

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 5, 2007, at 9:00 a.m., in the Lane Auditorium of the County Office Building on McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Ken C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Mr. David Slutzky (arrived at 9:12 a.m.), Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Mr. Larry W. Davis, Clerk, Ella W. Jordan, Deputy Clerk, Meagan Hoy, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 9:08 a.m., by the Chairman, Mr. Boyd.

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

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

Mr. Rooker provided Board members with a copy of a resolution entitled "U.S. Cool Counties Climate Stabilization Declaration" which he will be asking Board members to take action on later in the meeting.

Ms. Thomas said it is the time of the year to be thinking about what the Board has accomplished this year. She asked that staff think about the adopted Comprehensive Plan and the most effective things that can be done in the coming year to carry out that plan.

Mr. Boyd said he had received a letter from Governor Kaine about planning for the potential of disastrous water situations through 2008. He is asking that counties think about the impact of droughts. Albemarle is already doing all of the things mentioned in the letter.

Ms. Thomas said the magazine "Governing" has an article about the importance of thinking ahead 50 years in the event climate change really takes effect.

Mr. Boyd mentioned a request from the MPO for a joint meeting with Charlottesville City Council regarding a Regional Transit Authority. He thinks they would like to have two meetings on this issue in January – one for a presentation to the Board and a second to meet with City Council. (**Note:** Mr. Slutzky arrived at 9:12 a.m.) Following a discussion, it was the consensus of the Board to allow a presentation on January 9 and then schedule a separate joint meeting with City Council.

Ms. Thomas mentioned that Governor Kaine and his cabinet members will be visiting Charlottesville, but none of the meetings are officially with this Board. Mr. Boyd said he had been asked to introduce the Governor at a WorkForce meeting and given a minute to make comments on behalf of the County. Ms. Thomas said she will be attending the opening of the bridge on Route 15 in Fluvanna at that time. Following that there is a reception at Montpelier and she encouraged the Board members to attend. All of the Governor's cabinet members will be in attendance so the Board members would have a chance to talk informally about issues that are important to Albemarle.

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

Mr. John Martin, a resident of Free Union, mentioned Item 6.2 (Local Government Support Agreement among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority) on the consent agenda. He said it is an important agreement and most of the public is unaware of it. Since it involves payment of additional money from general revenues into future years, it is important. Under the circumstances, he thinks it is probably the best agreement that could have been negotiated with the City. He asked that the Board defer this item for one week, and put it on the regular agenda as an item for discussion. Also, he said that last night the Rivanna Solid Waste Authority met regarding its strategic plan. He said the RSWA cannot reinvent itself; only the Council and Board can do that. There are fundamental things that need to be decided before the level of services can be discussed. From a citizens' perspective he does not see an ongoing process set up to start the discussion with the City Council concerning the future of the RSWA. That process would be useful.

Mr. Jeff Werner, Piedmont Environmental Council, urged the Board to think about the County's viable agricultural economy as it discusses the Economic Development Policy (Agenda Item No. 11). He handed to the Board some information about Loudoun County which he had taken from their website. He also had a page of information about Fauquier County's Office of Agricultural Development. He said Albemarle has a Rural Area liaison person, but the position has not been funded. He asked if the County's agricultural economy is as important as all other things. He asked that this be included in today's

discussion and he encouraged the Board to fund the position, and that it be proactive in looking at some of the jobs which need to be worked into the plan.

Mr. Neil Williamson of the Free Enterprise Forum asked the Board to look at the County's agricultural opportunities and regulatory environment as it reviews the Economic Development Policy. He encouraged the Board to look at proactive solutions as well as looking at the statistics included in the report, and the regulatory environment.

Non Agenda Item. Mr. Rooker said before the Board proceeded further with the agenda, he would like to ask that the Board adopt a resolution entitled "U.S. Cool Counties Climate Stabilization Declaration." He said all of the Board members were furnished a copy of the resolution in advance along with a copy of a booklet listing the kinds of programs the County might look at to reduce carbon emissions. He said the resolution has already been adopted by a number of counties. He then offered **motion** to adopt the resolution. The motion was **seconded** by Mr. Slutzky.

Ms. Thomas asked if staff had any comments since this was brought to them previously and they had been working on something. Mr. Tucker said Ms. Sarah Temple, Environmental Manager, will be meeting with the Board in February to go over all of the various initiatives before the Board.

Mr. Rooker said he does not think these things are mutually exclusive. This one is only a small component of what might be called "a green effort" by the County. He said there are no specific time limits on the things in this resolution. It appears to be a worthy undertaking to adopt this as a strategy goal for the County regarding carbon emissions over a long period of time.

Mr. Tom Foley, Assistant County Executive, said Ms. Temple was to talk about the different programs which all set different goals and targets. The County is currently involved in the Energy Star Program which sets a target for reduction in energy use by 30 percent within five years. There is nothing in this resolution which causes a problem for the County in moving forward with these initiatives; it may establish a different target. If that is what the Board wants to do, staff will adjust the programs to match.

Mr. Rooker said there is only one target involved and that is the one for 2050 of a reduction by 80 percent in carbon emissions. The County is looking at a number of things now that are geared toward other things. This is one small step the County can take to put it on a path for environmental responsibility. It is a long-term goal but the County would begin taking steps today toward that goal.

Mr. Boyd said the Board was waiting for a report from staff to address this question. He said Mr. Foley had indicated this will not be a mandate so the Board did not need change directions nor do anything different. Mr. Foley said he did not know the Board was contemplating action today on this resolution. He said Ms. Temple is familiar with the Cool Counties program but since he is not sure of all of the things this resolution would establish an in-depth study has not been done yet.

Mr. Tucker said with the 2050 timetable he does not think there is anything here that will be difficult for the County to attain.

Mr. Slutzky said there are about six bills pending before the U.S. Senate at this time that require reduction of 80 percent of carbon emissions by 2050. This is mainstream, minimal Federal action; the County will just be looking at whether it will acknowledge its complicity with the objectives of that initiative. There is a "café standard" discussion going on in Washington now for a minimum of 35 mpg for fuel, but they are talking about 55 mpg as a realistic near-term goal. He said this resolution allows the County to say it agrees this is important stuff. He thinks the County needs to join in dealing with a serious economic crisis which is well understood and recognized and one which everybody else is trying to tackle.

Mr. Dorrier said he agrees but thinks the Board needs to know what this will cost. A ten percent reduction every five years will cost something.

Mr. Slutzky said it will also cost something if this is not done.

Mr. Boyd said he was trying to determine if this is just "a feel good" type of thing or if it really gives staff directions, and if so, will they be coming back with a request for more money and more people. Is the Board sending that message to staff?

Mr. Slutzky said he would like to send that message, but does not think this resolution goes that far. It just acknowledges that this is an important issue and the Board agrees with trying to get some reduction in green house gas emissions. There is nothing obligatory in this resolution; it is just a statement of purpose. He cannot image a good argument for not supporting it. He does not understand the reluctance.

Mr. Boyd said he is not reluctant; he has questions about it.

Mr. Rooker said the first goal is to stop increasing emissions by 2010. That seems to be a modest goal. Thereafter, there should be a ten percent reduction every five years through 2050. It does not impose that obligation entirely on the County. One way to do that is to urge Congress to adopt emission controls with respect to vehicles. The County's increased emphasis on transit and supporting the Federal Government's efforts to reduce car emissions will go a long way toward achieving that goal.

Mr. Dorrier said he supports that. The Board is being responsible in coming out for this proposal, but he thinks it will be irresponsible if it does not ask what it will cost.

Mr. Slutzky said there are going to be discussions in Washington about how to impose on Albemarle and everybody else solutions to the global warming problem. Thirty percent of green house gas emissions are coming out of buildings and buildings are within the purview of local government to regulate, not the Federal government. Land use decisions and building design decisions that have a profound role in the nation's attack on the climate change problems are made at the local government level. This resolution suggests that the Board work collaboratively with state and Federal officials.

Mr. Wyant said he is supportive of protecting the environment. A lot of regulations come down from a higher level, and more than just getting a staff report showing what options are available, what impact will these have on the local government. Just having studies does not do much good. What impact would this have on Albemarle; it could be economics, but he thinks the Board needs someone to give it a "heads up" so Albemarle will be ready.

Mr. Dorrier said this was not expected to be on the agenda today. He thinks the Board could wait one meeting to allow Mr. Foley time to look at it. Mr. Tucker said there has been a new environmental issue almost every month. Ms. Temple has been trying to put them all together and then bring that information to the Board rather than coming each month. If the Board adopts this resolution today, she will put together a work program and its costs. He does not think it will be ready by February, but if that is what the Board wants, that is what staff will work on.

Mr. Rooker said the cost this imposes at this time is extremely minimal. The only action item in the resolution is to create an inventory of government operation green house gas emissions. He cannot imagine that any program to reduce the environmental impact will do less than that.

Mr. Boyd asked how many counties in Virginia have adopted this resolution.

Mr. Rooker said there was a book attached to this resolution and it showed the counties which had adopted the resolution at that time.

Mr. Slutzky said Fairfax County was a leader in developing the Cool Counties Community. It has a lot of legitimacy in Virginia.

Mr. Boyd said he attended a session at the VACo meeting concerning this resolution, but he felt the communities who embraced it and had started "to run with it" put an extreme amount of resources into it just to develop a plan.

Mr. Slutzky and Mr. Rooker both said this resolution does not obligate the County to do that.

Mr. Boyd asked Mr. Tucker if staff would be comfortable with the Board adopting this resolution. Mr. Tucker said this is no different than the Board adopting the Comprehensive Plan as a guide. Staff will bring back items identifying the cost, etc. This is a long-range plan, and is being worked on by Ms. Temple along with all of the other initiatives. Staff just had not gotten that information to the Board yet.

Ms. Thomas said she would compare this to the Chesapeake Bay Program which she is increasingly interested in, but the State and Federal programs, and the EPA and the Governors think of it as a State and Federal program. She believes that if the Board does not adopt the County's version of Cool Counties they will think the Board "has not stepped up to the bat." Albemarle is regarded as a leader in its "greenness" and it would be a shame not to indicate that.

Mr. Dorrier said he thinks he can support the resolution.

Mr. Boyd asked the Clerk to call the roll on the motion made earlier.

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

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

NAYS: None.

(Note: The resolution, as adopted, is set out in full below.)

U. S. Cool Counties Climate Stabilization Declaration

WHEREAS, there is a consensus among the world's leading scientists that global warming caused by human emission of greenhouse gases is among the most significant problems facing the world today; and

WHEREAS, documented impacts of global warming include but are not limited to increased occurrences of extreme weather events (i.e., droughts and floods), adverse impacts on plants and wildlife habitats, threats to global food and water supplies – all of which have an economic impact on communities and their local governments; and

WHEREAS, leading scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current levels by the year 2050; and

- WHEREAS, currently the United States is responsible for producing approximately 25 percent of the world's global warming pollutants; and
- WHEREAS, many leading U.S. companies that have adopted greenhouse gas reduction programs to demonstrate corporate and operational responsibility have also publicly expressed preference for the federal government to adopt precise and mandatory emissions targets and timetables as a means by which to provide a uniform and predictable regulatory environment to encourage and enable necessary and long-term business investments; and
- WHEREAS, state, regional and local governments throughout the U.S. are adopting emissions reduction targets and programs and that this effort is bipartisan, coming from Republican and Democratic leadership; and
- WHEREAS, the U.S. Conference of Mayors has endorsed the U.S. Mayors Climate Protection Agreement, which commits cities to reduction of global warming emissions to 7 percent below 1990 levels by 2012, and calls for a federal limit on emissions; and
- WHEREAS, the State of California has mandated statewide reduction of greenhouse gas emissions to 80 percent below 1990 levels by 2050; and
- WHEREAS, more than 100 county leaders signed a letter written by Dane County, Wisconsin, that was sent to the President in March 2006 calling for increased energy investment and development of jobs focused on clean energy technologies; and
- WHEREAS, counties have a unique role to play in reducing greenhouse gas emissions and preparing for the impacts of climate change through their regional jurisdiction over policy areas such as air quality, land use planning, transportation, zoning, forest preservation, water conservation, and wastewater and solid waste management; and
- WHEREAS, the economic arguments for implementing climate solutions are compelling, from the near-term economic gains of energy efficiency to the long-term climate stabilization that can prevent irreparable harm from catastrophic climate change impacts; and
- WHEREAS, many counties throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reducing energy bills, preserving green space, implementing better land use policies, improving air quality, promoting waste-to-energy programs, expanding transportation and work choices to reduce traffic congestion, and fostering more economic development and job creation through energy conservation and new technologies;

NOW, THEREFORE WE DECLARE, that:

We, as Cool Counties, will take immediate steps to help the federal, state, and our governments within our county to achieve the 2050 climate stabilization goal by making the following commitments:

- i. Create an inventory of our county government (operational) greenhouse gas ("GHG") emissions and implement policies, programs and operations to achieve significant, measurable and sustainable reduction of those operational GHG emissions to help contribute to the regional reduction targets as identified in paragraph ii; and
- ii. Work closely with local, state, and federal governments and other leaders to reduce county geographical GHG emissions to 80 percent below current levels by 2050, by developing a GHG emissions inventory and regional plan that establishes short-, mid-, and long-term GHG reduction targets, with recommended goals to stop increasing emissions by 2010, and to achieve a 10 percent reduction every five years thereafter through to 2050; and
- iii. Urge Congress and the Administration to enact a multi-sector national program of requirements, market-based limits, and incentives for reducing GHG emissions to 80 percent below current levels by 2050. Urge Congress and the Administration to strengthen standards by enacting legislation such as a Corporate Average Fuel Economy ("CAFE") standard that achieves at least 35 miles per gallon (mpg) within 10 years for cars and light trucks.

We will take immediate steps to identify regional climate change impacts; and
We will draft and implement a county plan to prepare for and build resilience to those impacts.

Agenda Item No. 6. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve Consent Agenda Items 6.1 (as noted) through 6.3 and to accept the remaining items for information. Roll was called and the motion carried by the following recorded vote:

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

Item 6.1. Approval of Minutes: March 12(A), March 14(A), March 19(A), June 6, June 13 and July 11, 2007.

Mr. Slutzky had read the minutes of June 13, 2007, and found them to be in order as presented.

By the recorded vote set out above, the minutes which had been read were approved. All other minutes will be placed on a future agenda for approval.

Item 6.2. Local Government Support Agreement among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority.

It was noted in the Executive Summary that the Rivanna Solid Waste Authority ("RSWA") is the authority responsible for handling the solid waste generated in the City of Charlottesville and the County of Albemarle. Until recent years, the RSWA operated without the need for direct financial contributions from either the City or the County. Their primary source of revenue was tipping fees charged at the Ivy Landfill. However, almost all of the tipping fees for municipal solid waste ceased in 1998 when the last solid waste cell was closed and almost all of the tipping fees for construction and demolition debris ceased in 2001 when the last construction and demolition debris cell was closed.

In 1998, to deal with the closing of the last municipal solid waste cell at the Ivy Landfill, the RSWA entered into an agreement with Allied Waste Industries, Inc. (formerly BFI) providing that municipal waste from the City and the County would be accepted at the Zion Crossroads solid waste transfer station. In addition to getting an assured tipping fee from Allied Waste, the Agreement created a "service contribution fee" that would be required to be paid by haulers delivering trash to Zion's Crossroads from the City or the County. A requirement of the Agreement was that trash being hauled by Allied would be exempt from the service contribution fee. Also, to assure that the City residential customers were contributing to the operating costs of the RSWA, the City was required to pay the service contribution fee on its residential trash taken to Zion's Crossroads. Since 1991, the primary source of revenue to pay for administrative and operating costs of the RSWA has been the "service contribution fee". This source of revenue is not sufficient to cover all of the RSWA's costs and it is likely that a direct contribution from the County and the City will be necessary to meet ongoing administrative and operating costs.

In 2001, the City began withholding its payment of the service contribution fee, notwithstanding the 1998 Agreement with Allied Waste, taking the position that it would withhold such payments until an agreement was reached with the County on how to fund the deficits of the RSWA. In 2005 an agreement was reached on how to fund the environmental remediation costs at the Ivy Landfill with those costs being shared between the County, the City, and the University of Virginia. Negotiations on how to fund the administrative and operating costs of the RSWA have been ongoing. Since 2001, the City has withheld slightly less than two million dollars in service contribution fees and has incurred more than one million five hundred thousand dollars in penalty and interest on that unpaid amount. The City paid \$400,000 of the withheld funds earlier this year when the RSWA was facing a serious operating deficit but the balance is unpaid.

After years of negotiations, an Agreement is proposed to address the sharing of the RSWA's administrative and operating expenses between the City and the County when those expenses exceed the revenues of the RSWA. The proposed Local Government Support Agreement among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority is attached (on file). The following is a summary of the most relevant terms:

Section 1: The City will pay the remainder of the withheld service contribution fee within 30 days of the execution of the Agreement. The RSWA agrees that it will not charge any penalty or interest, and the City agrees that there will be no restriction on how the RSWA may use the funds. This section also provides that the RSWA will refund a prior payment of \$250,000 to the County within 30 days of the execution of the Agreement.

Section 2: For Fiscal Year 2008, the City will pay the RSWA the standard tipping fee of \$62.00 per ton for all solid waste collected under the City's curbside contract and transported to the Zion Crossroads Transfer Station. The RSWA agrees that the \$62.00 fee charged to the City, which includes the service contribution fee, will not be increased in FY 2008. For future years, any increase in the tipping fee charged to the City will not increase beyond the rate of inflation. This section also contains a comparable restriction on rate increases for waste collected or contracted for collection by the City and taken to the Ivy transfer station, although the City is not currently using that facility.

Section 3: This section provides that effective July 1, 2008, the City will no longer pay the RSWA the service contribution fee, regardless of whether the City continues to utilize the service of Waste Management under the current contract or a new curbside collection contract is awarded in 2008. Due to inadequate capacity at the Ivy Transfer Station, the City agrees that solid waste

collected under its curbside contract will not be taken to the Ivy Transfer Station. Last, this section provides that the City and the County will not oppose any extension of the RSWA's existing contracts with Allied Waste or Waste Management.

Section 4: Beginning in FY 2008, the RSWA will calculate the total amount of service contribution fees billed at both the Ivy Transfer Station and the Zion Crossroads Transfer Station, and the percentage of that total that is attributable to solid waste generated within the City and the County. The City's and the County's percentages of the service contribution fee will then be compared to their respective percentages of the total City and County populations. If one locality's percentage of the service contribution fee is less than its percentage of the population, an additional payment will be made to the RSWA or to the other jurisdiction so that the percentage of service contribution fee will equal the percentage of population. If either the City's or the County's percentage of service contribution fee exceeds its population percentage, that jurisdiction will receive a refund or credit, at the option of the RSWA, in the amount necessary to equalize the percentages. This provision remains in effect until June 30, 2010, or the full implementation of the RSWA's strategic plan, whichever occurs first.

Sections 5 - 7: If, after any payments pursuant to Section 4, the RSWA still has an operating deficit, the City and the County will pay that percentage of the deficit that represents its percentage of the area population. These deficit payments are made quarterly (Section 6), and the deficit may be increased or decreased by amendment of the RSWA budget during the fiscal year (Section 7).

Section 8: The RSWA is required to develop and implement a strategic plan with the goal of becoming financially self-sufficient. This section states that it is the intent of the parties that the plan be implemented by no later than June 30, 2010.

Section 9: This section provides that this Agreement takes precedence over the 1990 Organizational Agreement that created the RSWA. Due to changes in circumstances, the 1990 Agreement no longer represents the reality of how the RSWA is operating.

This Agreement will require the County to pay approximately 70 percent of any operating deficit of the RSWA based on the County's percentage of the City/County population. Adoption of the Resolution would authorize the County Executive to execute, on behalf of the County, the *Local Government Support Agreement among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority*.

(Discussion: Ms. Thomas said she appreciates that the RSWA did not take a vote before this Board had a chance to review this agreement. Since it is an intergovernmental agreement it was appropriate to discuss its terms behind closed doors; however, that means the public does not know about the discussions, and they never will know about the negotiating. She said the public was not able to pick up from this report that the County is allowing the City to get by without paying the penalty and interest on the fees they did not pay. It is an agreement that lets the City off from paying any penalties for what they put the RSWA through the last five years by not doing their share. When taxpayers get mad at the Board they may ask why that was done. She thinks the Board needs to let its taxpayers and rate payers know it is allowing the City to proceed and welcome their coming back into the fold.

Mr. Slutzky said to be fair to the City, not everyone on City Council entirely embraced the agreement that was ultimately reached. All gave a little and came up with a consensus outcome that both the City and the County can live with. He wants people in the public to understand that the City had its issues with the County, and the County did not always agree with their interpretation of things. All have come to a common outcome. This is an issue which has been resolved favorably and amicably and all will now move forward with more collaboration.

Mr. Boyd said he is in favor of voting for this agreement. In the Board's review of the allocation of expenses for the RSWA based on the available historical data, this change will not have a large impact on the amount being taken from the County's General Fund and put into this operation.

Mr. Rooker said this agreement basically divides the cost based upon population.

Mr. Slutzky said it should be noted that Mr. Rooker and Mr. Boyd took the leadership role in collaborating with the City to reach this outcome. He thinks the rest of the Board members appreciate their hard work.

Mr. Rooker said there were members of City Council who did not believe they owed the \$2.0 million. One of the big advantages of this agreement is that the \$2.0 million will be paid and over the next two years that will have a positive effect on the RSWA's operational expenses.)

By the recorded vote set out above, the Board adopted the following Resolution authorizing the County Executive to execute, on behalf of the County, the *Local Government Support Agreement among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority*.

