Jail. The award funds 50% of the total cost applied for. The local match amounts for each department comes from their current police supplies budget and will require no additional General Fund monies.

Appropriation #2007088 **\$141,510.92**

Revenue Source:	Local Revenues (Donations/Rentals)	\$ 29,660.45
	State Revenues	70,601.45
	Federal Revenues	25,000.00
	Other Fund Balances	16,249.02

At its meeting on May 24, 2007 the School Board approved the following appropriation requests:

"Families in Crisis" is funded under the McKinney-Vento Homeless Education Assistance Improvement Act, Title X, Part C of the No Child Left Behind Act of 2001. The program is designed to identify students eligible under the Act and provide support services needed to assure their continued success in school. Expenditures have exceeded appropriations for FY06/07 due to funds not being used in FY05/06. Other homeless funds were available and had to be used first. (Emergency Aid Impact funds for displaced Katrina and Rita families)

There is a fund balance retained by the state for FY05/06 in the amount of \$25,000 which may be used for FY06/07. Also there is a local fund balance of \$15,187.32 which may be reappropriated for FY06/07. The funds will be used to provide additional services, including tutoring for the increasing number of homeless students living in the Albemarle County school district of being forced to move out of the district because of circumstances beyond their control. The funds may also be used for emergency needs to include purchasing and delivering items such as food, water, propane, and other items, and temporary after school fees to assure that students remain in a safe environment if needed.

The 2002 General Assembly appropriated funds to support the Teacher Mentor Program for participating school divisions. This program is for beginning and experienced teachers new to Albemarle County Public Schools to conduct mentor workshops and work with principals so that mentors can provide teachers with meaningful and individualized induction into the teaching

profession. Funding for FY06/07 from the state was increased by \$601.45 from the original budget amount of \$9,586. There is also a local fund balance in the amount of \$1,061.70 from FY05/06 and may be reappropriated for FY06/07.

Stone Robinson Elementary School received a donation in the amount of \$3,660.45 from the Stone Robinson PTO. It has been requested that this donation be used to erect a brick announcement sign in front of Stone Robinson School.

Hollymead Elementary School received a donation in the amount of \$3,500.00 from Reflex Offset, Inc. It has been requested that this donation be used to support the Destination Imagination program at Hollymead Elementary School.

Custodial fees are set by the School Board and are charged to groups as needed to supervise and maintain our facilities. Custodial fees have not changed for a number of years. Currently the hourly rate charged for custodial support is \$15/hour. The average overtime rate that our custodians are paid is approximately \$25/hour inclusive of FICA. Currently custodial overtime is impacting the Building Services budget. As groups utilize our facilities, the school division should be charging users the actual cost of custodial services. Approximately 2,150 hours of custodial overtime is billed for building rental each year. This appropriation will provide \$22,500.00 from rental income to offset the custodial overtime charged to Building Services.

Albemarle County Schools has been awarded a one-time \$70,000.00 expansion grant for the division's Virginia Preschool Initiative (VPI) Program. These funds will be used to purchase curriculum materials and supplies, computer equipment and software, classroom furniture and equipment, playground equipment and for staff development expenses.

Staff recommends approval of the FY 2007 Appropriation #2007087 and #2007088.

By the recorded vote set out above, the Board approved the FY 2007 Appropriations #2007087 and #2007088.

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2007087
DATE _____
BATCH# _____

EXPLANATION: Bulletproof Vest Grant

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1241	33000	330001	GRANT REVENUE-FEDERAL	J	2	9,932.50		
2	1241	51000	510109	TRANSFERS IN	J	2	9,932.50		
					J				
1	1241	31013	601000	POLICE - VESTS	J	1	16,955.00		
1	1241	31020	601000	SHERIFF - VESTS	J	1	1,900.00		
1	1241	33024	601000	ACRJ - VESTS	J	1	1,010.00		
					J				
	1241		0501	EST. REVENUE				19,865.00	
			0701	APPROPRIATION					19,865.00
1	1000	31013	601000	POLICE - POLICE SUPPLIES	J	1	(8,477.50)		
1	1000	21070	601000	SHERIFF- POLICE SUPPLIES	J	1	(950.00)		
1	4000	33024	601000	ACRJ-POLICE SUPPLIES	J	1	(505.00)		
1	1000	31013	930200	POLICE - TRSF TO GRANTS	J	1	8,477.50		
1	1000	21070	930200	SHERIFF-TRSF TO GRANTS	J	1	950.00		
1	4000	33024	930200	ACRJ-TRSF TO GRANTS	J	1	505.00		
TOTAL							39,730.00	19,865.00	19,865.00

	3160		0501	EST. REVENUE			70,000.00	
			0701	APPROPRIATION				70,000.00
	3304		0501	EST. REVENUE			40,187.32	
			0701	APPROPRIATION				40,187.32
TOTAL						283,021.84	141,510.92	141,510.92

Item No. 6.3. FY 2008 Budget Appropriations.

The Executive Summary states that the Code of Virginia § 15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

In the past, Code of Virginia § 15.2-2507 required a budget amendment public hearing when the amendment exceeded one percent of the total expenditures shown in the currently adopted budget or the sum of \$500,000, whichever is lesser. Effective July 1, 2007, this code section was amended removing the "or the sum of \$500,000 whichever is lesser" from this requirement, therefore, a budget amendment public hearing will only be required after the cumulative appropriations exceed one percent of the currently adopted budget.

The total of this requested FY 2008 appropriation is \$678,810.00. A budget amendment public hearing will be required if future additional cumulative appropriations exceed one percent of the currently adopted budget.

This request involves the approval of five (5) new FY 2008 appropriations as follows:

- One (1) appropriation (#2008001) totaling \$386,460.00 for a Department of Homeland Security Grant;
- One (1) appropriation (#2008002) totaling \$159,000.00 for a Riparian Buffer Restoration Grant;
- One (1) appropriation (#2008003) appropriating \$70,000.00 from the Glenmore Proffer for the Village of Rivanna Development Area Master Plan;
- One (1) appropriation (#2008004) in the amount of \$3,350.00 for a Circuit Court Clerk Records Preservation Grant; and
- One (1) appropriation (#2008005) in the amount of \$60,000.00 providing funding to Habitat for Humanity from the Crozet Crossings Housing Trust Fund.

Appropriation #2008001 \$386,460.00

Revenue Source:	Federal Revenue (Grant)	\$309,168.00
	Transfer from General Fund	77,292.00

The U.S. Department of Homeland Security has awarded the Department of Fire Rescue a grant in the amount of \$309,168.00 through the 2006 Assistance to Firefighters Grant program. This grant, along with \$77,292.00 in local matching funds will provide the essential monies needed to outfit all personnel with safe and compliant personal protective equipment and gear. Currently, 27 percent of personnel are operating in gear that is non-compliant with national standards and 13 percent of new recruits are unable to be issued gear because of a lack of compliant gear. The additional funding will allow the Department to outfit all personnel with NFPA/OSHA/ANSI-compliant personal protective clothing, ensure proper storage of the equipment, and keep extra gear on hand for new recruits and/or for use in the event it is needed. The local share, \$77,292.00 will be funded through existing appropriated funds.

Appropriation #2008002 \$159,000.00

Revenue Source:	State Revenue (Grant)	\$159,000.00
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The Virginia Department of Conservation and Recreation (DCR) has awarded Albemarle County a Riparian Buffer Restoration Grant in the amount of \$159,000.00. This grant will assist in the establishment and restoration of forested riparian buffers on nonagricultural land. The program will enable land owners to add new buffer plantings on their property and request a fifty percent reimbursement for the labor and materials. The County will demonstrate to DCR that land owners have completed an approved planting project and request grant funds from DCR to reimburse fifty percent of the land owners' expense. Local match will be provided with in-kind services by the County and through the remaining one-half of land owner expenditures.

Appropriation #2008003 \$70,000.00

Revenue Source: Local Revenue (Proffer) \$ 70,000.00

The Thomas Jefferson Planning District Commission (TJPDC) will be providing consulting and project management services for the Village of Rivanna master plan development. The contract with TJPDC, in the amount of \$85,000.00, will be funded with \$70,000.00 in Glenmore Proffer funds and \$15,000.00 from existing appropriated funds for development areas studies in the Community Development Department's operating budget.

Appropriation #2008004 \$3,350.00

Revenue Source: State Revenue (Grant) \$ 3,350.00

The Library of Virginia has awarded the Circuit Court Clerk's Office a Virginia Circuit Court Records Preservation grant in the amount of \$3,350.00. This grant will provide funding for approximately 282 hours of overtime allowing the scanning and indexing of order books into the Clerk's Office's electronic records systems. There is no local match.

Appropriation #2008005 \$60,000.00

Revenue Source: Local Revenue \$ 60,000.00

In December 2006, the Crozet Crossings Housing Trust Fund trustees authorized a request for proposals to use available funding for eligible affordable housing projects. Two applications were received. One application from Habitat for Humanity was recommended by staff for funding and approved by the trustees. The request was for \$60,000.00, \$30,000.00 for each of two houses to be built in the County for very low income households with disabled family members living in substandard conditions. Habitat's request of \$60,000.00 is to help fill a \$140,000.00 financing gap between the property value and other resources received to date. The funding will be secured by the property through a mutually-agreed upon method which will include an equity-sharing provision. Funds will be granted to Habitat through a grant agreement that specifies the details of security and repayment.

Staff recommends approval of the FY 2008 Appropriations #2008001, #2008002, #2008003, #2008004, and #2008005.

By the recorded vote set out above, the Board approved the FY 2008 Appropriations #2008001, #2008002, #2008003, #2008004, and #2008005.

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008001
 DATE _____
 BATCH# _____

EXPLANATION: Department of Homeland Security – Fire/Rescue – Personal Protective Equipment

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1540	33000	300001	FEDERAL REV - GRANT	J 2	309,168.00		
2	1540	51000	512004	TRANSFER FROM G/F	J 2	77,292.00		
					J			
1	1540	32015	601104	PERSONAL PROT EQUIPMENT	J 1	359,460.00		
1	1540	32015	800100	STORAGE RACKS	J 1	27,000.00		
1	1000	32020	601104	TURNOUT GEAR	J 1	(77,292.00)		
1	1000	32020	930200	TRSF TO GRANT FUND	J 1	77,292.00		
	1540		0501	EST. REVENUE			386,460.00	
			0701	APPROPRIATION				386,460.00
TOTAL						772,920.00	386,460.00	386,460.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008002
DATE _____
BATCH# _____

EXPLANATION: Riparian Buffer Restoration Grant

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1410	24000	240207	STATE REV - DEPT OF CONS	J	2	159,000.00		
1	1410	82050	580419	RIPARIAN BUFFER REIMBUR	J	1	159,000.00		
	1410		0501	EST. REVENUE				159,000.00	
			0701	APPROPRIATION					159,000.00
TOTAL							318,000.00	159,000.00	159,000.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008003
DATE _____
BATCH# _____

EXPLANATION: Glenmore Proffer - Village of Rivanna Development Area Master Plan

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	8521	51000	510100	APPROPRIATION - F/B	J	2	70,000.00		
1	8521	19301	930009	TRANSFER TO G/F	J	1	70,000.00		
2	1000	51000	512040	TRS. FROM GLENMORE PROF	J	2	70,000.00		
1	1000	81022	312342	DEVELOPMENT AREA STUDY	J	1	70,000.00		
	8521		0501	EST. REVENUE				70,000.00	
			0701	APPROPRIATION					70,000.00
	1000		0501	EST. REVENUE				70,000.00	
			0701	APPROPRIATION					70,000.00
TOTAL							280,000.00	140,000.00	140,000.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008004
DATE _____
BATCH# _____

EXPLANATION: Circuit Court Clerk Grant - Records Preservation

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1216	24000	240802	Va. Circuit Court Records Pres.	J	2	3,350.00		
1	1216	21000	120000	Circuit Court - Overtime Wages	J	1	3,112.00		
1	1216	21000	210000	Circuit Court - FICA	J	1	238.00		

					J				
	1216		0501	Est. Revenue	J			3,350.00	
			0701	Appropriation	J				3,350.00
					J				
TOTAL								6,700.00	3,350.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008005
DATE _____
BATCH# _____

EXPLANATION: Crozet Crossing Housing Trust Fund – Habitat for Humanity

					SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT
2	8515	51000	510100	Appropriation - F/B	J 2	60,000.00		
1	8515	81030	560000	Contribution to Other Entities	J 1	60,000.00		
					J			
	8515		0501	Est. Revenue	J		60,000.00	
			0701	Appropriation	J			60,000.00
					J			
					J			
TOTAL						120,000.00	60,000.00	60,000.00

Item No. 6.4. **CPA-2007-003, Green Building and Sustainability Amendment.** (Deferred from June 6, 2007)

The Executive Summary states that on May 8, 2007 the Planning Commission forwarded Comprehensive Plan language on green building to the Board with a recommendation for adoption. During a public hearing on June 6, 2007, the Board of Supervisors determined that some additional minor revisions were needed to eliminate confusion with the wording as proposed. The Board agreed to individually review the language and submit changes to staff. Staff received those changes and they are reflected in Attachment A, the proposed Comprehensive Plan Amendment. Staff has also removed language referring to the establishment of a green building advisory committee. Two Board members questioned the necessity of such a committee and no other members expressed strong feelings either way. As mentioned in previous staff reports, the chapter of the Comprehensive Plan to which this language is proposed to be added is scheduled for a complete update this Fall. If it is determined at that time that a green building advisory committee is needed, the Comprehensive Plan can reflect that. Attachment B is the track changes version illustrating the aforementioned revisions.

The following proposal was noted in the Executive Summary: To Amend the Natural Resources and Cultural Assets chapter of the Comprehensive Plan by adding more specific language regarding sustainable design and green building in support of the Thomas Jefferson Sustainability Accords, hereafter, the Accords, as adopted in 1998. To illustrate how the proposed language relates to the Natural Resources and Cultural Assets Chapter of the Comprehensive Plan, that chapter's introduction is included verbatim, with the new language found in italics under the heading, "*Sustainable Design in Buildings and Planning*" directly after the Sustainability Accords.

In September of 2006, the Board of Supervisors reviewed staff's presentation on the County's successes with sustainability and green building and requested that staff explore strategies to further the County's commitment to sustainable practices. In December 2006, the Planning Commission resolved to amend the Comprehensive Plan in support of green building and sustainability. A February update to the Board of Supervisors on green building generated a discussion indicating support for stronger commitments to green building in County facilities so long as financial impacts, short and long-term, are understood and kept in check. On March 20, the Planning Commission held a work session and reviewed draft green building language. Staff has prepared the proposed language for the public hearing by making minor changes and additions based on the Commission's work session feedback and direction. Statements that have been added or amended since the work session are indicated with an asterisk. The public hearing will provide an opportunity to question or express support for any of these statements. As the Comprehensive Plan is a guide, staff believes this language will work to further establish the County's

commitment to green building and identify priorities in the context of long-range planning and community development.

Staff recommends adopting the language into the Comprehensive Plan.

By the recorded vote set out above, the Board adopted the following CPA-2007-003, Green Building and Sustainability Amendment:

Sustainable Design in Buildings and Planning

In September 2006, as a response to interest in green building among Board and Planning Commission officials, from citizens, and continued pursuits by staff regarding sustainability, the Board directed Staff to develop strategies to increase sustainability and expand the County's commitment to implementing and supporting the Accords.

Nearly ten years old, the Sustainability Accords increase in relevance with the expanded understanding of the potential local and regional results of global climate change. The Accords are furthered through applying specific green building objectives and strategies to the construction, planning, and renovation of County facilities. Increasingly, green buildings are proving to be ideal learning and productive work environments that generate less airborne carbon associated with climate change. Decreased utility outlays associated with green buildings allow more revenue to be retained each year to further the County's Strategic Plan.

To Implement the Thomas Jefferson Sustainability Council's Statements of Accord, to promote green building and to protect the fiscal and civic health of the community generally, the County establishes the following Objectives and Strategies for green building, site design, innovation, grants and incentives, education, and preparedness.

The Strategies support the County's EnergyStar Courthouse partnership, initiated by the County Executive in 2006, through reducing daily energy use with technology, awareness, and systematic elimination of inefficient facilities and systems.

To achieve a high level of knowledge of green building and environmental issues, the strategies encourage and support citizens and developers toward furthering the Sustainability Accords with educational support and public outreach. An aligned effort seeks to reduce collective demand and dependence on costly conventional energy sources that have negative environmental impacts.

INTERNAL OPERATIONS AND MANAGEMENT

Strategy: *Participate in the EnergyStar Courthouse Campaign (ESCC) to reduce local government's consumption of energy. (Begun 12/06 by County Executive)*

Strategy: *In keeping with (ESCC), create a policy for County buildings and operations to reduce energy consumption by 30% in keeping with EnergyStar guidelines.*

Strategy: *For new County projects, perform energy modeling during the design-development phase to assess long-term economic benefits of green upgrades.*

Strategy: *Achieve LEED basic level certification on new public buildings so long as planning and energy modeling determine that the upfront expense does not unreasonably exceed the long-term savings.*

Strategy: *Develop and adopt criteria (e.g. square footage / project cost) for pursuing LEED certification for new construction.*

Strategy: *Recognize and respond to the significant role that site characteristics play in sustainable design.*

Strategy: *Locate and apply for grants related to improving the energy efficiency and environmental aspects of existing or proposed County facilities. Actively pursue EnergyStar tax credits.*

Strategy: *Investigate and pursue the purchase of energy credits for renewable energy.*

ADVANCE SUSTAINABILITY WITHIN THE DEVELOPMENT COMMUNITY

Strategy: *Offer, facilitate, and/or support green building training for builders and provide information on programs and organizations which will help facilitate this strategy.*

Strategy: *Engage Blue Ridge Home Builders Association and other similar local groups in conjunction with local government legislative issues.*

Strategy: *Make changes to the Zoning Ordinance to insure it does not create obstacles to green building.*

Strategy: *Assist developers in locating and applying for EnergyStar tax credits for energy efficient projects.*

Strategy: *Encourage builders and developers to seek LEED, Earthcraft, EnergyStar or other comparable certifications.*

ADVANCE SUSTAINABILITY AMONG RESIDENTS

Strategy: *Develop and maintain links and/or pages on the County website that provide information and strategies to help residents reduce their consumption of resources and resulting pollution.*

Strategy: *Assist residents in locating and applying for EnergyStar tax credits for energy efficient projects.*

CONTINUE RESEARCH AND UPDATES TO THE COMPREHENSIVE PLAN

Strategy: *Continue investigating aggressive and viable strategies for green building, energy efficiency, and the following:*

- *Recycling*
- *Alternative Energy*
- *Local Food Production*
- *Protection of Water Resources*
- *More efficient Wastewater Treatment*
- *Enhanced Transit, Sidewalks, Bicycle Facilities, Trails and Greenways*

Item No. 6.5. Charlottesville Transit Service Recommendation for Use of Additional Transit Funding.

The Executive Summary states that the Board of Supervisors allocated an additional \$250,000 for expanded transit service in the FY07/08 budget. Staff is providing the Board of Supervisors a recommendation on where this expanded transit service should be provided in the County. Typically, staff provides the Board of Supervisors recommendations on expanded transit service during the departmental budget submittal process. The Department of Community Development did not make a departmental request for expanded transit service for FY07/08 due to on-going discussions at that time with the City on transit cost and expansion in the County. These discussions resulted in undertaking the Regional Transit Authority Study now underway.

In consultation with Charlottesville Transit Service (CTS), staff is recommending that the additional \$250,000 in transit funding in FY07/08 be used to fund: 1) the new Route 2B, serving the Fifth Street area, and 2) for improving service frequency on Route 5 between Barracks Road Shopping Center and Wal-Mart from every 45 minutes to every 30 minutes.

Route 2B (Attachment A) has been in service since March 2007. The City has funded this service since its March start date. This service will cost the County approximately \$37,000 annually. This route provides service to Southwood Mobile Home Park and the COB-Fifth Street where several of the County service departments are located (including Social Services, Police, and Fire Rescue).

Staff is also recommending providing for increased frequency of service on Route 5 (Attachment B). CTS completed the *Charlottesville Transit Development Plan, July 1, 2006 to June 30, 2011* last year, and one of the service recommendations in the Plan (TDP) is to add a third bus to the two buses currently used to provide Route 5 service. Adding a third bus will improve the frequency of service, with buses running every 30 minutes instead of the current 45 minutes. Greater frequency provides more travel options to passengers and makes transit service more attractive. Transfers will also be more convenient because connections between buses at Fashion Square and Barracks Road Shopping Center will be at consistent times (twice each hour). More transfer opportunities and more consistent transfer times makes transit service more convenient and more attractive. In FY 2006, Route 5 ridership was 84,374. Staff believes increasing service frequency will lead to increased ridership on this route. This service will cost the County approximately \$199,000 annually, which includes \$144,000 for ongoing expenses and \$55,000 in one time cost for matching funds needed for the purchase of an additional bus.

CTS and County staff believe that these two expansions in service will increase transit ridership in support of the County's strategic plan. The cost of these two services total \$236,000. If supported by the Board of Supervisors, the new services will start August 25, 2007.

CTS and County staff considered the possibility of expanding transit opportunities by providing night service.

Transit service currently stops at 7:00 p.m. Staff did not recommend providing night service at this time primarily because there will be an opportunity for CTS and the County to apply for a *Job Access Reverse Commute* grant in FY08/09, which could pay for 2/3 of the night service (with the County funding the remaining 1/3 of the service). CTS must apply for this grant in January 2008. Additional information

regarding the grant application will be provided to the Board of Supervisors at a later date as CTS does not have all of the information pertaining to this grant at this time.

The \$250,000 was included as part of the adopted FY 2007/08 budget.

Staff recommends that the Board of Supervisors approve the use of the additional \$250,000 allocated in the FY07/08 budget for funding 1) Route 2B serving the Fifth Street area, and 2) improving service frequency on Route 5 from every 45 minutes to every 30 minutes between Barracks Road Shopping Center and Wal-Mart.

(Discussion: Mr. Slutzky commented that this is not an item for the consent agenda; it should be part of the regular agenda for discussion.

Mr. Slutzky said that the issue is how to spend the \$250,000 and the IMPACT representatives have raised a relevant point: it could be spent on having bus intervals shortened or extending service into evening hours to be able to pick up riders. He said that there would not be a whole lot of riders picked up at night, but they would be serving a community of riders who do not have a whole lot of other choices. Mr. Slutzky said that he supports IMPACT's recommendation for expanded night service, and the issue of improved headways could be addressed with the broader discussion of the entire transit system.

Mr. Boyd asked about the cost for extending service. Mr. Benish, Chief of Planning, explained that the County may not be able to cover the evening service anyway with the available funds after the extension south of town. He added that the other issue is timing with CTS' need to get their schedule printed fairly soon so that they can implement the new service by August 25th.

Mr. Rooker commented that he attended a meeting with the Mayor and transportation representatives where transit improvements were discussed, and their primary recommendation was to decrease the head time on Route 5. He explained that he has not seen any statistics that there are income differentials between riders on certain routes. Mr. Rooker noted that the staff report states that transit service currently stops at 7:00 p.m., and the staff report did not recommend night service because it provides an opportunity to apply for a job access/reverse commute grant in 2008-09 that would pay for two thirds of the night service. He said that they should go with staff's recommendation to reduce head time and then apply for the grant to go into night service.

Mr. Boyd emphasized that this is the recommendation received from the existing transit authority.

Mr. Slutzky added that they were responding to the Board's mandate to increase ridership and thus recommending improving head times.

Mr. Rooker said that they have had consultants come in and interview riders as well as public officials and analyze routes to recommend changes. He stated that he supports night service, but it seems there are some timing issues to get this off the ground.

Mr. Slutzky responded that it would be helpful to get data from CTS on the relative benefit impacts, social equity and ridership, attributable to each of the two options.

Mr. Benish stated that if there is no decision today made on the funding, CTS would probably not be able to make the new service happen on the 25th as they are hiring drivers and putting their map together right now.

