

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on May 7, 2008, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann H. 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, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

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

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

Agenda Item No. 4. Recognitions.

Item 4a. Proclamation recognizing *May 18-24, 2008 as Emergency Medical Services Week*.

Mr. Boyd read and presented the following Proclamation to Mr. James Barber and Chief Dan Eggleston, of Fire and Rescue:

EMERGENCY MEDICAL SERVICES WEEK

WHEREAS, *emergency medical services is a vital public service; and*

WHEREAS, *the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and*

WHEREAS, *access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and*

WHEREAS, *the emergency medical services system consists of communications officers, emergency medical technicians, firefighters, law enforcement officers, educators, administrators, emergency physicians and nurses, and others; and*

WHEREAS, *the members of emergency medical services teams, career and volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and*

WHEREAS, *it is appropriate to recognize the value and the accomplishments of EMS providers by designating Emergency Medical Services Week; now*

NOW THEREFORE, BE IT RESOLVED that I, Kenneth C. Boyd, Chairman on behalf of the Albemarle County Board of Supervisors, do hereby proclaim

May 18-24, 2008

as

Emergency Medical Services Week

with the theme



“EMS: Your Life is Our Mission”

in Albemarle County, Virginia, and encourage the community to observe this week with appropriate programs, ceremonies, and activities.

On behalf of Emergency Services personnel and volunteers, Chief Eggleston thanked the Board for their recognition and continued support. EMS is a vital part of the public safety system and providing a high quality of life. They pledge to continue to support the County's system, and focus on servicing the citizens.

Item 4b. Proclamation recognizing *May 11-17, 2008 as National Police Memorial Week.*

Mr. Boyd explained that the following proclamation would be presented at the Police Memorial Ceremony next week:

NATIONAL POLICE MEMORIAL WEEK

WHEREAS, *May 15 of each year was proclaimed "Police Officer's Memorial Day" by President John F. Kennedy on October 1, 1962, in honor of those peace officers who, through their courageous deeds, have lost their lives or become disabled in the performance of duty; and*

WHEREAS, *the calendar week in which it falls was proclaimed "Police Week" in recognition of the service given by the men and women who night and day protect the citizens through enforcement of our laws; and*

WHEREAS, *these days of increasing fear, rising crime, reckless acts of violence, recall to our minds President Kennedy's words of praise for these officers as "truly men and women of courage, judgment and dedication;" and*

WHEREAS, *we share his sentiments and agree that it is time to remind the public of the day-by-day heroism of our officers, both those on active duty and those who have given their lives in the line of duty;*

NOW, THEREFORE, *I, Kenneth C. Boyd, Chairman on behalf of the Albemarle Board of County Supervisors, do hereby declare and set aside the week of*

May 11 through May 17, 2008, as

NATIONAL POLICE MEMORIAL WEEK

and call upon all citizens to recognize the significant efforts and accomplishments of these officers.

Item 4c. Proclamation recognizing *May 2008 as Historic Preservation Month.*

Mr. Boyd read and presented Proclamation to Mr. Steven Meeks, member of the Historic Preservation Committee:

HISTORIC PRESERVATION MONTH

WHEREAS, *historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and*

WHEREAS, *historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and*

WHEREAS, *it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and*

WHEREAS, *"This Place Matters" is the theme for National Preservation Month 2008, co-sponsored by the County of Albemarle, the Commonwealth of Virginia, and the National Trust for Historic Preservation;*

NOW, THEREFORE, *We, the Albemarle County Board of Supervisors, do proclaim*

May 2008 as Historic Preservation Month,

and call upon the people of the County of Albemarle to join their fellow citizens across the United States in recognizing and participating in this special observance.

On behalf of the Historic Preservation Committee, Mr. Meeks thanked the Board for this recognition and the importance of preservation in the community. He noted that Albemarle County has a good historic preservation plan and an extremely talented committee. Based upon past surveys and community responses to some of the educational programs they have put on, it is clear that the Albemarle community is interested in historic preservation. The County is fortunate to have several national historic districts including the largest rural historic district nationally east of the Mississippi, as well as numerous individual historic landmarks. Mr. Meeks emphasized that the County could do much more to support historic preservation and the resources that contribute so much to the significance of the character and quality of Albemarle County. He mentioned that the County has been steadily losing country stores, schools, black churches, agricultural buildings such as barns, and archeological sites. Mr. Meeks said that as development continues to put pressure on the historic resources, it is important to realize that the greenest building is the one already standing. He added that the Committee has been discussing these and other issues, and plans to report back to the Board with recommendations as to how the County can be more proactive in support of historic preservation.

Ms. Thomas asked if the Committee should be asked to look at the old County Jail building.

Mr. Tucker responded that the County is concerned now primarily with how to maintain it in its current state and ensure that the improvements are adequate. He said that it would be helpful to have the Committee's guidance and to have the City involved as well because of the City's Board of Architectural Review (BAR) review and requirements.

Mr. Meeks added that the Albemarle Historical Society would be very interested in discussing a possible use for that building with the County.