**RESOLUTION
AUTHORIZING THE EXECUTION OF THE
LOCAL GOVERNMENT SUPPORT AGREEMENT
AMONG THE CITY OF CHARLOTTESVILLE,
THE COUNTY OF ALBEMARLE, AND
THE RIVANNA SOLID WASTE AUTHORITY**

BE IT RESOLVED by the Albemarle County Board of Supervisors that the County Executive is hereby authorized to execute on behalf of the County, the *Local Government Support Agreement Among the City of Charlottesville, the County of Albemarle, and the Rivanna Solid Waste Authority*, in a form approved by the County Attorney, to establish an agreement regarding the sharing of the Authority's administrative and operating expenses between the City and County when those expenses exceed the revenues of the Authority.

Item 6.3. FY 2008 Appropriations.

It was noted in the Executive Summary that the Code of Virginia § 15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The total of this requested FY 2008 appropriation is \$61,322.00. A budget amendment public hearing will be required if future additional cumulative appropriations exceed one percent of the currently adopted budget.

This request involves the approval of four new FY 2008 appropriations as follows: One appropriation (No. 2008-041) totaling \$34,926.00 for the Child Care Quality Initiative and Americorps Program; one appropriation (No. 2008-042) in the amount of \$5,210.00 for school donations and programs; one appropriation (No. 2008-043) totaling \$19,000.00 for a Police Department grant; and, one appropriation (No. 2008-044) appropriating \$2,186.00 to the Regional Jail for additional State Criminal Alien Assistance Program funds. A detailed description of these appropriations is provided on Attachment A.

Staff recommends approval of the FY 2008 Appropriations No. 2008-041, No. 2008-042, No. 2008-043, and No. 2008-044.

Attachment A

Appropriation No. 2008 041, \$34,926.00. Revenue Source: Federal Revenue, \$34,926.00. The Department of Social Services has received \$25,127.00 in renewed funds from the Federal Government in the form of the Child Care Quality Initiative. These funds will be used in conjunction with the City of Charlottesville's Department of Social Services to create a position that will be housed at the County's Department of Social Services to serve both departments under the grant. The revenue from this grant is 100 percent Federal with no local match.

The Department of Social Services has received continued funding provided by the Virginia Community Corps via a federal grant in the form of the Americorps Program. The Americorps worker will serve the Adult Division of the Social Services Department to help achieve the following strategic goals of the agency: Develop and implement strategies focused on prevention and early intervention and ensure that all services meet the need of the changing demographics of the community. The grant award totals \$11,950.00 which is 82 percent Federal (\$9,799.00) with an 18 percent (\$2,151.00) local match which will be provided from existing appropriated funds in the Social Services Department.

Appropriation No. 2008-042, \$5,210.00. Revenue Source: Local Revenues (Donations), \$5,210.00. At its meeting on October 25, 2007, the School Board approved the following appropriations:

Cale Elementary School received a donation in the amount of \$1,750.00 from the Cale PTO. This donation will go toward helping fund stipends for teachers to lead after-school clubs at Cale Elementary.

Murray Elementary School received a donation in the amount of \$1,000.00 from an anonymous donor. It was requested that this donation be used to cover expenses for the Chesapeake Bay Foundation coming to Murray Elementary and working with the fifth grade class.

Cale Elementary School received a donation in the amount of \$1,960.00 from the Cale PTO. This donation is given to help fund the Fifth grade field trip to Triple C Camp.

At its meeting on November 8, 2007, the School Board approved the following appropriations:

Cale Elementary School received a donation in the amount of \$500.00 from Jeffrey and Christine Riley. It has been requested that this donation be used for any classroom needs at Cale Elementary.

Appropriation No. 2008-043, \$19,000.00. Revenue Source: Federal Revenue, \$19,000.00.

The Department of Criminal Justice awarded Bedford County a grant in the amount of \$95,000.00 to assist in the investigations of Internet Crimes against Children. Bedford has designated Albemarle

County as being an area district in the fight against internet crime and is providing the Albemarle County Police Department \$19,000.00. These funds will provide overtime, training, and investigation equipment. There is no local match.

Appropriation No. 2008-044, \$2,186.00. Revenue Source: Federal Revenue, \$2,186.00.

The State Criminal Alien Assistance Program (SCAAP) reimburses localities for compensation expenses incurred by correctional officers supervising aliens in local and regional jail facilities. Reimbursement is given to localities even though the expenses are incurred by the correctional facility. This is the second year of the program and actual reimbursements have been delayed. In July the County received \$18,946.00 for FY '06 and subsequently received a supplemental award of \$2,186.00.

By the recorded vote set out above, the Board approved Resolutions of Appropriation Nos. 2008-041, 2008-042, 2008-043 and 2008-044, all as set out below.

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2008-041
 DATE: 12/05/07
 EXPLANATION: Social Service Grants - Child Care Quality and Va. Community Corps

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1561	33000	330001	Federal Grant Revenue	J2	25,127.00		
1	1561	53115	110000	Salaries - Regular	J1	18,857.00		
1	1561	53115	210000	FICA	J1	1,443.00		
1	1561	53115	301200	Contract Services - Other	J1	2,000.00		
1	1561	53115	301210	Contract Services	J1	1,000.00		
1	1561	53115	312100	Professional Services-Legal	J1	300.00		
1	1561	53115	520300	Telecommunications	J1	300.00		
1	1561	53115	540200	Lease/Rent - Building	J1	727.00		
1	1561	53115	550100	Travel/Training/Education	J1	300.00		
1	1561	53115	600100	Office Supplies	J1	200.00		
			0501	Est. Revenue			25,127.00	
			0701	Appropriation				25,127.00
2	1566	330000	330001	Federal Grant Revenue	J2	9,799.00		
2	1566	510000	512004	Transfer from General Fund	J2	2,151.00		
1	1566	53156	110000	Salaries - Regular	J1	11,100.00		
1	1566	53156	210000	FICA	J1	850.00		
			0501	Est. Revenue			11,950.00	
			0701	Appropriation				11,950.00
1	1000	53013	571006	ADC Day Care	J1	(2,151.00)		
1	1000	53013	939999	Transfer to Other Funds	J1	2,151.00		
TOTAL						62,204.00	37,077.00	37,077.00

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2008-042
 DATE: 12/05/07
 EXPLANATION: EDUCATION PROGRAMS AND GRANTS,
 School Board Meetings: October 25 and November 8

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J2	4,710.00		
1	2214	61101	160200	Stipends-Teacher Non-Inst	J1	1,625.24		
1	2214	61101	210000	FICA	J1	124.76		
1	2214	61101	601300	Inst/Rec Supplies	J1	1,960.00		
1	2214	61101	580000	Misc. Expense	J1	1,000.00		
			0501	Est. Revenue			4,710.00	
			0701	Appropriation				4,710.00
2	2000	18100	181109	Donation	J2	500.00		
1	2214	61101	601300	Ed/Rec Supplies	J1	500.00		
			0501	Est. Revenue			500.00	
			0701	Appropriation				500.00
TOTAL						10,420.00	5,210.00	5,210.00

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2008-043
 DATE: 05/05/04
 EXPLANATION: POLICE DEPARTMENT GRANT - INTERNET CRIMES

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1528	33000	330033	Federal Revenue	J2	19,000.00		
1	1528	31013	120000	Overtime	J1	3,509.30		
1	1528	31013	210000	FICA	J1	290.70		
1	1528	31013	550403	Training	J1	4,000.00		
1	1528	31013	800100	Machinery & Equipment	J1	11,200.00		
			0501	Est. Revenue			19,000.00	
			0701	Appropriation				19,000.00
TOTAL						38,000.00	19,000.00	19,000.00

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2008-044
 DATE: 12/05/07
 EXPLANATION: STATE CRIMINAL ALIEN ASSISTANCE PROGRAM - SUPPLEMENTAL AWARD

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER CODE	GENERAL LEDGER	
						AMOUNT	DEBIT CREDIT
2	1000	33000	330085	Federal Revenue - SCAAP	J2	2,186.00	
1	1000	33020	700002	Regional Jail	J1	2,186.00	
	1000		0501	Est. Revenue			2,186.00
			0701	Appropriation			2,186.00
TOTAL						4,372.00	2,186.00 2,186.00

Item 6.4. Copy of 2006-07 Annual Analysis for the Charlottesville/ Albemarle Partnership for Children, **was received for information.**

Item 6.5. Copy of FY 2007 Jaunt Annual Report, **received for information.**

Item 6.6. Copy of Resolution adopted by the Crozet Community Advisory Council expressing appreciation to Mr. Wyant for his service **was received for information.** Mr. Boyd read the following resolution into the record:

RESOLUTION

WHEREAS, the Crozet Community Advisory Council (the "Council") was formed and tasked to represent the interests of the Crozet Community; and

WHEREAS, to be effective, the Council needed a reliable and effective voice on the Albemarle County Board of Supervisors (the "Board"); and

WHEREAS, such a voice would be essential in communicating to the Board the Council's position on issues of importance to the Crozet community as well as providing guidance on the many issues before the Council; and

WHEREAS, the Council had such a voice and was provided great leadership and guidance by David C. Wyant, Supervisor for the White Hall District of Albemarle and Vice Chairman of the Albemarle County Board of Supervisors; and

WHEREAS, the Council's work was also greatly enhanced and facilitated by David C. Wyant's intimate and expansive knowledge of the history of the Crozet community and its people, as well as the priorities and wishes of the Board, all of which he shared with the Council at its monthly meetings, which he faithfully attended; and

WHEREAS, the Council has long known that in all matters relating to the Council, the Crozet community and the White Hall District that David C. Wyant worked tirelessly and selflessly in promoting what he identified in his studied and measured judgment to be in their best interests;

NOW THEREFORE, in consideration of which, it is hereby RESOLVED, that the members of the Crozet Community Advisory Council hereby extend to David C. Wyant, Supervisor from the White Hall District and Vice Chairman of the Albemarle County Board of Supervisors, their heartfelt appreciation for his many and varied contributions to the work of the Council and his selfless and effective representation of the Council, the Crozet community and the White Hall District on the Board of Supervisors of Albemarle County; and be it further,

RESOLVED, that the Crozet Community Advisory Council hereby requests, in a manner reflecting his superb service to the Council, the Crozet community and the White Hall District, that the Albemarle County Board of Supervisors cause this Resolution to be read aloud at its next meeting, and that it thereafter cause this Resolution to be recorded with the minutes of that meeting.

Item 6.7. Copy of Albemarle County Service Authority Board of Directors' Minutes of October 18, 2007, **received for information.**

Non Agenda Item.

Mr. Dorrier said that before the Board proceeded with the regular agenda, he had one item to mention. The County is fortunate to have the Monticello High School football team go to the State championship this weekend; they are deserving of this Board's support. He then offered **motion** to adopt a resolution commending the Monticello High School football team for making it to the State championship.

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

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

**RESOLUTION
MONTICELLO MUSTANGS**

- Whereas** Albemarle County values the important role of athletic programs as part of a comprehensive high school experience for the opportunities for teamwork and sportsmanship that such programs provide, and
- Whereas** Albemarle County applauds the county's student athletes who work hard in the classroom and also represent their schools in a variety of sports that demand a significant investment of time and energy, and
- Whereas** the Monticello High School Mustangs team and their fans have experienced an outstanding and very successful football season in the Fall of 2007 culminating in playing for the State Championship and representing their school and our entire community in a very positive and inspiring manner,
- Now, Therefore, Be It Resolved**, that the Albemarle County Board of Supervisors recognizes and congratulates the administration, faculty and staff, students, and the football team members of Monticello High School for this very significant accomplishment and wishes the Mustangs the very best of luck as they play in the state championship game this weekend.

Agenda Item No. 7a. Transportation Matters: Traffic Operations Issues, Report by Dean Gustafson, VDOT Regional Operations Director, Northwestern Division.

Mr. Allan Sumpter, Charlottesville Residency Administrator, introduced Mr. Gustafson. He said VDOT's traffic operations were regionalized a few years ago to make use of talents across district lines.

Mr. Gustafson said that during the last few years VDOT has gone through a corporate change in making operations a core part of their mission. They used to focus on construction of projects but now they focus on maintenance of the system. They have organized with five regional operations organizations throughout the Commonwealth. He represents the northwestern part of the state which covers the old Staunton construction district as well as the southern half of the Culpeper construction district. One of VDOT's major changes has to do with traffic signals. Instead of signals being touched by only a couple of people, they now have a staff of eight that touch on signals and different components.

Mr. Gustafson made a slide presentation (copy of file in the Clerk's Office with the permanent records of the Board of Supervisors) indicating their focus on running a smart business. They have a business administrator as part of the organization just as a private sector company would have, and are focusing on customer service. They are also focusing on improving the way traffic signals are built, their condition and operation. He then presented slides showing how VDOT runs its Traffic Management Center; the number of traffic signals in the northwestern region; VDOT's number of immediate response calls from January through June 2007; location of existing workforce; employees in their signal maintenance division; their signal operations; Albemarle signal optimization plan; and several slides showing when and where new signals are warranted, explaining each in detail and answering questions from Board members.

Agenda Item No. 7c. VDOT Monthly Report, and

Agenda Item No. 7d. Transportation Matters not listed on the Agenda.

Mr. Sumpter asked if any Board member had a question about his monthly report (on file in the Clerk's Office). He noted that Mr. Darrin Simpson who was the Assistant Residency Administrator has moved to the Regional Office as the Regional Construction Engineer to work on signals.

In reply to an earlier question from Mr. Dorrier, Mr. Sumpter said a request has been made that the study at the entrance to Brooksmore Subdivision be updated to see if it now meets the warrants for a signal.

Mr. Dorrier asked the cost of this installation. Mr. Sumpter said he believes this is a signal which was proffered as part of the subdivision's approval. He will check with County staff to see if this is correct.

Mr. Rooker noted a sentence in the monthly report: "A request for information on what level of service is required by railroad companies on vehicular bridges has been submitted to the State Bridge Engineer and State Rail Project Manager. It was requested that if necessary, an opinion be sought from the Attorney General's Office." He asked if a response has been received. Mr. Sumpter said no response has been received.

Mr. Rooker asked if there are statewide standards for these cases. Mr. Sumpter said in some cases there were just "handshake" agreements between the property owners; the roads came in at a later date. A lot of information has to be filtered in order to determine the legal requirement.

Mr. Rooker said he is disappointed with the pace of the Georgetown Road project. Now that the money is available, he is concerned that if the project does not move forward soon, there will not be enough money to complete the project due to inflation factors. This project started with a \$7.0 million estimate; in order to get something done the scope has been reduced to about \$2.0+ million.

Mr. Sumpter said he spoke with Mr. Gregg Christinac a few days ago and he will try to get things to a point so there can be another update meeting in January.

Mr. Rooker said he is not being critical, there is a list of things to get done, and although meetings are held the task is not being completed. Mr. Sumpter said he has passed these concerns along to a lot of people.

Ms. Thomas said she is appreciative of all of the maintenance work listed in the report, particularly in her district.

Ms. Thomas said the monthly report notes a passing zone which is going to be closed on Route 250 West (Ivy Road) near its intersection with Route 682. She said passing zones do seem to be one of the few places where built up "road rage" can dissipate because people can pass another vehicle. She is a little concerned about this passing zone being closed.

Mr. Sumpter introduced Mr. Bill Parma who is the VDOT Traffic Engineer for this area.

Mr. Parma said the area being closed is east of Route 682 (Bloomfield Road). It is recommended for closing because the side road traffic volume is near 500 a day; there is a danger of conflict with a car exiting onto Route 250 with a car in the passing lane.

Mr. Wyant said the new pothole patching procedure is very effective; it holds up well.

Mr. Slutzky thanked VDOT for considering the extension of the right turn lane in front of the Post Office on Route 29 North. Mr. Sumpter said that will probably be constructed in the spring.

Agenda Item No. 7b. Advance Mills Bridge Update.

Mr. Boyd asked Mr. Sumpter to give an update on the Advance Mills Bridge project.

Mr. Sumpter said he expects the final contract to be submitted to VDOT's Central Office later this month. It is expected to be advertised for bids in January with the bids being taken in February. The contract would be awarded by mid-march, and construction should begin in April and be completed within four to six weeks. There has been a lot of talk about the letter which was to go to the Department of Historic Resources (DHR) informing them of how this project would move forward. That letter went out last Friday. The letter states that VDOT is willing to commit to certain actions to mitigate any adverse effects to the historic district. One would be to allow other parties to responsibly remove the existing bridge for preservation purposes prior to beginning construction of the temporary bridge; two, VDOT would be willing to develop a reasonable onsite interpretation of the Advance Mills historic district including an area with markers and historic artifacts; and, three, VDOT would be willing to develop the separate Federally-funded replacement project in accordance with concepts of context sensitive design which means giving consideration to things of architectural treatments, etc. to the actual design of the bridge.

Agenda Item No. 8. Rivanna Water and Sewer Authority Update.

Mr. Tom Frederick, Executive Director of the RWSA was present. He said the RWSA has received another draft permit from the DEQ for the water supply project. Staff is reviewing that information at this time, and hopes to respond to DEQ shortly. Within the next 30 days they hope this permit will go out for public comment. At this time it is anticipated that RWSA will be on the agenda of the State Water Control Board for March for approval to build the Ragged Mountain Dam project. He said the way Virginia laws are written, the State Water Control Board still approves water supply protection permits. The SWCB only meets quarterly. They met this week, so will not meet again until March. Approval of the permit would give RWSA full authority to move forward with construction, implementation of the mitigation projects, and the other elements in the water supply plan.

Mr. Frederick said RWSA is proceeding with preliminary engineering on the dam. That includes drilling and geotechnical investigations in the area the consultants believe is the best location for the dam. They need to confirm rock formations underground in order to lay out the exact location and configuration of the dam. The geotechnical work is taking place below the existing dam. They are coordinating closely with the Ivy Creek Foundation because some of the geotechnical work is within the vicinity of existing trails; for the safety of the public RWSA has relocated a section of the trail so the trail can remain open. If

all moves forward in accordance with the plan, by this time next year there will be an engineering design completed. They should also be in the permit process with the Department of Conservation and Recreation which is where safety issues related to the dam will be resolved.

Mr. Thomas asked if there had been any decision about the approach road construction will require. Mr. Frederick said RWSA is working on the details of what needs to be done to Reservoir Road for the truck traffic that will be needed for the dam construction. There were early discussions about the possibility of using I-64 but there are a lot of obstacles involved in doing that. Unless it is the wish of the community otherwise, they want to minimize what will be done in the Reservoir Road area. There may be places where curves would have to be straightened to allow for concrete truck traffic and aggregates going into the site. They are working to minimize the effect on residents along that road.

Ms. Thomas asked if RWSA is working with VDOT. Mr. Frederick said they are. Their consultants are working on a plan for the construction traffic. As soon as that plan is finished and approved by RWSA staff, they will go to VDOT for negotiations. If the County is interested in doing any other work with respect to Reservoir Road while this is taking place, this is the time for those discussions. Absent that direction, they will minimize the work to be done. Restoration to be completed after construction will also be a part of the discussions. RWSA staff recently met with a public relations facilitator and is working on a plan of what will be shared with the public during the design and construction process. They are sensitive to the idea of keeping the public informed. They know there will be challenges as the project moves toward construction, simply because of its size and nature.

Mr. Boyd asked when the RWSA will present information related to the funding of this project. Mr. Frederick said three funding scenarios were shown at their September meeting and they allowed the public to comment. Staff will be presenting to the RWSA Board of Directors an updated five-year capital improvement program in January. They are projecting that the entire dam will be built in one phase between now and 2011, and the right-of-way for the pipeline will be acquired in the next five years. They are not putting any money into this five-year plan for the design or construction of the new pipeline.

Mr. Rooker said that decision will not be made until after approval has been obtained. Mr. Frederick said he believes that funding of the project is entirely a local decision. In discussions with DEQ, they have taken care to keep all options on the table and not agree to permit conditions with the State that locks them into one or more alternatives. RWSA has felt all along that this is a local decision.

Mr. Rooker asked when the decision will be made. It sounds like RWSA is leaning toward phasing of the pipeline, but he does not think this Board has had a presentation of the difference between the cost of going each way and how that would work into rate increases. He thinks there are advantages to doing both projects simultaneously. At some point he thinks it would be helpful to have a presentation on the cost differences, etc. before that decision is made.

Mr. Boyd said he thinks this Board should receive a presentation, particularly when it comes to finances. There are a number of issues before the Board which will have a huge impact on the citizenry. As an elected official he wants to be sure the Board is fully endorsing the plan the RWSA is moving forward with. It bothers him that this decision is being made by only three or four people. He said Mr. Frederick has said this will not require any approval by this Board, just through Mr. Tucker who is the Board's representative on the RWSA Board.

Mr. Rooker said this Board can take action and instruct its representatives on that Board.

Mr. Boyd said he understands that.

Mr. Slutzky said it sounds as though Mr. Frederick would be happy to make that presentation to this Board but wants to be sure there is an approved permit without shackles before making that decision. If it is better to make that presentation after receiving the necessary permit, he does not have a problem with that.

Mr. Rooker said that is why he asked if this cost phasing decision would be made before or after permitting. He wonders when that decision will be made. Mr. Frederick said the decision as to how the project is phased, within the boundaries described on September 13, is totally a local decision. "Local decision" means all the boards who want to participate in that decision. He does not see anything in the permit documents to conflict with the ability to have meetings and make that decision on whatever timetable is desired. He said the information RWSA presented on September 13 is available, but there were a couple of issues that could impact the decision this Board might want to support. He said the staff of both the Albemarle County Service Authority and the City of Charlottesville need to reconcile what kind of agreement they will recommend publicly. It was recognized on September 13 by RWSA and many members of the public that that information was missing. The Board might want to have a forum where his presentation, along with that of Mr. Gary Fern, ACSA, could be made simultaneously.

