

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 12, 2008, beginning at noon in Room 241 of the County Office Building on McIntire Road, Charlottesville, Virginia. This meeting was adjourned from March 5, 2008.

PRESENT: Mr. Ken C. Boyd, Mr. Lindsay G. Dorrier, Jr. (arrived at 12:20 p.m.), Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. David Slutzky and Ms. Sally H. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, and Senior Deputy Clerk, Meagan Hoy.

Agenda Item No. 1. Call to Order. The meeting was called to order in Room 241 by the Chairman of the Board of Supervisors, Mr. Boyd, and the Chairman of the School Board, Mr. Wheeler.

The purpose of this meeting was to have an informal luncheon with the members of the Albemarle County School Board.

SCHOOL BOARD MEMBERS PRESENT: Mr. Steve Koleszar, Ms. Diantha McKeel, Ms. Barbara Massie Mouly, Ms. Pamela Moynihan, Mr. Ronnie Price, Sr. and Mr. Brian Wheeler.

SCHOOL BOARD MEMBER ABSENT: Mr. Jon Stokes.

SCHOOL BOARD STAFF PRESENT: Dr. Pamela Moran, Superintendent, Dr. Bruce Benson, Assistant Superintendent for Student Learning, Mr. Jackson Zimmermann, Executive Director of Fiscal Services, and Ms. Pauline Meehan, Deputy Clerk of the School Board. Also present were: Ms. Kimberly Suyes, Director of Human Resources, and Ms. Lorna Gerome, Assistant Director of Human Resources.

Agenda Item No. 2a. FY 2008-09 County Budget: Work Session on the budget for the School Division.

Members of the Supervisors and the School Board held one-on-one conversations during the first thirty minutes of the meeting. At 12:30 p.m., the group came back together and discussed the following topics:

- A majority of the Supervisors support reducing the Capital Improvements transfer by one cent; the School Board can anticipate those additional funds.
- The rate of retirement for teachers, whether it has increased, decreased or stayed the same. There was also a discussion about the number of experienced teachers the Division has been hiring. There was a consensus that when the School Board receives its Annual Report from Human Resources, a copy will be provided to the Supervisors.
- There was a request for information on the number of teachers who live in and out of Albemarle County.
- Compensation of bus drivers and whether it is at market. It was noted that necessary adjustments have been made where needed.

There was discussion about School Board members being involved in the discussion of the County's budget development review process and any other conversations that might impact the School Division.

At 12:59 p.m., Ms. McKeel offered a **motion** to adjourn the meeting of the Albemarle County School Board. Ms. Moynihan **seconded** the motion, and the motion passed.

(Note: At 12:59 p.m., the Supervisors recessed and reconvened at 1:07 p.m. and continued the meeting.)

Mr. Boyd said there will be no formal presentation by the Schools today, but Mr. Wheeler has stayed to answer any questions the Board members might have about the budget.

Mr. Rooker said that under Scenario No. 3 the Schools would be eliminating under-enrolled electives including languages. He asked if the Schools will have all the high schools on the same schedule at some point. That might allow the Schools to offer some of these classes in a more economic mode. If these classes are eliminated now, is there any potential for restarting them later as a single class in one location?

Mr. Wheeler said at times some of the programs have a low enrollment, or the Schools are being subsidizing to keep those programs going. The suggestion is to eliminate the subsidy and require the program to compete on its merits. In some schools, the principal and staff may have to do some recruiting to keep programs going.

Mr. Rooker said if they do recruiting to keep the program going, there could be a projected savings in the budget of about \$198,000.

Mr. Wheeler said there would be a savings because those students would not be taking another elective. The principals will get their allocation, but will not get the added subsidy. It will come down to school-based decisions about which programs to retain. This is an area the School Board wants to study in more detail. In Scenario No. 3, adjustments related to class size are not shown at the high school level.

Mr. Rooker asked if under Scenario No. 3 the Strings Program will be eliminated.

Mr. Wheeler said it would not be eliminated.

Ms. Mallek said she understood from the people who attended her meeting last night that it would be eliminated at Henley Middle School. They understood that even under Scenario No. 3 their program would be eliminated. They said they had been told that their children could be transported to a string program at another school.

Mr. Wheeler said the School Board has not looked at this on a school-by-school level. That may be a school that receives a subsidy today but that could change.

Ms. Moran said her staff is looking at the different middle schools to be sure decisions are based on numbers. The program is not being cut; the subsidy is being cut. They are trying to "put all programs on a level playing field." They have other programs that could potentially be eliminated because they have low enrollments. For example, the ROTC Program only exists at Monticello High School. They have students from the other high schools requesting a transfer to Monticello so they can participate in that program. They anticipate the same thing could happen with the strings program.

Ms. Thomas asked if students are allowed to move from one school to another for such a reason.

Ms. Moran said the same programs are not offered at all of the high schools or middle schools, but students can request a transfer for curricular reasons. Chinese is taught at Monticello and Japanese is taught at Western Albemarle. Students could request a change for that reason, and such transfers are typically approved.

Mr. Rooker asked the definition of "Piedmont Futures."

Ms. Mallek said she has participated in that career development program.

Ms. Moran said CASBA was the prior business school partnership that existed across five school divisions. That organization has been replaced by Piedmont Futures which still includes Greene, Nelson, Albemarle, Charlottesville and Fluvanna. Rather than asking the business communities to subsidize that program, they now ask for donations to support CASBA. Piedmont Futures was picked by the School divisions; they have found that several of the divisions do not feel it has been a cost effective use of their funds. They believe they can use existing staff to form a regional consortium of technical education coordinating staff to do similar work as that done by Piedmont Futures and be more effective. That one is being taken off of the list.

Mr. Boyd asked if it will kill that program for the other counties. Ms. Moran said several counties were simultaneously taking that money out of their budgets; Albemarle was not the only county doing so.

Mr. Rooker asked the charge for building rental fees. He noted that there is a possible \$200,000 in revenue from that source. He asked if that is a realistic expectation of what will actually be charged.

Ms. Moran said they have looked at this internally for a couple of years. The rental fees charged now might not even cover the cost of increased utility costs and custodial services. If they implement this, they will look at "good neighbor" organizations and extend an opportunity for them to use facilities for free. There are a number of such organizations and staff is working on that list.

Mr. Boyd said the Supervisors got a revised budget based on spending patterns for the current year. He does not think the School Board does that. He said the School Board has talked about cuts they have already made, but it is hard to identify them in their budget. He asked if that is looked at when building a budget.

Mr. Wheeler said their budget is heavily tilted toward personnel costs. The trend they watch is more for the staffing side. They got recommendations from the Resource & Utilization Study to look at other areas in the future. They do get a report on year-to-date actuals and an updated report on the Fund Balance.

Mr. Boyd said he knows this is a more difficult budget year than those in the past. He remembers that the School usually had between \$2.0 and \$4.0 million in under-spending each year. He wonders if that is being tracked to see if there has been over-projecting of costs. He knows a lot of that under-spending had to do with the lapse factor for salaries.

Mr. Wheeler said Mr. Zimmerman can speak about the lapse factor. He said the School Board got that information last November in the financial report. It was probably \$200,000 at that time.

Mr. Zimmerman said he provided the School Board with updated Fund Balance information; typically the Fund Balance is solely derived from savings in expenses. In a \$150.0 million organization, \$2.0 million is a small proportion of those expenses. Teachers are hired and replaced throughout the

entire year so they anticipate some savings to help address the current year's shortfall, but there are still a significant number of months left for payroll this year. Changes in the demographics of the employee base are fully accounted for in future budget processes.

Mr. Wheeler said they get through the current fiscal year by eliminating the hold-back typically put on the operational level for the schools.

Mr. Boyd asked the total of the hold-back.

Mr. Wheeler said it will be almost \$1.0 million. Typically they tell the principals to not use 7.5 percent of their allocation because it will be needed later in the fiscal year. The way they make a cut in the current year is to say the holdback is gone. He said on the list is "staffing freezes" at \$300,000, return of the School carry-over, and \$3.0 million from the Fund Balance from previous years.

Mr. Rooker said that indicates no additional Fund Balance will be created this year. He asked the amount in the Fund Balance.

Mr. Wheeler said it is at \$3.6 million, and \$3.0 million is proposed to cover this year's shortfall.

Mr. Slutzky asked about the School Board's Five-Year Financial Plan.

Mr. Wheeler said he had showed the Supervisors that Five-Year Plan in February. He said the present joint Compensation Plan is not sustainable based on current revenues and expenses.

Mr. Slutzky said the Supervisors are operating under the assumption that there will be only a five percent increase in property values next year; that number is the foundation of the budget. He wonders how many believe that is realistic. Mr. Tucker said the Supervisors will look at that assumption next week.

Mr. Wheeler said the School Board has some concerns about the operational side of the Five-Year Plan. Clearly, if they use the Fund Balance (rainy day fund) to cover revenue shortfalls, it will not be available in the future for unexpected expenses. He said the School Board is eliminating a "lot of the slack" in its budget.

Mr. Boyd said if the School Board does not look back historically on what it is budgeting and what it is spending, how does it decide what amount to include for particular expenditures?

Ms. Moran said every staff person who is responsible for a particular area in the budget considers their budget from the prior year to decide how that amount is adjusted for the next year. She thinks that is similar to the way the County Executive's budget is built.

Mr. Dorrier asked if the School Board encourages the expenditure of all the money budgeted because if it is not spent it is lost.

Mr. Wheeler said it is not lost; it goes into the Fund Balance.

Ms. Mallek asked if individual programs could get some of those funds back the next year.

Ms. Moran said the buildings can have some carryover. That is a way to help them buy something that may be a large expense for a small elementary school; not every school can do that.

Ms. Thomas asked if schools get a notice near the end of the year saying "spend it or lose it."

Ms. Moran said they encourage people to spend money on things they need to spend it on. In this current year she told the schools their appropriation was for use of this year's students and they should take advantage of that and spend the money on things these students need. She said they do have carryovers so the schools can leverage funds from a couple of years to buy items which are costly. Concerning fund balances, last year when the schools were on a hiring and spending freeze, they had enough of a fund balance accrued to be able to address certain things. There is no reason to just spend money because it is available; that is inappropriate. Money that is not needed in a particular year goes into the Fund Balance, and it is then redirected toward things which are needed.

Mr. Slutzky asked if in order to make this budget work, the Schools are actually raiding a rainy day fund. If there is an unexpected cost in the upcoming school year, what will the Schools cut in the middle of the year?

Mr. Wheeler said there is no specific plan, but it is something the School Board will have to consider. Various scenarios were presented this year for consideration, including the laying off of staff in mid-year.

Mr. Slutzky said if he is going to be asked to approve a budget which includes losing that "wobble room", he would want to know the plan for addressing inevitable, unexpected expenses. There could be unexpected savings, but what happens if there is a decline in revenues part way through the year. He would like to know what kinds of cuts they might make during the year, and is nervous hearing they are raiding their rainy day fund.

Mr. Boyd said it would be helpful to dovetail the Five-Year Financial Plans of the County and the School Board. The County's projections are being revised at this time. How does that dovetail with the School System?

Mr. Wheeler said this was requested in February so he expected staff from both divisions would be working on it.

Mr. Rooker said projections are just projections. The Board has to respond each year with the budget that is passed. He thinks it is good to look at various scenarios and see what they mean going out over a five-year period.

Mr. Boyd said it will always be just projections for both sides.

Mr. Slutzky said if the rainy day fund is designed to insulate against when projections are off because changes were not anticipated, then the safety net will be taken away.

Mr. Boyd said the School Board is talking about long-range steps to reduce their spending, but will that be enough?

Mr. Wheeler said this year there is going to be a different conversation between the boards concerning compensation and benefits. Looking back on last October, he wishes there had been more information received about total costs. This year the School Board will want to know what the recommendation means in dollars. They want to be sure the direction is clear when putting that assumption into the five-year plan.

Mr. Boyd said he wanted to revisit that whole thing because he had never been a strong proponent of WorldatWork and never thought it was the best approach to take, even though they have been reasonably accurate in good years.

Mr. Wheeler said the School Board members would like to be involved in that conversation.

Ms. Thomas said that often the Supervisors agree to add a new position, but not to hire that person until the middle of the fiscal year. That has a way of getting a new position without shocking the budget as much. But, since the school situation is not as flexible as General Government she wonders if anything like this could be considered by the schools.

Mr. Tucker said that could not be done with teachers, it could only be applied to classified personnel.

Ms. Moran said that every year every department is on a 7.5 percent holdback and it is held until they know they are in a position to release it. That puts the division in a position of having funds in the event revenues fall short. All professional staff is under contract. They have started reducing TA hours and classified staff hours in order to make up that difference. It is difficult because many of the programs are part of the curriculum. It is difficult to cut programs in the middle of the year, so they must look at non-academic programs, and there are not many of them.

Ms. Thomas said computer equipment replacement was listed as a cut in Scenario 2. She said General Government is going to lengthen its replacement policy.

Mr. Boyd asked if the schools are going to a five-year computer placement program.

Ms. Moran said one thing that is critical to their computer replacement cycle is that the longer they are kept, the more likely they will need repairs as soon as the warranty expires. At that time, the cost is shifted from the company to the County.

Mr. Boyd said they asked Michael Culp, Director of Information Technology, about this on Monday and he was confident with the five-year replacement cycle based on new technologies.

Mr. Slutzky said he is skeptical.

Mr. Rooker said having multiple students use the same equipment is probably harder on the computers.

Dr. Bruce Benson said there is equipment in the schools which is signed out to one or more students during the course of the day and they use a lot of laptops. They are looking at how computers are used in various places and trying to adjust the length of time they are in service. They are also trying to maintain a warranty on that equipment which may mean purchasing extended warranties.

Mr. Slutzky said there was a mention of an extended life cycle of the product, which is not just costs association with breakage but the fact that new software puts a bigger demand on memory. If there is an older piece of equipment and it does not have the ability to handle upgrades to the memory, that is where obsolescence problems occur before five years. In the computer world that is a significant part of the decision to replace equipment.

Mr. Rooker asked about the 7.5 percent holdback. He asked the amount of that holdback in the current budget. What kind of a cushion does that provide for an adverse scenario?

Mr. Zimmerman said it is based upon operational funds that are relatively discretionary. Salaries and things such as fuel, insurance, electricity are not part of the holdback. It is just over \$700,000 for the entire school system. It was increased to 10 percent in the current year.

Mr. Boyd asked if a similar thing is done for Central Office expenses. Mr. Zimmerman said "yes."

Mr. Rooker asked if changing the holdback to ten percent will amount to \$1.0 million.

Mr. Slutzky said the items which are discretionary are not waste, but are things which are needed, but which could be done without if necessary.

Mr. Dorrier inquired about the resource management review by VCU. He asked if it is the intention to implement all of the recommendations in the plan.

Mr. Wheeler said it is the intent to take them seriously. They showed the Supervisors a matrix last month listing all 19 of the recommendations and in which budget year they would have an impact. All of them will get further study, and some of them are already impacting the current year's budget request. It was a comprehensive look at the school system and he thinks it was a good use of taxpayer dollars. They have already eliminated \$400,000 from Central Office expenses effective for next year.

Mr. Slutzky asked the ratio of administration in the school system to classroom dollars.

Ms. Moran said it is 75 percent instructional to 25 percent administrative. They will be recalculating that for next year. They must report that data to the State. She said the utilization study notes the fact that they have been looking at cohort school systems which are similar to Albemarle County's. There is a significant difference in the cost of education in Albemarle because many school divisions put more kids in a school than is done here. For instance, in Hanover County there are over 20,000 students in 23 schools, but Albemarle has about 12,500 students in 25 schools.

Mr. Dorrier asked if the number of private schools take up the difference.

Mr. Wheeler said that in Hanover they are building much bigger buildings. The Utilization Study said Albemarle should look at doing that.

Mr. Rooker said it is a big decision to close down a school that was only built for 250 students.

Ms. Thomas said the last time that was done she was a member of the School Board. They closed a school and ruined a community. She thought that educationally it was the right thing to do, but it had wide ranging impacts.

Ms. Moran said they still hear about those closings in the 1980s, but she can say it cost more to educate kids in those small schools although it is clear to the School Board that Albemarle values community schools. The study recommended that the School Board look at each of the recommendations through the community's value system. This would help them decide whether it should be done even if it ended up costing more to keep things in place which are important to Albemarle.

Mr. Boyd said there are some Best Management Practices conditions that need to come into play. The current theory is that larger is better.

Ms. Moran said there are many, many research studies. The reality is that some studies say small schools are better than large schools. Also, there is the question of how to define a small school. In most studies, a small elementary school is defined as being between 400 and 500 students. For this school division, those are larger elementary schools.

Ms. Thomas said there are studies being done all the time. Last week, there was a study which said that smaller classes do not help the achievement gap, they help everybody.

Mr. Wheeler said new schools such as Baker-Butler are sized at 650. When the addition was put on Cale, it went to that level. They are trying to get those efficiencies. He would like to mention the computer replacement cycle. His former job was supporting the IT systems at SNL Financial, so when considering a five-year replacement cycle, he hopes it starts with the School Board members using computers that are five years old; they would quickly get a sense of what that would be like. He assumes that Apple and Microsoft and Intel will think of new ways to require new equipment around the world, anyway. He said Mr. Boyd brought up something he has questioned with his Board because it is a budget blind spot. As an example he noted Page C12, a one page snapshot they did on one department. He said it shows one year of actual data, but it does not include the actual appropriated amount for that year. He would like to see that column added to this budget. That would give some sense as to whether there was an over-appropriation on a consistent basis. He said Ms. Thomas had questioned what could be stopped, and one thing they have implemented is a \$500,000 cut in the school bus replacement item.

Ms. Thomas said that can only be done once.

Mr. Wheeler agreed and said the school system would have to play catch-up unless they get some better practices out of the resource utilization study for transportation.

Mr. Rooker said a citizen at one of the budget hearings asked for a comparison of one student per one mile cost compared to other localities. He often finds that when making a comparison the data is

not accurate, or it doesn't match up to other localities. When he asked about that, he was told that those localities where, for the most part, using cars or vans for smaller routes. He asked if that is something the School Board will consider and what about the safety aspect since buses do not have seat belts.

Mr. Wheeler said at one of the meetings in February the data that was highlighted for the Supervisors were taken from the School Board's study. It points out that Albemarle's per pupil cost is high. He said Dr. Hastings went to Hanover and asked what is different about their pupil transportation system. For one thing, they are using smaller vehicles. They want to know why Albemarle ends up in the ranking the way it does, and what other choices could be considered. He said that to close the conversation about charging pupils for their transportation, the Attorney General will not let the School Board charge for taking kids to school.

Mr. Slutzky said if the School Board said kids could not drive to school until they reached a certain age, the cost per mile would be decreased per pupil because there would be more kids riding the bus.

Mr. Wheeler said the cost per pupil is based on all of the pupils in the system, and not the users.

Mr. Slutzky said there is a possibility the community will have a regional transit authority in the future. The schools may have overlapping routes for the urban schools, so the School Board might want to be engaged in that planning process from the beginning.

Mr. Wheeler said that was mentioned at a meeting by Ms. Thomas, but Albemarle's bus system is the biggest in the community so he thinks the school division needs to work cooperatively with local government on transportation. He is excited to investigate those things.

Mr. Rooker said the County is interested in operating as efficiently as possible. It needs to not lose sight of the fact that an excellent education system is being funded in the County. It should not all be about cutting expenses every time the Supervisors look at the School Board's budget. They just want to be sure the money is being spent wisely.

Mr. Wheeler said the School Board is having a work session in April or May on Human Resource and compensation matters. The School Board has received many good questions from the public about these things. They want more information on that so they can do better planning this fall.

Mr. Boyd said he would caution the School System to be leery of under-funding based on unrealistic projections from the State.

Mr. Wheeler said the School Board appreciates the commitment on the one penny on the CIP transfer. Their staff has already put into motion that one change.

Ms. Mallek said she has heard many parents comment that the annual nature of this disruption is something that does not become standard procedure. Changes need to be made to the long-range plan, but not throw everything into turmoil every year.

Ms. Thomas said the School Board's five-year plan shows that it will be coming back every year and asking for more money, so there is nothing so far that breaks that cycle.

Mr. Tucker said the next item is tied into the School Board's budget, and Mr. Koleszar would like to speak.

Mr. Koleszar said this has to do with the School Board's Reserves. If the Supervisors chose to fund with one penny on the tax rate, that would give one-half of a penny to increase those reserves because it would make money available for the current year.

Mr. Rooker said that is still not a huge reserve.

Mr. Tucker said Human Resources will now make a presentation on the VRS, VERIP and the retirement bonus.

Ms. Kimberly Suyes gave a PowerPoint presentation. She said there has been a lot of confusion about VERIP. Her office has been inundated with telephone inquiries from employees who think they are losing some type of retirement benefit. She said there are three pieces to the County's retirement system; VRS, VERIP and the retirement bonus. VRS (Virginia Retirement System) is a program where the County pays into a pension program for employees; employees do not match that amount. Employees can receive VRS retirement either in a reduced amount or a full benefit. Someone who reaches 50 years of age with ten years of service or age 55 with five years of service is eligible for a reduced retirement benefit. A full retirement benefit is payable to anyone who reaches 50 years of age with thirty years of service. Public safety employees can get the full retirement benefit at age 50 with 25 years of service. Then there is also age 65 with five years of service.

Mr. Boyd asked if all of the counties in Virginia pay 100 percent of the VRS cost for employees. Ms. Suyes said most do.

Mr. Dorrier asked how many employees are in the program. Mr. Tucker said it covers all full-time employees of the County and the School System.

Ms. Suyes said she would explain the Voluntary Early Retirement Incentive Program (VERIP) because there is a lot of confusion about the program. It was jointly adopted in the summer of 1993 and was designed to offer an early retirement option to employees at full VRS retirement. It is a supplement to VRS and assists with medical insurance costs. The original intent was to encourage early retirement. However, it has proven to be a very effective retention tool because employees know that if they work for 10 consecutive years they have this benefit available to them. Data shows that when someone has been with an organization ten years they rarely leave.

Ms. Suyes said for an employee to be eligible for the VERIP benefit, an employee must meet the same minimum age/service requirements as for the reduced VRS retirement benefit. They must also be employed in a benefits-eligible position at the time of their retirement. There is an annual medical contribution equivalent to the annual medical contribution the Board gives to active full-time employees. A monthly stipend is calculated on the estimated VRS retirement benefit at retirement. It is then recalculated adding five years of service. The difference between the two calculations is the monthly stipend which is payable for five years or until the employee reaches age 65, whichever comes first.

There followed a short discussion of the benefits of this program. Ms. Suyes said Human Resources will soon have a work session with the School Board on compensation and benefits. There will be a lot of stakeholders involved, so it is exciting. Most of it will focus on teacher and classified pay, but one thing to discuss is the retirement benefit.

Ms. Suyes said she does not want to say the program is not working, although it may have worked for its intended purpose when implemented. Just like any program, it needs to be revisited and it may need to be tweaked or changed.

Mr. Dorrier asked if someone left the County and went to work for another County could they draw from both localities. Ms. Suyes said they would not earn while at the other county, but they would receive payment.

Mr. Boyd said it has been paid as an operating cost and the cost has not been that high, but with the "baby-boomers" now retiring it is close to a couple of million dollars.

Ms. Suyes said Mr. Tucker asked her to present this because there needed to be some clarification on what the programs mean. There is a lot of misinformation getting out to employees which is causing her office to answer a lot of telephone calls to do with the retirement bonus. She said this is the "sick" piece. She understands this program was implemented in place of paying for accrued sick leave. When an employee leaves now, the employee is paid for a certain amount of annual leave, but they are not paid for any sick leave. In order to qualify, a person must meet the VRS age/service requirements, have worked for five years prior to retirement, and the bonus is calculated at \$200.00 per year of service up to a maximum of \$5,000.

Ms. Thomas said that is not understood by the employees. Many teachers have said to her through e-mails or otherwise that if it is wiped out they will start to take their sick leave days. Ms. Suyes said some clear communication is needed for the schools.

Mr. Dorrier asked if retirement planning is offered to new employees. Ms. Suyes said retirement is important to new employees, but most of them are looking for something that is a little more up-to-date. When they talk about evaluating VERIP data, they want to look at who is using the program and at what age, etc. Her office is also gathering best practices from all the other divisions in the market. When she said they are assessing the effectiveness of the current programs and developing recommendations, they are leaning toward an employee/employer match, such as a private sector 401k. In the County's market it would be a 403b, and it makes people responsible for planning their own retirement. Concerning the police officers, there would not be the gap in medical coverage the Board has discussed in the last year. It would also be a great retention tool because it is portable; it is "rollable". That would be more marketable for HR in recruiting and retention. It would be a better use of funds. She said this does not mean such a program would be implemented and something else dropped. Grandfathering would be considered if necessary or a sliding scale of funding for someone close to retirement.

Mr. Slutzky asked when the Board might expect to receive these recommendations. Ms. Suyes said before the next budget cycle. It will take a lot of work with compensation work sessions. She would like to be able to combine Local Government and the Schools.

Mr. Dorrier asked if the County has a mandatory retirement age.

Mr. Rooker said that by law the County cannot require someone to retire at a particular age.