Item 4d. Dan Eggleston – Harvard University's Senior Executives in State and Local Government Program.

Mr. Boyd said, on behalf of the Board, he was pleased to recognize Fire Rescue Chief Dan Eggleston for his recent selection as one of eight senior fire officials named by The U.S. Fire Administration to attend Harvard University's *Senior Executives in State and Local Government Program* conducted by the John F. Kennedy School of Government. The 19-day program to be held this summer will bring together state and local government officials from across the United States to focus on the complex roles and responsibilities of senior elected, appointed, and career officials.

In the words of United States Fire Administrator Greg Cade – "This particular Harvard is considered to be one of the best in the nation for bringing state and local leadership together in order to examine and discuss critical challenges facing state and local governments," and it is certainly a great compliment to Chief Eggleston's professionalism and expertise to be selected as the only chief in Virginia to be included in this very qualified and esteemed group.

Chief Eggleston has been Albemarle County's Director of Fire Rescue since 2002, and previously was awarded the professional designation of "Chief Fire Officer (CFO)" by the Commission on Chief Fire Officer Designation, becoming one of only 459 CFO's worldwide in 2005. He is one of only 23 CFO's in the Commonwealth of Virginia. The Chief Fire Office Designation program is a voluntary program designed to recognize individuals who demonstrate their excellence in seven measured components including: Experience, Education, Professional Development, Professional Contributions, Association Membership, Community Involvement, and Technical Competencies.

Mr. Boyd said he speaks for the Board when he expresses great appreciation for Chief Eggleston's strong leadership and visionary thinking which has made a significant difference in meeting the County's current and future emergency service needs. The County looks forward to this opportunity for Chief Eggleston to share his experiences and expertise with other quality agencies from across the country and to bring back to Albemarle a better understanding of those critical challenges facing local governments nationwide.

Chief Eggleston thanked the Board and recognized Mr. Tucker, Mr. Elliott, and the entire local government staff for their support, inspiration, and commitment to public service. He is honored to receive a fellowship for the Kennedy School at Harvard University, and is equally honored to represent the County. He, along with his entire family, has a long history of public service and he pledges to work hard to ensure that they continue to provide high quality service for fire and rescue to the County citizens. He promises to provide the County a good return on investment for this program.

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

Ms. Thomas said the Board received information from VML regarding changes in legislation that will go into effect July 1st. It would be helpful to know which of the legislative changes might impact the County especially changes regarding timeframes for County staff to take action.

Mr. Davis said that a summary is being prepared to go to the Board next month.

Ms. Thomas said last night (May 6th) at City Hall she participated on the panel that discussed the water supply plan. It was a pretty supportive meeting with a lot of good information. She commented that dredging every bit out of the South Fork Rivanna Reservoir that is there today and that accumulates in the next 50 years, it would mean the Ragged Mountain Dam would only need to be built up 30 feet instead of 45 feet. She said that the cost savings would be about \$18 million, and if dredging is going to be financially a good idea it would need to meet that benchmark over the next 50 years. Ms. Thomas noted that if dredging is happening for other reasons then the community needs to talk about those. She thinks that the Reservoir needs to be well taken care of as a valued body of water. She thinks that at some point it would be a good idea to discuss how the County would go about getting community consensus on the water supply plan. She doesn't view dredging as part of the water supply plan but does see it as part of keeping the whole water system healthy.

Mr. Boyd commented that he and Ms. Mallek attended the panel discussion that was held on Monday night.

Mr. Rooker mentioned that the dredging issue was also discussed at the PACC meeting. At the same meeting Mr. Butch Davies, of the Commonwealth Transportation Board, discussed massive

cutbacks in funding for transportation unless the legislature turns that around in this session. Mr. Rooker said that Mr. Davies has indicated that an inland port is planned for Roanoke, and the Hampton Roads port would be doubled in size – with a massive increase in freight coming into the state – and a lot of that rail traffic would come north through Charlottesville/Albemarle. Mr. Rooker stated that it would be a good idea to have that as an agenda item, and suggested that the Board consider who would participate from the outside at that meeting.

Ms. Thomas stated that she has discussed with a constituent the possibilities of rail between Crozet and Charlottesville, which brought to light the seriousness of some people about the desire for passenger rail as well as freight. She said that the entire Board would benefit from discussing this in a work session, instead of just individual members.

Ms. Mallek agreed.

Mr. Rooker agreed and emphasized the need to have outside experts at a meeting.

Mr. Slutzky indicated that the MPO had a presentation from Mr. Stinnett of AMTRAK, and it looks encouraging that there will be a doubling of commuter service between Charlottesville and D.C., with the train starting in Lynchburg.

Mr. Boyd said that he does not like the word “commuter” tied to the effort because it implies that Charlottesville could become a bedroom community.

Mr. Slutzky responded that a lot of people already make that drive regularly. It is potentially good to get those folks off the roads.

Mr. Rooker said there are a lot of people who have business in Washington who would benefit from the rail service. He added that the train would also continue to New York.

