

A meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 7, 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 (arrived at 10:12 a.m.), 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, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

Agenda Item No. 1. The meeting was called to order at 9:04 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. Recognitions.

Item No. 4a. "Commuter Friendly Employer" Award.

Ms. Rhonda Edmonds addressed the Board, stating that she works with RideShare at the Thomas Jefferson Planning District Commission. Ms. Edmonds said that along with the Piedmont Workforce Network, their goal is to get people to and from work more easily. She noted that they recognize Albemarle County as a commuter-friendly community, showing support to alternatives to driving alone – including park and ride lots, TDM plans, transit-oriented development, and increased transit funding, investment in pedestrian/greenway/bikeway projects. Ms. Edmonds said that Mr. Boyd attended their October luncheon and accepted the award on behalf of the County.

Mr. Boyd commented that he is impressed with RideShare efforts, and was pleased to accept the award – which he would bring to the next meeting.

Ms. Edmonds also recognized the County's Human Resources Department, as they have been very supportive of RideShare initiatives and alternatives to driving alone – such as preferential parking for carpools and promoting services through departments and workshops. She said that TJPDC has hosted lunchtime events so that County employers can attend and learn how to become more commuter-friendly; RideShare has worked to develop ways to encourage ride-sharing.

Ms. Louise Wyatt, from Human Resources, stated that she appreciates RideShare's efforts in promoting carpooling, their guaranteed ride home, bike to work week, etc. She noted that they are also a great resource for putting together a tele-working policy. Ms. Wyatt, also, commended Albemarle County leadership for their role in promoting these efforts.

Item No. 4b. Diana Strickler – Route 250 West Task Force.

Mr. Boyd presented a Certificate of Appreciation to Diana Strickler, noting that she has been highly active in the Citizens Advisory Committee for the Route 250 West Corridor Study. Ms. Strickler was instrumental in recommending to the Board not to support VDOT's recommendation to widen Route 250 West. Ms. Strickler has been a member of the Task Force since September 2000, and has chaired it for five of those years. Ms. Strickler has been a lead contact for several Task Force projects including combining the entrances of White Gables and Kendridge, initiating the Greenway Corridor proposal to preserve the current scenic corridor of Route 250, and reviewing numerous safety improvements along the corridor. Mr. Boyd said that Ms. Strickler went "above and beyond the call of duty" by writing and editing letters and memos, meeting with the community, and meeting with the Supervisors. Ms. Strickler's knowledge and commitment to the corridor will be sorely missed.

Ms. Strickler thanked the Board for the Certificate.

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

Mr. Dorrier asked when there would be a work session on infrastructure. He noted that it was a big issue in the recent election.

Mr. Tucker commented that the appropriate time would be when the Board discusses the Capital Improvements Plan and the Five-Year Financial Plan. He added that the Five Year Financial Plan is scheduled for a work session on November 14th.

Ms. Thomas said that every time she drives to the County Office Building, she notices the dead-end of Schenk's Branch Greenway. She appreciates all the work with greenways that are being done in

the County but would like some thought from other Board members about continuing the path to the County Office Building. She suggested looking at putting this in the CIP.

Mr. Thomas noted that this is the 30th Anniversary of the relationship of the County and its Sister County in Prato, Italy. She thanked Mr. Tucker's office and Purchasing staff for their efforts in quickly gathering the pins for the Italian delegation.

Mr. Rooker mentioned that Board members had received a copy of a letter from Charlottesville City Mayor to Don Wagner, Chairman, of the Albemarle County Service Authority, expressing their disappointment at the manner of the Authority's recent action to ease water restrictions in the County. Mr. Rooker said that the tone of the letter is that the City, ACSA and RWSA have previously proceeded in a unified matter, and this was a break from that unification as there was a change in the County without any discussion with the City. Mr. Rooker emphasized that there should be conversations with the City before any actions are taken. He suggested that staff draft a letter to the ACSA stressing the need to communicate with City Council when decisions are made regarding changes in water restrictions in the County.

Mr. Dorrier noted that during the campaign, the issue arose regarding interaction between the Albemarle County Service Authority and the Rivanna Water and Sewer Authority, and there had been discussion of reevaluating the structure.

Mr. Tucker responded that it is fairly simple to change the structure of the Rivanna Board; this Board or City Council can do it. His understanding is that the Chairman of the Board will be meeting with the Mayor of the City to begin discussions. When talking about the structure, you are talking about supplanting a member of the Rivanna Board with an elected official, and City Council may be considering the same. This Board does not have to follow what the City does; you can do it on your own, or do something together. Mr. Boyd said it is his intent to talk with the Mayor; he has not yet had the opportunity to do so.

Mr. Wyant commented that it was brought to his attention that there have been a number of people burning debris, and there have been complaints during this drought that cinders are traveling close to homes. There is a high potential for setting structures on fire.

Mr. Tucker responded that the fire department issues controlled burn permits and they usually closely monitored them. He added that as the County is becoming more urbanized there may need to be discussions on whether to allow burning in the development areas.

Mr. Rooker mentioned a letter from Gerald Connally, Chairman of the Fairfax County Board, regarding the "Cool Counties" initiative. A description of the program and a copy of a proposed resolution are attached to the letter. He would like to bring the proposed resolution back to the Board for discussion.

Mr. Tucker responded that the County's Environmental staff is working on all of these. The County receives a number of "Cool Counties" requests and staff is trying to coordinate all the information in order to have one unified approach in the area. It is staff's intent to bring something back to the Board in the near future.

Mr. Rooker said this approach is gaining nationwide attention, and he thinks there are instances where it is helpful to take a position with other counties.

Mr. Rooker said, at the last Board meeting, he mentioned a letter from Butch Davies which had a copy of an article from Whit Clements on transportation legislation. There are a lot of interesting things in this legislation, one of which is the requirement that every community have a designated growth area that will accommodate the projected growth over the next 20 years. He asked staff if the County's Comprehensive Plan designation satisfies that statutory requirement. He added that it is interesting that what the County has been doing with its designated growth area is now being mandated legislatively.

Ms. Thomas noted that several weeks ago, she, Larry Davis and Mark Graham attended a meeting on this issue; she was struck with the feeling that "we've already done that". There were a couple of counties proudly presenting what they had done, and she was thinking that Albemarle had already done it. She thinks that one of the concerns is that Albemarle's growth area is too big to "qualify," as the idea is to cover 20 years of growth and no more.

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

Ms. Allison Mitchell, a resident of Gilbert Station Road, addressed the Board. She requested that the unpaved portion of Gilbert Station Road, less than one-half mile, be placed and prioritized in the Six Year Secondary Road Plan for paving. Currently the road is in the process of being improved, but the grading is not having much effect. VDOT has indicated several times their desire to pave the road which would ease road maintenance. She stated that the unpaved portion of road divides the community, school districts, and causes different fire and rescue units to respond to the area. Ms. Mitchell stated that the road is not built to withstand the traffic it gets, especially from additional subdivisions, homes, and deliver trucks like FedEx and UPS. The road surface is damaged resulting in washboard and an unsafe

road bed. Pavement could nearly eliminate the issues they are experiencing. She handed Board members a petition with 60 signatures requesting the unpaved portion of road be paved.

Mr. Harvey Wilcox, of Ivy, addressed the Board, stating that conservation easements are not being "marshaled and policed" as they should be. He mentioned an 82-acre subdivision – Turner Mountain Wood – that was approved 15 years ago under the rural preservation development option. Mr. Wilcox said that the developer opted to designate 47 acres of it as a Rural Preservation Tract, and under the Open Space Land Act gave the County a perpetual easement to maintain that acreage in natural conditions to protect the public drinking water supply, with two acres to hold a permanent single-family dwelling. He reported that a 4,000 square foot home was built on the property several years ago. After a series of administrative mishaps, County staff approved the building of an additional 19,000 square foot, \$3.0 million home beside the 4,000 square foot home, permitting the 4,000 square foot home being designated as "an outbuilding" once the kitchen has been refitted with a microwave and a smaller refrigerator. The owners appear to have done everything County staff has requested of them, and he feels sorry for their plight, but only the Public Recreational Facilities Authority (PRFA) and this Board has the authority to interpret the easement. This is not a planning or zoning issue. By accepting this easement 15 years ago, this Board and the PRFA became the trustees. You are trustees of 47 acres entrusted into your custody for public purposes. As trustees, you must interpret the terms of the easement. Mr. Wilcox urged the Board to put this matter on its agenda and taken action.

Mr. Richard Selden, a retired economist from U.Va., addressed the Board. He and his children were the developers of Turner Mountain Woods Subdivision. Phase 2 of the subdivision comprised of approximately 88 acres, and they elected to split most of this parcel into lots of four or more acres, consistent with other Turner Mountain homes. At the suggestion of an official from the Planning Department, they decided to create a single, much larger lot of 47 acres at the backend of the parcel, rather than carving it into seven or eight smaller lots. They reached this decision after being assured by this official that they could protect this land in perpetuity from further development beyond a single, one family home in a two acre clearing, by means of a conservation easement. He has no direct knowledge of the plans of the present owner of the 47 acre tract. It is obvious to him that the objectives he and his children had for this land have not been fulfilled. It is also obvious to him that the Board and County Planning officials have been negligent for failing to monitor and enforce compliance with the terms of their easement. Mr. Selden said, in hindsight, their objectives were "doomed to fail," and his family was foolish to walk away from the wealth they could have reaped by creating extra lots on the 47-acre tract. He believes that clever lawyers can nearly always be found to defeat the aims of donors of conservation easements. He wonders about the morality of the County urging landowners to consider such easements when they are unwilling to carry out rudimentary monitoring and compliance.

Mr. Rex Linville of the Piedmont Environmental Council addressed the Board, noting that the Cool Counties initiative is a wonderful effort with some land conservation components. Mr. Linville said that they recently got a "Buy Fresh, Buy Local" guide, with holiday items such as Christmas tree farms, etc. included. The PEC would love to see some support from the County as it fulfills an objective in the Comprehensive Plan to hire someone for agricultural support. He added that the PEC is concerned about the precedence the County's actions and/or inactions relative to the conservation easement issue may have, and the impression it may give to future donors of conservation easements. It is important that people realize these easements have "teeth" from the perspective of the donors as well as future property owners. In this particular instance, he is concerned with three things on the property: 1) the appearance of a second house; 2) the clearing issue; and 3) timber harvesting on the property. The easement terms are very specific in that no timber harvesting can be done unless it is subject to a plan approved by the Board and the PRFA. Since the time of the original donation in 1992, it appears that there have been significant timber harvesting, none of which have been subject to an approved plan, and more recently there was timber harvesting for the specific purpose of constructing the additional house. He urged the Board to officially look into this matter.

Mr. Charles Martin addressed the Board, stating that he is before the Board to represent the Public Education Fund, which was started by both school systems, the Commission on Children and Families, and parent associations. He said that the intent behind the Fund is having an entity that could accept private funds to support the school system, noting that in 2003 the group started and a Board was put together in 2004. Mr. Martin said that they have funded the Focus Program (located at Greer and Walker Schools) and the C-Quest Program. Mr. Martin added that Mr. Robert Ballard, Founder and Chairman of The JASON Project, from National Geographic would be visiting for the Fund on November 19th. During this event on November 19th, the Fund will be having two types of sponsors; the Event Sponsor (\$5,000) and the Table Sponsor (\$1,000). He asked that the Board, representing the County sponsor a table at \$1,000; and that individual Board members consider sponsoring another table. He added that the event is free because of sponsorship from the two areas.

Mr. Kip Newland, Treasurer of the Advance Mills Village Homeowners Association, thanked the Board for its continued support in moving along the temporary bridge for Advance Mills. He is concerned about the pace of the project as they have not yet had a meeting with interested parties so that they can move forward with installing the temporary bridge. It is important to have a meeting with the historical authorities to meet VDOT's deadline. He asked that the County continue to work with the residents and with VDOT to get this done and stay on track so the schedule can be maintained.

Mr. Rooker suggested that the Board support the Public Education Fund at the \$1,000 table level.

Mr. Boyd said that he supports it, but wants to make sure there is not a precedent set.

Mr. Tucker stated that he cannot recall the Board supporting such an initiative, but it is in their purview to support it. He added that this request is a little different because it is an educational foundation.

Ms. Thomas agreed that they should support a table, but she is not sure about the source of funding. If they do not do it as a County, she would support the Board members putting together a table. It is not often they get a former member of the Board who has gone on to work so hard in a particular area such as the terrific things Mr. Martin is doing for children.

Mr. Rooker said that this is different from other non-profit entities, as it directly supports public education. He would support County funding and being listed as a participant. In addition, it helps give credibility to the Foundation.

Mr. Dorrier asked how much money the Foundation has raised. Mr. Martin said that presently they have \$15,000 in event sponsors and \$16,000 in table sponsors. They hope to have \$20,000 for the event. Recently, Wendell Wood donated \$40,000 to the organization. All monies go directly to the City and County public schools and their programs; they have no employees. With the exception of this event (there is some overhead), all funds are either in the bank or have funded public education programs. Mr. Martin noted that the Albemarle County School system is also sponsoring two tables. He added that for the sponsorship, you get eight seats, and a signed copy of Mr. Ballard's book. He noted that the idea is to have as many math and science teachers attend as possible, as this funding is intended to support a math and science teaching academy that both Superintendents are supportive. Mr. Martin stated that it will start as a pilot project next summer. If the program is successful, the Fund will move forward to raise more funds to make sure it is in all school systems year round.

Mr. Boyd said he is also willing to personally sponsor a table.

Mr. Rooker said he will also do the same; but emphasized that the County spends 60 percent of its funds on public education, and this request is different from other causes.

Mr. Dorrier agreed, stating that Mr. Martin has worked hard on his own time.

Mr. Rooker added that the Board is guaranteeing one table, and they may sponsor another individually.

Mr. Martin indicated that David Toscano has donated \$500 for a table, and perhaps a match for that could be given by individual Board members.

Mr. Boyd asked if the easement issue is going to come back to the Board for discussion. The only thing he knows is what he has read in the newspapers.

Ms. Thomas commented that the PRFA is looking into this situation and believes that they need separate legal counsel. The Authority has informed the applicant that they are not through with the issue, and he is proceeding at his own risk. She is frustrated with this situation, in that someone can remove a stove and it makes the home in question no longer a house. This is something that the Board will have to discuss. She knows that the Authority is having a meeting soon to discuss this issue.

Mr. Graham responded that staff has met with the Chair of the PRFA and others. The Authority is looking at a separate request for funding for legal assistance. He has held off on any discussions with the Board because of that request. Staff shares some of the community's frustration on this; they have tried to carefully look at the easement agreement and the requirements of the easement agreement. There are two issues that came out of this. The first issue is the two acres of clearing for dwellings which staff met with the property owner and their engineer. Staff did its own analysis, although not a proper survey. The applicant had a professional engineer perform a survey and certified it as correct. The County came out with 2.1 acres and the applicant came out with slightly less than two acres on the survey using the instruments. The second issue is the dwelling. The situation is as Ms. Thomas described. Mr. Graham said that staff is looking at changes to the dwelling that would be required under the Zoning Ordinance, but the definition is the same as when this easement was created. This definition has been used for over 20 years by the County.

Mr. Rooker commented that the dwelling definition in the Zoning Ordinance does not have to be the one used for easements. The definition of what is and what is not a dwelling unit can be defined with the easements and the County should do so. As an example, the Virginia Outdoors Foundation limits the size of buildings. Mr. Rooker said the definitions within the easement are sufficient to enforce the intent of the easement. The problem here is that the easement did not define these things and did not include square foot limits on buildings. He emphasized that we need to make sure that from now on easements follow the VOF restrictions. The VOF have substantial expertise and we should follow their lead. He believes that the County has to deal with what is legally available as a remedy for this situation, and deal with whether there is an infraction of the easement language.

Mr. Graham mentioned that he has been waiting for the PRFA to come back and say whether or not they want to move forward with legal action and need funding.

Mr. Boyd suggested that it be conveyed to the PRFA that the Board is interested in them proceeding expeditiously and letting it (the Board) know what they need.

Mr. Wyant said that the County needs to refine their easement language moving forward.

Ms. Thomas noted that there is the issue of the dwelling units and this particular situation, the issue of future easements, and the issue of having resources to monitor and enforce easement policies.

Mr. Boyd asked if there is a way to determine whether a fine can be levied.

Mr. Thomas responded that if there was timbering done on this property, it was done by a former owner.

Mr. Davis said that the clearing that took place for the dwelling is exempt under the terms of the easement, but if there was timbering done over the years, that is a violation of the easement and the remedy is to get an injunction and ask for some remediation. It is a compliance monitoring issue. It is not something the County can deal with unless we know about it. He added that in this instance, as soon as staff understood there was an easement issue, it aggressively took action to ensure that the terms of the easement were complied with. Mr. Davis said, under the circumstances, he and Mr. Graham's office did what they thought was appropriate. The Community Development Director is technically the agent of enforcement, and he has the responsibility of implementing the terms of the easements on the County's behalf.

Mr. Tucker noted that there seems to be consensus about bringing this back to address the issues raised.

Agenda Item No. 7. Consent Agenda

Motion was offered by Mr. Rooker, **seconded** by Mr. Slutzky, to approve Items 7.2 through 7.5 on the Consent Agenda and to accept the remaining items for information. (Note: Discussions are included with individual items.) Roll was called, and the motion carried by the following recorded vote:

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

Item No. 7.1. Approval of Minutes. **(Remove from Agenda)**

Item No. 7.2. Set public hearing to consider adoption of an ordinance to amend County Code Appendix A.1, Acquisition of Conservation Easements Program, by amending Section A.1-107 ("Eligibility criteria"), Section A.1-108 ("Ranking criteria"), and Provision 2.B.3 ("Size of structures") of the Deed of Easement.

The Executive Summary states that the Albemarle County Service Authority ("ACSA") is planning to replace the existing 6-inch water line within the County-owned Clarke Lane right-of-way (Carrsbrook Subdivision) with an 8-inch line. As this project has progressed, ACSA discovered that it did not have an easement for the existing water line and, as part of this project, desires to acquire an easement. This water line provides a connection between the Woodbrook and Carrsbrook Subdivisions and, if there is a break in the water line along Route 29 North, it is the only source of water for the Woodbrook Subdivision.

Virginia Code Section 15.2-1800 requires that the Board hold a public hearing prior to conveyance of any interest in County-owned real property. Staff has reviewed and approved the proposed Deed and Plat, attached. The proposed water line easement would allow ACSA to proceed with its water line replacement project.

Staff recommends that, after receiving public comment, the Board approve the proposed easement and authorize the County Executive to sign the deed of easement on behalf of the County after the agreement has been approved by the County Attorney with any necessary changes.

By the recorded vote set out above, the Board set a public hearing for December 5, 2007, to consider the proposed changes to the ACE Ordinance.

Item No. 7.3. Resolution endorsing Monticello Area Domestic Violence Fatality Review Team.

The following letter dated October 30, 2007, was received from Jon R. Zug, Assistant Commonwealth's Attorney:

"I am writing to request that the Albemarle Board of Supervisors approve the resolution to permit formation of the Monticello Area Domestic Violence Fatality Review Team.

In the Spring of 2006, the Office of the Chief Medical Examiner for the Commonwealth of Virginia conducted a training for law enforcement, court personnel, social services employees, and victim advocates in the Albemarle-Charlottesville area to discuss issues of domestic violence, particularly with regard to domestic violence related deaths and protective order enforcement. At that time Susheela Varkey of the Supreme Court and Amina Luchman of the Medical Examiner's Office requested that Albemarle County form a fatality review team as part of a pilot program going on within the Commonwealth of Virginia.

As a result of that request, a coalition of the police departments, Commonwealth's Attorneys' offices, and Victim/Witness Programs for both the city and county, as well as members from the Shelter for Help in Emergency, and The Women's Center at the University of Virginia began to meet to discuss the feasibility of the formation of a fatality review team for our area. Unanimously it was agreed that the purpose of working to prevent domestic violence homicides was an important goal given that we have not been immune to such incidents in our community, having suffered over six such events from 1999 through 2005. Given the goal of the fatality review team, the coalition worked with the Medical Examiner's office to formulate a plan and mission statement, as well as beginning the task of lining up support from cooperating agencies in an effort to bring the plan into fruition. By the summer of this year, the groundwork has been laid to create a working fatality review team, and to execute memorandums of agreement and cooperation to effectively look at past domestic violence homicides in a manner to offer concrete assessment of both gaps in services as well as existing best practices so as to significantly impact the incidence of domestic violence homicides here in Albemarle County and the City of Charlottesville.

The City of Charlottesville has approved the resolution at their September meeting of City Council, and I am respectfully requesting that the Board of Supervisors for the County of Albemarle approve the same such that the fatality review team may move forward with this important work."

By the recorded vote set out above, the Board adopted the following resolution endorsing the formation of the Monticello Area Domestic Violence Fatality Review Team.