Mr. Rooker said he hopes the cost-sharing agreement will be finalized quickly because there are reasons of a safety nature as to why that project needs to get underway. Mr. Frederick said given the September meeting of the RWSA and a November meeting of City Council, he thinks that advancing this agreement needs to be a high priority.

Mr. Wyant said the watershed above Ragged Mountain is very small. He wonders how long it would take to fill that reservoir assuming normal rainfall. Mr. Frederick said the consultant did computer modeling of that before the September meeting because they did not want to offer any phasing plans that don't work. If the decision is made to phase the pipeline from the South Fork at a later time and fill the

new Ragged Mountain reservoir from the Sugar Hollow pipeline, assuming average rainfall conditions, it could take between one to two years to completely fill the reservoir. In a very dry period, such as that in the 1929-1930 eras, the fill time could take four years. If it were unusually wet, the fill could take place in a matter of months. In talking about refill, he looks at 1930 as the worst case scenario rather than 2002, because recovery from the 2002 drought was very quick.

Mr. Wyant asked if there will be release of water into the Moorman's River. Mr. Frederick said there will be. The draft permit mentioned earlier makes one change to the minimum flow releases to the Moorman's River between the present day and the date the new dam is completed and filled. Right now, according to the voluntary policy, RWSA can completely cut off releases to the Moorman's River when the Sugar Hollow Reservoir is below 80 percent capacity. If that had been done this year, there would have been no releases since August. RWSA will continue to maintain the natural inflow even with a drought and when the flow coming into Sugar Hollow is very low. It allows them to go below 400,000 gallons per day when natural inflow is below 400,000 gpd. That is the only change proposed in the permit documents for existing conditions. Modeling has been run to see if stream flows can be advanced now. All scenarios show that if a drought occurred, the area might run out of water because it is close to the edge right now. However, once additional storage is provided through a new full Ragged Mountain Reservoir, there is enough storage there between now and 2020; storage is the insurance if there are dry conditions and storage would allow them to continue the release of natural inflow into the Moorman's River of up to 10.0 million gpd which is substantially better than the flow release today.

Mr. Wyant said he thinks this area is approaching a very bad winter in terms of inflow, especially on the western side of the County. It takes quite a bit of snow to get the reservoirs close to capacity. There might be a drought of record coming next spring. He said the Beaver Creek Reservoir supplies Crozet. Is there a plan to provide water for those people in the event of a critical situation next spring? Mr. Frederick said it is true that stream flows are critically low in the forks of the Moorman's leading to Sugar Hollow and in the western parts of the County including Beaver Creek. Because of that, RWSA continues to ask for a drought warning to be in place. With respect to Beaver Creek and Crozet, the safe yield of the Beaver Creek Reservoir was recently performed as a part of drought planning required by the State. He thinks that 1.7 to 1.8 mgpd is the safe yield for Beaver Creek; at the present time, Crozet water use is between 400,000 and 700,000 gpd depending on the time of the year. It is well below the 50 percent line in terms of safe yield at Beaver Creek, so they do not anticipate any near term problems in supplying Crozet. If there is a critical drought period and they want to pass water from Beaver Creek to the South Fork to augment the urban system, they must be extremely careful not to take too much water.

Mr. Rooker said water supply options were discussed earlier. In the event water sharing should be needed, there was discussion about how to connect the two systems and there not be a substantial loss of water before it gets to its intended source. Has anything been done on that idea? Mr. Frederick said he is familiar with the discussions that occurred in 2005 (before he became executive director) about that idea. At the time a pipe interconnect was discussed, there were a lot of unknowns about how much water from Beaver Creek might be lost to the streambed itself if they tried to release the water from Beaver Creek to the South Fork in the stream itself. In August, 2006 during a very dry period, they simulated a release to determine the real numbers and were unable to find that loss. They accounted for almost 100 percent of what was released at Beaver Creek at the South Fork. In 2007 they tried to simulate it again, but it was determined that beavers had built a dam on the Mechum River at the same time as they were running the simulation so they had to throw the data away.

Mr. Boyd said he would like to talk about solid waste. He attended the meeting last night where the consultant's report was presented and was disappointed at what they did not present. He feels the consultants have focused on what the community would ultimately like to have in terms of recycling and facilities, and left out the important piece of a collection process.

Mr. Rooker said when the consultants were interviewed that was clearly a part of those interviews. He thought it was more the focus than recycling. He asked if there will be a presentation of that element later. Mr. Frederick said they are cognizant that there needs to be a presentation to the Supervisors and they can structure a joint meeting between the Supervisors and Council. Part of their planning was to put out information to the public on various options and keep it at a conceptual level. There was a little discussion about money, and they wanted to get cost information out and relate it to household monthly costs, which they did last night. They did not want to discuss whether it would be a utility fee or a property tax or a tipping fee. They want to determine the people's service concepts first. Their consultant will summarize input from the public meetings, as well as their own technical analysis of the systems. The next step is to meet with County staff in early January. At the same time they will have discussions with the City's Public Works staff. A key question in this strategic planning process is whether there are places where the County and the City feel an organization like RSWA can provide common services at a better price than the two local governments negotiating their own deals. At this time, the City is offering to its residents tote bins at the curb where they can place commingled recyclables. The City has a contract through Allied Waste to take that material to the Fluvanna transfer station as recyclables separate from the waste stream. It is then trucked to Tidewater Fiber in Richmond where they operate a private materials recovery facility. He understands the City is actually paying Tidewater to take that material. If there were a material recovery facility in this community, given the prices of the market on recyclable materials that are properly compacted and baled, an MRF could actually make money, but that is true only if the price of recyclable materials stays as high as it is at this time.

Mr. Boyd said that last night most of the discussion centered on having a government facility as opposed to privatization of it and contracting with someone to set it up. He thinks that is a discussion the Board should have. That would have a lot to do with the volume available. It might have to cover an area

larger than just Albemarle and the City; surrounding counties might need to be involved. Mr. Tucker said the RSWA will be looking at all of these ideas.

Mr. Boyd said the agreement the Board approved today is a short-term agreement. The Board needs to make sure a long-term plan is developed very soon. Mr. Tucker said the agreement actually has a date of July, 2010 for a plan.

Ms. Thomas said she has some questions about the water system. There is always the unanswered question of dredging the South Fork Reservoir. A person made the comment to her that there are recreation users of the Reservoir who are interested in keeping the Reservoir for that purpose. This person said they may be interested in some kind of maintenance dredging even if it does not affect the water supply or if not done in the areas that would be improved for storing water for drinking water purposes. This seemed like a small idea that might turn into a large partnership of other people picking up some of the costs. She asked if RWSA had thought of this. Mr. Frederick said they are willing to bring up discussions about the options for dredging the SFRR. They have not dismissed the idea. All of the experts they have talked to about dredging say it will be very expensive. If the community is willing to undertake the expense, the RWSA is willing to undertake such a project.

Mr. Rooker said during the last drought there was discussion of doing maintenance dredging. He understands a permit was never obtained to allow that type of work. Mr. Frederick said that occurred before he came to Charlottesville so he would relay what he had been told. There was interest during the 2002 drought about getting earthmoving equipment out while the shoals were exposed and digging out in the dry. In exploring that alternative it was found that even though the surface of that settled sediment might be dry it is laying in the middle of a lake, so underneath that dry sediment is still is very wet and fluid sediment and water mixture. If you take large earthmoving equipment and start walking it on that sediment, quickly that equipment will settle and fall into the water. People who deal with earthmoving construction activity say that is not an appropriate way to remove sediment, and it will not succeed if tried for any lengthy period of time. The RWSA staff at that time asked if it could get a piece of equipment that could stay on shore and have an extended boom to reach out to the shoals, grab that material and bring it to shore. Discussions were held with the Corps of Engineers on permitting such an activity, and it was decided that a track placed along the shore in the dry would give clear access for that equipment to move along the shore, but the equipment would have to cross streams coming into the Reservoir which would create an environmental impact. The buffer along the shore which many would say is protecting the water quality of the stream would have to be cleared. The Corps of Engineers said they would not permit that approach. Gannett Fleming in 2004, as part of the water supply project, took another look at dredging both for water supply and for maintenance purposes. They concluded that the practical way to do it is hydraulic dredging. No matter what level of volume is desired, the mechanics and tactics are the same. The costs are proportional to what is to be achieved.

Mr. Rooker asked if a drying area was located. Mr. Frederick said in 2004 there were a few discussions with some property owners in that area who had land large enough for a dewatering or disposal area. The biggest cost of dredging is moving the material to an ultimate site after it is dried. The number of trucks required to move the volume being discussed is a staggering number. RWSA could not find anybody who would voluntarily come forward and say dredge spoil could be put on their land for either purpose in places where it is environmentally responsible to place fill material. They went on one site and looked at some ravines which fell from the crest of a hill toward the Reservoir, in areas where there are steep, wooded slopes, and the owner would have liked to have the ravine filled. Trying to get the Corps of Engineers to permit something like that would be impossible. Some relatively flat areas were found on this same owner's property, but he was not willing to even discuss the possibility.

Mr. Boyd said he appreciates Mr. Frederick giving the Board this update. Considering what is going on with the drought, he thinks the Board should have Mr. Frederick provide an update every couple of months.

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 District.

Mr. David Pennock, Planner, presented the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. The applicant has appealed the Planning Commission's September 18, 2007, denial of his request for approval for a private street over an existing thirty-foot access easement for a five-lot subdivision to be created from the subdivision of two existing parcels. The proposed street would serve one additional lot outside of the proposed subdivision. The property is located northwest of Ambrose Commons Drive, a public street within the Mosby Mountain Subdivision in the Samuel Miller District. The property is 98.364 acres in size and is zoned RA, Rural Areas.

Mr. Pennock said the Subdivision Ordinance allows approval of private streets by the Planning Commission based on certain criteria spelled out in the ordinance. One of those is related to environmental degradation. The applicant has demonstrated that the total volume of grading for construction of a public street would be 30+ percent more than that of the proposed private street in the same alignment. That is sufficient to show that the proposed private street would alleviate significant degradation to the environment. However, he did not produce sufficient information to show that the

proposed private street promotes sensitivity toward the natural characteristics of the land. As a result, he failed to demonstrate why a private street should be approved in this case.

Mr. Pennock said that on September 18, 2007, the Planning Commission discussed the natural characteristics of the property as well as its sensitivity. These properties are on slopes of a mountain so there are large areas of critical slopes on both the properties. The proposed private street would impact some of those slopes. There is already a forest road or driveway on the property. The Commission discussed moving some of the roads and lots farther down the mountain, reducing the number of lots, but ultimately they denied the applicant's request for approval of a private street. The applicant appealed that decision. He then offered to answer questions.

Mr. Dorrier asked Mr. Pennock to explain the 30 percent rule again. Mr. Pennock said "significant" is defined in the Subdivision Ordinance as the 30 percent difference in construction of a public street in the same alignment versus construction of a public street. In this case, because the maximum grade allowed by a public street would be ten percent and the private street could go as high as 16 percent, the applicant would be able to limit the cut and fill construction related to the road because the earthwork required for a private street would be less. If the difference to build a public street versus a private street is 30 percent or greater, that meets the definition of significant.

Mr. Rooker said the applicant contended that it is around 4,000 percent, so his question is, is the disagreement between 1,000 and 4,000 or something else. Mr. Glen Brooks, County Engineer, apologized saying those numbers were inaccurate. The applicant gave cubic yardage numbers, not a percent. The 4,000 number is a mistake; it is really about a 69 percent increase. From what he has read of the Commission's discussion they were right in that the comparison has to be taken in context of a road on the exact same alignment. If a public road were being built, the applicant would go to VDOT about their mountainous design criteria and try to get higher grades than 10 percent. Also, the road would probably be moved down the mountain in order to ease the grade. He does not know where the applicant got the cubic yardage numbers, but their numbers showed a 69 percent increase in volumes.

Mr. Rooker asked if the applicant has a right to build a public road to serve these five lots if this application is denied. Mr. Pennock said under the existing Subdivision Ordinance regulations, he has that right.

Mr. Rooker asked if the applicant can demonstrate that there are 30,000 square foot building lots on each site outside of the critical slopes. Mr. Pennock said he can. As part of the subdivision plat, staff made sure there were such lots because the applicant has other sites which are outside of the critical slopes. It is possible the driveways might go through critical slopes, but he has building sites.

Mr. Rooker asked if this application is denied, if there is any reason to think the applicant will not go forward with a public road. Mr. Pennock said there is no way to know. However, the applicant can propose that and staff would then review the request by right.

Mr. Rooker said he understands the criteria are either or criteria. Mr. Davis said under Section 14-32(a)(1) which is the degradation to the environment standard, it requires a finding that all five of the criteria in its first paragraph are met. That includes the finding that the proposed street demonstrably promotes sensitivity toward natural characteristics. The 30 percent degradation is one of the findings, but the other findings also have to be met.

Mr. Rooker asked if the significant sensitivity is compared to a public road. Mr. Davis said that ultimately that is the determination.

Mr. Rooker said in this setting he does not think any road is environmentally sensitive. The question is what the comparison is to. Mr. Davis said the staff report alludes to some of the issues that staff would want the Board to consider.

Ms. Thomas said she met with the applicants and promised them she would go and see what a 16 percent slope looks like. She thinks that if the Board finds a private road is in the best interest of the public and not just the proprietary interest of the applicant, it needs to be sure it is allowing creation of safe road access for fire trucks. She called someone who had done work for the first Mountain Protection Committee, and he pointed out that High Street (in front of the County Office Building) is closed by the City when there are icy conditions because it has a 14 percent grade. It is definitely not a road where you would want a fire truck to go up in icy conditions. He had a hard time coming up with a road as an example of a 16 percent grade. She does not think the Board would be making a good general health, safety, welfare finding by approving a road that has so many 15 and 16 percent grades.

Mr. Davis said this is not a public hearing, but typically the Board hears from the applicant before it makes it's decision.

Mr. Rooker said the Board considered the "safe and convenient access" ordinance recently and he thinks 16 percent is the standard that was to be applied in that ordinance. Sixteen percent is in the private roads ordinance today. He does not disagree with what has been said, but wonders if 16 percent is a good standard. Mr. Davis said 16 percent was the driveway standard and that was the maximum that VDOT would allow under mountainous terrain standards.

Mr. Dorrier asked if there are driveways in Mill Creek Subdivision that are over 16 percent. Mr. Brooks said driveways in a lot of the neighborhoods are over 16 percent.

Mr. Wyant said he thinks High Street actually has more than a 16 percent grade. He said not to be misled by a chart. The way it looks depends on how it is blocked out.

Mr. Rooker said that driving through the Rockies on Interstate 70, which is the highest terrain in the United States, there is almost nothing over a seven or eight percent grade. It is one thing to drive that grade over a mile or more and another to do so in a short distance.

Mr. Slutzky asked Mr. Brooks if he thinks the difference between the public road and the proposed private road creates a 69 percent difference in the amount of disturbance. Mr. Brooks said as the road is planned, that is correct.

Mr. Slutzky asked if Mr. Brooks was suggesting that after the applicant negotiates with VDOT for a public road, the percentage would be less. Mr. Brooks said it would.

Mr. Slutzky asked if the cost difference to the applicant is significantly higher to build a public road. Mr. Brooks said the only difference is the width of the asphalt.

Mr. Slutzky asked if it is an impediment to the developer if the Board says a public road must be built. Mr. Brooks said from the developer's standpoint the difference in cost is more in the planning stage. From what he has seen in this particular area, it is not a significant difference.

Mr. Slutzky said he does not want development to happen in the rural areas. He does not like seeing someone develop five lots going up a hill. It frustrates him, but the Board has to make a decision to allow them to avoid the public road requirement and get away with a steeper grade and less safe of a road on the grounds that there is a significant difference in the soil disturbance which has real environmental implications, relative to the cost. If it is significantly more expensive and might be an impediment to building or make it more expensive for the people who buy these homes to live in the rural area, that might be a strong argument for requiring a public road. If the Board denies this appeal, there might be larger soil disturbances and not a significant cost burden on the ultimate homes. Is that reasonable? Mr. Brooks suggested asking the applicant to get the actual standards from VDOT. If not successful, they could come back to this Board.

Mr. Davis said cost is not a criterion the Board can properly consider.

Mr. Brooks said staff usually calculates for bonding purposes approximately a 20 percent cost difference just on the pavement alone.

Mr. Dorrier asked if the real difference is that trees will be cut down a distance of 20 to 30 feet on either side of the road. Mr. Brooks said he does not think there would be a significance difference in tree disturbance. The slopes have to be laid back in the steeper areas in both instances.

Mr. Slutzky asked Mr. Brooks his recommendation. Mr. Brooks said private roads in the rural areas would be a more significant concern to him than the engineering criteria.

Mr. Davis said the ordinance says private roads in the rural areas are to be the exception, and only when there are significant reasons to do so. The criteria try to capture the rationale for when a private road would be approved. Unless the criteria can be met, the ordinance says private roads are not wanted.

Mr. Slutzky said it appears the applicant has met one criterion. Mr. Davis said that is only one of the five criteria that have to be met. The staff report points out the other criteria which are at issue. Whether or not it demonstrably promotes greater sensitivity toward the natural characteristics of the land is the criteria at issue.

Mr. Rooker said the staff did not make a recommendation. Mr. Davis said that is because the Planning Commission has asked that the staff not make a recommendation.

Mr. Boyd asked the staff's recommendation to the Planning Commission. Mr. Davis said staff opined on the factors, but did not give an ultimate recommendation.

Mr. Rooker said he understands the Planning Commission has basically asked staff not to make recommendations. He has trouble with that because he would like to see staff's recommendation, and the Commission would not have to agree with that recommendation. He does not think it is wise to tell staff not to make a recommendation.

Mr. Slutzky asked if the Board wants to give direction to staff that when these appeals are brought to it, that in addition to the Commission's information, it would welcome a recommendation.

Mr. Rooker said he thinks a recommendation should be made to the Planning Commission so they have the benefit of the recommendation whether they like it or not. He said the Board does not always follow staff's recommendation and neither does the Commission.

Ms. Thomas said staff did make a recommendation. If you look at the "summary", it says "staff is unable to make a positive finding that a private street will serve the general welfare."

Mr. Rooker said it was made clear in the report that the reason staff did not make a recommendation is that the Planning Commission made it clear they do not want that recommendation.

He thinks the Board should tell the Commission it does not want staff's recommendations cut off. He is surprised there is no staff recommendation. He understands there may be particular circumstances where staff, after weighing all the pros and cons, does not make a recommendation. In a situation where staff is being categorically asked not to make a recommendation, he does not think that is the way to approach it.

Mr. John Shepherd, Manager of Zoning Administration, said he would like to make a correction. The Planning Commission did not direct staff to not make a recommendation. The lack of a recommendation came from staff's difficulty in balancing their analysis of the environmental factors that fall under the environmental degradation section and the general welfare. In the past a lot of emphasis has been placed on the "ors" within that section of the ordinance. Staff has found itself in a difficult position where the environmental criteria could be found in supporting a positive recommendation while at the same time staff was not as sure about how to apply general welfare. Staff felt that went more into the policy realm.

Mr. Rooker said there is an "or" in the ordinance. Mr. Shepherd said that is correct.

Mr. Rooker said he never saw this happen when he was a member of the Planning Commission with respect to a private street recommendation. Mr. Shepherd said it may never be seen again. Staff is taking this direction and will factor that into analyses in the future.

Mr. Slutzky said he is curious as to what staff would advise the Board as to whether or not this secondary consideration has been met. The tone of the language of the report would suggest staff does not feel it has been. Mr. Pennock said there are three major findings the Planning Commission can make. Within the first of those pertaining to environmental degradation, there are five sub-findings. Staff, based on discussion at the Commission level, is concerned that the natural characteristics and the sensitivity of the property as a whole is not being respected in this situation. Some of the suggestions that did not translate into motions by the Commission had to do with possibly moving the road.

Mr. Slutzky said he does not understand why staff thinks it does not meet that standard. Mr. Pennock said the biggest concern was the critical slopes issue. There is an existing driveway cut into the woods that might be a forest road, and this road generally follows that alignment but it is beyond the requirements for either a private street or a public street. There will be a lot of cut and fill regardless. There are areas of existing slopes that would be disturbed by construction of a road on that alignment as well as the grading peripheral.

Mr. Slutzky asked if a different private road might be appropriate in this location. It is not the distinction between a public and a private road, but it is this proposed private road that does not meet the standard. Mr. Pennock said that was one of the Planning Commission's thoughts; the proposed alignment was not the most suitable for the lots. That does not weigh into staff analysis. Staff was forced to look at a public road in the same alignment.

Mr. Slutzky said if the Board did not feel the standard had been met and was predisposed to deny the appeal, the applicant could ask for a deferral and come back with an alternative approach that might satisfy that standard. Mr. Pennock said that would be helpful to the applicant if that was the finding.

Mr. Rooker said from reading the Planning Commission's minutes it seemed to him that there was a general feeling this development did not respect the environmental sensitivities. Looking at the sites, it is obvious they are struggling to find four or five-acre lots, struggling to find 30,000 square feet of non-critical slope space in which to site. He agrees with earlier comments that this is not the kind of development the County would like to see. His concern is what will happen if the Board denies the appeal, and the applicant comes back with a public road. Would the Board be forcing the building of something that creates more environmental degradation than a private road? There are also the safety considerations raised by Ms. Thomas earlier.

Mr. Wyant said that is also his concern. He said the type of design used does not mean that VDOT will take road into the system. There is going to be a major impact to the environment with the public design. If the Board denies the private road, he thinks the applicant will do the public road so the consequences need to be weighed.

Mr. Boyd suggested that the Board hear from the applicant at this time.