Mr. Rooker suggested that Mr. Slutzky could gather some additional information and come back to it at the end of the day.

Ms. Thomas said that the social equity questions might not be able to be answered quickly, but the specific question is whether the grant application opportunity is threatened by funding the night service now.

Mr. Rooker stated that there is some information on the socio-economic status of the riders on the system, and it might be helpful to get that.

Ms. Thomas noted that the times posted do not include stops at Southwood, and there are lots of ideas that could be implemented such as senior citizens passes. She said that the bus driver said they had four or five riders there so there is something that is not happening down there.

Mr. Rooker commented that there was night service in prior years on this route, but it had the lowest ridership per hour of any route in the system and that is why it was eliminated. He emphasized that there is a consensus on the Board to improve transit, but the City has started routes before and eliminated them because of inadequate ridership. Mr. Rooker stated that it is important to fund routes that are likely to be the most successful.

Ms. Thomas said that a major reason people would not use the busses is that the drop-offs are not necessarily safe, and there is a grant pending for new bus shelters.

Note: The discussion on this item continued during the afternoon portion of the meeting.)

Item No. 6.6. Resolution of the Industrial Development Authority authorizing the issuance of revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$18,000,000 for the Jefferson Scholars Foundation.

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

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

WHEREAS, Jefferson Scholars Foundation (the "Foundation"), a Virginia not-for-profit corporation (the "Foundation"), has requested the Industrial Development Authority of Albemarle County, Virginia (the "Authority"), to issue its revenue bonds (the "Bonds"), pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), in an amount now estimated at \$18,000,000; and

WHEREAS, the proceeds of the Bonds will be used to (1) assist the Foundation in financing or refinancing the acquisition, construction and equipping of its corporate office headquarters and Graduate Fellowship Center (the "Project") to be located at 108, 112, 114 and 124 Maury Avenue and 110 Clarke Court, Charlottesville, Virginia, and (2) pay costs of issuing the Bonds; and

WHEREAS, the Authority, on June 12, 2007, held a public hearing on the issuance of the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code, as amended (the "Code"), and Section 15.2-4906 of the Act require that the governmental unit on behalf of which the Authority will issue the Bonds approve the issuance of such bonds; and

WHEREAS, the Foundation has requested the Board of Supervisors of Albemarle County, Virginia (the "Board"), to approve the issuance of the Bonds to comply with Section 15.2-4906 of the Act and Section 147(f) of the Code; and

WHEREAS, a copy of the Authority's resolution of June 12, 2007, approving issuance of the Bonds, a record of the public hearing and a fiscal impact statement with respect to the issuance of the Bonds have been filed with the Board; and

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds to comply with Section 147(f) of the Code and Section 15.2-4906 of the Act.

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

1. The Board hereby approves the issuance of the Bonds by the Authority for the benefit of the Foundation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Act.

2. The approval of the issuance of the Bonds does not constitute an endorsement of the Bonds or the creditworthiness of the Foundation. The Bonds shall provide that neither Albemarle County, Virginia, nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from revenues and moneys pledged therefore, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, Albemarle County, Virginia, or the Authority shall be pledged thereto.

3. All acts and doings of the officers and members of the Board that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.

4. This resolution shall take effect immediately upon its adoption.

Item No. 6.7. Update on County's use of U.S. Senate Productivity and Quality Award Program and the Baldrige National Quality Program's Criteria for Performance Excellence, **was received for information.**

Item No. 6.8. Copy of letter dated June 12, 2007, from Mr. William D. Fritz, Chief of Zoning, to Mr. John Griffin, *re: LOD 2007-005-OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS*— Tax Map 94, Parcel 41A-Scottsville District (Property of Karen S. Johnson) *Section 10.3.1*, **received for information.**

Item No. 6.9. Copy of letter dated June 14, 2007, from Mr. William D. Fritz, Chief of Zoning, to Ms. Donna Bennett, *re: LOD 2007-006-OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS* Tax Map 25, Parcel 21A-White Hall District (Property of James or Donna Bennett) *Section 10.3.1*, **received for information.**

Item No. 6.10. Copy of letter dated June 22, 2007, from Mr. Ronald L. Higgins, Manager of Zoning Administration, to Ms. Brenda Beerman Trickey, Esquire, McGuireWoods LLP, *re: OFFICIAL DETERMINATION ZONING -- Tax Map 61Z, Parcel 5-Rio District (Property of Branchlands Retirement Village, Branchlands Drive Development of the Whistler House Property [.9892 acres],* **received for information.**

Item No. 6.11. Copy of Joint Application of Virginia Electric and Power Company D/B/A/ Dominion Virginia Power and Trans-Allegheny Interstate Line Company for Certificate of Public Convenience and Necessity to Construct Facilities (Case No. PUE-2007-00031), **received for information.**

Item No. 6.12. Copy of draft Planning Commission minutes of May 8, 2007, **received for information.**

Agenda Item No. 7a. Transportation Matters: Advance Mill Bridge (Route 743), Replacement Bridge Proposal.

It was noted in the Executive Summary that representatives from VDOT advised the Board of Supervisors at its June 6, 2007 meeting that the Advance Mill Bridge (Rt. 743) will need to be permanently closed due to its state of disrepair. The bridge has been closed for over a month because of damage found in several of its steel supports. VDOT also advised the Board that, in the short term, a temporary bridge could be constructed on the location of the existing bridge as an alternative to the longer term closure of the road/bridge until the permanent bridge could be constructed. In order to minimize cost and construction time, the temporary bridge would need to be installed on the existing bridge piers, requiring the removal of the existing bridge structure, and would require a financial commitment in the range of \$400,000 from the County. The Board generally indicated its support of VDOT proceeding forward with the next steps of obtaining approval for the installation of a temporary bridge. However, no formal action was taken by the Board in this regard.

The last "official" action taken by a Board of Supervisors regarding the maintenance of the Advance Mill Bridge was on July 7, 1999 (see Attachments 1 and 2). The Board adopted the following statement regarding the bridge:

- 1) The Advance Mills Bridge should be maintained so that it retains its historic significance;
- 2) The Advance Mills Historic District should be nominated for listing in the National Register of Historic Places;
- 3) If it is determined that a new bridge is required due to maintenance and safety requirements, the Advance Mills Bridge should be closed to vehicular traffic, maintaining it for pedestrian traffic. Thoroughly study alternative alignments that will not compromise the historic or architectural integrity of the Advance Mills Historic District; and,
- 4) If, for any reason, it is not possible to pursue nomination of the historic district, nomination of the historic bridge as an individual resource should proceed.

Regarding items 2) and 4) above, the Advance Mills Historic District was listed on the State and National Register of Historic Places in 2000. The bridge is a contributing structure to this Historic District. The following is an excerpt from a summary description of the Historic District from the Department of Historic Resources (DHR):

"...Advance Mills is a small community composed of four houses, a general store, a mill site, a dam and a metal truss bridge. There are a total of 30 buildings and structures in the village, with 23 of them contributing to the significance of the district. Most of the buildings resulted from a construction boom time that occurred about 1900, although several of the resources pre-date this period by several decades. Until their destruction by fire in the 1940s, the most prominent structures in the district were the Mill and the Advance Mills Supply store; these resources are contributing sites in the district. Contributing structures include the bridge, the dam and the millrace. Today the district has a much more rural residential character with the principle structures being the Gaines Fray (11) and J. M. Fray houses."

Most of the contributing resources noted in the summary are still present; however, the general store was recently demolished.

The proposed installation of a temporary bridge in place of the existing bridge structure would be inconsistent with items 1) and 3) above. Various alignment alternatives will be evaluated as part of the location and design process for the permanent replacement bridge. To date, no assessment has been made regarding the feasibility of the County maintaining the existing bridge structure for pedestrian and historic purposes as recommended in item 3) above.

As the temporary bridge project moves through the environmental review process, County staff will be given an opportunity to comment on the proposed project. The latest "official" action regarding the Advance Mills Bridge is the Board's action from 1999. In order for staff to accurately represent the Board's position in the environmental review process, an action clarifying the Board's position on the temporary bridge project and the maintenance of the existing bridge is desired.

VDOT staff is continuing to work on the design, scope and review process for the temporary bridge project. Staff has provided the following facts and information about the conditions in the area resulting from the bridge closure and other pertinent information regarding the temporary bridge project that we know of at this time:

- The VDOT staff noted at the June 2007 meeting that the temporary bridge will have a limited life (approximately 2-3 years). A permanent replacement bridge would not be constructed until 2010-2011.
- None of the cost for the temporary bridge will contribute to the cost of the permanent replacement bridge.
- The vehicle weight limit for the temporary bridge is estimated to be in the 15-20 ton range (VDOT is still researching weight limit information) while Fire Rescue indicates the weight of apparatus is over 20 tons. That weight limit would not be sufficient to carry important fire apparatus such as tank trucks and pumper trucks.
- The recent bridge closure has had minimal impact on Fire Rescue service because heavy fire rescue apparatus, including ambulances, has been unable to cross the bridge for some time. Response times from either the Earlysville or Hollymead stations do not meet the recommended rural area response time standards (the Community Facilities Plan recommended a response time for the Rural Areas is 13 minutes for both fire and rescue service) because of the bridge capacity. Three recent fire calls to the area resulted in response times in excess of 20 minutes. The low weight limit on the existing bridge has created response time issues for the last several years. A temporary replacement bridge below a 20 ton capacity will not improve this condition.
- Ambulance service from the Hollymead station could reach the area north of the bridge by using Route 29 and Frays Mill Road within the 13 minute response time. Thus, if the temporary bridge was not adequate for fire apparatus, the primary value of the temporary bridge would be in convenience rather than public safety.
- The most recent traffic count on Earlysville Road (Rt. 743) nearest the bridge is 970 (2005). Closure of the bridge affects access to the Earlysville Elementary School. Staff estimates the detour adds approximately 5 minutes to the school commute by car using an alternative route that includes a section of unpaved road.
- The existing bridge is a contributing structure to a State and National Historic District. Loss of the structure may affect the integrity of the existing historic district.
- The Comprehensive Plan's Guiding Principles for the Rural Areas states the following:
 - ...Protect the Rural Areas historic, archeological and cultural resources.
 - Protect and enhance rural quality of life for present and future Rural Area residents.
 - Provide levels of service delivery in accord with the Facilities Planning goals of the Land Use Plan.

The Rural Area Transportation Goals states:

- Provide safe and effective transportation options while preserving the character of the Rural Areas.

VDOT has estimated that the temporary bridge proposal requires the expenditure of approximately \$700,000 for an improvement with a life expectancy of 2 to 4 years, and these costs will not benefit the ultimate permanent bridge replacement project. VDOT has requested that the County share in funding the temporary bridge alternative. The total project cost is based on an estimate of \$300,000 for the purchase of the temporary bridge and \$400,000 for removal of the existing bridge and installation of the temporary bridge. VDOT has suggested that the County fund the \$400,000 bridge removal and installation costs. Should the Board agree to participate in funding the project, one source for the County share of funding would be the CIP Transportation Fund. This fund was established and intended to be used for high priority/strategic projects focused on the Development Areas, including Master Plan implementation priorities, and/or regional transportation priorities. Should the Board decide to proceed with the temporary bridge, staff will need direction regarding the source of funds.

Given a temporary bridge will only serve for 2-3 years, staff recommends deferring construction until a permanent structure that allows the existing bridge to remain and can fully support emergency services is constructed. The following were considered key factors in staff's analysis:

- The existing Historic District and County policy statements related to protection of this bridge indicate the existing bridge should be preserved if at all possible.
- It appears the temporary bridge would not support essential fire apparatus coming from the Earlysville Volunteer Fire Station or the Hollymead Fire Rescue Station. Ambulance service, provided from the Hollymead station, can reach points north of the bridge as quickly by using U.S. 29 to Frays Mill Road. Thus, staff found the temporary bridge did not appreciably improve Fire/Rescue services.
- There are reasonable alternatives to this bridge available. It was noted this would require about 5 additional minutes of travel, including travel over an unpaved road and low water crossing. Staff did not consider those conditions inconsistent with Rural Area policies.
- The new bridge would be a temporary solution and it appears none of those costs could be recovered with the new permanent bridge.

Should the Board decide to support VDOT proceeding with the next steps of obtaining approval for the installation of a temporary bridge, staff requests an action clarifying the Board's position on the temporary bridge project and the maintenance of the existing bridge with a statement similar to the following:

While it is recognized that the Advance Mills Bridge has historic significance and is a contributing structure to the Advance Mills Historic District, it has been determined that the deteriorating condition of the bridge structure requires its permanent closure which, unless replaced, will be detrimental to public safety and convenience. It has also been determined that a temporary bridge could be constructed on the location of the existing bridge as an alternative to the longer term closure of the road/bridge until a new permanent bridge could be constructed. In consideration of these circumstances, the Board supports the establishment of a temporary bridge, including the removal of the existing bridge structure if necessary with appropriate documentation of its historic significance.

Should the Board be inclined to participate in the cost of this project as requested by VDOT, staff will bring back information as to the potential sources from which funds will be provided and any impacts that may result on other project funding.

Mr. Benish reiterated from the Executive Summary that VDOT staff had previously advised the Board that the bridge would need to be permanently closed due to its state of disrepair, and that it would recommend constructing a temporary bridge as an alternative until a permanent one could be placed. He said that the Board indicated their approval of moving forward to evaluate that option, but did not take any formal action. Mr. Benish noted that the last official action taken was on July 7, 1999, when that Board adopted a statement that generally indicated retaining the bridge for historic purposes and pursuing alignments on other locations to allow for maintenance of that bridge. He said that it requested historic designation for the bridge and the area, which did take place in 2000. Mr. Benish added that the proposed installation of a temporary bridge on the location of the existing bridge would have been inconsistent with that 1999 decision, and there would be an environmental review process so that staff can comment. He said that staff would like to have the Board now make an official decision. Mr. Benish noted that Mr. Sumpter has some additional information to what staff has already provided in their report.

Mr. Benish said that VDOT does intend for the bridge to be temporary, with a life of two to four years, to be replaced with a permanent structure. He explained that depending on the decision made on the permanent bridge, the funding used for this existing bridge may not contribute to that permanent bridge.

Mr. Rooker pointed out that VDOT felt that there was only a small chance that the existing bridge would be used for a permanent replacement because building a new bridge would require a different location because of the curvature in the road.

Mr. Benish also added that the weight limit on the temporary bridge would be a greater weight than the 15 to 20 tons originally thought, and fire service is impacted due to the condition of the bridge. He stated that fire service with a temporary bridge could impact the ability for larger pumpers and tankers used for rural service to cross the bridge. Mr. Benish mentioned that ambulance service with the satellite service now available in Hollymead can provide equivalent service to the northern part of the area as Earlysville serves the area south at approximately the same level of service. He said regarding Durrett Ridge Road, traffic volumes in 1995 were at 970 vehicle trips per day that crossed the bridge while it was open.

Mr. Benish said that staff recommends the permanent bridge as the ultimate solution, and staff has offered an action for the Board to take in support of the temporary bridge construction.

Mr. Sumpter addressed the Board, acknowledging the debate over this issue. He said that VDOT's goal is to provide as much information as possible to encourage an informed decision by the Board. Mr. Sumpter emphasized that they feel a responsibility for safety, service of citizens that live in the area and travel those roads, and responsibility to the historical district. He said that for the last several months, they have been considering the process for permanent replacement for this area, and there has been a project in the six-year plan for that. Mr. Sumpter stated that the "Alternative C" aligns along the current path of the existing bridge, and the new alignment ties back into Route 743.

Mr. Sumpter explained that a temporary bridge project would only last two to four years, including what is expected to get the design and permits to get the project to advertisement. He said that the existing bridge would be removed and replaced with the temporary bridge to be placed along existing abutments along with some grade work to tie everything in. Mr. Sumpter said that if that alignment is chosen, the bridge would remain in its location until the new one was built, then it would have to come out while the permanent one is constructed. He confirmed that that would effectively close the road for one year to 18 months.

Mr. Slutzky asked if the temporary bridge could be located next to where the permanent bridge would be installed.

Mr. Sumpter replied that at that point, you would be talking about a whole new separate project. He said that VDOT's internal environmental review staff does not believe that an alignment running parallel to this one could be accomplished because it would provide even greater impact to the historical area. Mr. Sumpter explained that if "Alternative A" was chosen, the temporary bridge would be able to stay in place until the permanent bridge would be completed, then it would be removed.

In response to Mr. Wyant's question about timeframe, Mr. Sumpter confirmed that it would be a total of five and a half years to completion.

Mr. Rooker asked if there were a way to get the process expedited for a permanent bridge given that it is a hardship to the public.

Mr. Sumpter replied that building a bridge on the existing alignment would be the quickest. He said that it would be difficult to expedite because it is in the historic district but getting the design and advertising for the project could probably be sped up.

Mr. Rooker said that the preliminary analysis in removing the bridge should already be done and be able to be used for the installation of the new bridge. He added that the installation of a temporary structure seems to add time to the entire process.

Mr. Sumpter stated that they have been working to get a consultant for the design of the permanent structure, but regardless of what alignment it takes the process will have to have a location public hearing and a design public hearing because it uses federal funds and is in a historic district.

Mr. Wyant said that the two processes are running parallel. He noted that the data collection for environmental can be used in the permanent, but the permanent goes into a lot more detail.

Mr. Sumpter replied that the only environmental process that is involved with the temporary bridge is getting approval that the temporary can be removed considering that aspect, and it is exempt from any stream permit requirements and other environmental permits. He confirmed that it would take 24 months to get a permanent bridge to advertisement, and another 18 months minimum to build it. Mr. Sumpter said VDOT believes that it would be around 2011 before the permanent bridge would be open.

Mr. Rooker said that one of the permanent routes is not where the current bridge is, so that could be left up as a historic structure and could possibly be used for bicycle and pedestrian traffic.

Mr. Boyd replied that that has been evaluated to be a longer process.

Mr. Rooker responded that the law may ultimately dictate where the bridge is placed because of the historic designation.

Mr. Slutzky asked how much longer it would take to get an alternate structure built on another alignment.

Mr. Sumpter replied that it would probably add another six to eight months of construction times. He emphasized that a lot of the elements of the existing alignment, such as grading, would be able to be used if that option is chosen. Mr. Sumpter noted that there is a projection of \$4 million for existing alignment, and there is \$2.8 million set aside now.

Mr. Slutzky asked how feasible it would be to put in a temporary structure designed to last for 40 or 50 years, if the structure were not historic, and defer the permanent solution until later.

Mr. Sumpter replied that those types of bridges have high maintenance costs once they get past ten years, adding that there are substructure and pier structure issues as well. He said there is some significant undermining in some of them.

Mr. Wyant responded that it is a major issue nationwide, adding that that cannot be done for the long term. He said a bridge is built for a life time of 50 years.

Mr. Slutzky asked how long the existing abutment could support a temporary bridge.

Ms. Thomas added that she thought it was the piers/supports that were in the worst condition and that was the reason why there was a citizen who proposed having an additional support coming from the floor to the creek.

Mr. Sumpter replied that they are both in bad shape, and the truss itself is in as bad or worse condition. He confirmed that the pier could support another few years but could not support a super-structure for ten to 20 years.

Mr. Rooker noted that the money allocated in the six-year plan is not easily transferred to other projects, but it is specified for bridges.

Mr. Slutzky said that he would like to see some more information as none of these options are ideal.

Mr. Sumpter responded that he would report on how long a temporary structure would last on the current supports. He commented that the weight limit possible on the temporary bridge is going to be related to the substructure items such as the piers and what they can support, but 18 to 20 tons is likely. Mr. Sumpter noted that further design work would be needed to see if that could be greater.

Mr. Wyant stated that these structures could be used for walking and biking as there are three spans, and he noted that VDOT has done this in the past.

Mr. Sumpter said that if the current bridge is kept and a new bridge is built in another location, VDOT does not intend to continue maintenance of the old bridge.

Mr. Rooker commented that funding is an issue, and if the temporary structure is \$700,000, VDOT may be looking to the County for \$400,000.

Mr. Sumpter said that they were just asking for some discussion as the Board mentioned in 1999 that the County would participate in maintenance to keep the old bridge. He added that VDOT has spent about \$438,000 since that time to make repairs and do inspections.

Ms. Thomas stated that she would like to see time and dollar lines for: a temporary bridge in the present location followed by a permanent bridge there; a temporary bridge in the present location with a permanent bridge in a new location; and no temporary bridge and the new bridge in either location.

Mr. Sumpter responded that a temporary bridge in the existing location could be installed by the end of the calendar year.

Mr. Slutzky interjected that perhaps they could come back in a month, since there is still missing information on the life cycle of the bridges.

Mr. Rooker said that every month this item is delayed, the bridge itself is delayed.

Mr. Sumpter stated that they will not submit anything to DHR until a decision is made to remove the old bridge, and they have indicated it would take three to four months before they respond.

Mr. Slutzky responded that he would prefer to defer the item until all the information is available, such as timeline, cost, and the lifespan of the bridge.

Mr. Sumpter explained that as a normal project, to construct either alignment including the design process, this would take an average of two years to get it to advertisement. He said that the "Alternative C" could be constructed in 12 to 18 months, and "Alternative A" would take six to eight months beyond that because of road grading. Mr. Sumpter mentioned that the temporary bridge, long term, would still have to go through the environmental process of those two alignments.

Mr. Rooker said that there are two very different environmental analyses that would need to take place depending on which is chosen.

Mr. Slutzky said that if the piers do not need to be augmented, the permitting process would be identical to putting in a temporary bridge anyway.

Mr. Rooker commented that if a permanent bridge is put in, reasonable alternatives must be considered, and part of the temporary bridge analysis is not involving reasonable alternatives.

Mr. Sumpter said that anything that disrupts the aquatic process would require the same type of review as a brand new project.

Mr. Davis stated that DHR's requirements must be considered as well.

Mr. Benish said that once it is determined to be temporary, whether it is two, five, or twenty years, DHR will look at what the permanent solution is going to be. He stated that information is needed from them as to how they would review a temporary structure as it is fundamental to this bridge and the permanent options.

Mr. Davis stated that a fundamental issue is whether the old bridge is going to be preserved or not. He said that the Board could make that decision and plan for an alternate location, and if they do not want to preserve it, DHR decides in conjunction with VDOT.

Mr. Rooker asked if it really is the County's decision.

Mr. Davis said that he is not sure what analysis VDOT would bring back if they were instructed to construct an alternate bridge.

Mr. Dorrier stated that the people of Advance Mills deserve a quick solution to this, and the sooner a temporary bridge solution can be reached, the better. He added that a permanent solution can be debated later.

Mr. Rooker noted that there is a connection between revenue and the ability of government to respond to these situations. He said that people were not advocating to keep the tax rate where it was or raise it nor were they advocating increasing the gas tax. He said the County's funds for transportation, secondary roads – and all these roads are secondary roads – is less this year than it was ten years ago. Mr. Rooker emphasized that the cost for projects has well more than doubled.

Mr. Dorrier said that \$700,000 for a temporary bridge is small in the context of road projects.

Mr. Wyant said it was important to get more information about the abutments and the environmental and historical impacts.

Ms. Thomas stated that this is a fragile and subtle historic district, and that is important to her. She added that no matter what is done, Durrett Ridge Road is going to have increasing amount of traffic with delays related to bridge construction and will need more frequent maintenance.

Mr. Sumpter said that the structure is very low to the water and floods frequently.

Mr. Rooker commented that VDOT has moved projects around for years, and they only have so many staff to allocate for projects. He said it is naive to think that if you turn VDOT loose on a temporary solution that it is not going to take some time away from a permanent solution because they have limited resources. Mr. Rooker added that everyone agrees that a permanent solution must be established, and that process should go ahead and begin now.

Mr. Slutzky said that he does not really support that.

At this time, Mr. Wyant **moved** to move forward with a permanent solution but also address a temporary solution that involves analysis of piers and abutments. Mr. Dorrier **seconded** the motion.