**RESOLUTION ESTABLISHING
THE MONTICELLO AREA DOMESTIC VIOLENCE
FATALITY REVIEW TEAM**

WHEREAS, family and intimate partner violence has destructive consequences upon individuals and families within Albemarle County and surrounding localities; and

WHEREAS, careful examination of family and intimate partner fatalities can help prevent similar tragedies from recurring; and

WHEREAS, a thoughtful and non-judgmental method of evaluating the events that lead to family and intimate partner fatalities will create a safer community; and

WHEREAS, the General Assembly enacted *Virginia Code* § 32.1-283.3 to permit localities to establish Family Violence Fatality Review Teams "to examine fatal family violence incidents and to create a body of information to help prevent future family partner fatalities";

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that the Monticello Area Domestic Violence Fatality Review Team is hereby established as a multi-jurisdictional family violence fatality review team pursuant to *Virginia Code* § 32.1-283.3; and

BE IT FURTHER RESOLVED, that the Monticello Area Domestic Violence Fatality Review Team shall have the authority to review the facts and circumstances of all fatal family violence incidents that occur within Albemarle County and other participating localities; and

BE IT FURTHER RESOLVED, that the Monticello Area Domestic Violence Fatality Review Team initially shall also include the City of Charlottesville and may later include additional participating localities; and

BE IT FURTHER RESOLVED, that the Monticello Area Domestic Violence Fatality Review Team will engage agencies, organizations and systems which provide services to victims and perpetrators to identify possible gaps as well as best practices in system responses and provide for increased communication and collaboration amongst the agencies involved; and

BE IT FURTHER RESOLVED, that the Monticello Area Domestic Violence Fatality Review Team will operate under the assumption that all persons and agencies are committed to and care deeply about preventing violence within the family and intimate partner relationships and operate in good faith, using best judgment and information available at the time; and

BE IT FURTHER RESOLVED, that the Monticello Area Domestic Violence Fatality Review Team will offer recommendations to benefit our community and improve our public safety; and

BE IT FURTHER RESOLVED, that pursuant to *Virginia Code* § 32.1-283.3 the membership of the team shall include, but not be limited to, representatives from the criminal justice system, the advocacy community, the academic and public policy field, the health care community, and the mental health and social services community.

Item No. 7.4. FY 2008 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.

The total of this requested FY 2008 appropriation is \$1,043,090.03. 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 nine (9) new FY 2008 appropriations as follows:

- One (1) appropriation (#2008032) totaling \$1,000.00 for a Click It or Ticket grant for the Sheriff's Department;
- One (1) appropriation (#2008033) in the amount of \$339,000.00 funding ECC infrastructure costs for new paging/toning system for the City, County, and University;
- Two (2) appropriations (#2008034 and #2008039) totaling \$36,765.01 for school donations and programs;
- One (1) appropriation (#2008035) appropriating \$300,000.00 in proffer revenue from North Pointe for affordable housing;
- One (1) appropriation (#2008036) appropriating \$46,889.77 in seized asset funds for the Police Department and Commonwealth's Attorney Office;
- One (1) appropriation (#2008037) appropriating an additional \$93,000.00 in grant funds for the Mint Springs Handicapped Accessible Fishing project;
- One (1) appropriation (#2008038) totaling \$168,069.00 for the Crisis Intervention Team Grant for Offender Aid and Restoration; and
- One (1) appropriation (#2008040) totaling \$65,000.00 for a Department of Criminal Justice Services grant to CCF.

A detailed description of these appropriations is provided below.

<u>Appropriation #2008032</u>		<u>\$ 1,000.00</u>
Revenue Source:	State Revenue	\$ 1,000.00

The Department of Motor Vehicles has awarded the Sheriff's Office a grant in the amount of \$1,000.00. The purpose of this grant is to assist in the overtime expenses for the "Click It or Ticket" program. There is no local match.

<u>Appropriation #2008033</u>		<u>\$339,000.00</u>
Revenue Source:	ECC Fund Balance	\$339,000.00

At its meeting on September 18th, the ECC Management Board approved the transfer of \$339,000.00 from the ECC Fund Balance to fund the infrastructure associated with a new paging/toning system for Fire Rescue for the City, County, and University. These funds will be used for the procurement and installation of a new narrowband UHF simulcast paging system based on the study, report, and recommendation prepared by RCC Consultants in March 2007.

<u>Appropriation #2008034</u>		<u>\$ 9,790.01</u>
Revenue Source:	Local Revenue	\$ 1,540.00
	Transfer from School Fund	6,633.75
	Appropriation – F/B (School Special Rev.)	1,616.26

At its meeting on September 27, 2007, the School Board approved the following appropriation requests:

Western Albemarle High School received a donation in the amount of \$500.00 from Peter B. Ernst and Sheila E. Crowe. It was requested that this donation be used for the rowing club at Western Albemarle High School.

Walton Middle School received a donation in the amount of \$40.00 from Andrew Miller. It was requested that this donation be spent on library books.

Monticello High School received a donation in the amount of \$1,000.00 from H. M. Walker, Jr. and Joan S. Walker. The donor requested that this donation be used as "Make A Difference Fund". This fund supports financially needy students, school supplies, field trips, lunches, class fees, etc.

The Knights of Virginia Assistance for the Retarded (KOVAR) was not fully expended in FY06/07 and has a fund balance in the amount of \$1,616.26, which may be used for FY07/08. This grant will facilitate a training program for students with mental retardation to increase the knowledge capacity of these students to use public transportation in order to access employment opportunities in our community.

The recognition program was rolled out in pilot to the Transportation and Building Services departments in mid-FY06/07 and is currently started in the Child Nutrition Department. We ask that the program funds (based on departments FTEs) be moved from Human Resources to these departments so that they can

better track and account for their usage. The recognition program will additionally be piloted in selected school locations mid-FY07/08, and once this is finalized we will request the remaining funds be moved to those locations.

Appropriation #2008035 **\$ 300,000.00**

Revenue Source: Proffer Revenue (North Pointe) \$300,000.00

The Housing Department has requested the transfer of \$300,000.00 in revenue from the North Pointe proffer be appropriated and transferred to supplement the Homebuyers' Assistance Program. This program, which is administered on behalf of the County by Piedmont Housing Alliance (PHA), provides down payment assistance to eligible home buyers in the County. The disbursement of funds to PHA will be monitored and approved by the Housing Office. Last year PHA committed and closed 32 loans for Albemarle clients using over \$403,000 of appropriated general fund money from the County. They currently have approximately \$66,000 committed and additional clients in the pipeline this fiscal year.

Appropriation#2008036 **\$ 46,889.77**

Revenue Source: Local Revenue (Interest) \$ 390.61
State Revenue 2,251.54
Other Fund Balances 44,247.62

The Commonwealth Attorney's Office has received seized asset monies from the Department of Criminal Justice Services. These funds, in addition to interest earnings, total \$13,460.19, and will be used to purchase office supplies, furniture, and training/conferences for the Commonwealth Attorney's Office.

The Police Department has received seized asset monies (and interest earnings) from the Department of Criminal Justice Services. These funds, in addition to interest earnings, total \$33,429.58, and will be used to purchase evidence equipment and traffic enforcement items for the Police Department.

Appropriation #2008037 **\$ 93,000.00**

Revenue Source: State Revenue (Grant) \$ 93,000.00

The Mint Springs Handicapped Accessible Fishing Access project is currently appropriated \$196,000.00 in the Capital Improvements Fund. The Parks and Recreation Department has received a grant for this project in the amount of \$93,000.00 from the Department of Conservation and Recreation's Land and Water Conservation Fund. These funds will be used to enhance the project currently funded in the Capital Improvements Program by providing funds to construct permanent restroom facilities and a second dock with a connecting trail to the parking area, as well as to provide a construction contingency in the event additional unforeseen excavation, rock removal, or concrete work is necessary to complete the project.

Appropriation #2008038 **\$168,069.00**

Revenue Source: Local Revenue \$ 42,017.00
Federal Revenue (Grant) 126,052.00

The Department of Criminal Justice Services (DCJS) has awarded the OAR/JACC a continuation grant in the amount of \$126,052.00 with a local match of \$42,017.00 for a total award of \$168,069.00. This grant will assist in the training and education of police officers to improve their understanding and interaction with citizens having a mental illness including signs and symptoms. Albemarle County will serve as fiscal agent for this grant. Local match monies will be provided by several local agencies and boards.

Appropriation #2008039 **\$ 26,975.00**

Revenue Source: Local Revenue (Donations & Grants) \$ 26,975.00

At its meeting on October 11, 2007, the School Board approved the following appropriation requests:

Western Albemarle High School received a donation in the amount of \$4,000.00 from Leslie B. Disharoon. The donor has requested that this donation go towards purchasing a boat trailer for the WAHS Rowing Club.

Stone Robinson received a donation in the amount of \$8,200.00 from the Stone Robinson PTO. This money is given to all teachers to help purchase supplies/equipment for their classrooms.

V.L. Murray Elementary School received a donation in the amount of \$600.00 from an anonymous donor. This donation is to be used towards any miscellaneous projects at Murray Elementary School.

The Shannon Foundation for Excellence in Public Education has awarded several teachers of Albemarle County Public Schools with grants totaling \$7,525.00. The awards were made to the following teachers: Frances Dovel-Morris, International & ESOL Program; Nancy Kendall Williams and Christine Scott, Baker-Butler Elementary School; Eileen Merritt & Elizabeth Shifflett, Stone Robinson Elementary School; Rhonda Jeck and Janelle Catlett, Woodbrook Elementary School and Jenny Dean, Burley Middle School.

Baker Butler Elementary School has been awarded a grant in the amount of \$650.00 from Dominion Resources Services, Inc. These funds will be used to support second grade teacher Lisa Harman's project titled "Science Matters." This project focuses on providing in-depth, hands-on science activities for students enabling them to practice asking questions, experimenting and drawing conclusions.

Scottsville Elementary School has been awarded a grant in the amount of \$1,000.00 from the Wal-Mart Foundation. These funds will be used to support the school's 4th and 5th graders year long Character Building Program with Triple C Camp.

Better Living, Inc. has awarded five Albemarle County Public School teachers Staff Development Stipends in the amount of \$1,000.00 each under the Golden Apple Award. Recipients include Jill Cline, Hollymead Elementary; Kathy Allen, Scottsville Elementary; Tim Howeth, Yancey Elementary; Kevin Murphy, Henley Middle and Catherine Coffman, Albemarle High.

<u>Appropriation #2008040</u>	<u>\$ 65,000.00</u>
Revenue Source:	Federal Revenue (Grant)
	\$ 65,000.00

The Department of Criminal Justice Services has awarded the Commission on Children and Families a grant in the amount of \$97,500.00. This grant will provide training and continued services to reduce system involvement of truants and juveniles with other negative school related behaviors. This will include staff time, staff training, and training materials. The Federal portion of the grant is \$65,000.00 with an "in-kind" match of \$32,500.00 resulting in the total award of \$97,500.00.

Staff recommends approval of the FY 2008 Appropriations #2008032, #2008033, #2008034, #2008035, #2008036, #2008037, #2008038, #2008039, and #2008040.

(Discussion: Mr. Boyd said that he had a question about the appropriation related to the North Pointe proffer, as he does not recall a resolution to the issue of proffers for affordable housing.

Mr. Rooker stated that his understanding was money not going into units would go into the down payment assistance fund, which is managed by the Piedmont Housing Alliance.

Mr. Ron White, Director of Housing, noted that this proffer specifically stated the money would be used for homebuyer assistance and down payments. The money will come into the Housing Office's budget, and they will then release it to PHA as they have projects to move forward. He said that the Regional Home Ownership Center at PHA takes the proffer money, makes loans, and the loans are held in PHA's name. Mr. White said that there is about \$1.5 million of assets currently in the fund. The loans are not being closed in the name of Albemarle County. PHA has funds set up so that they can keep track of Albemarle funds, Charlottesville funds, Louisa funds, etc. It is technically an asset belonging to PHA under a Memorandum of Understanding.

Mr. Davis explained that there are some things that PHA can do that the County cannot do directly, such as making loans and administering programs like this that the County has consented to through the Memorandum of Understanding. To a large extent, the County administers its Affordable Housing Program through the use of nonprofits.

Mr. Boyd said the Board never had a formal policy it discussed that related to how the money would be allocated and managed. Suppose the Board wanted to direct the funds in such a way as to give preference to teachers, police officers or firemen. How would the Board know that was being done? He expected a report from the Housing Office detailing what the proffers fund. He then asked how much money is out there in potential proffer dollars.

Mr. White responded, in affordable housing proffers, approximately \$350,000 have been received to date. He added that probably in the coming years, another \$700,000 is out there.

Mr. Davis stated that the proffer program does not work unless there is housing assistance revenue available for affordable units that are coming on line. Staff believed this funding would be available to help with housing assistance for those other units coming online that affordable buyers have been put into. Unless there is a different source of funds available, there will be a cash problem in accommodating the new homebuyers.

Mr. Boyd asked what would be done with Biscuit Run if 50 units are brought online in one year. He believes issues such as that deserve some thought before giving out any of the money.

Mr. Rooker responded that the intention for the funds is already in place, and is clear – it is available for down payment assistance. He emphasized that the issue of having more units come online is a funding issue, or providing more dollars, not structurally what you do with them once you get the funds. Mr. Rooker mentioned that there may be more down payment assistance money needed to allow people to qualify for the loans. He said that if all of the money is allocated that way, there will still not be enough to cover all applicants, adding that there are other ideas being circulated such as charitable land trusts.

Mr. Boyd said he thinks it deserves some thought as to whether the County is going to designate PHA as the sole vehicle for affordable housing when there are other organizations that we may want to funnel this money into.

Mr. Rooker said he believes if the Board wants to start talking about other funding mechanisms such as land trusts, etc., we need to be talking about other money, not raiding this money, because this money is probably already not going to be enough.

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008034
DATE _____
BATCH# _____

EXPLANATION: Education Donations & Programs – 09/27/2007

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J 2	1,540.00		
2	3000	51000	510109	Transfers In	J 2	6,633.75		
2	3159	51000	510100	Appropriation - F/B	J 2	1,616.26		
1	2254	61101	601300	INST/REC SUPPLIES	J 1	40.00		
1	2302	61101	601300	INST/REC SUPPLIES	J 1	500.00		
1	2304	61411	580000	MISC EXPENSES	J 1	1,000.00		
1	2420	62140	580501	EMPLOYEE RECOGNITION	J 1	(36,721.18)		
1	2420	91000	930000	TRANSFERS	J 1	6,633.75		
1	2432	62310	580501	EMPLOYEE RECOGNITION	J 1	16,100.44		
1	2433	62410	580501	EMPLOYEE RECOGNITION	J 1	13,986.99		
1	3000	63100	580501	EMPLOYEE RECOGNITION	J 1	6,633.75		
1	3159	61102	420100	TRANSPORTATION	J 1	1,616.26		
	2000		0501	Est. Revenue			1,540.00	
			0701	Appropriation				1,540.00
	3000		0501	Est. Revenue			6,633.75	
			0701	Appropriation				6,633.75
	3159		0501	Est. Revenue			1,616.26	
			0701	Appropriation				1,616.26
TOTAL						19,580.02	9,790.01	9,790.01

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008035
DATE _____
BATCH# _____

EXPLANATION: Appropriation of North Pointe Proffer Funds for Affordable Housing

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
1	8538	93010	930009	Transfer to G/F	J 1	300,000.00		
2	8538	51000	510100	Appropriation - F/B	J 2	300,000.00		
1	1000	81030	579005	Housing - Homebuyer Down	J 1	300,000.00		
2	1000	51000	512032	Transfer from North Pointe	J 2	300,000.00		
	8538		0501	Est. Revenue			300,000.00	
			0701	Expenditure				300,000.00
	1000		0501	Est. Revenue			300,000.00	
			0701	Expenditure				300,000.00
TOTAL						1,200,000.00	600,000.00	600,000.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008036
DATE _____
BATCH# _____

EXPLANATION: Seized Assets Funds

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1234	15000	150101	Interest on Bank Deposits	J	2	114.92		
2	1234	24000	240403	State Drug Asset Seizures		2	282.31		
2	1234	51000	510100	Appropriation - Fund Balance	J	2	13,062.96		
2	1235	15000	150101	Interest on Bank Deposits	J	2	14.79		
2	1235	51000	510100	Appropriation - Fund Balance	J	2	1,691.10		
2	1236	15000	150101	Interest on Bank Deposits	J	2	260.90		
2	1236	24000	240403	State Drug Asset Seizures	J	2	1,969.23		
2	1236	51000	510100	Appropriation - Fund Balance	J	2	29,493.56		
1	1234	22010	320000	Temp Help - Service Fees	J	1	709.20		
1	1234	22010	550100	Travel/Training/Education	J	1	6,375.50		
1	1234	22010	600100	Office Supplies	J	1	2,319.61		
1	1234	22010	800200	Furniture/Fixtures	J	1	4,000.00		
1	1234	22010	800700	ADP Equipment	J	1	55.88		
1	1235	39000	580905	State Drug Asset Seizures	J	1	1,705.89		
1	1236	39000	580902	State Drug Asset Seizures	J	1	31,723.69		
	1234		0501	Est. Revenue				13,460.19	
			0701	Appropriation					13,460.19
	1235		0501	Est. Revenue				1,705.89	
			0701	Appropriation					1,705.89
	1236		0501	Est. Revenue				31,723.69	
			0701	Appropriation					31,723.69
TOTAL							93,779.54	46,889.77	46,889.77

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008037
DATE _____
BATCH# _____

EXPLANATION: Additional funding for Mint Springs Handicapped Accessible Fishing Project

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	9010	24000	240049	Dept of Conservation/Recreation	J	2	93,000.00		
1	9010	71000	950201	Mint Springs Handicapped	J	1	93,000.00		
	9010		0501	Est. Revenue	J			93,000.00	
			0701	Appropriation	J				93,000.00
TOTAL							186,000.00	93,000.00	93,000.00

	3502		0501	Est. Revenue				7,525.00	
			0701	Appropriation					7,525.00
	TOTAL						53,950.00	26,975.00	26,975.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008040
DATE _____
BATCH# _____

EXPLANATION: CCF Grant

					SUB LEDGER			GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE		AMOUNT	DEBIT	CREDIT
2	1559	33000	330032	Revenue-DCJS (Federal)	J	2	65,000.00		
					J				
1	1559	53154	110000	Salaries - Regular	J	1	39,341.10		
1	1559	53154	210000	FICA	J	1	3,258.90		
1	1559	53154	231000	Health Insurance	J	1	6,701.00		
1	1559	53154	241000	DVRS Group Life	J	1	452.00		
1	1559	53154	312700	Prof. Services-Consultants	J	1	6,000.00		
1	1559	53154	550100	Travel/Training	J	1	2,000.00		
1	1559	53154	58000	Miscellaneous Expense	J	1	5,247.00		
1	1559	53154	800330	Computer Equipment	J	1	2,000.00		
	1559		0501	Est. Revenue				65,000.00	
			0701	Appropriation					65,000.00
	TOTAL						130,000.00	65,000.00	65,000.00

Item No. 7.5. Fiscal Year 2008 County of Albemarle and State Health Department Local Government Agreement.

The Executive Summary states that each year, local governing bodies enter into agreements with the State Board of Health for the provision of public health services to the locality. The agreements stipulate both the scope of services and costs for the delivery of public health services. Under *Virginia Code* § 32.1-31, these agreements are made directly with the local governing bodies.

The Thomas Jefferson Health District (TJHD), in cooperation with the Virginia Department of Health, is the primary provider of public health services and programs for Albemarle County and surrounding localities. TJHD offers specific health programs targeted at preventing and controlling infectious diseases, as well as initiatives aimed at improving the health of low income women, infants and children. In addition, the Health District provides dental services and an inspection and monitoring program to ensure the safety of food and private well/septic systems.

Non-local funding for these programs is provided by the Commonwealth of Virginia, as well as from grants and income from fees charged to individual clients. In addition, the localities served by TJHD provide matching local funds for the allocations made by the state. Moreover, the County of Albemarle and City of Charlottesville have historically funded the following programs that are not mandated by the federal and/or state governments:

- The Jefferson Area Child Health Partnership (CHIP) - An in-depth home visiting program for at-risk children (ages 0-6) and families provided by public health nurses and family support workers aimed at enhancing awareness and use of community resources to promote health;
- A dental care program for low-income children.

The County's FY08 appropriation for the Thomas Jefferson Health District totals \$921,773. Of this amount:

- \$683,682 is allocated for support of federal/state mandated programs;
- \$112,191 is slated for operation of the Children's Dental Program; and

- \$250,206 is designated for the Jefferson Area CHIP program.

Based on the vital services provided by the TJHD, staff recommends that the Board of Supervisors approve the Fiscal Year 2008 County of Albemarle & State Health Department Local Government Agreement and authorize the County Executive to execute the Agreement.

By the recorded vote set out above, the Board approved the Fiscal Year 2008 County of Albemarle & State Health Department Local Government Agreement and authorized the County Executive to execute the Agreement.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH**

STATEMENT OF AGREEMENT WITH the Board of Supervisors of the County of Albemarle Virginia.