Mr. Boyd said he would like to know if the County could ever opt out of the Virginia Retirement System. Mr. Tucker said that question has been asked before, but he understands that once you are in, you can't get out.

Mr. Boyd asked if you could phase out of it by putting new employees under a different program. Mr. Davis said staff inquired about this several years ago and the answer they got at that time was "no."

Ms. Suyes said she understands the point, but is not sure that should be considered. It would hurt her in recruiting teachers because they can transfer years under VRS. She thinks there is money in VERIP that could be used in a better program. What is offered could be enhanced to make it a better program for selling, as well as recruiting and retaining employees. She does not think the County would ever want to go away from VRS.

Mr. Boyd asked if the University Medical School went away from VRS.

Ms. Thomas said they have always had a choice between VRS or TIAA-CREF as full retirement plans, at least on the University side. Mr. Davis said that was offered only for faculty at the Medical School.

Agenda Item No. 2b. FY 2008-09 County Budget: Work Session on amendments to the Capital Improvements Program.

Ms. Thomas said it is probably already a part of what staff will present, but she is interested in knowing the effect on the CIP of taking one cent off of the real property tax rate.

Mr. Bill Letteri, Director of Facilities Development, gave a PowerPoint presentation on behalf of a number of departments and agencies on both the Local Government side and the School side. He recognized Ms. Brenda Neitz for her assistance throughout the process of the CIP review saying it has been most helpful. On behalf of the VIP Review Group he will say they feel this CIP is a reasonable, responsive, balanced program to develop the County's infrastructure facilities and the operations of both the Schools and Local Government.

Mr. Letteri said he would review the overall process used to develop the CIP and the role of Facilities Development in this process. He will focus on the five-year period, most specifically those projects recommended for funding in the FY '09 fiscal year. He will address the school issues first. He will discuss both the revenue picture and funding strategies.

Mr. Letteri said the CIP process is done on a two-year planning cycle, so this is the second year or the amendment year of that cycle. Last year was the first year of the cycle which looked at the long-range ten-year period and entertained new projects. It was a much more in-depth evaluation and discussion of projects. The second year, according to policy, is limited to changes that relate to safety requirements and projects which might be in conjunction with others. Public policy established by the boards would also be considered if necessary. There are updated cost calculations based on better or newer information and/or project clarification. Changes in existing projects in the upcoming fiscal year are made and changes due to decreased revenue projections.

Mr. Letteri said there are two review committees involved in the process overview. There is a Technical Review Committee which looks at the technical aspects of a project, looks at requests for clarification of projects, and ensures compliance with amendment year policy. The CIP Oversight Committee ensures that projects carry out County policies and goals and addresses County needs through proper timing and prioritization. It also ensures that use of CIP revenues, including use of cash and borrowings, adheres to established financial policies.

Mr. Letteri said Facilities Development is involved with implementation of the CIP including a number of functions: design and construction expertise; liaison with or point of contact for outside agencies; management of the Capital budget and any changes thereto; development of contract documents; procurement of design and construction services; management of plan review and approvals; management of design and construction; and, communications and reporting. They are also in charge of managing the CIP process.

Mr. Letteri then showed a chart summarizing the cost of the CIP over the ten-year period. He noted that its total cost is shown at \$405.4 million and about half of that amount represents school projects. The recommended budget totals \$427.2 million. The most significant change has been to shift \$19.3 million out of the five-year period into future years. Most of that shift has to do with fire stations, the library, and the Levy Building renovation projects. All of these projects are quite large and were intended to happen in the first five years, but have been moved into the ten-year cycle.

Mr. Boyd said it will obviously be more expensive to build these facilities later. He wonders what the anticipated cost will be after factoring in inflation. Mr. Letteri said staff has been using a factor of five percent compounded annually.

Mr. Slutzky asked if over the last years, staff has found an average five percent increase in the cost of construction. Mr. Letteri said over the ten-year period that has been true, but over the last three years it has been closer to eleven percent.

Mr. Rooker said VDOT found that for projects where they only got a couple of bids in the past, they are now getting more than ten bids. That is a function of the economy. Mr. Letteri said the County has a number of contracts "on the street right now", and they are getting a lot of interest from contractors.

Mr. Boyd said there might be discussion as to what the percentage should be, but in theory it will cost the County 25 percent more to build a project if it is put off for five years. He wonders when the Board will ever get back to a discussion about financing and borrowing.

Mr. Tom Foley, Assistant County Executive, said there will be a discussion of that question a little later today.

Mr. Letteri said two adjustments were made to the CIP this past year when a five percent inflation factor was imposed for all projects and compounded annually as opposed to the simple compounding which had been done previously. Also, three percent was added to projects which staff felt eligible for LEED certification. Not all projects are appropriate for that certification, but for those that are, their budget was increased.

Mr. Slutzky asked if the three percent factor took into account the energy efficiency aspects of LEED elements. Mr. Letteri said it did not.

Mr. Boyd said when talking about the impact on operating funds, have those also been adjusted. Mr. Letteri said they have not been changed at this time. Staff proposes that as projects are implemented, the specific LEED elements that should be incorporated be identified. Staff could then prepare an impact to the operations budget.

Mr. Boyd said he is concerned about the number of these projects since when they are completed it will add to yearly operating costs in the way of debt service, heating, AC, people, etc.

Mr. Slutzky asked if Mr. Boyd is suggesting that adding in LEED requirements will add to operating costs.

Mr. Boyd said "no", that should reduce costs.

Mr. Letteri said the three percent that was added to the projects staff qualified for LEED certification is really just a placeholder. It was not based on evaluation of any numbers. It complies with the Board's objective that not more than that would be spent.

Mr. Rooker said he thinks the Board would look at it on a project-by-project basis.

Mr. Letteri said the reasons for looking at this plan were to identify, evaluate and recommend project adjustments that are necessary in the first five years of the CIP. That means that available revenues in those five years would accommodate the capital expenditures assigned to that year. At the end of each of the five years, an adequate reserve would be identified. Also, the appropriate debt ratios would be maintained in accordance with the Board's policies.

Mr. Letteri said he would now explain School projects. The adopted program versus the recommended program has changed little. The major projects involving the three major school renovations and maintenance programs were left unchanged but the Group looked at market information and LEED information to be sure those costs were properly reflected.

Mr. Letteri said the reduction of \$1.5 million relates to modification of and reduction in size of the proposed Support Services Complex.

Ms. Mallek said that lease versus build is also a large part of that reduction.

Mr. Rooker asked how many of the FY '08-09 projects have been bid and are under contract.

Mr. Letteri said the three major school projects are just now going out for bid. Two of them will be advertised this coming week.

Mr. Rooker asked if they are being bid on architectural plans that are already in place.

Mr. Letteri said that is true.

Mr. Rooker said he would like to get some feedback on the bids as to how they compare with the estimates.

Mr. Boyd said part of the Resource Utilization Study was to look at the impact of the building program in the schools based on utilization of classrooms, etc. He said they recommended that the Schools move forward with existing plans, but the School Board was going to take a step back. He asked if that shows in the plan now.

Ms. Moran said Ms. Diane Behrens is presently focusing on the capacity discrepancies. When that is resolved, they will look at whether projects can be delayed or eliminated in the next cycle

Mr. Slutzky asked how bidders are identified. Is there an existing approved list or is the project advertised outside of Central Virginia into the rest of the state.

Mr. Letteri said a variety of things are done including: advertisement in major papers in the region, Charlottesville, Richmond and Roanoke; distribution of plan sets to various plan rooms around the state which have a wide network of exposure; and, the Dodge Report which is a publication that goes out to various builders in the community. This year staff was concerned that these three major projects would come out to the community in the same short period of time, so about three weeks ago they posted an announcement that gave bidders a "heads up" that the bidding process was coming soon.

Mr. Slutzky asked if staff has looked at any other regions in Virginia where there might be a disproportionate decline in the building trades activity so that marketplace might be targeted with advertising or going to the local government to get names of contractors and then sending them an RFP.

Mr. Letteri said that was not done, but he feels getting the word out as staff has done will pickup those areas. He said there has been a relatively short window of opportunity to complete the design of the school projects, in particular, in order to get the process completed and contracts signed so the projects can be completed over the summer period. He continued by saying that major changes in the school program relate principally to the Support Services Complex. That was a proposed 46,000 square foot facility. The adopted budget included approximately \$9.3 million for construction of an approximate 33,000 square feet of records storage space and surplus storage. The proposal from the CIP Oversight Committee which was presented to both boards last December was that this project be broken into two parts. The Support Complex Facility should be reduced from 46,000 to 19,000 square feet to house only necessary critical operations, namely the Building Services group, the Technology group, and the Child Nutrition Services group; the latter two are being housed in trailers at this time. It was proposed that all of the warehousing be taken care of by leasing space. He is near the end of negotiations for that contract, and the expected savings over the next five years is approximately \$1.0 million. There will also be flexibility for warehouse space.

Mr. Letteri said other changes in the maintenance/replacement budget include minor things such as adding ADA structural changes to that line item, and staff also added \$27,000 representing the County's share of lighting and electrical updates to the CA-TEC facility. These items amount to about a \$1.5 million reduction in the '09 program.

Mr. Letteri said the next slide shows the School projects expected to be appropriated in FY '08-09. The \$645,000 shown for the Support Services Complex represents the design effort for that 19,200 square foot facility that will happen in the subsequent year.

Mr. Boyd asked if the County is utilizing all space at COB-Fifth Street as opposed to leasing it out to others.

Mr. Letteri said there is expansion space there which is now leased. Those leases will come up for renewal in the next two or three years.

Mr. Brian Elliott, Assistant County Executive, said that at the present time the Extension Service Office, the Voter Registration Office, and the Commission on Children and Families (CCF) are housed in the facility with varying terms of leases.

Mr. Tucker said if either the Extension Service Office or the Voter Registration Office moved to other facilities, the County would have to pay for that leased space.

Mr. Boyd asked where the Support Services Complex will be built.

Mr. Letteri said it will be on Albemarle High School property. He said the next two items on the list involve Administrative Technology and Instructional Technology upgrades plus upgrades to the wide area network. The \$4.4 million shown for the School Maintenance/Replacement projects represents a number of small projects. With 28 campuses and the number of mechanical systems in all those facilities, there is a routine need for upgrades in the way of equipment, roof replacements, lighting replacements, and the like. This represents an ongoing amount; last year's maintenance items amounted to about \$8.0 million and this year it will come down to \$4.0 million. There is a \$2.0 million upgrade to the Meriwether Lewis HVAC.

Mr. Boyd said he had looked at the information in the report about the additional operating budget impact and was curious to know if the figure shown is just for debt service or if it includes other operating expenses.

Mr. Foley said debt service is in a separate fund. This is just the operating impact.

Mr. Boyd asked if in Administrative Technology there are a lot of people involved with that category. It shows a huge amount of additional operating expenses.

Dr. Benson said that category is essentially for replacing equipment in administrative offices and the instructional technology in the classrooms and School Division Media Centers.

Mr. Boyd asked why there is such a huge impact on administrative operating costs. Is it because of the maintenance fees? He said that operating budget is increasing by \$418,000 in the first year.

Dr. Benson said maintenance fees are involved, but it also includes estimates for professional development as new technologies are incorporated.

Mr. Rooker said the figure Mr. Boyd quoted is actually a one-time charge for the wide area network. Because of the nature of the investment it is not a capital investment, but an operating investment according to the definition of capital expense, since it is a one-time expense.

Dr. Benson said money is set aside in the CIP in the event the wide area network needs to be upgraded. When the network was first put in it was a 10 megabit network and there were no provisions made for upgrades. Bandwidth utilization spiked and the network became unstable and there were no

means available to upgrade. An upgrade was done, and then money was put in the out years in the event the bandwidth needs further upgrades.

Mr. Boyd asked why it would not be a capital expenditure.

Mr. Foley said Ms. Neitz can clarify the nature of the ongoing expenses Mr. Boyd is talking about.

Ms. Neitz said there is a capital component to the WAN that is scheduled for next year. The operating impacts deal with the EMBARQ charges that are added and are an operating expense related to expanding that bandwidth.

Mr. Boyd asked if that is a one-time charge for labor.

Mr. Neitz said that is for installation of the bandwidth and then there is a monthly connection fee that would be increased based on the bandwidth.

Ms. Thomas asked why there is a zero cost shown for the next year.

Ms. Neitz said the first year would be put into the School's operating budget so there would be no additional operating impacts for that bandwidth.

Mr. Boyd asked if this will add \$418,000 per year to the budget.

Mr. Slutzky said there are two different costs associated with expanding the bandwidth. One is the capital cost of running the pipe where it is needed. In addition, there will be an increase in the operating budget annually, and that will be reflected on the operating side.

Ms. Thomas asked the amount of that operating expense.

Mr. Rooker said the way this is shown does not make any sense to him.

Mr. Foley said there is a one-time capital cost which is part of the Capital budget for the project. This line item just reflects the increase in the ongoing operating expense. In the first year it goes up to \$418,000, and that is a recurring cost. He said the \$418,000 is an operating expense and will be a part of the operating budget in the future.

Ms. Thomas said that seems like a large expense.

Mr. Slutzky said he is mystified, and at another time will try to understand this better because it does not make sense to him.

Mr. Boyd said his point is that the building decisions the Board makes carry with them a considerable increase in operating costs. This needs to be recognized because what is shown does not include what the debt service will be on that amount of money.

Mr. Foley said all of those ongoing expenses carry into the Five-Year Financial Plan and have already been reflected in what the Board has seen.

Dr. Benson said the Schools are not certain there will be a need for that additional bandwidth. It has been included in the event the network becomes unstable. At this time, it has not been turned up full throttle at all sites because utilization is not such that it is required. There needs to be some provision to expand that bandwidth if there is the demand necessary to do so.

Mr. Rooker said he does not understand the entire table shown in the Board's materials.

Mr. Foley said there is a problem with the \$418,000 figure which needs to be clarified.

Ms. Mallek asked if the wide area network is the basis for offering distance learning, so there could be one person teaching Chinese at all of the high schools at one time.

Dr. Benson said all of the School's internet services go out through the wide area network at a single point.

Mr. Boyd said he has always been amazed at the increase in operating costs when a new school has been added to the system. He thinks that needs to be a part of the CIP discussion.

Mr. Letteri said the next item for discussion is the Technology Grant of \$700,000. He understands it is tied to a revenue source in the same amount.

Dr. Benson said it is a state grant and it targets specific types of purchases (laptop computers, printers, networking equipment). The funds must be spent, and then reimbursement requested from the state.

Mr. Dorrier asked the ratio of computers to students.

Dr. Benson said the Schools have about one computer per three students. The best ratios are at the secondary level.

Mr. Dorrier asked if it will get to one for every student.

Dr. Benson said they are trying to hold at the current ratio.

Mr. Letteri said the next item "Gym HVAC & Lighting Replacement" at \$100,000 is for design services in connection with a number of upgrades. The projects would include Agnor-Hurt, Albemarle High, Broadus Wood, Crozet, Murray, Henley, Stony Point, Walton and Yancey. These are lighting upgrades and minor improvements to HVAC facilities.

Mr. Letteri said the next three items (Greer Elementary Addition/Renovation at \$5,140,000; Albemarle High Addition/Renovation at \$10,316,000; Brownsville Elementary Addition/Renovation at \$9,415,000) will be bid this spring. The Greer project will actually occur over four years. The design phase for the second phase of that project will happen next year. Then the construction element will be bid for the first time.

Mr. Boyd asked the reason for this.

Mr. Letteri said the project was too big to do at one time. He offered to answer specific questions about any or all of these three projects.

Ms. Thomas said people in Crozet expressed concern that Brownsville Elementary was getting more students from Crozet and that Crozet Elementary is really the community school. They were not happy with the way the student enrollment had been divided. She asked if that is still an ongoing issue. What is the balance between the two schools?

Ms. Moran said because of the recent ring of development around Crozet, everybody in that ring considers themselves to be a part of the Crozet Community. But, in terms of proximity, some of those subdivisions are closer to Brownsville. The Crozet School has been overcrowded for several years, so learning cottages were placed at the school and that is what drove the need for the Brownsville addition. Brownsville is a better place to expand for several reasons. Its current infrastructure will more easily accommodate an addition. They are now focusing on a master boundaries plan for the School Division.

Mr. Boyd asked how much of the \$32.0 million for these projects will be financed.

Mr. Letteri said he has slides to show about overall revenues at the end of his presentation. He said there is approximately \$43.0 million going into cash, \$31.0 million in Local Government borrowing, and \$86.0 million in School borrowing. That is what funds the entire \$188.0 million over the next five years.

Mr. Boyd said he was interested in next year.

Ms. Neitz said it is \$2.1 million in pay-as-you-go for FY '09 for the Schools.

Mr. Dorrier asked if these renovations were adaptable to multi-tasking buildings. At one time, Albemarle High School was to be allowed to teach adult learning at night. He asked if that is still the plan.

Mr. Letteri said "yes." He said that for many of these schools the renovations are to accommodate students that are now housed in trailer classrooms. A number of improvements are being made in gyms to accommodate multi-uses, and addressing administrative areas.

Ms. Thomas said the adult learning program is not a part of this at Albemarle High School. That part of the request was eliminated by all involved.

Mr. Letteri said the addition to Crozet Elementary School at \$45,000 has to do with the bus loading area in the front on the school.

Mr. Letteri said the Vehicle Maintenance Facility at \$1,150,000 has three components; storage addition to the existing facility shop; construction of an automated wash bay for buses which will use recycled water; and, repair and resurfacing of the upper parking area including some circulation and lighting improvements for the area.

Mr. Letteri said he would move now to discussion of General Government programs. He said the principal change in the Fiscal Years 2008-12 is the shifting of projects to out years, most notably the Levy Opera House and the Northern Library. The decision to shift those projects was not driven by revenues. In the case of the Levy Opera House it was by the delay in the JD&RC project, and in the case of the library, it was the extension of the existing lease and the timing of when it would make sense to actually address that project.

Mr. Slutzky asked if the existing lease has been extended. Mr. Letteri said staff is in the process of doing so at this time.

Mr. Rooker asked the County's obligation with respect to funding court facilities.

Ms. Thomas said they are totally the County's responsibility; the County would be subject to court action for not doing so.

Mr. Rooker asked if there is any state contribution toward those facilities. Mr. Davis said it is a local obligation.

Mr. Letteri said he would now highlight the new projects included in the five-year program. These include: voting machine replacements (mandated); emergency radio notification (fire department); and, Moores Creek septage receiving facility (has been increased to the full amount of \$10.0+ million to be offset by revenues).

Mr. Boyd said he does not understand why the septage facility is not a part of RWSA's CIP, and reflected in the ACSA's rates. Mr. Foley responded that only the debt service is included in our budget. Rivanna will do the project but because that facility only serves County businesses it is not a shared expense of the Authority.

Mr. Tucker added that the operations are included in the rates which are fairly high now. This service is charged to the haulers who then pass the cost to their customers.

Mr. Rooker asked if ACSA collects that money. Mr. Tucker said "no", it is collected by RWSA because they provide the service.

Ms. Thomas said this will upgrade the process of receiving septage at the Moores Creek STP (RWSA will do that), and it is not the City ratepayers or the ACSA ratepayers who pay because the septage is from the rural area. On the other hand, it is only the City that gets the stench and it is because of the complaints from the neighbors that all of this has to be done.

Mr. Boyd said it could also be said that the people in the urban areas are paying twice for sewer; they pay a portion through their taxes.

Mr. Rooker said in talking about creating a utility for stormwater, etc. one of the complaints from people in the rural area might be that they do not contribute to it in the same way that urban areas do. It is a big component of the costs the urban areas do not contribute to, costs being paid for out of tax dollars.

Mr. Slutzky said a significant percentage of the actual septage users are using the Land Use Taxation Program so it is probably the non-septage County residents that are paying for this infrastructure to support the septage service.

Ms. Thomas said the house is not under the Land Use Program in any case. It is the house and the one acre where the septic tank is located. The house is always taxed at full value.

Ms. Mallek said there are more than 400 volunteer fireman so how are they a part of the communication that is going to be changed.

Mr. Elliott said staff has looked at the number of pagers that can be purchased with these funds, and that appears to be a total of 500. He asked the Fire Chief if that would be sufficient to meet the needs for the operational volunteers and he feels 500 will meet their needs as well as those of the career staff.

Mr. Dorrier asked if there has been any decision about what to do with the Old Jail building. It is just sitting there.

Mr. Letteri said in the current plan there are funds available to address basic maintenance of the facility. It has been suggested that a small task force be developed to look at options for its use in the future.

Mr. Letteri said the need for Police Video Cameras has been eliminated, window replacements at the County Office Building has been combined into a project for a future year, and the Towe/Pen Park pedestrian bridge project is being delayed based on the City's uncertainty as to what it will do.

Ms. Thomas said the Lewis & Clark Center is in line for getting enhancement money which might include a ferry, so instead of a bridge there might be a ferry.

Mr. Letteri said many of the adjustments made had to do with inflationary cost adjustments and LEED costs. There was about \$2.2 million in deleted projects. Scottsville was among those that was addressed. Additional money was included for the Charlottesville/Albemarle Rescue facility of \$5.8 million which will be partially offset by money from volunteer groups.

Mr. Letteri said Public Safety projects include: apparatus for both the Fire and EMS systems, and the Crozet Ladder Truck. These recommendations came from the Committee which looks at the trucks and periodically assesses them. Mobile computers are being added for fire/rescue.

Mr. Letteri said that over a ten-year period the Pantops Fire Station was a \$10.75 million project which included a combination of temporary facilities, the equipment and the permanent facilities. At this time, a location for the facility is still being discussed. Extension of the City fire contract is also being discussed with the City. That would have an impact on this station. No definitive decisions can be made about this until those discussions are completed.

Mr. Letteri said the Ivy Station is listed for \$9.96 million. Staff is negotiating with a property owner in the Ivy area who has offered the opportunity to locate the permanent station for a much reduced price by renovating an existing warehouse facility. Those discussions are underway, so the dollar amount associated with this project is unknown at this time.

Mr. Letteri said as to the Public Safety Training Center (\$2.49 million), last year the Board asked staff to proceed with a study of three possible sites and improvements on a site to accommodate a firing range and burn building. Staff has just received that report and will probably have recommendations in the spring. The Board can either decide to leave the appropriation as a placeholder or defer action until the following year.

Mr. Letteri said appropriations for Public Works this year include: County Facilities maintenance at \$610,000; Recycling Centers at \$263,000. This is a placeholder until such time as the study is completed and specifics about locations and the nature of improvements in each location is known; Ivy Landfill remediation is shown at \$914,000 which represents the capital portion of that project. There is an additional \$400,000 in the operating funds that together with these funds support the remediation effort; Crozet Streetscape Phase 2 is listed at \$1.920 million – these funds would be appropriated as part of the overall project which totaled approximately \$3.9 million. The project includes a number of components including engineering and planning, construction related principally to the streetscape, utility relocations, stormwater improvements, right-of-way acquisitions and contingencies.

Mr. Boyd suggested that Ms. Mallek, during one of her meetings in Crozet, point out how many millions of dollars the County is spending there. Money is not being spent like that in his district.

Ms. Mallek said she has mentioned this several times.

Mr. Boyd asked if the amount being spent in Crozet is in line with what is being projected for the next set of master plans.

Mr. Foley said funds for Pantops have been estimated and incorporated to a degree in the CIP, but there will not be the same type of projects in that area as those in Crozet, with the exception of things tied into VDOT. Staff expects Places29 to approach the same kinds of costs as those in Crozet, but it is a much larger area. When the update of the ten-year plan is done next year, staff will have to look more closely at those things. There is not yet a capital plan for Places29.

Mr. Slutzky asked when Places29 will come to the Board.

Mr. David Benish said staff is now working on the implementation component, so it hopes to have a plan with a focus on transportation for the Planning Commission to review in May.

Mr. Foley said that will be the biggest part of the discussion of the ten-year CIP this fall.

Mr. Letteri said the last item in this section is \$70,000 for Local Government's portion of the Storage Facility/Lease that he referred to earlier.

Mr. Letteri said the next category is the Community/Neighborhood Development Project. The first item is "Neighborhood Plan Implementation" at \$550,000. Previously Crozet was a component of this item, but that has been removed so it shows a reduction.

Mr. Slutzky asked where the matching funds for the next item "Road Revenue Sharing" come from.

Mr. Letteri said the amount of these funds is being increased from \$1.0 million in this fiscal year to \$1.5 million in order to be more competitive.

Ms. Thomas said the Board agreed to increase that amount to \$1.5 million in the upcoming year.

Mr. Letteri said the "Transportation Improvement" program in this category includes \$2.1 million in local contributions. He said these funds have been accumulated over recent years. With this appropriation, the County will have spent about \$9.0 million for transportation improvement projects, or to augment work VDOT is doing. This amount is not allocated at this time to any particular project. There is also included \$100,000 in regional contributions.

Mr. Rooker asked if it would be wise to allocate that money and get Jarmans Gap Road constructed. Money is already allocated for Georgetown Road but bids have not yet been let, so the actual cost is not known. The Jarmans Gap Road project has been put off again until about 2012.

Mr. Letteri said it is less a matter of funding than it is of acquisitions and the time VDOT expects it to take to acquire those easements. The project as it stands now is almost fully funded through VDOT.