Ms. Valerie Long said she is representing the applicants, Ben and Terry Warthen, the property owners, as well as Evergreen Land Company. She said Mr. Warthen is present, along with Mr. Justin Beights from Evergreen who is one of the principals along with his father Galen Beights and Percy Montague, the owners of the Evergreen Land property known as Mountain Valley Farm. Also Mr. Kirk Hughes with Kirk Hughes Company, the project engineers, is present. She said she wanted to clarify conversations which had occurred about the alignment of the road. She was not involved when this project was developed and designed but in speaking with her colleagues present today, they indicated they had taken a significant amount of time working with County staff to find the alignment that was the most appropriate and sensitive for the area. They looked at a number of alternatives, and staff was helpful to them, especially Mr. Shuck. The Planning Commission's minutes include a statement from Mr. Shuck: "Based on the proposed alignment they agree with the applicant's proposed alignment that it disturbs the least amount of critical slopes for an alignment." She said there will be impacts from construction of any type of road. The goal all along was to have the least amount of impact possible. There are comments in the record from County Engineering staff indicating this is the best alignment.

Ms. Long said with regard to criteria No. 5 about whether the proposed road demonstrably promotes sensitivity to the natural characteristics in the land, the first time the criteria was mentioned was in the Executive Summary sent to the Board. It was not discussed in the Commission's staff report nor at the public hearing; the report is silent on the issue. The first time it was brought to the attention of the applicant was in the most recent report. If the question is whether this road demonstrably promotes sensitivity to the natural characteristics of the land to that of a public road in the same alignment and sensitivity to the natural terrain is the criteria, the goal of the private road is to allow a road that fits more naturally in with the natural terrain of the property. The goal is not to do the dramatic cutting and filling required for a public road in the same alignment, or any other alignment.

Ms. Long said the second component of criteria No. 5 is that the proposal encourages the subdivision of land in a manner that is consistent and harmonious with surrounding development. She said the lots here are directly adjacent to the lots in Mountain Valley Farm which are similar in size and nature of scale. She said there was a resident from nearby Mosby Mountain Subdivision who spoke in favor of this private road request. She hopes the Board will agree that standard has been met. Although staff elected not to weigh in on the question of whether the general welfare criteria was met, they did not need to get to that finding because it is an "or" standard. There are three criteria which give the Planning Commission the discretion to approve a private road. One is if the significant degradation criteria can be established and the staff report stated that had been satisfied. Two is related to the general welfare. The third is not applicable. The Commission could have made a finding on general welfare if they had wanted to, but they said the applicant met the first criteria; they clearly demonstrated that the 30 percent standard has been exceeded. Therefore, there was no need to get into the question of general welfare. She said it is an "or" standard; the applicant does not have to meet all three of the criteria, but does need to meet the five sub-components of the first criteria. She said the five sub-components are: one - the property is really in the rural areas or in the Village Residential zoning district and it is; two - the 30 percent standard; three - no alternative public street alignment is available which would alleviate significant degradation to the environment; the record is clear that there is no better route for a public road in this area; four - no more lots are proposed on the private streets than could be created on a public street; and, five - demonstrably promoting sensitivity toward the natural characteristics of the land.

Mr. Slutzky said he would like to ask a question about that last point. If the applicant built a public road further down the mountain the shorter, lower public road would be a better outcome. Ms. Long said that is true in theory, but some of the lots lower in the Mountain Valley Subdivision would be lost because some of them are right at the 21-acre requirement.

Mr. Slutzky asked if the Board has to be constrained by that fact. He said the issue is about the road not about the number of lots. Mr. Davis said the issue is comparing a private road to a public road that they could otherwise build by right.

Mr. Rooker asked if they could build the road they are proposing by right. Mr. Davis said that is correct. From an engineering standpoint it appears it could be built.

Mr. Rooker said the County cannot require them to move the road to another location. Mr. Davis said that under the Subdivision Ordinance it is a ministerial standard and if the road can meet VDOT requirements for placement, and meet other zoning criteria, they have a by-right development.

Mr. Slutzky asked if the Board could base reversal of the appeal on VDOT saying a public road could be built there. Mr. Davis said that is an issue staff grapples with from time to time - how far in the approval process must the applicant go with VDOT before he could demonstrate there is a VDOT road. Staff would have to address how that determination has been made at this point.

Mr. Slutzky asked if staff believes VDOT would approve the public road as it is presently aligned. Mr. Pennock said staff does not have an official review from VDOT at this time, but there was a mention in the Planning Commission minutes that there was a verbal discussion and VDOT concurred that extensive earthwork would be required. It was an implication that generally speaking, if it serves five lots there would be an alignment that would work. He does not think VDOT has reviewed this specific alignment.

Mr. Boyd asked Ms. Long if she had further remarks.

Ms. Long said erosion was mentioned at the Planning Commission meeting and also in the Executive Summary. A Commissioner asked if a steeper private road could address all of the environmental impacts sufficiently and as effectively as a public road could in the same alignment. It was said that it could if the right size pipes and the right grading were used. The one issue with the road is the increased risk for erosion because of a steeper grade. Obviously when there is a steeper road there is higher velocity water running off of it. What the engineers have told her is that they account for those things in their final road design plans and if it is a public road, those plans are reviewed by staff and by VDOT. Depending on the grade, those issues are addressed at the final stage. The engineers have told her they can engineer it so any increased velocity due to the steeper road is essentially mitigated by the engineering techniques and measures implemented for that particular section of road; there is no increased risk of erosion with a steeper road than with a flatter road. She said the Commission minutes were a little confusing. She had to read them several times and talk with several engineers to understand the issue. The State handbook will govern. On the plans there are a number of sediment traps along the road. The engineers said if the road is approved, the engineering plans to be reviewed by the County will mitigate any additional impact from the steeper grades.

Mr. Slutzky asked if the Board can put in a condition that it wants the applicant to commit to meeting a higher standard of soil erosion mitigation. Mr. Davis said there is no direct provision for conditions, but if the applicant is willing to accept a condition, it could be agreed to.

Mr. Rooker said he understands what Mr. Davis said, but he has seen a lot of private roads that apparently met County standards but had a steep grade that appeared to have significant runoff problems. Mr. Davis said final subdivision approval will be subject to review by staff to make sure proper erosion measures have been implemented.

Mr. Dorrier asked if the road will be asphalt. Ms. Long said "yes."

Mr. Dorrier said it will not be a rural, rustic road. Ms. Long said that is correct.

Mr. Dorrier said the road is less than one-half a mile in length and will have five entrances off of it. He asked if it will have a cul-de-sac on one end with an entrance onto Old Lynchburg Road on the other end.

Mr. Davis said he wants to correct himself. There actually is a provision in the ordinance which allows the imposition of any condition that the Board deems reasonable and necessary.

Mr. Rooker said the only way he would support this appeal is if there were a condition requiring that enhanced soil erosion control measures be put in place during construction with stormwater measures afterward. He said this whole subdivision is sited in an area that is extremely difficult.

Mr. Wyant said if the road is graded with a crown in the middle, and there is a ditch on the upper side that comes down and goes through pipes, one half of the runoff would go to one side. He would not be concerned about erosion control during construction, but about long-term maintenance of the road and the erosion that would come years later and create havoc downstream.

Ms. Thomas said this would be a rural section road. She has noticed on her property that the only place water runs off her property is down her asphalt driveway. On every other piece of land the water is being absorbed.

Mr. Wyant said if the road is designed and constructed properly the water can be directed to the side of the road. When the site plan comes in showing the road design, structures could be required to cut down the velocity and the volume of water. Mr. Brooks said he understands the Board wants to include additional conditions, but they cannot be made unrealistic. There is not a stormwater collection system in a rural situation like this.

Mr. Rooker asked if that would be the case whether it is a public road or a private road. Mr. Brooks said more can be done with a private road in the way of installing extra measures in the ditch lines.

Mr. Rooker asked if additional measures were imposed, would it be expected that the stormwater runoff issues related to this road would be greater with a public road or with a private road. Mr. Brooks said the public road would be built at a lesser grade, so it would be easier to handle.

Mr. Rooker asked if there would be anything with a public road to handle the stormwater runoff. Mr. Brooks said there would not be anything within the right-of-way. The County could require additional matting and erosion control protection. But, for the permanent situation when there is a steep road, a steep grade and steep ditches, the potential for erosion cannot be engineered away. There is no way to get the water to the sides of the road quickly when the crown of the road is two percent, and the longitudinal grade is sixteen. The water goes with the road and not to the side.

Mr. Rooker asked if the conclusion is that the public road would be better from a stormwater standpoint than a private road. Mr. Brooks said the width of a public road would make it worse. His problem with a private road versus a public road is that the Board is being scared by a comparison staff is forced to make in the ordinance that the applicant will build a public road in the exact same alignment. That is a possibility, but it is not a realistic comparison.

Mr. Rooker said this was discussed at the Planning Commission meeting and the applicant said they had worked with staff, and the alignment shown is the best location for a road. Now it has been said that if the applicant is required to build a public road, it will be built somewhere else. He asked if staff has any confidence in that statement. Mr. Brooks said he would hesitate to say this is the only and best alignment. There are many ways the property could be developed; most has to do with where the house sites and lots are laid out, not with the actual road location.

Mr. Rooker said in looking at the lots, there are building sites of 30,000 square feet and 50,000 square feet on a 21-acre lot and the rest of the property is in steep slopes. He is not sure how realistic it would be to locate the road somewhere else because the present layout shows the road very close to the house sites. Mr. Brooks said the applicant is not tied to the building sites shown on the plan.

Mr. Rooker said the applicant is tied to them because, other than where they put the building sites, there are almost no other flat places on the lots. Mr. Brooks said there are flat areas at the top of the property.

Mr. Wyant said critical slopes are in that area. Mr. Shepherd said access to that area would be limited by the critical slopes provisions which would require an exemption to get to those lots and that would not be approved because there are alternative sites down lower on the property.

Mr. Pennock said the building sites have to be within the bounds of the property in order for the applicant to utilize the development rights. The road itself can be further down the mountain. They would still have to provide frontage so pieces of the existing lots are being added to the proposed lots in order to give them that frontage. If they moved the road farther down it would impact existing lots.

Mr. Rooker said he understands the land is owned by another person. Mr. Pennock said it is offsite of the proposed subdivision, and he is not sure whether the entity that owns those lots is similar to the entity that owns these lots. The proposal shows that they have already designed some boundary line adjustments to add land to some of the lots. He said it is generally offsite of the proposed subdivision.

Mr. Slutzky asked if there is land on the other side of the road that might become possible building sites that if it were not for the road would not otherwise be possible building sites. Mr. Pennock said the upper part of the property is in critical slopes, so the building sites shown are all of the building sites which are available.

Mr. Rooker said it is the lots above the road which are subject to this application. The lots below the road have already been platted. Those lots are already served by a road, and those lots are relatively flat, so to the extent that there was a division right on one of those properties, they could exercise it off of the existing road.

Mr. Boyd asked Ms. Long if she had finished her comments.

Ms. Long said she was almost through. She did want to say that no other lots would be able to access the proposed private (or public) road in this location. She said that Ms. Thomas met with the applicant the other day and one of the issues she raised was the ability of fire and rescue trucks to access the property. They have talked with the County's Fire Prevention expert and Mr. Justin Beights spoke with him this morning and provided him with a set of the profile plans that show the 16 percent grade road. His comment was that as long as the road is built to County and VDOT private road standards and the road is properly maintained subject to a road maintenance agreement that meets all of the County's requirements, he is comfortable with their ability to respond to any incidents at the property.

Ms. Long said Mr. Hughes wanted her to reiterate that a public road in the same alignment would have a more significant impact on the critical slopes than a private road in the same alignment. This is the alignment the applicant can work with given the ownership of the property, etc. Some of the lots are already below the 21-acre minimum because they had development rights, but others are right at the minimum acreage. She said they worked hard with both Planning and Engineering staff in light of those limitations to put the road in the alignment that was the most sensitive and one which staff had previously stated on the record that they felt was the best alignment. They hope the Board will support their request to build a private road so they can avoid all of the significant cutting and grading and filling that would be required with a public road in the same alignment.

Mr. Boyd said that leads into his question. It is obvious the applicant has thought about what would happen if the Board denied the appeal. If the Board denies the appeal will the applicant build the public road? Ms. Long said the landowner has said they will build the public road in this alignment. It would result in a significant increase in costs but it could be absorbed by the other lots in the subdivision. It makes the lots more expensive, but it is doable. They hope the Board will appreciate the environmental issues in terms of the earth-work, but if it is going to happen they ask to be allowed to do it in the way they think will promote sensitivity in the land.

Mr. Rooker asked Mr. Brooks if alternative alignments are removed from consideration, would the environmental impacts of both building the road and the erosion issues after the road is built be better served by building a public road in this location or a private road. Mr. Brooks said a private road would be better.

Mr. Slutzky asked if VDOT would likely approve this location for a public road. Mr. Brooks said if this were reviewed as a public road plan, staff would be looking at waivers for the road grades. He imagines it would be a different road but substantially the same.

Mr. Rooker asked if waivers would be controlled by VDOT. Mr. Brooks said they are, but typically VDOT asks for recommendations from the County.

Mr. Boyd said a private road is the least disturbing. That was reinforced by Mr. Brooks in his comments and that leads him to support this although he really does not like the development.

Mr. Rooker said he is in the same position. He thinks the Board has waded through all of the issues and he does not like the development or where it is located. He does not like the mountain impact, but it comes down to whether the Board makes a decision that results in a less environmentally damaging road. The answer that Mr. Brooks just gave him convinces him that the Board would be making a mistake by requiring a public road in this location. He will reluctantly support overturning the decision of the Planning Commission.

Mr. Slutzky asked Mr. Brooks if the Board approved this with conditions that would require staff's approval on a higher level of soil erosion mitigation, are there viable options that could be imposed on them. Mr. Brooks said there are.

Mr. Rooker suggested talking about that. He asked Mr. Davis if there could be a condition making it subject to staff's approval. Mr. Davis said if the standard the Board wants staff to identify can be reasonably articulated, it can be done. He is working on the wording of a condition now. It is his thought that the condition could read: "Approval of a plan to mitigate erosion and stormwater plans to the maximum extent practicable must be approved by staff as a condition of final subdivision plat approval."

Mr. Wyant asked if this is not already done by the County when requesting approval of a plat.

Mr. Rooker said he would be more comfortable if a condition were placed on approval.

Mr. Wyant said he thinks this is already done as part of the approval process. However, the outlet on the pipe is of concern. Mr. Brooks said Mr. Wyant is talking about a standard design which has to be fine tuned. He said additional stabilization measures could be required and additional inspections. A time limit could be set on the project and additional erosion control measures pertaining to the lots could be required. A lot of time is spent talking about the environmental impacts of the road and then there will be two lots requested with three acres of disturbance each. That is more than the road disturbance and all staff can require are typical road measures. There are things which can be required over those things typically done.

Mr. Wyant said it is the long-term impact of the road that is his major concern.

Mr. Rooker said he is concerned about both the long-term and the immediate impacts. Mr. Brooks said the long-term impacts of this road would have to do with stabilizing the shoulders of the road and the ditch lines. Hard liners can be required and also that the shoulders be stabilized with some type of reinforcement.

Mr. Slutzky asked if the outcome can be improved both during construction and for the long-term with a condition that is reasonable and not preclusive of the lots being developed. Mr. Brooks said "yes."

Mr. Dorrier asked if the County has any control over the road maintenance agreement for the five lot owners. Mr. Davis said a requirement of final plat approval would be approval of a road maintenance agreement.

Mr. Dorrier said he was thinking about putting something in the agreement about maintenance of the road. Mr. Davis said that also could be a condition of the private street waiver. The maintenance agreement does not require a condition, but if the Board wants something beyond the normal maintenance agreement, that could be a condition of the private street.

Mr. Dorrier said he thinks the problems with the road probably would arise later. There needs to be something in the maintenance agreement that requires upkeep to prevent erosion.

Mr. Wyant asked if an as-built drawing is required at the end of the project. Mr. Brooks said "yes."

Mr. Wyant said he thinks it is critical that the Board members understand there can be a design, but the road may not be built the way it is designed. He thinks the Board members are saying the road should be built as designed, and it will then adequately handle the stormwater runoff. If the road is crowned the wrong way and the water runs off the side where there is no ditch, there would be a different issue than what has been discussed today.

Mr. Boyd said the Board needs to ask the applicant if they are amendable to a condition that would require a higher standard of long-term erosion control.

Ms. Long said she could not hear the question.

Mr. Boyd asked Mr. Davis to read again the condition he was recommending. Mr. Davis said he thinks the Board is requesting that two conditions be attached to approval. One would read: "Approval of a plan by the County Engineer to mitigate erosion and stormwater to the maximum extent practicable as determined by the County Engineer shall be a condition of final plat approval." The second would read: "The road maintenance agreement shall specifically provide for the maintenance of the long-term erosion and sediment control measures approved as a part of the subdivision plat approval."

Mr. Slutzky said those two conditions satisfy his concerns.

Ms. Long said that should be workable. The applicants told her they always hire a property management company to administer their road maintenance agreements, arrange for snow clearing, etc., and to assess reserves against the lot owners for future capital expenses. That seems to be a part of that same idea.

Mr. Boyd asked if Ms. Long was saying those two conditions would be agreeable to the applicants. Ms. Long said "yes."

Ms. Thomas said this property lies in her district, but she will not move that the Board fail to uphold the Planning Commission. She said there has been a longstanding policy of being dubious about private roads in rural areas and accepting them only when absolutely necessary. She appreciates the

idea of adding the conditions and thinks they may “fence in this action” sufficiently so the Board does not totally destroy that longstanding policy. Still she is concerned that private roads are always going to be cheaper and easier and less intrusive on the mountainside, so there will be more private roads going into the mountains. Although it is nice that a fire chief said he can do anything written down, she still thinks it is irresponsible to have this much 16 percent slope; the Board is close to setting a precedent that private roads are okay in mountainous areas. She does not think that is a step the Board should take.

Mr. Davis said he would reread the proposed conditions just to be sure the record is clear. 1) “Approval of a plan by the County Engineer to mitigate erosion and stormwater to the maximum extent practicable as determined by the County Engineer shall be a condition of final plat approval.” 2) “The road maintenance agreement shall specifically provide for the long-term maintenance of the erosion and stormwater improvements required by Condition No. 1.”

Mr. Dorrier said he would **move** to approve SDP-2007-102, Warthen Estates private street waiver with the conditions as read by the County Attorney. Mr. Rooker gave **second** to the motion. He said he thinks it is the Board’s policy to approve private roads where it is shown that the private road will have significantly less environmental impact than a public road. It is only based on that that he is willing to support this appeal along with the conditions placed to enhance erosion and sediment control.

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

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

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

1. Approval of a plan by the County Engineer to mitigate erosion and stormwater to the maximum extent practicable as determined by the County Engineer shall be a condition of final plat approval; and
2. The road maintenance agreement shall specifically provide for the long term maintenance of the erosion and stormwater improvements required by condition #1.

Agenda Item No. 10. **Appeal:** SDP2007-0025. CV 340A Brownsville/Ramsey Property. Proposal to install a Tier II personal wireless service treetop facility. The proposed facility consists of a 73-foot tall monopole, painted brown with an approximate top elevation of 735 feet, measured above sea level (ASL). The proposed monopole will be 10 feet higher than the identified reference tree located 24 feet east of the tower site. The lease area for the proposed facility is located on property described as Tax Map 56, Parcel 35B, which is approximately 6.82 acres and is zoned R-1, Residential and EC, Entrance Corridor. The site is located north of Rockfish Gap Turnpike [Rt 250] just east its intersection with Shepherd Run [Private] in the White Hall Magisterial District. The Comprehensive Plan identifies part of this property as CT-2, Development Area Reserve within the Crozet Community.

Mr. David Pennock, Planner, presented the staff’s report which is on file in the Clerk’s Office with the permanent records of the Board of Supervisors. He said the wireless policy in the ordinance allows for approval of a treetop facility, a Tier II personal wireless service facility up to ten feet taller than the reference tree if the owner of the facility demonstrates to the satisfaction of the Commission that there is not a material difference in the visibility of the monopole at the proposed height of ten feet taller than the reference tree rather than at a height seven feet taller. In this case, the cell tower was approved at a maximum height of seven feet above the reference tree (the tallest tree within a 25-foot radius of the proposed tower). The applicant has appealed that decision for the additional three feet in height.

Mr. Pennock said the property is located north of Route 250 West before going into Crozet and is served by a private street (Shephard Run). Two adjacent property owners wrote letters prior to the Commission meeting expressing concerns related to visibility of the proposed facility. The main issues cited were related to the proximity of the personal wireless facility to their respective properties. Specific points listed included aesthetic issues, private street maintenance concerns, and the potential loss of property value as a result of the installation of the proposed facility. Those issues were discussed by the Commission along with other concerns, but ultimately the Commission approved the applicant’s request for a Tier II personal wireless service facility at a maximum height of seven feet above the reference tree. The general consensus of the Commission was that approval of the Tier II personal wireless facility would serve a public purpose by improving cell phone coverage along Route 250.

Mr. Pennock said that on March 21, 2007, prior to the Planning Commission’s meeting, a balloon test was conducted. During the site visit, staff observed a test balloon that was floated at the approximate height of the proposed monopole, which was ten feet taller than the reference tree. The balloon was minimally visible from the Route 250 Entrance Corridor. When visible, it was seen for a short distance and it was seen through trees. The trees did not provide a backdrop for the balloon, so when it was visible it was skylighted. However, staff representatives for the Architectural Review Board noted that the low level of visibility was not expected to have a negative impact on the entrance corridor. The balloon was also visible from adjacent parcels at several points. From these vantage points, the balloon was skylighted. Staff did not believe there was a significant loss of resources identified on the Crozet Development Area Master Plan related to the installation of the tower at a height that is ten feet taller than the reference tree.