Under this agreement, which is created in satisfaction of the requirements of §32.1-31 of the *Code of Virginia* (1950), as amended, the Virginia Department of Health, over the course of one fiscal year, will pay an amount not to exceed **\$683,682**, from the state general fund to support the cooperative budget in accordance with appropriations by the General Assembly, and in like time frame, the **Board of Supervisors of Albemarle County** will provide by appropriation and in equal quarterly payments a sum of **\$921,773** to include **\$559,376** as local match and \$112,191 in support of the Children's Dental Program and \$250,206 in support of the Jefferson Area CHIP. These joint funds will be distributed in timely installments, as services are rendered in the operation of the Charlottesville/Albemarle Health Department, which shall perform public health services to the Commonwealth as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

The term of this agreement begins July 1, 2007. This agreement will be automatically extended on a state fiscal year to year renewal basis under the terms and conditions of the original agreement unless written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective. Any increase or decrease in funding allocation shall be made by an amendment to this agreement.

The parties agree that:

- I. Under this agreement, as set forth in paragraphs A, B, C, and D below, the Commonwealth of Virginia and the Virginia Department of Health shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.
 - A. The responsibility of the Commonwealth and the Virginia Department of Health to provide liability insurance coverage shall be limited to and governed by the Self-Insured General Liability Plan for the Commonwealth of Virginia, established under §2.2-1837 of the Code of Virginia. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under §2.2-1839 of the Code or under a policy procured by the locality.
 - B. The Commonwealth and the Virginia Department of Health will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Self-Insured General Liability Plan for the Commonwealth of Virginia.
 - C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia, when performed by a state employee, are herewith expressly excepted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Self-Insured General Liability Plan of the Commonwealth of Virginia, the Attorney General has approved, pursuant to §2.2-507 of the Code of Virginia and the Self-Insured General Liability Plan of the Commonwealth of Virginia, the legal representation of said employee by the city or county attorney, and the Board of Supervisors of Albemarle County hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
 - D. In no event shall the Commonwealth or the Virginia Department of Health be responsible for providing legal defense or insurance coverage for local government employees.
2. Title to equipment purchased with funds appropriated by the local government and transferred to the state, either as match for state dollars or as a purchase under

appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.

3. Amendments to or modifications of this contract must be agreed to in writing and signed by both parties.

Item No. 7.6. FY 2008 First Quarter Financial Report, **was received for information.**

The Executive Summary states that the attached Quarterly Financial Report provides information on the County's General Fund operations and Preliminary Fund Balance as of September 30, 2007. The Financial Report includes a bar chart that compares fiscal year revenue and expenditure data with the prior fiscal year.

A. Attachment A – General Fund Quarterly Financial Report:

a. Revenues:

The Department of Finance estimates that General Fund revenues, transfers, and use of fund balance will be \$3.680 million (1.7%) less than appropriations of \$219.240 million. Revenues will be revised in January after the second half 2007 tax bills are due, the 2008 reassessment is completed, current market conditions become more apparent, and the Governor's 2008-2010 Biennial Budget is presented to the General Assembly.

- i. Real Estate tax revenues are estimated to be \$1.153 million (1.1%) less than appropriations. The Budget was prepared based on an estimated 5.0% 2008 reassessment rate. The 2008 reassessment rate is now estimated at 1.0%.
- ii. Personal Property tax revenues are estimated to be \$0.748 million (3.5%) less than appropriations. The decline is attributed to a reduction in the number of new vehicles purchased as well as a significant shift from high value pickups and SUV's to lower valued fuel efficient vehicles. The percentage increase in the assessed value of year-to-date personal property tax bills is increasing at about 50% of original estimates. The December Financial Report, to be presented in February, will give additional tax collection information.
- iii. Sales tax revenues are estimated to be \$0.798 million (5.5%) less than appropriations. Sales tax receipts are down throughout the Commonwealth. The August State Revenue Forecast estimates that local receipts will only increase at a 2.8% rate over last year.
- iv. Business License revenues are estimated to exceed appropriations by \$0.464 million (4.8%). Business licenses are based on prior year gross receipts. Due to the one year lag in recognition, the County is now realizing an increase in license fees from when market conditions were stronger.
- v. Utility tax revenues are estimated to be \$0.410 million (4.4%) less than appropriations. The 2006 State Communications Sales and Use Tax act mandated that telecommunication tax collections be transferred from localities to the state. The tax is allocated based on each locality's proportionate share of FY06 actual receipts. Distributions were supposed to be revenue neutral. Revenue neutrality has not been realized.
- vi. Other Local tax revenues are estimated to exceed appropriations by \$0.377 million (3.3%). The increase is primarily attributed to increase public services tax receipts.
- vii. Federal revenues are estimated to be \$1.359 million less than appropriations. The decrease is primarily due to reimbursements for reduced DSS expenditures combined with a lower reimbursement rate.
- viii. Categories with variances of less than \$0.100 million have not been analyzed for this report.

b. Expenditures:

Total expenditures, including transfers, are within appropriate levels, 23.2%, for the first quarter.

- i. Departmental expenditures are at 22.3% of appropriations.
- ii. Expenditures are estimated at 9/30/07 appropriations.

c. Revised Revenues less Expenditure Appropriations:

- i. Revised revenues are projected to be \$3.680 million less than appropriated expenditures by the end of the fiscal year based on October revenue estimates.
- ii. Preliminary Fund Balance available November 07, 2007 is \$1.178 million. This is after a reduction for an estimated \$1.690 million transfer to the CIP fund. These are preliminary estimates that will be finalized after the completion of the fiscal year audit.
- iii. There are no Projected End-of-Year Available Funds. Revenue enhancement and expenditure reduction strategies are in the process of development. More information on these strategies will be available with the December Financial Report.

B. Attachment B – General Fund Budget Comparison Report:

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

- a. Revenues in all categories except Federal, Transfers, and Use of Fund Balance show positive growth from FY07.

- b. Expenditures in all categories except Non-School Transfers are expected to increase over FY07.

C. Attachment C – General Fund Balance Report:

The report indicates that the County:

- a. Has an unaudited Preliminary FY07 Fund Balance of \$18.238 million at June 30, 2007,
- b. Appropriated \$2.370 million for FY08 projects,
- c. Has remaining FY07 Fund Balance of \$15.868 million at September 30, 2007,
- d. Reserved \$13.000 million for cash flow purposes,
- e. Has a Preliminary \$1.690 million CIP transfer commitment, and
- f. Has Preliminary Unobligated Funds Available of \$1.178 million at November 07, 2007.

This report is based on preliminary (pre-audited) operations for FY07 and three months of financial data for FY08. The financial information contained in the FY08 Second Quarter Financial Report, to be presented to the Board in February 2008, will include audited figures for the FY07 and six months of FY08 financial data. Staff will utilize these figures as the basis for the FY09 Budget.

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

Item No. 7.7. Board-to-Board, November 2007, *A Monthly Communications report from the Albemarle County School Board to the Albemarle County Board of Supervisors*, **was received for information.**

(Discussion: Mr. Slutzky asked that he be kept up-to-date about the schools' peanut allergy policy, as that has been a severe issue in his family.

Ms. Thomas asked that the School staff identify the individuals in the report instead of using only first names.)

Item No. 7.8. Copy of the Albemarle County Service Authority's *Comprehensive Annual Financial Report* for fiscal year ended June 30, 2007, **was received for information.**

(Discussion: Ms. Thomas said she is looking forward to the Service Authority making a report to the Board soon. She added that a constituent mentioned that Southwood Mobile Home Park is the biggest user of water, using over 30.0 million gallons. That is an increase of over 4.0 million gallons since ten years ago. There are no more units in the Park than there were ten years ago. She believes that there must be some significant problems going on.

Mr. Rooker confirmed that Ms. Thomas is correct; Habitat indicated that when they took the Park over, there were huge leak issues. Habitat has spent quite a bit of money trying to deal with the leak problems.

Mr. Tucker indicated that Southwood has a central system, not owned by the Service Authority, which is the issue in trying to get the improvements made.

Item No. 7.9. FY Copy of Application of Virginia Electric and Power Company for expedited approval of Conservation, Energy Efficiency, Education, Demand Response, and Load Management Pilots, *Case No. PUE-2007-00089*, **was received for information.**

Agenda Item No. 8a. Transportation Matters: Advance Mills Bridge Update.

Mr. Allan Sumpter, VDOT, Charlottesville Residency Engineer, addressed the Board, stating that they are working to move things along with the Advance Mills project, especially with the temporary bridge. He said that as other agencies are involved, it can only move along so fast, noting that the FHWA requested a meeting to clarify the scope of the temporary and permanent bridge projects. That meeting was held on October 23, 2007. Mr. Sumpter stated that DHR wrote to FHWA to ask their position on the temporary bridge. The issue has been whether the temporary bridge should be subject to broader environmental regulations.

He reported that last week the FHWA came back with a statement that the temporary and permanent bridge projects have separate utility, which means that the concern of federal funding on the permanent bridge is not jeopardized as long as the 106 process is adhered to in cooperation with DHR. Mr. Sumpter noted that the initial letter to DHR identified the area of potential effects and identified historic properties; the next step will be a letter to DHR outlining specific adverse effects and the Department's commitment to mitigate them. He is expecting an email very soon from DHR to all the consulting parties to set up a meeting.

Mr. Sumpter said that the design work for the temporary bridge is substantially complete, and they do have the necessary construction easement. Regarding the permanent bridge, he said they had over 100 people come to the citizen's information meeting and the comments are currently being evaluated by the design staff and consultant. Mr. Sumpter pointed out that the majority of those who are in favor of the project prefer the parallel alignment next to the existing bridge, but there are a few who oppose the project and there will be another formal public hearing in the spring. He said that they are

committed to installing the temporary bridge as quickly as possible, but they want to make sure the permanent bridge process is not compromised in any way.

Ms. Thomas asked about the decisions related to the alignment of the permanent bridge.

Mr. Sumpter replied that some of the decisions will be going on concurrently. He added that they have several teams of people working - one staff person working on the temporary bridge, the consultant working on the permanent bridge, and the design staff working on the evaluations of citizen information, etc.

Mr. Sumpter said the ultimate impact is whether the permanent bridge goes back in place of the temporary bridge. The majority of the comments he has reviewed are in support of another alignment. In fact, the current alignment of the existing bridge seems to be the least preferred alignment by those making comments.

Ms. Thomas asked if concerns are based on the idea that it would be less disruption of traffic flow or there being no bridge while the permanent bridge replaces the temporary.

Mr. Sumpter responded that there were comments about the old bridge staying as a pedestrian bridge and having the new bridge go beside it, but most of the concern has related to the continuity of service so that the temporary bridge remains during construction of the permanent. He added that if the temporary bridge comes back to the Department, it can be re-used anywhere as a replacement.

Agenda Item No. 8b. VDOT Monthly Report and Rural Rustic Program Update.

Agenda Item No. 8c. Transportation Matters not Listed on the Agenda.

Mr. Sumpter said there have been issues regarding the weight limit and conditions of the Route 651, Free State Bridge. In the next week or two, the railroad will be making some repairs to the bridge to improve its condition. After the improvements the rating will have to be re-evaluated. The bridge will be closed for a while

Mr. Slutzky asked if these improvements will have any impact on the traffic going into the Belvedere construction site.

Mr. Sumpter said they have been partnering and working with the Belvedere construction people, and residents of Dunlora Subdivision, to provide individuals with a means of access by going through the back gate at Dunlora.

Mr. Slutzky asked how long the bridge will be out of service.

Mr. Sumpter said the work can probably be accomplished in about three weeks. He added that construction traffic is being handled in a different way. The gate through Dunlora is for residential traffic.

Mr. Rooker noted that the sufficiency rating on Free State Bridge is 2 out of 100, and asked if it was required to bring that bridge rating level up, especially in light of the railroad usage. He commented that it seems there should be some rules and regulations followed so that when repairs are made they are significant, not just patchwork.

Mr. Sumpter responded that his understanding is that the bridges need only to be brought up to the pre-existing requirements.

Mr. Rooker said that it seems every bridge is being handled differently based on informal negotiations with the railroad department. To him, that just seems wrong. He asked for a legal opinion from the Attorney General's office and that the issue be investigated and researched as to what gives rise to the obligation of the railroad to repair these bridges, and what standards can be applied to those repairs.

Mr. Wyant commented that in his work with VDOT, he did not think that the weight limit was factored in with sufficiency rating.

Mr. Rooker said, again, that seems wrong to him, and he would like some additional information on the standards. He thinks the Board needs to have an understanding of the legal requirement of railroad companies to repair bridges and to bring them to a safe level for a reasonable weight limit.

Mr. Slutzky said he would like to be notified of the Carrsbrook neighborhood meeting on traffic calming.

Ms. Thomas commented that Mr. Sumpter moved swiftly to get signs put up in Batesville relating to traffic and speed measures, and then he received criticism that the signs were "too big." She noted that his solution was to leave the signs up until people understood the measures, then they would be made smaller.

Mr. Dorrier asked if there were any measures that could be taken on Route 53, as it is dangerous and heavily traveled by tourists.

Mr. Sumpter replied that they have installed "Slow" signs up there, but one issue is that there is only 30 feet of right of way on that road. He said that he met with Monticello regarding the curve just below their entrance, and they are going to discuss the feasibility of shaving off some of that curve, but they have concerns about altering it because of its historic nature. The guardrail is located close to the road in the one curvy area because the bank slips off so quickly and they have a problem with getting adequate width. There is little they can do on the other side because the embankment is high and the walking trail would be severely impacted from any widening. There are a lot of issues with that section of road.

Mr. Dorrier mentioned Route 721, near Oak Ridge Baptist Church. There is about a mile of unpaved road that is in rough shape.

Mr. Dorrier also mentioned a possible stoplight at the entrance to Glenmore. Mr. Sumpter had previously stated that it did not meet warrants for a light. The residents believe the light is needed for safety reasons. Route 250 East is becoming more problematic, and he asked if there is another way to get a light. The developer is willing to pay for the installation.

Mr. Sumpter confirmed that that entrance did not meet requirements for a stoplight, adding that it can only be installed if it meets the warrants. He said that if it does not meet those warrants, the case can be made that it makes matters even worse, but perhaps an updated study could be done at the Glenmore intersection to see if it qualifies.

Mr. Slutzky commented that he has had to deal with it at Dunlora for the last two years.

Mr. Rooker said that that there are several other examples in the county of the need for a light, but not enough to warrant actually getting one.

Mr. Wyant asked about the Jarman's Gap advertisement date.

Mr. Sumpter said that November 2010 is expected to be the advertisement date.

Mr. Rooker said that Dan Eggleston is going to contact Mr. Sumpter to see about getting a waiver so that emergency vehicles only can cross Broomley Bridge.

Mr. Sumpter said the issue of weight limits and emergency vehicles is a concern across the state. There was specific legislation passed in last year's session of the General Assembly that allows such a waiver; however it does require the Emergency Services Unit to acquire the services of a consultant to conduct that analysis.

Mr. Rooker said he is upset about what is happening with Georgetown Road and the schedule. The scope of the project has been significantly reduced and we are still talking about three to four years to begin construction. This is a project where the money has already been set aside. Part of his concern is that by the time the project finally gets advertised for construction, the money that is set aside is not adequate because of inflation. There needs to be a way to get projects moving forward on a reasonable schedule.

Ms. Thomas said she thought the County had on staff a road engineer to help with design of projects and to facilitate their being speeded up. She asked if that has helped.

Mr. Tucker noted that part of the problem is obtaining right-of-way which is done by VDOT, and that is a major issue causing delays.

Mr. Sumpter mentioned that Georgetown Road has been pushed back because of right-of-way and utility relocation issues.

Mr. Rooker said that his understanding is that there only needs to be a pole moved here and there, not major relocation, and those issues were already known. These processes should not be ten-year processes. We have to find a way to move projects forward on a reasonable pace, not only for the public standpoint of seeing that things get accomplished in the community, but from the standpoint of having our money that we set aside actually be enough to build a project out.

Mr. Wyant said he would like to know how we can use our money to get the maximum benefit.

Mr. Sumpter again stated that he has not seen any major changes to the design; right-of-way is the issue. He will try to build some dialogue with the District Administrator to see if we can explore some alternatives.

Mr. Rooker added that the State needs to find a way to work with localities to accelerate projects.

Mr. Sumpter said there have been discussions with County staff and local VDOT assistants regarding locally administered projects. It is going on more and more across the Commonwealth. They are brainstorming ways to have a partnership to find alternatives and accomplish some things.

Mr. Boyd asked about the stop sign on Polo Grounds Road.

Mr. Sumpter replied that the signs are attached to the abutments of the railroad underpass – which belongs to the railroad – and he cannot take them down because of that.

Agenda Item No. 9. **Appeal: SUB-2007-102. Warthen Estates Preliminary Subdivision Plat.** Request for preliminary plat approval to create five (5) lots on 102.559 acres, to be served by a private street. The property is zoned Rural Areas (RA). The property, described as Tax Map 89 Parcel 72 and 72A, is located on Ambrose Commons Dr approximately 1.7 miles from the intersection of Ambrose Commons Drive and Old Lynchburg Road (State Rt 631). The Comprehensive Plan designates this property as Rural Area in Rural Area 4. Samuel Miller Magisterial District.

Mr. Slutzky said he does not mind deferring this request, but would like to have a brief discussion about this at the end of the meeting, as it impacts the Planning Commission.

Mr. Slutzky then **moved** to defer SUB-2007-102 until December 2007. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Agenda Item No. 10. Presentation: Poverty Work Group Report.

Ms. Kathy Ralston, Director of Social Services, addressed the Board, introducing Brian Elliott and Gretchen Ellis, noting that Lori Allshouse and Steve Allshouse were also on the workgroup, as were Andy Bowman, Rod Burton, Julia Martin, and Steven Nock. She reported that they used the 2000 Census, the 2005 American Community Survey, a study commissioned by the Virginia Department of Social Services, a variety of educational and social policy research briefs, and the Department of Education.

Ms. Ralston said that there are a lot of economic and social costs, as child abuse and neglect is more prevalent in homes with poverty, foster care is more likely, juvenile justice, children in poverty have less access to mental health services, are more apt to drop out of school, have poorer health and more chronic health problems, poorer school performance, etc. She said that the challenge for the elderly is to stay independent and not become institutionalized.

Ms. Ralston said that there are significant costs to the taxpayer – costs for social services, medical care, criminal justice, etc. She noted that there is a loss of high-quality employees and productivity with adults who have less education, and there is less cognitive development and more special education among children from poor households. Ms. Ralston said that the data sources were somewhat limited because of the age of the census information, but other national data were better. She said that the university community impacts the poverty statistics, but the unknown factor is the data related to those who fall between the 100 percent and 200 percent category. Ms. Ralston reported that even with removing the student dorm population, there are still over 4,000 people who live in extreme poverty, and another 17,000 who live below self-sufficiency standards.

She said that poverty has several definitions, and for the Charlottesville MSA there is a wide gulf between officially living in poverty by federal poverty standards and what more recent research says is the reality of living in poverty. Ms. Ralston explained that in this community, a family of four would require 162 percent to 289 percent of the federal poverty threshold – or between \$33,418 and \$59,780 – depending on household composition. She said that a single parent with an infant and toddler requires more money than a single parent with a school-aged child and teenager. Ms. Ralston said that the self-sufficiency standard does not include longer-term expenses such as retirement, emergencies, college, or major car/home repairs. She confirmed that the federal poverty level is being adjusted annually, and many families are forced into high-interest loan or check-cashing options that further erode their income.

Ms. Ralston stated that the primary locations for poverty are noted on the map provided, using 2000 census figures so they have probably changed somewhat. She said that the map also shows the availability of childcare services, households with vehicles and CTS line availability. Ms. Ralston said that only food stamp data were available for migration data, but they were able to determine that 551 cases transferred into the county and 579 cases transferred out. She stated that an early predictor of a child's success in school is prenatal and early childhood development, so early intervention is crucial. Ms. Ralston said that their recommendation is to use the 200 percent threshold to target services to a broader population that need it most, and the reason for that instead of the self-sufficiency standard is because it is easier to compare and measure. She noted that the threshold chart is difficult to read, and the 200 percent is somewhat aligned with the self-sufficiency standard but that standard is much broader.

Mr. Slutzky commented that the County should use the 200 percent number as the definition of poverty, and he would like to see a staff report that includes some of the programs local governments have used to address the poverty issue. He added that expansion of the public transit system would be

instrumental in helping this population, and advocated for having a portion of the affordable housing monies target the lower third of the AMI.

Mr. Boyd said that he thought the joint committee Mr. Slutzky serves on – which includes the City, County, and University – was addressing this and working on the affordable housing issue.

Mr. Slutzky responded that the task force is working on affordable housing and transportation, and will hopefully work on heating cost issues in the near future.

Ms. Ralston noted that the DSS programs all have energy assistance programs.

Mr. Slutzky said that the group is also recommending a resolution for the General Assembly to implement legislation to limit payday loans.

Ms. Thomas added that Ms. McCulley, the Zoning Administrator, is looking to see if zoning can do anything to limit those types of businesses.

Mr. Slutzky stated that he would also like to bring back the living wage issue for Board consideration.

Mr. Rooker commented that the County does not have a good starting point for improving income levels in the community.