Mr. Rooker said the Board was told at its last meeting that the date was being pushed out a year and a half because of funding issues. State transportation funding has been cut by 44 percent.

Mr. Foley said the comments in the CIP were made before those cuts were made.

Mr. Letteri said the project could actually be pushed off farther into the future. At this time, a two-year delay is expected in the Jarmans Gap Project based on right-of-way issues. This further reduction in funding will increase that delay in timing.

Mr. Slutzky asked if the Board should consider accelerating some of these projects recognizing the inevitability of projects in Places29, etc. Should the Board look hard at the overall capital strategy and talk again about holding a referendum on general obligation bonds and proceeding with some of these projects while interest rates are low?

Mr. Foley said staff had planned to talk about that at the end of this presentation.

Mr. Rooker said the Board had put money aside in past years and Jarmans Gap Road is the top priority unfunded project. He thinks the Board should do whatever it can to get that project done since money has been put aside in the CIP for that purpose.

Mr. Slutzky agreed.

Mr. Boyd suggested the Board talk about this issue during the public hearing on the Six-Year Road Plan tonight.

Mr. Letteri said the next program is "Sidewalk Construction" including Ivy Road from the Kluge Center into the City, Route 250 between West Canterbury and Luxor, and Fontaine Avenue into the City.

Mr. Slutzky said the Board had talked about the need for crosswalks. Staff is to present information soon about capital projects related to crosswalks, and there is nothing in this category right now related to that. Is there a plan to build those into the CIP?

Mr. Foley said the \$9.0 million mentioned by Mr. Letteri that is not allocated at this time is money the Board could designate for those types of things. The money has been set aside while working through transportation issues. A line item could be incorporated and an amount obligated each year to crosswalks.

Mr. Letteri said \$220,000 is included for "Roadway Landscaping" which has to do with tree planting and landscaping from the City Limits to Route 53. It has also been identified this year for architecture and engineering efforts for a linear park for the Meadow Creek Parkway.

Mr. Letteri said the "Street Lamp Program" at \$49,000 is an ongoing program that supports design and implementation of street lighting.

Mr. Rooker said he had recommended a street for lighting some time ago and it never was done because it was estimated to cost \$150,000 for a single light. It was in an area where significant safety concerns were expressed by the residents. What can be accomplished with such a small amount in the fund if it cost that much to put in one light?

Mr. Benish said the lighting can be expensive if a portion of the roadway must also be lit. If that is the case, VDOT standards for roadway lighting come into play. He said several projects have been stalled while waiting for them to be designed and improved. In the past, Virginia Power designed the projects, and then County had to get VDOT approval. Now, Dominion Power constructs them under their own priorities for workloads, so it has taken a bit more time to get projects done. Two projects the County had identified and funded were at the Rock Store on Hydraulic Road and one at Four Seasons Drive and Rio Road. They have been tied up with getting Virginia Power to finish their work. Staff has suspended asking for additional funds until more projects are completed. There are also individual requests for lights that have a separate policy. The ones he had mentioned were instigated by staff.

Mr. Rooker said the project he mentioned was for Ricky Road. The problem the neighbors were having was with people gathering in the area to do drug transactions because it was a dark spot.

Mr. Boyd said looking ahead at the slides they cover much more material than the Board can handle in just ten minutes.

Mr. Tucker suggested the Board finish this topic if possible.

Mr. Letteri said the next category covers Parks and Recreation projects. He pointed out that the "Paramount Theater" represents a combined \$330,000 commitment, and this is just one contribution toward that amount. The "Park Enhancement" component includes restroom upgrades at several locations. "Maintenance/Replacement Projects" include the Scottsville Community Center doors and restroom upgrade; and, the Greenwood Community Center doors, kitchen, skate room and lower restroom upgrades. Each year one elementary school playground replacement project is included.

Mr. Letteri said he will mention five other projects which are for relatively small amounts. Included are maintenance dollars for the libraries, the County's contribution to the PVCC Roundabout, various ongoing technology/server upgrades, the ACE Program (the \$1.614 million represents the one-cent contribution), and, stormwater management.

Mr. Letteri said the Board has had a number of discussions related to Library projects. He showed a slide which totaled \$50.166 million in library expenditures for the ten-year period. He said the Northern Albemarle Library project has been deferred. Substantial reductions have been made in the Scottsville Library expansion project. Costs for these projects were based on a study that is now nearly ten years old. Staff thinks the entire library program should be revisited, particularly before undertaking projects such as the Central Library renovations.

Mr. Slutzky said he agrees that this matter should be revisited.

Mr. Dorrier also agreed. He served on the Library Oversight Committee and it held long discussions on this issue. They feel that the way things are changing there is a need to also make a change in libraries.

Mr. Letteri said concentration in the five-year plan will be on the Crozet Library. The early part of that design effort will be to revisit the program.

Mr. Rooker noted that the "Northern Albemarle Library" is shown in two different time periods for the CIP. He asked if the first is purchase of land, and the second the construction of a building. Mr. Letteri said that is correct.

Mr. Elliott said this assumes the proffered land at Forest Lakes South would be used for this facility. He said there is currently an ongoing lease obligation of about \$250,000 a year that is likely to increase substantially in the next four-plus years as the landlord seeks market rates. It is a tradeoff with funds going to a lease. In the next few years staff will be looking for a site so planning can begin.

Mr. Rooker said the County could continue to lease the space at the same rate, which is subject to negotiation, but there are vacant commercial spaces in the area which could be leased for probably 10 years. He understands you could look at the project in different ways, but he also understands the current location is more central to the population than continuing to push it further north.

Mr. Elliott said Albemarle Square is a 15,000 square foot space, and the Library feels constrained at that location. It is centrally located for the clientele it serves so south of the river it is an ideal location. He said the library has held the current lease since 1990 so lease payments have already been made for 18 years.

Mr. Rooker said one of the nice things about its current location is that it is in a shopping center, so people can do a number of errands while there. If it is put in an isolated facility at Forest Lakes South, he questions whether the usage will remain as high.

Mr. Elliott said that is another item that needs to be addressed as staff moves forward with site selection. He is just pointing out that the current CIP assumes use of that site in Forest Lakes South. It is not definitive since the Board has not made that final decision.

Mr. Boyd said there is also the site in North Pointe which is more of a community-oriented centerpiece for the development.

Mr. Slutzky asked if anyone routinely looks at properties which come on the market in case there were an opportunity for the County to acquire property for the Northern Library in this depressed real estate market to take advantage of the moment.

Ms. Elliott said he had met with a commercial real estate broker and made him aware that the County might be interested in anything available south of the river. He, Mark Graham and Mr. Letteri will be meeting in a few weeks to see what County-owned land might be available in that region in order to formulate some alternatives for potential sites.

Mr. Rooker said he sees advertisements weekly for shopping centers for sale. He said that between \$150 and \$200 a foot would buy an entire shopping center. Albemarle Square is not that large, so one option might be to go to the existing owner and buy it as a condo.

Mr. Elliott said staff has held such conversations with the landlord and so far the focus has been on the rate for the next five years.

Ms. Mallek said she was under the impression that an architect had been working on design of the Crozet Library for quite some time and that local people had been visiting libraries around the state. Is all of that work now "up in the air?"

Mr. Letteri said a good amount of work has been done on what is needed for Crozet. In the early phase of design staff just wanted to confirm the program to be sure there had not been a major change in the trending of libraries. He does not see that process starting over again.

Mr. Boyd said there is a number missing, and that is where funds have been allocated in prior years but have not been spent to date. That dollar amount needs to be shown somewhere in this report.

Mr. Slutzky asked what percentage of the Central Library renovation is allocated to the County, and if there is an actual project in mind for \$13.6 million.

Mr. Elliott said the County would pay 50 percent of the overall cost.

Mr. Letteri said that concludes his presentation of projects. He will now move to discussion of revenues. He said the CIP Fund receives revenues from a number of sources. The three most primary are: the growth fund, Local Government and School borrowings, part of the revenue surplus moneys go directly into the CIP, proffers, interest earnings on balances held for capital projects, and various grants used to support a number of projects. He said the growth formula is comprised of three elements. One is a transfer to the capital debt program each year by the rate of revenue growth. This represents the biggest piece of the three primary sources (growth formula, Local Government borrowing, School borrowing through VPSA). Last year that total was approximately \$24.0 million of the \$26.0 million which was transferred into the General Fund.

Mr. Letteri said that growth formula is tied to the growth in overall revenues. The second component is tied to the cost of operations. Staff looks at the overall growth in the operating fund and allocates an additional one-half of one percent into the CIP. Last, by policy two cents of the tax rate is dedicated to the Capital Fund. This year's balance for the CIP includes a reduction to one cent for the period between FY 2009 and FY 2013.

Mr. Letteri then presented a slide depicting the FY '08-12 Capital Program Revenue Changes. He said given revenue projections, the principal changes in revenue are: the growth formula is down \$10.0 million over what was adopted and the amount of borrowing is down \$14.0 million. Staff was able to make it balance by the shifting out of almost \$20.0 million in projects. There is also reliance on the use of reserves.

Mr. Boyd asked if the amount of borrowed funds shown for General Government is based on a new policy the Board has yet to discuss. There have been no general obligation bonds issued.

Mr. Letteri said a Reserve balance has been retained in each of the five years, and by the end of the five-year period, the amount has been improved.

Ms. Thomas said that on Page 221, the Contingency Reserve goes into a negative figure.

Ms. Neitz said it does become a negative figure in 2013 which is outside of the five years. At the end of the five-year period there will be a reserve of \$803,000, which rolls over into the next year to be used if needed.

Mr. Slutzky said from 2013 forward the deficit is greater than the number shown.

Mr. Foley said they would show the impact of the one cent reduction on the General Fund transfer to Capital/Debt. Some projects have been shifted way into the out years and that means that some of that has an impact on the Reserve balance after five years.

Mr. Letteri said he would like to go through the next series of slides before going back to that question. He said the one cent reduction will have no change on planned projects through FY '12. He said those deferrals were driven entirely by needs relative to those projects.

Mr. Slutzky said once those projects were delayed for other reasons, it made it possible to argue that a one-cent reduction was possible in the CIP transfer. Even if it was not the precipitating cause, it was a benefit that made it possible. He would argue that they are unrelated.

Mr. Rooker said the Board has been putting aside money for transportation projects. He asked if those funds are considered part of the Reserve.

Ms. Neitz said "no." The Reserve is basically unobligated capital funds.

Mr. Rooker said he wants everybody to understand that the funds which have been set aside for a general category like transportation are not included in the Reserve.

Mr. Letteri said reserves are needed over the five years. The reserve occurs when expenditures in a given year are less than revenues. Having a reserve does not mean use of that reserve is not accounted for in some future year.

Mr. Rooker said he understands that, but moneys have been set aside for certain categories. If the Board wanted to take money out of one of those allocations to use it for another purpose, that could be done. Although the money is generally allocated, it is not specifically allocated.

Mr. Letteri said the transportation improvement program probably contains the largest accumulation of funds.

Mr. Rooker said \$800,000 has been allocated to the Stormwater Fund each year, and not much of that money has been spent.

Mr. Letteri said staff looked at all the opportunities they felt would require borrowing in this five-year period. An increase is shown in the last year of this plan for borrowing for the fire rescue/records technology projects. That enabled them to create a positive fund balance in that fifth year.

Mr. Slutzky asked if Mr. Letteri was indicating that no other projects in the CIP would be eligible for borrowing.

Mr. Letteri said he will show a slide in a few minutes on which is set out all of the projects recommended for borrowing. It includes about all of the projects he has already mentioned. He noted a slide representing the impact on the Reserve Balance and said that according to policy staff tried to maintain a reserve of \$2.0 million. In both the adopted and the recommended version, staff feels there is an adequate reserve to operate for five years.

Mr. Slutzky asked what happens after the fifth year.

Mr. Letteri said based on staff's best projections at this time, it drops below an adequate level.

Ms. Thomas asked if that is for either the one-cent or the two-cent transfer.

Mr. Tucker said it is the one-cent transfer. The Board can change that back to two cents at any time during this five-year period. This chart just shows what the reserve would be if the Board maintained the one-cent reduction.

Ms. Neitz referred to the cumulative reserve shown in the chart on Page 221 and said the one-cent is assumed through FY '2013, the two cents is added back in for the years from 2014 to 2017.

Ms. Thomas said there is still a negative situation which proves what she has been saying for a long time. It will be really hard to make up that one-cent if it is taken away from the CIP transfer.

Mr. Rooker said if more money than planned is borrowed, the Reserve increases, so if some project is delayed and that has not been factored into these figures yet, reserves would increase.

Mr. Slutzky said the plan includes close to 40 percent pay-as-you-go projects. If the Board chose to increase the debt burden, there could be significantly different reserves and the timeframe for projects accelerated. He said the Board might lock into a historically low interest rate now versus deferring construction of projects into a period where the cost of money and the cost of construction might be increased significantly.

Mr. Boyd reminded the Board members that the meeting is running way behind schedule at this time.

Mr. Letteri said in terms of strategies as to how to fund the CIP, other than the pay-as-you-go program just discussed, there are various borrowing mechanisms. There are: the VACo/VMA pool provides the advantage of having a bond referendum without having to expend the upfront costs of putting one together. Staff has found that the rate differential between the VACo/VMA pool is not substantially different from what would be expected with a bond, even with the County's AAA bond rating. On the School side, the vast majority of that debt is funded through the Virginia Public School Authority (VPSA).

Mr. Letteri then showed a few slides showing Debt Capacity Policies. The first policy is that long-term debt should remain within two percent of the assessed value of taxable property. Next, associated debt service levels should remain below ten percent of General Fund and School Fund revenues.

Mr. Slutzky asked if these policies will keep the County's AAA bond rating.

Mr. Letteri said that is shown in the next few slides. There is a policy, a AAA rating and a AA rating. The slides show that the County is well below all three thresholds. (Copies of charts are on file.) He said as staff looks beyond the five-year period, changes in revenues and tax growth can change substantially, so it is difficult to project both project costs and revenue growth.

Mr. Rooker said projects are scheduled for the dates on which they will be needed. He does not think projects should be accelerated just because the County can borrow money.

Mr. Slutzky said there are projects which are not even in the CIP because the Board knows it cannot pay for them. Highway money will not be coming from Richmond, so the Board could choose to absorb more of that responsibility. Those projects include sidewalks, crosswalks, and the bridge across the River at Berkmar Drive; then there are master plans to be implemented. It is not absurd to think about a referendum and whether there are projects which could not be funded otherwise.

Mr. Rooker said the Board is setting aside \$2.0 million a year in funds for transportation, so if the Board wanted to fund the Berkmar bridge project that cost could be amortized over a reasonable period of time. The Board could also borrow the money and pay debt service out of the \$2.0 million thus taking on some of these projects if that were the consensus. The same thing applies to the proposed Eastern Avenue in Crozet.

Mr. Boyd said when it was agreed to set aside that \$2.0 million, it was done in order to establish that discipline so it could be transferred to debt service if necessary.

Mr. Letteri said the 44 percent reduction from the State will trigger a need to look at projects in the Six-Year Highway Plan to identify efforts the County might reasonably undertake. Given what is known about projects that are needed, staff is trying to show that the reserve balances need to be maintained. As to the County's debt structure, it is felt this proposed Five-Year CIP Plan can be financed even with the one-cent reduction in the transfer to the CIP Fund.

Mr. Slutzky said he agrees but will add a caveat. He does not agree that the plan funds everything that is needed. There are things associated with master planning that need to be planned in the next ten-year horizon.

Mr. Rooker said he takes issue with that. There is a process for getting projects into the CIP and he thinks every project needs to go through that process. At this time, projects that are not on the list have not been identified through that process.

Mr. Slutzky said the only reason he disagrees has to do with the "road world." He said the County has historically deferred to Richmond which historically accepted the responsibility for funding transportation projects. There has been a progressive decay of their commitment and the value of their money. There are projects which he thinks are needed, and for which an expectation has been created through master planning, and he does not think they will be funded by Richmond.

Mr. Rooker said when those projects are identified the Board might increase that \$2.0 million a year and allocate more for road projects. The Board has talked about Jarmans Gap Road and the possibility of transferring money which has been set aside for other projects to that project. He does not think the Board should make its financial decisions based upon what is not in the plan. If anybody knows of a project which is not in the plan, it should be identified and it should go through the process, and if included then figure out how it will be funded.

Mr. Tucker said during the master planning process, all such projects will be identified, and then they can be programmed into the CIP.

Ms. Thomas said it evidently does not concern Administrative staff that the contingency reserve will have a negative figure in the future which corresponds to the time when the two cents will be put back into the CIP.

Mr. Tucker said there is an adopted plan. He does not know what that figure will be, and will not know until all master planning is completed and the cost of all of those items is known.

Ms. Thomas said she is talking about the effect on the contingency reserve. She said the infrastructure capital improvements plan can be pared down to match the money available, but she is not sure that is the proper direction to take. The existing policy has done a good job of paying for a number of pay-as-you-go projects. To her that makes sense when talking about the cost of debt service. This cumulative reserve, which is about to be cut from two pennies to one penny, will not show the result of that immediately, but there will be a dramatic effect after four years.

Mr. Slutzky said that is about when the items from Places29 will start to materialize, and they are not in the plan at all. That suggests that when the reserve becomes a negative figure, it will be even higher and there is no way to anticipate that amount at this time.

Ms. Thomas said debt service costs go up dramatically in year six.

Mr. Foley said the main issue is that in the years after five, at this time the figures are subjective. It is just an assessment of needs. He said staff has been able to balance the five years, keep the projects on track and not reduce them because of revenues.

Mr. Rooker said all of the projects in the CIP are being funded. The projects which are being delayed are not being delayed because of revenues.

Mr. Slutzky said that in the years between 2012 and 2017 when the reserves go negative and infrastructure needs to be funded, the County will be in a bad position.

Mr. Rooker asked how much has been put into capital over the past five years that was over and above the amount put in according to policies. He thinks it has probably been \$30.0 million. His point is that about \$25.0 million is being contributed at one penny and at two cents it would be \$26.6 million. There have been many good revenue years, but this is not a good revenue year. One year there was \$10.0 million put in from excess funds. He could argue for or against the penny, but the numbers are not precise. If the cost of one project like the Pantops Station was changed, there would be a dramatic change in reserves immediately. The last time this was discussed, he was in favor of keeping the one cent in. In good times more than the two cents has been transferred into the plan.

Mr. Slutzky said that while there has been more money put into the reserve, there has also been a reciprocal increase in the cost of projects, more than anticipated. He understands the numbers are only projections, but the Board is looking at having negative reserves by year six of the plan. Also, there is nothing in this plan for Places29 infrastructure.

Mr. Rooker said amounts have been included for Places29 infrastructure.

Mr. Slutzky asked for that dollar amount.

Mr. Letteri said he did not have that figure with him. There is money included for one mile of roadway construction.

Mr. Foley said since Places29 has not been completed, no dollar amounts have been included for that master plan. There is some ongoing money included, but major projects are not reflected.

Mr. Boyd asked if the Board members want to make a decision about the penny today.

Mr. Slutzky said that is what is being discussed.

Mr. Boyd said the Board needs to conclude this discussion because there are people present who want to hear discussion of the next agenda item.

Mr. Rooker said he thinks this conversation could be finalized when the Board decides on a proposed tax rate for advertisement.

Mr. Tucker said there is one more slide to show, and then the presentation will be complete.

Mr. Letteri said staff has tried to identify all of the Local Government projects which they feel are reasonable candidates for borrowing from the present time until FY 2012. The list totals \$44.5 million. Some of the amounts shown have previously been appropriated and others are projects for the future.

Mr. Foley said in the next year the Board will see a list of projects recommended for borrowing. Staff just wanted the Board to be aware that there will be a series of financings over the five-year period.

Mr. Tucker handed to the Board a list of revenue items which the Board will be discussing in its work session on next Monday.

(Note: At 4:45 p.m. the Board recessed, and reconvened at 4:55 p.m.)

Agenda Item No. 3. Water Protection Ordinance - Stream Crossing: Work Session.

Mr. Mark Graham, Director of Community Development, said the purpose of this work session is to review Section 17-321(4) of the Water Protection Ordinance which allows stream crossings in protected stream buffers in specific circumstances to determine if an ordinance amendment is needed. As part of the public comment at the February 6, 2008, consideration of an amendment to the Water Protection Ordinance (WPTA-2007-001, Attachment A – on file), the Board was made aware that the Program Authority's interpretation of this ordinance requirement may be more restrictive than was envisioned. The issue was revisited at the Board's February 13, 2008, meeting and staff was directed to schedule a work session so the Board could review its options. The following is excerpted from the Executive Summary which is on file in the Clerk's Office with the permanent records of the Board of Supervisors.

"The following is the relevant section of the Water Protection Ordinance:

Sec. 17-321 Types of development which may be allowed in stream buffer by program authority. Development in a stream buffer may be authorized by the program authority in the circumstances described below, provided that a mitigation plan is submitted to, and approved, by the program authority pursuant to section 17-322:

4. on a lot on which the development in the stream buffer will consist of the construction and maintenance of a driveway or roadway, and the program authority determines that the stream buffer would prohibit reasonable access to a portion of the lot which is necessary for the owner to have a reasonable use of the lot;

The issue is interpreting this ordinance section with respect to ". . . which is necessary for the owner to have a reasonable use of the lot." The Program Authority has taken a narrow interpretation of this language assuming it was intended to avoid issues of taking property. Typically, this means the development is only allowed a stream crossing when it is found necessary to establish the first dwelling on the property.

Next, the Program Authority is guided by Section 17-322(D) in evaluating the approval of a mitigation plan, as follows:

- D. Each mitigation plan shall be evaluated by the program authority based on the following criteria:
 1. whether all reasonable alternatives to development in the stream buffer have been explored and exhausted;
 2. whether the development in the stream buffer is the minimum necessary and is conducted in a manner that will be least disruptive to the natural functions of the stream buffer; and

3. whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions.

With this background, the issue is whether it is the intent of the ordinance to provide the minimum use necessary to avoid a claim of taking property or whether the ordinance anticipates the property owner's ability to develop their property. From this, staff believes the enforcement spectrum offers three approaches:

1. The current approach, which assumes stream crossings are prohibited except where absolutely needed.
2. A middle ground, where staff considers each circumstance on a case-by-case basis and provides some limited use of the property based on a balance of the desires of the property owner and protection of the stream.
3. An approach that allows stream crossings provided certain conditions are satisfied.

For convenience, these three approaches will be respectively called prohibition, discretionary, and allowed.

Many of the issues with a "prohibition" approach have already been noted by citizens and Board members. It is the most restrictive to the property owner and the most protective of the stream. One reason to support this approach is it recognizes that mitigation of impacts is an imperfect solution. While mitigation is intended to address impacts, there is usually a net loss to the stream's value as a natural resource. For example, planting the outer perimeter of a stream buffer enhances the quality of filtering vegetation but it does not address the obstacle a culvert in the streambed creates for organisms moving up and down the stream. The current ordinance does not limit stream crossings, or any other disturbance of the buffer, with agricultural or forestry operations. Thus, the Comprehensive Plan's intended use of the Rural Areas for agriculture and forestry is not curtailed. In enforcing this approach, staff routinely looks to the Comprehensive Plan for guidance on reasonable use of property. Among the points to consider with this approach are:

- It prioritizes protection of stream over the property owner's ability to develop the property. It provides for minimal relief to the property owner, but it does not consider the potential development value of the property.
- It is the easiest to understand and administer. The property owner and staff both clearly understand what is allowed and prohibited. Staff's workload is the smallest with this approach. The property owner may not like the answer, but he or she has a firm answer.
- It recognizes that mitigation is far from a perfect mechanism and some net loss of stream function is a likely outcome.

A discretionary approach attempts to balance the protection of the stream and the property owner's ability to develop the property. Staff finds this the most difficult approach to administer and applicants find it the most frustrating. For example, consider a property where all of the development rights could be exercised without crossing the stream if the applicant is willing to limit the septic fields to three bedroom houses and keep the lots at the minimum two-acre size. Should staff be able to demand this limitation? Should staff be able to demand redesign of a subdivision plat if it appears possible to reduce impacts to the stream buffer but it results in fewer lots? Should staff be able to require the applicant to have a soil scientist exhaust all possibilities for septic fields without crossing the stream? All of these situations have staff exercise considerable discretion but puts them into direct confrontation with the applicant. In similar discretionary situations, staff finds each new project starts with the established standard as a starting point and the applicant argues for additional consideration based on the unique characteristics of their property. The end result is either an ongoing erosion of the standard or an ongoing confrontation where applicants complain of a frustrating process and portray staff decisions as arbitrary and capricious. Among the points to consider with this approach are:

- It attempts to balance protection of the stream with the ability of the property owner to develop their property.
- It is the most difficult to understand and administer, with considerable staff discretion based on the unique set of circumstances with each application. This translates into considerable staff time and applicant frustration.
- Property owners will need an approved plan to have assurance that an envisioned development is allowed.