Mr. Boyd suggested the applicant speak to the Board at this time and explain why there is a need for ten feet rather than the seven feet.

Mr. Will Dibling from the Roanoke law firm of Gentry Locke Rakes and Moore was present to represent New Cingular Wireless PCS, LLC, known as AT&T. They appealed the failure of the Planning Commission to approve a modification of three feet. On October 2, 2007, the Commission approved a wireless facility at seven feet above the tallest tree within 25 feet. At seven feet, their pole would be 64.4 feet high. At ten feet, it would be 67.4 feet high. In the staff's report there is a reference to 73 feet, but that was an original proposal made before the balloon test was done. After the test, the height was reduced to 67.4 feet. He said from a visual standpoint, three feet is virtually unnoticeable. It makes a difference from a radio frequency standpoint. If there is going to be a tower on that site, they would like to have a tower that would provide satisfactory coverage for the area. There is a public safety issue with respect to coverage in that area of Route 250.

Mr. Dibling said the staff's report laid the foundation for a modification to provide the additional three feet. In that report it is stated that the Architectural Review Board approved the request with conditions, therefore, staff feels the visibility of the monopole will not adversely impact the resources of the Entrance Corridor or historic districts. Later in the report it was stated "Based on the balloon test mentioned above, staff determined that there would be little or no material difference in the visibility of the monopole at the proposed height of ten feet, than at the height of seven feet taller than the tallest tree." He said that without any explanation, the Planning Commission adopted a motion to approve it at seven feet above, but said nothing about why they were not adopting the requested modification of ten feet.

Mr. Dibling handed out some materials and asked the Board to look at a survey of the property. He said it shows that the proposed tower site is 370 feet from the right-of-way of Route 250 to the south. They are also 350 feet to the center of Shepherd Run to the west. There is no close by property. He then read from the County ordinance regulations regarding tower requests. He said the issue before the Board is whether there is a material difference in visibility and whether there is a material difference in adverse impacts on the County's Open Space Plan. Next, he referenced photos of the balloon which was 36 inches in diameter and flown at ten feet above the tallest tree. He then showed an illustration of the monopole at another location off of Route 250, with the balloon being flown at ten feet above the tallest tree, another balloon flown at seven feet above the tallest tree, and a photo simulation of the monopole at ten feet and one at seven feet. He said that at any height, the monopole is almost impossible to spot. There is no material difference in the monopole at seven feet and ten feet.

Ms. Thomas asked if the photo simulation shows a transparent monopole or does she not understand the photo.

Mr. Dibling explained the photo, and said the monopole is a very thin brown pole of 18-inches at the top. He referenced another photograph taken from Shepherd Run. He said the balloon can be seen at ten feet above the treetop, and in the next photo they have superimposed the monopole on the photo. Finally, he had a photo of the monopole at ten feet. They believe that at 64.4 feet as proposed there is no material difference in visibility, and there is no material difference in the impact on any resources of the County. They urge the Board to grant approval for 67.4 feet. He offered to answer questions.

Ms. Thomas asked the importance of having the pole at ten feet instead of seven feet above the nearest tree. She said the Board is usually shown dispersion charts.

Mr. Dibling said he did not bring radio frequency charts because the issue before the Board is whether there is a material difference in visibility and whether there is a material difference in impact on County resources. The issue is not the aesthetics of the tower or its coverage or whether they have found the right location. It has already been decided that the tower will be built on that site.

Mr. Rooker asked if there is a difference in the radio frequencies between the seven and the ten feet.

Mr. Dibling said his clients would not have sent him here and expended that money if they did not think there was a material difference in the radio frequency to be achieved.

Mr. Boyd asked if there were other questions for the applicant.

Mr. Slutzky said he would like to ask the Planning Commission why this appeal is before the Board.

Ms. Thomas said when a tower is skylighted as this one is, even though it is a considerable distance off of the road, the Planning Commission usually goes for the lower instead of the higher distance. This one is pretty hard to see from Route 250 and she was going to ask staff if the photos shown accurately portray the situation.

Mr. Wayne Cilimberg, Director of Planning, said the Commission was referred to in the discussion; he would like to say that one Commissioner did not think the pole should be in this location. He thinks the other Commissioners were acknowledging that there were two adjacent property owners who expressed concern about the potential visibility and its effect on their property values, although neither one spoke at the public hearing. He said the Commission went with the standard of seven feet based on that kind of input. They did not have a discussion of the difference, *per se*.

Mr. Rooker said he had read the Planning Commission minutes for the public hearing. Mr. Strucko had said he could not support the request because it was a commercial venture in a residential area with several objections from adjoining landowners. Then, there was a motion to approve the tower at seven feet. There was no real discussion of the visibility issue. In this case, staff made a finding that there was no material difference.

Mr. Wyant said he does not see any adverse affect from what has been presented. He then offered **motion** to approve the appeal of SDP2007-00025, CV340A Brownsville/Ramsey Property with the total height of ten feet above the reference tree. The motion was **seconded** by Mr. Slutzky.

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

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

(**Note:** The Condition of Approval is set out in full below.)

- 1) The top of the monopole shall not be more than ten (10) feet above the tallest tree located within twenty-five (25) feet of the monopole.

Agenda Item No. 11. Economic Development Policy, 2007 Data Update.

Mr. Boyd said because of time constraints, the Board will reschedule this item until later in the day.

Agenda Item No. 12. Closed Session. At 12:59 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; under Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring advice by counsel relating to an inter-jurisdictional agreement; and, under Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring advice by counsel relating to emergency medical services.

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

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

Agenda Item No. 13. Certify Closed Session. The Board reconvened into open session at 2:27 p.m.

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

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

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

Agenda Item No. 14. Appointments.

Motion was offered by Mr. Wyant to:

To appoint Mr. William Schrader to the Joint Airport Commission with said term to expire on December 1, 2010.

To appoint Ms. Anne Bedarf to the Natural Heritage Committee with said term to expire on September 30, 2011.

To reappoint Mr. Joseph Samuels and Mr. Ross Stevens to the ACE Appraisal Review Committee with said terms to expire on December 31, 2008.

To reappoint Ms. Jana Crutchfield and Mr. Shirley Terrell to the Housing Committee with said terms to expire on December 31, 2010.

To reappoint Ms. Marilyn Minrath to the Public Defender Office Citizens Advisory Committee with said term to expire on December 31, 2010.

To reappoint Mr. Joseph Cochran, Mr. John deKoven Bowen, III, Mr. Craig Van de Castle and Ms. Sherry Buttrick to the Public Recreational Facilities Authority with said terms to expire December 13, 2010.

To reappoint Mr. Stephen Kirkup to the Rivanna Solid Waste Authority Citizens Advisory Committee with said term to expire on December 31, 2009.

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

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

Agenda Item No. 15. **Public Hearing:** An ordinance to amend Chapter 9, Motor Vehicles and Traffic, of the Albemarle County Code, by amending Article IV, County Vehicle Licenses, Section 9-404, License tax--Amounts. The ordinance would increase the annual County vehicle license tax, effective January 1, 2008, from \$25.00 to \$38.50 for vehicles with gross vehicle weights of 4,000 pounds or less, from \$30.00 to \$43.50 for vehicles with gross vehicle weights in excess of 4,000 pounds, from \$20.00 to \$26.50 for motorcycles, from \$9.50 to \$19.50 for trailers or semi-trailers not designed and used for transportation of passengers with gross vehicle weights of 1,500 pounds or less, and from \$20.00 to \$30.00 for those trailers with gross vehicle weights in excess of 1,500 pounds. (Notice of this public hearing was advertised in the Daily Progress on November 19 and November 26, 2007.)

Mr. Richard Wiggans, Director of Finance, said the 2007 General Assembly amended the enabling authority to increase the maximum amounts localities can charge for annual vehicle license taxes by ten dollars. During its deliberations on the FY 2008 Budget, the Board decided that the vehicle license tax should be set at the maximum enabled amount to offset reliance on real property taxes. The adopted FY 2008 Budget was balanced by including projected revenue based on a January 1, 2008, increase in the County vehicle license taxes to the maximum limits allowed by State law. The projected revenue increase of \$1.4 million was based on raising the vehicle license tax amounts to the maximum amounts set forth in the proposed ordinance which is the subject of this public hearing. Staff recommends that the Board, after the public hearing, adopt the advertised ordinance.

Mr. Boyd said this proposed increase was discussed at length by the Board during the April budget meetings. This is the final step to adopt the ordinance based on the decision made by the Board some months ago. He then opened the public hearing.

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

Motion was immediately offered by Mr. Wyant to adopt An Ordinance (Ordinance No. 07-9(2)) to amend Chapter 9, Motor Vehicles and Traffic, Article IV, County Vehicle Licenses, of the Code of the County of Albemarle, Virginia, by amending Sec. 9-404, License Tax – Amounts. The motion was **seconded** by Mr. Rooker.

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

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

(**Note:** The ordinance, as adopted, is set out in full below.)

ORDINANCE NO. 07-9(2)

AN ORDINANCE TO AMEND CHAPTER 9, MOTOR VEHICLES AND TRAFFIC, ARTICLE IV, COUNTY VEHICLE LICENSES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 9, Motor Vehicles and Traffic, Article IV, County Vehicle Licenses, is hereby amended and reordained as follows:

By Amending: Sec. 9-404 License tax--Amounts

CHAPTER 9. MOTOR VEHICLES AND TRAFFIC

ARTICLE IV. COUNTY VEHICLE LICENSES

Sec. 9-404 License tax--Amounts.

A. On all motor vehicles, except as otherwise specifically provided in this article, there shall be an annual license tax based on gross vehicle weight. The license tax shall be thirty-eight dollars and fifty cents (\$38.50) for vehicles with gross vehicle weights of four thousand (4,000) pounds or less and forty-three dollars and fifty cents (\$43.50) for gross weights in excess of four thousand (4,000) pounds. Gross maximum loaded weight shall be substituted for gross vehicle weight for motor vehicles not designed and used primarily for the transportation of passengers.

B. On every motorcycle there shall be an annual license tax of twenty-six dollars and fifty cents (\$26.50).

C. On every trailer or semitrailer not designed and used for transportation of passengers, there shall be an annual license tax as follows:

<u>Gross Weight</u>	<u>Annual Tax</u>
0 - 1,500 lbs.	\$19.50
1,501 lbs. and above	\$30.00

D. In the case of a combination of a tractor-trailer or semitrailer, each vehicle constituting a part of such combination shall be taxed as a separate vehicle.

E. On every motor vehicle, trailer or semitrailer upon which well-drilling machinery is attached or other "specialized mobile equipment" as defined in Virginia Code § 46.2-700(B), there shall be an annual license tax of sixteen dollars and fifty cents (\$16.50).

F. Except as provided in section 9-403(B), the license tax prescribed herein shall be due and payable on or before June 5 of each year, and shall be included and separately stated on the personal property tax bill.

(Code 1967, § 12-93; 1-18-73; 6-7-89; Code 1988, § 12-25; Ord. 98-A(1), 8-5-98; Ord. 99-9(1), 11-10-99; Ord. 02-9(1), 11-6-02; Ord. 05-9(2), 12-7-05, effective 1-1-06; Ord. 07-9(2), 12-5-07, effective 1-1-08)

State law reference--Va. Code § 46.2-694(A), 46.2-694.1, 46.2-752, 46.2-1168.

This ordinance shall be effective on and after January 1, 2008.

Agenda Item No. 16. **Public Hearing:** An ordinance to amend Sec. A.1-103, Definitions and construction, Sec. A.1-107, Eligibility criteria, Sec. A.1-108, Ranking criteria, and Sec. A.1-109, Easement terms and conditions, of Appendix A.1, Acquisition of Conservation Easements Program, of the Albemarle County Code. This ordinance would amend the definition of "division rights" (Sec. A.1-103); increase the minimum number of points a parcel must receive under the ranking criteria in order to be eligible for a conservation easement (Sec. A.1-107); amend the criteria for which points are awarded for mountain and natural heritage resources, working family farms, parcels adjoining a Virginia scenic highway or byway or an entrance corridor, and award one point if the parcel is subject to a professionally prepared Forest Stewardship Management Plan (Sec. A.1-108); and amend the deed of easement terms and conditions to require that, if an owner requests that the points awarded to a parcel be counted for having qualifying mountain or historic resources, or adjacency to a Virginia scenic highway or byway or a state scenic river, the deed shall contain restrictions to protect those resources (Sec. A.1-109). (Notice of this public hearing was published in the Daily Progress on November 19 and November 26, 2007.)

Mr. Tucker presented the Executive Summary (a copy is on file in the Clerk's Office with the permanent records of the Board of Supervisors). He said the ACE Committee has been reviewing the ACE Ordinance this past year focusing on the effectiveness of the ranking evaluation criteria for identifying those properties most worthy of protection by a conservation easement, and the meaning of the term "division rights" as it is currently defined in the ordinance. As a result of its review, the Committee recommended changes in the ordinance, to wit:

- Amend the definition of "division rights" to clarify that a division right must be actual, rather than theoretical, and explain that each division right represents the right to build a single primary or secondary dwelling (Section A.1-103). This amendment would codify staff's current implementation of the term.
- Increase from 15 to 20 the minimum number of points a parcel must receive under the ranking criteria in order to be eligible for a conservation easement (Section A.1-107). This amendment is recommended because the ranking evaluation criteria have been amended over the years (including the amendments recommended herein) to increase the opportunities for which points may be awarded, and would eliminate parcels from consideration that have marginal conservation value.
- Amend the criteria for which points are awarded for mountain resources, working family farms, parcels adjoining a Virginia scenic highway or byway or an entrance corridor, and natural heritage resources (Section A.1-108). These amendments would add qualifying criteria to recognize the conservation value of various resources identified in the Comprehensive Plan, and would clarify other criteria.
- Add to the ranking criteria the award of one point if the parcel is subject to a professionally prepared Forest Stewardship Management Plan approved by the Virginia Department of Forestry (Section A.1-108).
- Amend the deed of easement terms and conditions to require that, if an owner requests that the points awarded to a parcel be counted for having qualifying mountain or historic resources, or adjacency to a Virginia scenic highway or byway or a State scenic river, then the deed shall contain restrictions to protect those resources (Section A.1-109).

Mr. Tucker said staff recommends that the Board, after holding the public hearing, adopt the ordinance as advertised.

Ms. Thomas said she is the Board's liaison to the ACE Committee and she thinks these changes are in response to issues brought up by this Board and the community. She asked if the Board is able to talk today about the maximum size of a building that can be on a conservation eased property. Mr. Davis said that is not an issue the Board could deal with in this ordinance since it was not advertised.

Mr. Wyant said he knows there are easements that have one size for houses and one size for other types of buildings. That needs to be flushed out.

Mr. Rooker thought the committee should look at what the Virginia Outdoors Foundation is doing as well as other easement holders, and report back to the Board.

Ms. Thomas said she will ask the Committee to do so.

Mr. Rooker said VOF has a guideline, but sometimes deviates from that guideline based on the context in which the easements are being applied. He wants to make sure there can be a little bit of a sliding scale based on acreage, and other things that might apply.

Mr. Slutzky said the Committee might also look at whether the Board could require that once a conservation easement is in place and a dwelling is constructed, that it is the last dwelling that can be built and narrowly define "dwelling." He said there are costs associated with establishing actual "division rights" as opposed to theoretical rights. Should the Board require that rural homeowners have perk tests of the soil and drill a well to determine that they could get a gallon a minute? Those would be conditions precedent to having those development rights determined to not be theoretical. He is not sure the board needs to go that far. Mr. Davis said that was not the intent of this amendment. This change will allow staff and the ACE Committee to make a reasonable determination that there is a developable lot. He is not sure how far staff wants to go with this amendment.

Mr. David Benish, Chief of Community Development, said staff does this now. They look at the proposed easements and evaluate whether they have building sites and a general envelope for development. Then staff advises the ACE Committee as to what it thinks the realistic development potential is. They do not go so far as to mimic a plat but they want to be sure they are not crediting property for division rights that have no real building sites in terms of dimensions and land outside of critical slopes and floodplains. Mr. Davis said the determination as to whether there is one or not is a decision staff, and ultimately the Board has the right to determine, but there is no hard and fast submittal requirement for that to be determined.

Mr. Slutzky said he just wanted to be sure the Board was not "making an oops" and it sounds like it has been thought through. Mr. Benish said the Community Development/Zoning Department verifies the theoretical rights and then looks at how many of those can realistically be developed.

Mr. Rooker asked if staff takes into consideration road frontage. Mr. Benish said there are a lot of "dicey" situations, but they do take into consideration whether there is frontage or not. They assume that either a public or private road could be built under the ordinance to serve it. Just because there is not frontage, it is not assumed there is no development potential. For parcels that are split by streams with floodplains, they take into consideration that a legislative act is needed for a stream crossing. It does not mean it is automatically assumed those areas are not developable. Staff just uses its best judgment in those cases.

Mr. Wyant said to get into the ACE Program the property has to have a development right. He said the Board does not want to make regulations where it does not attract more people into the program; "we don't want to shoot ourselves in the foot." He wonders if anything is being done in this ordinance that would hurt the program. Mr. Davis said there is no requirement that there be multiple development rights, but that is one of the point earning criteria. If there are none, unless the property is exceptional in other circumstances, the property may not qualify on points. He does not recall that the County has taken any property that does not have development rights, but it is possible.

Mr. Rooker asked why the County would pay someone not to develop what they couldn't develop anyway.

Mr. Boyd said it should be a requirement that the property have a development right.

Mr. Rooker said he does not think the Committee would approve the acquisition of such property. Mr. Davis said the easement has other restrictions other than developing houses on the property. There is value to the easement beyond eliminating division rights; this is not totally a division rights program.

Ms. Thomas said that is the reason it is called ACE and PDR. Mr. Benish said there may be other resources that would give the property value, but it would probably be somewhat lower on the priority list because it could not get as many points with the development rights extinguished.

Mr. Ches Goodall, ACE Coordinator, said there are multiple criteria. There have been a couple of properties where not many development rights were eliminated, but the property met so many other criteria, that the property was eligible. Often times these properties come at a good discount to the County because the appraiser recognizes that the property is not developable and that is reflected in the easement value.

At this time, Mr. Boyd opened the public hearing.

Mr. Neil Williamson with the Free Enterprise Forum said they have no issue with the changes in the scoring. The Forum applauds the ACE Committee for all it has done, but he reminded the Board that based on the way the ordinance is written and the sections are not being reviewed today, the County is not in a position to buy the best properties that may be available. He said the income restrictions on ACE prevent the best properties for conservation easements from being acquired. He recommends these changes, but he would like to know whether this Board reaffirms the income restrictions on the ACE Program.

With no other members of the public rising to speak, the hearing was closed and the matter placed before the Board.

Ms. Thomas said that around the State other localities have picked up the wording of the County's ACE Program and some of them adopted the income grid. She thinks the income grid is the salvation of this program because it means that taxpayer dollars will not go to wealthy people. She said if someone has a heavy income tax burden, they can get tax credits, or even sell the tax credits, and then get both Federal and State tax benefits from putting the land under a conservation easement. If the County were to pay money into those wealthy landowners who could otherwise get generous tax credits, she thinks the taxpayers would protest. She thinks the income grid is the reason this program has remained so little attacked even in the time of revenue shortages.

Mr. Dorrier asked if these amendments deal with the issues raised in the package of materials given to the Board by Mr. Richard Seldon.

Ms. Thomas said that was the basis of her question as to whether the Board could deal with the size of housing, and the answer the Board just got was this was not the appropriate time or place. There is another issue which the Seldon situation raises which is how well the County is monitoring its easements. She thinks that is a legitimate topic for the Board to discuss, but it is not part of what is in front of the Board right now. Mr. Tucker said the Board has asked Ms. Thomas to take that issue to the ACE committee and get a recommendation from them.

Mr. Dorrier said Mr. Seldon was obviously disturbed by Albemarle County's management, so the Board is not dealing with that issue.

Mr. Slutzky said this ordinance concerns the ACE Program, and the conservation easement mentioned by Mr. Seldon is not an Albemarle County easement anyway.

Mr. Rooker said with respect to the income grid, it was discussed at the time the program was adopted. The County wanted to create a program that did not compete with the Virginia Outdoors Foundation, the Nature Conservancy, etc. to get generally wealthy people for the tax benefits. They wanted to find something for people who would not benefit as much from tax benefits that might not otherwise put their property in conservation easements. This program augments existing programs.

Mr. Boyd asked for a motion.

Motion was offered by Ms. Thomas to adopt An Ordinance (Ordinance No. 07-A.1(1)) to Amend Appendix A.1, Acquisition of Conservation Easements Program, of the Code of the County of Albemarle by amending: Sec. A.1-103, Definitions and construction, Sec. A.1-107, Eligibility criteria, Sec. A.1-108, Ranking criteria, and Sec. A.1-109, Easement terms and conditions.

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

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

NAYS: None.

(**Note:** The ordinance, as adopted, is set out in full below.)

ORDINANCE NO. 07-A.1(1)

AN ORDINANCE TO AMEND APPENDIX A.1, ACQUISITION OF CONSERVATION EASEMENTS PROGRAM, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Appendix A.1, Acquisition of Conservation Easements Program, of the Code of the County of Albemarle is amended as follows:

By amending:

Sec. A.1-103 **Definitions and construction**

Sec. A.1-107 **Eligibility criteria**

Sec. A.1-108 **Ranking criteria**

Sec. A.1-109 **Easement terms and conditions**

APPENDIX A.1

ACQUISITION OF CONSERVATION EASEMENTS PROGRAM

Sec. A.1-103. Definitions and construction.