Ms. Thomas asked for clarification.

Mr. Boyd said that he understands Mr. Wyant's motion to say the County is going to move forward on both fronts, running the risk that it may come back from DHR and take the County out of the picture.

Mr. Rooker responded that if they are voting in favor of going ahead with a temporary structure, that is not what staff recommends. He said that that would not require a motion if it just means having Mr. Sumpter coming back with more information.

Mr. Sumpter said that he did not understand the motion.

Mr. Wyant said that his motion is direction for him to continue to proceed.

Mr. Slutzky commented that if the Board moves forward with a temporary solution, the old bridge will be gone.

Mr. Wyant stated that it could still be used.

Mr. Slutzky added that that would be at County expense.

Mr. Rooker said that the permitting process is the same regardless of whether it is temporary or permanent, and he suggested that they move forward with analysis on how removing the bridge would impact the historic designation.

Mr. Sumpter stated that he would contact VDOT district staff and instruct them to move forward with pursuing permission to remove the bridge and report back if it is possible or not prior to beginning any work itself. He added that they have initiated the process with a consultant design team to work on all of the permanent, and they will handle the temporary within internal VDOT resources. Mr. Sumpter noted that those two processes are totally separate from each other.

Ms. Thomas said that they would have to go to DHR for a temporary structure anyway.

Mr. Boyd said it appears that the consensus of the Board is that VDOT move forward with pursuing permission to remove the temporary structure, report back to this Board, at which time this Board will make a decision prior to VDOT beginning any work to remove the structure itself. VDOT is also **directed** to bring back a response from DHR regarding the historical significance and implications. Board members concurred.

Agenda Item No. 7b. Transportation Matters: VDOT Monthly Report.

Agenda Item No. 7c. Transportation Matters Not Listed on the Agenda.

Ms. Thomas complimented VDOT for their work on White Mountain Road, a neighborhood as divided as Advance Mills.

Mr. Sumpter replied that VDOT is trying to maintain maintenance on it. Mr. Bill Bushman from the Research Council has been working on preserving gravel roads without hard surfacing them.

Mr. Wyant thanked him for VDOT's handling of Wesley Chapel Road and Pea Ridge as well as staff's work on the site distance for Owensville and Garth Roads.

Mr. Rooker said that the pavement on Old Ivy Road is getting in very bad condition due in part to construction projects there. He also said that there has been a long series of requests to create some extra width on the shoulder as Garth Road is being repaved.

Mr. Slutzky commented that there is a quarry on Rio Mills Road, and VDOT has explored accelerating the pavement of that road to accommodate the traffic there. He added that the problem with this is that the quarry would have 250 trucks per day carrying ten tons of rock, and if the goal was to have

them turn left and go up Earlysville Road, they will either go right towards the airport or left towards development. Mr. Slutzky said that VDOT is evaluating the public safety implications of giving that entrance permit and has not reached a conclusion yet. He said that VDOT is exploring a route that would bring traffic to Route 29 instead.

Mr. Rooker commented that he would like to get a staff report on this, but as it is described he is concerned about heavy truck traffic being added to Earlysville Road.

Mr. Sumpter responded that one of the reasons they were proceeding in the direction they were is the road is in the six-year plan and was ultimately going to be constructed anyway.

Mr. Boyd said that after all the work on Gilbert Station, he would like to move forward with improving the .4 miles remaining.

Mr. Sumpter replied that they are going to take a look at it to see if they can do anything. He said that VDOT is doing inspections on the railroad bridge there.

Agenda Item No. 8. Presentation: The Wildlife Foundation.

Ms. Jenny West, Executive Director of the Wildlife Foundation of Virginia, addressed the Board. She explained that the Foundation owns about 2,000 acres in southern Albemarle near Esmont, which is managed for public access to outdoor resources. Ms. West said that it is privately owned but is managed as a State wildlife management area, as far as public access. She explained that their mission is to assist in the conservation, protection, and enhancement of wildlife and habitat resources throughout Virginia. Ms. West said that they go out and look to acquire land either through donation or purchase that can be used for public outdoor access, such as hunting, fishing, hiking, bird-watching, and horseback riding, to ensure that people have a place to go to enjoy the outdoors.

Ms. West reported that she wanted to discuss Cool Springs or Dawson Mill, which was given to the Foundation in 1997 by Thomas Fore, whose grandfather, Thomas Griffin Herring, served on the Board of the Virginia Game Commission for 25 years from the early 1930's until the 1950's. She explained that Mr. Fore's vision for the property was to see it preserved in perpetuity through conservation easement to provide wildlife habitat for a variety of species in a natural setting. Ms. West said that most of the property lies in Esmont on Route 6, and the Foundation owns a few hundred acres north of Route 6 as well. She noted that there are three occupied tenant dwellings on the property as well as old barn buildings, the remnants of Dawson Mill, and an old one-room schoolhouse. Ms. West said that the majority of it is in planted pines, a couple hundred acres are hardwoods, and under 200 acres is in open fields. She said that they manage the property and control the number of days it can be used for specific activities, and three types of permits are issued, including hiking/bird-watching, equestrian use, and hunting permits. Ms. West explained that a deputy sheriff for Albemarle works with them to implement the public use and wildlife habitat enhancement programs that will be done over the next year. She noted that they have enrolled the property in the Conservation Reserve Enhancement Program, which is designed to protect streams by enhancing streamside buffers. Ms. West said that they are going to put 70 acres into it, making it the largest in the program in central Virginia. She stated that they also conduct educational workshops and hunts targeted to non-traditional sportsmen, such as youth, disabled hunters, and women, to try to grow the sporting base in Virginia. Ms. West noted that there has been growth in equestrian and non-hunting use recently as well, and the property can continue to entertain an increasing number of users. She presented an article on the property that appeared in *Virginia Wildlife* magazine after one of the youth hunts.

Ms. Thomas commented that she went to the grand opening several years ago, and the property is a hidden treasure.

Mr. Boyd suggested putting some information on the County website to help promote use of the area.

Ms. West responded that the Foundation's board would like to raise the funds to restore the Dawson Mill house at some point so that it could be used as a community asset.

Mr. Wyant added that there has been significant work by AHIP on some houses near there.

Mr. Slutzky wondered about a memorandum of understanding between Parks & Recreation and the Foundation.

Ms. West agreed, stating that they would also like to make it available for County functions.

Agenda Item No. 9. Thomas Jefferson Partnership for Economic Development Performance Review.

The Executive Summary states that in February 2006, the Board approved a motion for Albemarle County to join the Thomas Jefferson Partnership for Economic Development (TJPED) for the remainder of FY 05/06 and all of FY 06/07. That motion also called for the Board to reaffirm its decision to be a member in the TJPED before continuing membership in FY 07/08. The purpose of this executive

summary is to provide information to the Board to assist it in its discussion regarding whether to continue its membership in the TJPED.

During the course of this first year of Albemarle County membership, the TJPED gained one additional public agency member, Greene County, so that participating localities now include the City of Charlottesville and Albemarle, Culpeper, Fluvanna, Greene, Louisa, Nelson and Orange Counties. Also, founding Executive Director, Bob de Mauri, retired from his position. A nationwide search ended with the TJPED Board selecting Mike Harvey to take over the organization in February 2007. Mr. Harvey has recently completed his orientation, assessed budget and operations, and developed a new work plan with considerable input from County representatives. Mr. Harvey has re-aligned his advisory committee to include leadership from the Central Virginia Small Business Development Center, Virginia-Piedmont Technology Council/Charlottesville Venture Group, University of Virginia Economic Development Director, and the partner-County economic development professionals. Recognizing the limitations of TJPED's budget, Mr. Harvey has scaled back new business marketing activities and developed a work plan which places a strong emphasis on several key initiatives: 1) implementing a business retention program centered around the State's "ExecutivePulse" computer program, 2) developing a regional workforce study, and 3) performing an industry cluster analysis of the region to identify desirable business segments. Mr. Harvey has also taken a co-leadership role with The Piedmont Workforce Network to address and help mitigate the regional impacts expected from the expansion of NGIC. The Chairman of TJPED has also established an Advisory Council made up of a diverse group of interests including the farming and wine industries, land conservation interests, tourism and other business entities. Ches Goodall, Manager of our ACE Program, represents Albemarle County government on this council.

To assist in working with TJPED, staff developed a memorandum of understanding, MOU, to create measurements for evaluating performance against the broader goals stated above. (Attachment A) The MOU identifies five areas for TJPED to address: 1) Helping existing businesses improve workforce training and placement of workers affected by downsizing; 2) In accordance with our development area and rural area policies and strategies, reaching out to new businesses to diversify the tax base and to encourage local employment, 3) Support County staff and elected officials in communicating with the community about the regional economy as well as business assistance programs and initiatives; 4) Upon request, assist County staff with research, including white papers, on key topics such as economic competitiveness, product development, and under-employment; and 5) Track activity performed on behalf of Albemarle County.

Culling through notes from his predecessor, TJPED Executive Director Mike Harvey provided a summary report documenting TJPED's 2006 calendar-year activity on behalf of Albemarle County. (Attachment B). According to this report, TJPED staff contacted over 60 local companies and helped three with major expansions, including one that qualified for \$1,000,000 for business expansion/retraining from the VA Department of Business Assistance. TJPED staff member, Sue Friedman, provided considerable assistance to the Badger Company's 94 employees in connecting with employee resources for re-training and employment networking, following the company's closing. During this time Ms. Friedman also served on the Albemarle County Strategic Planning for Economic Vitality Citizen Task Force, helping to identify solutions for workforce training and metrics for measuring economic vitality over the time period of the County Strategic Plan.

Even with the change of TJPED's Executive Director, this last year's membership has been beneficial to the County in several ways. TJPED provided significant support in helping Badger employees - following layoffs - find other jobs and workforce re-training programs in concert with the Virginia Employment Commission staff. TJPED provided leadership in a citizen's committee on Economic Vitality for the County's Strategic Plan, as well as with regional discussions on addressing impacts from the expansion of NGIC. TJPED also provided support in working with the State's Economic Development Partnership (VEDP) and UVA in helping identify and recruit candidate tenants for the University's research parks.

TJPED's annual membership fee is \$12,500. Staff recommends that the Board continue the County's membership in the TJPED.

Mr. Tucker noted that staff still supports participation in TJPED, and staff has outlined some parameters for continued involvement.

Mr. Rooker responded that his objection has been philosophical as he does not want the County to support organizations that advocate in front of the Board. He also said that he would like a commitment from TJPED that they will not appear before the Board or the Planning Commission either in person or in writing in support of or in opposition to any application pending before those bodies.

Mr. Mike Harvey of TJPED addressed the Board, noting that he personally does not have an objection to that, and there are other groups that serve more of an advocacy role.

Mr. Slutzky pointed out that the County is intending to invest money in ASAP, and he wondered if there is a difference in joining and contributing.

Mr. Rooker responded that the County is allocating money to ASAP because it will get benefit from the study, and being on a board of an organization is a different matter.

Mr. Slutzky said that he would like to vote on joining for one year, and he noted that TJPED will become a significant ally.

Mr. Dorrier stated that he views this group much like the Thomas Jefferson Planning District Commission (TJPDC), and it would tie TJPED's hands to not allow them to address the Board.

Mr. Rooker emphasized that TJPDC is a state organization bound by the public body requirements, and TJPED is a private non-profit.

Mr. Davis commented that the law limits what boards a Board of Supervisors can appoint a Board member to sit on, and TJPED does not fall in that category. He said that the organizations can choose members to serve on their board rather than them being appointed, and similar organizations to TJPED have picked supervisors to be on those boards.

Mr. Rooker stated that he would like to have the contingency that TJPED would not come before the Board to advocate a position.

Ms. Thomas responded that it would likely not be well-received, given the discussions here. She also said that she would like something that emphasizes employment that meets the needs of people in poverty and language that addresses traffic strategies for new employers.

Mr. Rooker noted that there could be something in the staff memorandum of agreement that they would not appear before the Board in a specific advocacy position related to a project.

Mr. Harvey added that it aligns with their goals.

Mr. Harvey noted that their budget this year would be \$385,000 and if they receive public funding they will be open with their books.

At this time, Mr. Slutzky **moved** for approval of the County joining TJPED for one year; as part of the Memorandum of Understanding, under the section for "New Businesses, **modify** Bullet #2 to read: "Encourage the employment of local workers rather than the hiring and relocating people from outside the region with an emphasis on jobs that meet poverty-related needs." **Modify** Bullet #5 to read: "Assist County staff in formulating mechanisms that help implement the County's Comprehensive Plan, as well as its Master Plans, Strategic Plan and traffic management strategies." In addition, approval is contingent upon TJPED not appearing before the Board of Supervisors or the Planning Commission either in person, or in writing, in support or in opposition of any application pending before those bodies. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Thomas Jefferson Partnership Support of Albemarle County's Economic Development Objectives

The Thomas Jefferson Partnership for Economic Development (TJPED) will work with Albemarle County in a number of areas that are designed to support the accomplishment of its economic development objectives. The stated areas of activity are not intended to limit the work done on the County's behalf, but merely attempts to identify those key initiatives that will complement and augment what is being done or what is desired to be done by staff.

Two major areas of engagement will be with existing businesses in the county and with those designated businesses currently outside the county that can satisfy their operational needs in appropriate, pre-determined county locations identified in the Comprehensive Plan. TJPED will not appear before the Board of Supervisors or the Planning Commission either in person, or in writing, in support or in opposition of any application pending before those bodies.

Existing Businesses

Help establish connections with Albemarle County businesses and County staff to build and strengthen those relationships that will more effectively address identified needs in such areas as:

- Workforce training and continuing education
- Improving job and wage opportunities
- Placement and retraining of workers affected by downsizing or relocations
- Resolution of those issues associated with expansion or relocation within the County.

New Businesses

By first becoming familiar with both the development area and rural area policies of the County's Comprehensive Plan, along with the opportunities available for potential new businesses in these areas, strategies will be developed and prospects will be identified/assisted that, if located, would become suitable additions to the county's land-use mix. TJPED will recognize, via resolution, the comprehensive plan of each participating jurisdiction, and align the promotion of new business in accordance with stated goals

- Promote the establishment of a diversity of businesses that require a variety of job skills and educational levels, as well as broaden the local tax base

- Encourage the employment of local workers rather than the hiring and relocating people from outside the region and include an emphasis on jobs that meet poverty-related needs
- Represent the county's business opportunities in the context of the regional economy to prospective companies
- Work with County staff to identify environmentally sustainable businesses, including those that are technology/knowledge based, that will help expand employment opportunities in the development areas and support agricultural and forest management activities
- Assist County staff in formulating mechanisms that help implement the County's Comprehensive Plan, as well as its Master Plans, Strategic Plan and traffic management strategies

Community Relations/Communication

Additional support will be provided by joining with County staff/elected officials in meetings with residents and local businesses. Upon request, information will be shared about:

- The regional economy
- Available assistance programs
- Selected components of the business development program
- TJPED will continue its practice of website postings of events and meeting schedules, ensuring accessibility and availability of information to the Albemarle County residents

General Economic Development Resource

TJPED will be available to County staff/elected officials to provide information on subjects related to economic development. Upon request, white papers will be prepared, data will be made available and issues will be identified in such areas as:

- Economic competitiveness
- Product development
- Plan implementation
- Under-employment
- Sustainable agricultural trends

Tracking Activity Performed on Behalf of Albemarle County

- Employers Contacted _____
- Employers Assisted _____
- Workforce Training Referrals Made _____
- New Business Inquiries Assisted _____
- Presentations/Appearances with County Staff _____
- Support Provided for County Initiatives _____
- Requested Papers Prepared/Information Provided _____
- New Businesses Located (to include jobs/investment) _____
- Existing Business Expansions (to include jobs/investment) _____

Agenda Item No. 10. 2008 Legislative Priorities.

It was noted in the Executive Summary that in July 2006, the Board of Supervisors approved the County's 2007 Legislative Priorities that were then submitted to the Virginia Association of Counties (VACo) and the Thomas Jefferson Planning District Commission (TJPDC). In October 2006, the Board approved the TJPDC's legislative program that incorporated the County's 2007 Legislative Priorities. The General Assembly convened in January 2007 and completed its session in April. Staff is providing this executive summary to receive the Board's input and approval before submitting the proposed 2008 Legislative Priorities (Attachment A) to the TJPDC and VACo.

For information on how the County's 2007 Legislative Priorities fared in the legislature, please see the "2007 Legislative Priorities Report (Attachment B)." The report details any action taken on priorities, an assessment of what priorities should be continued in the future and links to the final legislative reports of the TJPDC, VACo and Virginia Municipal League (VML).

For the 2008 Legislative Priorities, a statement has been added at the Board's request asking for the County to be included in the "Cost to Compete Pay Differential" that will provide additional compensation from the state for teachers. Staff is not proposing any priorities beyond the "Cost to Complete Pay Differential" and the continued or modified 2007 priorities.

After the Board's input and approval, staff will submit the adopted priorities to VACo and the TJPDC for consideration into their respective legislative programs. The Board may request legislation or other priorities at anytime after this date; however, in submitting priorities to VACo, now is the optimal time for consideration of any proposal. The 2007 TJPDC Legislative Program will return to the Board in the fall for further input and approval.

Should the state provide additional funding for the County's "Child Care for Low Income Working Families" priority, a local match will be required. Beyond that priority, there are no specific, identifiable budget impacts, although the County's legislative priorities seek to ensure the state adequately funds its mandated responsibilities and does not jeopardize the County's ability to effectively and efficiently implement the policies (including fiscal) and programs that it deems necessary.

Staff recommends the Board approve the proposed 2008 Legislative Priorities (Attachment A), and any additions it feels are appropriate, for submission to VACo and the TJPDC.

Mr. Tucker reported that staff is asking that the County be included in the "Cost to Compete Pay Differential Program" that would bring additional funds for teachers, and staff is not proposing any priorities beyond that, but continuing those modified in the 2007 priorities. He said in addition, staff noted that another budget impact would be the State funding child care for low-income working families as there would need to be a local match for that. Mr. Tucker stated that staff would recommend that the Board approve the 2008 legislative priorities as presented, with any additions they feel are appropriate, to be forwarded to VACo and TJPDC.

Mr. Boyd asked about the scenic protection and tourism enhancement clause.

Ms. Thomas responded that it arose out of a study done by a legislative committee in which Albemarle participated, and the County felt they would be the one county that would put something like that into effect although it has never gotten very far. She noted that Delegate Creigh Deeds proposed something last year, but it has not gone anywhere.

Mr. Boyd noted that this request is a specific request for Albemarle County.

Ms. Thomas replied that it was a pilot project that also did not get anywhere.

Mr. Boyd said that he does not support this language.

Ms. Thomas responded that it is the same language that enables the County to have an Architectural Review Board on the Entrance Corridor, and it says that if there is an area of the County that is particularly important to tourism then the locality can have review of appearance of structures. She explained that it came about from a local issue related to visibility in mountains as you enter the area and Monticello's viewshed. Ms. Thomas emphasized that it does not prevent building, but it does allow for compatibility of structures and design. She said, "Right now we can't do any of that."

Mr. Rooker commented that in York County, they call it the "Tourist Enhancement Overlay District."

Mr. Slutzky noted that this is just the enabling legislation, and it is up to local officials to decide how it would be applied.

In response to Mr. Dorrier's question about the method, Mr. Davis explained that this was intended so that a locality has an ability to have an overlay district that would allow regulation of aesthetics, which could be done administratively or by the ARB. Mr. Davis said that it was designed primarily for mountain overlay districts so that there would be earth tone colors that blend into the landscape.

Mr. Slutzky emphasized that this just provides an opportunity for enabling legislation.

Mr. Boyd replied that there is an awful lot of intrusion of government that started with the "camel's nose under the tent".

Ms. Thomas commented that it is allowed in most other states, and Virginia is one exception. She noted that it really addresses aesthetics.

Mr. Davis said that it would not do more than what Entrance Corridors do, but it would allow them to do it in mountainsides and other attractive areas in the County.

Mr. Rooker reiterated that this simply provides enabling legislation, but any actions would be subject to future decisions from the Board. He also said that he would like to add something under Health and Human Services that says "fully fund Social Service positions at levels consistent with state and federal guidelines."

At this time, Mr. Rooker **moved** for approval of the 2008 Legislative Priorities for submission to VACo, and the TJPDC. Mr. Slutzky **seconded** the motion, noting that there is a full funding of State mandates provision. He commented that it is sad that it needs to be stated in a legislative agenda as a request that the legislature not pass legislation that preempts or circumnavigates local authority to

regulate land uses. Mr. Boyd expressed his support of the motion. Roll was called, and the motion carried by the following recorded vote:

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

Albemarle County 2008 Legislative Priorities - Adopted

Growth Management, Land Use and Transportation

- **Local Authority:** Request that the legislature further facilitate the HB 3202 legislation recently signed into law through: 1) Modifying the transportation impact fee authority to allow for its more effective implementation; 2) Strengthening localities' authority by enabling them to utilize adequate public facilities ordinances and other impact fees in addition to transportation; and 3) Not passing legislation that preempts or circumvents existing local authority to regulate land use.
- **Conservation Easements:** Request the legislature support and augment local efforts in natural resource protection through 1) Continuing to fund the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (e.g. ACE Program in Albemarle County); 2) Retaining current provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological and scenic value that attract tourism; and 3) Increase incentives for citizens to create conservation easements
- **Scenic Protection and Tourist Enhancement:** Request enabling legislation for an Albemarle County pilot program to provide for a scenic protection and tourist enhancement overlay district. As the County pursues options to protect the visual quality of land as an aesthetic and economic resource, this legislation would provide the County with a method to ensure full consideration of visual resources and scenic areas when the County or state makes land use decisions in designated areas.
- **Transportation Funding:** Request the legislature 1) Establish stable and consistent state revenues for Virginia's long-term transportation infrastructure needs; 2) direct funding efforts at all transportation modes; 3) Coordinate planning for transportation and land use, being mindful of local Comprehensive and regional Transportation Plans when planning transportation systems within a locality; and 4) Not shift transportation responsibilities, including maintenance, to localities.

Health and Human Services

- **Comprehensive Services Act (CSA):** Request the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) Fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA; 2) Enhancing state funding for grants to localities to create community-based alternatives for children served in CSA; 3) Establishing state contracts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs; and 4) Encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.
- **Child Care for Low Income Working Families:** Request the legislature provide additional funds to local governments to assist low-income working families with childcare costs. This funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.

Local Government Administration / Laws

- **Full Funding of State Mandates:** Request the state provide full funding for its mandates in all areas of local government including the Standards of Quality (SOQs), positions approved by the Compensation Board and costs related to jails and juvenile detention centers.
- **Local Control of Local Revenues:** Request the legislature take no action to restrict or limit the existing local control of local revenues so that local government leaders can take appropriate measures to generate sufficient revenues to sustain and improve services

Cost to Compete Pay Differential: Due to the documented high cost of living in Albemarle County, request the legislature include Albemarle County Schools in the "Cost to Compete Pay Differential" so that the County may reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.

Agenda Item No. 11. **Appeal: SDP 2006-071 Gillispie – Preliminary Site Plan – Critical Slopes Waiver/Curb and Gutter Request**, (Tax Map 61K, Parcels 10-0A and 10-0A2). Request for Preliminary Site Plan to allow the construction of two (2) residential condominium units totaling 16,023 sf, and 7 total dwelling units on 1.71 acres, and is zoned R4 (Residential). The property is described as Tax Map 61K, Parcels 10-0A and 10-0A2, and is located at the end of Inglewood Drive, near its intersection

with Hydraulic Road (Route 631). The Comprehensive Plan designates this property as Neighborhood Density in Urban Area 7. Jack Jouett Magisterial District.

The Executive Summary states that the applicant is appealing the Planning Commission's May 8, 2007 denial of a critical slopes waiver sought in conjunction with a site plan for a 7-unit condominium project. The property is identified as Tax Map 61K, Section 10, Parcels A and A2 and is located at the end of Inglewood Drive in the Jack Jouett Magisterial District. The property site is 1.71 acres in size and is zoned R-4, Residential.