An allowed approach starts with the assumption stream crossings are permitted and attempts to mitigate the impacts using approval conditions. Staff finds this approach easier to administer than the discretionary approach and applicants find it much less frustrating. With this approach, stream crossings could be added to the list of allowed uses in Section 17-320 of the Water Protection Ordinance, with specific approval conditions. Under this approach, staff assumes the property owner has the right to cross the stream when there is intent to use property on the other side, provided certain minimum conditions are satisfied. To illustrate this approach, staff has provided Attachment B (on file in the Clerk's Office). Among the points to consider with this approach are:

- It establishes a balance point between the use of the property and protection of the stream that assumes use of the property and then attempts to minimize impacts to the stream.

- It can be relatively easy to understand and administer. While prohibition is easier to administer, having simple well defined conditions for approval removes much of the confrontation from the process.
- Property owners have some assurance as to what is allowed with their property. While staff will still need to verify that the conditions are satisfied before allowing the activity, it is usually simple to determine if those conditions restrict the development potential of the property

No impact to the County budget has been determined. This provision primarily affects Rural Area property where land is typically taxed based on land use rather than development potential. As noted above, the discretionary approach requires additional staff resources and may impact staff's ability to respond to other issues. The funding for staff's review can be recovered through fees.

Staff's recommendations are:

1. If the Board believes the intent of Section 17-321(4) is to provide the minimum relief necessary to avoid claims of taking of property, staff recommends the Board affirm the Program Authority's current interpretation. Staff will then develop ordinance language to better clarify this intent.
2. If the Board believes a stream crossing should be allowed for the development of property, staff recommends the Board include stream crossings in Section 17-320 of the Water Protection Ordinance as an allowed use, with conditions similar to those provided by staff in Attachment B (on file). If this approach is selected, staff will proceed with development of the appropriate ordinance amendment.
3. If the Board believes it is more appropriate to consider the unique set of circumstances with each proposed development, staff recommends Board amend the language of Sections 17-321 and 17-322 to provide for case-by-case evaluation of need in the development of property. If this approach is selected, staff believes language similar to that in Attachment C (on file) is appropriate and will proceed to proceed with an ordinance amendment using that draft.

Attachment B, Proposed language for Sec. 17-320, Types of development authorized in stream buffer.

- D. Stream crossings of intermittent streams for roads, streets or driveways, provided the following conditions are addressed to the satisfaction of the Program Authority:
1. Culverts or bridges are utilized for the stream crossing and sized to pass the ten-year storm without backing water onto upstream properties;
 2. Stream stabilization and energy dissipation below structures is found to satisfy criteria for outlet control and stream bank stabilization per the Virginia Erosion and Sediment Control Handbook;
 3. The stream disturbance is the minimum necessary to provide access to a developable part of the property. In general, stream crossings shall not disturb more than 30 linear feet of stream for driveways and 60 linear feet for streets. The Program Authority may allow additional length of stream disturbance where fill slopes necessitate that additional length;
 4. The bed and banks of the stream will be stabilized within seven days of culvert installation or any work in the stream; and
 5. For stream crossings on properties where the stream buffer is not fully vegetated, other than the stream crossing, buffer vegetation shall be established and maintained at a ratio of two square feet of stream buffer restored for every one square foot of stream buffer disturbed as part of the stream crossing, up to the point the buffer is fully vegetated outside of the stream crossing. Stream buffer plantings shall be consistent with guidance supplied by the Program Authority.
- E. Stream crossings of perennial streams for roads, streets or driveways, provided the following conditions are addressed to the satisfaction of the Program Authority:
1. Bridges, arch culverts, or box culverts are utilized for the stream crossing and sized to pass the ten-year storm without backing water o to upstream properties. Bridges or culverts must either leave the stream section undisturbed or return the stream to its natural cross-section upon completion of construction. Culvert bottoms must be a minimum of six inches below the stream bed. Culvert walls and bridge columns should be located outside the stream banks wherever possible;
 2. The property owner has provided the Program Authority with copies of approved Federal and State permits associated with the stream crossing, if applicable;
 3. Stream stabilization and energy dissipation below structures is found to satisfy criteria for outlet control and stream bank stabilization per the Virginia Erosion and Sediment Control Handbook;
 4. The stream disturbance is the minimum necessary to provide access to a developable part of the property. In general, stream crossings shall not disturb more than 30 linear feet of stream for driveways and 60 linear feet for streets. The Program Authority may allow additional length of stream disturbance where fill slopes necessitate that additional length;

5. The bed and banks of the stream will be stabilized within seven days of culvert installation or any work in the stream; and
6. For stream crossings on properties where the stream buffer is not fully vegetated, other than the stream crossing, buffer vegetation shall be established and maintained at a ratio of two square feet of stream buffer restored for every one square foot of stream buffer disturbed as part of the stream crossing, up to the point the buffer is fully vegetated outside of the stream crossing. Stream buffer plantings shall be consistent with guidance supplied by the Program Authority.

Mr. Graham then gave a PowerPoint presentation. There ensued a conversation about the diagrams used for demonstration purposes.

Mr. Rooker asked the difference in the environmental impact for a stream crossing to serve one lot versus two lots.

Mr. Graham said it is minimal. The big difference is between whether or not there is a crossing and not whether the crossing is the width of a driveway or the width of a public street. The issue is that a gap is being created in the stream.

Ms. Thomas said there also would be more building on the other side of the stream so if the Board talks about mitigation she will argue this point. She thinks the applicant would need to mitigate not only for the stream crossing but for the fact that there is additional development on the other side of the stream.

Mr. Boyd said he thought mitigation was regarded as not being practical since there might be no need for it if the stream crossing was put in correctly.

Mr. Rooker said it will depend on the type of property. If the property sloped down toward the stream, it might have a bigger impact on the stream. He was a strong supporter of the measures the Board passed, but did not intend when he voted to adopt the stream ordinance, to downzone substantial parts of the rural area in a "backdoor" way. He is in favor of making certain the Board does as much as possible to mitigate impacts on streams by limiting the number of crossings and by whatever measures can be put in place as part of the plan of development.

Ms. Thomas referred to one of the drawings shown. She thinks a lot of mitigating is needed on both sides of the stream because this is development in the rural area. There should be better than a zero increase in the discharge standard, but the Board does not have the means to require that. She said this might be the first chance to get true mitigation for the impact of development in the rural area.

Mr. Slutzky asked if the Board has the authority to require mitigation off-site that is in excess of the impacts on site as a condition of allowing for a stream crossing.

Mr. Davis said there is no clear authority to do that. Under the Chesapeake Bay Act there is no authority to do that.

Mr. Boyd said the problem with requiring mitigation is that the stream on the property may not require any mitigation, it may be fine the way it is.

Mr. Graham referred to one of the drawings and said to assume it is all a wooded buffer. Because agricultural and forestal uses are allowed, the owner clears a significant part of the buffer, which they are allowed to do, and then they have a perfect place to do mitigation effectively and cheaply on-site, which can be done.

Mr. Rooker said no matter how many permutations the Board looks at, a lot of this is an exercise that requires applicants to hire people to figure out how to get around whatever is required. He thinks the second recommendation by staff is clearly what he had in mind, that a stream crossing be allowed for development of the property and that stream crossings be included in Section 17-320 and that uses similar to those provided in Attachment "B" be allowed with conditions. A number of conditions would be put into place as a requirement for a stream crossing. To the extent reasonably feasible, he would like to have mitigation of the impacts on the stream resulting from the crossing. Concern was expressed about the possibility of there being multiple crossings. He has been assured that staff would have the authority to prevent multiple crossings where one crossing would suffice.

Mr. Graham said staff tried to write that into Attachment "B" as No. 3. It has to be the minimum crossing necessary to allow access to the developable part of the property.

Mr. Rooker said in the recommended additions to the ordinance there is the ability to require mitigation measures to the maximum extent possible.

Mr. Boyd asked Mr. Rooker if he is proposing Option 2.

Ms. Thomas said she thinks Option 3 is the one needed.

Mr. Boyd said it sounded like Option 3 was what Mr. Rooker wanted, but he was describing Option 2.

Mr. Graham said he thinks he means Option 3 in the recommendations.

Mr. Rooker said recommendation no. 2 with the conditions similar to those set forth in No. 3.

Ms. Thomas asked if Mr. Graham had other examples to show the Board.

Mr. Graham said he had one. A couple of times each year staff sees one where there is an existing house and a pond with a driveway across the pond. Thinking about the minimum necessary for development of a property, the logical answer would be to build a road across the dam where there is already the driveway. In effect that would require the applicant to apply for a private road waiver because you cannot build a public road across a dam. Staff is then caught because that applicant has to first apply for a private road waiver, then show that he cannot get the private road waiver before staff can consider allowing something else.

Ms. Mallek asked if crossing the dam would be allowed for only two parcels. Mr. Graham said "yes."

Mr. Slutzky asked if the problem of the farm crossing can be avoided by saying the crossing had to exist at a date certain like the date of the passage of the ordinance. Mr. Davis said that might be possible, but the purpose of this ordinance is to avoid disturbance of the stream buffers so he is not sure of the rationale.

Mr. Slutzky said the rationale is that the farm road could be used as a way around the regulation. Could there be a process so it is not an automatic approval?

Mr. Dorrier asked if this applies to intermittent streams, or just streams in general. Mr. Graham said it is for all streams.

Mr. Slutzky said he agrees with Mr. Rooker that Option 3, recommendation 2, is the rational choice, but if the Board moves forward in that way and has a public hearing, he would like to see a legal opinion that examines the issue of off-site mitigation. He would like to be able to require a level of mitigation that is at least 100 percent of the impacts on the stream. The way to do it would be to develop a metric based on linear footage or some other variable that is perhaps more than the real impacts, but where the mitigation could take place either on-site or off-site. He would like to understand what the County can require off-site as mitigation.

Ms. Mallek said some people have suggested 2:1 mitigation, but to require that where people are doing just one unit and to maybe go off-site is not reasonable or fair.

Mr. Slutzky said the 2:1 ratio could be done on the site.

Mr. Rooker said if mitigation is required somewhere other than the stream area, the level of complexity is magnified tremendously. He questions whether there is any significant gain in doing that. If anything is required to the maximum extent reasonably possibly other than in the stream area where the crossing occurs, he thinks that is reasonably straight forward and is something staff can deal with. When you start changing that approach and use the wetlands approach of the Corps of Engineers and require mitigation in excess of what is reasonably necessary with respect to the crossing, it is incredibly complicated.

Mr. Slutzky said he has a way to do that if the County had the enabling legislation. It would be to simply designate County projects where it was felt that mitigation in other places would be beneficial to the streams, and the Board could simply stipulate a dollar amount or some metric that is straight forward so it would not be problematic for staff to calculate since it would be written into the ordinance. It sounds like that is not an option.

Mr. Rooker said from his perspective if someone has a small stream across the front of his property and has five development rights on the other side of the stream, the happenstance of whether a stream must be crossed to get to the lots is not something the Board should impose additional cost on the owner. He would want them to mitigate any impacts on that stream, but he does not think it is wise or fair to make them pay into a fund the County would use for projects elsewhere.

Mr. Slutzky said he would frame it differently. If someone needs to cross a stream and cause disruption of ecological systems to develop in the rural area, he finds it reasonable for the County to stipulate certain costs for the purpose of offsetting that disruption of the stream.

Ms. Thomas said the Board is essentially changing the Comprehensive Plan. The purpose of rural land is for agriculture, forestry and natural resource protection, not for residential development. That was not a purpose for rural land that ever came out during discussions about rural lands. Turning rural land into subdivisions stresses people. There are lots of reasons that you can't have rural development rights. She does not want to make it easy to develop in the rural area unless the Board wants to go back and change the Comprehensive Plan.

Mr. Boyd said he sees the rural area as being a good source for affordable housing, when talking specifically about family subdivisions. He hears from a lot of people who do not want to subdivide their land, but who want to find a building site for a relative who could not otherwise afford to have a home. Affordable housing in the urban area is not affordable to someone who might be below the 30 percent median income level.

Mr. Slutzky asked if Mr. Boyd would be comfortable limiting the house across the stream to 1500 square feet.

Mr. Boyd said he believes in personal property rights, so he would not approve of anything like that.

Mr. Dorrier asked if the Board was saying someone could not build on a 100-acre tract of land because there was need for a stream crossing.

Mr. Graham said one house can be built. The Board has talked about hypotheticals, and he does not know how the impact could be measured in such situations.

Mr. Dorrier said there is a big difference between 50 development rights and one house. He thinks the Board is making this so complicated that everyone needs to hire a lawyer in order to do anything with their land.

Mr. Rooker said when this conversation started Mr. Dorrier agreed with him on this question. The difference was whether to require additional mitigation and Mr. Davis has said there is no legislation allowing that.

Mr. Slutzky said he would choose No. 3 if the assumption were that the Board could require more than 100 percent mitigation.

Mr. Rooker said there is no percentage mentioned in the ordinance.

Mr. Graham said in Attachment "B", Condition 5 under "intermittent streams", and Condition 6 under "perennial streams", it talks about 2:1 to the extent there is buffer area to be re-vegetated.

Mr. Rooker said that is 200 percent which is more than 100 percent mitigation.

Ms. Mallek said she was not thinking about going to some other part of the property. As far as the types of things which are part of this, they have to hand in a plan of the topography so the slopes can be easily identified.

Mr. Graham said the GIS shows the stream buffers. If an applicant feels there is an error, they are welcome to provide evidence to that effect. Otherwise, staff assumes the information on file is correct.

Ms. Mallek said that will not require thousands of dollars in engineering fees to accomplish what the Board is talking about in this ordinance revision.

Mr. Graham said that is correct, where the stream buffer is already defined, unless the applicant disagrees with the information on file.

Ms. Mallek asked if there are guidelines in a book which say what is required, or do people have to invent them.

Mr. Graham said it is defined in the conditions here; references are given for the source as to how that was defined. He tried to be careful in order to reduce the uncertainty.

Ms. Thomas said it is important that the culvert be below the stream and that is not in the intermittent regulations, but it is in the perennial regulations.

Mr. Graham said that is because the intermittent stream does not have water in it all the time, so it is not that important. It is important for perennial streams to allow organisms to freely move up and down the streams.

Mr. Slutzky asked if there is significant additional cost to hold the standard above the ten-year storm threshold.

Mr. Graham said it can be significant to try to do it. It is being required because that is the County's standard for streets.

Mr. Boyd said the decision before the Board today is which of the staff's recommendations should come back in ordinance form for a public hearing.

Mr. Slutzky said he will support advertising the second recommendation, third option although he is not sure he can support it because of the struggles with rural area development, but he does want to get the public's input. He would like to talk further with the County Attorney about off-site mitigation. Among the three choices today he prefers that option.

Ms. Thomas said that today development is not supposed to create any greater runoff than at the pre-development stage. The present situation is usually a pasture. If the Board said that whatever the runoff is for the pasture the applicant find what the runoff would have been in a forested situation, is the County enabled by state law to require that the standards match what is not off-site mitigation? Mr. Davis said the Board can require greater standards than what are in effect now.

Mr. Graham said it is important to recognize that runoff is not captured from a single lot. If there is an existing parcel and a driveway is put in to serve a house, no stormwater quality or quantity is required with that activity. That is the same throughout the County. That standard was set many years ago precisely for that issue. At a certain level, you have to wonder whether the exercise required is worth it as far as how the impact is addressed.

Mr. Slutzky said his preference would be to downzone property to protect the rural area. Since there are not four votes to do that, the Board is supporting ongoing development in the rural area. It is his sense that the ordinance isolates a few people, perhaps unfairly, from access to their development. Ironically, for that reason he might end up supporting this recommendation. He cannot support the second option. He asked if others wanted to move forward with the third option, second recommendation.

Mr. Dorrier said Mr. Slutzky said there are two choices, but he thinks there is a third choice, to allow limited development.

Mr. Slutzky asked if Mr. Dorrier was saying he would support downzoning of the rural area as long as it allowed for family subdivisions.

Mr. Dorrier said he is not saying he supports downzoning in the rural area unless the County paid for it. He said property owners have rights too.

Mr. Rooker said the question here is how to treat the stream crossing situation. He thinks the option that allows people to cross the stream to exercise their existing development rights as long as they mitigate the impact on the stream according to the conditions that are recommended is the consensus.

Mr. Boyd asked if any Board member is opposed to moving forward with that recommendation. No member expressed opposition to this idea.

Mr. Rooker said he thinks the Board needs to clarify for people what it is doing. He said he would be more in favor of a downzoning than of measures that might impact certain people in an unfair way.

Ms. Thomas said even if there were a drastic downzoning there would still be the issue of how to treat stream buffers. She thinks the Board is doing the right thing to clarify that situation.

There were no further comments at this time.

Agenda Item No. 4. Recess. At 5:40 p.m., the Board recessed.

Agenda Item No. 5. Call to Order. The meeting was called back to order at 6:04 p.m. in the Lane Auditorium.

Agenda Item No. 6. Pledge of Allegiance.
Agenda Item No. 7. Moment of Silence.

Agenda Item No. 8. From the Board: Matters Not Listed on the Agenda. There were no other matters brought up at this time.

Agenda Item No. 9. From the Public: Matters Not Listed for Public Hearing on the Agenda. There were no other matters brought up by the public.

Agenda Item No. 10. Consent Agenda. Separate votes were taken on Items 1 and 3; Item 2 had been removed from the agenda.

Item 10.1. Approval of Minutes: August 1, August 8 and October 3, 2007.

The minutes of August 1 and August 8, 2007, had not been read. They will be placed on the next agenda for approval.

Mr. Slutzky had read the minutes of October 3, 2007, and found them to be in order as presented.

Mr. Rooker moved for approval of the minutes of October 3, 2007. The motion was seconded by Mr. Slutzky. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Item 10.2. ~~Resolution allowing the County to participate in VDOT's Revenue Sharing Program for Fiscal Year 2009.~~ **This item had been removed from the agenda.**

Item 10.3. Resolution of the Industrial Development Authority of Albemarle County, Virginia, authorizing the issuance of up to \$17,250,000 revenue bonds for the purpose of The Covenant School, Inc.

(Discussion: Ms. Thomas said she would like to vote against this item. She does not think the Board should support buildings without requiring higher standards of them. If this came to the Board along with a request for a rezoning, the Board would ask for LEED standards or expect them in proffers and there is nothing along those lines in this application. It is just a straightforward financing of a school building. She asked that Item 10.3 be pulled and a separate vote taken on it.

Motion was offered by Mr. Rooker to approve Item 10.3. He does not think it would be reasonable to impose upon an industrial development bond matter the same kind of things that would be imposed on a rezoning without any notice to the applicant or to the IDA that the Board intends to make such requirements.

Ms. Thomas said the Board had this conversation with some members and the chairman of the IDA. They chose not to do that, so this is just a protest on her part.

Mr. Rooker said if the Board wants to make those requirements it should have a joint meeting with the IDA and have that conversation. He will not deny an applicant the use of IDA bonds for something the Board has not chosen to legislate to this point.

Mr. Slutzky said he agrees with Mr. Rooker's suggestion and would like to have the issue brought before the Board in order to make a rule which had been given proper notice. He then **seconded** the motion. Roll was called, and the motion was approved by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Slutzky, Mr. Boyd and Mr. Dorrier.

NAYS: Ms. Thomas.

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

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

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia (the "Authority"), has considered the application of The Covenant School, Inc. (the "School") located at 175 Hickory Street, in Albemarle County, Virginia, requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$17,250,000 (the "Bonds") to assist in (1) refunding all or a portion of the outstanding principal amount of the Authority's Educational Facilities Revenue Bonds (The Covenant School, Inc.), Series 2001, (2) financing or refinancing routine capital expenditures to be located at one or both of the School's campuses, the lower campus located at 1000 Birdwood Road, Charlottesville, Virginia 22901, and the upper campus located at 175 Hickory Street, Charlottesville, Virginia 22902, and (3) paying financing and issuance costs related thereto, through the issuance by the Authority of its Bonds (collectively, the "Project"), and has held a public hearing on March 11, 2008;

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

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

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

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

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

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

Agenda Item No. 11. **Public Hearing:** 2008/09-2013/14 Six-Year Secondary Road Plan.
(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Mr. David Benish, Chief of Community Development, summarized the staff's report. He said this public hearing is to receive public comment on the County's Priority List of Secondary Road Improvements (Attachment A) and the proposed VDOT Six-Year Secondary System Construction Program (Attachment B). The County Priority List establishes the priorities for road improvements for roads in the State's Secondary Road system (roads with a route number of 600 or higher). The Virginia Department of Transportation (VDOT) Construction Program is based on the County's Six-Year Secondary Road Priority List and is reflective of State road funding allocated to the County. The County's Priority List and the VDOT Construction Program are both reviewed yearly. The Board of Supervisors held work sessions on these programs on January 9 and March 5, 2008.

Mr. Benish said the major changes proposed to the County Priority List and VDOT Construction Program include:

- Deletion of the Free Bridge Road (Route 651) bridge improvement project (new road in area eliminates need for long-term improvements);
- Deletion of the Northern Free State Road Project north of Belvedere Subdivision (now viewed as a long-term possible project);
- Moving the Dickerson Road (Route 606) paving project from the second highest priority regular road paving project to the highest priority regular road paving project; and
- Recognizing the Sunset/Fontaine Avenue Connector Road as part of the Sunset Avenue (Route 781) improvement project (Priority #8).

Mr. Benish said that in addition to these major changes, other informational changes have been made to the Priority List (such as project cost estimates, traffic counts, and estimated advertisement dates for construction). At the Board's request at the last work session, the Bleak House Road paving project has moved down on the priority list.

Mr. Benish said the Six-Year Road planning process establishes the County's priorities for the expenditure of State/VDOT secondary road construction funds. Additionally, funding is already earmarked in the CIP for revenue sharing and transportation projects to match the VDOT Revenue Sharing Program funding request for FY '08. Staff recommends that the Board approve the County Priority List of Secondary Road Improvements (Attachment A – on file) and authorize the County Executive to sign the VDOT Secondary System Construction Program for Albemarle County consistent with the County's Priority List (consistent with the draft provided in Attachment B – on file).

Mr. Benish said that today the Board was handed a revision to the VDOT Priority List. Either list received is consistent in terms of the priorities. The changes in the revised version reflect specifically that moneys from the Rio Mills Road paving project are being moved to the Dickerson Road project. There were three regular road paving projects on VDOT's priority list that had not received funding, but the plan still showed those unpaved road projects. They are now being taken off of the list since no funding will be appropriated to them. He then offered to answer questions.

Ms. Mallek said when the Board talked about the bridge on Free State Road several years ago Mr. Frank Stoner said he would build the road through Belvedere to save the highway money to fix the bridge and he would fix the street. He would do this because he would be able to connect the neighborhood to Huntington Road and thus out to Route 29 without having to go all the way to Rio Road. Does this mean the bridge will be discontinued from use or cut off. She knows it is not safe for fire engines, but what is the status of that project going forward.

Mr. Benish said at this time, staff has not requested that Free State Road be taken out of the State System, so it will be retained as a public street. There will be an upgraded street that provides adequate and safe access to the east side of the railroad tracks. The discussion during the review of the Belvedere project indicated the potential for that bridge to become a pedestrian bridge. At this time, it has limited vehicular capability. There are issues as to whether the County would take over ownership of the bridge for pedestrian purposes. Until there is a better understanding of the County's options, the bridge will be retained as part of the State System.

Mr. Rooker said technically the maintenance obligations of that bridge fall on the railroad company. At this time the sufficiency rating on the bridge is probably the lowest in the County. He thinks the Board should ask VDOT to talk with the railroad company to see that the sufficiency rating is brought up to something that is at least safe for its current use.

Ms. Thomas asked if Mr. Benish would show on the screen a map of those roads proposed as Rural Rustic Road projects for the next year, and also the bridge improvement projects.

Mr. Rooker said the Board had received a handout today from VDOT summarizing the funding for Secondary Roads over the next six years. The amounts listed are those which existed before the Board was notified that there will be a 44 percent reduction made in transportation funding in those years. Even before that reduction, the County was receiving less in funding than it got 10 years ago.

Ms. Thomas asked if the four roads on the list that do not have lines drawn through them are due to be given the Rural Rustic Road treatment this year.

Mr. Boyd noted a column titled "Estimated Cost and Funding" and asked if it had been added to the chart since the last work session. He can't believe the numbers. It is the first page of Attachment "A" in the Board's packet.

Mr. Benish said the Meadow Creek Parkway is fully funded.

Mr. Boyd asked if the figure shown is the actual amount of money available for the project.

Mr. Benish said it is \$25.0 million. On the County's priority list, just a general cost estimate is shown for Strategic Priorities 1 through 23. Available funding for the projects will be found on the VDOT attachment.

Mr. Boyd said the words "and funding" need to be removed from that heading. This came to his attention when he saw that millions had been allocated to the Southern Parkway. He did not think there was any money for that project.

Mr. Benish said that funding amount was added when the Board asked that the unpaved roads be shown as either funded or unfunded. Further down that column there is a listing that says "unfunded." He understands it is confusing.

Mr. Boyd said given what is going on with both the Biscuit Run development and Avon Park, should the Board consider dropping the Southern Parkway from the Secondary Road Plan.

Mr. Rooker said at this time there is no funding for it, so whether it is in or out, it has no financial impact. He thinks transportation plans for that area include building a Southern Parkway. Until transportation modeling shows it is not needed, he thinks it should stay in the plan.