A. The following definitions shall apply in the interpretation and implementation of the ACE program:

(1) *Conservation easement.* The term "conservation easement" means a nonpossessory interest in one or more parcels of one or more qualified easement holders under section A.1-109(E) acquired under the Open-Space Land Act (Virginia Code § 10.1-1700 *et seq.*), whether the easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase pursuant to the ACE program, imposing limitations or affirmative obligations for the purpose of retaining or protecting natural or open-space values of the parcel or parcels, assuring availability for agricultural, forestal, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of the parcel or parcels.

(2) *Division rights.* The term "division rights" means the number of parcels into which a parcel could be divided and developed with a dwelling and all associated improvements and utilities, counting both those parcels less than twenty-one (21) acres in size and those twenty-one (21) acres in size or greater that could be created, by a by-right conventional development under the rural areas zoning district regulations stated in Section 10 of Chapter 18, Zoning, of the Albemarle County Code, where each potential parcel could comply with all applicable requirements of Chapter 14, Subdivision of Land, and Chapter 18, Zoning, of the Albemarle County Code. Each division right represents the right to build a single dwelling, regardless of whether it is a primary or secondary dwelling.

(3) *Forced sale.* The term "forced sale" means a sale of a parcel with unused development rights in a manner prescribed by law that is conducted under a judgment, order or the supervision of a court of competent jurisdiction, other than a sale arising from a partition action; a sale resulting from foreclosure under the laws of the Commonwealth of Virginia; or, a sale that is not the voluntary act of the owner but is compelled in order to satisfy a debt evidenced by a mortgage, judgment, or a tax lien.

(4) *Hardship.* The term "hardship" means an economic hardship, other than a circumstance causing a forced sale, experienced by the owner of the parcel so as to compel him to place a parcel with unused development rights for sale or to use such development rights.

(5) *Immediate family.* The term "immediate family" means an owner's spouse and his or her offspring residing in the same household as the owner.

(6) *Owner.* The term "owner" means the owner or owners of the freehold interest of the parcel.

(7) *Program administrator.* The term "program administrator" means the director of the department of planning and community development.

(8) *Parcel.* The term "parcel" means a lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the County of Albemarle.

(9) *Retained division rights.* The term "retained division rights" means the number of parcels into which a parcel subject to a conservation easement may be divided as provided in section A.1-109(A).

B. *Construction.* Because a conservation easement may contain one or more parcels, for purposes of the ACE program the term "parcel" shall include all parcels covered by, or proposed to be covered by, the conservation easement.
(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 07-A.1(1), 12-5-07)

Sec. A.1-107. Eligibility criteria.

In order for a parcel to be eligible for a conservation easement, it must meet the following criteria: (i) the use of the parcel subject to the conservation easement must be consistent with the comprehensive plan; (ii) the proposed terms of the conservation deed of easement must be consistent with the minimum terms and conditions set forth in section A.1-109; and (iii) the parcel shall obtain at least twenty (20) points under the ranking criteria set forth in section A.1-108.
(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 07-A.1(1), 12-5-07)

Sec. A.1-108. Ranking criteria.

In order to effectuate the purposes of the ACE program, parcels for which conservation easement applications have been received shall be ranked according to the criteria and the point values assigned as provided below. Points shall be rounded to the first decimal.

A. *Open-space resources.*

1. The parcel adjoins an existing permanent conservation easement, a national, state or local park, or other permanently protected open-space: two (2) points, with one (1) additional point for every five hundred (500) feet of shared boundary; or the parcel is within one-quarter (1/4) mile of, but not adjoining, an existing permanent conservation easement, a national, state or local park, or other permanently protected open-space: two (2) points.

2. Size of the parcel: one (1) point for each fifty (50) acres.

B. *Threat of conversion to developed use.*

1. The parcel is threatened with forced sale: five (5) points.

2. The parcel is threatened with other hardship: three (3) points.

3. The number of division rights to be eliminated on the parcel: one-half (1/2) point for each division right to be eliminated, which shall be determined by subtracting the number of retained division rights from the number of division rights.

C. *Natural, cultural and scenic resources.*

1. Mountain protection: one (1) point for each fifty (50) acres in the mountain overlay district, as delineated in the Comprehensive Plan; an additional one (1) point may be awarded for each twenty (20) acres within a ridge area boundary. For purposes of this section, the term "ridge area boundary" means the area that lies within one hundred (100) feet below designated ridgelines shown on county mountain overlay district elevation maps. The deed restriction set forth in section A.1-109(B)(1) shall apply if the parcel is eligible for and the owner requests that points be awarded for this criterion.

2. Working family farm, including forestry: five (5) points if at least one family member's principal occupation and income (more than half) is farming or foresting the parcel; three (3) points if at least one family member has as a secondary occupation farming or foresting the parcel so that it is eligible for or subject to land use taxation as land devoted to agriculture, horticulture or forest use under Albemarle County Code § 15-800 *et seq.*

3. The parcel adjoins a road designated either as a Virginia scenic highway or byway, or as an entrance corridor under section 30.6.2 of Chapter 18 of the Albemarle County Code: two (2) points, with one (1) additional point for each six hundred (600) feet of road frontage if the parcel is subject to a deed restriction as provided herein; otherwise, one (1) point for each one thousand (1000) feet of road frontage; the parcel adjoins a public road: two (2) points, with one (1) additional point for each one thousand (1000) feet of road frontage; or, the parcel is substantially visible from, but is not contiguous to, a public road designated either as a Virginia scenic highway or byway, or as an entrance corridor under section 30.6.2 of Chapter 18 of the Albemarle County Code: two (2) points. The deed restriction set forth in section A.1-109(B)(2) shall apply if the parcel is eligible for and the owner requests that two (2) points, with one (1) additional point for each six hundred (600) feet of road frontage, be awarded for adjoining a Virginia scenic highway or byway.

4. The parcel contains historic resources: three (3) points if it is within a national or state rural historic district or is subject to a permanent easement protecting a historic resource; two (2) points if the parcel is within the primary Monticello viewshed, as shown on viewshed maps prepared for Monticello and in the possession of the county; two (2) points if the parcel contains artifacts or a site of archaeological or architectural significance as determined by a qualified archaeologist or architectural historian under the United States Department of Interior's professional qualification standards. The deed restriction set forth in section A.1-109(B)(4) shall apply if the parcel is eligible for and the owner requests that points be awarded for this criterion.

5. The parcel contains an occurrence listed on the state natural heritage inventory or a qualified biologist submitted documentation of an occurrence of a natural heritage resource to the program administrator and the Virginia Division of Natural Heritage on behalf of the owner: five (5) points; or the parcel is within one-quarter (1/4) mile of an occurrence list on the State Natural Heritage Inventory: two (2) points.

6. The parcel contains capability class I, II or III soils ("prime soils") for agricultural lands or ordination symbol 1 or 2 for forest land, based on federal natural resources conservation service classifications found in the United States Department of Agriculture Soil Survey of Albemarle County, Virginia: one (1) point for each fifty (50) acres containing such soils to a maximum of five (5) points.

7. The parcel is within the South Fork Rivanna Reservoir Watershed, the Chris Greene Lake Watershed, or the Totier Creek Reservoir Watershed: three (3) points; or the parcel adjoins the Ivy Creek, Mechums River, Moormans River, Rocky Creek (of the Moormans River), Wards Creek (of the Moormans River), Buck Mountain Creek, South Fork Rivanna River, North Fork Rivanna River, Swift Run (of the North Fork Rivanna River), Lynch River (of the North Fork Rivanna River), Hardware River, Rockfish River, James River, any waters designated as "Exceptional Waters" by the Virginia Water Control Board, any public water supply reservoir or

emergency water supply reservoir: one-half (1/2) point for each one thousand (1000) feet of frontage.

8. The parcel adjoins a waterway designated as a state scenic river: one-half (1/2) point for each one thousand (1000) feet of frontage. The deed restriction set forth in section A.1-109(B)(3) shall apply if the parcel is eligible for and the owner requests that points be awarded for this criterion.

9. The parcel is subject to a permanent easement whose primary purpose is to establish or maintain forest buffers adjoining perennial or intermittent streams, as those terms are defined in Chapter 17 of the Albemarle County Code: one (1) point for each one thousand (1000) linear feet of buffer that is between thirty-five (35) and fifty (50) feet wide; one and one-half (1 ½) points for each one thousand (1,000) linear feet of buffer that is greater than fifty (50) feet but not more than one hundred (100) feet wide; two (2) points for each one thousand (1000) linear feet of buffer that is greater than one hundred (100) feet wide. If the owner voluntarily offers in his application to place the parcel in such a permanent easement, then the above-referenced points may also be awarded.

10. The parcel is within a sensitive groundwater recharging area identified in a county-sponsored groundwater study: one (1) point.

11. The parcel is within an agricultural and forestal district: two (2) points.

12. The parcel is subject to a professionally prepared Forestry Stewardship Management Plan approved by the Virginia Department of Forestry: one (1) point.

D. *County fund leveraging.* State, federal or private funding identified to leverage the purchase of the conservation easement: one (1) point for each ten (10) percent of the purchase price for which those funds can be applied.

(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 04-A.1(1), 10-6-04; Ord. 07-A.1(1), 12-5-07)

Sec. A.1-109. Easement terms and conditions.

Each conservation easement shall conform to the requirements of the Open-Space Land Act of 1966 (Virginia Code § 10.1-1700 *et seq.*) and of this appendix. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

A. *Restriction on division.* The parcel shall be restricted from division as follows: (i) if the parcel is less than one hundred (100) acres, it shall not be divided; (ii) if the parcel is one hundred (100) acres or larger but less than two hundred (200) acres, it may be divided into two (2) lots; (iii) if the parcel is two hundred (200) acres or larger, it may be divided into as many lots so as to maintain an average lot size of at least one hundred (100) acres, plus one additional lot for any acres remaining above the required minimum average lot size (*e.g.*, an eight hundred fifty (850) acre parcel may be divided into as many as nine (9) parcels, eight (8) of which maintain an average lot size of at least one hundred (100) acres, and the ninth of which consists of the remaining acres).

B. *Protection of mountain, scenic and historic resources.* The deed of easement shall include the following restrictions if the owner agrees to use points received under section A.1-108 for mountain, scenic or historic resources:

1. *Mountain resources.* If the owner voluntarily requested in his application that the parcel be awarded points in the evaluation process under section A.1-108(C)(1) for mountain protection, the deed of easement shall prohibit establishing all primary and accessory structures and other improvements, provided that one or more farm buildings or agricultural structures may be permitted within the mountain overlay district with the prior written approval from each grantee; the deed of easement also shall assure that the parcel is used and maintained in a manner consistent with the comprehensive plan and, in particular, the Open Space Plan as it pertains to mountain resources, and the Mountain Design Standards in Chapter 2 of the Comprehensive Plan.

2. *Scenic highways and byways.* If the owner voluntarily requested in his application that the parcel be awarded two (2) points, with one (1) additional point for each six hundred (600) feet of road frontage, in the evaluation process under section A.1-108(C)(3) for adjoining a Virginia scenic highway or byway, the deed of easement shall require that each new dwelling have a two hundred fifty (250) foot setback from the edge of the right-of-way of the scenic highway or byway or shall be sited in a location approved by each grantee prior to issuance of a building permit to assure that the dwelling is not visible from the scenic highway or byway at any time of the year.

3. *Scenic rivers.* If the owner voluntarily requested in his application that the parcel be awarded points in the evaluation process under section A.1-108(C)(8) for adjoining a Virginia scenic river, the deed of easement shall require that each new dwelling have a two hundred fifty (250) foot setback from the top of the adjoining stream bank or shall be sited in a location approved by each grantee prior to issuance of a building permit to assure that the dwelling is not visible from the scenic river at any time of the year.

4. *Historic resources.* If the owner voluntarily requested in his application that the parcel be awarded points in the evaluation process under section A.1-108(C)(4) for artifacts or sites of archaeological or architectural significance, the deed of easement shall require that these adjoining a Virginia scenic highway or byway or an entrance corridor, the deed of easement shall require that these historic resources be permanently protected in the manner specified by the Virginia Department of Historic Resources.

C. *No buy-back option.* The owner shall not have the option to reacquire any property rights relinquished under the conservation easement.

D. *Other restrictions.* The parcel also shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to, restrictions pertaining to: (i) the accumulation of trash and junk; (ii) the display of billboards, signs and advertisements; (iii) the management of forest resources; (iv) grading, blasting or earth removal; (v) the number and size of primary and secondary dwellings, non-residential outbuildings and farm buildings or structures; (vi) the conduct of industrial or commercial activities on the parcel; and (vii) monitoring of the easement.

E. *Designation of easement holders.* The county and one or more other public bodies, as defined in Virginia Code § 10.1-1700, and designated by the board of supervisors shall be the easement holders of each easement. The public body or bodies who may be designated by the board shall include, but not be limited to, the Albemarle County Public Recreational Facilities Authority and the Virginia Outdoors Foundation.
(Ord. 00-A.1(1), 7-5-00; Ord. 02-A.1(1), 12-11-02; Ord. 07-A.1(1), 12-5-07)

Agenda Item No. 17. **Public Hearing:** SP-2007-10, Cutright - Development Right.

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

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

SECTION: 10.2.2 (28) Divisions of land as provided in Section 10.5.2.1. and Section 10.5.2.1, Where permitted by Special Use Permit.

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 Overlay-to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; Flood Hazard Overlay-to provide safety and protection from flooding.

ENTRANCE CORRIDOR: Yes.

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

TAX MAP/PARCEL: 88-6A1.

MAGISTERIAL DISTRICT: Samuel Miller.

(Notice of this public hearing was advertised in the Daily Progress on November 19 and November 26, 2007.)

Mr. Cilimberg said this request came to the Board several months ago. The request is to divide this property into three parcels thus creating two additional development rights. The existing 9.62 acre parcel is proposed to be subdivided into one two-acre parcel for the existing house, one three-acre parcel for a new residence, and one 4.62-acre parcel (the "residue") to be donated to the North Garden Volunteer Fire Department. When the Board reviewed this request previously, it said the owner and the North Garden Volunteer Fire Department should enter into an agreement to insure that the parcel was donated to the fire department, and if that were done, it felt it could approve this request. The Board asked staff to develop appropriate conditions. Since that earlier meeting, an agreement has been reached and acknowledged by County staff as being appropriate. Therefore, staff has recommended approval with the conditions included in the Executive Summary.

Mr. Boyd opened the public hearing and asked the applicant to speak.

Ms. Patsie Cutright said she is happy the legal requirements have been met. She said this process has been hard on her nerves. She is trying to give the fire company as much land as possible. She did not anticipate more than two acres for her lot and two acres for the existing house. She wants to give the fire company all of the land they have previously used.

Mr. George Stephens thanked the Board for their guidance and direction. Hopefully, this is coming to an end. He expressed appreciation to Ms. Cutright for all she has done for the fire company in the past. He wants to enter into the agreement for donation of the land. He wishes other citizens of the County were as generous. The fire company is pleased to be able to accept this land, and they will be good stewards of the property; it goes to the protection of the North Garden community.

Ms. Thomas asked Mr. Stephens how many years the fire company has used this land. Mr. Stephens said they have had a "handshake" agreement in excess of thirty years.

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

Mr. Davis said the conditions need to be modified somewhat; the acreage is subject to some adjustment. These conditions are tightly drawn so a zoning problem could be created by them.

Mr. Rooker asked if the acreage could be eliminated and just allow one parcel for the existing house and one parcel for the single-family dwelling since the lots have to be a minimum of two acres to be approvable. Mr. Cilimberg said the 4.62-acre parcel could be referred to as the residue parcel and the corresponding acreage references through the conditions could be modified to reflect what is in Condition No. 1. It could say one lot of not less than two acres for the existing house, and one lot of not less than two acres for the new family dwelling and one residue parcel to be donated.

Mrs. Cutright asked if the County has already drawn this acreage onto a plat. Mr. Cilimberg said the County only has what is in the tax records, but normally when the land is subdivided to create lots, the land would be surveyed to establish the acreage.

Mrs. Cutright said she only wants two acres for herself. She does not want to take care of more than two acres.

Mr. Slutzky said the Board only wants to give Mrs. Cutright the flexibility she needs to divide this land.

Mrs. Cutright said with the odd shape of the lot the existing house is on, she does not know where the two acres will end. She knows there has to be a survey.

Mr. Boyd said the Board is just trying to allow some flexibility because the way it is written now is pretty defined.

Mrs. Cutright said for herself, she does not want three acres.

Mr. Wyant said Mrs. Cutright needs enough land to be sure it is a buildable site and has the area for a septic system, etc.

Mrs. Cutright said she thought the surveyor would mark all of that on the survey.

Mr. Davis said that in the recommended conditions, wherever it says two-acre parcel, just strike the words "two-acre parcel"; every place it refers to three-acre parcel, it would be "one new single family dwelling parcel" and every place it says 4.62-acre parcel change it to say "residue parcel of not less than 4.62 acres." Then, in Condition No. 5, strike the end of the first sentence where it sets out the acreage. The sentence will then say "The owner desires to create three parcels." The last sentence of Condition No. 5 can be eliminated.

Ms. Thomas then offered **motion** to approve SP-2007-010 with the changes just read, adding a proviso because the Board is doing an unusual thing. Ordinarily she would not be the person who would move to add a development right to the rural area; the Board has almost never done that since 1980. Her proviso is that for subsequent situations, it be remembered that this is based on over a 30-year history of this land having been essentially donated to the fire department already.

Mr. Cilimberg said he does not think Condition No. 5 is needed any longer. Mr. Davis said if the property happens to be less than 8.62 acres then there is a conflict. Mr. Cilimberg said that is why he called it a residue parcel and did not include acreage with the residue since it is not known how this will turn out. Mr. Davis said on the other hand the Board wants to guarantee that parcel.

Mr. Wyant said one thing that bothers him is that you have to take into account a lot of things about setback and where the septic system is for the existing house. It is possible that more than two acres will be needed. The Board needs to be careful on these two parcels that there is not another requirement with building a house or even cutting a parcel off for the existing house.

Mr. Boyd asked why it was suggested that it say not less than 4.62 acres. Mr. Davis said that was the agreed upon parcel size that was going to the volunteer fire department. That is the basis for the Board granting the extra development right.

Mr. Boyd said supposed it turned out to be 4.59 acre. Mr. Davis said it could say 4.62 acres more or less.

Ms. Thomas said that is an amendment she **would agree to**. Mr. Wyant then **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(**Note:** The conditions of approval for SP-2007-10, Cutright Division Right, TMP 88-6A1 are set out in full below.)

1. TMP 08800-00-00-006A1 may be subdivided, if at all, only into three parcels, as follows:
 - a. One (1) parcel for the existing house;
 - b. One (1) parcel for a new single-family dwelling; and
 - c. One (1) residue parcel of not less than 4.62 (+/-) acres to be donated to the North Garden Volunteer Fire Company, per the Agreement between The Cutright

Family Trust, Patsie Cutright, Trustee, and the North Garden Volunteer Fire Company, Inc., dated September 27, 2007.

2. The two development rights granted by SP-2007-10 may be used only if TMP 08800-00-00-006A1 is subdivided as provided in Condition 1, and the development rights shall be assigned by the subdivision plat as follows:
 - a. One (1) development right shall be assigned to the new single-family dwelling parcel; and
 - b. One (1) development right shall be assigned to the residue parcel.
3. The residue parcel shall not be used for residential purposes, and no permanent structures may be established on the parcel; and
4. Neither the Owner nor her successor in interest shall request that a building permit be issued for any structure on the new single-family dwelling parcel unless and until the North Garden Volunteer Fire Company accepts the deed conveying the residue parcel to it.

Agenda Item No. 18. **Public Hearing:** SP-2007-037. Informed Simplifications, LLC.

PROPOSED: Special Use Permit for a Home Occupation, Class B, home office with one part-time employee.

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

SECTION: 10.2.2.(31).

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre).

ENTRANCE CORRIDOR: No.

LOCATION: 520 Panorama Rd., approximately 1,500 feet north of Manor Rd.

TAX MAP/PARCEL: 45-47.

MAGISTERIAL DISTRICT: Rio.

(Notice of this public hearing was advertised in the Daily Progress on November 19 and November 26, 2007.)

Mr. Cilimberg presented the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said the applicant has requested approval of a Home Occupation-Class B permit in order to have one part-time employee to assist him in a research project. The property is on Panorama Road which is off of Earlsyville Road. Staff does not feel an impact will be created by the request. Staff and the Planning Commission have both recommended approval with five conditions.

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

Mr. Slutzky immediately **moved** that SP-2007-037 for Informed Simplifications, LLC, be approved subject to the conditions recommended by the Planning Commission. The motion was **seconded** by Mr. Rooker, roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

(Note: The Conditions of Approval for SP-2007-37, Informed Simplifications, for a Home Occupation-Class B permit are set out in full below.)

1. Special Use Permit 2007-37 Informed Simplifications shall be limited to one (1) employee for no more than two (2) days per week;
2. No on-site visits from clients, patients, and/or customers shall be permitted;
3. Special Use Permit 2007-37 Informed Simplifications shall be limited to the home office area as it currently exists (423 square feet);
4. Parking for the employee shall be in the area between the house and the garage; and
5. No sign advertising this special use shall be permitted.

(Note: Mr. Davis said in looking at the approval for the Cutright request above, he just wants the record to be clear that Condition No. 5 was not part of the approval. Just the four conditions as modified during the discussion were attached to the approval.)

Agenda Item No. 19. Work Session: Community Development Fee Study.

Mr. Mark Graham, Director of Community Development, said that during this work session the Board will review the Final Report for Albemarle County Community Development Fee Study which was done by The Public Financial Management (PFM) Group out of Arlington, Virginia, which was contracted to do the study. No specific fee amendments are to be discussed today; staff is looking for policy guidance only. He then introduced Mr. Bob Winthrop from The PFM Group who will explain how the study was accomplished.