This project was before the Board on an appeal once before on February 7, 2007. At that time, the issues on appeal were the Planning Commission's denial of a critical slopes waiver and denial of a waiver from the requirement for curb and gutter. Related to these waivers, there was concern by the Planning Commission, County staff, and the public that drainage from the property would adversely impact a downstream property. At the February 7, 2007 meeting, the Board deferred action on the appeal upon the applicant's agreement to revise the plan to address the concerns expressed by County staff.

On March 15, 2007, the applicant submitted a revised plan which provided curb and gutter meeting the requirements of the Zoning Ordinance and directed drainage through the proposed entrance of the property and into an existing public drainage system. These revisions eliminated the need for the waiver from the curb and gutter requirement and resolved the concern that drainage would adversely impact a downstream property. The plan was also revised to reconfigure the original two buildings into one, thereby decreasing the amount of critical slopes and providing adequate area for the installation of erosion and sediment control measures. The existing swale to the rear of the building will not be channelized into a pipe and staff determined that improvements to the existing swale should be enough to ensure adequate channels for the downstream property.

On May 8, 2007, the Planning Commission denied the applicant's revised request for a critical slopes waiver (See Attachments B, C, D) as provided below:

The Planning Commission's denial was based on the grounds that the three findings set forth in Section 4.2.5(b) could not be made as follows: (The ordinance sections are provided below in Italics)

1. Strict application of the requirements of section 4.2 would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the developer would satisfy the purposes of section 4.2 to at least an equivalent degree; or (Added 11-15-89)

The first finding could not be made, as noted in the staff report, because there were no proposed alternatives presented by the developer that would satisfy the purpose of Section 4.2 to at least an equivalent degree.

2. Due to its unusual size, topography, shape of the property, location of the property or other unusual conditions, excluding the proprietary interest of the developer, the requirements of section 4.2 would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the site or adjacent proper ties. Such modification or waiver shall not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties, or be contrary to sound engineering practices; or (Added 11-15-89)

Regarding the second finding, the Commission was unable to make that finding for the reason that the degradation of the area would be overreaching for the area and that they could reduce the size of the disturbed area. This proposal is developing the project to the maximum extent possible under the R-4 zoning. Therefore, the applicant could scale back the scope of the project.

3. Granting such modification or waiver would serve a public purpose of greater import than would be served by strict application of section 4.2.

Regarding the third finding, the Commission could not find any immediately identifiable reasons that would be considered of greater import in granting the waiver, as noted in the staff report.

In its report to the Planning Commission (Attachment A), staff recommended approval of the critical slopes waiver because the request was consistent with the criteria in Section 4.2.5(a) (Attachment E) for the granting of such a waiver and also sound engineering practices. Staff continues to recommend approval because:

- The area of land disturbance has been reduced since the original plan. Critical slopes cover approximately 0.65 acres (approximately 36.3%) of the project site; approximately 0.34 acres (approximately 20% of the project site and 52% of the critical slopes) of the project site would be disturbed by the proposed development. The original plan proposed to disturb approximately 0.41 acres (approximately 24% of the project site and 63% of the critical slopes).
- Current Development Engineering staff finds that four of the criteria in Section 4.2.5(a) are either inapplicable or can be addressed in the erosion and sediment control and stormwater management plan stages, and the fifth (loss of an aesthetic resource) is unavoidable to the extent that wooded areas would be lost. The Current Development Planning staff found that the disturbance of the critical slopes would not be a potential loss of a critical aesthetic resource.

Staff was not able to make findings under Sections 4.2.5(b)(1) or 4.2.5(b)(2) to support the waiver request. There are no proposed alternatives presented by the developer that would satisfy the purpose of Section 4.2 to at least an equivalent degree. Furthermore, while the strict application of 4.2 would not unreasonably restrict the use of the property, it would result in significant redesign and loss of density. Staff recommends that the Board can make the required finding under Section 4.2.5(b)(3) (Attachment E and set forth above) because the proposed project is an infill project within the development areas as identified in the Comprehensive Plan, proposes a density that is consistent with the property's Neighborhood Density (3-6 dwelling units per acre) designation in the Comprehensive Plan, and is consistent with the urban character desired for Neighborhood 7 in the Comprehensive Plan. Staff's opinion is that approving the critical slopes waiver to allow the development as proposed promotes these public policies.

Staff recommends that the Board approve the requested waiver.

Mr. Shepherd reported that this is an appeal from the Planning Commission's May 8, 2007 denial of a critical slopes waiver sought in conjunction with a site plan for a seven-unit condominium project located at the end of Inglewood Drive in the Jack Jouett Magisterial District and is zoned R-4. He explained that this project was before the Board on an appeal on February 7th, and the Board deferred action on the applicant's agreement to revise the plan and address concerns that were raised by the staff and the public. Mr. Shepherd said that the applicant did submit a revised plan that provided curb and gutter which eliminated the need for a waiver, and the plan combined the two buildings as one, decreased the critical slope disturbance, and reconsidered the drainage. He stated that with these revisions, staff is able to recommend approval of the critical slopes waivers. Mr. Shepherd said that the engineering staff was able to make a recommendation based on sound engineering practices reflected in the plan, and planning staff was able to make a positive recommendation based on the criteria of providing infill development of three to six dwelling units per acre, consistent with Neighborhood Seven. He said that the Planning Commission denied the request, indicating in their opinion that none of the three findings had been made.

Mr. Cilimberg noted that the Commission's recommendation for denial was based on sections under 4.2.5.B of the ordinance, believing that there was no proposed alternative presented by the developer under the section to at least an equivalent degree, and that the degradation of the area would be overreaching for the area and the applicant could reduce the project size and scale it back. Mr. Cilimberg also said that the Commission did not find any immediately identifiable reasons that would be considered of greater importance in granting the waiver, such as opportunity for infill.

Mr. Bill Daggett addressed the Board as the project architect, stating that they addressed the drainage issue, and the Commission could not make any of the findings in their deliberations. He stated that they are erroneous in all of that because they did provide an alternative, including replacing the building and road positions so that the building was built in the non-critical slopes areas and the road was built in the critical slopes area. Mr. Daggett read from the land use plan, noting that it recognizes physical development limitations and provides guidance for development that will be harmonious to the natural and manmade environments and consistent with the County's growth management goals, which are to channel development into designated development areas while conserving the balance of the County as rural areas. He continued to read from the plan, emphasizing that it encourages higher density building as infill of vacant land in the designated development areas.

Mr. Daggett emphasized that they would like to use the density bonus for affordable housing units.

Mr. Rooker said that there had been discussion between the applicant and the neighborhood, and he saw a copy of an e-mail agreement to change the plan. He asked if that had been done.

Mr. Daggett replied that the only issue that would change the plan, as he is aware, would include separation of the building into two smaller buildings and move it somewhat on the site.

Mr. Davis noted that he is not sure that staff has evaluated the critical slopes issue in regards to the buildings being separated.

Mr. Shepherd added that staff is asking for the Board to approve the critical slopes waiver that shows the disturbance as shown on this preliminary plan, so if a revision would additionally disturb slopes than this waiver would not apply.

Mr. Davis agreed that this is a moot point if there are two buildings as there would be additional critical slopes waivers.

At this time the Chairman asked for public comments.

Ms. Margaret Van Engle addressed the Board, stating that her property abuts this vacant lot. She said that the neighbors have met with Mr. Gillespie, realizing that the lot is going to be developed and making requests as to what they would like to see. Ms. Van Engle said that they have objected to the density and hearing there may be nine units, is rather alarming.

Mr. Rooker noted that the applicant is reading from certain sections of the Comp. Plan and is seeking the maximum density allowed on the lot. He said that there are substantial critical slopes here,

and if the Board is to buy the architect's argument, that would mean that every parcel and lot in the County would be built to the highest end.

At this time, Mr. Rooker **moved** to sustain the Planning Commission's decision not to permit this. He noted that reducing this by one unit would result in less building and disturbance on critical slopes.

Ms. Thomas commented that that would allow this to be considered without changing the plan.

Mr. Daggett asked for clarification of the motion.

Mr. Davis responded that the critical slopes waiver for this site plan is before the Board, and they could approve it with the middle unit removed, but without staff review of that option he would be hesitant to recommend that approach as it may change the dynamics on the site. He suggested having it deferred and brought back before the Board in August.

Ms. Thomas commented that she could not see that removing a unit would make it worse.

Mr. Allan Schuck of the Engineering Department addressed the Board, stating that removing the middle building would not affect the critical slopes disturbance proposed with this plan. He added that by eliminating the middle unit the development would not increase or decrease the critical slopes disturbance.

Mr. Tucker asked if there were other engineering concerns, and Mr. Schuck replied that the applicant has redesigned the drainage as it is routed towards the front of the property anyway. Mr. Schuck said that it would affect the storm water management plan because of additional impervious area.

Mr. Davis noted that staff's basis for approval was the balance of disturbing critical slopes versus the public purpose of greater infill. He said that the waiver could be acted upon with a condition that one of the central units be eliminated from the site plan.

Mr. Rooker then restated his motion to **move** approval of the critical slopes waiver with a condition that one of the central units be eliminated from the site plan. Ms. Thomas **seconded** the motion.

Mr. Daggett clarified that he cannot act on behalf of Mr. Gillespie, but he can act on the Board's decision accordingly.

Mr. Davis noted that he does not have to build on this site plan; he can come back and propose something else.

Mr. Shepherd noted that the building footprint could actually get smaller with the removal of a central unit.

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

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

NAYS: None.

Agenda Item No. 12. Closed Session.

At 1:02 p.m., **motion** was offered by Mr. Slutzky that the Board adjourn into closed session pursuant to Section 2.2-3.711.A of the Code of Virginia under Subsection (1) to conduct an administrative evaluation and appointments to boards, committees, and commissions; under Subsection (7) to consult with legal counsel and staff regarding specific matters requiring legal advice related to an information technology agreement; and under Subsection (7) to consult with legal counsel and staff regarding pending litigation regarding a law enforcement incident.

The motion was **seconded** by Mr. Rooker. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 13. Certify Closed Session. The Board reconvened into open session at 2:46 p.m.

Motion was immediately offered by Mr. Slutzky that the Board certify by a recorded vote that to the best of each Board member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in motion authorizing the closed session were heard, discussed, or considered in the closed session.

The motion was **seconded** by Mr. Wyant. Roll was called, and the motion carried by the following recorded vote:

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

Agenda Item No. 14. Appointments.

Motion was offered by Mr. Wyant moved to:

Appoint Bradford Cogan to the Agricultural and Forestal Advisory Committee, with said term to expire April 17, 2011.

Appoint Dave Callihan to the Acquisition of Conservation Easements Committee, to fill the unexpired term of Jay Fennell, with said term to expire on August 1, 2009.

Appoint Jeff Werner to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2009.

Appoint Donald Byers, as the joint City/County appointee to the Jail Authority, with said term to expire on June 30, 2010, subject to approval by City Council.

Appoint Richard Jennings to the Pantops Community Advisory Council.

Reappoint Edith (Winx) Lawrence to the Commission on Children and Families, as the University of Virginia Representative.

The motion was **seconded** by Mr. Dorrier. Roll was called, and the motion carried by the following recorded vote:

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

Item 6.5. Charlottesville Transit Service Recommendation for Use of Additional Transit Funding. (**Resumption of Discussion**).

Mr. Benish reported that the funding is available for the evening service for Route 5 or enhanced service on that route but not both. He explained that City Council is not aware of the County's interest in evening service, but only the enhanced headways, and says it is not a decision solely for CTS to make.

Mr. Slutzky said that IMPACT recommended that. He reported that CTS staff said that funding the evening route would not affect the County's position for the Job Access Reverse Commute grant, but funding expended for that service incurred in advance would not likely be reimbursable.

Mr. Benish stated that there is not socio-economic data available that is specific to these alternative services, according to Bill Watterson, but there is some general information that has been developed. He said that staff feels it would be best to enhance headways on Route 5 and pursue the grant opportunities in January to begin the evening service next year.

Mr. Slutzky said that if he had to choose, he would prefer to expand to evening service.

Ms. Thomas agreed.

Mr. Rooker commented that it would be helpful to have socio-economic data to support that, but a lot of people use day service on Route 5 to get to and from work.

Mr. Slutzky noted that IMPACT did a lot of work to gather information.

Ms. Thomas replied that they also said Southwood needed service and that has not been successful.

Mr. Rooker suggested funding the recommendation by CTS.

Mr. Wyant and Mr. Boyd agreed. Mr. Boyd added that the study was done by CTS and that was their recommendation.

At this time, Mr. Rooker **moved** to adopt staff's recommendations for the expenditure of \$250,000 allocated in the FY 2007/08 budget for funding 1) Route 2B serving the Fifth Street area, and 2) improving service frequency on Route 5 from every 45 minutes to every 30 minutes between Barracks Road Shopping Center and Wal-Mart; and requested staff to pursue the Job Access Reverse Commute grant which may enable the County to provide night service later in the year. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Agenda Item No. 15. **Appeal: SDP-2006-081. Black Cat Road Service Station Preliminary Site Plan Waiver Requests.** (Tax Map 94, Parcels 38 and 39). (Deferred from April 4, 2007) (Applicant requests deferral).

Mr. Boyd noted that the item had been requested to be deferred, but he agreed to take comments from those in attendance. At this time the Chairman asked for public comments.

Mr. Bill Johnson addressed the Board, asking how many times the item could be deferred and stating that the neighbors are held hostage somewhat to this decision.

Mr. Davis explained that the waiver request was denied by the Planning Commission. He further explained that there is no rule in play as to how many deferrals can be granted, and that is up to the Board. Mr. Davis said that there has been one previous deferral granted in April.

Ms. Thomas asked about having the applicant pay the expenses of sending the letters to all the affected landowners.

Mr. Davis replied that there is no legal requirement to send letters to them.

Mr. Tucker said that the permit fee discussion in September might be the time to discuss this as there are other costs incurred that are of concern.

Mr. Davis suggested having an indefinite deferral and having the staff contact the applicant to see whether or not they want to go forward with this and if there is an agreed upon date. He added that there might be some information related to well and septic capacity that had not been received by Zoning, but he is not sure if that led to this deferral or not.

At this time, Mr. Rooker **moved** to defer indefinitely the appeal of SDP-2006-081. Mr. Dorrier **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 16. **Public Hearing:** Amendment to Lewis and Clark Center Lease Agreement. (Notice of this public hearing was advertised in the *Daily Progress* on July 2, 2007).

It was noted in the Executive Summary that in 2003, the City and County, as co-owners of Darden Towe Park, entered into a lease agreement with the Lewis and Clark Exploratory Center of Virginia, Inc. to allow the Lewis and Clark Exploratory Center to be located in the northeast corner of Towe Park. On January 4, 2006, the Board unanimously approved a special use permit for the Center. The special use permit review process with the Planning Commission and Board, as well as more defined plans by representatives of the Lewis and Clark Exploratory Center, has necessitated proposed amendments to the 2003 lease agreement. Any amended lease agreement must be approved by the Board of Supervisors and Charlottesville City Council, as co-owners of the Darden Towe Park. On February 21, 2007, the Darden Towe Park Committee discussed the proposed amended agreement, and recommended its approval. State law requires that the Board of Supervisors hold a public hearing prior to the authorization of a lease of County property.

The proposed agreement would amend the original agreement as follows:

Section 2.1.1 -- More clearly identifies the boundary of the leased area and includes the existing barn and the immediate surrounding area through October 31, 2011.

Section 2.1.2 -- Allows for the relocation of a portion of the dog run if necessary for the entrance road construction.

Section 2.2 -- Allows for the construction of a 20 foot wide internal access road as opposed to the originally envisioned access directly off of Route 20 and allows for relocation of the cross country trail.

Section 2.6 -- Adds a pre-approval requirement by the City and County should the Rivanna Watershed Center wish to locate on the leased area.

Section 2.7 -- Adds "festival" to overflow parking requirements -- There are different overflow parking standards for "special events" than for "festivals." As a result, at the suggestion of County staff, references in the Overflow Parking Section to "special event" have been changed to "special event or festival."

Section 5.1 -- Permits use as "historical center" -- The County's zoning ordinance was recently amended to include special provisions for "historical centers." As a result, again at the suggestion of County staff, the proposed lease references the relevant zoning ordinance.

Section 7.1 -- Allows the Center to furnish, maintain, and pay for its own food service equipment.

Section 7.1 -- Also requires the Center to abide by any duly-adopted policies, present or future, governing the use of pesticides, cleaners or other products at Darden Towe Park

Article XII and Article II Section 2.5 -- Both provide that property can be withdrawn from the leased area for any public transportation purpose with no compensation due the tenant.

The proposed amended lease has been reviewed and approved as to form by the County Attorney's Office. The City is expected to consider the approval of the amended lease no later than at its August, 2007 meeting.

The amended agreement has no budget impact on the County.

Following the public hearing, staff recommends that the Board authorize the County Executive to sign on behalf of the County an amended lease agreement with the Lewis and Clark Exploratory Center substantially in accord with the attached lease agreement and approved by the County Attorney.

Mr. Tucker stated that the Darden Towe Park Committee has recommended this, and a public hearing is required under state law. He said that staff recommends approval to authorize him to sign an amendment for the lease agreement.

At this time the Chairman asked for public comments.

Ms. Anne Hemenway, Vice President of the Lewis and Clark Exploratory Center Board, addressed the Board. She recommended approval of the amended lease, stating that it is very similar to the original lease, but it allows the Center to use the barn area as part of the lease for five years. Ms. Hemenway also noted that the entrance will be within the park itself.

There being no other comments, Mr. Boyd closed the public comment period.

Ms. Thomas noted that she is on the Center's board, but there is no official conflict of interest as it is not a paid position.

At this time, Ms. Thomas **moved** that the amended lease be adopted as presented and that the Board authorize the County Executive to sign, on behalf of the County, an amended lease agreement with the Lewis and Clark Exploratory Center substantially in accord with the attached lease agreement and approved by the County Attorney. Mr. Dorrier **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

AMENDED AGREEMENT OF LEASE

THIS AMENDED LEASE AGREEMENT is made as of the ____ day of _____, 2007, by and between the **COUNTY OF ALBEMARLE**, ("the County"), a political subdivision of the Commonwealth of Virginia, and the **CITY OF CHARLOTTESVILLE**, ("the City") a municipal corporation ("County and City") and **THE LEWIS & CLARK EXPLORATORY CENTER OF VIRGINIA, INC.** ("Tenant").

W I T N E S S E T H :

ARTICLE I. FACTUAL BACKGROUND.

Section 1.1. The Lewis & Clark Expedition, one of America's greatest adventures, began in Charlottesville-Albemarle at Monticello, where President Thomas Jefferson and Meriwether Lewis planned the trip west.

Section 1.2. Both Thomas Jefferson and Meriwether Lewis are Albemarle natives; William Clark and his family were Central Virginians who had lived in Albemarle, where his older brother and mentor George Rogers Clark was born.

Section 1.3. Jefferson's homeland of Charlottesville-Albemarle County is uniquely suited for visitors to explore and discover the Corps of Discovery and Jefferson, Lewis and Clark, and also the geography, plants, wildlife and Native American cultures that comprised the nation at the beginning of the 19th Century.

Section 1.4. Tenant is a Virginia non-stock corporation.

Section 1.5. The northern end of Darden Towe Park along the Rivanna River, which connects with the George Rogers Clark birthplace, is uniquely situated to provide a premier site for the Facility.

Section 1.6. The property at the northern end of Darden Towe is also located along the Southwest Mountains and historic Route 20, which connect the homes of Thomas Jefferson, James Madison and James Monroe, as well as other early Virginia explorers such as Dr. Thomas Walker.

Section 1.7. The Facility will complement the visitor experience at Monticello, the University of Virginia, Ashlawn-Highland and other important Central Virginia attractions and enhance our communities' connection with the Rivanna River. It will also commemorate both the Lewis & Clark Expedition and George Rogers Clark, the conqueror of the old Northwest Territory.

Section 1.8. The Facility will be designed in a manner that is environmentally and esthetically sensitive and developed in a manner to enhance the natural beauty of both the Rivanna River and Darden Towe Park.

Section 1.9. This Amended Agreement of Lease shall supersede the Agreement of Lease among the parties dated July 1, 2003.

ARTICLE II. PREMISES.

Section 2.1. Premises. In consideration of the rents and covenants herein set forth, the County and City hereby lease to the Tenant, and the Tenant hereby rents from the County and City, the property shown as cross-hatched on **Schedule A** attached hereto and made a part hereof together with any and all improvements thereon (the "Leased Premises").

Section 2.1.1. Lease Boundary Line. The boundary line between the Leased premises and the remainder of Darden Towe Park shall be as shown on **Schedule A**. Through October 31, 2011, the Leased Premises shall include the barn and the area immediately surrounding (the 'Barn Area,' as shown on the attached **Schedule A**). During such time, the County and the City shall have the continued right to store equipment and materials in the left bay of the barn and at the rear of the barn, and the right to access these areas. Thereafter, the Leased Premises shall no longer include the Barn Area.

Section 2.1.2 Dog Run. Tenant shall, at its expense, relocate and or replace the dog run fencing on the County and City property as approved by the County Director of Parks and Recreation to maintain the same overall square footage should the entrance road require such relocations.

Section 2.2. Tenant Access. Vehicular access to the Leased Premises shall be along and across a new 20-foot wide road as shown on **Schedule A**. Tenant shall be responsible for construction of the new road, as well as any improvements required by the County to be made to the existing road. Tenant's use of the 20-foot road shall be limited to times when Darden Towe Park is open, except as otherwise agreed with the Darden Towe Park staff.

Tenant shall construct and maintain the 20-foot road in its entirety, and any fencing, in compliance with County of Albemarle Special Use Permit No. SP-2004-004. For purposes of this instrument, Tenant's maintenance obligation includes the maintenance of the private streets or alleys, and all curbs, curbs and gutters, drainage facilities, utilities, dams, bridges, and other private street improvements, and the prompt removal of snow, water, debris, or any other obstruction so as to keep the private street or alley reasonably open for usage by all vehicles, including emergency services vehicles. The Tenant shall install between the 20-foot road and any playing field a fence, which shall be a board fence forty-two inches (42") high with evenly spaced horizontal boards each of six inches (6") of nominal width.

Tenant shall also construct all new sections of the relocated cross-country trail on the Leased Premises as shown on **Schedule A** with the final exact location to be approved by County Director of Parks and Recreation.

Section 2.3. County and City access. The Tenant grants to the County and the City reasonable access for ingress and egress across and through the Leased Premises.

Section 2.4. Greenway Trail. The County and City reserve to themselves access to a variable-width strip along the Rivanna River for a pedestrian greenway trail which includes the right to connect such trail to a pedestrian bridge crossing the Rivanna River from the Leased Premises.

Section 2.5. Construction of a State Highway or Other Public Transportation Purpose. The County and City reserve the right to withdraw a portion of the Leased Premises without compensation to the Tenant, as necessary for the construction of a state highway or for any other public transportation purpose. The County and City further reserve the right to withdraw any portion of the Leased Premises not improved as of July 1, 2008, or used in support of then-existing improvements.

Section 2.6. Rivanna Watershed Center The Tenant agrees to provide a portion of the Leased Premises for use by the Rivanna Watershed Center subject to pre approval by the county and city. Any costs associated by said use to be borne by the Rivanna Watershed Center.

Section 2.7 Overflow Parking. Any parking constructed on the leased Premises shall be available for users of Darden Towe Park, unless the Tenant is holding a designated special event or festival for which it may reasonably reserve parking. The County, the City, and the Tenant shall work cooperatively in managing parking issues during a special event or festival.

ARTICLE III. TERM.

The term of this lease shall commence as of 12:01 a.m. on July 1, 2003 (the "Date of Commencement") and shall expire at 12:00 midnight on June 30, 2043, unless sooner terminated or extended as provided herein. The term "Lease Year" as used herein shall mean the period from July 1 of any year to June 30 of the following year.