Mr. Boyd said he knows there is no money allocated to the project, but he thinks that at some point the Board will have to decide whether the connector roads between those two roads can be established by private projects so it can be dropped from the list.

Mr. Cilimberg said that will be analyzed during work on the Regional Transportation Plan (UN-JAM) in the next year. Ultimately, that will probably follow UN-JAM's update when doing the master plans for Neighborhoods 4 and 5.

With no further questions for staff at this time, Mr. Boyd opened the public hearing.

Ms. Allison Mitchell said she has lived on Gilbert Station Road for seven years. The community wants a half mile section of the road paved which will complete hard-surfacing of the entire road. Both sides of this half mile have been paved in the last two years which created an improvement in safety and integrity of the road. She submitted a petition with over 75 signatures requesting that the middle section of the road be completed. She said the road has deteriorated over the last few years from the increased traffic related to additional houses and subdivisions built on the road before the Rural Rustic Road program came into being. She is not asking that this last half mile be paved to increase her property value or turn the community into an urban area. She wants the improvement necessary to maintain safe and reasonable access to Routes 29 and 20. They have verbal approval for right-of-way and have had a meeting with VDOT to explain to the community what is required. She said their small road is now in the Six-Year Plan as No. 49 and is to be completed when funding is available. She noted that this improvement project has been in the County's plan for over 20 years.

Mr. Rooker said the 75 people who signed the petition should call their State legislators and complain about the status of transportation funding. He said there are many other projects which have been on the list for 20 years but have never received any funding. This 44 percent cut is completely untenable. If they don't hear from the voters, they can get by with it.

Ms. Mitchell said she E-mailed and got a response from the Governor in regard to the local VDOT staff. They are not getting a raise in their salary this year. When she saw what had happened on their road this year, her heart went out to them so she E-mailed the Governor and Delegate Rob Bell. She said it might help the entire County if people sent E-mails.

An unidentified lady said she had submitted the speech of Ms. Janie Goldberg to the Clerk because she had come down with the flu.

Mr. Alan Fortune said he lives on White Mountain Road. A project was started for the road last summer that was shut down because one person did not want the road done and went to a Board member. The project was then just wiped out. He said the residents do not understand it because the

road needs improvement in a lot of ways. He has pulled school busses and cars out of the ditches, and cut trees out of the road. He has been through this fight for the road for the last 27 years. His taxes go up every year, but he can't get anything done for the road. He does not agree with that. He said that four weeks ago VDOT started cutting the ditches out, and he has a four-wheel drive vehicle, but for four weeks he could not get up his driveway. He is very disappointed in the County. Somebody should be doing something.

Mr. Rooker said that maintaining and paving roads is a State function, not a County function. He would encourage everyone who is affected like this to call their Legislators.

Ms. Brenda Pirto said she would like to ask that Gilbert Station Road be finished. She has lived in the area for two years and bought there under the impression that the whole road was going to be paved. She said the portion that is not paved is dangerous, especially on the curves. It is hard for VDOT to maintain the road. She understands about budgeting but wants Gilbert Station Road to be prioritized higher so that last section can be paved.

Mr. Ronald Hahn presented a letter from the Fire Chief and pictures of White Mountain Road (Route 736). He said it is one of the roughest roads in the County. He has lived there for 33 years. This project started last spring but was stopped by the Board because one person wanted to plant grass in the middle of the road to make it look like a country road. The residents met and Ms. Thomas attended that meeting. The consensus was overwhelmingly to do the road no matter what the one person said. The road work was just stopped. He has tried to get some estimates of what this road has cost Albemarle County taxpayers for the 33 years he has lived there. He has a copy of a letter sent from Mr. Allan Sumpter to Senator Creigh Deeds saying they were expecting to spend \$25,000 on the road by June of this year, and that does not count the average of \$3,000 per mile per year for maintenance. The road costs a lot to maintain. He said he gave the Board a picture of the worse part of the road. Some parts of the road below that point are too narrow for two cars to pass. It is a bad road. With the little bit of rain the other day, the road washed out again. He would appreciate the Board doing something. He knows there is eminent domain, so does not understand how one person can stop the project.

Ms. Carolyn Ohle said she is representing Innisfree Village tonight. They are located on Walnut Level Road and she wants to mention safety features that they feel are important. Innisfree is a community of about 65 people, two-thirds of whom have mental or other disabilities. The Village spans both sides of the road. Most people there usually travel by foot during the course of the day. There has been an increased amount of traffic, incredible dust, and areas that are difficult for some to navigate. There is also a big concern about one particular section that is quite narrow. It has a steep embankment on one side, and they have tried to get a guardrail placed in that section. There have been three near accidents where cars almost went off the road. A bigger concern now with the increased traffic is the intersection of Walnut Level Road with Route 810. It is a difficult intersection and there was a fatal motorcycle accident there. She said the people from CART, the Charlottesville/Albemarle Riding Therapy Program, are located just outside the Village, and about three times a week there are 45 extra trips along the road as a result of that program. They are hopeful the Board will fund this project.

Mr. Jeffrey Winset was present to speak about Gilbert Station Road. He asked that the Board move this road project further up on the list. One unintended consequence of the road not being completed is that school busses have to be routed differently because they cannot get through that section. His daughter went to Albemarle High School and it took her three hours a day to get to school and back. He said that on Doctors Crossing there is a steep hill similar to that on Gilbert Station Road, and it has been paved in place to allow school busses to get through. They are not asking for paving like that under the RRR program, but that alone would make a huge difference. It is an "S" turn that continues to be an acute problem. Water runs off in that area and creates ice and one could slide off the road into the rock facing.

Mr. Boyd asked if the problem with the school busses is that they cannot go across the bridge. Mr. Winset said that is true, and he has been told that they do not want to drive through the "S" curve as well.

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

Ms. Thomas said Mr. Sumpter undertook maintenance on White Mountain Road quickly using maintenance funds. That is when a couple of people approached her in distress and a community meeting was held. It was moderated by someone from the community to learn what people want for that road. She said Mr. Sumpter told her he recently attended a conference where the kind of surfacing that might work on the road was a subject. It is not a road that fits easily into a category and that is why he was trying to fix the worst problems with maintenance money.

Mr. Boyd asked if it was ever considered for the Rural Rustic Road Program. Mr. Allan Sumpter, Residency Administrator, said this road is not on the Six-Year Road improvement list. He has discussed with the Board previously what are called spot improvements. Sometimes roads are looked at on a case-by-case basis when there is a section of road where VDOT spends a great deal of money and time to try and upkeep that section. They had plans to do spot improvements on White Mountain Road, but there were objections received from members of the community. He would like to have a consensus before going forward with any work on the road. VDOT has looked at alternatives for some locations such as cement-treated stone that can be rolled in but the road is still basically a gravel road. VDOT's maintenance and time cost would be a lot lower because the road remains more solid during the work. With White Mountain Road there are other issues. In order to do that type of work on this road, VDOT

would have to do some other things such as working the ditches, etc. Some people do not want VDOT to do anything to the road at all. These people are in areas where VDOT would need a right-of-entry in order to do the work effectively. He said VDOT would be glad to visit the issue again and do what it can to take care of the road.

Mr. Rooker asked what objection was raised to what VDOT was doing to the road. Mr. Sumpter said some people want the road left just as is. One property owner said they would like to see grass sown in the middle of the roadway and make it more like an old style riding path.

Ms. Thomas said this is the same kind of conflict the Board has seen on other rural roads where some people bought their land because it was on a rural road that was not paved and they like it that way and feel they are being cheated if it changes. And then there are the people who have lived there for years who really want the road paved and feel they are being cheated because it is not getting paved. This is not a new type of conflict. Mr. Sumpter said in this case he was at the end of what he is allowed to call a "construction" project. He had to back off. They were not trying to do anything other than to maintain the road as best VDOT can. One member of his staff has been looking at the cement-treated top stone options but no immediate plans have been made to do anything.

Mr. Boyd said this Board did not do anything to stop this work. Mr. Sumpter said this Board did not take any action on this at all.

Mr. Slutzky said he understands that some people like rural roads and some do not, but the Board has a public safety responsibility. Looking at the pictures shown earlier, it appears this road needs to have some work and that VDOT is constrained. Mr. Sumpter said VDOT has done some work, but in order to take care of the problem it needs some right-of-entry from private property owners which it has not been able to obtain.

Mr. Slutzky asked what would keep VDOT from proceeding if public safety is involved. He asked if they can use eminent domain.

Mr. Rooker said VDOT cannot condemn for a maintenance issue.

Mr. Slutzky asked what VDOT would do if it could no longer use maintenance funds. Mr. Sumpter said the road would then become a construction project and it would be in competition and go on the list of Six-Year Road Plan projects.

Mr. Boyd asked if there is any point in time when VDOT can step in because the safety concerns are egregious. Is there ever such a situation? Mr. Sumpter said to do what is needed for that road there is a need for a consensus from the property owners, and in this case that is nearly all of the property owners.

Ms. Mallek asked if right-of-way is needed in order to do what is necessary. Mr. Sumpter said VDOT would need a right-of-entry from some property owners. They would not necessarily need a permanent right-of-way, but would need temporary easements.

Ms. Mallek asked if that is because the right-of-way varies in width from section to section. Mr. Sumpter said this road has a 30-foot prescriptive easement, so there is only 15 feet from the center, and the property owner actually owns to the middle of the road.

Mr. Rooker said there are four projects on the Rural Rustic Road plan. Walnut Level Road was mentioned tonight, and it is on the list. Mr. Sumpter said it is scheduled to be done this summer.

Mr. Rooker said what the State reduction in road funds does to these projects. Mr. Sumpter said the 44 percent reduction in funding, noted in the notice received last week, is based on FY 2009 which begins on July 1, 2009. These projects are in the plan that begins on July 1, 2008, and they will not be affected. For everything planned for this summer, funding is secure. Also, funds have already been set aside for some of these projects. The Board has made no decision for future years as to Rural Rustic Road projects, so other roads which were a part of the funding stream (Rose Hill Church Lane, Fortune Lane, Blufton Road and Happy Creek Road) could potentially be affected.

Mr. Rooker said one reason for getting into the Rural Rustic Road program was to save on maintenance costs. He thinks that cutting back on funds to do projects that actually save money on maintenance may be "penny-wise and pound-foolish"

Ms. Thomas said she thought the last time the Board discussed Dickerson Road they had agreed that since one piece of it is in the Development Area, and it is parallel to Route 29, it would be the next priority. Mr. Sumpter said the Board has another year to decide where gravel road funds will go. This time next year will be the time to make that decision and take into account funding options.

Ms. Mallek asked if there is a potential to install guardrail on Walnut Level Road under the Rural Rustic Road program. Mr. Sumpter said VDOT had not been able to install guardrail along the road in its present condition because that would further narrow the road. A guardrail can be installed after the work is done. They will also put in some crossings for pedestrians, and some signing.

Mr. Boyd said since there were citizens present tonight who were not at the last work session, he would ask Mr. Benish to outline the Board's future approach to Rural Rustic Road projects.

Mr. Benish said projects are in the "pipeline" for this fiscal year so will be finished. During the next review of the Six-Year Road Plan, staff will do a broader evaluation of the Board's road paving policy including its consistency with the Comprehensive Plan, issues of maintenance, safety measures, and an approach to paving projects, particularly in the rural areas. The Board emphasized that since Dickerson Road is a paving project in the urban area, it would be a benefit to the network of roads in the area so it would be a major road project.

Mr. Boyd said he would like to clarify that this Board has not endorsed the concept of not paving roads in rural areas, which was the recommendation from the Planning Commission. That idea will be looked at again next year.

Mr. Rooker said the Board did not agree to that, but it did decide to focus on Dickerson Road because it is an unpaved road in the growth area and parallels Route 29 North. The Board wanted to look at bridge expenses and find out when the bridges could be funded. He thinks VDOT should look at doing Rural Rustic Road projects out of its maintenance funds due to the huge reduction in the County's road funds. He said those projects usually save VDOT maintenance moneys. The State has cut the County's construction funds "to the bone." He asked Mr. Sumpter to talk with VDOT in Culpeper and Mr. Butch Davies and point out that this program actually saves maintenance funds. He does not think the County will be able to have many more of these projects because it will not have the funds to do so.

Mr. Boyd asked if there were further discussion before he asked for a motion and vote.

Motion was then offered by Mr. Rooker to approve the County Priority List of Secondary Road Improvements, as presented, and to authorize the County Executive to sign the VDOT Secondary System Construction Program for Albemarle County consistent with the County's Priority List, as presented.

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

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

NAYS: None.

ALBEMARLE COUNTY PRIORITY LIST FOR SECONDARY ROAD IMPROVEMENTS 2008-09 through 2013-14

STRATEGIC PRIORITIES (Projects 1 – 23)									
VDOT's Secondary Plan	County's Proposed Ranking	Route Number/ Name	Location From - To	Estimated Advertisement Date	Estimated Cost & Funding	Description/Comments	Justification of Request /	Year Placed On Priority List	Traffic Count/ Year
Y	0	Countywide	Countywide		\$750,000	Signs, pipe, plant mix projects	Source of Request		
Y	1	625 Hatton Ferry	Traffic Mgt Program Hatton Ferry		\$102,000	Traffic calming projects that meet requirements	Safety, maintain function/staff, public request		
Y	2	Meadow Creek Pkwy	Melbourne Rd to Rio Rd	Jun-08	\$120,000	Operation of ferry	Safety/Public Request, studies-plans Historic operation of ferry/staff		
Y	3	691 Jarmans Gap Rd	Rt 240 to Gray Rock	Nov 10	\$25,460,283	Two-lane design approved by County and Comm	Capacity/CHART	20,000-2006	2000-2006
Y	4	656 Georgetown Rd	Rt 654 to Rt 743		\$14,654,792	Trans Bd, includes bridge over CSX RR	Capacity/Safety/Land Use Plan, CMP	2700	Future 4,500
Y	5	649 Proffit Rd	Rt 29 to 1.6 miles east		\$3,018,300	Spot impv, pedestrian access, urban x-section may be	Capacity/Safety/G'town Rd Plan, Public		17,000-2006
Y	6	601 Old Ivy Rd	Ivy Rd to 250/29 Bypass		\$324,827	Improve alignment, urban x-section, w/bike/sidewalk	Capacity/Safety/Land Use Plan		6,900-2006
Y	7	Southern Pkwy	Avon St to Fifth St		\$6,802,800	Funding for preliminary engineering only	Capacity/Land Use Plan		6,900-2006
	8	781 Sunset Ave	Fontaine/Sunset Connector		\$6,200,000	Widen, Improve align, coordinate w/UVa Gateway proj	Capacity/Southern City Study		15,000-2004
	9	Berkmar Dr Ext Bridge	End of Berkmar Dr to HTC			Extend to 5th St with pedestrian/bike facility, and	PACC - Area B Study/Capacity/LU Plan, Connector portion added in 2007		4,600-2006
	10	631 Old Lynchburg Rd	1.35 MI S. I-64 to Rt 708			Neighborhood St design/speed	Capacity/Unlam	2006	23,500
	11	Bridge Improvement Projects	Various locations (see next page)			Imprvments to Fontaine Ave & Fontaine/Sunset Conn	Capacity/Land Use Plan		2,300-2006
	12	726 James River Rd	Rt 795 to Rt 1302			New road currently being studied for an alignment to	Capacity/Land Use Plan		2,300-2006
	13	Hillsdale Dr	Greenbrier Dr to Seminole Sq			Serve similar purpose of the MCP Phase II	Capacity/Land Use Plan		2,300-2006
	14	795 Blenheim Rd	Intersection of Rt 790			Spot improvement to improve sight distance	Capacity/Land Use Plan		1,900-2006
	15	Eastern Ave	Rt 240 to Rt 250			New connector rd btwn Hillsdale Rd & Hydraulic Rd	Capacity/Hillsdale Dr Extension Study		650-2006
	16	631 Rio Rd	Rio Rd at Pen Park Ln			Intersection improvement	Safety/Scottsville Request		
	17	643 Polo Grounds Rd	Rt 29 to Rt 649			Interconnect future neighborhood sts, proj to include RR	Capacity/Crozet Master Plan		4,100-2003*
	18	Main Street	Crozet Avenue to Eastern Ave			Underpass and bridge over Lickinghole Creek	Capacity/Crozet Master Plan		
	19	743 Hydraulic Rd	Intersection with Rt 29 (29H250)			Improve substandard intersection (may be funded in part	Safety/City		25,000-2006
	20	866 Greenbrier Dr	Intersection with Rt 29 (29H250)			with City/private developer funds)	Safety/Public Request	1,300-2006	
	21	Eastern Connector	Route 250 to Route 29			Improve alignment, spot improvements	Capacity/Crozet Master Plan		3,600-2003*
	22	702 Reservoir Road	Fontaine Ave Ext to Dead end			New road recommended in Crozet Master Plan	Capacity/Safety/29H250 Study	2003	18,000-2006
	23	Unpaved Road Projects	Various locations (see following pages)			To be built with development of site	Capacity/Safety/29H250 Study	2003	8,200-2006
						Improvements recommended from 29H250 Ph 2 Study	Capacity/Safety/29H250 Study	2003	2,000-2006
						New road currently being studied for alignment	Capacity/CHART	2006	
						Paving & spot improve, pt of Reservoir reconstruction	Safety/Public Request	2003	
						Minimum required funding twd paving unpaved roads	Various		

Projects in bold are in the Development Area.

ALBEMARLE COUNTY PRIORITY LIST FOR SECONDARY ROAD IMPROVEMENTS FOR BRIDGE IMPROVEMENTS 2008-09 through 2013-14
 (Some projects may not be completed as prioritized due to project complexity and/or available funding.)

BRIDGE PRIORITIES – IN PRIORITY ORDER

Route Number Road Name	Location From - To	Sufficiency Rating*	Traffic Count	Description/Comments	Estimated Cost
Route 743, Advance Mill	North Fork Rivanna River	Closed	969		
Route 708, Dry Bridge Road	Buckingham Branch Railroad	26	1128	Permanent Bridge being planned for 2010. temporary bridge estimated to be in place by Spring 2008	\$4,017,516
Route 677, Old Ballard Road	Buckingham Branch	42.2	1267	High traffic count	\$2,717,029
Route 616, Black Cat Road	Buckingham Branch	54.4	1479	High traffic count	
Route 637, Dick Woods Road	Ivy Creek	36.1	1251	High traffic count	
Route 641, Frays Mill Road	Marsh Run	49.6	391		
Route 795, Presidents Road	Hardware River	19.4	147	Low sufficiency rating	
Route 614, Sugar Hollow Road	Moormans River	47.7	445		
Route 649, Proffit Road	Norfolk Southern Railroad	35.2	5094	Upgraded in Summer 2007, has high traffic count	\$2,250,000

* The sufficiency rating utilized by VDOT to rate the bridge structure. Lower rating indicates the bridge is in need.

ALBEMARLE COUNTY PRIORITY LIST FOR SECONDARY ROAD IMPROVEMENTS FOR PAVING PROJECTS 2008-09 through 2013-14
(Some projects may not be completed as prioritized due to project complexity and/or available funding.)

RURAL RUSTIC ROAD PAVING PRIORITY

In VDOT Plan	Route Number, Road Name County Priority	Location From - To	Funding Status	Estimated Cost Regular/RRR	Most Current Traffic Count/ Year of Count	Description/Comments	Year Project Placed on Priority List	Estimated Advertisement Date
Y	760 Red Hill School Rd	Rt 29 to Rt 712	Spring 2008	\$130,869	170-2006	Public request. Ranking due to traffic count.		Spring 2008
Y	722 Old Green Min Rd	Rt 6 to 602	Spring 2008	\$222,376	310-2006	Public request. Could be split into two separate projects.	2003	Spring 2008
Y	806 Estes Ridge Rd	Rt 663 to Dead end	Spring 2008	\$ 55,809	200-2006	Scottsville request. At current ranking due to traffic count.		Spring 2008
Y	668 Walnut Level Rd	Rt 810 to Rt 765	Spring 2008	\$246,854	160-2006	Public request. Ranking due to traffic count. Paving covers Rt 668 & pt of Rt 765.		Spring 2008
Y	762 Rose Hill Church Ln	Rt 732 to Dead end	Not funded	\$ 97,596	120-2006	Public request. Ranking due to traffic count.		No date
Y	704 Fortune Ln	Rt 715 to Dead end	Not funded	\$142,443	130-2006	Public request. Ranking due to traffic count.		No date
Y	672 Bluffton Rd	Rt 810 to Dead end	Not funded	\$ 92,017	170-2006	School request in 2007.	2003	No date
Y	608 Happy Creek Rd	Rt 645 to Rt 646	Not funded	\$108,333	140-2006	Public request. Ranking due to traffic count.		No date
	682 Bleak House Road	Rt 660 to Rt 665	Not funded		320-2003	Public request. Ranking due to traffic count.		No date
	774 Bear Creek Rd	NCL to Dead end	Not funded		80-2006	Public request. Ranking due to traffic count.		No date
	703 Pocket Lane	Rt 715 to Dead end	Not funded		110-2006	Public request. Ranking due to traffic count.	2005	No date
	637 Dick Woods Rd	Rt 691 to Rt 758	Not funded		110-2006	Public request. Ranking due to traffic count.		No date
	747 Preddy Creek Rd	Rt 600 to Rt 640	Not funded		110-2006	School request. Ranking due to traffic count.		No date
	600 Stony Point Pass	2.5 miles east to Rt 231	Not funded		80-2006	Public request. Ranking due to traffic count.		No date
	769 Beam Rd	Rt 1484 to Dead end	Not funded		60-2006	Public request. Ranking due to traffic count.		No date

Unpaved roads with the daily traffic volume below are not eligible for VDOT paving improvements (regular or rural rustic roads).

637 Dick Woods Rd	Rt 691 to Rt 692	20-2000	Public request. Ranking due to traffic count.	No date
735 Mt Alto Rd	Rt 602 to Rt 626	20-2000	School request. Ranking due to traffic count.	No date

RRR – Eligible for Rural Rustic Road program. Staff and VDOT will further evaluate the cost closer to construction, which may decrease or increase.
The right-of-way for all unpaved road requests is undetermined until two or three years before estimated advertisement date.

ALBEMARLE COUNTY PRIORITY LIST FOR SECONDARY ROAD IMPROVEMENTS FOR PAVING PROJECTS 2008-09 through 2013-14
(Some projects may not be completed as prioritized due to project complexity and/or available funding.)