Ms. Ralston replied that the average payment of the TANIF program for two people is \$295 per month; average food stamp payment is \$124 per month, bringing the total to \$5,028 – well below the poverty level. She said that if a mother from that family got a job, she would lose her TANIF but might still be eligible for food stamps. Ms. Ralston noted that the TANIF payments have not increased since 1985, and before that the increase was in 1974, making it one of the lowest in the country.

Mr. Boyd said that he would support a new group to bring back recommendations.

Ms. Thomas said that she would like to propose sharing the report with a number of different entities in the community.

Board members agreed.

Mr. Slutzky said that he would like for staff to recommend the composition of a new group, and what their agenda would be.

Mr. Dorrier asked if they could consider ways to prevent poverty.

Ms. Ralston replied that there are known measures that can be taken to prevent poverty – such as prenatal care – adding that the immigrant population often does not seek medical attention because they are afraid of being deported.

Mr. Boyd said that he would like to know which are most effective, prior to the County funding them.

Mr. Slutzky responded that it may take a few years to determine their impact.

Mr. Rooker noted that if other communities have implemented measures that have been successful, Albemarle should know that and act accordingly.

Ms. Ralston said that there are best practices in this community that have very good outcomes.

Mr. Rooker mentioned, as an example, the Bright Stars program and its effectiveness.

Agenda Item No. 11. Defense Intelligence Agency (DIA) BRAC Relocation Program (Rivanna Station).

Ms. Lee Catlin reported that there will be an increased presence of federal employees in the area, and relocations like this can place some significant infrastructure demands on a community. She introduced Ed Nelson of the Defense Intelligence Agency and National Ground Intelligence Center, Mike Harvey of TJPED, and Susan Stimart, the County's business development facilitator. Ms. Catlin said that workers from several federal agencies would be reassigned from Northern Virginia and D.C. would be consolidated to a facility in Albemarle to coincide with the intelligence center already in place here. She noted that the best approach is to work in partnership with the military installation, and the County is encouraging a cooperate spirit between staffs, keeping an eye on protecting the quality of life for existing residents and new arrivals, focusing on achieving set goals, and reviewing services to ensure an orderly progression if changes are needed.

Ms. Catlin said that a RFP was issued in September for the new joint-use Intelligence Analysis Facility with the target award date of February 2008, and it specifies that the facility will not exceed 167,000 square feet – costing \$61.0 to \$62.0 million. The estimated construction start date is August 15, 2008 with completion slated for December 2009. She stated that the DIA is committed to a world-class facility in Albemarle County and intend for it to be LEED complaint, with 1000 employees – 200 existing

employees who are currently overcrowded in the existing NGIC facility and 650 to 800 new employees from the Department of Defense Intelligence Agency and the National Geospatial Intelligence Agency. She noted that the relocating workforce would be a mix of military and civilian employees, and this is not necessarily a job-creation opportunity for local residents; all jobs require high level skills, education, and security clearances. She noted that the majority of subcontractors anticipated are included in that count, and once the workgroups are identified it will be determined how many will be relocating and what their family composition is, as well as what their housing preference might be.

Ms. Catlin said that there are a number of efforts underway through the DIA-BRAC Advisory Group to identify possible state, local, and federal resources to assist with impacts, and to create an environment of support to accommodate the expansion. She stated that the group is comprised of members from TJPED, Thomas Jefferson Planning District Commission, Chamber of Commerce, Piedmont Workforce Network, and other staff from Albemarle and surrounding counties that might be impacted from the relocation. She said that there are several workgroups that have been set up to focus on issues like community relations, transportation, childcare and education, housing and development, and workforce economic development; they will be reporting regularly to the TJPDC. Ms. Catlin mentioned that all groups would formulate a plan once they gather more information, and a website is being developed along with educational materials for relocating workers. She noted that there will be town hall meetings in Northern Virginia, and the County has received a \$410,000 grant from the Virginia Military Strategic Response Fund to help support the purchase of aerial firefighting apparatus for Hollymead, also supported through the CIP.

Mr. Nelson addressed the Board, stating that they have been assessing and reviewing the types of analysts that would be coming here. He added that it would be a guess as to a specific date for survey information to become available.

Mr. Rooker mentioned that a certain percentage of employees could choose not to relocate, so those jobs would need to be filled; there has been discussion of trying to find people in the community to fill those slots.

Mr. Nelson responded that there would be worldwide recruiting efforts which includes employment of qualified personnel from the local area.

Ms. Thomas commented that anything that could be done to give local people "a leg up," that would be imperative, such as training opportunities.

Mr. Rooker emphasized that the community would like to see local people in these jobs.

Mr. Boyd added that the Jobs Opportunity Fund would help to fund any initiatives to make that happen.

Ms. Thomas stated that she has observed positive impacts from an Army presence in the community – such as the JAG grant for childcare. She also said that she hears other things that do not have evidence to support them, such as environmental measures. She has not seen any assurance that there is an environmental assessment that will make it a building that takes into account rain harvesting, and most advanced ways of reducing the impact on the river of a large building with a lot of asphalt and a lot of runoff. Ms. Thomas asked how there would be assurance given that pollution would be minimized.

Mr. Nelson responded that they would comply with all environmental regulations, and there is an environmental baseline study (NEPA) that was done for NGIC; an environmental assessment would be available later in November. He added that the Corps of Engineers was the agency constructing this, and they have a very public way of doing things.

Mr. Slutzky commented that he called the Commander during the early part of discussions, but was denied access because of his position on the Board.

Mr. Nelson replied that the Project Manager is the Corps of Engineers, but it is being built under authority of the DIA – a different organizational structure than NGIC.

Mr. Slutzky requested that Mr. Nelson share the contact information for each division. He said that Albemarle would be absorbing a significant population that would affect infrastructure, and doesn't have the ability to impose impact fees. The Board would like to figure out how to best identify what all of those [assistance] programs are.

Mr. Nelson said that they have been doing that over the last year.

Mr. Slutzky emphasized that he is supportive of the relocation, but he is concerned about the impacts and possible ways to mitigate them.

Mr. Rooker commented that the County has developed environmental soil and erosion control measures, etc. that go above the ordinance standards applied to larger projects. He thinks it would be helpful to send to the individuals a copy of these standards.

Agenda Item No. 12. Downtown Crozet Stormwater Management.

The following executive summary was provided to Board members:

The downtown area of Crozet is expected to undergo significant development and redevelopment over the next couple of decades due to both public and private initiatives, as put forth in the Crozet Development Area Master Plan. The form of development anticipated in downtown Crozet will make it difficult to use conventional storm water management facilities to address ordinance requirements. Crozet is the only designated development area located within a water supply protection area and, in addition, it lies upstream of high-value streams which are believed to be habitat for the James spiny mussel, an endangered species. Accordingly, the County is presented with competing goals in wanting to both facilitate the development of a dense, downtown district and provide a high level of protection to downstream drinking water supply and aquatic resources.

Staff proposes a regional approach in managing stormwater for the southern portion of downtown Crozet. Through this approach, stormwater would be more completely managed, resulting in better protection of downstream resources. In addition, economic efficiency would be achieved through constructing a single, large facility instead of having developers construct many, small facilities. A regional stormwater management facility, as envisioned, would capture and treat runoff from a 53-acre watershed (depicted in Attachment A) and be located somewhere in the vicinity of the channel lying between Jarmans Gap Road and Powells Creek. Developing properties served by the facility would contribute to the construction cost per the County's established pro-rata share policy.

The portion of downtown Crozet lying south of the railroad drains to Lickinghole Basin – a reservoir completed in 1995 to control sediment (see map, Attachment B). Per County policy, all developing properties that lie within the watershed of this reservoir are exempt from providing onsite water *quality* treatment, and in lieu of this, must pay into the cost recovery fund of the basin based on a pro-rata formula. However, property developers are still subject to the County's stormwater management regulations for water *quantity* (i.e., runoff rate and velocity control) and typically meet these requirements by constructing onsite detention systems. Unfortunately, this practice does not ensure additional water *quality* protection for the network of streams lying upstream of the reservoir, including approximately 3 miles of Powells Creek and Lickinghole Creek lying between downtown Crozet and the reservoir. All of the streams within the Lickinghole watershed are designated by the Stormwater Master Plan as high-value streams, in part because they are located within the water supply protection area.

Staff recommends that a regional stormwater management facility be constructed near downtown as an alternative to continuing with the practice of requiring onsite, water *quantity* control for downtown development. A regional facility would more economically provide control of flow rates and velocities and could be designed to also provide water quality treatment to protect Powells Creek and Lickinghole Creek. In addition, such a facility would provide stormwater management for areas developed before current regulations were in place, a worthy investment independent of future development plans.

A regional stormwater management approach supports Goal Two of the Board's Strategic Plan – to increase the quality and protection of the County's water resources. The project is also consistent with Board decisions made at the July 14, 2004 work session on stormwater master plan financing – that the County should provide a more comprehensive level of service to the community (Attachment C). This higher level of services includes 1) maintaining and improving the drainage system, 2) constructing capital projects such as regional facilities, and 3) protecting streams.

This project will require expenditures for land acquisition, design, permitting, and construction. A planning-level cost estimate is provided in the table below. This summary does not include nondiscretionary costs associated with the project; these expenditures would be necessary even without the development of a regional facility. An example is the cost of constructing or improving a conveyance system of pipes and open channels for the area. If land cannot be acquired by donation or by a negotiated purchase, condemnation of property may be necessary.

There will be opportunities for recovering a portion of these expenditures through various means (see the lower portion of the table). Upon completing and adopting an area drainage improvement plan, in-lieu-of fees could be required for properties developing within the watershed of the facility. However, a major benefit of a regional approach is to capture and treat stormwater management from *already-developed* areas – and these areas would not contribute to the cost recovery. Therefore, only a portion (about one half) of the project cost would be eligible for cost recovery through in-lieu-of fees. Based on past experience, this would occur over many decades; therefore, the recovery amount reflected in the table is very modest.

Since this project would protect downstream water resources beyond what would be required by state regulations, it is possible that a portion of the cost could be subsidized with federal or state grant money, including a stream buffer cost share grant the County is currently administering. In addition, it should be recognized that a regional facility would eliminate the need for the proposed Crozet library to manage all stormwater onsite. The estimated net cost of this project is indicated at the bottom of the table.

The total project cost can be covered by funds that currently exist in the CIP stormwater control improvements account and the cost recovery would be reimbursements paid at a later date.

expenditures	
land acquisition	\$200,000
design	\$50,000
pond/wetland construction	\$300,000
vegetation and buffer enhancement	\$50,000
total project cost	\$600,000
cost recovery	
in-lieu-of fees	- \$50,000
grants	- \$100,000
other savings (library)	- \$100,000
net project cost	\$350,000

It should be noted that one of the primary functions of the water resources program is to address stormwater-related impacts to water resources through the implementation of capital projects. The mixture of features of the downtown Crozet area – high-value downstream water resources, existing densely developed area, exempted water quality requirements – would, independent of concerns regarding future development, lead staff to consider this area for an improvement project.

Staff recommends that the Board approve the concept of a regional approach to stormwater management for downtown Crozet and allow staff to proceed with planning and land acquisition for the project. A status on land acquisition will be provided to the Board prior to commencing with design and construction.

Mr. Greg Harper addressed the Board, stating that he is before them to request approval of the plan, as it will require extensive stormwater management money. He said that the alternative to the regional facility would mean that developers would continue to provide onsite stormwater management, and for a very dense area that means either underground tanks or above-ground ponds; so this is a preferred approach. Mr. Harper said that the goal is to protect streams and other water bodies through the planning, permitting, design, construction, enhancement and maintenance of capital projects. He reported that they enhance existing stormwater management facilities, work on demonstration projects such as the green roof, work on stream/buffer enhancement projects, provide regional stormwater management for future developments, and also incorporate stormwater management into existing built-out areas to address problems caused by past development.

Mr. Harper said that Crozet is the only development area located within a water supply protection area, and they want to provide a high level of protection to resources in these areas. He presented the land use map from the Crozet Master Plan, noting the areas that would be most densely developed – Crozet Avenue, Three Notched Road – and the watershed boundaries. Mr. Harper said that most of the area drains to the Lickinghole Creek watershed, and the northern part goes to the Beaver Creek watershed. He stated that anything upstream of the basin doesn't typically do water quality treatment unless it is proffered, and there are a lot of streams upstream from the basin that do not benefit from this protection. Mr. Harper added that all of the streams have been identified as high priority for protection in the stormwater master plan.

Mr. Harper noted that the stretch of Lickinghole Creek and Slabtown Branch is potential habitat for the James Spiny Mussel – an endangered species. He reported that the watershed is about 53 acres, including 15 to 16 acres of impervious buildings, parking lots, roads, etc. already, and none of that has any stormwater management associated with it. Mr. Harper said that another 20 acres of impervious surface would likely be built over the next 10 to 30 years, with no water quality measures other than onsite, based on near-maximum buildout from the Master Plan. He noted that if a property is developed, there would be onsite detention, and would connect to a storm sewer system built in conjunction with road improvements.

Mr. Rooker asked how large of an area would be required. Mr. Harper replied they would need approximately two acres for the facility. He noted that there is land physically available of that size in the area.

Mr. Harper reported that there would be an approximate \$600,000 total project cost, which is already in the Stormwater CIP Fund, and staff would like approval to spend the money on that project. He also added that any development in that watershed would pay into the regional facility, but it is not a significant number as it is stretched out for a number of years; there may also be grants available because it is an enhancement project.

Mr. Rooker noted that the savings to developers is very significant, as they do not have to construct onsite stormwater management.

Mr. Davis clarified that the County has authority only to recover a pro-rata share of the facility at the time development occurs, and would require the County adopting a Stormwater Drainage Area study, and then allocating that cost to all existing development and all future development.

Ms. Thomas asked Mr. Harper to comment on rain harvesting.

Mr. Harper responded that there could be supplemental systems created onsite.

Mr. Davis noted that there could be higher standards, and this new facility would meet the current standards of water quality and water quantity protection. Our current ordinance addresses capturing a certain amount of nutrients and/or stormwater flow from the site. This facility would allow the developer to meet those standards. If the Board wants to change those standards to require some onsite detention, the Ordinance would have to be amended.

Mr. Rooker said this program would prevent utilizing huge amounts of the development area for little detention ponds which is one of the major benefits.

Mr. Davis said that when the Lickinghole Creek basin was built, the County implemented a pro rata share; that system is still in place. This would be an additional pro rata overlapping the same area. The alternative is a service district based on property values that could be applied to the boundaries of the same drainage basin or implementation of a utility fee system.

Mr. Tucker pointed out that other basins have been done in the urban area, such as Berkmar Basin, and the developers there were in favor of it because it kept them from having to provide stormwater management measures onsite.

Mr. Wyant noted that it is less costly to a developer but the County will be picking up some of the additional costs.

Mr. Davis commented that the County fronts all the money for the facility and it is paid back over a long number of years.

Mr. Slutzky said it sounds like there is a consensus to move ahead with allocating funds from the CIP in this instance, and there is support for implementing a county-wide utility fee to fund this on an ongoing basis.

Mr. Boyd said he is having second thoughts about this being county-wide after looking at the proposal, looking at specific dollars and looking at the methodology for how individuals pay. His concern is whether it is appropriate to charge someone living in the mountains to help pay for a facility that will serve a very unique area as opposed to just charging the individuals in that area.

Mr. Slutzky asked if the utility has to be county-wide or if it can be jurisdictional.

Mr. Davis said the utility could be set up to serve specific geographic areas if there is a rational basis.

Mr. Foley noted that last month the Board indicated they did not want to set up a service district and put it on the value of properties, but wanted to pursue the concept of utility, so staff is planning to come back with that broader concept.

Mr. Slutzky said he is comfortable moving ahead with the request today which is to allocate funds from the CIP for this purpose.

Mr. Rooker said that this could be funded by a utility fee, along with other projects, if it is done county-wide.

Mr. Harper confirmed that the entire fund is \$2.3 million right now, with this project being \$600,000 of that.

Mr. Rooker **moved** to approve the concept of a regional approach to stormwater management for Downtown Crozet as presented by staff, and allow staff to proceed with planning and land acquisition for this project. Ms. Thomas **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 13. Closed Session.

At 12:42 p.m., **motion** was offered by Mr. Slutzky, that the Board adjourn into closed session pursuant to section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions; and under Subsection (7) to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an interjurisdictional agreement.

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

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

NAYS: None.

Agenda Item No. 14. Certify Closed Session.

At 2:00 p.m., the Board reconvened into open session. **Motion** was 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 the motion authorizing the closed session were heard, discussed or considered in the closed session.

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

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

Agenda Item No. 15. Appointments.

Motion was offered by Mr. Wyant to:

appoint David Cattell-Gordon to the Jefferson Area Disability Services Board as the local government representative.

appoint Jan Ferrigan to the Natural Heritage Committee, with said term to expire September 30, 2011.

reappoint Burton Webb to the Board of Building Code Appeals, with said term to expire November 21, 2012.

reappoint Burton Webb to the Fire Prevention Code of Appeals, with said term to expire November 21, 2012.

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

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

Agenda Item No. 16. **Public Hearing:** To consider granting a water line easement to the Albemarle County Service Authority across property owned by the County known as Idlewood Drive located on Tax Map 045B1 necessary for the replacement of a water line along Clarke Lane in the Carrsbrook Subdivision. (Advertised in the Daily Progress on October 29, 2007.)

Mr. Tucker said the Albemarle County Service Authority is planning to replace the existing six-inch water line within the County-owned Clarke Lane right-of-way (Carrsbrook Subdivision) with an eight-inch line. As this project has progressed, ACSA discovered that it did not have an easement for the existing water line and, as part of this project, desires to acquire an easement. This water line provides a connection between the Woodbrook and Carrsbrook Subdivisions and, if there is a break in the water line along Route 29 North, it is the only source of water for the Woodbrook Subdivision.

Virginia Code Section 15.2-1800 requires that the Board hold a public hearing prior to conveyance of any interest in County-owned real property. Staff has reviewed and approved the proposed Deed and Plat. The proposed water line easement would allow ACSA to proceed with its water line replacement project.

Mr. Tucker said staff recommends that, after receiving public comment, the Board approve the proposed easement and authorize the County Executive to sign the deed of easement on behalf of the County after the agreement has been approved by the County Attorney with any necessary changes.

The Chairman opened the public hearing. There being no one present to speak regarding this matter, the public hearing was closed.

Motion was offered by Mr. Rooker, **seconded** by Mr. Wyant, approve the proposed easement and authorize the County Executive to sign the deed of easement on behalf of the County after the agreement has been approved by the County Attorney with any necessary changes.

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

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

(**Note:** Deed of Easement set out below:)

This document was prepared by:
Albemarle County Attorney
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

Tax Map 45B1 (Clarke Lane 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, is made and entered into on this 7th day of November, 2007, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, Grantor, hereinafter referred to as the "County," and the **ALBEMARLE COUNTY SERVICE AUTHORITY**, a political subdivision of the Commonwealth of Virginia, Grantee, whose address is 168 Spotnap Road, Charlottesville, Virginia, 22911, hereinafter referred to as the "ACSA".

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 County does hereby GRANT and CONVEY with SPECIAL WARRANTY to the ACSA, subject to the terms and conditions set forth herein, a permanent easement and right-of-way (hereinafter, the "Easement") to construct, install, maintain, repair, replace and extend a water line consisting of pipes and appurtenances thereto, over, under an across the real property of the County known as Clarke Lane in the Carrsbrook Subdivision in Albemarle County, Virginia, and more particularly described as follows:

A permanent water line easement in the public right-of-way known as Clarke Lane, located off of Highview Lane in Albemarle County, Virginia, as shown on the plat of the Albemarle County Service Authority, dated June 21, 2007 (the "Plat"), identified as "20' Waterline Esmt. (Hereby Granted)"; the said roadway shown as Clarke Lane is on a plat of record in the Albemarle County Circuit Court Clerk's Office in Deed Book 361, page 127.

Reference is made to the Plat, a copy of which is attached hereto to be recorded herewith, for the exact location and dimensions of the permanent easement hereby granted and the property over which the Easement crosses.