ARTICLE IV. RENT.

Commencing July 1, 2003, the Tenant agrees to pay to the County and City "Annual Rent" of \$10.00 per lease year payable annually on or about July 1 of each year.

ARTICLE V. USE OF PROPERTY.

Section 5.1. Permitted Use. The Tenant shall have the right to use the Leased Premises as a 'Historical Center' as defined in *Albemarle County Code* §18-5.1.42, and for no other purposes without the County's and City's consent.

Section 5.2. Commercial Promotion and Advertising. The Tenant shall not promote commercial businesses or corporations in outside signage on the Leased Premises or in advertising circulated to the general public except with prior written consent of the County and the City.

ARTICLE VI. DEVELOPMENT, IMPROVEMENTS AND SIGNAGE.

Section 6.1. Development by Tenant. No improvements of any kind, including roadways and parking areas, shall be made to the Leased Premises except with the County and City's prior written consent both as to the improvements and as to the contractors and subcontractors performing the work.

Section 6.2. Compliance with County, State and Federal Law. No improvements shall be undertaken on the Leased Premises unless and until the Tenant shall have obtained any and all local, state and federal governmental approvals and permits, and all such improvement shall be undertaken in strict compliance with all County, state and federal rules, regulations and laws.

Section 6.3 Removal of Improvements. Upon the expiration or sooner termination of this Lease, the County and City shall have the option (exercisable upon sixty (60) days notice to the Tenant except in the case of a termination of this Lease due to a default by the Tenant, in which case no such notice shall be required) to require the Tenant to remove, at Tenant's sole cost and expense, any and all improvements made by the Tenant to the Leased Premises which have not been made with the County and City's consent or approval, in violation of Section 6.1 hereof, or to elect to keep such improvements as the County and City's property. In the event the Tenant is required to remove any improvements, (i) the Tenant shall be responsible for the restoration of the Leased Premises to their prior condition, and (ii) if the Tenant fails to properly restore the Leased Premises, the County and City may perform the same at the Tenant's cost and expense.

Section 6.4 No Liens. The Tenant shall permit no mechanic's liens, materialmen's liens or other statutory liens to attach to the Leased Premises as a result of any alterations, improvements, additions or repairs performed by the Tenant or at the Tenant's direction. If any such lien or notice of lien rights shall be filed with respect to the Leased Premises, the Tenant shall immediately take such steps as may be necessary to have such lien released, and shall permit no further work to be performed at the Leased Premises until such release has been accomplished.

Section 6.5. Bond for Improvements. The County and City may require the Tenant to provide a bond, surety or other security prior to the commencement of any work on any improvements to the Leased Premises to assure that any such improvements are completed in a timely and workmanlike manner.

Section 6.6. Signage. The Tenant shall have the right to place signs on the interior or exterior of the Leased Premises only in conformity with all local regulations and with the prior written approval of the County and City that shall not be unreasonably withheld. Signs in existence on the date of this Lease are approved.

ARTICLE VII. MAINTENANCE OF LEASED PREMISES.

Section 7.1. Maintenance by Tenant. The Tenant shall, at its own cost and expense during the term of this Lease, maintain and keep in good order and repair the entire Leased Premises, whether improved or unimproved, including but not limited to any roadways, trails, and water courses, the exterior and interior of the Facility, including but not limited to, roof, doors, windows, all plumbing fixtures, mechanical and electrical systems and any additional improvements placed upon the Leased Premises, including the parking lot, and covenants to keep the same in good condition and to return the Leased Premises to the Lessors at the termination of this Lease in as good condition after the improvement thereof by the Tenant, ordinary wear and acts of God not customarily insurable excepted. It is clearly understood and agreed that during the term of this Lease, the Tenant at its own expense shall furnish and maintain to meet its requirements, all fixtures and equipment (including all food service equipment and heating, ventilation and air conditioning equipment) for the Leased Premises. As part of its duty to maintain and keep the premises in good repair, the Tenant shall protect the water pipes in the Leased Premises from freezing and the drain pipes from becoming clogged, and shall bear the cost of repairs arising from the misuse or negligence of those using them, and that it shall replace all glass, including plate glass, broken during said term. The Tenant agrees to abide by any duly-adopted policies, present or future, governing the use of pesticides, cleaners or other products at Darden Towe Park.

Section 7.2. Fire Protection. As part of its maintenance responsibilities, the Tenant agrees to comply fully with any and all City, County and other applicable governmental laws, regulations and ordinances, limiting and regulating the use, occupancy or enjoyment of said Leased Premises; to comply

with the Virginia Uniform Statewide Building Codes (BOCA) and the Virginia State Fire Safety regulations; and to maintain appropriate fire extinguishers on the Leased Premises.

Section 7.3. Surrender of Leased Premises. At the expiration of the tenancy hereby created, the Tenant shall surrender the Leased Premises and all keys for the Facility to the County and City at the place then fixed for the payment of rent and shall inform the County and City of all combinations on locks, safes and vaults, if any, which the County and City has granted permission to have left in the Leased Premises. At such time, the Facility shall be broom clean and in good condition and repair, commensurate with its age. If the Tenant leaves any of its personal property in the Leased Premises, the County and City, at their option, may remove and store any or all of such property at the Tenant's expense or may deem the same abandoned and, in such event, the property deemed abandoned shall become the property of the County and City.

Section 7.4. Condition of Premises on Date of Commencement. The Tenant accepts the Leased Premises "as is" on the effective date hereof. The County and City make no representations or indemnities as to the condition of the Leased Premises.

ARTICLE VIII. IMPOSITIONS, UTILITIES AND INSURANCE.

Section 8.1. Impositions. The Tenant shall pay, as additional rent, during the term of this lease, commencing with Tenant's obligation to pay rent hereunder, one hundred percent (100%) of the amount of all Impositions, as hereinafter defined, levied or imposed on the Leased Premises during any Lease Year. The term "Impositions" means all taxes, assessments, and governmental charges, federal, state, county, municipal, district or otherwise, which ordinarily and regularly are levied on or charged against real property and improvements thereto or activities conducted by Tenant thereon. Impositions for any fraction of a tax year at the commencement of the Tenant's obligation to pay rent or the expiration of the term shall be prorated between the parties hereto upon the basis that the number of days in such fractional tax year bears to three hundred sixty-five (365).

Section 8.2. Utilities and Services. The Tenant shall pay for all gas, heat, light, water, sewage service, power, telephone, janitorial, garbage disposal service and all other utilities supplied to the Leased Premises as the same may be reflected on meters at the Leased Premises, and to the extent such services are provided to the Facility at the Leased Premises.

ARTICLE IX. INSURANCE AND INDEMNITY.

Section 9.1. Liability Insurance of Tenant. Tenant covenants and agrees that it will, at all times during the term of this Lease, keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises and the business operated by the Tenant on the Leased Premises in which the limits of public liability for bodily injury and property damage shall not be less than One Million and 00/100 Dollars (\$1,000,000.00) per accident, combined single limit. The policy shall name the County and City and any mortgagees of the County and City as additional insureds. The policy shall provide that the insurance thereunder shall not be canceled without thirty (30) days written notice thereof to all named insureds, including the County and City. The Tenant shall also obtain a tenant's property insurance policy insuring the Tenant's personal and business property on the Leased Premises.

Section 9.2. Fire and Extended Coverages. The Tenant agrees that it will, during the term of this Lease, insure and keep insured, for the benefit of the County and City and its respective successors in interest, all of the building and improvements on the Leased Premises, or any portion thereof then in being not covered by the fire and extended casualty insurance. Such policy shall contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by the Tenant and the County and City pursuant to Sections 9.1 and 9.2 shall be delivered by the Tenant to the County and City, upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. The County and City and the Tenant each hereby release the others from any and all liability or responsibility to itself or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty results from the negligence of itself or anyone for whom it may be responsible, provided, however, that this release shall be applicable and in full force and effect only with respect to loss or damage occurring during such time as any such release shall not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

ARTICLE X. WASTE, NUISANCE; COMPLIANCE WITH GOVERNMENTAL REGULATIONS.

Section 10.1. Waste and Nuisance. The Tenant shall not commit or suffer to be committed any waste or any nuisance upon the Leased Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, the Tenant shall, at its sole cost and expense, comply with all of the requirements of all City, County, state, federal and other

applicable governmental authorities, now in force, pertaining to the Leased Premises or the Tenant's use and occupancy thereof.

ARTICLE XI. FIRE AND OTHER CASUALTY.

If the Facility shall be damaged so as to render 80% or more of the Facility untenable by fire or other casualty, Tenant shall be solely responsible for any repairs and for restoration of the Leased Premises to good condition. If any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, either party may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to all other parties.

ARTICLE XII. CONDEMNATION/HIGHWAY CONSTRUCTION.

If the whole or any part of the Leased Premises shall be taken under the power of eminent domain or otherwise for construction of a state highway or any public transportation purpose, then this Lease shall terminate with no compensation due the tenant as to the part so taken on the day when the Tenant is required to yield possession thereof. If the portion of the Leased Premises so taken is such as to impair substantially the usefulness of the Leased Premises for the purposes for which the same are hereby leased, then either party shall have the option to terminate this Lease with no compensation due the tenant as of the date when the Tenant is required to yield possession.

ARTICLE XIII. DEFAULT OF TENANT.

Section 13.1. Insolvency or Bankruptcy, Corporate Dissolution, Loss of Tax Exempt Status.

The occurrence of any of the following shall constitute a material breach of this Lease by the Tenant ("Material Breach"):

- (a) The appointment of a receiver or trustee to take possession of all or substantially all of the assets of the Tenant; or
- (b) A general assignment by the Tenant for the benefit of creditors; or
- (c) Any action or proceeding commenced by or against the Tenant under any insolvency or bankruptcy act, or under any other statute or regulation having as its purpose the protection of creditors and not discharged within ninety (90) days after the date of commencement; shall constitute a breach of this Lease by the Tenant. Upon the happening of any such event, this Lease shall, at the County and City's option terminate ten (10) days after written notice of termination from the County and City to the Tenant; or
- (d) Dissolution of the Tenant's corporate status which continues for ninety (90) days; or
- (e) Loss of Internal Revenue Code Section 501 (c) (3) tax exempt status by the Tenant which loss continues for ninety (90) days; or
- (f) Discontinuation of the Tenant's presence on the Leased Premises for a period exceeding 365 consecutive days, which period commences on or after July 1, 2008, during which period an interpretive historical center opened to the public commemorating the Lewis and Clark Expedition and/or George Rogers Clerk is not in operation.

Section 13.2. Events of Default. Abandonment of the Leased Premises, a default of ten (10) days in payment of rent, or breach of any of the covenants or conditions of this Lease involving any Material Breach continuing for more than fifteen (15) days after notice thereof from the County and City, shall each constitute an event of default hereunder. No failure of the County and City to enforce any remedy available to it as a result thereof shall invalidate such covenant or provision or any other covenant, condition or provision hereof, or affect the right of the County and City to enforce the same in the event of a subsequent breach or default.

Section 13.3. Remedies. Upon the occurrence of any event of default, the County and City shall have the right, at their election, then or any time thereafter while such event of default shall continue, either to give the Tenant written notice of their intention to terminate this lease on the date of such notice or on any later date specified therein, and on the date specified in such notice the Tenant's right to possession of the Leased Premises shall cease, and this Lease shall thereupon be terminated; or without demand or notice, to re-enter and take possession of the Leased Premises or any part thereof, and repossess the same as of the County and City's former estate and expel the Tenant and those claiming through or under the Tenant and remove the effects of both or either, either by summary proceedings, or by action of law or in equity, or otherwise, without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrearages of rent or breach of covenant. If the County and City elect to re-enter, the County and City may terminate this Lease or, from time to time, without terminating this Lease may relet the Leased Premises, or any part thereof, as agent for the Tenant for such term or terms and at such rental or rentals and upon such other terms and conditions as the County and City may deem advisable, with the right to make alterations and repairs to the Leased Premises. No such re-entry or taking of possession of the Leased Premises by County and City shall be construed as an election on the County and City's part to terminate this Lease unless a written notice of such intention is given as aforesaid, or unless the termination thereof be decreed by a court of competent jurisdiction at the

instance of the County and City. The Tenant waives any right to the service of any notice of the County and City's intention to re-enter provided for by any present or future law.

ARTICLE XIV. SUCCESSORS.

Section 14.1. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, shall extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. The County and City shall be automatically released of all liability under this Lease from and after the date of any sale by the County and City of the Leased Premises. All covenants, representations and agreements of the Tenant shall be deemed the covenants, representations and agreements of the occupant or occupants of the Leased Premises.

ARTICLE XV. MISCELLANEOUS.

Section 15.1. Waiver. The waiver by the County and City or the Tenant of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant or condition contained herein. The subsequent acceptance of rent hereunder by the County and City respectively shall not be deemed to be a waiver of any breach by the Tenant or the County and City, respectively, of any term, covenant or condition of this Lease regardless of knowledge of such breach at the time of acceptance or payment of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Tenant or the County and City unless the waiver be in writing signed by the party to be charged thereby.

Section 15.2 Entire Agreement. This Lease, and the exhibits attached hereto and forming a part of hereof, set forth all the covenants, promises, agreements, conditions and understandings, between the County and City and the Tenant concerning the Leased Premises and there are no covenants, promises, agreements conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the County and City or the Tenant unless reduced in writing and signed by them.

Section 15.3. Notices. Any notice, demand, request, or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, return receipt requested, postage prepaid, and shall be addressed as follows:

If to the County: Larry W. Davis, County Attorney
401 McIntire Road
Charlottesville, Virginia 22902

If to the City: S. Craig Brown, City Attorney
605 East Main Street
Charlottesville, VA 22902

If to the Tenant: _____

or at such other address as designated by written notice of a party.

Section 15.4. Captions and Section Numbers. The captions, section numbers, and table of contents appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 15.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 15.6. Recording. Upon request of any party, a Memorandum of Lease will be executed and recorded. Such Memorandum shall contain any provisions of this Lease that either party requests except for the provisions of Article IV that shall not be included. The cost of recording such Memorandum of Lease or a short form hereof shall be borne by the party requesting such recordation.

Section 15.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 15.8. Counterparts. This Agreement may be executed simultaneously or in three or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 15.9. Rules and Regulations. The County and City may adopt such rules and regulations as the County and City deem appropriate for the safe and efficient use of the Leased Premises, which rules and regulations shall be effective after five days notice to the Tenant.

ARTICLE XVI. BROKER'S FEES.

The Tenant and the County and City hereby warrant that there are no brokerage commissions due to any person in connection with this Lease.

ARTICLE XVII. NO ASSIGNMENT.

The Tenant shall not assign this Lease or subject all or any portion of the Leased Premises to any sublease, either directly or indirectly, without the prior written consent of the County and City, which consent shall not be unreasonably withheld. A merger, consolidation, sale, transfer or assignment by operation of law or a transfer or sale of, in the aggregate, a majority of the stock of the corporation, if the Tenant is a corporation, or a sale or transfer of any of the partnership interests, if the Tenant is a partnership, shall be considered an assignment for purposes of this section. No assignment, sublease or transfer of this Lease by the Tenant shall (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing the Tenant's obligations under this Lease, or (ii) relieve the Tenant of its obligations hereunder, and the Tenant shall thereafter remain liable for its obligations under this Lease whether arising before or after such assignment, sublease or transfer.

ARTICLE XVIII. RESERVATION OF EASEMENTS.

The County and City hereby reserve to themselves, their successors and assigns, while this Lease is in effect, the non-exclusive right and easement to use the supporting structural elements of the Facility for lateral and subjacent support, including party walls and supporting columns, for any adjacent property owned by the County and City.

ARTICLE XIX. INDEMNIFICATION.

The Tenant agrees to indemnify, defend, and save the County and City harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, bodily injury and damage to property caused in whole or in part by any act or omission of the Tenant, its agents, employees, guests or invitees, or arising from or out of any occurrence on or about the Leased Premises or the occupancy thereof by the Tenant. In the event the County and City shall, without fault on its part, be made a party to any litigation commenced by or against the Tenant arising therefrom, then the Tenant shall indemnify, defend and save the County and City harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by the County and City in connection with such litigation.

ARTICLE XX. SUBORDINATION OF LEASE.

This Lease and all rights of the Tenant hereunder are and shall be subject and subordinate in all respects to (1) all mortgages, deeds of trust and building loan agreements affecting the Leased Premises or the property described in Exhibit A, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, the Tenant shall promptly upon the request of the County and City, execute and deliver an instrument in recordable form satisfactory to the County and City evidencing such subordination; and if the Tenant fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefore, the Tenant hereby irrevocably constitutes and appoints the County and City as the Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of the Tenant. The Tenant further agrees that in the event any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, the Tenant shall not withhold or delay its consent thereto.

ARTICLE XXI. NONRECOURSE.

Notwithstanding any breach by the County and City of any of the terms of this Lease, or any claim by the Tenant arising hereunder, in no event shall the County and City or any of their officers, officials, employees or trustees of the County and City have any personal liability hereunder and the Tenant's only remedy in the event of such breach, default or claim shall be to proceed against the County and City's interest in the Leased Premises.

IN WITNESS WHEREOF, the County and City and the Tenant have signed and sealed this Lease as of the date first above written.

The County and City:

The Tenant:

ALBEMARLE COUNTY

THE LEWIS & CLARK EXPLORATORY
CENTER OF VIRGINIA, INC.

By: _____

By: _____

Its: _____

CITY OF CHARLOTTESVILLE

By: _____

Gary B. O'Connell, City Manager

Agenda Item No. 17. **Public Hearing:** To consider granting to the City of Charlottesville Gas Division a gas line easement on North Berkshire Road Extended. (Notice of this public hearing was advertised in the *Daily Progress* on July 2, 2007).

The Executive Summary states that the segment of North Berkshire Road north of its intersection with Solomon Road (hereinafter, "North Berkshire Road extended") has been an unimproved public right-of-way since it was dedicated to the County in 1960 as part of the Barterbrook Subdivision off of Hydraulic Road in the Jack Jouett Magisterial District. The natural gas line, along with the improved North Berkshire Road extended, will serve a townhouse development under construction on Tax Map and Parcel Number 60A1-34.

Virginia Code § 15.2-1800 requires that the Board hold a public hearing prior to conveying an interest in County-owned real property. The proposed 15-foot-wide natural gas line easement would allow the City of Charlottesville to install a natural gas line to serve a townhouse development under construction on Tax Map and Parcel Number 60A1-34. The easement is located within the County-owned right-of-way. However, it will not prevent North Berkshire Road extended from being accepted into the state system of secondary highways when its construction is completed.

It was noted in the Executive Summary that there is no budget impact.

After the public hearing, staff recommends that the Board approve the proposed easement and authorize the County Executive to sign the deed of easement on behalf of the County.

Mr. Tucker reported that the Code requires that the County hold a public hearing before conveying an interest in County owned real estate. He noted that this is a proposed 15-foot wide natural gas line easement that will allow the City of Charlottesville to install a natural gas line to serve the townhouse development under construction on the tax map noted. Mr. Tucker said that the easement is in the County-owned right of way and after the public hearing staff is recommending approval and authorizing Mr. Tucker to sign the deed of easement on behalf of the County.

Mr. Davis mentioned that there are two minor changes: one allowing the gas line to be located in a greater area of the right of way as long as it was not under the pavement, and a clarification on the continuing obligations of the City. He said that if the County reacquires ownership of this road after VDOT, the City would have to pay for any relocation of the gas line if that was necessitated by some future project.

Public comment was invited. There being none, the matter was placed before the Board.

At this time, Mr. Rooker **moved** for approval of the granting of the easement as presented, and the execution of the deed of easement in the form presented by the County Executive. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Tax Map 60A1 (North Berkshire Road right-of-way)
This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3) and 58.1-811(C)(4).

DEED OF EASEMENT

THIS DEED OF EASEMENT, made and entered into on this _____ day of _____, 2007, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, Grantor, and the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation, Grantee.

WITNESSETH:

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the Grantor does hereby GRANT and CONVEY with SPECIAL WARRANTY to the Grantee, subject to the terms and conditions set forth herein, the permanent easement of right of way (hereinafter, the "Easement") to construct, maintain, operate, alter, repair, inspect, protect, remove, and replace certain natural gas line improvements, upon and across the public right of way known as North Berkshire Road in Albemarle County, Virginia, and more particularly described as follows:

Permanent natural gas line easement in the public right of way known as North Berkshire road, located off Solomon Road in Albemarle County, Virginia, as shown on the attached plat made by Thomas B. Lincoln Land Surveyor, Inc. dated December 2, 2005, last revised March 15, 2007, and identified as "New 15' Gasline Easement"; said roadway being dedicated to the public by recordation of a plat dated December 1960, of record in the Albemarle County Circuit Court Clerk's Office in Deed Book 373, page 99.

This Easement shall be subject to the following:

1. The Grantee shall install the natural gas line improvements (hereinafter, the "Improvements") within the Easement. The Improvements shall be underground, outside of the travel

lanes of North Berkshire Road, and within five (5) feet of the outer boundary of the North Berkshire Road right-of-way.

2. The Grantee shall obtain all permits required by the Virginia Department of Transportation (hereinafter, "VDOT") to authorize the Improvements to exist or remain within the North Berkshire Road right-of-way (hereinafter, the "Permits") and shall comply with all applicable requirements of VDOT.

3. Until the Grantee quitclaims its interest in the Easement to VDOT or the Grantor as required in conjunction with VDOT's acceptance of North Berkshire Road into the state system of secondary highways, the Grantee, at its sole expense, shall, promptly alter, change, adjust, relocate or remove the Improvements from the North Berkshire Road right-of-way if VDOT determines that such alteration, change, adjustment, relocation or removal is required in order for VDOT to accept North Berkshire Road into the state system of secondary highways. Neither the Grantor, VDOT, nor any other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with such alteration, change, adjustment, relocation or removal of the then-existing Improvements. In addition, neither the Grantor, VDOT, nor any other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements or North Berkshire Road resulting from such alteration, change, adjustment, relocation or removal.

4. After VDOT has issued the Permits, the Grantee shall be subject to the following conditions, notwithstanding any quit claim of its interests to VDOT, and these conditions shall be covenants running with the land:

a. The Grantee, to the extent authorized by law, shall at all times indemnify and save harmless the Grantor, its employees, agents, officers, assigns, and successors in interest from any claim whatsoever arising from the Grantee's exercise of rights or privileges stated herein.

b. In the event that the Grantor or a public entity other than VDOT (hereinafter, "such other public entity") becomes responsible for the maintenance of North Berkshire Road and the Grantor or such other entity requires, for its purposes, that the Grantee alter, change, adjust, or relocate the Improvements, across or under North Berkshire Road, the cost to alter, change, adjust, or relocate the Improvements shall be the sole responsibility of the Grantee. Neither the Grantor nor such other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with altering, changing, adjusting or relocating the then-existing Improvements as may be required herein. In addition, neither the Grantor nor such other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements resulting from such alteration, change, adjustment or relocation. The requirements of this paragraph 4(c) shall not apply if the Grantor, VDOT, or such other public entity is either required by law to pay for such costs or is authorized and elects to pay for such costs

The Grantor, acting by and through its County Executive, duly authorized by action of the Albemarle County Board of Supervisors on July 11, 2007, does hereby convey the interest in real estate made by this deed.

The Grantee, acting by and through its City Attorney, the City official designated by the City Manager pursuant to authority granted by resolution of the City Council of the City of Charlottesville, does hereby accept the conveyance of this easement, pursuant to Virginia Code § 15.2-1803, as evidenced by the City Attorney's signature hereto and the City's recordation of this deed.

WITNESS the following signatures.

Agenda Item No. 18. Public Hearing: SP-2007-11. Oak Ridge Church Picnic Pavilion
(Sign # 103).

PROPOSED: Construction: 20' x 40' picnic pavilion.

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre).