Mr. Winthrop said he is based in their Minneapolis office, but there is also an office in Arlington. The PFM Group are financial and management consultants for governmental agencies throughout the country. Today, he will explain the structure of the report and their methodology. The purpose of the study was to determine the cost of service for all the fees within the Community Development Department. In addition, they were to address the complexity of the current fee schedule and conduct a comparability analysis with other localities in Virginia. They have provided an analysis model that will allow Albemarle to update its fees annually.

Mr. Winthrop said the report begins with the Executive Summary that explains extensively how they did the analysis. It also includes things like the cost of service on a per fee basis, the projected revenue, the recommended fee adjustments and the cost of service for each department. Departments included: Planning, Engineering, Zoning, Inspections, Roads and Geographic Data Services. There is also a lengthy report of details for what other jurisdictions charge for similar services. They have provided the County an analysis model.

Mr. Winthrop said in determining the cost of a service related to a fee, service is comprised mainly of labor costs. They had to calculate how much time was spent on each service. Since these vary greatly they used the manager's best estimates; the County has no timekeeping system at this time. They had employees keep track of their work time for about four weeks to come up with time estimates. Generally, employees work about 1750 hours each year. They had to determine what percent of time was spent on each fee. A Steering Committee that had members from each department, plus an employee from Legal and from Finance helped to be sure they got the right information. Once they looked at time, they took the salaries of all the people involved, took the percent of time these people spent on that fee, and that is how they calculated the cost for salary. Added to that were fringe benefit costs, other services and charges (such as office supplies and computers) and internal and direct costs based on the personnel in the department who were not directly providing services, and then a central service charge.

Mr. Winthrop said the results of the study (see the Executive Summary) are shown in **Table ES-1: Projected New Fee Revenue versus Estimate Current Revenue**. He said the specific difference by fee of the projected new revenue is shown in this table if the Board uses their recommendation. He said the algorithm they used for the ES-1 Table, and how they decided on what fee to use is shown on Page 2. If the cost of service is less than the current fee, the proposed fee is adjusted down to the cost of service. If the cost of service was 20 percent greater than the current fee, they recommended increasing the fee to the cost of service; they did not want to increase any fee greater than 20 percent. If the fee was greater than \$500, they did not want to increase that fee more than 10 percent because of the shock to the system. You must be cognizant of that fact in a political environment and an economic environment.

Mr. Boyd said he had question. When Mr. Winthrop was discussing how they calculated costs, he mentioned something called a service charge. He asked for an explanation. Mr. Winthrop said it is a central service charge which covers all interacting departments.

Mr. Slutzky asked who made the determination that the Board did not want to shock the system and go above 20 percent. Was that part of the Group's charge, or part of its recommendation? Mr. Graham said it was part of the Group's recommendation. He referred the Board to the Executive Summary in the implementation table and said that staff actually has a different recommendation.

Mr. Winthrop said they are giving the Board all of the information collected and it can be manipulated to suit the Board. They did not want to increase a fee greater than the highest comparable in the region. That is something the Board may or may not think is important. One thing that makes this a little inexact is that currently the County does not collect the fee based on square footage so they do not know the details on each modifier for each fee. They assumed that each permit was one unit in order to make an estimate. When they looked at revenue, their revenue came up to about \$700,000 by calculating the units using this methodology. That was a short of the \$1.4 million the County actually received. When they made the same calculations using the new fees, it came to \$2.2 million.

Mr. Rooker said if it was decided that no fee would increase more than 20 percent, how did revenue increase by 50 percent? Mr. Winthrop said that is a good question. Mr. Graham said there are a number of things that currently do not pay a fee.

Mr. Slutzky said that is a 20 percent increase for things currently being charged, and a 100 percent increase for things currently not being charged. Mr. Tucker said where in the past the County had reduced, for example, the cost of a church addition, the fee did not come close to covering the cost of staff's review.

Mr. Winthrop said he is sure there is a mathematical reason why this works other than just the new fees. He just can't think of it right now. He thought he had asked every question in preparation for today's meeting, but he did not think of that particular question. Out of the budget of \$5.7 million for the Community Development Department, \$4.5 million is related to fee activities. They understand that is reasonable because there are activities that occur in Community Development that are not fee related. Currently, they do take in \$1.4 million in revenues.

Mr. Winthrop said in conducting the study they had a great deal of difficulty getting the number of units for each fee. That had to deal with the fact that there is not a unique identifier in the system for each fee. They have recommended that a unique identifier be created. They recommended reducing the number of fee titles in the schedule after looking at all of the ones that seemed reasonable. He thinks the fee titles might be reduced further after the managers look at what is characteristically the same type of analysis; hopefully, there is data available for them to understand the cost. They recommended that a

Board-approved cost recovery policy be developed. Does the County want to collect 100 percent of the cost of service for each of the different fees? If there is a special use permit for a small church or a small homeowner, and it costs a lot of money for the County to do that, maybe it would be appropriate for the County to subsidize some of that. They think it is important to know how much that subsidy is but the policy should be what is appropriate for the governmental entity. The reason for inspections is not to generate revenue, but to maintain the health and safety of buildings. There is a public purpose for doing it that argues against 100 percent cost recovery. He said this is something the Board will be making a policy decision on. Also (for example), there should not be a disposal fee that would incense people to try to avoid paying the fee and dump somewhere else.

Mr. Winthrop said fees should be adjusted each year based on budget growth. They have provided a model which will allow the County to do that. Actual time spent providing services related to each fee should be captured. They have talked a lot about a timekeeping system. Generally, employees don't like such systems. They are not hard to use if the employee gets used to it, and when charging people for a service they will want to know if that is really the amount of time spent. He is confident the estimates they used are right, but they are based on a limited time period of study, or manager's best expertise. However, developers may say it should not take that long, or it does not take that long, so a timekeeping system supports a much stronger argument. He said people were surprised to see how much time had been spent on different fees.

Mr. Rooker asked if they are recommending that fees be based on time spent, that there be a different fee for a project based on the time spent on that project. Mr. Winthrop said administratively that would be difficult. Also, one of the things County staff talked about was to have transparency and consistency in the fee schedule; in order to get that, there needs to be set fees. It could be that stylistically inspectors do things differently, and that is not the fault of the homeowner, but is something to be expected.

Mr. Winthrop said a time period should be established for a comprehensive review of development review fees. He said they are giving the County a model which should be updated each year. They think there is some value in coming back every few years, depending on how operations change, and taking a comprehensive look at the fees. He referred to Page 9 of the Executive Summary which contains a comparable jurisdiction survey. They had a good response from all of the jurisdictions except for Virginia Beach. They used the survey as part of their algorithm to limit their recommendation on how much the price of the fee should be increased. He then offered to answer questions.

Mr. Slutzky asked if the purpose of increasing the fee is to take advantage of an opportunity to increase revenues, and another purpose is to motivate behaviors. Those motivations can occur internally in the way of staff efficiency and externally in the case of influencing market decisions. If the Board decided it wanted it to be cheaper to develop in the growth areas and more expensive to develop in the rural areas, could the Board choose to have a fee structure that gave preference to a motivational purpose by discounting a fee? Mr. Davis said the County could not charge more than the actual cost of the service. Also, the Board cannot be arbitrary and capricious or discriminatory in how it imposes a fee.

Mr. Slutzky said since the Comprehensive Plan does not contemplate development in the rural areas but that development be focused in the designated growth areas, would it be arbitrary and capricious to develop a different fee schedule. Mr. Davis said it would not be arbitrary and capricious, but an analysis would have to be done to make sure it did not create any discriminatory impact; there has been no such analysis at this time.

Mr. Slutzky said there is no reason to believe that is occurring. Mr. Davis said that is a different issue. If someone could demonstrate that the County did charge a higher fee than required in reference to internal efficiencies, what would happen if today the average per unit time cost is "x" and then if overtime the County gained efficiencies, is the County then charging an inordinately high fee based on the new revised efficiencies? Does the County have a perverse disincentive to create efficiencies when the fee structure is tied to that? Mr. Davis said when the fees are reviewed, if efficiencies are found and more than the cost of service is being charged, the fees would have to be adjusted down.

Mr. Slutzky asked if the Board could do the review and not look at the amount of time it takes to perform a function. He said the Board will have a fee baseline from this study, so for the next ten years when an annual adjustment is made of the fees, the Board would not take that variable into account, but look at other variables. Nobody will have the data to question whether the true costs have gone up or down or stayed the same. Is it okay to operate that way? Mr. Davis said staff will always work under the parameter that by law the County cannot charge fees that are greater than the cost of the service.

Mr. Slutzky said it was mentioned earlier capping the fee at 20 percent, or capping the fees so they would not exceed the fees charged by like jurisdictions. He asked if staff had a different recommendation from that of the consultants. Mr. Graham said they do; it is Attachment "C" to the Executive Summary.

Mr. Slutzky asked Mr. Graham to review those recommendations. Mr. Graham said he did not want the discussion today to focus on specific fees. He wanted the Board to talk about the framework for a fee policy which can be refined later.

Ms. Thomas said a few days ago a Louisa County representative told her they support their Community Development Department totally on their fees. She was somewhat surprised by this statement. After all of the analysis of the proposed fees, how do those fees compare to Albemarle's peer

counties? If Albemarle supports 80 percent of its department through fees, how does that compare to other counties?

Mr. Winthrop said he understands the question, but that was not asked in this survey. He does not have an answer to that question.

Mr. Graham said in the report, it talks about what the County could recover versus what is presently being recovered. At this time, the County is recovering only about one-third of what it can recover.

Ms. Thomas said she just wondered how Albemarle compares to its peer counties. Mr. Graham said that is why the eight counties used in the survey were chosen. They tried to find comparable counties, not necessarily the surrounding counties.

Mr. Slutzky said in the future there may be some value in comparing Albemarle to surrounding counties specifically. Developers have to decide in which county they will develop. Because of the demographic, Albemarle might not want to end up being way out of line with surrounding counties. Mr. Graham said the other side of that equation that must be considered is part of the reason why Albemarle's costs are significantly higher than some of the surrounding counties. What Albemarle does in considering an application is considerably more than what surrounding counties do.

Mr. Slutzky said that may be an argument for not charging the full recovery. Mr. Graham said that in general, most of the comparable counties are probably in the 50 to 75 percent range. Albemarle is definitely on the low side.

Ms. Thomas asked where the proposal would put the County. Mr. Graham said that is a basic policy question he was hoping to discuss today.

Mr. Rooker asked if the 50 to 75 percent mentioned is in fees or recovery of costs. When comparing Albemarle's fees in various categories with the peer counties, how did Albemarle compare with the absolute level of fees? Mr. Graham said Albemarle is on the low side.

Ms. Thomas said the chart on Page 9 of the Executive Summary shows the projected new fee revenue versus estimated current revenue. It shows the highest comparable fee in a column and that addresses Mr. Rooker's question.

Mr. Boyd said time is running short, so he would like to move this conversation along. Obviously the Board will have more questions after the Board members have had a chance to read the details of the report. Mr. Tucker said it would be helpful to note why the fees are what they are. There was a rationale basis for the Board to set the fees that were set when they were first developed. He happened to think that the County does not charge for a second advertised public hearing on a petition required by the applicant or through Planning Commission action. Advertising costs have escalated greatly. In the past the Board has used the Comprehensive Plan and said they wanted to recover at least 50 percent. For petitions for smaller items such as requests by churches, the County has not been overbearing on those costs.

Mr. Graham said there are three things he would like to mention today. In the Executive Summary there are several questions. 1) Staff agrees that the fee structure should be simplified. 2) Staff agrees that the number of fee titles should be reduced. 3) Does the Board want staff to develop a cost recovery policy? 4) Fees would be adjusted based on budget growth each year. He has recommended that it be done only every other year. Basically that recommendation is based on administrative reasons. 5) This is related to the timekeeping system mentioned earlier. Staff recommends that it be done, but the type of system will depend on how close the County might go toward full cost recovery. 6) This one relates to the comprehensive review of development related fees (in Attachment E he gave some information about when the department might be ready to do that review). He asked if the Board concurs with the recommendation to establish a fee policy.

Mr. Boyd said he is sure the answer to that question is "yes." Mr. Rooker and Mr. Slutzky agreed.

Mr. Graham said staff already knew the answer, but just wanted to confirm it. The second question is more difficult. In general, does the Board want to set a cost recovery policy that strives for 100 percent recovery of costs? Does the Board want to look at comparables from surrounding communities, and make the policy based on what others are charging for those fees?

Mr. Rooker said he thinks these fees should be blended after looking at what the full cost recovery is, but temper that with what is reasonable compared to what is charged by peer counties. Mr. Graham asked if staff should be looking at the comparable counties included in the study or should it be focusing on surrounding counties?

Mr. Slutzky said he would like to recommend something slightly different. He would say to blend them, but he would start with doing full recovery and come up with a basis for some discounts. Those discounts might be attributable to some of the dynamics of growth in Albemarle versus surrounding counties and do discounts based on a special social purpose such as being sympathetic to small users or churches, whatever those scale backs are as long as there is a defensible, rational basis for doing that. It sounds like the County would not be compromising the legitimacy of the full fee that would be charged to other people. Mr. Davis said in deference to uses like churches there is no fee that separates churches from any other user of the system, but there is a fee for a special use permit for a minor amendment or for

a special use permit or expansion of a nonconforming use. That is a broad category that captures a lot of the small requests that would otherwise have to come before the Board, and the fee charged for that is \$110.00 which does not come close to recovering the cost of processing that application. That was a conscious decision the Board made for small entities that do not have a lot of money or are not developers who might not be expected to pay the full cost.

Mr. Slutzky said the person who wanted to hire one part-time employee (a request on the agenda earlier today) should not have to pay \$900.00 to do that. Mr. Davis said he did pay that amount.

Mr. Slutzky said that is brutal. Going back to Mr. Rooker's suggestion, a blend would be to start with full recovery and then there are a series of reasons for choosing to scale back. Mr. Graham said to understand what the Board is saying, when a new fee is advertised, the maximum fee must be advertised. In that case, would the advertisement be for full cost recovery with identification of the issues associated with full cost recovery with the Board then deciding on the actual fee?

Mr. Boyd asked if Mr. Graham was talking about a policy. Mr. Graham said he is trying to set a direction for policy.

Mr. Boyd asked what Mr. Graham meant when he said advertising. He asked if there will not be another work session with more detail before going into that subject. Mr. Graham said he was trying to get to the point of putting something into a policy so it can be written out for the Board to review.

Mr. Boyd said he likes Mr. Rooker's idea of doing full cost recovery and bringing that information to the Board with some comparisons. He would also include some of the surrounding counties in the analysis, then the Board can work through it from there.

Ms. Thomas said some fees "will jump out at us." Today the fee for a home occupation permit in a rural area is \$440.00. The highest comparable fee is over \$5,000 and the proposal is for \$5,000. The Board will have thoughts about whether the person who came before the Board today should have paid \$5,000 to do it. She thinks the Board will err on the side of champing down some even though equity would say it cost the County a lot of money to deal with that request.

Mr. Slutzky said he thinks the structure should come to the Board for full recovery and it can always cut back those fees. He asked if staff would be proposing a series of variables for consideration in the scale back process in which the Board could then select or not select as it saw fit. Mr. Graham said he has one caution to give the Board. There are hundreds of fees charged by the County and in order for the Board to get through those on a case-by-case basis will be a very time-consuming process.

Ms. Thomas asked about the list of 21 fees the Board has in front of it today. Mr. Graham said that is nowhere the total list of fees.

Mr. Slutzky said staff will be proposing consolidation of the fee structure anyway. Does staff want to do that as the first step?

Mr. Rooker said he thinks the Board will probably end by approving 75 percent of full cost. He thinks it would be helpful to have the average charged by the County's peers. Mr. Graham said that is possible.

Mr. Wyant said to make sure it is not an "apples to oranges" comparison because some of Albemarle's review is more extensive than that of other localities. Mr. Graham said that would be a very complex comparison. He thinks staff can do it, but to bring the Board up to speed on each one of those and then explain what Albemarle does versus what another locality does will be an incredibly time-consuming task.

Mr. Slutzky said he does not think staff needs to go through that exercise. But, when staff talks about the concept of a scale back attributable to neighboring communities, to give the Board a couple of anecdotes to illustrate would be just as informative and less burdensome. He asked if that would work.

Mr. Rooker said he thinks it would. There are a lot of fees that are very small, with only about 25 or 50 being significant. Staff might present a recommendation for raising those small fees by an average percentage, give its rationale for the recommendation, and the Board would not need to discuss each of those fees. Mr. Graham said that is what staff proposed in its implementation recommendation. For some fees, staff said that if the fee was within two-thirds of full cost recovery now, or the difference where less than \$50.00, there would be an advertisement for full cost recovery so as to move this along. For a zoning map amendment for a Biscuit Run type of project where \$1,300 is charged now, and the County's actual cost is about \$60,000, the recommendation would be to look at some sort of phase-in on those fees.

Mr. Boyd said he is confused when Mr. Graham refers to "advertising." What is he referring to? Mr. Graham said the fees are set out in the ordinances. In order to change those there would need to be an advertisement go an ordinance amendment.

Mr. Boyd said Mr. Graham is jumping to that part of this process and the Board has not even been through the steps to get to where the Board is ready to advertise. Mr. Graham said that is right, but he just wants to be sure that as far as setting a policy, this is how this will be administered from this point forward.

Mr. Tucker reminded the Board that time is running short for this discussion. The School Board will be coming to this meeting in a few minutes.

Mr. Slutzky asked if any of the other jurisdictions have timesheet data or is it just what they are charging. Mr. Graham said nobody but Fairfax County is really doing it because it goes back to what was mentioned earlier, and that is project specific billings. They outsource a lot of their review and it is a project specific billing. Their consultant hands them a bill for "x" dollars and the applicant has to pay that bill.

Mr. Boyd asked if Mr. Graham had finished his presentation.

Mr. Graham said he wanted to talk about phased implementation. Staff has recommended that some of the fees which will be significantly changed, be phased in. There are good reasons why a phased approach to making the bigger fee changes would be better.

Mr. Slutzky asked if a fee can be made effective as of a prior date. Mr. Davis said "no."

Mr. Wyant asked if some of the fees will be increased to a point where the County might consider outsourcing which was discussed by the Development Review Committee. Mr. Graham said if Albemarle went to outsourcing, Fairfax County has the model for it. Basically it says that if that has to be paid for, let the applicant make the payment. That might be allowed as an alternative, either the applicant would wait for the County staff to get it through the queue or the applicant could hire a firm to do the review if they wanted it expedited.

Mr. Wyant said if the fees get higher and the County tries to get full recovery, it comes back to the question of whether someone else can do the review.

Mr. Boyd asked if any Board member is opposed to staff bringing back a recommendation for a phased implementation approach. There were no dissenting comments.

Mr. Boyd thanked Mr. Graham and the consultant for the report.

(Note: At this time, the Board returned to Agenda Item No. 11 which had been skipped during the morning session of this meeting.)

Agenda Item No. 11. Economic Development Policy, 2007 Data Update.

Mr. Boyd said because of time constraints, the Board should reschedule this item for a later date.

Mr. Tom Foley, Assistant County Executive, said this session was scheduled to bring the Board up-to-date on the latest data. The policy discussion was to be scheduled for a later date.

Mr. Boyd said he does not want to rush through this, because the issue is too important.

Mr. Rooker said when it comes back it can be assumed everybody has read the data and the Board can get into discussion of potential policy issues.

Mr. Slutzky said he had something to mention. If the Board is looking in the context of economic development, agriculture and a couple of other activities that should be stimulated, something the County has always been silent on is figuring out how to make economic gain out of the County's ecological systems. He said there are market conditions now which make that possible. He wonders if the Board members would have any interest in staff looking to see if there is any information which could give the Board some sense of what that might mean. In talking about economic development, that is a rich economic development environment that people generally do not talk about.

Ms. Thomas said she was struck by a comment from the public and a comment from Mr. Rooker earlier. In her mind, what jumped off the page was that the Board was downplaying the County's agricultural and natural resource base. She thinks that is why the Board fought for an agricultural specialist person on staff. She thinks that is missing and would give flavor to the Board's subsequent conversation.

Mr. Slutzky asked if the Board objected to the context of agriculture being broadened further to recognize other ecological systems that have economic value. The Board could at least look at how some communities have tried to stimulate economic benefit from their vast resources, a major subset of which would be the agricultural resources.

Ms. Thomas asked for an example.

Mr. Slutzky said there are carbon sequestration credits. There are a number of things like that. He would rather be more orderly and work with staff to figure out what those might be.

Mr. Foley said that is the kind of conversation staff will try to set up for the next meeting.

Mr. Dorrier said staff should also look at incubators and the possibly of computer technology incubators. Mr. Foley said that can fit within the framework of the policy the County has now. There are strategies that are old which need to be updated.

Mr. Wyant said the County can talk with the winery industry, but if someone is farming crops, the County would need to walk in those shoes and find out the difficulties those people face. He does not think this can happen in Albemarle County. It is difficult to keep that kind of industry going in Albemarle.

Ms. Thomas said Fauquier and Loudoun counties are taking the lead in this. Of all the places stressed by growth, those are two major ones. She is not willing to give up on it.

Mr. Wyant said Albemarle needs to find out what they are doing. He just hauled cattle to market last week and he hears from the big farmers all the time. He said another dairy farm has been lost in the last month; there are only three dairy farms in the County now. The face of the ag business in Albemarle County has changed tremendously since he was a kid. There is only one dairy farm in Greene County; the largest dairy farm is in Madison. All of that is in his family, so that is why he is familiar with the dairy industry. What do we really want Albemarle County to look like?

Agenda Item No. 20. From the Board: Committee Reports. There were no committee reports this date.