This Easement shall be subject to the following:

1. Location of Improvements. The ACSA shall construct, install, maintain, repair, replace and extend the water line pipes and appurtenances thereto (hereinafter, the "Improvements") only within the Easement. The Improvements shall be underground.
2. Right to Enter; Ingress and Egress. The ACSA shall have the right to enter upon the Easement for the purpose of installing, constructing, maintaining, repairing, replacing and extending the Improvements within the Easement. The ACSA also shall have the right of ingress and egress thereto as reasonably necessary to construct, install, maintain, repair, replace and extend the Improvements. If the ACSA is unable to reasonably exercise the right of ingress and egress over the Clarke Lane right-of-way, the ACSA shall have the right of ingress and egress over the property of the County, if any, adjacent to the right-of-way.
3. Excavation and Restoration. Whenever it is necessary to excavate earth within the Easement, the ACSA shall backfill the excavation in a timely, proper and workmanlike manner so as to restore the surface conditions to the same condition as they were prior to excavation, including restoration of all paved surfaces that were damaged or disturbed as part of the excavation.
4. Vegetation and Obstructions. The ACSA may cut any trees, brush and shrubbery, remove obstructions, and take other similar action reasonably necessary to provide economical and safe installation, operation and maintenance of the Improvements. The ACSA shall not be responsible to the County or its successors and assigns, to replace or reimburse the cost of replacing or repairing any County-owned trees, brush, shrubbery or obstructions that are removed or otherwise damaged that would be inconsistent with the proper maintenance, operation or use of the Improvements.
5. Ownership of Improvements. The Improvements shall be the property of the ACSA.
6. Obligations of the Grantee if and when Clarke Lane is Proposed for Acceptance or is Accepted into the State-Maintained System. If and when the segment of Clarke Lane in which the Easement lies is proposed for acceptance or is accepted into the state-maintained or other publicly-maintained system of highways, the Grantee shall comply with the following:
 - a. Permits. The Grantee shall obtain all permits required by the Virginia Department of Transportation (hereinafter, "VDOT") or such other public entity that becomes responsible for the maintenance of Clarke Lane (hereinafter, "such other public entity") to authorize the Improvements

to exist or remain within the Clarke Lane right-of-way (hereinafter, the "Permits") and shall comply with all applicable requirements of VDOT or such other public entity.

b. Acts Required of Grantee to Assure Acceptance of Clarke Lane into State-Maintained System. Until the Grantee quitclaims its interest in the Easement to VDOT, such other public entity, or the Grantor as required in conjunction with the acceptance of Clarke Lane into the state-maintained or other publicly-maintained system, the Grantee, at its sole expense, shall, promptly alter, change, adjust, relocate or remove the Improvements from the Clarke Lane right-of-way if VDOT or such other public entity determines that such alteration, change, adjustment, relocation or removal is required in order for VDOT or such other public entity to accept Clarke Lane into the system. Neither the Grantor, VDOT, nor such 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 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 or Clarke Lane resulting from such alteration, change, adjustment, relocation or removal.

c. Continuing Obligations of Grantee to the County. After VDOT or such other public entity has issued the required Permits, the Grantee shall be subject to the following conditions, notwithstanding any quitclaim of its interests to VDOT or such other public entity, and these conditions shall be continuing obligations of the Grantee:

1. 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.

2. In the event that the Grantor or such other public entity becomes responsible for the maintenance of Clarke Lane and the Grantor or such other public entity requires, for its purposes, that the Grantee alter, change, adjust, or relocate the Improvements, across or under Clarke Lane, 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 6(c)(2) 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 County, acting by and through its County Executive, duly authorized by action of the Albemarle County Board of Supervisors on November 14, 2007, does hereby convey the interest in real estate made by this deed.

By its acceptance and recordation of this Deed of Easement, the ACSA acknowledges that it, its successors and assigns, shall be bound by the terms herein.

WITNESS the following signatures.

GRANTOR:

COUNTY OF ALBEMARLE, VIRGINIA
By: (Signed) Robert W. Tucker, Jr.
Robert W. Tucker, Jr., County Executive

GRANTEE:

ALBEMARLE COUNTY SERVICE AUTHORITY
By: (Signed) Gary W. Fern
Name: Gary W. Fern
Title: Executive Director

Agenda Item No. 17. **Public Hearing:** 1) **PROJECT: SP-2007-0034. First Church of the Nazarene – Church. PROPOSED:** Church with seating for 374 persons, on a 7.32-acre portion of a 865.167-acre parcel. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access. SECTION: 10.2.2.35 Church building and adjunct cemetery. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre). ENTRANCE CORRIDOR: Yes. LOCATION: North side of intersection of Richmond Road (US 250) and Louisa Road (Route 22), south of Interstate 64. TAX MAP/PARCEL: Tax Map 79 Parcel 10. MAGISTERIAL DISTRICT: Rivanna. (Advertised in the Daily Progress on October 22 and October 29, 2007.)

Mr. Cilimberg reported that this request is for a church to seat 374 persons. The property is located on a larger parcel at the intersection of Route 22 and Route 250 to the south of I-64, known as the Edgehill property. It would be located on seven acres south of I-64. He provided a rendering of the original plan that went to the Planning Commission. At the Commission's review, VDOT and the Department of Health indicated the church could be supported. The daycare proposal was requested for deferral. Mr. Cilimberg said that this area is already characterized by some highway-related commercial and resource extraction uses. He said that unfavorable factors noted by staff were that the building was

surrounded by parking and it seemed to be a suburban character structure in the rural areas and the Entrance Corridor. The location needed for a septic drainfield prevents a rearrangement that would put the parking behind the building. Mr. Cilimberg noted that the plan showed more parking than necessary – 30 spaces more than required under parking requirements. At the Commission meeting, there was also discussion of the entrance location and its relationship to the intersection of Routes 250 and 22, as it will be reconstructed in the near future. Mr. Cilimberg noted that VDOT has also looked at the question of turn lanes needed for the entrance to the church as associated with this improvement to the intersection.

Mr. Cilimberg noted that groundwater was also questioned in terms of contamination potential. There are two sites where there have been fuel spills – GOCO Oil and Stone Robinson School – and DEQ considers them separate incidents, now closed cases. He said that future land use are not considered as part of that, and no further DEQ information would be provided unless there are new reports of contaminated wells. Mr. Cilimberg mentioned that the applicant has conducted onsite well testing and there is no indication of quality problems with the two existing wells.

Ms. Thomas asked how DEQ characterizes the contamination, where it is and how it is moving. Mr. Cilimberg said DEQ looked at the specific sites where the contamination was noted. They closed their files once they considered there were no threats in the locations. He does not have any information on larger plumes.

Mr. Rooker asked if it is known whether the spills were underground or surface. Mr. Cilimberg said he believes they were both underground.

Mr. Cilimberg stated that the Planning Commission recommended approval with staff conditions, and added that relegated parking should be used to the greatest extent possible, and a condition for Virginia Department of Health approval of well and septic systems before final site plan approval. Since the Commission's meeting, he said, the applicant has revised their conceptual plan to remove the 30 extra spaces, mostly in areas that would be double-loading the parking on the front side, which is closest to the Entrance Corridor. He noted that VDOT is not recommending left turn lane or other improvements beyond the right-turn lane required by the condition to enter the site, as they do not believe lefts will be necessary during church operations.

Mr. Cilimberg noted that since the applicant has removed the 30 extra spaces, the proposed condition 1c pertaining to relegated parking can be eliminated from the recommended conditions.

Mr. Wyant expressed concern about condition #4 reference to "... not be rented..." because most churches allow wedding and other events, that are not always church related. He asked if the condition would prevent those uses. Mr. Cilimberg said that is a standard condition for churches and it does not pertain to church activities such as weddings and receptions. It is for separate commercial uses.

Mr. Slutzky asked the total square feet of the structure. Ms. Thomas replied that it is a 18,811 square foot building with a 90-by-50-foot multi-purpose assembly

Mr. Cilimberg said that this is a large church in the rural area, but there are others in the rural areas that are comparable in size.

Mr. Boyd asked if there are special regulations that restrict what the Board can do. Mr. Cilimberg said his understanding is that the staff is supposed to be evaluating the request based on impacts to public health, safety and welfare in a church review.

Ms. Thomas read from the staff report that: "The County is limited in its ability to control the size of churches, due to the federal Religious Land Uses and Institutionalized Persons Act (RLUIPA). Controlling the size of a religious facility, or denying it based on number of attendees, may be considered an improper restriction on that institution's religious freedom. However, physical impacts of the development on the site and the surroundings can be addressed."

Mr. Davis explained that federal law protects churches from being discriminated against on the basis that they are a church, but that does not restrict the County from applying land use regulations to it as long as they take the least restrictive regulatory approach that addresses the issues created by impact.

Mr. Slutzky asked the rationale the previous Board used to not include this property in the growth area. Mr. Cilimberg said staff did a study of a larger area; they looked at what did not get changed and at some additional areas to the west, north and east. At that time the Commission and Board decided to focus on the area in which the proposal for Glenmore was made, and some adjacent areas; and not take it all the way down to Stone Robinson School. The language in the Comprehensive Plan does note that the School may need to be served by public water. When public water was being planned for extension to Rivanna Village for Glenmore, the sizing took into consideration the need to accommodate Stone Robinson School, but not generally the whole area. It was a specific decision, at that time, to keep the Village focused to Glenmore and some adjacent areas and stay to the south of Route 250, and not go any further west.

Mr. Slutzky said he is trying to understand if there was a specific aversion to development occurring in this location. Mr. Cilimberg said it was considered rural areas beyond Rivanna Village.

Mr. Slutzky said he is struggling with this request because he is reluctant to deny a church's request for expanding its congregation, but he is concerned about the scale and location of the church.

Mr. Dorrier noted the other examples given of churches in rural areas that are comparable in size.

Mr. Rooker asked about the size of the buildings. There are a lot of churches that are in the range of 7,000 to 8,000 square feet that will accommodate 300 people. He would guess that there is a lot of this building that is not in the sanctuary.

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

Mr. Bill Willis, Pastor of the Church of the Nazarene, addressed the Board. He mentioned that there are several uses nearby that are commercial, but also recognized the County's desire to preserve the rural character of the area. Mr. Willis said that the site is across from Albemarle First Bank (14,000 to 15,000 square feet), and Luck Stone and the Shadwell Store are nearby. They are in a niche where it is rural, but a lot of commercial areas. He explained that they had to relocate because they needed a facility with more open space and recreation area for youth. Their ministries were being hindered by their lack of space. They want to build a facility that enhances the County. They worked with VDOT on the turn lane issue. Mr. Willis said that they need to have their primary drainfield in front, and also need to have some parking in the front for elderly and handicapped. He indicated that they did move the 30 spots based on the Planning Commission's recommendations. The church is aware of the nearby fuel spills and preliminary tests show that the water on the site is not contaminated. They even tested the water for bacteria and found no problems. He added that the owners have owned the property for 60 years and they have no knowledge of any spill on the property.

Mr. Willis reported that they want to build a multi-ministry facility, with a church within it as well as other meeting rooms and athletic amenities, and that is why they are requesting this size. He mentioned that their current facilities include a church, but also a gym and other rooms. The building is large enough to be a junior high size athletic facility and will set 374 people. They have a dual purpose in that they want to reach into the community. During their worship service they have children's church which happens simultaneously. They want a dedicated space where their children's ministers can minister to the children.

Mr. Rooker asked the size of their current church. Mr. Willis said they currently rent space from The Covenant School that seats 350, and they have use of all their classrooms and facilities.

Mr. Wyant asked about their attendance. Mr. Willis said their attendance right now is about 150 people each Sunday, with 200 members total. The building they sold had between 7,000 and 8,000 square feet, but they did not have the space to do the things they wanted to do. Mr. Willis said they would like to have a five-year approval window to allow for planning, fundraising and approval processes.

Ms. Wanda Morris addressed the Board, stating that she is a 30-year resident of Keswick and a member of this church since 2004. She said that this church could enhance and unify the area. She said there are a lot of young people that could be reached. She asked the Board for their approval.

Ms. Pat Napoleon addressed the Board, stating that she is not anti-church, but she is concerned about the proposal because of a letter she received from Mr. Pensenburger at the DEQ. Mr. Pensenburger has suggested that an environmental consultant be used to perform a Phase II Environmental Site Assessment with soil borings and monitoring wells to determine the extent of the contamination and the direction of the groundwater flow. The area is a known site for underground plumes, i.e., Clifton Inn, GOCO, Stone Robinson, Luck Stone, Williamson, and VDOT facility behind the site. She asked if we are sure there will not be a later need for a hookup. She asked if due diligence has been done here. The cases may have been closed but they were nonremediated in several of the situations. She said the quarry is a nuisance and the traffic from I-64 is a concern. There is a vulnerability to future spills give the large interstate. She also expressed concern about traffic in the area, especially that going out onto Route 22. She is also concerned about the daycare proposal coming back to the Board. It does not make sense to her to bring such a large amount of additional traffic to an already stressed Route 250 East.

Mr. Lane Bonner addressed the Board, stating that he has helped in the search for a site for this church for more than five years. This site was chosen with a lot of care and chosen as having the least impact on the County.

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

Mr. Boyd asked about a 2,000-foot buffer from the oil spill.

Mr. Cilimberg replied that was not indicated to staff as being necessary.

Mr. Boyd asked about the traffic pattern. Mr. Cilimberg said VDOT felt that based on traffic generated from a church of this size, only a right turn lane entering the church from the north on Route 22 would be necessary. VDOT did not see any problems with the traffic study.

Mr. Rooker asked if the traffic study was based upon typical traffic generated by a church with 350 seating capacity or this church with the proposed uses which seem to be expanded. He believes these types of uses are needed in the community. Mr. Cilimberg added that VDOT would evaluate the traffic pattern based on peak use at the church; the size of the maximum seating.

Mr. Slutzky said if there was a contamination plume and their drinking water supply was no longer usable, how much of a problem would there be to hookup to water supply for the Rivanna Village. Mr. Cilimberg said the line runs down Route 250 and is located on the frontage of this property. If there were to be that kind of problem and there were no alternative groundwater sources (not contaminated that they could access) then they potentially would be eligible for jurisdictional area and hooking into the public water line. It is not an issue in terms of proximity. He also noted that the church would need to look for a groundwater source as part of their site development.

Mr. Dorrier commented that this site is unique because of the highway splitting the property, and the church would not be incompatible with the area.

Ms. Thomas replied that it should then be called the growth area.

Mr. Slutzky said that this is a commercial-like project in this rural area, and he is struggling with this location as it seems counter to what the County has promised to do. He loves the idea of what this church is doing, but we tell our constituents that we are going to hold firm on our commitment to protecting rural areas from development activities, and this is a fairly large scale multi-dimensional project.

Mr. Rooker emphasized that the size and scale of the church is the real issue here, as there are churches in the rural area – all allowed by special use permit. It is not a decision that the Board is making this a commercial area.

Ms. Thomas stated that there is nothing in this application that shows an effort to minimize lighting, as there are relatively simple ways to accomplish this. She suggested lighting on the pathway instead of lighting the entire parking lot. People who live in the area are already getting much fainter night skies because of development at Pantops. This is an area where people are concerned about the dark skies. She asked how the Board can get conditions for special use permits changed so that there is as less light pollution as possible.

Mr. Cilimberg responded that he thought the language was included, but if not staff would make sure to put it in.

Mr. Rooker said if this is approved, he agrees that some kind of enhanced lighting condition would be appropriate because of the scale of the church.

Mr. Slutzky asked if staff was comfortable with approving this request. Mr. Cilimberg said part of this is in recognition of federal law and whether the extent of this church's activities was creating an impact that might necessitate it being downsized or not approved.

Mr. Davis said that the Religious Land Use and Institutionalized Persons Act of 2000 is a federal law that is designed to protect the exercise of religion including religious assemblies or institutions. The law states that no government shall impose or implement a restriction that imposes a substantial burden on the religious exercise of a person including these institutions unless it is in furtherance of "a compelling governmental interest." He added that if that standard is met, then you have to use the least restrictive means of furthering that compelling governmental interest. Mr. Davis said that exercising land use authority can be that compelling interest, but it has to be done in a way that does not discriminate against the practice of religion and it has to be done in the least restrictive means possible. Since other churches have been approved in the rural areas there would need to be a definitive and compelling reason to not approve this request. Without identifying that compelling reason, you have to look at the land use impacts and impose reasonable restrictions that would address those impacts in a way that is the least restrictive method to affect the church.

Mr. Slutzky asked if this 18,000 square foot church would set a precedent for other large churches to be built in the rural area.

Mr. Rooker noted that there is already a 13,000 or 14,000 square foot church that was approved.

Mr. Davis said every special use permit is looked at on its own basis. Having approved one in the past does not necessarily mean you have to approve the next one, but it would be evidence to determine whether you are acting capriciously. Unless the applications could be identified as different, whatever the Board approves could be considered a precedent.

Mr. Slutzky said he could vote in support of this request but make it clear in his statement that he is only supporting this size and scale because of its specific propinquity to other activities that are more compatible with a project of this scale, and that were a comparable building proposed in the rural area where there was not any kind of nearby commercial activity, he would be considering that to be a different scenario. He asked if that is sufficient evidentiary basis for making a distinction.

Mr. Davis said what one Board member states probably will not be anything necessarily other than being an indication of the sense of the Board. If you are concerned about this being a precedent to the extent that you can cite specifics that would distinguish it from other projects would be helpful.

Mr. Cilimberg stated that staff is looking at the impact that this church would make on the area it is located in. If there were concerns about groundwater evidenced by information produced in the review of the project that could be another reason to not support the use. Staff is also looking at how it relates to

other activities in the area. This is a little different rural area than some of the other rural areas, i.e., further out Route 22.

Mr. Rooker said he sees a point of distinction between this and something that is not on the edge of a commercial area. The question becomes what is an appropriate area for a church such as this to locate.

Ms. Thomas said just because the Board has made bad decisions at this location before does not mean they should be led to making another bad decision. She commented that she has consistently voted against buildings in that area that are not just expansions of agricultural use, as approving them is changing the character of that area. As an example, she voted against the Albemarle Bank building. The Board is not even being straightforward and changing the boundaries of the development area, but in effect doing so by the actions they are taking.

Mr. Rooker asked if the church is moved to another location in the rural areas, what would be the basis to distinguish this from another church.

Ms. Thomas said she is not thinking of the building as a church. She is looking at it as a nearly 19,000 square foot building with 150 parking spaces surrounding it. She said that the scale of the proposed building and the associated parking has a physical impact on the site and its surrounding area – which are specific things the Board is allowed to consider. The suburban appearance is out of character with the Rural Area and Entrance Corridor. It does not meet any of the purposes of rural area zoning – which has to do with preservation of agricultural and forestal lands and activities, water supply protection, limited service delivery, and conservation of natural, scenic and historic resources. She will be consistent with her prior voting in that area.

Mr. Wyant said that he does not consider this to be a “business,” and it is important to have churches and their associated activities available in the area. He does not think churches should be classified as commercial. He supports the request. He emphasized that VDOT’s analysis indicated the traffic pattern was acceptable, and the DEQ has closed the cases related to the groundwater. Because of their location, he does not believe they will have future water issues. He supports vibrant churches in the rural areas.

Mr. Boyd stated that this request is located in his district. He also does not think that churches should be considered the same as commercial buildings. The intersection is going to become highly commercial because of Luck Stone, and he does not think approving this church is going to change the character of that area.

Ms. Thomas asked about a condition to address the lighting.

Mr. Davis proposed a sixth condition that would say “A lighting plan reasonably limiting the amount of adverse outdoor light pollution shall be submitted to the Zoning Administrator for approval as a condition of preliminary site plan approval.” He also said that condition seven would be “This permit shall be void if the use is not commenced by November 7, 2012.”

Mr. Willis, the applicant, said they have no problem with the recommended conditions.

Mr. Rooker asked about the Architectural Review Board’s role. Mr. Cilimberg noted that the ARB would need to approve this building as it is in the Entrance Corridor, as well as approve lighting.

Mr. Rooker said that this is a very tough decision. He agrees with a lot of Mr. Wyant’s comments, but he has concerns that the scale is beyond what is appropriate in the rural area. There is ARB control of the area because it is uniquely situated. He agreed to support it, as he wants to encourage church expansion to deal with youth in the community. They deal with youth in a way that does not cost the taxpayers money. He does not think the scale and size of the building would be appropriate in a lot of the rural areas, but this particular location is appropriate for the use. Churches are not commercial uses; they are allowed in the rural area by special use permit. Under our Zoning Ordinance, it is a different kind of use. Mr. Rooker also noted that this parcel is located near three major highways which mitigate transportation impacts that may exist in other parts of the rural area. In addition, surrounding landowners have not come in to oppose this and complain that it will impact the rural character of their property.

Ms. Thomas noted that she had received several emails from neighbors who are opposing the use because of the change to the rural area, and the fact that this property is essentially the entrance to the Southwest Mountains region – which contains a significant number of conservation easements and historic preservation properties. She added that she thinks it will be fairly easy for staff and the applicant to come to an agreement on the lighting.

Mr. Rooker then stated that he is changing his mind on his vote, because of a comment made by Ms. Thomas. This is the beginning of the entrance to the Southwest Mountains area and given that, the scope and the scale of that use is probably not appropriate. He said that this case is extremely difficult, and he wanted to come up with land use issues that distinguish this from other uses, but he agrees that there are a significant number of historic and conservation factors specifically in that area.

Mr. Boyd said that the intersection is highly commercialized anyway, and this is a good use of that land. There is a bank, asphalt plant, rock quarry, and 200 to 300 trucks coming out onto the intersection every day.

Mr. Slutzky commented that he has struggled with this and has debated between "his head and his heart," but the Board has tried to limit activity that changes the character of the rural area. A structure with the associated activities on the scale this proposal would bring is huge in this area. He emphasized that it would be more appropriate to have this located in the designated growth area, encouraging the church to propose a use for this property that does not contain a building of this scale. He suggested that the church consider deferring the request.

Mr. Boyd asked what an acceptable scale would be, as the church has determined what their space needs are. Mr. Slutzky replied that he does not have an exact figure in mind.