SECTION: 10.2.2.35 Church building and adjunct cemetery.

LOCATION: 7734 Old Dominion Road, off Green Creek Road, Schuyler.

TAX MAP/PARCEL: Tax Map 126, Parcel 21A.

MAGISTERIAL DISTRICT: Scottsville.

(Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

It was noted in the Executive Summary that the Planning Commission held a public hearing for this project on June 12, 2007. At that meeting the Planning Commission directed staff to draft conditions of approval addressing the legally non-confirming status of Oak Ridge Church. The Commission requested the conditions establish the size of the existing sanctuary, indicate any day care or preschool held at the church would require a special use permit, and allow for a period of five years from approval to the commencement of the use.

Planning and zoning staff have researched previous standard conditions for legally non-confirming churches. Such standard conditions have been added to the conditions for this

special use permit originally recommended in the staff report. Staff contacted the applicant to confirm the capacity of the existing sanctuary and review the additional conditions of approval.

With the addition of conditions 3, 4, and 5 to address the Commissions request, staff and the Planning Commission recommend approval of SP 2007-11 Oak Ridge Church Picnic Pavilion with the following conditions:

1. Special Use Permit 2007-11 shall be developed in general accord with the concept application plan and building details, provided by the applicant and received February 26, 2007 (Attachment A.) However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance.
2. The picnic pavilion shall be limited to 800 square feet and shall not include bathroom facilities or vehicular access.
3. The area of assembly shall be limited to a maximum 195 seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted.
4. There shall be no day care center or private school on site without approval of a separate special use permit.
5. Construction of the 800 square foot picnic pavilion shall commence within 5 years or this special use permit shall expire.

Ms. Amy Arnold addressed the Board, stating that the church congregation is requesting a special use permit to allow for construction of an 800 square-foot picnic pavilion on the portion of the parcel that is located across the street from the main church building and the fellowship hall. She said that construction would require clearing a small portion of the edge of the adjacent forest, and staff expects the impacts to the forest would be minimal. Ms. Arnold said that because the proposed pavilion would support local community life at a rural scale by providing an outdoor gathering space, it should not impact the historic context of the church and schoolhouse, and because it supports the viability of Old Dominion as a crossroads community, staff recommends approval of the special use permit with the conditions included in the staff report. She mentioned that the conditions were amended to reflect that Oak Ridge is currently a legally nonconforming building and site.

Mr. Cilimberg noted that it has been pretty standard for the Board to include conditions that address the existing facilities when dealing with a new feature so that it establishes a benchmark to evaluate further changes.

Mr. Davis said that if the Board did not do that, the applicant could make any changes they wanted as it would not be restricted.

Public comment was invited. There being none, the matter was placed before the Board.

Mr. Dorrier **moved** to approve SP-2007-011 with the five conditions as presented. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

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

1. Special Use Permit 2007-11 shall be developed in general accord with the concept application plan and building details, provided by the applicant and received February 26, 2007 (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. The picnic pavilion shall be limited to eight hundred (800) square feet and shall not include bathroom facilities or vehicular access;
3. The area of assembly shall be limited to a maximum one hundred ninety-five (195) seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted;
4. There shall be no day care center or private school on site without approval of a separate special use permit; and
5. Construction of the eight hundred (800) square foot picnic pavilion shall commence within five (5) years or this special use permit shall expire.

Agenda Item No. 19. **Public Hearing:** SP-2007-16. Mt. Alto Church Amendment (Sign # 109).

PROPOSED: Expansion of church alter area, additional choir space.

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre).

SECTION: 10.2.2.35 Church building and adjunct cemetery.

LOCATION: 4330 Mt. Alto Road, off Howardsville Turnpike, Esmont.

TAX MAP/PARCEL: Tax Map 133, Parcel 16.

MAGISTERIAL DISTRICT: Scottsville.

(Notice of this public hearing was advertised in *Daily Progress* on June 25 and July 2, 2007).

The Executive Summary states that the Planning Commission held a public hearing for this project on June 12, 2007. At that meeting the Planning Commission directed staff to draft conditions of approval addressing the legally non-confirming status of Mt. Alto Church. The Commission requested the conditions establish the size of the existing sanctuary, indicate any day care or preschool held at the church would require a special use permit, and allow for a period of five years from approval to the commencement of the use.

Planning and zoning staff have researched previous standard conditions for legally non-confirming churches. Such standard conditions have been added to the conditions for this special use permit originally recommended in the staff report. Staff contacted the applicant to confirm the capacity of the existing sanctuary and review the additional conditions of approval.

With the addition of conditions 3, 4, and 5 to address the Commissions request staff and the Planning Commission recommend approval of SP 2007-16 Mt. Alto Church Addition with the following conditions:

1. Special Use Permit 2007-16 shall be developed in general accord with the concept application plan, provided by the applicant and received February 26, 2007 (Attachment A.) However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance.
2. The addition shall be limited to 320 square feet.
3. The area of assembly shall be limited to a maximum 175 seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted.
4. There shall be no day care center or private school on site without approval of a separate special use permit.
5. Construction of the 320 square foot addition shall commence within 5 years or this special use permit shall expire.

Ms. Arnold reported that the congregation for Mount Alto Church is requesting a special use permit to expand the church altar area, providing additional space totaling 320 square feet for the choir to stand during services as well as extra space for the choir room and a study for the pastor. She explained that because the proposed addition will minimally impact the existing character of the church building while helping sustain the continuing presence of a rural scale community church and enhancing the quality of life of its congregation, staff is recommending approval of the proposed addition with the conditions included in the staff report. Ms. Arnold said that the Planning Commission had the same concerns when staff brought it to them last month, and they have added similar conditions for the church as well as it is also nonconforming.

Public comment was invited. There being none, and the matter was placed before the Board.

At this time, Mr. Dorrier **moved** for approval of SP-2007-16 Mount Alto Church Amendment subject to the five conditions recommended. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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

1. Special Use Permit 2007-16 shall be developed in general accord with the concept application plan, provided by the applicant and received February 26, 2007 (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. The addition shall be limited to three hundred twenty (320) square feet;
3. The area of assembly shall be limited to a maximum one hundred seventy-five (175) seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted;
4. There shall be no day care center or private school on site without approval of a separate special use permit; and
5. Construction of the three hundred twenty (320) square foot addition shall commence within five (5) years or this special use permit shall expire.

Agenda Item No. 20. **Public Hearing:** SP-2007-10. Cutright - Development Right (Signs #111, 112).

PROPOSED: Special Use Permit to acquire two additional development rights.

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2 (28) Divisions of land as provided in Section 10.5.2.1 and Section 10.5.2.1 where permitted by Special Use Permit.

LOCATION: 3544 Red Hill School Road; southeast corner of Red Hill School Road (RT. 760) and Monacan Trail Road (RT 29) - North Garden.

TAX MAP/PARCEL: 88-6A1.

MAGISTERIAL DISTRICT: Samuel Miller.

(Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

Ms. Joan McDowell reported that this is for two additional development rights on a property in the rural area, located on Route 29 on the corner of Red Hill School Road. She said that Mrs. Cutright has requested that Parcel A be subdivided off and two additional parcels be subdivided so that she can build her own house on Parcel B and donate Parcel C to the fire department. Ms. McDowell explained that the property is cleared with a few trees, and it is surrounded by residential and farming. She said that the Planning Commission heard this application and decided to vote for denial, unanimously, but also asked that staff provide the Board with additional information concerning the assessment. Ms. McDowell reported that the assessment now is the house, 1,600 square feet, and the land which totals \$471,000 for the house and nine acres. She said that if the applicant subdivided, it would be Parcel A as the house and the land would be reduced to \$138,400, for a total of \$352,000, the parcel she would sell; Parcel B is where the applicant intends to build her house, and the land would be assessed at \$120,000; and Parcel C which is to be donated to the fire department with no building would be assessed at \$71,600 for four acres. Ms. McDowell said that if Ms. Cutright builds a new house on Parcel B then the difference in land taxes alone is \$638 dollars per year, and she said that staff recommends denial of this application.

Mr. Rooker asked if there was anything in the process that legally obligates the applicant to convey Parcel C to the fire department.

Mr. Davis replied that there is not. He noted that there would have to be a reasonable relationship of the condition to address an impact to the application, and it is unclear as to whether that can be demonstrated. Mr. Davis said that may be a condition that would be very hard to enforce in a court.

Ms. McDowell explained that the applicant had two additional development rights, but she has sold them over a period of years.

Mr. Davis noted that they want two additional development rights on this nine-acre parcel.

Mr. Rooker said that she could grant the fire department use of the lot through an easement, but this request is for two additional lots.

In response to Ms. Thomas' question about granting an easement, Mr. Davis indicated that the County could hold and enforce the easement if it were given to the fire department.

Mr. Davis said that they could transfer the property to a public entity, put a deed restriction in favor of a public entity, or grant an easement to a public entity. He emphasized that those things could probably not be required as a condition of a special use permit.

Mr. Wyant noted that if the volunteer fire department goes under, it becomes County property.

Mr. Davis responded that fire department companies can hold their own property, they can share it with the County, or the County can hold it entirely.

At this time the Chairman asked for public comments.

Ms. Pat Cutright addressed the Board, stating that her intent is to give more than half of it to the fire company.

Her neighbor, Catherine Russell, addressed the Board. She read a statement written by Ms. Cutright that indicates her need for more affordable housing as taxes have risen tremendously over the last several years. Ms. Cutright's statement said that she essentially would have to pay Albemarle County \$40,000 in real estate taxes over the next ten years, and this is not practical as a single widow on a fixed income. The statement indicated that she wants a two-acre lot to build a more affordable house so she can stay in North Garden as she has lived there 57 years, and she and her husband had wanted to give the land to the fire department.

Speaking for herself, Ms. Russell indicated that no neighbors oppose this, and they are all anxious for this to happen. She emphasized that this special use permit would have no negative consequences and would enable Ms. Cutright to live her life out in her neighborhood and continue what has essentially been a public park.

Mr. George Stevens, Chief of North Garden Volunteer Fire Department, addressed the Board. He said that they are very pleased that Ms. Cutright wants to make the donation of property as it underscores the fact she has allowed them to use it without compensation for the last 30 years. Mr. Stevens said that it is a unique situation in that she is willing to donate about 50 percent of what she is dividing to public use, and she has already been paying the taxes on it. He emphasized that there is a dry hydrant there, and if she was forced to sell it there is nothing to ensure it would stay there or that they would have permission to put multiple trucks there for fire operations. Mr. Stevens emphasized that is the only type of water supply available in the southern part of Albemarle County, and the hydrant is essential to the fire department's operations. He confirmed that this is the most accessible dry hydrant, and it is used at all times of the day and night, emphasizing that there is no means to fill at the station.

Mr. Wayne Russell addressed the Board, stating that he went to the Commission meeting when this was discussed. He read Mr. Cilimberg's report on criteria for granting a special use permit: a finding by the Board that the use will not be a substantial detriment to adjacent property; character of the district will not be changed thereby; use will be in harmony with the purpose and intent of the ordinance; and it will be in harmony with the uses permitted by right in the district. Mr. Russell added that a unique

circumstance would be that the property is going to the fire department which will preserve it without a structure in perpetuity, and this would provide a unique water source.

There being no other comments, Mr. Boyd closed the public comment period.

Ms. Thomas emphasized that decisions do not go with the individual but go with the land, regardless of the applicant's intention. She said if we are inclined to do it at all, we have to figure out how to do it without setting a precedent, but definitely in a way that assures it's going to happen in the way that it's been talked about here. Ms. Thomas added that it needs to go with the land and be definite in its intent as the Board would be granting two additional development rights that could essentially just be two more houses. She added that a lot of people in the County are finding themselves with high taxes, and the solution is not creating more development rights in the rural area. Ms. Thomas said the Board just has not done this in the past. She noted that the Board last granted this to Habitat for Humanity 14 years ago.

Mr. Rooker said that sometimes it seems cold to an applicant, and everyone is appreciative of the use this property has had for the public good. He asked if the applicant could enter into a contract with the fire department to convey the property to them for a small amount of money, contingent on the Board's approval of her proposal. Mr. Rooker said that while he does not want to set a precedent, this is something that could be well distinguished in the future, and he would support it if the pieces could be put together.

Mr. Davis noted that there could be a contract between Ms. Cutright and the fire department or anyone else that says they could sell the property contingent on the granting of the special use permit. He added that you could grant the development right and put a restriction on it that it could not be used for residential use. Mr. Davis said that it is not very plausible to create affordable housing here within the County's parameter, given the value of the land.

Mr. Wyant stated that this brings up the larger issue of how people are going to afford to stay in the rural areas.

Ms. Thomas commented that people are very eager and willing to have the easement and dry hydrant because it means they will have better fire protection. She said that she thinks the applicant and fire department should enter into a firm agreement, and perhaps the item could be deferred so that the Board is not faced with setting a precedent right now.

Ms. Cutright responded that perhaps they could grant the permit on the condition that the fire department gets the property.

Mr. Boyd said that the Board can not act solely on good intentions.

Mr. Rooker emphasized that the Board would be more inclined to approve it if the contract were in effect.

Ms. Cutright agreed that she would get an attorney and move forward with the contract.

Ms. Thomas stated that this is not business as usual as the Board would be taking a serious step.

Mr. Tucker suggested that Ms. Cutright have her attorney correspond with Mr. Davis.

Mr. Slutzky said that she has already established her generosity, and this is different than someone coming in and saying that they have future plans.

At this time, Ms. Thomas **moved** to defer indefinitely the appeal of SDP-2006-081. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 21. **Public Hearing:** SP-2007-014. The Rocks Subdivision (Lot 1) (Signs #107,108).

PROPOSED: Amend special use permit for Rural Preservation Development with more than 20 development lots to change condition of approval regarding location of development lots in relation to Ivy Creek. Proposed change would prevent development between Ivy Creek and Dick Woods Road.

LOCATION: Dick Woods Road (Route 637), approximately 500 feet west of intersection with on-ramp to Route 64 East.

TAX MAP/PARCEL: Tax Map 74 Parcel 18D.

MAGISTERIAL DISTRICT: Samuel Miller.

(Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

Mr. Scott Clark reported that this is an amendment request for a special use permit for The Rocks rural preservation development, which is located on Dick Woods Road, Parcel 74-18D, 106 acres, but not the preservation tract of the RPD. He said that in 2004, the Board approved SP 2003-79 which amended several aspects of the development. Mr. Clark stated that some unused development rights that had not

been allocated during the original subdivision were given to this parcel in question; it now has four total rights within the 106 acres. He explained that during that review, it was proposed that two of those lots would be located adjacent to Dick Woods Road along the floodplain of Ivy Creek separate from all the other development lots in the RPD. Mr. Clark said staff, however, felt it was inappropriate due to the design standards for RPDs that would require that all lots be confined to one area. He stated that in order to avoid the possibility of that particular design in reviewing the subdivision plan, a condition was drafted and approved that would require all lots farmed out of Lot 1 to be located east of the floodplain of Ivy Creek.

Mr. Clark said that the proper orientation is north and that up and east of the floodplain becomes a small area because the creek is running east and the literal interpretation would require that. He said that there was not any reason established to limit development to that area to the east, and the idea was to avoid the area between the creek and Dick Woods Road. Mr. Clark explained that staff therefore recommends approval of the amendment changing the condition to say that the drawings and development lots would not be located in the floodplain of Ivy Creek or between the creek and the road. He said that the Planning Commission recommended approval with that change and with a change to Condition #3 which would require that any new lots or dwellings out of Lot 1 would require the application plan to come back to the Commission to be approved before it could go forward.

Ms. Thomas asked about the area that the applicant wants to develop, noting that the piece to the east is a long piece of property. She asked how much acreage is there.

Mr. Clark responded that the area indicated on his map for development is 106 acres.

Ms. Thomas also noted that the applicant would have to go across the floodplain, and ordinances do not encourage people to cross that kind of tributary.

Mr. Clark replied that the applicants felt it was more accurate to indicate that no specific site has been firmly established yet for the development.

Mr. Shepherd noted that near the southern portion of the floodplain area there is a strip of land outside the floodplain area that could accommodate a road. He does not know if the subdivision would be subject to the covenants and restrictions of The Rock Subdivision Homeowners' Association.

Mr. Davis replied that that is not something the County usually gets involved in unless there is a specific purpose, such as private roads or facilities that need to be maintained. He said he was not aware that that's an issue in this particular application.

Mr. Rooker commented that the road placement is still uncertain as well.

Mr. Clark mentioned that they are private roads so if new lots were created it would go back to the Planning Commission for review.

Representing the applicant, Mr. Chris Halstead addressed the Board and indicated that the applicant paid for the development rights after Condition #5 stipulated restricted development between Dick Woods Road and Ivy Creek. He mentioned that the applicant did not have any intention to develop that portion now, and he could place three lots now alongside of the existing road. Mr. Halstead added that there is a location for the road without crossing the floodplain but that site might be in the buffer, and it would require some mitigation.

At this time the Chairman asked for public comments.

Dr. Lucius Sinks addressed the Board, as President of The Rocks Homeowners' Association. Dr. Sinks reported that Albemarle County purchased a conservation easement for the Rock Mill Farm, which is located between Rosemont and this property. He said that he believes it was purchased to keep this area rural, and this application seems to go against the intent of that easement.

Mr. Roger Briney addressed the Board on behalf of The Rocks Homeowners' Association. He said that the members of the association do not dispute the applicants' rights to develop on that property. Mr. Briney noted, however, that when they subdivide Lot 1 they will become subject to the terms and conditions of the declaration that contains the covenants and restrictions for the other 39 lots in the Rocks, and they will have to obtain approval of building and siting plans from the ARB prior to any construction. He stated that they would like to have a condition referencing that restriction to ensure those lots would be subject to that requirement. Mr. Briney reported that the SP was initially required for the Rocks because of the number of lots and proposed activity within the floodplain. He said that the first concerns were expressed then regarding impacts on Ivy Creek as well as the effects on the natural landscape vistas from I-64 and the public roads. Mr. Briney stated that there is no way to build out this lot without some visual impact to the area, and the association recommends having Condition #5 stand as is, with development occurring on the I-64 side of Rocks Farm Drive.

There being no other comments, Mr. Boyd closed the public comment period.

Ms. Thomas said that she is sorry there was an orientation problem but that is an uncommon mistake, and she appreciates staff finding it. She commented that it is going to be difficult to get a road up to the knoll, and there is concern about steep slopes and protecting floodplains. Ms. Thomas emphasized that there is a parcel available that would not require those impacts.

Ms. Thomas then **moved** for approval of SP-2007-014 with changes as approved by the Planning Commission. Mr. Dorrier **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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

1. Except as otherwise provided herein development of The Rocks shall be in accord with the "Special Use Permit Plan..." prepared by Thomas B. Lincoln Land Surveyor, Inc. dated April 2, 2004. For purposes of these conditions the plan shall heretofore be referred to as "The Application Plan;"
 2. Except for minor boundary adjustments, (as determined by the Agent), the boundaries of Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3 may be modified only as shown on "The Application Plan;"
 3. Within the boundaries of Revised Lot 1, there shall be allowed a total of four (4) dwelling units or four (4) lots. Before a building permit is issued for a second dwelling unit, or before a subdivision plat is approved creating a new lot(s) within the boundaries of Lot 1, a new application plan shall be reviewed and approved by the Planning Commission authorizing the dwelling units or lots. For purposes of these conditions the term "subdivision" shall also mean family divisions;
 4. All subdivisions within the boundaries of Revised Lot 1 shall meet the design standards and special provisions set forth in Section 10.3.3 of the Zoning Ordinance. This includes the requirement that it be demonstrated that the additional lots combined with the other approved lots do not exceed the actual number of lots that could have been achieved by conventional development of the total property;
 5. No dwellings or development lots within the boundaries of Lot 1 shall be located in the floodplain of Ivy Creek or between Ivy Creek and Dick Woods Road;
 6. All future development lots subdivided from Lot 1 shall be no larger than 3.26 acres in area, shall be located in a manner consistent with, and be integrated into the overall design of the other development lots in The Rocks;
 7. A minimum of ten (10) trees per acre shall be provided on the development lots, including those permitted by condition three (3), in accordance with Section 32.7.9.5 of the Zoning Ordinance for the purpose of providing screening from Interstate 64 and Route 637. Trees shall be installed within two (2) planting seasons of the date of issuance of a certificate of occupancy for the dwelling on the lots;
 8. Clearing of land shall be limited to the minimum amount necessary for the construction of access roads, dwellings, and septic fields;
 9. Building siding and trim shall be of colors and materials that blend with the surrounding natural environment as determined by the Director of Planning. Highly reflective colors or surfaces, or light colored roofs, as determined by the Director of Planning, are prohibited;
 10. Concrete driveways visible from off-site shall be darkened to blend with the surrounding natural environment as determined by the Director of Planning;
 11. The bridge shall not be constructed until the approvals in conditions twelve (12) through fifteen (15) have been obtained;
 12. Department of Engineering issuance of an erosion and sediment control permit;
 13. Department of Engineering approval of bridge design;
 14. Department of Engineering approval of hydro geologic and hydraulic calculations to ensure compliance with Section 30.3. of the Zoning Ordinance;
 15. Department of Engineering approval of private road plans and drainage calculations. Private roads shall be designed to Virginia Department of Transportation mountainous terrain standards. This condition is only applicable to the private roads constructed to access and provide frontage to all the lots in the Rocks development except the Rural Preservation Tract and revised Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3 as shown on "The Application Plan;"
 16. The extension of Newcomb Mountain Lane as a private road is subject to Planning Commission approval. The Planning Commission shall establish the standard of the private road extension at the time of review;
 17. The existing road, shown entering from Rocks Farm Drive, parallel to Interstate 64 and meandering through the Preservation Tract shall not be improved or widened except for agricultural and/or forestry purposes. The need for such improvements shall be reviewed by the Public Recreational Facilities Authority. If the Public Recreational Facilities Authority deems that the improvements are warranted, construction shall not commence until a road plan and an erosion and sediment control plan has been reviewed and approved by the County Engineer;
 18. Prior to the approval of any plat modifying the boundaries of the Rural Preservation Tract, the rural preservation easement shall be amended to allow the modification; amendment to the easement is subject to the review and approval of the County and the Albemarle County Public Recreational Facilities Authority. Approval of this special use permit in no way implies or guarantees approval of a modified easement by the County or the Albemarle County Public Recreational Facilities Authority;
 19. Prior to the approval of any plat providing access to Newcomb Mountain Lane an amended road maintenance agreement shall be reviewed and approved by the County Attorney. This agreement shall be recorded with the plat; and
 20. Provide evidence to the County that the Rosemont Homeowner's Association consents to the Newcomb Mountain Lane extension to serve as access to Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3.
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Agenda Item No. 22. **Public Hearing:** ZTA-2007-002 – Proffers. Amend Sections 2.3, Conflicting Ordinances; 3.1, Definitions; and 33.3, Proffer of Conditions, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the references to the state enabling authority for conditional zoning, amend the definition of “proffer,” and would change the state enabling authority under which the County accepts proffers from Virginia Code § 15.2-2298 to Virginia Code § 15.2-2303. (Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

The Executive Summary states that as a high growth locality, Albemarle County currently is enabled to accept proffers under Virginia Code § 15.2-2298. Effective July 1, 2007, high growth localities such as Albemarle County will be enabled to accept proffers under Virginia Code § 15.2-2303. On May 22, 2007, the Planning Commission passed a Resolution of Intent to amend the Zoning Ordinance to accept proffers under the enabling authority of Virginia Code § 15.2-2303 rather than under the currently utilized authority of Virginia Code § 15.2-2298. (See Attachment A).

The key distinctions between Virginia Code § 15.2-2298 and Virginia Code § 15.2-2303 are that under Virginia Code § 15.2-2298, proffers must be voluntary, the rezoning itself must give rise to the need for the proffers, and the proffers must be in conformity with the Comprehensive Plan. Although these prerequisites do not exist under Virginia Code § 15.2-2303, the County’s authority under Virginia Code § 15.2-2303 would not be unlimited. Like Virginia Code § 15.2-2298, Virginia Code § 15.2-2303 requires that the proffers be reasonable conditions, and one component of reasonableness requires that there be some nexus between the rezoning and a proffer.