REGULAR PAVING PROJECTS (IN PRIORITY RANKING)									
In VDOT Plan	Route Number, Road Name County Priority	Location From - To	Funding Status	Estimated Cost Regular/RRR	Most Current Traffic Count/ Year of Count	Description/Comments	Year Project Placed on Priority List	Estimated Advertisement Date	
Y	608 Dickerson Rd	Rt 850 to Rt 1575 (Paved section)	Receiving Allocations	\$11,033,390	960-2003	Public request to add bike lanes on one side in 2005.		Dec-14	
Y	643 Rio Mills Rd	Rt 29 to Rt 743	Not funded	\$3,218,665	650-2003	Two bridges assoc w/this project have EAD of 2014 and 2.	2003	Dec-15	
Y	784 Doctors Crossing	Rt 600 to Rt 640	Not funded	\$1,842,855	260-2006	School request. At current ranking due to traffic count.		Aug-11	
Y	688 Midway Rd	Rt 635 to Rt 824	Not funded	\$ 213,513	300-2006	Public request. Ranking due to traffic count.		No date	
	689 Pounding Creek Rd	Rt 250 to Rt 635	Not funded		590-2006	Public request. Ranking due to traffic count.	2005	No date	
	731 Keswick Dr	Rt 744 to Rt 22	Not funded		310-2006	Public request. Ranking due to traffic count.		No date	
	787 Gillums Ridge Rd	Rt 682 to Rt 708	Not funded	\$1,427,288	290-2006	Public request. Ranking due to traffic count.		No date	
	671 Wesley Chapel Rd	Rt 609 to Rt 674	Not funded		820-2006	School Transportation request.	2007	No date	
	685 Bunker Hill Rd	Rt 616 to Dead end	Not funded		310-2003	Public request. No longer qualifies for RRR due to align & utility problems.		No date	
	784 Doctors Crossing	Rt 600 to Dead end	Not funded		260-2006	Public request. Ranking due to traffic count.	2004	No date	
	720 Harris Creek Rd	Rt 20 to Dead end	Not funded		250-2006	Public request.	2007	No date	
	736 White Mountain Rd	Rt 636 to Dead end	Not funded		230-2006	Public request. Ranking due to traffic count.		No date	
	731 Keswick Rd	.60 ME Rt 744 to Rt 744	Not funded		230-2003	Public request. Ranking due to traffic count.	2004	No date	
	683 Shelton Mill Rd	Rt 751 to Dead end	Not funded		230-2006	Public request. Ranking due to traffic count.	2007	No date	
	712 North Garden Ln	Rt 692 to Rt 29	Not funded		220-2006	Public request. Ranking due to traffic count.		No date	
	712 Coles Crossing Rd	Rt 713 to Rt 795	Not funded		220-2006	Public request. Ranking due to traffic count.		No date	
	712 North Garden Ln	Rt 29 to Rt 760	Not funded		220-2006	Project will be paved as part of Rt 712 from Rt 713 to Rt 795		No date	
	671 Wesley Chapel Rd	Rt 609 to Rt 749	Not funded		100-2006	School Transportation request.	2007	No date	
	829 Horseshoe Bend Rd	Rt 601 to Dead end	Not funded		210-2006	Public request. Ranking due to traffic count.	2004	No date	
	645 Magnolia Rd	Rt 608 to Orange CL	Not funded		190-2006	Public request. Ranking due to traffic count.		No date	
	637 Dick Woods Rd	Rt 691 to Rt 635	Not funded		180-2006	Public request. Ranking due to traffic count.	2006	No date	
	674 Sugar Ridge Rd	Rt 614 to Rt 673	Not funded		180-2006	Public request. Ranking due to traffic count.		No date	
	761 Briery Creek Rd	Rt 622 to County line	Not funded		160-2006	Public request. Ranking due to traffic count.	2005	No date	
	682 Broad Axe Rd	Rt 637 to current paved sec	Not funded		160-2006	Public request. Ranking due to traffic count.		No date	
	678 Decca Ln	Rt 676 to Rt 614	Not funded		160-2006	Public request. Ranking due to traffic count.		No date	
	840 Gilbert Station Rd	Ashleigh Way Dr to pvd sect	Not funded	\$1,500,000	120-2006	Public request. Ranking due to traffic count.		No date	
	856 Burton Ln	Rt 711 to Dead end	Not funded		120-2006	Public request. Ranking due to traffic count.	2007	No date	
	687 Shifflett Mill Rd	Rt 601 to Rt 810	Not funded		45-2006	School Department request.	2007	No date	
	668 Fox Mountain Trail	Rt 601 to Rt 810	Not funded		30-2006	School Department request.	2007	No date	
	605 Durrett Ridge Rd	Rt 743 to Swift Run (incl bridge)	Not funded		140-2006	Public request. Ranking due to traffic count.		No date	
	723 Sharon Rd	Rt 6 to Rt 626	Not funded		130-2006	Public request. Ranking due to traffic count.		No date	
	633 Cove Garden	Rt 29 to Rt 712	Not funded		130-2006	Public request. Ranking due to traffic count.	2004	No date	
	707 Blair Park Rd	Rt 691 to Dead end	Not funded		130-2006	Public request. Ranking due to traffic count.		No date	
	698 Hungrytown Rd	Rt 633 to Dead end	Not funded		90-2006	School Transportation request.	2006	No date	
	813 Starlight Rd	Rt 712 to Dead end	Not funded		80-2006	Public request. Ranking due to traffic count.	2004	No date	
	600 Stony Point Pass	2.5 miles west to Rt 20	Not funded		80-2006	Public request. Ranking due to traffic count.		No date	
	634 Spring Valley Rd	Rt 633 to Rt 635	Not funded		80-2006	Public request. Ranking due to traffic count.	2007	No date	
	637 Dick Woods Rd	Rt 151 to Nelson Co line	Not funded		70-2006	Public request. Ranking due to traffic count.	2007	No date	
	721 Old Dominion Rd	Rt 6 to Rt 630	Not funded		70-2006	Public request. Ranking due to traffic count.	2004	No date	
	776 Buck With Ford Ln	Rt 667 to Rt 664	Not funded		20-2006	Public request. Ranking due to traffic count.	2004	No date	

Projects in bold and italics are new on this year's priority list. VDOT makes determination as to whether a road is eligible for RRR paving. All projects are placed on this list until that determination is made.

ALBEMARLE COUNTY PRIORITY LIST FOR SECONDARY ROAD IMPROVEMENTS 2008-09 through 2013-14

INVENTORY OF POTENTIAL PROJECTS (Projects 24 – 66)

County's Proposed Ranking	Route Number/ Name	Location From - To	Description/Comments	Justification of Request / Source of Request	Year Placed On Priority List	Traffic Count and Year
24	676 Timman ad	Intersection of Rt 250	Intersection improvement	Safety/Public Request	2003	740-2002
25	614 Garth Rd	Intersection of Rt 676	Intersection improvement	Safety/Public request	2003	3,400-2002
26	601 Garth Rd	Intersection of Rt 658	Add turning lane at Barracks Farm Road,	Safety/CHART	2003	7,000-2002
27	738 Morgantown Rd	At Rt 250	Close west ramp and construct tapered turn lane	Safety/Public Request	2003	1,200-1996
28	676 Woodlands Rd	Intersection of/Rt 601	Intersection improvement	Safety/Public Request	2003	6,000-2002
29	616 Union Mill Rd	FCL to Rt 759	Improve alignment	Safety/Public Request	2003	5,000-2002
30	606 Dickerson Rd	Rt 649 to Rt 743	Improve to handle projected traffic	Capacity/CHART	2003	6,700-2002
31	654 Barracks Rd	Intersection of Rt 1001	Intersection improvement	Safety/Public Request	2003	6,700-2002
32	Town Center Rd Ext	End of Town Center Rd to Airport Rd	New road to serve Hollymead development area	Capacity/Land Use Plan	2003	1,000-2003*
33	1520 Hollymead Dr Ext	Rt 29 to Rt 743	New road to serve Hollymead development area	Capacity/Lane Use Plan	2003	3,700-2002
34	Meadows Rd	Rt 691 to Rt 250	New road as recommended in the Crozet Master Plan	Capacity/Crozet Master Plan	2003	1,100-2002
35	678 Owensville Rd	Intersection of Rt 250	Intersection improvement	Safety/Public Request	2003	1,800-2002
36	732 Milton Rd	Intersection of Rt 762	Spot improvement	Safety/Public Request	2003	3,000-2002
37	810 White Hall Rd	Intersection of Rt 789	Intersection improvement	Safety/Public Request	2003	1,800-2002
38	795 James Monroe Pkwy	Intersection of Rt 53	Intersection improvement	Safety/CHART	2003	3,000-2002
39	Fifth Street Connector Rd	Fifth St to Avon St	Connector road north of I-64, urban x-section	Capacity/Safety/CHART	2003	26,000-2004
40	Frays Mill Rd	Rt 641 at Jacob Run	Install box culvert, not a County priority, rec by VDOT	Safety/VDOT	2003	9,300-2002
41	Rt 29 Parallel Rd	Polo Grounds Rd to Hollymead Dr	New road to be built with development of site	Capacity/Safety/CHART	2003	4,900-2002
42	743 Earlysville Rd	Rivanna River to Rt 643	Improve alignment, spot improvement	Safety/Public Request	2003	1,000-1997
43	729 Milton Rd	Rt 53 to Rt 1120	Improve road geometrics, two-lane rural section	Safety/Public Request	2003	1,000-1997
44	663 Simmons Gap Rd	At intsece Rt 604 - Buffalo River Rd	Slight distance improvement	Safety/Public Request	2003	680-1997
45	684 Half Mile Branch Rd	Rt 691 to Rt 797	Spot/safety imprvy to serve incr traffic w/ min widening	Safety/Public Request	2003	340-1997
46	641 Burnley Station Rd	Norfolk Southern RR	Bridge project with low sufficiency rating	Safety/Public Request	2003	410-2000
47	602 Howardsville Tmpk	.01 miles south Rt 626	Railroad crossing with no lights or gate	Safety/VDOT	2004	6,200-2002
48	Rt 729 Milton Rd	At Rt 250	Add turning lane to allow buses to leave school	Safety/School	2004	370-1997
49	671 Millington Rd	Intersection of Rt 665	Intersection improvement	Safety/Public Request	2004	1,400-2000
50	692 Plank Rd	Rt 29 to Rt 712	Spot improvements	Safety/Public Request	2004	1,700-2002
51	708 Red Hill Rd	Rt 20 to Rt 29	Improve alignment	Safety/Public Request	2004	2,600-2002
52	676 Woodlands Rd	Rt 614 to Rt 1050	Spot improvements at several points	Safety/CHART	2004	640-2002
53	691 Park Rd	Park Rd to Rt 250	Extend to eastern 240/250 street system	Capacity/Crozet Master Plan	2004	140-2000
54	678 Decca Ln	Intersection of Rt 676	Improve interseccion, located near school	Safety/CHART	2004	1,000-2002
55	743 Advance Mills Rd	At Jacobs Run	Improve approach to bridge	Safety/VDOT	2004	710-2002
56	795 Hardware St	Near intersection with Rt 20	Spot improvement	Safety/Scottsville	2004	1,000-2000
57	732 Milton Rd	At Rt 53	Intersection improvement	Safety/Public Request	2004	1,000-2000
58	622 Albeyanna Springs Rd	Intersection of Rt 795	Intersection improvement	Safety/Public Request	2004	1,000-2000
59	622 Albeyanna Springs Rd	Intersection of Rt 773	Intersection improvement	Safety/Public Request	2004	1,000-2000
60	680 Browns Gap Tmpk	Rt 240 to Rt 810	Spot improvements	Safety/Public Request	2004	700-1997
61	611 Jarmans Gap Rd	Off Rt 691	Railroad crossing with no gate	Safety/Public Request	2004	210-2000
62	1310 Ferry St	.05 miles south of Rt 6	Railroad crossing with no gate	Safety/VDOT	2004	80-2000
63	601 Free Union Rd	At Tasmania Dr	Install culvert to prevent frequent flooding	Safety/Public Request	2004	1,100-2002
64	682 Broadaxe Rd	Off Dick Woods Rd	Spot improvements	Safety/Public Request	2004	140-2000
65	654 Barracks/Garth Rd	Georgetown Rd to Rt 601	Pave shoulders and/or off-road trail	Create trail/CHART, Bike Plan	2003	22,000-2002
66	631 Rio Rd	Meadow Creek Pkwy to Stonehenge	Upgrade to urban x-section, sidewalk and bike lanes	Safety/Land Use Plan	2003	24,000-2003
66	742 Avon St Ext	City limits to Mill Creek South	Improve to urban cross-section	Safety/Land Use Plan	2003	1,200-2003

(**Note:** Agenda Item No. 12 and Agenda Item No. 13 were heard concurrently.)

Agenda Item No. 12. **Public Hearing:** ZMA-2007-016. Watkins Route 250 Rezoning (Sign #95).

Proposal: Rezone 3.0 acres from R1 - Residential (1 unit/acre) to HC Highway Commercial which allows commercial and service uses; and residential use by special use permit (15 units/acre) for a Landscape Contracting business.

Proffers: No.

Existing Comprehensive Plan Land Use/Density: Community of Crozet; CT-3 Urban Edge: single-family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses.

Entrance Corridor: Yes.

Location: 5168 Rockfish Gap Turnpike/Route 250 West, east of Radford Lane & adjacent to Clover Lawn.

Tax Map/Parcel: 56/107C & 98D.

Magisterial District: White Hall.

(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Agenda Item No. 13. **Public Hearing:** SP-2007-060, Outdoor Storage of Plant Materials (concurrent with ZMA-2007-016 Watkins Route 250 Rezoning) (Sign #95).

Proposal: Request to allow outdoor storage of nursery stock and plant materials associated with a landscape contracting business in the Entrance Corridor.

Existing Comprehensive Plan Land Use/Density: Community of Crozet; CT-3 Urban Edge: single family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses.

Section: Section 30.6.3.2.B Outdoor storage, display and/or sales serving or associated with permitted uses, any portion of which would be visible from an EC street.

Zoning: Proposed rezoning from R1 - Residential (1 unit/acre) to

HC-Highway Commercial which allows commercial and service uses; and residential use by special use permit (15 units/ acre).

Entrance Corridor: Yes.

Location: 5168 Rockfish Gap Turnpike/Route 250 West, east of Radford Lane & adjacent to Clover Lawn.

Tax Map/Parcel: 56/107C & 98D.

Magisterial District: White Hall.

(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Mr. Cilimberg summarized 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 rezoning is to Highway Commercial, but at the recommendation of the Planning Commission is restricted in terms of uses by the proffers. He showed photographs of the existing business at its current location. The applicant proposes to locate to the east of Clover Lawn on the edge of the Crozet Community Development Area. He said the Crozet Master Plan calls for the area to be CT-3 on the urban edge.

Mr. Cilimberg said the land use designation of CT-3 allows a number of different uses in addition to residential. The Crozet Master Plan notes the importance of the Route 250 corridor in this area, and the importance of a jobs/housing balance in Crozet. Recently the Board has talked about the need to accommodate small businesses in industrial areas, and while this is not zoned industrial, it will allow for a small business to operate in this highway commercial location.

Mr. Cilimberg noted the location of the property on a map. He also showed a copy of the proffered plan including landscaping requested by the Planning Commission in response to comments made by the ARB and the Scenic 250 Committee. The applicant proposes to use the existing house. There is a proffered plan and the proffers extensively restrict uses by-right and by special use permit. He said it is modified from the existing by-right use allowance in the Zoning Ordinance to say the uses allowed would be grounds care, landscaping and other repair and maintenance services.

Mr. Cilimberg said both the Planning Commission and staff have recommended approval of the rezoning subject to the proffers dated March 12, 2008, and signed February 14, and there is a proffered concept plan dated January, 2008. He said two questions were raised by Mr. Kirk Train on behalf of the Scenic 250 Committee. They were interested in how the existing house would be used since they understood Mr. Watkins would use it as a dwelling. It can be used as a dwelling under the Highway Commercial category in support of the business activities. Also, if Mr. Watkins decided to build a new structure he would be required to come back for approval since it would alter the concept plan he proffered. The answer is: if a new structure were proposed either in place of the existing dwelling or whether it be an additional dwelling on site, if it were not in general compliance with the concept plan, it would require a rezoning to allow for a new plan of development. If the replacement were to be on the existing footprint of the house shown on the plan, a rezoning would not be required. There were a couple of work sessions held by the Commission before the public hearing, and the proffers address all issues raised at those meetings.

Ms. Mallek asked if there is a written agreement with VDOT that there will be no slip lane required. Mr. Cilimberg said it is not a closed matter until the entrance permit is before VDOT. It was noted in the discussion with the Planning Commission that it could not be proffered away.

Ms. Mallek asked if staff has talked with VDOT to see that at the preliminary level it will not be required. Mr. Cilimberg said they are discussing a taper to get off of Route 250 into the site.

Ms. Mallek said she would like to clarify what was said about the structure. She asked if the applicant would need to get another approval if they wanted to have more than one unit. Mr. Cilimberg said that is true. An additional dwelling would not be in compliance with the zoning. There can be a dwelling in support of the business, but just one dwelling which could be an apartment or a full house. It would need to be on the existing footprint because that is what is shown on the plan.

Ms. Thomas asked the difference between a taper and a slip lane. Mr. Cilimberg said a taper is essentially where the car slips off of the road and it is basically an extension of the radius of the driveway to make it a longer slip going into the driveway itself. A turn and taper is where both a taper and a turn lane are built. He emphasized that this is a U.S. primary road with a fairly high speed of travel. VDOT would want to make sure that anyone entering or exiting that location could do so safely. He said he had looked at a plan included with a prior staff report which showed 100 feet for a taper.

With no further questions of staff at this time, Mr. Boyd asked the applicant to speak.

Mr. Will Rieley said he is working with Scott and Carolyn Watkins on the rezoning and special use permit. He then used a slide presentation for illustrative purposes. He said the property in question lies in the Crozet growth area. He has worked with the neighbors to make sure they are happy with the configuration of the screening along the property line. Mr. Watkins has an agreement with the adjacent property owner to extend the screening so there will be more than typically would be expected. He referred to the taper shown on the plan and said it extends in both directions and is consistent with VDOT's recommendation. It will not require removal of any additional trees. There is a proffered planting plan. The Architectural Review Board asked Mr. Watkins to agree to paint the house a little darker to make it inconspicuous. He said the combination of things will make the site less obtrusive than it is now. He said Mr. Watkins is a respected member of the community, and they hope he will be able to stay here.

Mr. Scott Watkins said he is the applicant and the owner. He started this business over two years ago and was cited for a zoning violation for operating a landscaping business in the rural area. He was told there were only two types of land where he could locate; land zoned either LI or HC. Both of those are in short supply and are very expensive and beyond his reach financially. In a risky gamble, they decided to purchase this property on Route 250 knowing it was in the Crozet growth area and was contiguous to and visually dominated by other commercial parcels. He believes the proposal fits into the Crozet Master Plan. It is a CT-3 designation which allows for more intensive uses. The visual impact on Route 250 will be positive. They intend to screen their lot from the property next door, and enhance the wooded nature of the property essentially carrying their screen across the length of the property. The growth area of Crozet has limited spaces for non-retail businesses. It is logical that if Crozet is to grow with new houses, parks and business, service businesses are essential. Their business does not fit into the downtown area of Crozet, nor would they be competing with the businesses in that area.

Mr. Watkins said his is a locally-owned small business. He thinks it is exactly what the County's Economic Plan is looking for. They hire locally, work locally, pay taxes, support non-profits locally through time and monetary contributions, and they want to continue to operate in the County as they have for over 20 years. A "no" vote would mean they would move out of the County which would be a burden on him. This violation has caused a lot of turbulence and he has had to spend thousands of dollars in consultants, attorneys, fees, etc. as he has negotiated the rules and regulations. He noted that Warren Byrd (co-author of the Crozet Master Plan), the Route 250 West Task Force, the president of Clover Lawn Homeowners' Association, and the next door neighbors (Watts) support his request. He is also appreciative of staff efforts, especially those of Ms. Rebecca Ragsdale. He read two quotes from the Crozet master plan concerning locally-owned small businesses and said they look forward to moving to the new location after the site plan process.

At this point, Mr. Boyd opened the public hearing on both petitions.

Mr. Peter Wray said he is a resident of the County. He knows Mr. Watkins and he is an excellent person. He has not seen another small business owner go to the efforts and lengths he has to make this work for him. He urged the Board to support the recommendation of the staff and Planning Commission.

Mr. Richard Wright said he is a resident of Ivy. He has been a member of the Western Albemarle Rescue Squad Board for 13 years and has known Mr. Watkins for most of those years. He cannot think of a better use for a piece of property like this one than a locally-owned business like this one. The threat of him being pushed out of the County is unimaginable. Mr. Wright said he also owns a local business so can sympathize with him.

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

Ms. Mallek said she would like to commend everyone involved in the process for the way they reached out to the neighbors and sought a consensus on all the aspects of this request. She then offered **motion** to approve ZMA-2007-16 subject to the proffers dated March 12, 2008, and signed February 14, 2008, including the proffered concept plan dated January, 2008.

The motion was **seconded** by Ms. Thomas.

Mr. Rooker said he does not understand why such businesses are required to be located in LI or HC. He thinks the Board should look at expanding those areas so this does not come up again. He would rather expand the areas where such businesses can be located than rezone property HC in order to enable something that should have broader possibilities for location.

Ms. Mallek said across the street from her property is a similar business but because he is in the rural area and does not have employees, he is able to park his machinery and vehicles at his house.

Mr. Dorrier said this is the most expressive application from a small businessman that he has seen since he has been on the Board. It is rare that a businessman garners such community support.

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

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

NAYS: None.

(Note: The proffers are set out in full below.)

PROFFER STATEMENT

Date: March 12, 2008

ZMA#: 2007-00016

Tax Map and Parcel Numbers: Map 56, parcels 107C and 98D

3.0 Acres to be rezoned from R-1 (Residential – 1) to Highway Commercial (HC)

Scott Watkins and Caroline Watkins are the fee simple owners (collectively, the "Owner") of Tax Map 56, Parcels 107C and 98D (the "Property") which is the subject of the zoning map amendment application number ZMA 2007-00016, known as "Watkins 250 Rezoning."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning and it is acknowledged that the conditions are reasonable.

1. The use of the Property shall be limited to those uses allowed by right under Section 24.2.1(17) (as modified in Proffer 1A below), (35), (36), 41 (as modified in Proffer 1B below) (44) and (45), and the uses allowed by special use permit under Sections 24.2.2(17) and 30.6.3.2(b), of the Zoning Ordinance of Albemarle County, Virginia as Section 24.2, Section 30.6.3.2 and, by cross reference in Section 24.2.1(41), Section 22.2.1 are in effect on March 12, 2008, copies of which are attached hereto as Exhibit A.

A. The uses permitted under Section 24.2.1(17) shall be limited to grounds care and landscaping services and repair and maintenance services related to those grounds care and landscaping services.

B. The uses permitted under Section 24.2.1(41) shall be limited to dwellings as authorized in Section 22.2.1(20).

2. The development of the Property shall be in general accord with the plan entitled "Watkins & Company Concept Plan," prepared by Rieley & Associates Landscape Architects, dated January 2008.

WITNESS the following duly authorized signatures:

Owners:	
(Signed) _____	2/14/2008
Scott Watkins	Date

(Signed) _____	2/14/2008
Caroline Watkins	Date

Motion was then offered by Ms. Mallek to approve SP-2007-060 subject to the five conditions recommended by the Commission. The motion was **seconded** by Ms. Thomas. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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

1. Products shall be stored only in the areas indicated for storage on the Watkins & Company Concept Plan sheet L-1 dated January, 2008;
2. All nursery stock shall be stored on the ground without use of racks, display stands or other similar items;

3. Any structure required for separating the mulch, topsoil and compost shall not exceed six (6) feet in height. The design of such structure is subject to review/approval by the ARB during the site plan review;
4. The site shall be landscaped according to the following criteria and ARB approval of landscape plan to include:
 - A mixed planting of trees and shrubs, both evergreen and deciduous, shall be provided in the thirty (30) foot planting strip along the south side of the site and along the west side of the site from the shed to the EC. The planting shall be continued westward to the retaining wall in all areas disturbed by grading;
 - A mixed planting shall be provided along the east side of the site to provide screening for the storage areas and to blend with the surrounding; and
5. The parking of trucks for the business beyond the nine (9) space parking lot shown on the Concept Plan shall be limited as follows: A maximum of five (5) trucks may be parked between the mulch/top soil storage area and the five thousand nine hundred fifty (5950) square feet nursery stock storage area during the night hours.

(Note: Agenda Item No. 14 and Agenda Item No. 15 were heard concurrently.)

Agenda Item No. 14. **Public Hearing:** ZMA-2006-009, 5th Street-Avon Center (Signs #48, 67 & 68).

Proposal: Rezone 86.895 acres from LI - Light Industrial zoning district which allows industrial, office, and limited commercial uses (no residential use) with proffers and RA - Rural Areas zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PD-SC - Planned Development Shopping Center zoning district which allows shopping centers, retail sales and service uses; and residential by special use permit (15 units/acre). Approx. 468,623 sq. ft. of commercial uses.

Proffers: Yes.

Existing Comprehensive Plan Land Use/Density: Community Service/Mixed Use-community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, and residential (6.01-34 units/acre) Neighborhoods 4 & 5.

Entrance Corridor: Yes.

Location: Northeast intersection of Interstate 64 and Fifth Street Extended (Rt 631), bounded on the east by Avon Street Extended. Access is Bent Creek Road.

Tax Map/Parcel: 76/M1-2A, 76/M1-2B, 76/M1-4A, 77/11E.

Magisterial District: Scottsville.

(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Agenda Item No. 15. **Public Hearing:** SP-2007-004, 5th Street - Avon Center (Signs #78, 81 & 91).

Proposed: Parking Structure.

Zoning Category/General Usage: LI - Light Industrial - industrial, office, and limited commercial uses (no residential use).

Section: 5.1.41, Parking Lots and Parking Structures.

Comprehensive Plan Land Use/Density: Community Service/Mixed Use community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, and residential (6.01-34 units/acre), Neighborhoods 4 & 5.

Entrance Corridor: Yes.

Location: Northeast intersection of Interstate 64 and Fifth Street Extended (Rt 631), bounded on the east by Avon Street Extended. Access is Bent Creek Road.

Tax Map/Parcel: 76/M1-2A, 76/M1-2B, 76/M1-4A.

Magisterial District: Scottsville.

(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Mr. Cilimberg summarized 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 Board has held work sessions on these requests. He showed a rendering of how buildings could be located considering the limitations of the proffers as well as the description in the framework document. The plan includes construction of a connecting road between Avon and Fifth Streets; it would utilize Bent Creek Road in the City. The central element of the development would include a combination of retail/commercial uses. There would be a future development site on the Avon Street side of the property.

Mr. Cilimberg said at the last work session the issues included how the development and the Bent Creek Parkway might affect the Fifth Street/I-64 Interchange. Staff has since found information developed with the traffic impact analysis; it identifies the current level of services as "B" at that interchange, the future level of service without development based on projected increases in traffic as a level of service "C", and with this development and Bent Creek Parkway completed through from Avon to Fifth Street the future level of service would still be "C". Essentially, development with Bent Creek maintains the anticipated future level of service at the interchange ramps. The Board also wanted a guarantee that the shopping center will be built in one phase. There is a proffer provided to develop under a single final site plan, with the exception of the outparcel.