Mr. Rooker said that a church of 8,000 to 10,000 square feet and reduced parking would be more acceptable, as it would allow more green space in the Entrance Corridor location and would be more in keeping with the site.

Mr. Boyd said he is hearing Board members say that this would be an inappropriate use anywhere in the rural areas. That is a significant financial issue because property in the designated growth area is seven or eight times higher than land in the rural area.

Mr. Slutzky said the Board is charged with the responsibility of protecting 95 percent of the County as rural area to remain as such for generations. The Board has concentrated development activities in the growth areas. He has consistently voted in support of development inside the growth areas specifically because he wanted to take pressure off the need to be in the rural areas. However, if he is also approving a large structure with a lot of parking in the rural area, he would not be consistent in his past statements. He wants to concentrate this scale of activity in the growth area. This church could seek to continue to find an appropriate location in the growth area or could scale back this enterprise at which time he might be willing to support. This is a church activity with a significant public good of which he is supportive. A church of this scale trumps the community church in the rural area. This is a much larger complex, institutional presence in the rural area and he does not support it.

Mr. Rooker commented that SOCA brought many similar arguments before the Board for their facility, and the Board turned it down because of its size and scale. He also emphasized that there are likely other locations in the rural area that could accommodate the church.

Mr. Boyd said SOCA was a different situation. The Board also needs to consider the social well-being of the community, and weigh the balance in making decisions.

Mr. Willis pointed out that the First Christian Church was approved at 14,000 square feet, and that is less than a mile from their site, and that was in a far more rural area. They are coming to an area that could be debated as being commercial. He said that they are willing to compromise on the square footage, but would rather have it approved as requested; 8,000 to 10,000 square feet is just not enough space. Mr. Willis noted that that area has been debated as being commercial, regardless of how it is designated now. The area around Shadwell Store may be designated as rural, but it is not a rural area. He asked if it they came back with a proposal to not build the building larger than 15,000 square feet, would that be something the Board could live with.

Mr. Slutzky noted that if the applicant brings this back, it would be a different Board, as the recent election had rural preservation as a key issue. He suggested that Mr. Willis talk with the Board members to get a sense of what they would consider.

Mr. Wyant said if the property was located on the other side of I-64, he would be worried about the Southwest Mountains, but this is the south side.

Mr. Willis mentioned that First Christian only has about 100 in their congregation and they got approval for a 14,000 square foot building in an area that is more rural than this area. In his opinion when the Board tries to limit the size of their buildings, that is trying to limit their ministries.

Mr. Rooker responded that he cannot recall a church of this size being approved in the rural area, and suggested that this application be deferred to give the church an opportunity to come back with a different plan.

Mr. Willis said another issue that they are in the middle of a study period to purchase the property. They are running out of time. They have a certain amount of time to get approval and take it to the next step. He again asked if it would be acceptable to the Board to scale the building back to 15,000 square feet given that there is a 14,000 square foot church in the same vicinity.

Mr. Slutzky said he is not sure what he was thinking when he supported the 14,000 square foot church in the rural areas. He has become increasingly sensitive of the commitment that the community expects in protecting the rural areas. He believes that was a critical issue in the recent election. At the present he does not think the Board should support this today and he believes the applicant should request deferral.

Mr. Rooker said that it is a difficult decision, and the Board has not had a lot of time to consider it, adding that he would like to drive out to First Christian Church and other churches in the rural area. He would like to understand how that application compares with this application. He would like to look at both sites and compare them physically. If the Board voted today, he thinks it will be denied.

Mr. Willis said he does not want the request denied. They want to come back in December and asked what the Board wants from them.

Mr. Tucker said that a deferral would mean this could be heard December 5th or December 12th.

Mr. Willis agreed to a deferral, but reiterated that this church would enhance the area.

Motion was then offered by Mr. Rooker, **seconded** by Ms. Thomas, to defer SP-2007-035 until the first available meeting in December. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

(NonAgenda. At 3:29 p.m., the Chairman called a recess. The Board reconvened at 3:42 p.m., with everyone present.)

Agenda Item No. 18. **Work Session:** 5th Street Avon Center rezoning (ZMA-2006-009).

Mr. Cilimberg said he wants the Board to know about several issues the applicant has been working on with staff, and some background related to the Comprehensive Plan. Included in the staff's report also is the amendment language which led to this proposal. The proposal is for commercial development inclusive of a parking structure and would be located between Fifth Street and Avon Street on the east side of Moore's Creek going to Avon and would connect on the west side to the existing Ben Creek Road that intersects Fifth Street. He then showed a copy of the proposal as it came out of the Planning Commission's meeting. It has a major retailer, a grocery store, a home improvement store, a parking deck, and smaller retail uses as well.

Mr. Cilimberg said this area is shown as Community Service in the Comprehensive Plan with a Mixed Use Center intended to fulfill a town center role. He said this plan will address environmental protection, conservation areas include the rock outcrop area, the extent of those areas affected by site grading needed for those uses have been addressed, a riparian forest is preserved, proffers are provided to address Moore's Creek erosion and buffer areas, greenway trails are shown, and the applicant has agreed to work with VDOT regarding enhancement of the vegetative buffer along the I-64 corridor.

Mr. Rooker asked how the last statement is incorporated into the proffers. Mr. Cilimberg said it is not proffered. It is something the applicant agreed to work with VDOT on. It is an attempt to address the area outside of their ownership, but which is a fairly wide right-of-way that includes a fair amount of vegetation. They hope to reach an agreement with VDOT so they can maintain that vegetation.

Mr. Boyd asked if the area in question is all VDOT right-of-way. Mr. Cilimberg said the area to the south of the project is VDOT's right-of-way.

Mr. Cilimberg said there is public open space in a trail head park near the confluence of the Biscuit Run/Moore's Creek to address greenway stream buffer matters of the Comprehensive Plan. The applicant is providing LEED standards for core and shell development which address sustainability recommendations. Bent Creek Road is proposed to be a parkway connecting Fifth Street Extended to Avon Street. The roads are consistent with design recommendations in the Comprehensive Plan. There is an agreement to provide transit stops on the site, but that has not been proffered yet. Pedestrian paths are shown on the plan throughout the site. No bicycle facilities are shown on the plan. There is a recommendation for a pedestrian bridge to Willoughy in the Comprehensive Plan, but that is not been addressed by this application. There are moderate to high densities of development recommended in the Comprehensive Plan, but they have not been achieved with this initial development. Infill opportunities are possible, and there are areas of parking which could, if they are structured parking, surface parking could be turned into additional square footage. At this time, he would not classify this development as moderate to high density.

Mr. Cilimberg said there are two pads shown for future employment generating uses on the east side of the property. That was a landfill location which could affect the development potential in that area. He said the individual buildings on the site are shown not to exceed 150,000 square feet. There is structured parking. The proposed square feet of the big-box structures are a total of 300,000 which does not exceed the limitation in the Comprehensive Plan. A proffer has been included for a park and ride. There is an agreement that bus stops will be located within the development but there is not proffer for that at this time. In the open space greenway trail, a trail head park appears to meet the 15 percent amenity expectation.

Mr. Cilimberg said as to the issues on which the Planning Commission based their recommendations for approval, the applicant has addressed: the commitment that the internal design and construction will conform to ARB Guidelines in the areas which are not subject to ARB review; the trail link is now shown adjacent to Bent Creek Parkway connecting to Avon Street instead of in the floodplain area abutting the old landfill; there is an agreement to provide a parking and ride lot; the applicant has agreed they will provide for transit onsite.

Mr. Rooker asked what Mr. Cilimberg meant by "an agreement." Mr. Cilimberg said they have agreed to do it. Mr. Rooker asked if that is an oral agreement. Mr. Cilimberg said that is his understanding. They have provided for the park and ride lot.

Ms. Thomas said the transit does not appear to go all the way from Avon Street to Fifth Street. She asked if can go all the way across the site. Ms. Claudette Grant, Planner, said she understands from CTS that it will go in on one side and come back out the same side. They had not planned that it go from Avon to Fifth Street.

Ms. Thomas asked if that is because a rural form of road is being allowed on the Fifth Street side. She asked if it would be possible. It is one thing to say what CTS plans today, and another to say that what the Board approves to be placed on the ground that might make it impossible for a bus to go all the way across. Ms. Grant said the type of road was not the issue; it was about how CTS circulates their transportation network. Ms. Thomas said that is short term. She wants to be sure that long term it is not made impossible to have transit that can come in from either side and exit either side. Mr. Cilimberg said he does not think that would be an issue.

Mr. Rooker said it is going to be a normal-sized road, so physically there would be nothing to prohibit them from going down that road. Mr. Cilimberg said that is correct.

Mr. Cilimberg said there is commitment to erosion and sediment control issues to achieve a sediment removal rate of 80 percent; a commitment to reseeding and timing of reseeding to achieve a stormwater removal rate 20 percent better than required by the Water Protection Ordinance; a commitment satisfactory to the City with respect to frontage and street improvements in the City; a commitment to address cultural resources including a map that shows cultural resource designations and language that commits to a Phase I study that will be done prior to any land disturbance; an agreement to attempt to obtain an easement from VDOT to protect vegetation in the VDOT right-of-way along I-64 – that is not proffered because they cannot necessarily control, only make the attempt.

Mr. Cilimberg said the outstanding issues are: to tie the construction of Bent Creek Parkway and Avon Street improvements and proffers to C&D to the first certificate of occupancy rather than three years from date of approval of final site plan; the County wants them to commit to engage a licensed arborist.

Mr. Slutzky asked that the conversation focus on a couple of issues just mentioned. The applicant is supposed to have the road constructed within three years of approval of the site plan, but there is also the issue of the landfill work. If it was determined that remediation was needed, would that disrupt the schedule for complying with that proffer? Mr. Cilimberg said he assumes it could.

Mr. Slutzky said there is a contingency now that the whole project is held up until the applicant has a work plan approved by DEQ. He will suggest that DEQ not just approve the work plan, but the work has to be done, and it has to be done in a manner which is satisfactory both to DEQ and the County's environmental staff. He said it will tricky making sure that proffer works for both the applicant and the County. He said they will need to have it within three years of site plan UNLESS there is some aspect of fulfillment of the environmental work that would delay it, and in that case they should have it as soon as that work were signed off on by County staff. He asked if that would be a reasonable strategy for conflating those two issues safely. Mr. Cilimberg said the Board needs to decide what it expects in the landfill piece of this so staff knows how to structure this part, and how quickly the Board wants the road provided. Staff had tied it to the first CO because that is when people will be occupying buildings.

Mr. Cilimberg said there is also the desire that the applicant commit to engage a licensed arborist throughout construction to ensure that proper measures are employed for preservation of trees. The County Attorney also needs to approve language in Proffer 8 relating to the DEQ work plan and underlying responsibilities for the Bent Creek Parkway crossing the old landfill. He said that is one of the biggest issues in this proposal. The applicant needs to address ARB concerns for portions of the project that are visible from the entrance corridor and subject to ARB review.

Mr. Cilimberg then pointed out on a map the location of the landfill site.

Mr. Slutzky asked if anyone knows anything about the materials in the landfill. Mr. Cilimberg said it is generally domestic in nature. Ms. Grant said she understands that the University Hospital also deposited waste at that site.

Mr. Cilimberg said the Planning Commission recommended approval of the project with the expectation that issues identified by staff and the Commission at the time of the Commission's last public hearing, be addressed by the applicant. He has gone over both the issues which have been addressed and those which are still outstanding. The Board is asked to confirm the Commission's expectations, and identify any additional issues that should be addressed. He said the applicant has some information to share with the Board. He offered to answer questions.

Mr. Boyd asked the applicant to speak next.

Mr. Frank Cox said The Cox Company has represented New Era Properties and Avon Holdings for a number of years taking this application through the Comprehensive Plan process. For the last 18 months they have worked with the Planning Commission and County staff refining the application and they look forward to an affirmative action on this request in December. He highlighted key visual images to help answer questions concerning the application. As part of the Comprehensive Plan amendment there were questions as to whether there should be sophisticated Neighborhood Model mix of uses on

the property. They vetted the issue and found it was not necessary due to the fact that it is surrounded by a community that has no core commercial area to serve it. The key element has been to respect the tenets of the CPA regarding the extension of the so-called "Fifth Street-Avon Street Connector." This road would provide the same carrying capacity as what has been proposed for the Southern Parkway. They vetted this idea with VDOT and the City. They did traffic impact analyses at several different levels and both County staff and the VDOT have signed off on the transportation concept.

Mr. Cox said one thing that evolved as part of an environmental analysis of the project is the extensive Moore's Creek stream valley corridor that is integral to a successful greenway system. The Commission expressed a real concern as to how interconnectivity of pedestrian trails could work within the work to provide opportunities for combined bicycle and pedestrian trails within the park zone. The applicant has agreed to construct a pedestrian bridge at the entrance gateway off of Fifth Street. Also, there are some sensitive environmental features in addition to a fairly extensive stream valley. One is at the proposed gateway. They have done a number of amendments to the plan trying to preserve that area.

Mr. Rooker asked if grading is anticipated in the area where the trail head activity is located. Mr. Cox said "no." That area is substantially debris laden. The land has not been maintained since it was zoned Light Industrial over a generation ago. They want to put in an attractive trail head park at that point, but will not be introducing impervious surfaces with the exception of an impervious trail in certain locations and maybe some shelters. They have also looked at an alignment that might allow a future offsite connection to the south under I-64 which could potentially tie into the Biscuit Run project.

Mr. Slutzky asked if there any relationship between the trail system and the big-box shown on the plan in a sea of parking. Mr. Cox said there will be connecting pathways and there will be internal sidewalks and particular access points from the trail up into the commercial areas of the property. Ten or more years ago when he was before the Board presenting a different application for the property, they debated a potential connection to Willoughby Subdivision and on into the City. The Willoughby neighbors were not in favor of that concept so it has not been included in this application. They would be happy to make whatever connection the Board favored.

Ms. Thomas said the Board has received an E-mail about the subject. This person strongly requests a connector between the two developments.

Mr. Boyd asked if the applicant had talked to the Willoughby neighbors about a pedestrian/bicycle connection as opposed to a vehicular connection. Mr. Cox said their pedestrian/bicycle trail is mainly along the stream valley corridor on the property they control. He said there was never a vehicular connection proposed. He said the lots in Willoughby are placed in a manner so there is no convenient place to put through a connection without having to acquire an easement through an individual residential property.

Ms. Thomas said the application is not tied into a residential connection so it is just a big-box on a sea of parking that depends totally on automobile access. The only chance of having any pedestrian or bicycle reason for existing is to have that kind of connection. Mr. Cox said Willoughby is the closest residential neighborhood and he does not think that many of those residents would be interested in picking up 2 x 4s and grocery bags and walking back and forth.

Ms. Thomas said people always say that, but it is employees who use transit and walking and other facilities to get into a place. Mr. Cox said they are amenable to pursuing that and it is their intent through the proffers to work through the finalization of the stream valley corridor greenway system including the trails. They are willing to make a connection through there if it deemed physically, functionally and politically correct to do so. Over the last 18 months, that is not an item that has been high on any priority list.

Mr. Slutzky said he would strongly encourage the applicant to include interconnectivity to Willoughby, but that the walking trails actually connect to the buildings and don't just dump into the parking lots. He asked if any Board member objects to that idea.

Mr. Dorrier suggested examining whether there is a need for a bridge across Moore's Creek. He said there are some terrain situations at play there. Out the front entrance to Fifth Street, a third lane could be placed in the street for bicycles, and that might be a more practical way to do it. Mr. Cox said the applicant is working with the City about the type of vehicular and pedestrian improvements that will be necessary in the City portion of the project. Fifth Street is entirely located in the City, as is a portion Bent Creek Road which is already under construction, and the bridge. If necessary, they will construct a sidewalk to Willoughby. They have never intended to have a direct, vehicular connection into Willoughby, nor is one feasible.

Mr. Rooker said where a logical connection to Willoughby could occur, what is on the other side of that connection in Willoughby? Mr. Cox said there is residual steep slope area that is not platted with any of the residential lots. As one move to the north, there is a rim of residential lots that wrap around the top of the ridge.

Mr. Rooker said his question is: If a connection were put there, what would it connect to that would be usable from the Willoughby side? Mr. Cox said if they were able to come up through "this little valley here (pointing to a map)", it would tie into the end of a cul-de-sac. He cannot say whether there is an actual gap between private properties and right-of-way they would connect to.

Mr. Rooker asked if there is a way to create a bicycle/pedestrian connection without the approval of another property owner that works. Mr. Cox said he knows that physically it can be done, but they would need to have a buy-in from the City and the Homeowners' Association. They did not get that buy-in the last time they approached the HOA.

Mr. Rooker said the question is whether the applicant can do anything unilaterally that is useful if approval from whoever controls the other side is not obtained.

Ms. Thomas said all the Board members got the same E-mail so they should contact this person and maybe he would take a leadership role in his community.

Mr. Slutzky said he thinks there could be a proffer from the applicant stating his willingness to do "x" based upon the County directing him to do it by a date certain, and if it is not done, the proffer would wither away or the value of the proffer would be given to the County for general purposes. That would allow the project to be built out and see if the community actually wants a connection, but it would be provided for.

Mr. Boyd asked if there is a Homeowners' Association. Mr. Cox said there is.

Mr. Boyd asked if the HOA owns the property that would have to be connected to in both cases. Mr. Cox said they own the property immediately north and to the east along the stream valley.

Mr. Rooker said that subdivision has open space which is owned by the HOA. Mr. Cox said that is true. His concern is whether they would be able to make the connections in the places which are appropriate to the existing street system in Willoughby. Between now and when they come back, they will look at the Willoughby plats to determine how their easements are recorded.

Mr. Slutzky said the applicants should also check with the HOA as to connectivity today.

Mr. Rooker said Ms. Thomas has a good idea. If there is a resident in Willoughby that is charged up about having a connection, he could be approached about the idea.

Mr. Dorrier said he got the E-mail and is willing to meet with this person if the Board so desires.

Ms. Thomas said the name is "E. Storm" and he sent an E-mail to the Board members in September, and then again this past Monday asking for pedestrian access. Mr. Cox said he does not think his team is aware of this person's interest.

Mr. Rooker said Mr. David Ray might be able to help if the applicant proffers to make that connection conditioned upon receiving the necessary third party approvals.

Mr. Cox said they have a proffer which refers to a Park and Ride facility. The proffer dedicates a number of spaces (he thinks it is 12). The general development plan shows a transit stop; maybe the language in the proffer should be clarified to state it is their intent with the proffer of the park and ride with that nomenclature that the transit stop is included. He showed a rendering of the plan for that proffered stop which is included in the Application Plan. They met with CTS and worked through several options.

Ms. Thomas asked if the roads are adequate for transit in either direction. Mr. Cox said "yes."

Mr. Slutzky said he likes the fact that the Board has recently begun to establish a tradition by asking for a contribution from the developer to the ongoing operating costs of having transit come into their facility. One way it could be done that does not cost the developer anything but which would be beneficial to the community is to have a proffer of maybe 20 cents per square foot of commercial space be contributed as part of the common area maintenance budget for the commercial tenants, be earmarked for the expenses of transit should it come into your property, and not until such time as it comes into your property. He asked if any Board member disagreed with that idea.

Ms. Thomas said she would agree. She thinks it is increasingly common in shopping centers because they realize how expensive parking spaces are.

Mr. Dorrier asked how many parking spaces will be held aside for park and ride. Mr. Cox said there will be 12.

Mr. Rooker asked the total commercial square footage. Mr. Cox said it is approximately 480,000 square foot. Mr. Rooker said at 20 cents per square foot that would be about \$100,000 a year.

Mr. Slutzky said that is not an insignificant contribution to the operating budget; the community would benefit and would the shopping center. It is a nominal piece of the common area maintenance. He thinks it is a proffer that would be welcomed.

Mr. Cox said the applicant will discuss that. He said the ARB has had a chance to review the zoning application. The applicant has met with them several times and after hearing their concerns has presented final architectural plans. The Planning Commission knows the applicant does not have particular architectural design schemes for this. Their proffer represents that in addition to working through the normal ARB process the applicant has said the final site plan will go back to the ARB. There were several crossover issues that must be worked out regarding landscaping on the interior of the

property. Due to the fact that they have proffered to an enhanced stormwater management (best management practices) and sediment control, they will be looking for some give and take.

Mr. Cox said an issue not completely resolved had to do with how many parking islands there would be and their spacing within the primary parking field. The thing he thinks the ARB was not satisfied with had to do with the viewsheds into and out of the property from I-64 and Fifth Street. He mentioned again that the applicant wants to enter into an agreement with VDOT so he can do periodic maintenance within their right-of-way. On the average, the edge of pavement on the closest I-64 lane to the nearest building is more than the length of a football field. They will probably enter into an agreement with VDOT wherein they will offer and they will accept a volunteer of maintenance funds periodically if in the event there is any environmental occurrence that would harm a tree. They will seek ways to work with VDOT to reestablish vegetation as they are on the onsite areas of the property. They have proffered a 2:1 tree replacement ratio for areas inside the conservation area.