However, it is staff’s opinion that Virginia Code § 15.2-2303 would provide the County with much stronger authority to require particular proffers (such as cash proffers under a cash proffer policy) to address the impacts from a rezoning, and would allow the County to better address a broad range of issues such as affordable housing and LEED (and similar programs) certified buildings.

The attached table (Attachment B) provides a complete comparison of a locality’s authority under Virginia Code § 15.2-2298 and Virginia Code § 15.2-2303.

Staff recommends approval of the attached amendments to the Albemarle County Zoning Ordinance (Attachment C) which will enable the County to accept proffers under Virginia Code § 15.2-2303.

Mr. Cilimberg reported that this is a proposed amendment to the Zoning Ordinance to be able to exercise the most recent changes to the Virginia State Code that allow the County to fall under provisions regarding proffers that are more liberal than current regulations. He said this would enable the Board to accept proffers under Virginia Code Section 15.2-23.03, rather than 15.2-22.98, and it gives the County more flexibility in how they accept proffers. Mr. Cilimberg said that the change would allow how the County accepts cash proffers to address impacts from rezoning, allowing it to better address a broad range of issues such as affordable housing and the LEED certified building ideas, but still retain the necessity of a reasonable condition that has a reasonable relationship to the proposed development. He said that staff has recommended approval as has the Planning Commission.

At this time the Chairman asked for public comments.

Mr. Jay Willer of the Blue Ridge Homebuilders Association addressed the Board, stating that the idea of cash proffers is to specifically address needs associated with new development. He encouraged the Board to reject this option as this pending action is less about mitigating real impacts and perhaps more about the cash. Mr. Willer said that these costs will be passed onto the homeowner.

There being no other comments, Mr. Boyd closed the public comment period.

Mr. Davis pointed out that the new enabling authority eliminates the term “voluntary” from the statute, but the case law is clear that the proffer still needs to be offered by the developer and cannot be imposed by the Board. He said that this authority does create greater flexibility for both the Board and developers to mitigate impacts.

Mr. Rooker emphasized that the defense of any action because of legal challenges to proffer policies is enhanced by adopting this ordinance rather than the old ordinance.

Mr. Davis agreed.

Mr. Rooker stated that this does not dictate what the County does, just enables them to take action as necessary.

At this time, Mr. Rooker **moved** to accept the recommendation in ZTA 2007-002 from staff as presented in Attachment C of the staff report and to adopt the attached Ordinance which will enable the County to accept proffers under Virginia Code Sec 15.2-2303. Ms. Thomas **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Ms. Thomas suggested sending a note to General Assembly representatives to inform them of the vote.

ORDINANCE NO. 07-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

Sec. 2.3	Conflicting ordinances
Sec. 3.1	Definitions
Sec. 33.3	Proffer of conditions

Chapter 18. Zoning

Article 1. General Provisions

Sec. 2.3 Regulations conflicting with other local or state or federal laws

Whenever provisions within this chapter conflict with any local, state or federal statute or regulation with respect to requirements or standards, the most severe or stringent requirement or standard shall prevail.

For purposes of this section, any proffer heretofore accepted by the board of supervisors in accordance with Virginia Code §§ 15.2-2296 *et seq.*, shall be continued in effect and shall be construed to be a "local regulation" until amended or varied by the board of supervisors in accordance with law, regardless of the repeal of any previous zoning ordinance.

Sec. 3.1 Definitions

...

Proffer: A written condition offered by the owner of land who has applied for a zoning map amendment that imposes a regulation or requirement that is in addition to the regulations otherwise applicable to the land under this chapter. (Added 10-3-01)

...

Article IV. Procedure

Sec. 33.3 Proffer of conditions

Prior to the public hearing before the board of supervisors on a rezoning application required by Virginia Code § 15.2-2285, the owner of the land that is the subject of the rezoning may proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions are authorized by, and shall comply with, Virginia Code § 15.2-2303; provided that the proffering thereof by the owner shall be deemed prima facie evidence of such compliance. (Amended 4-4-90)

Agenda Item No 23. **Public Hearing:** AFD-2007-001. An ordinance to amend section 3-215, Hatton Agricultural and Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County. The proposed ordinance would add Tax Map and Parcel Numbers 135-14B and 136-2A to the District. (Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

Ms. Amy Arnold reported that the applicants request approval of the addition of two parcels totaling just over 90 acres to the Hatton Agricultural Forestal District, and the parcels are currently actively farmed for the production of cattle and hay. She said that the proposed addition increases the total acreage from 641.417 acres to 732.474 acres, providing additional protection for natural and agricultural resources as well as contributing to the community's ground and surface water quality through the preservation of this acreage. Ms. Arnold said that the Planning Commission, the Agricultural Forestal District Advisory Committee, and staff recommend incorporating the parcels offered by the applicants.

Public comment was invited. There being none, the matter was placed before the Board.

Mr. Rooker and Ms. Thomas commended the applicants on making this contribution to the district.

Mr. Davis noted that there was an ordinance distributed to the Board to amend Section 3-215 Hatton Agricultural Forestal District dated 6/15/07, and the motion would be to approve that ordinance.

At this time, Mr. Dorrier **moved** to approve AFD-2007-001 and adopted the attached Ordinance. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

ORDINANCE NO. 07-03(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 3-215 Hatton Agricultural and Forestal District.

Chapter 3. Agricultural and Forestal Districts

Article II. Districts of Statewide Significance

Division 2. Districts

Sec. 3-215 Hatton Agricultural and Forestal District.

The district known as the "Hatton Agricultural and Forestal District" consists of the following described properties: Tax map 135, parcels 13, 14B, 15, 15A, 17, 18, 19, 22, 22A, 30 (part); tax map 136, parcels 2A, 9B. This district, created on June 29, 1983 for not more than 10 years and last reviewed on June 20, 2001, shall next be reviewed prior to June 29, 2011.

(Code 1988, § 2.1-4(a); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 07-3(1), 7-11-07)

Agenda Item No. 24. **Public Hearing:** CPA-2005-02, Growth Management Policy Update. Amend the Land Use Plan component of the Albemarle County Comprehensive Plan by revising the Growth Management and Public Facilities sections to be consistent with the more-recently adopted Rural Areas component of the Comprehensive Plan. Amendment would change policy identifying agriculture and forestry as priority uses in the Rural Areas to a policy identifying multiple important aspects of the Rural Areas to be protected. (Notice of this public hearing was advertised in the *Daily Progress* on June 25 and July 2, 2007).

The Executive Summary states that at a work session on April 24, 2007, the Planning Commission reviewed this proposal, which is intended to make existing policies regarding the Rural Areas consistent with those adopted in the Rural Areas Plan. The background for the proposed changes is given in Attachment D. The Commission recommended adoption of three amendments—to the Growth Management section of the Land Use Plan (Attachment A); the Community Facilities section of the Land Use Plan (Attachment B), and the introduction to the Rural Areas Plan (Attachment C).

On June 6, 2007, the Board of Supervisors held a public hearing on this item, but deferred consideration of the proposal in order to give the public an opportunity to review more complete information.

In addition to the two original sections to be amended, staff is providing additional changes to the Introduction of the Rural Areas section (see Attachment A). This revision should be more appropriate to an Introduction, and removes language that was adapted from older policy statements.

Staff recommends that the Board of Supervisors adopt the proposed Comprehensive Plan amendments as recommended by the Planning Commission.

Mr. Benish reported that in March 2005, the Board adopted a new Rural Areas section of the Comprehensive Plan, which included new guiding principles that established features for the Rural Areas and emphasized that all features are equivalent in value. He noted that this is a change in the prior growth management policy, which implied that the resources were of a higher priority. Mr. Benish said that this is an amendment to the Comprehensive Plan to bring sections of the plan into consistency with that policy that was adopted in 2005, and staff has suggested amendments to the growth management policy, to the Community Facilities Plan, and one section of the Rural Areas component of the Comprehensive Plan to provide for that consistent language.

Public comment was invited. There being none, the matter was placed before the Board.

At this time, Mr. Dorrier **moved** to adopt CPA-2005-002 as presented. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Growth Management

GOAL: Protect and efficiently utilize County resources by:

- A. Protecting the elements that define the Rural Area:
 - 1) Agricultural resources
 - 2) Forestry resources
 - 3) Land preservation
 - 4) Land conservation
 - 5) Water supply resources
 - 6) Natural resources
 - 7) Scenic resources
 - 8) Historical, archaeological, and cultural resources
- B. Promoting the Development Areas as the place where a variety of land uses, facilities, and services exist and are planned to support the County's future growth, with emphasis placed on infill development.

Introduction

(As Amended July 10, 2002)

The County's primary growth management goal directs development into designated areas and conserves the balance of the County for rural areas and resource protection. Resource protection is the basic theme behind the County's growth management approach. This ongoing theme is complemented by an emphasis on intelligent use of Development Areas, public facilities and resources. Thus, planning efforts aim to channel growth into designated areas to facilitate economical service delivery in those areas, to promote a sense of neighborhood-style development as the preferred design in those areas, and to conserve the Rural Areas.

Planning efforts also focus on means to discourage development in the Rural Areas and support activities consistent with the character of the Rural Areas. This is accomplished through education, incentives, and voluntary and regulatory measures. These measures should focus on protecting the "defining principles" of the Rural Areas listed in the Guiding Principles of the Rural Areas Plan. Residential development is inconsistent with the protection of those defining principles and should be prevented where possible. Limited service delivery—prevention of public water and sewer connections, and provision of public services at a rural rather than urban scale—is a key policy for limiting the potential for rural residential development. Where development cannot be avoided, its impacts should be reduced through improved design requirements.

It is important that this and future Comprehensive Plans make adjustments that can influence development patterns to better meet the growth management goals. Such adjustments can include more active County support of Development Areas development, adjustments to location and/or holding capacity, and additional protective or support measures for the Rural Areas. This plan emphasizes the County's role in providing necessary new and amended ordinances, regulations, support services and infrastructure for development, and more efficient use of Development Areas, including more urban and pedestrian oriented development styles. It must be recognized that the desired increased densities in the Development Areas will also require an increased commitment by the County for public infrastructure improvements.

* * * * *

Community Facilities Plan

(As amended September 1, 2004)

INTRODUCTION

Community facilities provide a location for necessary and desired services for County residents and are important components in supporting and enhancing the quality of life in Albemarle County. The facilities covered within this plan include police, fire and rescue protection services, schools, libraries, parks and recreation, government administration services, and solid waste facilities. Highway and transportation facilities and sewer and water utilities are not covered in this plan. Separate planning processes are already in place for these facilities.

The provision of community facilities can influence where and when development will occur; therefore, they are important tools for managing growth. The importance of the provision of public services and facilities is recognized in the Facilities Planning section of this Plan:

"Emphasis is placed on providing a level of public service delivery that will support development in, and direct development to, designated Development Areas. To accomplish this, service and facilities will be provided at a much higher level in the Development Areas than in the Rural Areas. Those persons living in the Rural Areas should not anticipate levels of public service delivery equal to services provided in the Development Areas."

Community facilities are provided to residents in the County in a number of different ways. Some facilities/services are provided entirely by the County (schools, police), some are volunteer stations, while others are a combination of County and volunteer (fire). Some are regional in scope (libraries), while still others are provided jointly by the County and City (solid waste disposal facilities). In the case of Parks and Recreation facilities, separate facilities are provided by the City and County, but are made available for use by all residents in the entire area, including outlying Counties. Some park facilities are also provided jointly by the City and County (Darden Towe Park and Ivy Creek Natural Park).

Because of the high cost involved in providing community facilities and the potential impact to the County's growth pattern, it is important to have a comprehensive and systematic planning process. This process should promote an efficient provision of services and facilities that is consistent with current needs and with the goals of the Comprehensive Plan for future development. This plan will serve as a framework for community facility development decisions. It will permit a better evaluation of service and facility performance and needs, and a more objective review of competing demands for new and expanded facilities so that the resources are used in areas of highest need. It is to be used to assist agency administrators and elected officials in determining the capital project needs and priorities, and timing for facility development. It establishes what the County determines to be the adequate level of service for community facilities. "Level of service" defines what County residents consider as necessary and desirable. To do this, service objectives and standards for provision of facilities are established. This Plan is an element of the County's Comprehensive Plan and, like the Comprehensive Plan, will be reviewed on a regular basis.

The County's Comprehensive Plan emphasizes the County's role in providing necessary new and amended ordinances, regulations, support services and infrastructure for development, and more efficient use of Development Areas, including more urban and pedestrian oriented development styles. It must be recognized that the desired increase in density and more urban model for development recommended in the Development Areas will also require an increased commitment by the County for public infrastructure improvements and community facilities and services.

(Note: The Board took a brief recess at 4:31 p.m., and then reconvened at 4:40 p.m.)

Agenda Item No. 25. Work Session: ZMA-2005-17. Biscuit Run.

It was noted in the Executive Summary that on March 27, 2007, the Planning Commission held a public hearing on the request and recommended denial of ZMA-2005-00017, Biscuit Run, based on a number of unresolved issues raised by staff in its report and by the Planning Commission. (See Attachment A)

At the Board of Supervisors meeting on April 4, 2007 the Board referred its previously scheduled April 11th work session on the application back to the Planning Commission for the applicant to address the unresolved issues with the Commission. The Board also requested that the Commission look at transit funding/usage, and suggested the applicant look at how they may do something for their own locally generated transit system. On May 29, 2007, the Planning Commission held a second public hearing on the application. The Commission recommended approval of ZMA-2005-000017, Biscuit Run, inclusive of revised proffers, code of development and application plan, provided that the remaining outstanding issues identified in the staff report on page 9 (See Attachment B) and those discussed by the Planning Commission at the public hearing are addressed as recommended prior to the Board of Supervisor's meeting. Each of these issues is noted in the following with the expectation of the Planning Commission in bold print and the current status in italics.

- Application Plan, Code of Development and Proffers.
Technical matters need to be addressed and fixed. An inflation factor for cash proffers needs to be included.
While the applicant has addressed some of the technical matters, there are several that remain to be addressed. Staff has provided the applicant a letter referencing these matters. The applicant has proffered an annual adjustment in cash proffer in proffer 13 based on the Consumer Price Index for All Urban Consumers, United States City Average. The Board has indicated its preference for such annual adjustments to be based on the Marshall and Swift Building Cost Index.
- Location of Mill Creek South connection.
The connection needs to be in a location that provides acceptable design for vehicular access and proper intersection with Stoney Creek Drive. The general concept is that it be for pedestrian, bike and emergency access with the proviso that it is available for full public road access at the decision of the Board of Supervisors rather than the discretion of Community Development and that the time period within which this discretion could be exercised be 20 to 25 years rather than 15 years.
The revised plans do not show a change in location for the Mill Creek South

connection. However, the applicant has since submitted additional follow-up information regarding this connection to the County Engineer. This additional information is being reviewed by the engineer and can be further discussed during the Board's work session. Proffer 6. E. has been changed to reflect that the right-of-way shall be used for bicycle, pedestrian and emergency access to Biscuit Run until such time that the Board of Supervisors determines vehicular connection is required. The time period within which this discretion could be exercised is now 25 years.

- Plan to phase or sequence the development so as to understand the order of development and the timing and location of Southwood Connector Road.
Phases A and D along with the Southwood Connector and the park access should be done first. The remaining phases can be sequenced such that no more than 2 phases are underway at one time and a third phase could be started when one of the first two phases are 80 percent complete. There also needs to be some flexibility as to where the road will be located off-site.
The phasing aspect requested by the Planning Commission has been addressed in the Code of Development. However, staff feels the wording is confusing regarding the sequencing of phases. Staff has requested that wording in the code be clarified to specifically state the request of the Planning Commission. Proffer 6.D. includes wording that provides flexibility regarding location of this road off-site, but this wording may need to be further clarified.
- Further commitment regarding identification and protection of archeological and cultural resources.
There will be a Phase I Study of all areas to be disturbed before any disturbance can take place.
Proffer 10 addresses this statement.
- Commitments to grading at least equivalent to those made for North Pointe.
Language provided by the County Engineer shall be used to include an erosion control plan for each phase and the accommodation of drainage out fall on adjacent properties through easements.
Proffer 5 does not address the accommodation of drainage outfall on adjacent properties through easements.
- Sewer agreement.
Agreements were approved on May 24th and execution of documents with ACSA has been completed.
Staff has received a copy of the final executed document.
- **There shall be one general transportation fund proffered on a per unit basis for all County transportation improvements inclusive of the Sunset/Fontaine connector. ITS and Old Lynchburg Road improvements in the City and Transit will be in separate funds. ITS and Old Lynchburg Road improvements in the City will be provided on a per unit basis.**
This has been addressed in Proffers 6 C, 6 F, 6 G, and 7A.
- **The Transit Fund will be proffered with 1 million dollars available up front for at least 18 months as an incentive to provide funding for a regional Transit Authority. The applicant's local transit service shall be permanent rather than a 10 year commitment.**
This has been addressed in Proffers 7A and 7E.
- **The Commission specifically requests that the inflation component be included in the proffers.**
The applicant has provided proffer 13 in order to address this. The applicant has proffered an annual adjustment in cash proffer in proffer 13 based on the Consumer Price Index for All Urban Consumers. United States City Average. The Board has indicated its preference for such annual adjustments to be based on the Marshall and Swift Building Cost Index.

The Planning Commission also approved waivers for parking and loading study and for lot layout. Section 20A.3 of the Zoning Ordinance requires a parking and loading study be completed for a Neighborhood Model District application. This study provides parking details for the development. Due to the large size of the proposed Biscuit Run development, the applicant requested a waiver for the completion of these details until the site plan process. Section 20A.5 of the Zoning Ordinance requires preliminary lot lay-out for Neighborhood Model District applications. Due to the large size of the proposed development, the applicant also requested a waiver of providing the details of lot layout for this development until the site plan process. The applicant also submitted a request for waiver of need for required parking to abut lot it serves, dated June 13, 2007. The timing of this request is awkward, since the Planning Commission reviewed and recommended approval with conditions to the Board of Supervisors, for this rezoning request and waivers on May 29th. Staff recommends the applicant request this waiver during the site plan process.

Based on the Planning Commission's recommendations, staff feels a good part of what is still pending with the applicant is clarifying language in the proffers to appropriately convey and accomplish the Commission's intent. However, there still remain several substantive matters to be resolved:

- The location of the Mill Creek connection, as previously mentioned, is still a work in progress. The applicant has provided additional information. This is currently under review with the County Engineer. Finding a location for the connection that is appropriate and feasible remains an open issue.

- The applicant has included in proffers 2 A2, 2C1 and 2C2 cash contributions towards affordable housing in the amount of \$16,500 for each affordable unit not provided in the project. The Board of Supervisors has recently concluded that \$19,100 should be provided in lieu of each affordable unit. The discrepancy in the amount of contribution provided will need to be addressed.
- Staff supports proffer 6 G: Improvements to Old Lynchburg Road (City Section), but recommends that if the funds are not utilized within ten years that these funds be available to the City for a project identified in the southern City neighborhoods.
- The applicant has submitted three special use permits for stream crossings, which are currently under review by staff.
- The applicant has proffered an annual adjustment in cash proffers based on the Consumer Price Index for All Urban Consumers, United States Average, and the Board has indicated its preference for the Marshall and Swift Building Cost Index.
- Since the Commission's public hearing on Biscuit Run, the Board of Supervisors has further clarified its intent for a Cash Proffer Policy and passed a Resolution of Intent to amend the Comprehensive Plan. In doing so, the Board has accepted the Fiscal Impact Committee's methodology to determine the cash impact of residential development by dwelling unit type. Rounded off, the resulting calculated impacts that the Board has also accepted are \$17,500 per single family detached unit, \$12,400 per apartment unit and \$11,900 per townhouse/condominium unit. It was the consensus of the Board that, with the exception of affordable dwelling units, all new re-zonings will pay for the equivalent of their full impact as determined by the cash proffer calculations applied to the accepted per unit rates. The Board also indicated that the only credits against the cash proffer expectations that will be accepted are for land or improvements related to schools, parks, libraries, public safety and transportation projects identified in the Capital Improvements Program, the Comprehensive Plan and/or a Master Plan and that other proffers are to be considered outside the cash proffer expectations. The Board further agreed that when the number of unit types is not specified in a re-zoning, the single family detached rate should be used per total number of dwelling units.

The following information describes the status of proffers for this project based on the current Board proffer policy intent:

Cash Proffer Policy Expectation = \$35,546,500 (3,100 units of various types less 465 (15%) on-site affordable units X cash proffer by unit type) to \$48,825,000 (3,100 units less 310 (10%) on-units X \$17,500)

Value of Current Proffers = \$18,144,691

Additional Cash Expectation = \$17,401,809 to \$30,680,309

Among the credits the applicant has claimed that are outside the cash proffer policy expectations indicated by the Board to date are:

\$5,345,600 for a district park

\$200,000 for district park master plan

\$2,500,000 for stream crossing to district park

\$1,000,000 for Habitat for Humanity

\$2,293,050 for 15% of the East/West. Southwood Connector

\$375,000 for 15% of the stream crossing for the East/West. Southwood Connector

\$1,000,000 for Transit

\$12,713,650 not counted as credits

Generally speaking, the applicant's cash, land and improvement proffers that are consistent with the Board expectations are not initiated until the 500th Certificate of Occupancy for the project. The Board's indications have been that per unit cash proffers should begin with the first residential building permit.

As noted above, there is a difference of approximately \$17.4 to \$30.7 million between the applicant's proffers meeting the Board's expectations and the project's cash impact. The applicant has made other quantitative and qualitative commitments to the project and the County, including the district park, the road connecting Rt. 20 and Old Lynchburg Rd. (Rt. 631), cash for Habitat for Humanity, transit, LEED certified buildings and Neighborhood Model design that should be considered outside the cash proffer expectations.

Staff and the applicant need the Board's guidance as to the adequacy of the applicant's proffers as discussed above.

The Planning Commission has recommended approval of this project with the expectation that issues identified by staff and the Planning Commission at the time of the Commission's last public hearing would be addressed by the applicant. While the applicant has addressed a number of those issues, the following are still outstanding:

- Acceptable location of the Mill Creek connection.
- Provision of \$19,100 cash in lieu of each affordable unit not provided in the project.
- Provision of annual adjustment in cash proffers based on the Marshall and Swift Building Cost Index.
- Provision of cash proffers that meet the Board's expectations that new re-zonings will pay for the equivalent of their full impact, including provision at the time of the first residential building permit rather than the 500th Certificate of Occupancy.
- Adequacy of other quantitative and qualitative commitments made on the project that enhance this development and this part of the County and should be considered outside the cash proffer expectations. At the time of the Planning Commission's public hearing these were generally found to appropriately supplement the cash being proffered.
- Further technical fixes to proffer language to meet expectations of the Commission, including clarifying language regarding archeological work and commitments to grading, erosion control and drainage.

Ms. Claudette Grant reported that the applicant proposes to rezone approximately 828 acres from R-1 and R-2 residential to Neighborhood Model district; the property is located between the east side of Old Lynchburg Road and the west side of Route 20, adjacent and to the south of the Mill Creek subdivision, adjacent and to the west of the intersection of Avon Street Extended and Route 20, and includes 981 Old Lynchburg Road. She said that the applicant has proposed a development with up to 3100 residential units; 150,000 square feet of commercial and office uses, primarily located in a neighborhood center; a 12-acre school site; and a 402-acre district park located south of the project area in an adjacent area zoned rural. Ms. Grant explained that this rural area is not part of the rezoning request.