(Note: At 3:56 p.m., the Board recessed and reconvened in Room 235 at 4:08 p.m.)

Agenda Item No. 21. Joint Meeting with School Board. At this time, the following members of the School Board were present: Ms. Sue Bell Friedman, Mr. Stephen Koleszar, Ms. Diantha McKeel, Ms. Pamela Moynihan, Mr. Jon Stokes and Mr. Brian Wheeler. Absent was Ms. Barbara Massie Mouly.

Mr. Boyd called the Supervisors' meeting back to order at 4:08 p.m. (Mr. Dorrier arrived at 4:17 p.m.) Ms. Sue Friedman, Chair of the School Board, called the School Board's meeting to order.

Agenda Item No. 22. Review of CIP Oversight Committee's Recommendations.

Mr. Bill Letteri, Director, Office of Facilities Development, emphasized that no action is being requested of the two boards today, but staff may ask for directions on one or two projects. He then made a PowerPoint presentation of materials which can be found in the Clerk's Office in the permanent records of the Board of Supervisors. He handed out materials relating to the FY 2007-08 adopted CIP budget, and the FY '08-12 Capital Improvements Program and FY '13-17 Capital Needs Assessment Oversight Committee recommendation. He said this is the second year of a two-year planning cycle for capital projects. It is intended to deal with, in part, emergency projects or minor changes in the overall adopted Capital Improvements Plan. Those changes might have to do with immediate health and/or safety requirements, time urgency because of matching fund availability, public policy established by the Boards, updated cost calculations based on better information and/or project clarification, a change in an existing project which will occur in FY '09, or a change due to decreased revenue projections. He said there have been a lot of changes in the timing of projects.

Mr. Letteri said there are two committees. The process is that all departments review the adopted Plan and submit the proposed changes staff feels are necessary. Those requests go to the CIP Technical Review Committee which looks at policies and requirements in criteria for projects. They insure that technical backup information is available. Their recommendations are then forwarded to the CIP Oversight Committee which was formed only a year ago with the idea of looking at overall types of policies, not to get into the details. The other idea was to create a venue to bring together representatives of both the Supervisors and the Schools.

Mr. Letteri said the adopted Plan is about a \$207.0 million program over five years. He said revenues associated with the program and their uses were studied carefully, as well as timing. They try to keep a \$2.0 million balance in the Program, and were able to do that for the first five years. They looked at construction costs for all projects in the plan. They looked at every possible project and reflected a three-percent increase in those costs, both for design and construction elements. Lastly they applied the five-percent inflation factor.

Mr. Letteri then presented a slide showing the adopted plan, what was requested by departments this year, what the TRC recommended, and then what the Oversight Committee recommended. The proposed plan is essentially a \$187.0 million program over five years, and a \$426.0 million program over the ten-year period. The Boards will see that there has been a shifting of projects in the Plan to later years.

Mr. Letteri said the General Government category will have a \$15.0 million program next year, and over the five years it will total \$85.0 million with the majority of that being in library and fire station projects. There was no change in Administration except for adding some voting machines. There are new regulations regarding the need for these machines. Funding for this will start in FY '09.

Mr. Letteri said that for the Courts there are actually four projects. The Juvenile & Domestic Relations Court Building has experienced substantial delays. That had an impact on the other projects – the Levy Building renovations, the Court Square renovations, and the Old Jail facility. When the J&DR project was completed and the court vacated the Levy Building, it was to be renovated to accommodate district court facilities. At this time, there is uncertainty by the City as to whether they will need to renovate the facility for a general district court or whether they want to move the facility at all. The Court Square

renovation would follow after the Levy project to accommodate changes in the Albemarle County Court Building.

Ms. Thomas asked if Mr. Letteri had said the City does not know if it wants to go ahead with the Levy Building renovations. Mr. Tucker said they are not sure they want to move their General District Court to the Levy Building.

Mr. Letteri said that is largely due to changes in the caseload projections. The Levy and Court Square projects were moved out as was the project for the Old Jail facility. Further study of the eventual use of that space is needed.

Mr. Letteri said there were few changes for next year in the way of Public Safety Projects. There is one new project for an Emergency Radio Notification system to replace a fairly antiquated system.

Ms. Thomas asked for an explanation of this project. Mr. Letteri said he understands it is basically the pager system for the volunteers. Ms. Laura Vinzant, of the Office of Management and Budget, said the Fire/Rescue Department has submitted a grant request to the State and anticipates hearing about the grant by the end of December. If the grant is approved, the County would only need to fund the local match.

Mr. Letteri said at this time staff is looking for temporary locations for fire stations in both Pantops and Ivy. A permanent location for Pantops should become available in 2014 with a location in Ivy the following year. The Police Department has decided that the request for Video Cameras can be moved into future years.

Mr. Boyd asked if the temporary fire stations would house one engine and no EMS services.

Mr. Letteri said that is correct. Project amendments involve replacement of four pieces of equipment which came about through the annual assessment of the stations. A replacement for the Seminole Trail/CARS Station is in the 2014 timeframe. Adjustments to this project were made to reflect the fact that the County will undertake the project, so the total cost of the project is shown offset by the revenues the County will receive from the volunteers. One thing that was discussed was the need to develop space standards for the new fire stations. There are involved methodologies used now looking at when and where a station is needed, and how much equipment is needed to service the area.

Mr. Letteri said there is a reduction proposed for next year in Public Works. One is to delete the part of the COB-McIntire Phase III work for the fourth floor of the building. Staff now believes it is possible to do that work with the funds presently available. The overall project itself is being deferred indefinitely at this time. The other part had to do with the Local Government storage facility. Although the need still exists, other ways to accommodate that need will be studied; it will not involve the building of a facility. Project amendments include the Ivy Landfill and new figures have been reflected in the recommendations. There was a proposal for Window Replacement in COB-McIntire which was to occur over a series of four or more years. His staff has recommended that the project be consolidated both to shorten the duration of construction and also to achieve pricing efficiency.

Mr. Letteri said issues in Community Development have to do with the Community Development Plan, the Neighborhood Plan and the Sidewalk Construction Program. Most of the change in Neighborhood Plan Implementation has to do with the Crozet Streetscape project which is underway. They are proposing that the project costs be increased by \$320,000, and moving some future money in order to accomplish it immediately. The Revenue-Sharing Road Program has increased over the years, but there was a minor adjustment in the Sidewalk Construction Program by putting back in funding which was not in the prior plan. The issue of sidewalks was discussed at length, and also the need to establish a policy to decide when sidewalks are built, and all of the associated issues.

Mr. Letteri said there were few changes for Parks & Recreation. One of those was to defer the Towe Park/Pen Park Pedestrian Bridge project. This was to be a joint project with the City and there is uncertainty about their ability to fund the project. The Committee stressed that the Master Plan study which is currently underway should include parks and recreational needs in all of the Western Albemarle area.

Mr. Boyd asked if the pedestrian bridge is to get people across the river. He thinks the Lewis & Clarke Foundation is looking at a similar type of bridge.

Ms. Thomas commented that they are looking at a ferry which would not be as useful.

Mr. Letteri said the next item has to do with Libraries. There are amendments to the Crozet, Scottsville and Northern Albemarle Library projects. Staff now clearly understands the cost of the Crozet Library and the timing of the project. For the Scottsville Library, the scope has been reduced. It was proposed that there be a 3,500 square foot addition, but in reviewing population numbers and trends and consulting with the Library Board, 600 square feet seems to be more realistic. For the Northern Library, it is proposed that it be deferred one year. Negotiations are going on now to extend the lease at the Albemarle Square facility, and staff is optimistic that the lease will be extended. There is presently uncertainty as to the site of that library because there are issues related to the site which had been identified.

Mr. Letteri said there has been considerable discussion about the Library Master Plan which was reviewed almost nine years ago. In entertaining all of these larger complex projects, the numbers need to

reflect the current situation and necessary adjustments. The nature of that master plan has changed considerably. All of these library and fire station projects have an impact on the General Fund. In considering individual projects, it is necessary to understand their implications on General Fund dollars.

Mr. Letteri said they also discussed the way in which libraries are being constructed and how to accommodate library needs, among the ideas discussed was collocation with the Schools. Many Committee members felt that in looking at the CIP, that idea should be included in its consideration of the Plan.

Mr. Wheeler said the next place in the Northern part of the County where there is a school proffer and a library proffer is in North Pointe. Those are in separate locations in that development. The Ashwood Boulevard site is tacked onto Forest Lakes South and is not an integrated site.

Mr. Boyd said he hopes this is not moving on with the thought of having that site approved; he is having second thoughts about that being the proper location for a school.

Mr. Letteri said there are some problems with the proffers, and access to the site. He thinks Hollymead must be looked at in the way of options. All of these things are being looked at collectively.

Mr. Boyd asked if the School Board would be worried about security issues with combining libraries with the schools. Ms. Friedman said that is what the study is for. If it is not studied, there will be no discussion of the idea.

Mr. Letteri said there is no change in the ACE Program except to reflect the change in revenue projections. It is funded on the basis of one cent on the tax rate. There are no changes in the Stormwater Program.

Mr. Letteri said the projects for the Schools is about a \$100.0 million program over the next five years. The largest projects are for: Greer Elementary, Brownsville Elementary and Albemarle High School. There are no other major changes other than the Support Services Complex. He said this has been discussed by the Board in the past and questions were raised. Staff spent considerable time with the Oversight Committee discussing the justification for the office facility to house Building Services, Child Nutrition Services and Technology. Second, they discussed the options for this warehouse. They felt that pulling these apart is a good way to review the question. He said there are options to the warehouse. Space can be leased thus saving substantial funds over the course of a five or ten-year period. More importantly, there is the option of more flexibility on this type of space. In five or ten years if operations change and technology changes and there is not a need for the warehouse, it would be better to lease space now.

Mr. Letteri said they discussed how much space is needed, what is available on the market, and what it would cost to build such a space. They used a \$3.69 million figure; this is the same number presented by the Schools earlier to represent a warehouse component. They also looked at what they think could be secured in the market in a location close to the schools which is both accessible and appropriate. They think \$161,000 per year would be a good estimate of the cost; about \$1.0 million could be saved over the five-year period.

Mr. Letteri then showed a picture of a site which has been looked at and which is available, and which can be leased for the price he has suggested. At this point, staff would like to get some directions from the two Boards that this is the right approach. Their next step would be to secure the property and enter into a lease agreement.

Mr. Slutzky asked if this site would serve the purposes of the Schools.

Mr. Rooker said he thinks this is what was discussed by the Boards previously and he thinks it is an excellent idea.

Ms. Thomas asked if the site is secure and the materials will be well stored, etc. Mr. Letteri said the County would have to make very minor modifications in the facility to make sure it works.

Mr. Slutzky asked if that cost was reflected in the projections. Mr. Letteri said they were not included. They are in the Plan; \$250,000 was projected in the first year, and thereafter the cost drops for each year of the Plan. He thinks both Boards agree that staff should proceed with this project.

Mr. Slutzky said he understands the storage function, but what is recommended to fulfill the office function? Mr. Letteri said this program includes the construction of an office facility on property owned by the Schools at Albemarle High School. This reduces that \$8.0 million project down to about \$5.0 million. If it is decided in five or ten years to do the warehouse addition, the amount of grading and clearing work done for this project would be sufficient for that addition.

Ms. Friedman asked if Local Government and Schools staff feel this is an adequate substitute for building a building. Ms. Diane Behrens, Executive Director of Support Services, said this allows flexibility to determine needs. It will allow immediately for storage of materials. In the future, it is possible that staff will request that it be added to either the Support Services complex or another location. This proposal will at least meet storage needs for a five-year period of time. The location is off of Route 29 and it has a wonderful loading dock. The space is perfect for a warehouse. In five years it is possible records will be kept visually so there will be no need for that type of storage space. Also, there may be more on-line testing so there will not be a need to have a place to receive and ship out test materials. They just want to

make sure the cost can come from capital funds and not operational funds. There are no operational funds to pay the cost of the lease.

Mr. Letteri said there are issues to work out, but the effect would be to provide funding in the Capital Plan to pay the Debt Service for the building. The proposal is that it be neutral with respect to operations. Anonymity will be maintained as to the location of the property until negotiations for a lease are concluded. He said that concludes discussion about the particulars of the project.

Mr. Letteri said when changes to the Plan from both staff and the committees were seen, different strategies were entertained on how to maintain the financial ratios and reserves needed to fund the Plan. Policies relating to what amounts are transferred from the General Fund to the CIP were discussed. One policy pertains to the two-cent transfer that is in place now. This proposal adjusts that down to one cent. They also studied which projects to finance and which projects to pay for. The Board might want to fund those projects that are safety related with bond funds, as opposed to those which are nonessential. They looked at timing and he thinks they have developed a good strategy for this effort. He said the Plan shows an increased General Fund transfer to the CIP annually. The change proposed is that the two-cents be reduced to one-cent to reduce pressure on the operations budget.

Mr. Foley said that is a decision based on the Five-Year Financial Plan review which is still subject to a change by the Board.

Mr. Letteri said there are other revenue sources including proffers, grants, project cost-sharing and interest earnings. He said the Reserve Balance is important to the CIP. The policy has been to maintain a \$2.0 million balance, if possible. It will be improved somewhat in the new plan; at no time in the ten-year period will the balance fall below zero. He said that at all times the AAA bond rating must be kept in mind. The maximum rate at which debt can be incurred as it relates to assessed property value is two percent.

Ms. Friedman said she understands trying to stay above the \$2.0 million in Reserve, but she questions the choice to go to \$7.0 and \$8.0 and \$9.0 million in Reserve in the first five years as opposed to utilizing that for obvious needs. Mr. Letteri said the numbers shown on the chart entitled "Reserve Balance" are not cumulative numbers. In previous years funds have been amassed for funding capital projects but projects could not be executed. That is driving some of the larger reserve balances early in the plan. However, the \$9.6 million shown for FY '09-10 will be utilized. In fact, more than that will be needed, so the reserve will start to reduce. As Facilities Development gets underway, staff will be able to do a better job of getting projects executed. Mr. Tucker said when the full two-year review is done next year a change will be seen in that number.

Mr. Slutzky said the Board has talked about holding a bond referendum in order to fund a bunch of capital projects in the near-term out of Debt Service using the County's AAA bond rating. The County could take advantage of low interest rates and avoid significant inflation and construction costs which will occur by not forward funding and accelerating the CIP. He asked the status of that discussion. Mr. Letteri said a lot of that discussion was aimed at the transportation program.

Mr. Slutzky said the discussions were not limited to transportation. Mr. Foley said if the Board wants to rely on more financing (staff likes to stay within the indicators) that is a discussion that will have to occur in the spring. He said this is a very complicated set of assumptions as to how fast projects can be done and how much would be borrowed.

Mr. Boyd said he is very anxious to have that conversation.

Mr. Koleszar said staff needs to look at the construction market. If construction continues to slow down, the County might get a windfall window for a couple of years where construction prices would be low.

Mr. Foley said one important factor to consider is staff's ability to execute projects. It has a very heavy work schedule coming up just in School projects.

Mr. Letteri said in summary they believe the proposed plan meets the needs of County departments and the Schools. Funding stays within guidelines and policies. He said this Plan will go to the Planning Commission on December 18 for its review, and then it will come back to the Board of Supervisors in March.

Mr. Wheeler asked if the Supervisors have set a goal related to public buildings. He thinks the Architectural Review Board's guidelines must be considered and that may be a place where the Supervisors and the Schools are getting out in front with new ideas. He does not know how the ARB guidelines are established, but mentions it in order for all to think about it. Can a sustainable design even be a factor in their work? He knows that the design of one of the buildings at Brownsville was to bring in as much natural light as possible, so there are issues about orientation and roof surfaces, coverings, materials, etc. Some new ideas may be in conflict with ARB review.

Mr. Dorrier asked if the ARB guidelines are covered by statute. Mr. Davis said the ARB guidelines are recommended and adopted by the ARB and Board of Supervisors.

Ms. Thomas asked that the Supervisors look at the recommendation for the ACE Program. Since the Supervisors have a policy for increasing the number of acres in conservation easements in general, and since the ACE Program is getting to the point where it has finally gotten "over the hump" and has a lot

of acceptance in the rural landowners community, it is too bad that the amount of money going into it is lower than requested. That is a recommendation the Supervisors may want to look at because it conflicts with adopted policy. Mr. Foley said in case there is a question, this recommendation reflects the Board's policy, it is the value of a penny, but this can be adjusted when the Supervisors look at this again.

Mr. Rooker said one of the expectations is that the penny on the real estate rate follows real estate values. It should be keeping somewhat constant; hopefully values will not go up as fast. The County should be buying a constant amount of acres.

Ms. Thomas said the County is getting more and better applications for the ACE Program. The potential for doing good with that program increases.

Mr. Rooker said if in a given year there are applications which are outstanding, there is nothing that prevents the Board from trying to find the money to respond over and above what is in the Plan.

Ms. Thomas said there may not be enough money. Mr. Tucker said there is a Reserve Fund which could be used to supplement that cost.

Mr. Wheeler asked about the Biscuit Run proffers. Before it was approved, the School Board asked about tracking that proffer. One of the proffers created a general CIP cash pool. He thinks there needs to be an ability to track some of those allocations toward School budgets. The wording of the proffer did not list the Schools, and that is why he brings it up. It also did not exclude the Schools. In the CIP, it lists things as "Elementary School #17" and "Elementary School #18" and gives no geographic location. That might hurt the Schools because staff took geographic locations off of the projects on purpose, and he wants to make sure that does not come back and hurt the Schools.

Mr. Boyd asked if Mr. Wheeler was talking about actual sites, or the per dwelling proffer.

Mr. Wheeler said if Biscuit Run is contributing a cash proffer for the CIP, he understands some portion of that would be for the Schools.

Mr. Rooker said when School projects are approved the Supervisors find the money to fund those projects. Cash proffers are simply one revenue source the County will have to help fund those projects and other projects. Those cash proffers are not earmarked. In the past, some proffers were earmarked, but that is not the present policy.

Mr. Boyd said that amount was built around CIP needs for the next ten years. Mr. Davis said the methodology put the School capital needs into establishing the proper amount. In Biscuit Run a school site was proffered that was an offset to that amount, and that is why the dollar value of the proffer is less than \$17,500 per single family unit. As Mr. Rooker said, there is no specific portion of that cash proffer that is designated just for Schools. It is a general capital fund that will fund the CIP as adopted by the Board of Supervisors and School Board over the years.

Mr. Dorrier said the timing of that proffer is not when the project is proposed but when the building permit is obtained. Mr. Davis said that is correct. The cash flow of that is not exact. There is no way to know when that money will actually come in.

Mr. Wheeler said if the School Board decided to take one of the school sites shown in the Plan and called it the Biscuit Run school site, it would be able to take advantage of the CIP dollars that come in.

Mr. Rooker said that is one of the reasons the Supervisors, both at North Pointe and in Biscuit Run, asked the Schools a number of times to verify that there were places where they would like a school site. If the school site is needed within three years, instead of waiting to get the money ratably over a period of twenty years as the project is built out, that contribution to a school site in the proffers can be accelerated.

Ms. Thomas said in the Public Works category it says that additional discussion is needed on a funding mechanism for the Moores Creek Septage Receiving station. Did staff want to have that discussion today? Mr. Letteri said staff will bring something back to discuss.

Mr. Boyd said the Board has talked about the fact that there are a lot of reserve balances and allocated moneys available now. He suggested that the information be added to the charts presented today.

Mr. Rooker said those amounts are included in the Reserve numbers presented today. Mr. Tucker said that is correct.

Mr. Koleszar said that looking at the downturn in housing he sees the country heading into the worse recession since the 1930s. If all of these assumptions are based somewhat on "business as usual" these numbers will be worthless in another two years.

Mr. Boyd said he would say it is business as usual when predicting a downturn in appraised value of one percent over a period of years. He asked if Mr. Koleszar thinks it will be more drastic than that.

Mr. Koleszar said he thinks it that is possible.

Mr. Slutzky said he thinks staff takes into account variables such as the continuity of investment

by the University which might distinguish Albemarle from other larger markets. Staff has presented their best estimate, and the Supervisors and School Board do not have to agree with them, but it was not put together without a lot of thought.

Mr. Rooker said looking at actual transactions will show that real estate prices have already fallen in this market. But, tax appraisals never caught up with fair market value; they were always lagging. He has seen transactions where the sale was at 140 percent of tax assessed value. Now, he is seeing a compression back to where it is getting at about tax assessed value.

Mr. Koleszar said in this market, some houses are selling at 20 percent below the assessed value. He thinks the downturn in housing has just begun. When talking about the number of foreclosures in the next two or three years, all bets are off. He said the County must have some flexibility if that happens.

Ms. Friedman said one of the good things about this process is that it is not set in stone. It is a fluid process; it is looked at each year. In a way it is good that this is the second year of this cycle. Next year there is the opportunity to look at this Plan again in-depth and make adjustments as needed.

Ms. McKeel said she and Mr. Stokes were the School Board members on this Committee and she found it to be informative, helpful and a good way of talking through some issues with all of the players at the table.

Mr. Dorrier said he and Mr. Wyant had a similar experience.

Mr. Boyd said if there were no further discussion of this subject, he would thank the School Board members who attended this session today.

Agenda Item No. 23. Matters not Listed on the Agenda. There were no other matters brought before the Boards today.

Agenda Item No. 24. Adjourn to December 12, 2007, 2:00 p.m.

At 5:18 p.m., with no further business to come before the Board, **motion** was offered by Mr. Rooker, **seconded** by Mr. Slutzky, to adjourn this meeting until December 12, 2007, at 2:00 p.m.

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

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

Chairman

Approved by the Board of County Supervisors

Date: 04/02/2008

Initials: EWJ