Ms. Thomas asked that Mr. Cox point out the conservation area on a map. Mr. Cox said the conservation area is all of the area they contained south of the Creek. The southerly boundary would be the edge of the right-of-way of their parkway. Until they come to a resolution with DEQ and the County as to how best to treat the former landfill area, they will agree not to go into that area until DEQ is fully satisfied with what is suitable. He agrees that the County has to be a part of that process. Considering the proffer of the roadway and the time when the applicant wants to see the roadway completed, and then tying that to the date of occupancy, the only environmentally suitable and economically practicable way of developing that road, the project will not go forward. County staff and the applicant have talked with DEQ and embarked on a process to do a fairly exhaustive review of the landfill. That work began with environmental and geo-technical firms in 2002 and that effort has been energized over the past 12 months. They want to develop the road as an attractive parkway. The design sections will have a similar section as that of the Meadow Creek Parkway. The land area specific to the question about the conservation area and the tree replacement area is just to the top side of their parkway road. Knowing the lay of the land in that area, they are dealing with a substantially degraded urban drainage-way. It is not an attractive creek. It is their goal to bring that back into a more natural state. They have to cut out some trees in order to get in the pedestrian and bicycle trails, but the proffer calls for a 2:1 replacement ratio for any trees that might have to be disrupted as part of the re-vegetation of that area.

Mr. Dorrier asked if Mr. Cox had any connection to Holiday Inn South or to any of the businesses on the entranceway to this property. Mr. Cox said "no."

Ms. Thomas said looking at the contours on the plan it appears that the land will be graded down at least 50 feet. Mr. Cox said there is a grading plan, but it is not on a graphic exhibit. There are some fairly substantial knolls in one area and there will be a considerable amount of earthwork involved with the preparation of the site.

Mr. Slutzky said with respect to the landfill cleanup, he would like to see a proffered obligation on the developer's part that any hazardous materials that need to be cleaned up are in fact cleaned up not only to DEQ's satisfaction, but also to the satisfaction of the County's environmental staff. He asked Mr. Cox if he had a problem doing it that way. Mr. Cox said that is basically the intent that has been brought forward. Even though their cleanup work will come under the definition of voluntary action, it is their intent once the work plan has been solidified and the recommendations have been established, as long as it does not break the bank, they have every good public relations reason to do what they can.

Mr. Slutzky said the applicant has a timeline for the proffering of the road being built so if it became an extensive process the applicant might not be able to keep that promise because they are obligated to do it within three years. Mr. Cox said if they can't get this all figured out in conjunction with the preliminary and the final site plan process with their analyses and engineering remedies and going through the full DEQ process for the stream valley enhancements by the time the County is ready to sign off on the final site plan, they will not move ahead with the project.

Mr. Rooker said the Board just needs to make sure the proffers accomplish that. He would not support the project without the connector road. It is an important part of the project and the Board needs to know when the project is approved that there is a time certain for completion of that road.

Mr. Slutzky said the flip side of that is if the environmental circumstances should make it impossible for that proffer to be fulfilled, it is a "Catch 22" and he thinks they need the latitude to accomplish the cleanup, but "have no reward for delay."

Mr. Davis said there are two issues which concern staff. First has to do with having the road completed and having them overcome the DEQ obstacles to constructing the road. Second is long term liability of the road. If the road becomes a public road (a road dedicated to the County in fee and then taken over by VDOT for maintenance), he is not convinced that does not create a substantial risk of liability for the County.

Mr. Slutzky asked if an indemnification of that would be sufficient to address that concern. Mr. Davis said probably not. Mr. Slutzky asked if there could be a bond or insurance product in place. Mr. Davis said he does not know there could be one to cover the potential liability.

Mr. Wyant said there have been roads built over landfills in the past. Mr. Davis said he thinks that can be done, but if you become an owner of the property, then under CERCLA the owner is responsible. The County is a deep pocket owner whereas a corporation can disappear. That is an issue staff has been discussing with Mr. Steve Blaine. At this point, the question has not been resolved.

Mr. Rooker said he would assume that the State would have the same issue. Mr. Davis said the State will not take ownership of the road so they are not in the chain. They will maintain the surface but will not be responsible for anything subsurface. It is a tough issue at this point. Staff has explored options of it potentially being a private road or partially a private road.

Mr. Cox said there have been discussions with Mr. Davis and staff about this issue. They are essentially next door to a road which was built on that landfill, I-64. That was constructed immediately after closing the dump.

Mr. Slutzky said a separate parcel could be created for the right-of-way and the property taxes not be paid on it and the County could take it through its right to foreclose for not paying property taxes. That kind of a transfer would not subject the County to the CERCLA liability. There are a couple of ways to look at this that are unusual. Mr. Cox said they have discussed having an extended provisional maintenance period. There are other options; this is an important road to everyone. The proposed Southern Parkway would cost approximately \$35.0 million and it would become a project that does not have to be built. The applicant hopes to get the language worked out for this in the next two or more weeks. He thinks VDOT will want this road to be in its system because it will be a major benefit to the whole area.

Mr. Rooker asked the drawback to having a section of the road remain a private road. Mr. Davis said that is an option. The drawback would be that it connects two public roads and from a planning perspective that is not preferred; there are also long term maintenance issues.

Mr. Mark Graham said that typically VDOT wants to see a public road connecting between two public roads. This issue was raised with them and Allan Sumpter seemed comfortable with the idea that part of this road could remain a private road for some period of time. When the County is satisfied that the liability is manageable it could ask that it be given to it in a fee simple right-of-way that could then become a public road.

Mr. Boyd said the Board is hearing that the staff is worried about this situation and is working on it. He does not think the Board needs to solve the question right now.

Mr. Slutzky said the County might go to VDOT and say if it is important that the section be a dedicated road and VDOT could always indemnify the County. Mr. Davis said that is not likely to happen.

Mr. Rooker said the County may want to consider having this be a private road indefinitely.

Ms. Thomas asked if there is a pedestrian-way all along the driveway. Mr. Cox said there is. He said the pedestrian connection will move from Avon just off the edge of the road, come down into a natural area that will be designed in a parkway/greenway format with several trails (in this area). They will make a connection on their south property line on the south side of the creek. There is a point where that trail could ultimately be extended under I-64 toward Biscuit Run.

Ms. Thomas said she thinks that is a very important connection. She knows that some of the people who were interest in Biscuit Run wanted that kind of connection. She does not know that the Board can do anything to make it happen but it is important if this development will be called a "center" as opposed to a "shopping center." There is already a tunnel under I-64 at that point. She said when she gets out of her car at the shopping center, it is important that it be both safe and attractive to walk from one place to another. She understands that the County can require both safe and attractive walkways, and would need to do so in order to have them built. She does not see that mentioned in what the Board is looking at today. Mr. Cox said the Board members had received some very large scale plans in their packets which make it clearer as to where the onsite sidewalks are located. He then pointed out on a plan where all the sidewalks are to be located.

Ms. Thomas said when Brass, Inc. had a proposed plan for this property, some talked about having green roofs incorporated, but she understands that green roofs are hard to justify on large buildings because they require a lot of structural strength in the building. She said an alternative to a green roof is to have a drain collection and rainwater harvesting concept. She knows this has been discussed informally and wonders if there are any plans for such a concept because this project will contain a huge amount of asphalt where today it has many specimen trees and is a wooded location. She is enthusiastic that the proposal contains a parking structure which will reduce the amount of asphalt but what can be done better? She knows that LEED has been mentioned, but there are many ways to get LEED certification.

Mr. Slutzky said he has the same question, but will frame it differently. If instead of having the three big boxes floating in a sea of parking there were more density and more structured parking, because of the two-story structural issues, the buildings could take the loads of green roofs and there would be more density, more square footage of retail, and accommodate it with increased structured parking, has that option been explored? He said because of its location, as much commercial density as makes sense is probably better. Mr. Cox said this plan is rather low density; it is less than a 0.1 FAR across the whole site. It is not what would be considered urban density. In addition to the LEED certification going for the minimum, they have had conversations with several potential future tenants who indicated willingness to LEED Silver. They have been working with County staff and introduced proffers to enhance erosion and sediment control, to enhance water quality for BMPs and stormwater management, so they are willing to go the extra mile. Whether they do anything with respect to special rooftop retention, which was popular in the 60s and lost ground for a number of reasons, they do not have an answer. As part of their commitment to the County and to the LEED certification process, they have

committed to working with an independent architect to be the spiritual guide for their project's specific architects as they work with individual buildings. They would like to have three or more story buildings at this location for retail and offices that could be supported in the marketplace, but those things have not been fully vetted at this time. With respect as to how they wanted to proceed with this zoning application and knowing the tenets the Board placed on this application as to the Comprehensive Plan amendment they wanted to show a plan that was the worst case plan.

Mr. Rooker asked if when this application comes before the Board for approval it will be asked to incorporate the plan presented in the rezoning. Mr. Cox said the plan being presented is the proffered plan.

Mr. Rooker said if the Board approves the rezoning, this plan will be the plan that is locked in unless the zoning is amended.

Mr. Slutzky asked if other Board members would be more inclined to see higher densities and more structured parking. In some ways that is an economic benefit to the builder, but it gives the densities. He asked if Mr. Cox does not feel market absorption in that area would make that feasible. Mr. Cox said this is a key location. They would like to attract the quality of tenants who can build two-story structures. Their commercial leasing team, and the commercial developers associated with the project, are working with a leading urban design firm and exploring all options since many retail projects are tenant driven. They want a project which can open in the spring of 2010. The catch in this is that the tenant base is not particularly interested in sliding you into their formula for their corporate store efforts until they are sure there is the zoning and the project is moving forward with the other conditions of approval.

Mr. Slutzky asked if there were a zoning for two-story structures, would his market be receptive to it. He asked if other Board members are interested in seeing increased density and increased structured parking. Is he the only one who thinks that would be a better use of the site? He likes the other aspects of the project a lot.

Mr. Dorrier said he does not think it is practical. Most department stores today sell on one story.

Mr. Slutzky said when they don't have that choice, they go to three stories. In Kansas City where urban sprawl is embraced, they have all the land necessary and do floating big boxes of one story, but an urban center where the land use requirements of the community are of a higher standard, those urban centers are thriving with multi-story commercial structures.

Mr. Dorrier said he would defer to Mr. Cox.

Mr. Cox said he would defer Mr. Slutzky's question to the retail expert, Mr. Chris Pine of the Bond Companies, who will lead in the development of this project.

Mr. Pine said in their company they build all of their projects sustainable. They actually have a sustainable fund with Spencer Abraham out of Washington, D.C. that is meant only for adaptive reuse. They do a lot of urban infill work. They are the only national real estate firm that has a zero carbon footprint. They did that just two weeks ago. They are fully committed to this type of development. He personally feels this type of project can be executed well as well a more urban density project. He said Mr. Slutzky is right in that it works in certain places. He was head of real estate for Whole Foods at one time and has done some creative deals. He has talked to everybody, especially Home Depot, about reducing their parking ratios to about 3:5 to 1,000 which is one of the greenest things that can be done. They are trying for a creative approach to this type of retail. Whatever the demographic is for the project, they try to execute it well and be sensitive to what is going on in the community. On the economic models for two-story and structured parking, it can lead astray. That is their belief and also that of their local partners of Corran and Hunter. They want to not just have a statement of LEED certification but their own principles are stronger.

Mr. Slutzky asked if the Board required the more urban density design does Mr. Pine believe they would be able to find the tenant mix to execute that kind of vision. Mr. Pine said that would not help and he does not think that kind of project could be carried through here.

Mr. Slutzky asked why that is so. Mr. Pine said there is no market here to support it. Even with his strongest urgings to the contrary, he has not been able to get any traction on it.

Mr. Slutzky asked if it is the retail absorption dynamic or the particular tenants Mr. Pine is talking with. Mr. Pine said the disbelief in the power of the market against contrary evidence. He knows other people's revenues here and the population and the revenues do not add up. He has been as persuasive as he can be explaining the strengths and the benefits of this site, not just because they are involved but because he understands and knows the power of the market. He has many people look at the site. He has seen it work in lesser markets than this one, like suburban Portland, Oregon. He is a believer in the principle, and if it can be done, they would be a group that could execute on it.

Mr. Slutzky said this will eventually come back to the Board. This work session is about "taking the temperature of the Board" and he, personally, has a strong reluctance to support the form and design of the project although he likes all of its ancillary elements. He would prefer to see the higher density, the increase in structured parking and he is curious if other Board members are similarly inclined because the Board needs to give a work session signal of some kind.

Mr. Wyant said he would be concerned about the footprint. This seems to be the maximum footprint the County wants. If the market changes and it went to two or more stories, they would still need to get ARB approval. If the density is increased, it would increase the parking requirements. One thing leads to another. When he is looking at these plans, he would keep the footprint.

Mr. Slutzky said the footprint should be kept, but there should be more density. Mr. Pine said if that kind of project can be done, it would not be more than 450,000 square feet. He said there is not the market to support more than that. If Mr. Slutzky is saying to put it at that scale and do what is possible within that framework that makes intuitive sense.

Mr. Rooker said to provide the flexibility. Mr. Pine said he understands where it is being capped because it "opens up a whole other can of worms" on the other side.

Mr. Slutzky said that is true if the project is limited to retail uses. If the retail barrier is transcended into office there are other supplemental markets that can be accessed to increase it. He is not insisting that it be a larger total square footage, but is suggesting it may be a way to reconfigure this that has less impervious surface. Even with the window dressing required by the County, it will still be a big box in a big sea of parking and he hates to see that happen in this location. He is not convinced that it has to happen.

Mr. Boyd said from the external pictures shown, it seems to him that it will hardly be visible at all.

Ms. Thomas asked if when she goes there to shop she will be embarrassed that she approved it. Before Biscuit Run was approved, she said she wanted to be proud of the development. That remains her criteria; will she be embarrassed by the development? If it looks like the plan before the Board today, she has a high embarrassment factor. Mr. Cox said it is not their intent to embarrass anyone, but the Board has to remember that it is part of this process. The applicant has spent about two years with the Board batting around this idea. The bottom line from the Comprehensive Plan was that if there were to be anymore big boxes in Albemarle County, this is place it should occur.

Mr. Slutzky said he did not vote on that amendment.

Ms. Thomas said she is not saying this should not be big boxes, or that it should not be retail. She just thinks it can be done better than the plan before the Board today.

Mr. Rooker read from the Land Use component of the Comprehensive Plan for this area. He said that it is seldom that a plan exactly matches the Comprehensive Plan, but he is not sure that what the Board is seeing matches in a general sense. He knows the Land Use Plan for the area includes references to the big box stores. There is nothing on the south side of the County such as a Home Depot, and today a lot of people drive from the southern part of the County to Route 29 North in order to get to Lowe's and Wal-Mart. From a community planning standpoint, it makes sense to have this area be a place that provides that shopping experience. The southern area is a growing residential area and Biscuit Run will add to that. It makes sense to have some big box opportunities in this area. It is probably the only area on the south side that is appropriate for it.

Mr. Dorrier said in campaigning in the south side this year he asked about this development, and almost unanimously the people are in favor of having more shopping outlets in the southern part of the County. He thinks this project fits into the Strategic Plan and the Comprehensive Plan. It is in the growth area, it is on the edge of the City, and it is infill. The project has possibilities for having attractive stores. He thinks the applicant can be held to the proffers he has offered at this time. If the buildings go to two stories he does not think they will get the customers necessary. He agrees with the bicycle and pedestrian trails. The road needs to be improved over the landfill. He thinks it will be an attractive development. He said Mr. Cox does good work.

Mr. Cox said this is the same plan they used during the Comprehensive Plan amendment and the zoning process during the last year and a half. He believes the ARB felt that based on the presentation last February the footprint of this plan was something they could work with. The ARB has agreed that the applicant will weigh in with them not only with the pieces that are part of the corridor review jurisdiction, but with the entire site plan.

Mr. Rooker said he is not prepared to say it cannot be done in a one-story design, but hopefully the ARB will focus on what is in the Land Use Plan in terms of the general description of what this site should be. If the plan comes back and he does not think it fits that description, he will not vote in favor because it would not be in keeping with the Comprehensive Plan.

Mr. Boyd said if any of the Board members want to know whether people in this town like big-box stores or not, go to Lowe's on Saturday morning and try to get checked out. For the Board to sit here and say the big-box stores are not what people want, is ludicrous.

Mr. Slutzky said no one has said that.

Mr. Boyd said Mr. Slutzky has been talking for the last half hour so he would like to finish what he was saying. He said big-box stores don't scare him at all. He knows they can be developed in a nice way because he has seen some designs of some of the newer models so they can fit in a site like this. He is not afraid of this development and will not sit here and think that developers in the community who have been here for a long time are going to put up some bad development. The Board has seen things they have done in the past. For the Board to try and design the shopping center for what it believes it

should look like, he does not have that kind of knowledge. There is a need for retail in the southern part of the County. Development is moving that way. It will help with the situation on Route 29 North if some of that traffic can be moved. It will help the County overall if the retail can be spread out a little.

Ms. Thomas said Mr. Boyd is knocking down a straw man because nobody has said they are opposed.

Mr. Boyd said the Board makes it impossible for somebody because it takes 10 years to get a project approved because of the individual idiosyncrasies of six members on the Board and please everybody.

Mr. Slutzky said they are just trying to show the applicant what it will take to get this project approved because there needs to be retail development in this area. He said in the Comprehensive Plan it also characterizes the nature of that big-box development. It does not say that just any big-box will be fine. It says to do it in the manner felt to be consistent with the vision of what the community should look like, and that is what Mr. Rooker, Ms. Thomas, and himself are asking.

Mr. Boyd said the applicant has said they will not do that.

Mr. Slutzky said he is trying to offer constructive input so that the applicant can come back with a proposal that will be embraced by this Board. He has made it clear that the idea of there being this use in this location makes total sense. He embraces the ideas of having these shopping opportunities on the southern end of the County. It is the form and design of the actual buildings and parking within this space that he is raising concern about.

Mr. Boyd said these people are professionals, and they are being asked to design something that will not work. The applicant just said it will not work; it cannot be designed the way Mr. Slutzky wants to do it and have it work in this market.

Mr. Rooker said everybody has their own mind and ultimately will vote. The Board has approved a lot of commercial development, so it is not like commercial development has not gone forward.

Ms. Thomas said before the Giant Grocery Store was built on Pantops she and Ms. Humphris met with the designer and she asked if they could do something about the parking lot to make it more pedestrian friendly. That designer, who was a national chain store designer, said "we always do that if we are asked." She learned from that experience that she should always ask. She thinks that is what is being done at this work session, doing the asking and saying the Board wants something as sustainable and well-designed and as lacking in a sea of asphalt as possible. She is delighted that there is someone on the applicant's team who knows exactly what is being talked about. He has tried it and has come back and said it cannot be done with two stories. She believes that but also thinks there can be improvements and she believes they will come back with something that is better than what is in front of the Board today.

Mr. Rooker said part of it is in the architectural design which the County does not have at this time. He thinks some of the issues raised in the Comprehensive Plan can be dealt with through architectural features. When this plan goes to the ARB he wants to be sure they will look at the Land Use Plan to make certain the general guidelines set forth in the Land Use Plan are met. Otherwise, why would the Board have adopted a Land Use Plan?

Mr. Boyd said he appreciates what Mr. Rooker is saying, but where did Mr. Rooker hear that they will not do that.

Mr. Rooker said he did not say they will not do it.

Mr. Boyd said the Board is not giving them any direction here.

Mr. Rooker said he thinks that what they bring back will have more specificity than the plan before the Board today. He wants to be sure that specificity deals with these issues.

Mr. Boyd said Mr. Cox has said the buildings cannot be designed in that way. He said this plan shows the worse case scenario. He has to design it without the tenant contracts and they can't get the tenant contracts unless the County gives them some indication that the rezoning will be approved.

Mr. Rooker said a lot of commercial property is developed from a design standpoint from the beginning and then they get tenants. They design what they are going to do and then go and get tenants. Mr. Cox said for the last year and a half, they have been working with the Planning Commission and staff on a footprint that would be deemed satisfactory. They went to the ARB and they affirmed that with the conditions they wanted to make sure the architecture was of the highest quality. They satisfied them with respect to site plans, sight distances and lines of sight from the major corridors. With respect to the square footages and the tolerances allowed within the Comprehensive Plan amendment for the three major tenant stores, the placement seen on the plan today is a result of many work sessions and iterations on the applicant's part to test whether it will work within the array of tenants they are anticipating being interested. He said their proffer has them going back to the ARB on the fine arts pieces of this plan. When they know who their tenants will be is when they go back to the ARB. At that time they can have design element drawings and add to that the complementary landscape and landscape which he thinks will be the key to success with respect to the things Ms. Thomas, Mr. Rooker and Mr. Slutzky are

most interested in. He cannot say what each one of the buildings will look like at this time. They cannot get to that point until they have land use approval.

Mr. Slutzky said he is not talking about the ARB and its aesthetic issues. He is talking about the issue of the form of design of the center. That is a different level. He just thinks there could be a benefit by having a different layout. He hopes the applicant will come back with something that is a bit different. Mr. Pine said he thinks they are close with their objectives and understanding of what the Board is trying to achieve. He said this project can be done to meet the standards which are outlined. He said it is hard when looking at a flat plan to understand the topography alone forgetting about the dimensions of the buildings and how it will feel at the pedestrian level. He does not think the applicant and the Board are that far apart.