Mr. Cilimberg said there is a specific commitment to environmental mitigation techniques such as green roofs which was another interest of the Board. A proffer is provided to incorporate rainfall harvesting measures with not less than 25 percent of the roof area of the buildings employing green roof design. There were liability concerns regarding the portion of Bent Creek Parkway located over the old landfill. The landfill segment of that parkway will be a private street, privately maintained, but it will be subject to a public access easement with a reservation for future dedication to public use at the time the County determines that is appropriate. There was interest in revising proffers to add language incorporating an adjustment for inflation to the transit subsidy and that is now included based on the Consumer Price Index for all urban consumers. There was interest in having pedestrian access include bike accessibility in general with provision of access to Willoughby meeting ADA standards. The proffers now incorporate bike accessibility with the pedestrian access facilities, and they provide for the Willoughby connection or cash-in-lieu of that connection. Staff has found that the topography of the site would not allow for a connection that met ADA standards. If there were not a possibility of getting completion of the connection through Willoughby (they would have to agree), then a proffer has been made for cash-in-lieu of that connection.

Ms. Thomas said she did not understand the significance of the connection not being ADA compliant. If the Board said it wanted the connection anyway, can they do that? Mr. Cilimberg said the proffer is designed to achieve ADA. That was in response to what the Board said at the last meeting on this petition. He will have to look at the proffer to see if there is enough flexibility to allow them to make the connection if they wanted to do so.

Mr. Cilimberg said staff recently received an approved work plan for the old Avon Street landfill from the DEQ. That was a question during past discussions, so it has now been satisfactorily addressed. He said staff identified other issues in its report; issues that go back to either proffers or prior discussions by the Planning Commission or the Board. Staff had concerns about the proffer for Bent Creek Drive improvements in the City and the possibility that the needed improvements might not occur. The proffers give a timeframe for a reply from the City, and if the City does not respond within that timeframe, the improvements of the road in the City are not guaranteed. Also, the proffer does not address who will be responsible for right-of-way acquisition in the City should it be needed. Staff would like to note that there is another proffer (1C) which stipulates that the County Engineer is to determine that Bent Creek Parkway is complete before the issuance of the first CO. That proffer could be used to address the issue of the connection all the way through and improvements in the City, if necessary.

Mr. Rooker said he would like to request that that be done; the County should make sure the improvements are done in advance of the issuance of the COs.

Mr. Slutzky asked if the County can decide if it is or is not done if the right-of-way issues are not resolved somewhere else. Mr. Cilimberg said the way the proffer is worded the County Engineer needs to make sure that under (1C) they have achieved the design and completed construction of Bent Creek Parkway. The County Engineer will make the decision as to completion of the road in both the City and in the County.

Mr. Cilimberg said there was also a question as to whether concerns of the ARB had been addressed satisfactorily. There were three areas that the ARB asked be included as part of the rezoning because in their review for a Certificate of Appropriateness they cannot require the three elements. One of those was a 50-foot planted buffer on site along the southwest property boundary. The applicant has not provided that. He thinks they are relying on a fairly extensive treed area that is above the right-of-way of I-64. They cannot provide the 50 feet on site. Second, tree islands in the parking areas are provided so that no more than ten parking spaces run consecutively without a tree island. The applicant does not feel their parking requirements can be met if they have to provide tree islands in that manner. Third, there should be a limit to the number of illuminated wall signs to the north side of the home improvement structure. That means there would not be wall signs on the I-64 and Fifth Street sides of the buildings. The applicant has not agreed to make that proffer, so it is still an outstanding issue.

Mr. Cilimberg said there was a question raised in the report regarding the ARB's review under the development framework. How the ARB review would take place has been clarified for the conditions of development for buildings "E" and "F". There is now a reference to Proffer 11, Architectural Guidelines, and that addresses that concern in the staff's report. He said it was also noted in the staff's report that proffers need technical and substantive revisions to be legally acceptable; those revisions have been made and new proffers have been provided with the exception of the two matters he mentioned earlier. In terms of the proffers there have been no substantive changes since the initial proffers the Board received in the report. Staff believes the applicant has appropriately addressed the Board's expectations for commitment to the project's conceptual design and has addressed many of the other outstanding issues. However, without resolution of the issues related to the proffer for transportation improvements in the City, and expectations regarding ARB recommendations, staff cannot recommend approval. Should the Board find the application as proposed acceptable, staff recommends the Board's approval of the Zoning Map Amendment be inclusive of the proffers along with the Application Plan and the Development Framework, and that approval of the special use permit include no conditions.

Mr. Slutzky said with respect to the landfill he thought the Board was to receive a copy of the work plan so it would know what is to be done. His concern is that just approving the work plan does not mean it will be implemented. If there is a work plan with no obligation on the part of the applicant to do the work, then maybe nothing will happen to the landfill. He thought the Board had agreed that was a necessary condition precedent to the road. Mr. Cilimberg said he knew the Board wanted to have that agreement with DEQ, but he has not seen the plan.

Mr. Slutzky said just because DEQ approves a plan does not mean it will be implemented. If he looked at the plan and understood it was a work plan designed to prevent construction of the road from creating any undue disruption of the landfill and if there were such a disruption it would be remedied in a proscribed manner, then construction of the road would end up being done with implementation of the work plan. On the other hand if the work plan includes aspects unrelated to construction of the road, there appears to be no obligation on the part of the applicant to ever do that part of the work plan. He has not seen the plan, so does not know if there is any component in the work plan other than the elements related to construction of the road. He thinks that is why the Board asked at the last meeting to see it. All the Board has seen is a letter from Mr. Jed Pascarella at DEQ acknowledging that he has a work plan. He still does not know what the work is. Mr. Cilimberg said staff has not received such a plan.

Mr. Slutzky said that is an issue the Board brought up that might be added to the list of things that are unresolved.

Ms. Thomas said she wanted some clarification about the tree islands. She likes developments to have trees, but the applicant was also asked to make it pedestrian friendly because there can be tree islands without sidewalks. She asked if staff is comfortable with the pedestrian safety aspects of the parking lots. Mr. Cilimberg said at the last work session the applicant presented to the Board the overall pedestrian system and it is one that staff is comfortable with. He does not think that is an issue.

Mr. Rooker said if a proffer is added to deal with any of the items mentioned by Mr. Cilimberg, how would that affect the status of the public hearing? Mr. Davis said if it is added after the public hearing is opened it would require a new advertised public hearing before it could be accepted.

Ms. Thomas said if changes are made in response to the Board's or public comments, could the Board allow the applicant and those who signed to speak do so without opening the public hearing. Mr. Davis said the Board can hear from the applicant prior to opening the public hearing.

Mr. Rooker asked if the public hearing could be opened after hearing that comment. Mr. Davis said at that point, the Board would have to hold the public hearing.

Mr. Rooker said that perhaps the applicant can clear these issues before the Board has to open the public hearing.

Mr. Boyd said he had planned on hearing from the applicant before opening the hearing.

Mr. Rooker said that technically the Board will not be hearing the applicant's comments as part of the public hearing.

Mr. Boyd asked if any Board member had another question for staff before hearing from the applicant.

Mr. Rooker said Mr. Cilimberg had mentioned the issue of the 50-foot buffer. He asked the width of the right-of-way from the pavement to the property line. He said it looks like a significant sized area. Mr. Cilimberg said he knows it is extensive and is well beyond the travel lanes. He thinks it is probably 100 feet. That is not an issue in terms of having the possibility for an adequate buffer. The concern of the ARB was that it is not under anyone's control other than VDOT. He said this was an issue at North Pointe also. There was concern about the ARB wanting a certain level of screening under the control of the applicant.

Mr. Slutzky said North Pointe proffered a solution to that. They said that in the event VDOT were to take some of the buffer that is sitting on VDOT property, they would sacrifice some of their parking and expand the buffer further into North Pointe. Mr. Cilimberg said in this case the building is right there, so it is not something that can be done.

Mr. Slutzky said considering the angle going up, will the building even be visible from the road. Mr. Cilimberg said the applicant showed some cross-sections at a previous meeting showing that visibility.

Ms. Mallek said she had a question. Will the waiver for the Water Protection Ordinance compromise the process in any way? Mr. Cilimberg said they will have to meet requirements. Staff always tries to raise flags where they can see possible problems, but they never know that the plans address all matters. Ultimately when the site is under review for the site plan, the applicant will have to meet all requirements in the ordinance, as well as the proffers. There might have to be an adjustment in location of the road because of that.

Ms. Mallek asked if this potential approval would cover the water protection side. Mr. Cilimberg said staff has talked with the applicant and they understand that is something they must address adequately at time of site plan review.

At this time, Mr. Boyd asked the applicant to speak.

Mr. Steve Blaine said he represents the applicant. He thinks the Board is familiar with the project so he will not make a formal presentation. He said a pre-public hearing presentation would be only to answer questions. If the applicant needs to elaborate on the proffers, first with respect to the DEQ work plan, it includes mitigation requirements that are beyond the roadway segment. They did not expect to

have DEQ approval prior to the approval of the zoning so the proffers are very specific that the applicant must comply with the complete work plan, not simply that which is sufficient for the roadway.

Mr. Slutzky said it did not contain a timeline. That was his concern, but there is nothing requiring it to be done in a specific time. Mr. Blaine said he thinks it does; he referred him to Proffer 8D.

Mr. Davis said Proffer 8D addresses that to the extent that all conditions of the work plan have to be completed prior to the issuance for any permits for construction of buildings.

Mr. Blaine said the method was to maintain jurisdiction completely with the State. In the other proffers, the applicant has "bent over backwards" to keep the County from accepting any liability with respect to the landfill.

Mr. Slutzky said he had just overlooked that proffer. He is glad it has been addressed that way and he is satisfied with the proffer.

Mr. Blaine said the staff's response to the road proffers and the Bent Creek Road segment sound like they are satisfactory. He can elaborate on their approach, but he thinks there is closure on that item. He said as to the ARB issues, wherever possible the applicant has met or exceeded those guidelines. The applicant believes that when it came from the Planning Commission with Proffer 11 (an extensive proffer that references the ARB guidelines), it imposes those guidelines on the project even where the ARB does not have jurisdiction. With reference to the tree islands, the ARB guidelines address those. On Page 14 of the Exhibit to the proffers, with respect to landscaping the parking areas it states: "Trees should be planted in the interior of a parking area at the rate of one tree for every parking space and should be evenly distributed throughout the parking area." They think that was the spirit of the ARB's recommendation, but is a little different than saying there has to be a tree island every ten spaces. At this stage of developing the plan, they need this flexibility. That would also apply to other ARB guidelines which are quite extensive that apply to signage. They would like to maintain for the tenancy the ability to have illuminated signs. They know the ARB will have to approve the signs, but there are extensive guidelines that must be met if it is within the ARB's jurisdiction.

Mr. Cilimberg said Proffer 4 concerning the pedestrian link to Willoughby Subdivision does not stipulate that it meet ADA standards. It states: "For the purposes of this proffer, reasonable access shall mean a pedestrian access that is topographically feasible, but sensitive to terrain features, as determined by the County Engineer." He said this was written because there was concern ADA standards would not be possible. The biggest issue here is whether they can get access in the Willoughby neighborhood. If they are not able to do that within five years after the first occupancy permit, they would contribute the money. Today, there has been no concurrence with the Willoughby neighborhood that this can be established.

Mr. Boyd asked if the bridge can be built without it being to ADA standards. Mr. Blaine said "no." They used the notion of topographically feasible being sensitive to terrain features, and did not use "accessibility" because that would hold them to ADA standards. That will be in the County Engineer's judgment. If it will not be used, they will just use the money elsewhere on the property.

Ms. Thomas said the Board has a letter from Mr. Juan Wade about the Fifth Street/I-64 interchange suggesting that VDOT will study that interchange when their work load permits. Apparently the level of service there is "C", so it is not a failing interchange. She was not sure if staff is comfortable that impacts are mitigated sufficiently. Mr. Cilimberg said the real contribution toward the transportation system is the Fifth Street/Avon Street connector because it will be able to maintain a level of service that otherwise would be there anyway. This development does not exacerbate the problem at that interchange.

Mr. Rooker said there are to be interchange improvements made by the Biscuit Run development. He said based on the best available information on traffic modeling, the level of service today is a "D" and it is expected it will be a "C" with or without this development.

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

Mr. Hugh Underwood said he has lived at 1380 Fifth Street, SW, since 1969. He supports this project. He thinks the south side of the City and County need more shopping opportunities. When he first moved to this location there were only about 300+ vtpd past it, but today there are about 12,000 vtpd. He said it has been an education for him tonight, because the applicant will build that road from Avon Street to Fifth Street and that might put off building the Southern Parkway. He said the Southern Parkway is supposed to come out right in his neighborhood and he will be intersected with two, four-lane highways instead of one, so he is in favor of this proposal to relieve that traffic. He thinks it will create opportunities for jobs and convenience.

Ms. Lorraine Raynela said she lives eight miles south of the proposed project off of Fifth Street. She owns a small business which she operates out of her home and out of an office downtown. She travels past this property daily, but when she needs groceries, home improvement supplies or entertainment opportunities she goes to Route 29 North or Barracks Road. She thinks the Avon Center project would allow her to save valuable time and gas. She asked that the Board look favorably on this project.

Ms. Rebecca White said she lives off of Old Lynchburg Road about five miles south. They both work outside of the home each day, so this project with the proposal of a mixed use would save them time and money. There are many families in the neighborhood who would benefit from the project.

Mr. Jacob Martin said he has had a business for over 20 years on the downtown mall. He does not like having too many projects like this, but there is nothing at this end of town to go to. He lives in town on Park Street so always has to decide which way to go to get to the stores he needs. The right selection of stores in this area would be great. Everyone knows that if there is a football game, or an event at the JPJ Arena, traffic is terrible. He came here from New York where you spent a whole day on the highway and he does not want to do that. He said that if some of this development is spread out it should take some pressure off Route 29. He said a quality grocery store would be a good addition.

Mr. Sam Taler said he lives at 1601 Green Street. Just like everyone else he has to go to Route 29 North for everything. They live in an old farm house which often needs repairs, so they have to go to Lowes on 29 North all of the time. They thought it was awful when Home Depot proposed to locate at the entrance near Carrsbrook, so this would be a better place for some type of home improvement store. He thinks more stores are needed on the south side of town.

Mr. David Storm said he has been a resident of Willoughby for the last five years. He sent a number of Board members E-mails about this project. He is generally in support of this project. He is in favor of retail on the south side of Charlottesville. He said most have to do their grocery shopping in the City. His primary concern with this proposal has been about the pedestrian connector. His property does not abut the proposal. The neighbors have been excited about a pedestrian connector with this property and their ability to not add to the amount of vehicular traffic to go one-half mile out of the neighborhood, one-half a mile down to Bent Creek and another one-half mile to shop. He encourages the Board to help the developer work diligently and put forth a good faith effort to negotiate with individual landowners. There is not a homeowners' association in Willoughby. One half of their neighborhood is in the City, and one-half is in the County. His wife asked that he deliver a comment to the developer, and that comment is Wagmen's.

Mr. Morgan Butler said he is speaking for the Southern Environmental Law Center. Because this proposal would spread a big box to an entirely new area of the County, they have tracked it through the review process. Although some form of retail may be appropriate in this location, their goal has been to insure that the development does not take the same form as the big box shopping centers with large parking lots that mar the Route 29 North corridor and draw so much traffic to that area. They were encouraged when the Board recently pushed the applicant to come up with a better layout. Many desirable features have been added to the plan over the last year. However, this project still proposes the maximum big box square footage allowed under the 2004 Comprehensive Plan amendment for this site. While the latest plan shows options for structured parking and multiple stories for some smaller stores, it is unclear how many of these options will be realized.

Mr. Butler said this proposal has improved, but it is clear it is still a regional big box shopping center. He said the proposal fits within the general concept of the 2004 Comprehensive Plan amendment outlined for this site. They think the Comprehensive Plan should have set a higher standard for this site, and they urge the Board to reject any proposal for this location until the largest stores are multi-storied, and a higher percentage of parking is guaranteed to be located either in structures or underground. Recognizing that is an unlikely outcome tonight, they hope this will become the starting point for shopping centers proposed for this and any part of the County in the future. Even with the new connector road, the traffic study for this proposal shows it would negatively impact more intersections in the County than it would possibly impact. They have argued for a general cash transportation proffer to help mitigate those impacts. The response they have gotten from transportation officials is that this shopping center does not by itself increase congestion at any impacted intersection to a point where that intersection falls to a failing level of service. Therefore, no further transportation proffers or contributions are warranted. They feel this approach ignores the incremental impact of a project unless "it breaks the camel's back". It is a questionable strategy which makes it very hard to amass the funds that would be needed for intersection improvements once the intersections do fail. Finally, he said when the Board allows proffers to be altered up to the very last minute, it is troubling. He understands it is due in part to state law, but in "bending over backwards" to allow some last minute changes and still approve a proposal that same night hamstring the public's ability to weigh in on the proposal. There must be a better way to approach this type of situation.

Mr. Jeff Werner said he is speaking for the Piedmont Environmental Council. He said as a City resident it is frustrating to watch Albemarle slowly change the perimeter of the City to a sort of anywhere U.S.A. big box. That seems to be what is happening so the City looks like Fredericksburg or Northern Virginia. During the meetings on the Biscuit Run project and the Granger CPA, a comprehensive transportation study was done. There was a lot of discussion about what had to be done at the Fifth Street Bridge. Now, it seems that it is not anybody's responsibility. There are incremental impacts from this regional destination that sooner or later the Board will have to find funds to pay for. He thinks it is fair in some incremental measure to work toward what those improvements will be. He is excited about the green aspects of this project. There is a tremendous opportunity here and some of the national retailers are going to take the lead on this, but will not do so unless the Board makes the request. He said a lot has been said about LEED certification, and the lowest level of LEED is anchored in the current version, but what if it takes five to 10 years to get this project started. In ten years there would be antiquated LEED criteria. Why is only 25 percent of the roof green? Why not make the whole thing green? He would like to see something special relative to sustainability. He thinks it can be done, and whoever is coming to this site would benefit from the marketing of that.

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

Mr. Dorrier asked if the applicant is willing to make the concession on working on the pedestrian roadway to Willoughby. He thinks it is in the No. 4 proffer, but he wants to make sure it is in the works. Mr. Blaine said "yes." He has given his card to the gentlemen who spoke since he is a proponent for a trail system link. He thinks that would be a logical starting place to begin that canvassing.

Mr. Rooker said there is a proffer that they will either make a connection or make a \$25,000 contribution if they are unable to make the connection. He thinks the Board needs to get a moral commitment from the applicant that they are going to make a reasonable, significant effort to actually make the connection as opposed to just paying the \$25,000.

Mr. Dorrier said he will take Mr. Blaine at his word. He said when this came up 10 or 12 years ago Mr. Forrest Marshall was in his chair and it was rejected by the Board.

Ms. Thomas said the question actually never came to a vote.

Mr. Dorrier said there were some negative feelings about the request. It has come a long way since then, but the need has always been there for the southern part of the County. He finds it fairly interesting that the people spoke tonight about the needs of the southern part of the County. He thinks it will stem some of the tide going to Waynesboro and Augusta County. He thinks the project as presented is a good one. Some say a big box development is a dinosaur, but that is the retail standard, so the Board can't do much to alter that. He thinks it will be tastefully done and the roadway between Fifth Street Extended and Avon Street will be tastefully done. It certainly will help Albemarle County. He is ready to make a motion when the rest of the Board members are ready.

Mr. Slutzky said in response to concerns about traffic, he does not see the project generating traffic in total, but thinks it will reduce vehicle miles traveled in the metropolitan area as a whole. It will relocate some movement to this part of the County and take it away from the Route 29 North corridor. That is a gain, plus the connecting road between Fifth and Avon is obviously a real value to the City and the County. In terms of form and design, and the green elements, he thinks the applicant is to be commended. While it would be good to see an ideal pursued, he thinks this applicant has come farther toward that endpoint than anything he has seen since he has been on the Board of Supervisors. The green roof proffer was not a requirement, but was a legitimate gesture based on market assessment. Adjustments requested by this Board were made in the form and design of the development and make it a high quality project. He is looking forward to Mr. Dorrier's motion so they can vote favorably on the request.

Mr. Rooker said this project is consistent with the Comprehensive Plan for this area. As illustrated by comments from the public, the project is in the right place. Additional retail is needed on that side of the County. He thinks the ultimate effect of having a grocery store there, a home improvement center there, and perhaps other useful retail stores, will reduce total miles traveled. One of the reasons the Board adopted the Neighborhood Model are recognized by the fact that services need to be located where people live. There was a mention of projects like this in Fredericksburg, anywhere U.S.A., but driving along Route 3 in Fredericksburg no project like this one which is surrounded by significant green buffer, is sensitive to the streams, incorporates trails, and has a good pedestrian plan, will be seen. The Board has not seen environmental features like those in this project in any other project to date. The multi-story concept is provided for in the project, it is not mandated. He thinks it is a good project and is worthy of approval.

Ms. Thomas said she was a Board member when this property came to the Board from Brass, Inc. It did not come to a vote because it was clear it would not receive a favorable vote. That was largely because of some specimen trees on the property. Mr. Walter Perkins who usually voted for developments walked amongst those trees and said he could not do that. That is when the petition "folded." Then in 2004 the Board amended the Comprehensive Plan and she could not get the rest of the Board members to value those trees in the same way Mr. Perkins had. If she had fond feelings for those trees and that old site, she lost that battle in 2004. Having lost it, she is about to vote for her first "big box" because of the transit provisions, the pedestrian provisions, and the bike provisions that were added along with the other environmental aspects. She does not know if the Board had pushed harder if it could have gotten something even more special. This is certainly the best the Board has seen, and she is excited that it will set a good standard and others will have to exceed these standards.

At this time, **motion** was offered by Mr. Dorrier to approve ZMA-2006-009 inclusive of proffers dated March 10, 2008, and signed March 12, 2008, along with the Application Plan dated February 19, 2008, and the Development Framework.

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

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

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

PROFFER FORM

Date: March 10, 2008

ZMA # 2006-09

Tax Map and Parcel Number(s): 76-M1-2A; 76-M1-2B; 76-M1-4A; and 77-11E

81.94 Acres ("Property") to be rezoned from L1 and Rural Area to PD-SC

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owners, or their duly authorized agent, hereby voluntarily proffer the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is acknowledged that the conditions are reasonable.

1. Road Improvements. The Owner shall cause completion of the following road improvements:

A. Bent Creek Road and 5th Street Intersection. Pursuant to road plans approved by the Virginia Department of Transportation ("VDOT"), the City of Charlottesville, and the County of Albemarle (the "County"), the Owner shall construct signal and lane improvements for the westbound lanes of Bent Creek Road and the southbound lanes of 5th Street at the Bent Creek Road and 5th Street intersection as a condition of approval of the initial site plan for the Property. If required by the City of Charlottesville, such improvements shall include: (i) dual left turn lanes southbound on 5th Street; (ii) dual right turn lanes northbound on 5th Street; and (iii) an extended single left turn lane northbound on 5th Street. An example of the improvements that the City may require of the Owner is attached as Schedule I.

B. Bent Creek Road Bridge. Pursuant to road and bridge plans approved by VDOT, the Owner shall widen, or replace the existing bridge spanning Moore's Creek supporting Bent Creek Road as a condition of approval of the initial site plan for the Property. The bridge expansion shall be sufficient to accommodate at least two (2) through lanes for Bent Creek Road.

C. Bent Creek Parkway From Bent Creek Road to Avon Street (Excluding the Landfill Segment). The Owner shall cause to be constructed a two lane (with right-of-way sufficient for future expansion to four lanes) limited access road from the bridge at Bent Creek Road through to Avon Street ("Bent Creek Parkway," also referred to herein as the "Parkway") in the general location shown on the Application Plan entitled "5th Street - Avon Center, ZMA Application Plan, Conceptual Master Plan", (Sheets ADD 2.0- ADD 5.0), prepared by The Cox Company, last revised February 19, 2008 (the "Application Plan"). If approved by VDOT, and subject to a waiver being obtained by Owner pursuant to Sections 32.7.2.8 and 4.12.15(g) of the Zoning Ordinance, the Parkway may be a 'rural section' in design, without curb and gutter. If the Owner subdivides, the Parkway shall be constructed as an urban cross section unless a waiver is granted pursuant to Section 14-410 (1) of the Subdivision Ordinance. The Parkway shall be constructed, bonded and ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the public system, and the County Engineer shall have determined that the roadway is safe and convenient for traffic (hereinafter, "completed") as a condition of the issuance of a certificate of occupancy for the first building within the Property. That portion of the Bent Creek Parkway that excludes the Landfill Segment (defined below) shall be dedicated as a public road with the approval of the initial, final site plan for the Property. The Board of Supervisors' acceptance of this proffer shall not confer any approval of special use permits for any construction of the Parkway or other improvements within the floodplain, if necessary; the approval of such permits shall be reserved by the Board of Supervisors.

D. Bent Creek Parkway; Landfill Segment. That portion of the Parkway that transects the former City of Charlottesville Landfill (the "Landfill Segment") shall be designed, constructed and maintained as follows:

1. Status of Landfill Segment: The precise length of the Landfill Segment shall be determined by the parameters submitted as part of the Landfill Work Plan described in proffer 8 below. The Landfill Segment shall be a private street that is privately maintained, but shall be subject to a "public access easement" creating a perpetual right-of-passage over the Landfill Segment for the benefit of the public. The first final site plan for the Property shall reserve the Landfill Segment, including pedestrian and bicycle accommodations and the dedication of related drainage, slope and utility easements, for future dedication to the County at the County's request and in the County's sole discretion. If the County requests dedication and the public right-of-way is not dedicated by subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed to convey the public right-of-way to the County.