Ms. Grant noted that over the last year and a half, the Planning Commission has held 13 information and work sessions for the Biscuit Run project and two public hearings. She said at the last public hearing on May 29th, the Commission recommended approval of the Biscuit Run project inclusive of revised requested information and that remaining outstanding issues be addressed prior to the Board of Supervisors meeting. Ms. Grant said that the applicant has addressed a number of the outstanding issues, and staff feels there needs to be clarification on substantive matters: the location of the Mill Creek Connection that is appropriate and feasible; cash contributions of \$16,500 per unit of affordable housing for each unit not provided in the project and \$19,100 is what the Board had agreed upon; and improvements to Old Lynchburg Road in the City, as staff recommends if those funds are not utilized within ten years they be made available to the City for a project identified in the southern City neighborhoods. She reported that the applicant has submitted three special use permits for stream crossings, which are currently under review by staff. Ms. Grant also reported that the applicant has proffered an annual adjustment in cash proffers based on the CPI for all urban consumers, US average; the Board has indicated its preference for the Marshall & Swift building cost index.

Ms. Grant said that since the Commission's public hearing on the project, the Board has further clarified its intent for a cash proffer policy and has passed a resolution of intent to amend the Comprehensive Plan, so there is an additional cash expectation from the applicant. She said that the applicant has provided over \$12 million in cash proffers that are not counted as credits based on the proposed proffer policy. Ms. Grant indicated that LEED certified buildings and the Neighborhood Model design should be considered outside the cash proffer expectations, and staff needs Board guidance as to the adequacy of the proffers, citing a difference between \$17 and \$30 million for cash proffers. She said that the Planning Commission has recommended approval with an expectation that the issues identified by staff and the Planning Commission at the last public hearing would be addressed by the applicant. Ms. Grant stated that the outstanding issues are still in need of resolution, and staff needs guidance. She presented photos from the Biscuit Run site.

Mr. Rooker asked for clarification of the proffer differential.

Ms. Grant replied that staff has taken the Board's cash proffer expectation, which is \$35 million including 15 percent of affordable units on site, and the difference of the higher number is if the applicant uses ten percent of onsite affordable units. She said then various items are subtracted that are not being credited.

Mr. Cilimberg noted that the \$35 million is a mix of unit types that were provided by the applicant when the traffic study was underway so the calculation has the 15 percent onsite affordable units using different rates by type of dwelling unit.

Mr. Steve Blaine, representing the applicant, Forest Lodge LLC, addressed the Board. He explained that staff and Planning Commission's recommendations cover the legal findings so he would like to focus on the proffers. Mr. Blaine asked if it was appropriate to apply the policy to this application and that is a threshold question. He suggested that taking the stakeholders' opinions into account was important in addressing impacts. Mr. Blaine said that the stakeholders restate the strategic importance of this project from the beginning: its close proximity to the City and to existing and possible transit routes, and its proximity to major transportation corridors as well as roads such as Avon Street Extended and

Route 20. He indicated that unless the proffered improvements are identified in the CIP, the Comprehensive Plan, or the Master Plan, the credits are not available. Mr. Blaine stated that the connector road, that is, the East/West Connector or Southwood Connector, could approach \$5 million in proffers for the \$1 million paid for the right of way access across Southwood as well as stream crossings that would not otherwise be required. He presented a list of proffers and whether they are in the form of cash, land dedication, or construction, and staff and VDOT have agreed to their value.

Mr. Blaine also said that the other elements permitted under the policy would be dedication of a 402-acre district park, including \$200,000 in planning study costs provided in cash, as well as a stream crossing worth \$2.5 million. He noted that while it is not in the Comprehensive Plan, a park in this area of the County was identified as an important improvement. Mr. Blaine also said that the applicant proffered \$1 million towards transit, and the CIP could be interpreted as contemplating that type of improvement as it purports shifting road funds to mass transit.

Mr. Slutzky noted that there is also the 7-F operating cost which is not included as a credit in their figure. He added that there would also be a private transit system made available to homeowners until a public system is put in place. Mr. Slutzky said that the \$1 million would be proffered in a lump sum, and the benchmarks are tied to the need of a particular improvement.

Mr. Rooker said that he would prefer that they be paid incrementally to reflect inflation adjustments, a pay-as-you-go on a per-unit basis.

Mr. Blaine commented that you might get payment sooner in a lump sum.

Mr. Cilimberg said that the proffer increments were intended by staff to be for per-unit to be paid after the 500th certificate of occupancy is granted.

Mr. Blaine mentioned that the applicant has also made proffers that are included in the City, such as signal improvements valued at \$150,000, the Sunset/Fontaine connector contribution at \$1.5 million, and the Old Lynchburg Road within the City limits at \$1.5 million, for a total of \$3.2 million not credited in the County application.

Mr. Cilimberg responded that those improvements are included in the \$18 million value of proffers recognized by staff.

Mr. Rooker noted that the transportation proffers are coming out of the cash unit proffers. He commented that the cash proffers for transportation are coming out of the per-unit credits.

Mr. Boyd asked if anyone has gone back and calculated the revenue-sharing with the City for this project.

Mr. Blaine replied that the calculations have been upward of \$14 million, and the applicants' inducement is to give a kick-start to the improvements in the southern area.

Mr. Cilimberg commented that the applicant would need to provide values for real estate built and improved at various stages of the development, and then it is easy to calculate revenue for revenue sharing based on ten cents on \$100.

Mr. Slutzky commented that it needs to be calculated on the value of the homes themselves when they are built out.

Mr. Blaine maintained that the policy can be used as a relative measure rather than a rigid application.

Mr. Boyd said that he recalled agreeing to evaluate proffers on a case by case basis.

Ms. Thomas noted that there was a memo sent in May to Juandiego Wade that talked about a pro-rata share of almost \$13 million just for the Route 20 corridor traffic needs because this development should be responsible for 45 percent of any improvement costs to the corridor. She asked how that figure on Route 20 should be \$12.97 million and now is itemized as general transportation fund contributions of \$7.75 million.

Mr. Blaine responded that VDOT was trying to ensure the widening of Route 20, and there is not necessarily a consensus to widen that road from Route 53 down to the frontage of the development. He said that their project is not precipitating the need for that improvement. Mr. Blaine said that they spent 11 months on a traffic study recommending various improvements. He noted that the VDOT memo provides a planning tool and a suggestion, and the applicant disagrees that their share is \$14 million.

Mr. Rooker commented that the reason the Board implemented a cash proffer policy was to avoid arguments over particular impacts in particular developments, but instead use an average number per unit.

Ms. Thomas agreed, but she said that this is a fairly major distinction between a general amount of money as it is just one portion of the traffic impacts.

Mr. Davis noted that staff understand the per-unit amount to address the impacts on transportation, education, parks and recreation, libraries, and public safety, and those are addressed by

policy through the cash proffer policy; impacts outside of those areas are still fair game for the developer to demonstrate he is addressing those impacts.

Mr. Rooker stated that it is going to take a long time to go through the items that are not cash proffers and agree upon what it is the County is willing to give credit for and which items do not count as credit. He cited the park being proffered as an example as well as access to the park.

Mr. Slutzky suggested looking at this item by item with consideration for whether the substance of the proffer item is appropriate for a credit and then finding out what the basis for the calculation is.

Mr. Pat Mullaney addressed the Board, stating that in FY 13-15 there is money programmed to meet park needs in the southern urban area, either to purchase property for a smaller community park or used to develop a larger park with Biscuit Run. He said that the original plan was for 90 acres so the additional acreage would not show up in the CIP, and this gives the opportunity to meet a future need. Mr. Mullaney mentioned that Biscuit Run would have about 10,000 people, and about three-quarters of them would use a public park and some would also use nature trails. He said that the experience with Walnut Creek would be very different if residents of Biscuit Run use it, which they likely will. Mr. Mullaney added that accepting the parkland is directly in line with the Strategic Plan objective to increase total combined acreage or qualifying public parkland. He said it is one of the best things they can do for the quality of life for our citizens in the future.

Mr. Blaine noted that based on raw acreage, there would be 24 by-right development rights retired as a result of the parkland.

Mr. Boyd mentioned that there is also a soccer field site set aside.

Mr. Cilimberg noted that that was reflected in staff's analysis.

Mr. Dorrier commented that the park should be accepted as a proffer.

Mr. Cilimberg said that staff did confirm the value of this land with real estate, and the \$12.8 million unit value was confirmed.

Mr. Graham stated that there is no way to know what the crossing will cost, but it seems extremely high to value that at \$2.5 million. He said it could appear to be an amenity of the development, because that is how you access the park. Mr. Graham added that there is also a stream buffer and wetlands and a special use permit associated with that crossing.

Mr. John Atkinson, the applicant, indicated that he would be more than happy to give cash and have the County build that crossing. He said it is solely to serve the park, and they (the applicant) would just as soon not build it. Mr. Atkinson added that there is more of an advantage to him to give cash and hold onto the land.

Mr. Rooker asked for clarification of access to the park.

Mr. Slutzky asked why credit should be given in the amount of \$2.5 million.

Mr. Wyant asked staff to address the costs associated with dealing with other agencies to get across wetlands.

Mr. Blaine replied that the costs are chiefly the span of the bridge because of the topography and wetland associated with the stream, adding that they state in the proffers what they intend to construct.

Mr. Rooker said that staff needs to look at this item a little more carefully as Mr. Graham has indicated that he needs more information to assess this.

Mr. Graham agreed, stating that some preliminary engineering would be needed to make that assessment.

Ms. Thomas said that she did not want to get into a mode that when the value is questioned, the applicant takes it away.

Mr. Atkinson stated that he wants to do what is best.

Mr. Graham noted that they could not ask for dedication of the park before the 500th certificate of occupancy.

Mr. Blaine said that the park could be dedicated immediately, but if there is not cash for the access and a road to get there, the point is kind of moot.

Ms. Thomas commented that staff is saying that \$7.75 million is an adequate number for general fund transportation contribution, but the VDOT letter suggests that just the Route 20 corridor costs would approach \$13 million.

Mr. Rooker noted that the total cost allocated to transportation is \$17.888 million.

Ms. Thomas added that she thinks that the general transportation fund contribution is an inadequate figure.

Mr. Rooker stated that a cash proffer policy does not anticipate that a development of this size would make a \$7.5 to \$8 million contribution to parks.

Ms. Thomas said that taxpayers are going to be paying the difference in what the applicant gives for Route 20 and what the costs for improvements end up being, and while the park proffer can be perceived to offset that in the amount of \$5 million, the road costs will still be there.

Mr. Boyd noted that the Fiscal Impact Committee did not make the assumption that all roads in the County would be paid for by County tax dollars without a penny from VDOT.

Mr. Rooker mentioned that he and Ms. Thomas had been in favor of a higher number associated with the cash proffers, but there was not a consensus on that. He noted that would have provided more money for transportation or whatever else we decided to allocate it to that might be in our CIP.

Mr. Slutzky asked if the Board was prepared to move forward with the \$12 million as staff has indicated.

Mr. Cilimberg replied that there was a double-counting of the district park master planning as the park was credited at \$5.3456 million, and the applicant's estimate is \$5.1456 million.

Mr. Rooker said that the Board has not had a lot of time to review the proffers and the associated values.

Mr. Cilimberg replied that the figures have been confirmed by staff for greenways and playfields.

Mr. Blaine suggested going to the seven items listed in the staff report on Page 4, and the costs shown have been worked through with staff and VDOT. He said that land values have been based on tax assessments, and perhaps the Board could focus on the seven items that have been discussed.

Mr. Rooker added that the million for Habitat for Humanity is for acquisition of the property from them so that acquisition can be obtained for Old Lynchburg Road.

Mr. Atkinson indicated that Habitat approached him about buying Southwood Mobile Home Park and was told they did not have the resources. He said that it was meant to give them the down payment, and it was much broader than just the right of way.

Mr. Boyd said that he looks at that as leveraging that proffer money to partner with them and build affordable housing.

Mr. Rooker noted that the applicant could increase the cash proffers instead of doing this.

Mr. Cilimberg said that the 15 percent is a reasonable percentage for diverting traffic from existing road systems. He stated that with the stream crossing, the cost would really be dependent on the engineering of that crossing so it is 15 percent of an amount that is not as definitive, much like the park access.

Mr. Graham said that a question arose as to whether the Southwood connector would eliminate the need for a southern parkway. He explained that in the end, staff decided it really could not so it was not really offsetting anything in the CIP and built into the cash proffer policy.

Mr. Cilimberg noted that there are indirect connections between Route 20 and Old Lynchburg Road that are occurring otherwise on site so the connection through Southwood is an additional road being built as more of a through road rather than having people get from Route 20 to Route 631 entirely within the project.

Mr. Dorrier said that the developer is putting in a Neighborhood Model in the development area and wants to connect Avon Street with Old Lynchburg Road even though it will be limited access.

Mr. Rooker stated that the question is what credit is given against cash proffers, and an east-west connector is needed for a development this size. He noted, however, that his question is whether the applicant should get credit for that when it essentially serves the development.

Ms. Thomas commented that staff is saying credit should not be given, and the conversation is related to whether those items should be added back in.

Mr. Blaine said that the road design is intended to accommodate regional area traffic, and the volumes for that are taken into account. He noted that it can accommodate 15,000 vehicle trips per day and that the 15 percent was agreed upon by VDOT. Mr. Blaine said that the applicant agrees it is not a substitute for the Southern Parkway, but it will serve a purpose in the short term until that is built.

Mr. Slutzky noted that he hoped the cash would go to the RTA, and if that is not up and running within 18 months, that money goes to the County for general transportation needs.

Mr. Boyd said that he would like it moved through the County.

Mr. Rooker asked when it would be paid.

Mr. Blaine responded that it would be paid at the site plan stage.

Mr. Cilimberg pointed out that the applicant's estimate is \$30,858,000 for those items mentioned, plus the items already given credit for; that compares to the calculation of \$35.5 million and \$48.8 million used with a per-unit amount.

Mr. Rooker said that the \$30.8 million should be calculated against the unit and determined the deficit on a per-unit basis, which seems to be several thousand per unit, based on the credits deemed to be appropriate, that is, \$11,711 per unit. He noted that the average based on the proffer policy is closer to \$14,000.

Mr. Slutzky noted that the applicant is asking for some additional credits for the LEED and Neighborhood Model compliance.

Mr. Blaine said that they used the figures of \$17,500 for single family, \$11,900 for single family attached townhouse, and \$12,400 for multi-family. He commented that the simplest way would be to have a single proffer amount per unit.

Mr. Rooker stated that the applicant is not proposing to build 15 percent affordable units so the cash proffer approach is to be done based on non-affordable units.

Mr. Blaine said that there would not be any incentive to do offsite improvements.

Mr. Rooker commented that what cash proffers are paid on is the number of non-affordable units built in the community.

Mr. Boyd asked where the LEED and Neighborhood Model credits came from.

Mr. Blaine replied that the applicant intends to have ten percent LEED units, and there may be room for more if they are market successful. He explained that the \$13,900 is the average of the proffer per unit as it reflects the increased cost. Mr. Blaine clarified that this is an incentive, and if a policy is adopted that recognizes this it might encourage other LEED-certified developments.

Ms. Thomas said that she would be willing to do this in the first five years, but after that it will likely be a market standard. She added that that she would be willing to give credit for transportation because that is the only way to move traffic effectively through this area once the development is built.

Mr. Dorrier said that he has met with the Mill Creek residents regarding their concerns.

Mr. Gary Fern addressed the Board, noting that the Service Authority feels that there is water available. He said that on the wastewater side, the Service Authority has entered into an agreement with the applicant regarding the upgrade of the Biscuit Run trunk sewer so that when it gets to 80 percent of the projected peak flow prior to rezoning, the applicant has agreed to pay 100 percent of the costs to upgrade the Biscuit Run trunk sewer. Mr. Fern also said that there has been a question as to whether or not the Moore's Creek interceptor would need to be upgraded, and RWSA is assessing its needs as far as all of its interceptors, which is expected to be complete by this fall. He said that the applicant agreed through a memorandum of agreement to pay his fair share of charges for the interceptor, and on the Service Authority side they would come up with a fair way to pass those charges onto all developers in the jurisdictional agreement.

Mr. Boyd noted that the agreement is not binding.

Mr. Fern replied that they can always withhold service so they can not move forward with the development. He said that the Service Authority would continue to assess fees fairly, and it would have to look at the entire jurisdictional area. Mr. Fern said that the Service Authority is confident that this applicant will assume costs associated with the impact of his development. He also said that once it is known what is involved to upgrade the Moore's Creek or Powell's Creek interceptors, the hook-up fee costs can be assessed. Mr. Fern said that people are going to have to pay something to maintain the size of the sewer pipe upgrade. He noted that the agreement is really just an agreement that when there is known data as to what is needed to upgrade the interceptor, the Service Authority will establish what costs are associated with the development.

Mr. Boyd said that he hopes RWSA has been escrowing fee income in anticipation of pipe upgrades.

Mr. Rooker noted that the cost would likely exceed what is needed to improve the interceptors and sewers.

Mr. Fern said that the Service Authority has an agreement with developers of Old Trail for the Crozet interceptor, and they have almost reached a point of having to upgrade with any more development.

Mr. Graham pointed out that the greenway dedication will be in the floodplain, and that is where the sewer lines will be put in, so the County will control that.

Mr. Wyant asked if there was adequate water for fire service based on calculations. Mr. Fern assured him that it had been established as acceptable.

Mr. Dorrier asked about connection points. Mr. Fern said that Ragged Mountain and South Fork would be useable.

Mr. Dorrier also asked about the intersecting roads connecting Mill Creek and Biscuit Run.

Mr. Blaine said that he provided to staff an alternative in response to engineering's suggestion which aligns with topography.

Ms. Thomas noted that one of the developer's staff had presented a rough design that came to a T-intersection to make it clear it was a way for Mill Creek residents get into Biscuit Run as opposed to having Biscuit Run people use Mill Creek for a way out. She indicated that in her visit to Chapel Hill, the developer had a similar situation. Ms. Thomas said that she is thinking that the connection here should not be made until certain things happen, but if the connection exists early on it will seem like a shortcut through Mill Creek.

Mr. Dorrier said that he is in favor of the bicycle and pedestrian approach through Mill Creek.

Mr. Rooker commented that it would be a mistake not to make a vehicle connection, although it would start as a bicycle and pedestrian route. He added that he can not imagine a whole lot of people cutting through Mill Creek as you have to wind through the neighborhood.

Mr. Blaine said that the proffer provides exactly that flexibility, and residents of Mill Creek perceive that their road will be used as a cut-through.

Mr. Rooker noted that you could always use it just for school busses, and he used the example of the connection between Carrsbrook and Woodbrook never being made.

Mr. Dorrier said that the Mill Creek South residents wanted to make sure that the drainage problems along the edge of the development are worked out with the storm water system approved by the County.

Ms. Thomas referenced a letter Board members received.

Mr. Wyant commented that that is often addressed at the site plan stage.

Mr. Cilimberg noted that offsite impacts were a general concern of the Planning Commission, and Mill Creek is actually higher than Biscuit Run.

Mr. Dorrier said that there is an issue with buffer as well.

Mr. Boyd stated that he thought that had been worked out with the Mill Creek homeowners.

Mr. Blaine responded that they would like for it to remain in preservation, and they have existing problems because of the early drainage design there. He said that the width would be a minimum of 300 feet from the nearest dwelling, and that has been presented to residents.

Ms. Thomas mentioned that there is some confusion about the difference between a conservation area and a preservation area, with conservation areas accommodating things like greenways, and preservation areas remaining intact. She noted that people within the environmental community have offered their assistance in establishing the preservation areas.

Mr. Dorrier said that he would like to see the entrance from Route 20 addressed as well as the entrance from Avon Street to Biscuit Run and on into the City of Charlottesville.

Mr. Rooker noted that VDOT could come in and recommend offsite improvements, but he is not sure how this would be impacted.

Ms. Thomas responded that these are not offsite impacts, such as Old Lynchburg Road as it borders the development as well as the Southwood entrance.

Mr. Cilimberg said that staff had the applicant leave the Southwood item alone because it is uncertain where it might go given Habitat's intention for that property. He emphasized that it might not be resolved in this application, and Habitat would like the route to come to Sunset Avenue. Mr. Cilimberg said that staff wanted it to be resolved at a later date and would prefer not to be pinned into a corner by a proffer.

Mr. Blaine said that there are several points that could be changed now, such as using the Marshall & Swift index, and he suggested using the Chesterfield model for that. He noted that increasing the cash in lieu would provide a disincentive to contribute to Habitat.

Mr. Rooker responded that that is the County's policy on affordable housing, and it is up to the applicant whether they want to make the contribution or build an affordable unit.

Mr. Boyd said that he thought the cash in lieu reduced the contribution per dwelling unit.

Board members emphasized that it does not.

Mr. Slutzky explained that this cash in lieu replaces the \$16,500 to go into the down payment assistance program as a way of satisfying the 15 percent affordable housing requirement.

Mr. Rooker said that they agreed not to charge cash proffers on affordable units, and the applicant is only going to pay cash proffers against non-affordable units that are built in the community.

Mr. Slutzky noted that there are two separate issues: paying \$17,000 for the 85 percent of units that are not in the affordable category, and the remaining 15 percent either need to be affordable or compensated with additional cash of \$19,200 if they are not.

Mr. Blaine said that the applicant concedes that, but he emphasized that the Planning Commission has worked issues including transportation but could not come to consensus on the proffers.

Ms. Thomas stated that she appreciates the applicant's willingness to take this back to the Commission for additional time.

Mr. Rooker commented that this has been a much better process than North Pointe was.

Mr. Boyd suggested having the Board make written comments and questions and forwarding them to Mr. Cilimberg.

Mr. Tucker said that there could be another work session on August 8th as long as they would be willing to start the meeting early as there is a work session already scheduled.

Mr. Cilimberg stated that he needs questions by next Wednesday, and staff would also go through the items discussed today.

Agenda Item No. 26. From the Board: Committee Reports.

Mr. Rooker reported that the Board has received a copy of a proposed resolution to set the Fiscal Year 2008 compensation and benefits for the County Executive.

At this time, Mr. Rooker **moved** to approve the attached Resolution to set FY 2008 Compensation and Benefits for the County Executive. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

RESOLUTION TO SET FY 08
COMPENSATION & BENEFITS FOR
THE COUNTY EXECUTIVE

WHEREAS, the County of Albemarle operates under the County Executive Form of Government;
and

WHEREAS, the Board of Supervisors determines the compensation and benefits to be paid to the County Executive for the performance of his duties and responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby finds that Robert W. Tucker, Jr., County Executive, shall receive the following compensation and benefits for FY 08, beginning July 1, 2007:

- 1) Annual salary of \$169,500.
- 2) Annual vehicle allowance of \$9,650.
- 3) Deferred Compensation paid by the County in the amount of \$23,500.
- 4) Benefits provided to all County employees in the Personnel Policy & Procedures Manual.
- 5) VERIPlus benefits to consist of the VERIP benefits provided to County employees under the Personnel Policy & Procedures Manual with the following additions and modifications:
 - a) VERIPlus benefits shall extend for a period of 10 years from the date of retirement regardless of age;
 - b) VERIPlus benefits shall be equal to the base VERIP benefits plus on the following vesting dates the Virginia Retirement System (hereinafter "VRS") component of the benefits shall increase to the designated percentages of the base VERIP benefits:

June 30, 2007	111%
June 30, 2008	123%
June 30, 2009	136%
June 30, 2010	150%

The vesting percentage shall be set at the designated percentage as of June 30th prior to the date of retirement if retirement occurs before the next vesting date. Attachment A provides an example of the possible VRS component of the VERIPlus benefits.

c) The retirement requirement for VERIPlus will be met if retirement is approved under any of the retirement plans of the VRS, including any disability retirement provision.

d) VERIPlus benefits shall accrue to the benefit of a designated survivor, as designated for purposes of VRS, if death should occur prior to receiving ten years of VERIPlus benefits.

Agenda Item No. 27. Adjourn. At 7:18 p.m., with no further business to come before the Board, the meeting was adjourned.

Chairman

Approved by the Board of County Supervisors
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Date: 12/12/2007

Initials: EWJ