Mr. Wyant said this is a conceptual plan which does show the footprint. But when looking at it they have to take care of parking, stormwater, etc. He thinks they may change the footprint based on what the market will allow. The County has enough checks and balances in its system. He said the Board is getting too far ahead in the details and should be focusing on the conceptual plan. Mr. Cox said that Home Depot and some of the other tenants with which they have been working are willing to talk about a lower parking ratio which factors directly into the amount of interior landscaping and civic space they can offer. With this plan they did not give anything other than what meets current County standards with respect to parking requirements. The Comprehensive Plan amendment directed them to three basic tenant structures and to put parameters on the maximum sizes of each and from that they worked through many alternatives. This was the most efficient siting of those, one which enables them to do the parking in the ratios typically demanded. If they can go from a five space per thousand ratio for the retail parking demands down to three or three and one-half, the interior plan will certainly improve.

Mr. Slutzky asked if Mr. Cox was saying the limitation on square footage is a function of the Comprehensive Plan or is it a function of retail absorption and marketplace, or both. Mr. Pine said it is marketplace first, followed by the Comprehensive Plan. He said there are other things they would not mind doing such as having a farmer's market, and some other civic overlays. He said there has to be parking, but it could be activated in a lot of different way. There are things they could do with lighting and other civic activities. He said the reality is that he drove here today in his car and parked it in the County's parking lot; that is just a fact.

Mr. Graham said staff has a question about what is being asked. He is getting the perception that some of these changes can be done after the fact with the zoning, but that cannot happen. This is a planned development and the applicant will have to develop in substantial accord with the approved Application Plan. There are only minor variations from the plan which staff can deal with.

Mr. Slutzky said he does not want to leave it to be determined after the fact, or by the ARB. Mr. Graham said he wants that to be clear. Mr. Davis said if the Board approves it as a one-story footprint, they probably cannot do a two-story building without a rezoning.

Mr. Rooker asked if they could be provided with the flexibility to do a two-story building. Mr. Davis said that would have to be ironed out at the time of rezoning. Mr. Graham said that is a different plan than the one in front of the Board today.

Mr. Wyant said a two-story building would probably need more parking than a one-story building, so that make the parking structure larger. Mr. Graham said that kind of flexibility can be built into the Application Plan. He is just saying it cannot happen after the fact.

Mr. Boyd said a Comprehensive Plan amendment was adopted for this property and it was very specific about the type and scale of things the Board wanted to do. This plan has gone for review by the ARB and has gone through the Planning Commission. The Commission had input and made suggestions and got proffer, etc. It looks like the Board is trying to start all over again.

Mr. Rooker said if the Board can approve a plan which provides them with the flexibility so now or in the future if one or more of these buildings become appropriate for a two-story building, why not build it into the plan so it is enabled.

Mr. Boyd said he agrees.

Mr. Rooker said the idea of reduced parking was mentioned and he guesses the question is whether than can be done now. Mr. Graham said some reduction of parking can be done after the fact.

Mr. Rooker said an integral part of the Land Use Plan was that this site was going to have a Towncenter type look to it. He does not see that on this plan now. There are many good things about the plan, especially the fact that they have sidewalks running through the parking lot.

Mr. Boyd said he does not have a problem with that kind of discussion.

Mr. Rooker said his concern is that for whatever reason this development does not take on the look of a Towncenter. The way they are doing the exterior treatment looks nice, the entry bridge, the use of the preservation areas, etc., but the way it is designed, it will be an in and out shopping center. There is no reason why someone would come and stay within this area if they are not in a store. In that regard, it appears that the idea that this will be somewhat of a Towncenter area is being ignored. To him, that is the central part of the Land Use Plan.

Mr. Boyd asked if the Board had totally confused the applicant. Mr. Cox said he hopes Mr. Cilimberg has the divining power to assimilate and transcribe all of this into something specific for them to focus on. He is afraid he will leave this meeting scratching his head.

Mr. Cilimberg said he has not heard anyone say anything differently about the outstanding issues that need to be addressed (list shown on a screen). More work is needed on the construction of the road/parkway, but it will depend on what is done with the landfill. He thinks the idea is to be sure that road is built through as the occupancy takes place. On the other hand, it should not be unduly delayed by taking care of the landfill matters. He said there is a need to make the first and third bullets work together. He said the Board had not talked about the licensed arborist. That was a point made by the Planning Commission. It appears that the Board expects the ARB concerns to be addressed; those concerns were outlined in the ARB action memo which was part of the Board's packet today. They are about what is seen from I-64 and not all of the internal stuff. The applicant has actually made a commitment to the ARB to look at the internal development. He thinks the Board wants the last bullet addressed. If the Board wants to say anything about the second bullet, staff would like those comments. Staff assumes the Board agrees to all of the other things that the applicant agreed to address issues from the Commission. It seems this plan is the one the Board had a mixed reaction to. Staff will have to work with a variety of opinions and see what the applicant comes up with as to the final Application Plan. With Application Plans, he often "gets backed into a corner" as the person who has to authorize variations when the plans are more specific. He thinks the County has tried to get too specific. The Board worked away from that with the Rivanna Village rezoning where the pictures were used as illustrative, but they were not the actual Application Plan. The Plan spoke more as to what was expected, where the streets should be and what should be along the streets, the maximum densities, square footages, and heights should be. He heard some Board members say regarding this plan is that it is fine, but others said they would like the footprint to be less of an impact on the land. He assumes that if the applicant is able to determine a way for the footprint to have less of an impact on the land, square footages are fine, the Board does not mind the buildings being two stories if possible, and the Board does not mind having more structured parking, and no one would disagree if they brought back a plan with less of a footprint. Is that a fair statement?

Mr. Boyd said he thought the Board just heard that the applicant had tried the multi-story concept, but they could not get anybody to take it. Mr. Cilimberg said that is why he is saying that could happen, it is not dictated, but is allowed within the way this is structured, and then if they are only able to relieve the footprint by reducing parking, they have a feature that makes it feel like a Towncenter, the Board is okay with that.

Mr. Rooker said there is another issue raised along the way that got dropped out; that was whether there would be any monetary contribution to dealing with the I-64/Fifth Street interchange issue. He does not know how other feel about it, but this is a project that will generate additional traffic that will hit that interchange which is already close to capacity. VDOT has already recognized there will be improvements required for that interchange. He feels there should be some commitment to a monetary contribution to be set aside for that needed transportation improvement.

Mr. Dorrier said the Board should find out how much that will cost and then make that a requirement if it is reasonable. Mr. Cilimberg said Biscuit Run has already proffered half of that.

Mr. Wyant said the synchronization of those lights will have to be coordinated with Biscuit Run. Mr. Cilimberg said he thinks there is a TIP project coming up for that interchange.

Mr. Boyd said he is not opposed to what Mr. Rooker said about a proffer to help with that, but he thinks the pedestrian connection is of equal importance. He would like to see a pedestrian and bicycle connection to Biscuit Run. Mr. Cilimberg said the other things identified today were the pedestrian connection to Willoughby and south toward I-64 for it to connect with the Biscuit Run proffer. He said a contribution of 20 cents per square foot to transit operations is also something he thinks the Board would like to see.

Mr. Wyant said he does not know if it would work, but the old Fifth Street bridge is still standing. Maybe it could be used for the bicycle path.

Ms. Thomas said when she talked about the sea of asphalt she had two things in mind. If it looks like a Towncenter, that will take care of one of her concerns. The other is the stormwater aspects of a lot of impervious surface. She thinks there are creative ways to deal with that. There have been some information conversations with the applicant, and she would like to see if it is possible to deal with stormwater in a more creative way. Mr. Graham said with the proffer they have of "20 percent above and beyond" with this form of development there will need to be some serious thinking out of the box as to stormwater solutions.

Ms. Thomas asked if that is only during construction. Mr. Graham said "no." It is post-construction for stormwater management as well. It will not be possible to just put the typical measures in place with this form of development and get it close to meeting the requirements. Mr. Pine said it may not even be possible to achieve what has been asked, but they will exert every commercially-reasonable effort to do that. The road that goes from Avon and Fifth Street and costs \$9.0 million, they view in the framework of a proffer. The right-of-way entrance is another \$2.5 million and the bridges associated with that, so they will be spending \$11.5 million already.

Mr. Slutzky said he has managed over 5.0 million square feet of commercial shopping centers before and Mr. Rice is right about that, but they also write out the check for what the common area is because they want to be there.

Mr. Graham said the only other issue not mentioned was making sure the trails were connected to the stores without requiring people to access through parking areas.

Mr. Rooker said part of that is making certain they at least connect to a sidewalk system which is part of the center itself.

Mr. Boyd said he thought they showed that concept. Mr. Cilimberg said a Towncenter concept of development will do that.

Mr. Boyd asked Mr. Cox if he had anything else to mention. Mr. Cox said he thinks VDOT in their review and approval of this application did not bring up the I-64 issues that someone just mentioned.

Mr. Rooker said it has been brought up for a long time in terms of future improvements needed as part of the transportation system. He asked the traffic generation numbers from the site. Mr. Cox said they spent a year and a half working on this and that question has not come up. He thinks VDOT is happy with the fact that they and the County are being taken off of the hook for the \$30.0+ million Southern Parkway.

Mr. Rooker said he has never heard that estimate for the Southern Parkway and he has been involved with projects for a long time. Second, he does not think it would be taken out of the transportation plan just because this is being built. This will help, but he thinks ways are still needed to move people on the other side of I-64. He thinks this is a good road and he would not vote in favor of this project without it. It is helpful to the project because it will allow people to enter the project from both sides. It is utilitarian to the project.

Mr. Boyd asked if Mr. Rooker was implying that VDOT will come to the County about that interchange on I-64.

Mr. Rooker said the need to improve that interchange has been a project mentioned by VDOT for a long time, and the traffic stacking occurring there now is problematic during peaks time of the day. One way or another it will have to be addressed. Personally he would like to see the applicant make some monetary contribution to transportation that could be directed toward improvements on that interchange.

Mr. Boyd said the City has been working with VDOT for the last year and a half and they have not brought up the fact that their project will exacerbate that problem. He does not want to be in a situation where the Board is looking to solve problems for VDOT.

Mr. Rooker said they are Albemarle community projects, and the County is looking to VDOT to provide the monetary means necessary to accomplish them. He said Mr. Boyd has said for a long time that the County needs developer contributions. Transportation problems will not be solved entirely by money from the state because it is not there; Albemarle needs help from developers. The question is whether the Board will not acknowledge that there is a project that will probably generate 10-15,000 vtpd, a substantial number of which will impact that interchange which is already in need of a project. He said Mr. Boyd has said many times that the County needs to look to developers to help solve these problems.

Mr. Boyd said that is true to help build roads but not to solve interstate interchange problems.

Mr. Rooker said part of that is the turning situation on top of the interchange.

Mr. Boyd said they did not ask for it. The applicant has been working with VDOT.

Mr. Rooker said they raised it with respect to Biscuit Run.

Mr. Cox said VDOT read his traffic study and recognized that some of the eastbound I-64 stacking problem will be solved considerably because today I-64 is being used as a local collector road. Much of that stacking movement will be diverted through this proposed parkway in their project. A lot of that traffic is local; it is not regional.

Mr. Rooker said it would be helpful to him if staff got a report from VDOT on how that interchange is going to be affected by this project, if it is approved, and if the connector road will take more traffic off of that intersection than would be generated by the site.

Mr. Slutzky said a letter from VDOT support that would be good to have.

Mr. Pine said even if the \$12.0 million for that through road is a 50 percent benefit to the developer and 50 percent to the community it is still \$6.0 million into the game. He said that is just an early estimate. He said they are vested in the proffer structure for solving transportation problems in that area.

Mr. Graham said before finishing this conversation, he wants to be sure that scheduling of the public hearing has been discussed. If the advertising requirements are considered, everything should be finished in eight working days from now. Looking at the list, there is no way this petition can be ready for a hearing in December. He will suggest that staff work with the applicant to get the plan and the proffers to address what has been discussed. When both sides agree it is as good as it can be, then a date will be picked to get this on the advertising schedule and still follow the Board's policy as to when the proffers and plan will be available.

Mr. Boyd thanked Mr. Cox and Mr. Pine for being present.

Agenda Item No. 19. From the Board: Committee Reports.

Mr. Slutzky commented that the deferral from this morning raised the issue of allowing parcels to be subdivided and built on, when they are on a private road. On the Planning Commission's agenda for next week they have an issue in Flordon Subdivision where the property owner owns five acres along Broomley Road and want to use a development right. He thought it was the Board's general intent to not do anything that would encourage development activity in the rural areas. He asked if Board members are interested in giving a clear signal to the Planning Commission that as a matter of policy, there is a strong disinclination to accommodate subdivision and development in the rural areas when it is not necessary to do so. Although the application is not in front of the Board, he would like to encourage the Planning Commission to deny it.

Mr. Boyd responded that he thought that building a state-standard road can cause more destruction.

Mr. Rooker and Mr. Slutzky said that they cannot build a state-standard road there. Mr. Rooker said the right-of-way is too narrow.

Mr. Davis said this is a much more complicated issue. There is a large policy issue the Board will have to deal with if it says that it does not want any more private roads in the rural area, because that is a major change from where it is today and has been for a long time. In this instance, in Flordon, there is already an existing private road; this is a resubdivision issue which may or may not require additional approval for a private road. He said that the Commission may just be making a determination as to whether the Subdivision Ordinance requirements for a lot have been satisfied. That is a separate issue from approving private roads which the Planning Commission is struggling with. Mr. Davis said there has been a long practice of approving private roads in the rural areas largely because of the issue raised by Mr. Boyd. There has been a comparison of degradation to the environment caused by private road versus that caused by a public road, and there are a lot of issues involved with how that comparison has been made and may need to be re-examined. He again emphasized that this is a more complex issue than what is being presented.

Mr. Slutzky said that he would like to signal to the Commission that when their discretion allows them to they should not be doing things that occasion the expression of a development right in the rural area. As a general rule, if they (the Commission) have an opportunity to not have a development right expressed, they should exercise that.

Mr. Rooker said he has shared that view with his Planning Commission member, and he thinks that each Board member can speak with his or her Commission member. The legal issue here is the existing private road, and whether allowing a lot on that road is a discretionary decision, and he has asked staff to look at that specifically. He said that that lot also exemplifies the issue of creating a lot by pipe-stem easement. Currently in the rural area, if a property owner has a private road and a lot behind that road, the County allows the first lot to run an easement through it to service the additional land thus creating additional lots. Mr. Rooker said that a development should not be allowed if it cannot meet the road frontage standards.

Mr. Graham commented that the subject is fairly complex, and staff could prepare a presentation for the Board on the matter, if there is interest.

Mr. Slutzky and Mr. Rooker said they would like a presentation.

Mr. Slutzky said that the deliberation over the church brought to mind that he did not have time to really investigate the site, and perhaps a longer period of time, more than five days, for review should be allowed. He is concerned that he is having a hard time doing his job well. Secondly, he feels overextended and need constantly to get staff support for some of the deliberations, but he does not want to burden staff except when he has to. He noted that Fairfax pays their Supervisors \$75,000 and provides \$400,000 for staff support. Mr. Slutzky said that having a full-time employee dedicated to supervisors might make the Board more effective in its deliberations.

Mr. Dorrier added that it would be helpful to have a Supervisors workroom in the County Building.

Mr. Boyd noted that we get a high level liaison person, that person would still have to go to County staff for information.

Mr. Slutzky said the person could also talk to applicants, constituents, and stakeholder groups gathering input. He is not complaining about the amount of time the job takes, but he wants to do a better job. He is struggling with the demands of these increasingly complex issues.

Mr. Boyd suggested thinking about it.

Mr. Rooker noted that every supervisor in Fairfax has about six staff people, but from a budget standpoint it may be difficult for Albemarle to add staff as they have frozen what is already been proposed. He does not think an additional staff person is realistic from a budget standpoint.

Ms. Thomas suggested that as items become ready they just be sent earlier, such as the Poverty Report.

Mr. Tucker noted that the reports do come trickling in at different times. He will discuss the situation with the Clerk.

Mr. Slutzky said that what is available electronically could be sent that way, and hard copy items could continue to be mailed.

Mr. Rooker added that sometimes deferral is the only way to have more time to gather information.

Mr. Tucker said that the Board can also call staff if they have questions.

Mr. Cilimberg commented that he and Mr. Graham would continue to talk about how to improve the turnaround times, as there is only a month between Planning Commission and Board consideration. He added that they are looking at building in an automatic work session for the Board on items the Commission had work sessions rather than going directly to public hearing.

Mr. Tucker pointed out that the bigger items normally come to the Board in a work session format first.

Mr. Cilimberg said that they are also going to suggest that staff not schedule public hearings until they know they have the information in hand to bring to the Board. He noted that the date that is given to applicants starts driving everything that happens and then staff gets into this turmoil where it is hard to get things reviewed and turned around to meet the date that is originally set.

Mr. Tucker emphasized that there is a fairly extensive chain of review before an agenda item goes to the Board for review.

Ms. Thomas reported that the Rivanna River Basin Commission is moving along, with bylaws now created, and a technical advisory committee formed. She noted that altered hydrology is a topic of focus, as it is considered to be a primary cause of silt, erosion and water pollution.

Ms. Thomas said that the Thomas Jefferson Planning District Commission (TJPDC) is having their strategic planning retreat at the end of the month, so suggestions are welcomed now.

Ms. Thomas said that she is the Board's liaison on the Historic Preservation Committee, which will be looking at downtown Crozet and the proposed library area. They want to make sure that historic preservation concerns are factored in, but do not hold the project up as it moves forward.

Ms. Thomas said that she and Mr. Dorrier serve on the Lewis & Clark Center Board which is working on an enhancement grant project with VDOT – to include a pedestrian ferry across the Rivanna River to get between the two parks.

Ms. Thomas said that the League of Women Voters Natural Resources Committee will meet to discuss the rising cost of water bills. The next meeting will be dealing with the crumbling infrastructure issues that affect the City and County. Mr. Tom Frederick will be the main speaker.

Ms. Thomas said that she also serves on the Local Government Advisory Commission to the Chesapeake Bay Program. They are the only body that tells EPA and the State Governors what it means to be a local government and why it is they are not fulfilling their dreams of everything that should be done to clean up the Chesapeake Bay. Their proposal was to appoint a new EPA Chesapeake Bay Director, who says he wants to increase local government involvement, but his first budget proposal wipes the committee out altogether.

Ms. Thomas noted that she serves on the AIDS Services Group Board, and they have a multi-year grant to deal with drug users in the community.

Mr. Wyant said demolition is moving forward on the Harris property in Crozet.

Mr. Dorrier noted that the VACO Annual meeting starts this weekend. Ms. Thomas said she serves on the Planning Steering Committee. Mr. Rooker serves on the Transportation Steering Committee.

Mr. Tucker asked for clarification on the Public Education Fund matter presented earlier by Charles Martin. She asked if the Board intends to have two or one table.

Mr. Rooker said if there are more than eight people who want to attend, he is willing to personally contribute towards a second table.

Mr. Davis said that the County can donate money to this group, so that would not be a problem, and the money is essentially going to the school system. He added that giving public money to a private foundation that was designed to generate private funding is kind of twisted.

Mr. Rooker noted that this is different from other nonprofits, as the County already supports education, adding that it looks kind of odd to have lots of private support but not the locality.

Mr. Slutzky said he is comfortable funding one table. Other Board members agreed.

Mr. Tucker stated that the Rivanna Solid Waste Authority will have two community meetings on their strategic plan – Thursday, November 15th at 6:00 p.m. in City Council Chambers and Tuesday, December 4th at 6:00 p.m. in the Chambers. He will find out the format of the meetings and let Board members know.

Mr. Tucker mentioned that Board members have received a survey from the Thomas Jefferson Partnership for Economic Development (TJPED) and encouraged Board members to provide their input.

Mr. Boyd said that he is concerned that their meetings are running so long, and the only solution would be adding time to the discussion of agenda items or limiting debate.

Mr. Tucker said staff has scheduled a discussion on governance and meeting efficiency at the Board's December 12th. The meeting will be facilitated by Mike Chandler.

Mr. Slutzky commented that he would rather add more time than limit discussion. He also thinks it makes sense to schedule a third monthly meeting.

Mr. Tucker noted that the County, especially the Clerk, gets frequent calls on what time items would be heard, and staff has to estimate that which is very difficult.

Mr. Boyd suggested adding this to the discussion with Mike Chandler.

Ms. Thomas emphasized using electronics, so that people would be aware of where the Board is in their deliberations.

Agenda Item No. 20. Adjourn to November 14, 2007, 3:30 p.m.

At 6:27 p.m., with no further business to come before the Board, Ms. Thomas, offered **motion** to adjourn to November 14, 2007, 3:30 p.m. The motion was **seconded** by Mr. Dorrier. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Chairman

Approved by the Board of County Supervisors

Date: 05/07/2008

Initials: EWJ