2. Design: The Landfill Segment shall have the same design as that approved by VDOT for the segment of Bent Creek Parkway from 5th Street Extended to the Landfill segment), subject to any additional design requirements of the Virginia Department of Environmental Quality ("DEQ") as set forth in the Landfill Work Plan, defined below. The Owner shall submit the road plans for the Landfill Segment to the County Engineer for

review and approval, along with copies of all design requirements and imposed by DEQ in its approval of the Landfill Work Plan.

3. Construction and method of construction: The Landfill Segment shall be constructed in accordance with the road plans submitted by the Owner and approved by the County Engineer. The Owner shall obtain approval of the method of construction of the Landfill Segment from DEQ as an element of the approved Landfill Work Plan prior to approval of the first final site plan for the Property.

4. Maintenance. The Owner shall obtain approval from the Director of Community Development, and the County Attorney of a recordable instrument providing for the perpetual maintenance by the Owner of the Landfill Segment, subject to dedication and acceptance of the Landfill Segment as a public right-of-way. The maintenance instrument shall be in a form and be of a substance that is approved by the Director of Community Development and by the County Attorney.

5. Completion. The Landfill Segment shall be constructed and bonded, and the County Engineer shall have determined that the roadway is safe and convenient for traffic (hereinafter, "completed") as a condition of the issuance of a certificate of occupancy for the first building within the Property.

6. Remediation and reopening in the event of closure. If DEQ, or any other public entity having jurisdiction over such matters orders that the Landfill Segment be closed to pedestrian and vehicular traffic because of an environmental hazard or risk arising from the former landfill, the Owner shall remediate the hazard or risk and take all other steps necessary, including the reconstruction, repair, or relocation and construction of the Landfill Segment to allow it to reopen. If the Landfill Segment is closed as provided herein, the Owner shall obtain approval of the reopening from DEQ or other public entity, and reopen the Landfill Segment for pedestrian and vehicular traffic within sixty (60) days of completed remediation associated with the closure. The County Board of Supervisors may authorize that deadline be extended for reopening the Landfill Segment if the Owner demonstrates to the satisfaction of the Board that it is necessary for the purpose of rebuilding the road.

7. County's Acceptance. The County's acceptance of this proffer shall not confer any approval of special use permits for any construction of the Parkway or other improvements within the floodplain, if necessary; the approval of such permits shall be reserved by the Board of Supervisors.

E. Avon Street Improvements. The Owner shall dedicate public right-of-way, as shown on final site plans, and construct a right turn lane on Avon Street southbound from the northern boundary of the Property to the intersection of Avon Street and the Parkway. If warranted, the Owner shall construct a left turn lane and signal improvements at the intersection of Avon Street and the Bent Creek Parkway. If the public right-of-way is not dedicated by subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed to convey the public right-of-way to the County. Unless sooner required by VDOT as a condition of site plan approval, the Avon Street Improvements shall be constructed, bonded and ready to be recommended by the Albemarle County Board of Supervisors for acceptance into the public system, and the County Engineer shall have determined that the roadway is safe and convenient for traffic as a condition of issuance of the first certificate of occupancy within the Property.

F. Transportation Proffers Compliance.

1. The road improvements listed in 1B, 1C, and 1E above shall be constructed in accordance with road plans submitted by the Owner and approved by VDOT. All of the foregoing improvements listed in 1B, 1C, and 1E shall be (i) constructed to VDOT design standards pursuant to detailed plans approved by VDOT, and (ii) offered to be accepted by VDOT for public use or bonded for VDOT's acceptance. The width, (except as specified in 1C above) length, location, (inside median or outside existing pavement), type of section (e.g., urban vs. rural), and geometrics of all lane improvements shall be as required by VDOT design standards and detailed plans submitted by the Owner and approved by VDOT.

2. Any signal improvements proffered herein shall be coordinated with, and approved by the City of Charlottesville and VDOT to address signal timing.

3. The Owner shall submit to the City of Charlottesville engineering drawings, plans, and construction documents ("City Transportation Plans") for all road, signal and other transportation improvements contemplated in these Proffers or shown on the Application Plan that are located within the limits of the City of Charlottesville. The City Transportation Plans shall be submitted within sixty (60) days after the first site plan for the Property is submitted to the County. The Owner shall diligently pursue approval of the City Transportation Plans with the City. If the City does not provide a list of conditions for approval of all the City Transportation Plans within six (6) months after the first final site plan for the Property is approved by the County, or if the City does not approve City

Transportation Plans that meet all of the City's conditions of approval within six (6) months after submittal by Owner of City Transportation Plans that meet all such conditions, then the Owner shall not be required by these Proffers to construct any improvements for which approvals have not been obtained. The Owner also shall not be required by these Proffers to acquire right-of-way or otherwise pay for right-of-way in the City for such improvements.

G. Transit Stop; Park and Ride Lot. The Owner shall provide a paved parking area on the Property consisting of no less than twelve (12) spaces either: i) within the area labeled "Future Development Area 1" (as shown on Sheet ADD-3.0 of the Application Plan) or ii) in conjunction with the construction of a parking area for another use, (e.g. a grocery store), for temporary use by commuters accessing transit, trails or carpools (the "Park and Ride Lot"). The Park and Ride Lot shall include a transit stop. Construction of the Park and Ride Lot by the Owner shall occur in conjunction with the construction and dedication of the adjacent Bent Creek Parkway section or, if the Park and Ride Lot is constructed within a parking area for another use (e.g., a grocery store), then the Park and Ride Lot shall be constructed in conjunction with such use. The transit stop and Park and Ride Lot shall be designed and constructed in coordination with, and approval by the County Transportation Planner and Charlottesville Transit Service, ("CTS") or Regional Transit Authority (if in place) and shall incorporate a shelter, including rest bench, pedestrian access and signage consistent with other similar CTS facilities.

2. Greenway Dedication. The Owner shall dedicate in fee simple to the County, or at the County's option, an easement to the County, and construct a link to the section of trail through the Property in the location shown on the Application Plan. The Greenway shall be dedicated and the section of trail shall be installed within six (6) months after the issuance of the first certificate of occupancy within the Property. This section of trail shall be constructed to meet the Class A trail definition as contained in the County's Greenway Plan. The existing, dilapidated bridge over Moore's Creek shall be restored or replaced (for pedestrian or bicycle use only) as part of the trail section at the time of the completion of the trail, and to sufficient design to support a Class A trail. In the event that sufficient right-of-way exists or can be obtained by others, the Owner shall construct within nine (9) months after the availability of such right-of-way, an extension of the link for the County Greenway System beyond the Property line to Interstate 64, along Biscuit Run, in the area shown on the Application Plan. If the Greenway is not dedicated by subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed to convey the Greenway to the County.

3. Greenway Park and Bike/Ped Master Plan. Within the area depicted on the Application Plan as Park/Open Space, the Owner shall dedicate in fee simple to the County, or at the County's option, an easement to the County, a Greenway Park, to include the stream valley areas along Moore's Creek, for use by the public for hiking, bicycling, picnicking and other passive recreational use. At least five (5) parking spaces in the adjacent parking lot on the Application Plan shall be reserved for a trail head use.

The Owner shall submit a master plan for, and construct a Greenway Park and Bike/Ped system as a condition of approval for the first site plan for the Property. Subject to County approval as part of the first site plan for the Property, the Greenway Park and Bike/Ped master plan shall incorporate the following elements:

- i. Greenway Park and Trailhead Park routing plan, including trail standards;
- ii. The Master Plan shall provide for a pedestrian and bicycle trail;
- iii. 5th Street/Avon Connector Road preliminary engineering plan;
- iv. Preliminary landscape plan for impact area;
- v. Critical slope impact evaluation and option assessment; and
- vi. Tree survey within the Stream Buffer area;

The Greenway Park and Bike/Ped master plan shall be coordinated with the County's Director of Parks and Recreation. The Greenway Park and Bike/Ped master plan shall be submitted with the first final site plan for the Property and shall identify, design and incorporate the items cited in i-vi above. This Proffer 3 shall be satisfied upon (a) approval of all relevant elements of the Greenway Park and Bike/Ped master plan by the requisite federal, state, and local approval agencies; (b) posting of a bond satisfactory to the Director of Parks and Recreation for construction of any improvements as depicted on the approved Greenway Park and Bike/Ped master plan; and (c) the Board of Supervisor's acceptance of the deed of dedication of the fee simple (or easement) interest. This Proffer 3 shall be satisfied prior to or at the time of the County's approval of the first final site plan for the Property. If the Greenway Park is not dedicated by subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed to convey the Greenway Park to the Board of Supervisors.

4. Pedestrian Link to Willoughby Subdivision. In the event that sufficient right-of-way exists or can be obtained by others for the Willoughby portion of land needed, the Owner shall construct within nine (9) months after the availability of such right-of-way, a pedestrian path or trail connecting the Property to the Willoughby Subdivision (the "Willoughby Link"). The Willoughby Link shall include a pedestrian bridge over Moore's Creek, and reasonable access to at least one neighborhood street within Willoughby. For the purposes of this proffer, reasonable access shall mean a pedestrian access that is topographically feasible, but sensitive to terrain features, as determined by the County Engineer. If sufficient right-of-way is not obtained, or access to at least one street is not approved by the Willoughby neighborhood within five (5) years

of the issuance of the first occupancy permit within the Property, then Owner shall contribute the sum of \$25,000.00 to the County of Albemarle for trails maintenance and benefit and the Owner shall be relieved of all obligation to construct a Willoughby Link.

5. Tree Conservation Areas. Within the areas depicted on the Application Plan as Conservation Areas, no land disturbing activities shall occur except in accordance with Best Management Practices, as defined by the Virginia Department of Forestry. On the Application Plan, Conservation Areas are generally depicted, and incorporate approximately 14 total acres, with approximately 8 acres lying outside the Landfill Area and approximately 6 acres lying within the area of the Landfill Area. In order to provide an allowance for areas necessary for constructing stream mitigation and other environmental and conservation measures, compliance with this proffer requires the Owner to design, set aside and allocate not less than 12.5 acres for Conservation Areas, including not less than 7 acres on the portion of the Property lying outside the Landfill Area, and not less than 5.5 acres within the area of the Landfill Area. For the purposes of this proffer, the Landfill Area is considered to constitute Tax Map 77, Parcel 11E, which contains 21.165 total acres. Management of Conservation Areas on the Property for any other purpose not involving land disturbing activities, including wildlife habitat improvement, shall be in accord with a forest stewardship plan approved by the County's Director of Community Development. Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality during any forest activity. The primary objectives of the forest stewardship plan shall be to (a) maintain the health of the Conservation Areas, (b) maintain a scenic, urban forest and (c) conserve soil and water.

In addition to providing a forest stewardship plan, the Owner shall replace trees that must be removed in the areas denoted as "Conservation Areas" on the Application Plan that lie within the Greenway Park. Replacement shall be two (2) trees of similar species or quality for each removed, or destroyed tree. All tree replacement shall be in accord with the final landscape plan for the first final site plan for the Property. The Owner's obligation to replace trees within the Conservation Areas shall apply only to existing trees within the final, approved Greenway Park pursuant to the Greenway Park and Pedestrian Master Plan, described above. Trees to be replaced within the following planting season, must be in excess of 12" dbh and shall be replaced with trees of the same or a similar species or quality of not less than 2.5" dbh, as determined by the County's Director of Community Development. The County's Director of Community Development may authorize minor variations in the specific location and extent of the "Conservation Areas" as depicted by the Application Plan provided that such variations (a) are supported by final engineering, geotechnical, and environmental analysis; (b) have been mitigated to the satisfaction of the Director of Community Development; and (c) meet any other requirements for a minor variation under County Code § 18-8.5.5.3(a)(2).

The Owner shall employ a licensed arborist until all land disturbance within the Conservation Areas is complete in order to assure compliance with the standards contained in this Proffer 5.

6. LEED Standards for Core & Shell Development. The Owner shall cause commercial buildings within the shopping center portion of the Property to be rated a minimum of "Certified" under the LEED Green Building Rating System for Core & Shell Development, as set forth in the U. S. Green Building Rating System, Version 2.0, July 2006 (collectively, the "LEED Compliant Commercial Space"). Prior to issuance of the building permit for any proposed LEED Compliant Commercial Space, the Owner shall provide to the County's Director of Community Development a certification from a LEED certified architect that such space, if constructed in accordance with the building plans, is designed to achieve the minimum "Certified" rating provided in this Proffer 6. Before the Owner requests a certificate of occupancy for any building for which a LEED certified architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development a written statement from the architect that the building was built to the plans on which the opinion was based. For each commercial building containing LEED Compliant Commercial Space, the Owner shall provide a copy of the LEED certification to the County's Director of Community Development within one (1) year after the date the certificate of occupancy was issued for that building.

7. Moore's Creek Erosion and Buffer Projects. The Owner shall complete the erosion and buffer projects for Moore's Creek, above Biscuit Run in the areas depicted on the map attached ("Erosion and Buffer Projects"). The Erosion and Buffer Projects shall improve those stretches of Moore's Creek above Biscuit Run identified on the attached **Exhibit A** from the County's Stormwater Action Lists Report for Stormwater Master Plan, prepared by CH2MHill, dated January, 2004. The Erosion and Buffer Projects shall include but not be limited to streambank restoration and stream channel stabilization in general conformity with *The Virginia Stream Restoration and Stabilization Best Management Practices Guide* published by the Virginia Department of Conservation and Recreation in 2004 or any subsequent updates or revisions. The Erosion and Buffer Projects also shall include but not be limited to the installation of new riparian plantings in general conformity with the *Riparian Buffers Modification and Mitigation Guidance Manual* prepared by the Virginia Chesapeake Bay Local Assistance Department in September 2003 or any subsequent updates or revisions. The Erosion and Buffer Projects scope shall be subject to all applicable federal and state and local approvals, including the requirements set forth in the final DEQ Landfill Work Plan, defined below. The schedule and scope of the Erosion and Buffer Projects shall be submitted and approved with the first final site plan within the Property and shall be completed within three (3) years from the date of the approval of the first final site plan within the Property.

8. Former Landfill Site; Work Plan; Department of Environmental Quality. Prior to preliminary site plan approval the Owner shall have obtained DEQ approval of a work plan ("Landfill Work Plan") addressing the implications of the Owner's constructing any portion of the Bent Creek Parkway, and any proposed project improvements on the Property implicating the former City of Charlottesville Landfill site. The Landfill Work Plan shall be prepared by an environmental consulting firm and shall contain the following:

A. A discussion of the geology, site history, and generalized subsurface stratigraphy of the landfill site, based upon a systematic study to include field observations, and if necessary, electromagnetic induction (EM) survey to determine the lateral extent of waste deposits on the Property.

B. A plan to stabilize, cover or otherwise address to DEQ's satisfaction any areas of exposed waste on the Property discovered during the systematic study referenced in A. above.

C. A plan that addresses the construction techniques to be employed to allow construction of Bent Creek Parkway and any related improvements over the waste deposits within the landfill site. For example, to the extent dynamic compaction of the waste deposits will be required to construct the roadway, the plan will describe where and how dynamic compaction will be performed.

D. The Owner shall diligently pursue DEQ's approval of the Landfill Work Plan. Unless DEQ requires otherwise, the components of the Landfill Work Plan referenced above may be submitted to DEQ separately or within the same document. The County shall be provided with a copy of the Landfill Work Plan, together with all back-up data submitted in DEQ's approval of the Landfill Work Plan as a condition of approval of the first preliminary site plan. The work described within the Landfill Work Plan shall be substantially completed by the Owner prior to the issuance of any permits for constructing building improvements on the Property, as confirmed by the County Engineer. In addition, the Owner shall provide a certification from a licensed geo-technical engineer that the work under the Landfill Work Plan is complete. [Preliminary site plan approval and grading permits may be issued pending completion of the work described within the Landfill Work Plan.]

9. Cultural Resources. Prior to commencing land disturbance of any of the area included in the former Willoughby Mansion Site, as depicted on the attached **Exhibit B**, prepared by Dutton Associates, (the "Phase I Scope Area"), the Owner shall cause to be completed and supplied to the County, a Phase I Historic Resources Survey ("Phase I Survey") for any areas within the Phase I Scope Area to be disturbed. The Phase I Survey shall be conducted pursuant to the National Historic Preservation Act of 1966, as amended, the Archaeological and Historic Preservation Act of 1974, and Executive Order 11593. The consultant conducting the Phase I Survey shall meet the professional qualification standards of the Department of the Interior (48 Fed. Reg. 44,738 - 44,739). The archaeological fieldwork component of the Phase I Survey shall conform to the qualifications specified by the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 Fed. Reg. 44,716 - 44,742 (1983)), and by the Virginia Department of Historic Resources in its publication entitled *Guidelines For Conducting Cultural Resource Survey In Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44742, September 29, 1983), 1999, rev. 2000. In the event that any human remains are encountered in the course of conducting any Phase I Survey, no land disturbance shall proceed prior to delivery of evidence to the County that all applicable regulations regarding the disturbance or removal of such remains have been complied with, or that avoidance can be achieved. The Phase I Survey consultant shall follow federal and state guidelines and legislation in conducting the Phase I Survey in making recommendations regarding any Potential Resource Site's eligibility for nomination to the National Register of Historic Places (NRHP). All artifacts generated in the course of survey and associated records will be curated according to the requirements specified in *Curation of Federally Owned and Administered Archaeological Collections* (36 C.F.R. § 79) and *Virginia Department of Historic Resources State Curation Standards*.

10. Erosion and Sediment Control and Stormwater Quality Management.

A. Erosion and Sediment Control. The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate.)

B. Best Management Practices; Stormwater Quality Management. The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide Best Management Practices and other measures for water quality to achieve a pollutant removal rate 20% better than would otherwise be required by the Water Protection Ordinance (Albemarle County Code § 17-100 *et seq.*), up to a maximum of eighty percent (80%) removal rate for the entire Property.

C. Revegetation. Within nine (9) months after the start of grading under any erosion and sediment control permit, permanent vegetation shall be installed on all denuded areas, except for areas the County's Program Authority determines are otherwise permanently stabilized or are

under construction with an approved building permit. A three (3) month extension for installation of permanent vegetation may be granted by the Program Authority due to special circumstances including but not limited to weather conditions.

D. Rainfall Harvesting, Including Extensive Roof Design and Other Measures. Owner shall incorporate rainfall harvesting measures ("Rainfall Harvesting") into the overall Property. Rainfall Harvesting measures may include but need not be limited to impervious surface alternatives for parking and drive isles, cisterns, and extensive, ("green") roof technologies. Not less than twenty-five percent (25%) of the roof area of the buildings within the North and South Sectors shall employ green, or extensive roof design. Rainfall Harvesting shall be submitted as part of, and must be compatible with the Best Management Practices reviewed and approved by the County's Program Authority in satisfying Proffer 10.B above. Owner's proposed use of Rainfall Harvesting shall be submitted as part of the first preliminary site plan for the Property. Final Rainfall Harvesting design and engineering documentation shall be submitted with the first final site plan and building plans for the Property.

11. Architectural Guidelines.

A. Portions of the Property Subject to ARB Review. The Property shall be designed and constructed in conformance with the Albemarle County Architectural Review Board Guidelines, a copy of which is attached as **Exhibit C**. Traditional "back of building" materials shall not be used for the home improvement and or major retail spaces contemplated within the Property. Translucent roofing materials shall not be visible from the Entrance Corridor. Roofs or parapet walls shall be used to eliminate visibility of rooftop equipment from the Entrance Corridor. Trees shall be provided along both sides of Bent Creek Parkway at forty feet (40') on center, a minimum 2.5" dbh at planting. (Visibility shall be determined by the Architectural Review Board. Final site plan approval is subject to ARB approval of the architectural and site design issues that are the subject of this Proffer 11.A.

B. Portions of the Property Not Subject to ARB Review. To the extent this Property, or any portion thereof, is not subject to review by the County's Architectural Review Board: (i) the Property nevertheless shall be designed and constructed in conformance with the Albemarle County Architectural Review Board Guidelines, a copy of which is attached as **Exhibit C**, as determined by the County's Director of Community Development; (ii) traditional "back of building" materials shall not be used for the home improvement and or major retail spaces contemplated within the Property; (iii) translucent roofing materials shall not be visible from within the project area (visibility shall be determined by the County's Director of Community Development); (iv) roofs or parapet walls shall be used to eliminate visibility of rooftop equipment from within the project area; and (v) the architectural elements are consistent with the goals of the Comprehensive Plan for this area.

12. Transit Funding.

A. The Owner shall contribute cash to the County or to its designee (which may include a regional transit authority) to be used for capital and/or operating expenses related to the extension of public transit service to the Property. Such cash contribution may also be used towards the formation, capitalization and operation of a regional transit authority whose service area includes the Property. The cash contribution shall be made to the County or its designee within six (6) months after the provision of public transit service the Property. Funding for the transit service described in this Proffer 12 shall be provided through assessments administered by the Owner and shall be Twenty Cents (\$0.20) per square foot of net rentable commercial space (excluding however rentable space attributed to retail warehouse or garden area space) per year (the "Transit Assessment"), in 2009, adjusted annually to the nearest one one-hundredth of a cent by the over-the-year percent increase or decrease in the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics.

B. At any time, at the County's option, all Transit Assessments, along with any unused Transit Assessment funds accumulated by the Owner, shall be directed to a regional transit authority or other governmental authority operating public transit service with service to the Property. In such event, and for so long as public transit service is provided to the Property, the Owner shall semi-annually pay over the aggregate amount of the Transit Assessment assessed to the operator of such public transit service for use toward capital and/or operating expenses of such transit system, but not for maintenance expenses except as permitted by Va. Code § 15.2-2303A, as amended. Within sixty (60) days after the close of the second and fourth quarters of each calendar year throughout the period the Owner collects the Transit Assessment, the Owner shall provide to the County Director of Community Development a written report listing the current Transit Assessment amount, amount of commercial square footage assessed, and the amount of the Transit Assessment actually collected.

C. The terms of this Proffer 12 shall be incorporated into the governing documents or leases of the Property, which documents shall further authorize the County Director of Community Development to file, perfect and enforce the lien provided in Va. Code § 55-516 against the owner of any lot or parcel within the Property who fails to pay the Transit Assessment. The remedy provided in this Proffer 12 shall be in addition to, and not in lieu of, the County's rights and remedies at law or in equity for noncompliance with the terms of these Proffers.

13. **Phasing of Development.** Except for the Outparcel labeled "Future Development Area 1" on the Application Plan, the Property shall be developed under a single, final site plan.

Submitted as of the 12th day March, 2008, by:

NEW ERA PROPERTIES, LLC
a Virginia limited liability company
By: River Bend Management, Inc.
Its Manager
By: (Signed) Coran Capshaw
Its: President
Date: March 12, 2008

AVON HOLDINGS, LLC
a Virginia limited liability company
By: River Bend Management, Inc.
Its Manager
By: (Signed) Coran Capshaw
Its: President
Date: March 12, 2008

Mr. Dorrier then offered **motion** to approve SP-2007-004. The motion was **seconded** by Mr. Slutzky. Roll was called, and the motion carried by the following recorded vote:

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

Agenda Item No. 16. **Public Hearing:** ZMA 2007-021, Cavalier Mini Storage (Sign #102).

Proposal: Rezone 2.169 acres from RA Rural Areas zoning district which allows agricultural, forestal and fishery uses; residential density (0.5 unit/acre) to HC Highway Commercial zoning district which allows commercial and service uses; and residential use by special use permit (15 units/ acre).

Proffers: Yes.

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

Entrance Corridor: Yes.

Location: North side of Route 250 East and approximately 1/10 mile east of I-64.

Tax Map/Parcel: 78/36.

Magisterial District: Scottsville.

(Notice of this public hearing was advertised in the Daily Progress on February 25 and March 3, 2008.)

Mr. Boyd said the applicant has requested that this public hearing be deferred until April 9, 2008.

Mr. Davis said if any member of the public is here for the hearing, the Board typically hears those comments.

Mr. Boyd said he would open the public hearing at this time. There was no one present to speak at this time.

Motion was immediately offered by Mr. Rooker to defer this public hearing at the request of the applicant. The motion was **seconded** by Mr. Slutzky. Roll was called, and the motion carried by the following recorded vote:

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

(Note: Ms. Thomas left the meeting at 8:33 p.m.)

Agenda Item No. 17. From the Board: Matters Not Listed on the Agenda.

There were no matters brought up at this time.

Agenda Item No. 18. Adjourn to March 17, 2008, 1:00 p.m., Room 241.

At 8:34 p.m., with no further business to come before the Board, **motion** was offered by Mr. Rooker to adjourn this meeting until 1:00 p.m. on March 17, 2008, in Room 241. The motion was **seconded** by Ms. Mallek. Roll was called, and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Slutzky, Mr. Boyd and Mr. Dorrier.

NAYS: None.

ABSENT: Ms. Thomas.

Chairman

Approved by the Board of County Supervisors

Date: 10/08/2008

Initials: EWJ