Mr. Rooker mentioned the speaker who has addressed the Board several times on the Northwestern Virginia Health Systems Agency, which experienced significant funding cuts and may not be able to continue. He said that he would like for that funding item to be reconsidered.

Mr. Boyd agreed.

Mr. Rooker also stated that in the December VML update, there was mention of a 2007 Mandates Assessment Catalog, which is a report prepared by the Commission on Local Government and examines all state and federal mandates on local governments. He would like to have a copy kept at the County building.

Mr. Rooker also mentioned a letter from David Bailey & Associates regarding the “Adopt a School” program, which provides materials on civics and government to the high schools. The materials includes *Virginia Capitol Connections Quarterly Magazine*, *Virginia Capitol Connections Redbook* and the *Elect No Strangers Bluebook*. He noted the cost as being \$75 per high school, but that is cut in one-half with four schools or more.

Mr. Boyd said that it seems to be an item for the School Board to consider.

Mr. Rooker responded that he just wants to ensure that it is pursued.

Ms. Mallek reported that in a VaCo class over the weekend, she learned that beginning in July local governments will have much more influence in setting speed limits. She plans to mention to Mr. Sumpter, during transportation matters, lengthening the 35 mph school zone in Earlysville. The speed zone is so short, it is not feasible.

Ms. Mallek asked about the status of the use of chemicals in the schools and on playing fields.

Mr. Slutzky said that a report would be forthcoming next month.

Ms. Mallek mentioned that a citizen suggested having dog license renewals come in the mail with vehicle decals.

Mr. Boyd reported that he attended the 5th District VaCo Legislative Agenda meeting last week, and he heard similar comments from almost all localities regarding transportation matters, CSA and other mandates.

Ms. Mallek mentioned the request for a resolution related to Piedmont Rail (Item 7.9 on the consent agenda). She had asked the Clerk to distribute to Board members an edited version of the resolution which includes a paragraph added at the Planning District Commission meeting last week.

Mr. Boyd said he read the proposed changes, and had no problem with them. They can be included with approval of the consent agenda.

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

Mr. Fran Lawrence, with the Lewis and Clark Exploratory Center, addressed the Board, presenting members with mementos from the Center. Mr. Lawrence said that they are functioning well in their temporary center at Darden Towe Park, open from 10:00 a.m. to 4:00 p.m. on Saturday and 12:00 noon to 4:00 p.m. on Sunday with 12 interactive exhibits geared to middle school kids. He said that Crutchfield donated a 40-inch flat screen TV and PowerPoint projector for videos related to the center's projects. Mr. Lawrence added that the center now has the only historically accurate, river-ready Lewis & Clark keel boat replica in the world. The Exploratory Center was awarded the 2007 award from the Thomas Jefferson Chapter of the Association for the Preservation of Virginia Antiquities for the keel boat project and the center. He also noted that VDOT has allocated \$450,000 in enhancement funds to the center. Mr. Lawrence and thanked the County for providing office space as well as the Darden Towe facility.

Mr. Paul Accad, a 13 year resident of the County, said he is present to discuss the Land Use Tax Program. In his opinion the people who benefit from this program are saying their land does not cost the County anything in terms of services. He noted that the revenue-sharing agreement with the City includes the fair market value of all land in land use – approximately \$2,645,000,000, with the City due \$2,645,000. Mr. Accad emphasized that the County cannot afford the current land use tax deferral given this agreement. In 2001 there was an executive summary on the program and May 14th minutes that reflected a conversation with Melvin Breeden. Mr. Accad said that a Supervisor asked Mr. Breeden if the Land Use Taxation program could be used to increase agricultural activity; Mr. Breeden responded that “the program was tried in the 1970s as a farmer’s tax break but it never passed until it became more of an environmental issue”. Mr. Breeden said “the actual number of legitimate farmers in Albemarle County is very small.” Mr. Accad stressed that taxpayers need assurance that the program is effective and cost-efficient. He suggested that the Board revalidate the program and update the 2001 Executive Summary. He thinks the program costs \$10.0 million more annually than it did in 2001. Lastly, the Board needs to simultaneously form a committee to review and make recommendations on the program – as called for in page 47 of the Rural Area Plan. There are many options, i.e., agricultural/forestral, ACE, conservation easements.

Mr. Steven Meeks said nearly 25 years ago the Albemarle-Charlottesville Historical Society appeared before the Board and Mr. Tucker advocating the preservation of Hatton Ferry, the County’s first time in the preservation arena. He said that the Society has been charged with the promotion of the Ferry through the media and tourism outlets. For the first time, they have redone the brochure on the Ferry, of which he provided a copy to Board members.

With regard to the Old County Jail, Mr. Meeks said he would love to work with the County on another preservation issue. He added that the Ferry is expected to open this weekend after VDOT completes their inspections.

Mr. David Blount, with the Thomas Jefferson Planning District Commission, reminded attendees that the TJPDC would be hosting the UnJAM (United Jefferson Area Mobility) 2035 Regional Summit on Saturday, May 10th, from 8:30 a.m. to 12:00 noon at Monticello High School, which provides an opportunity for residents to come together and talk about transportation priorities. He said that Dr. Reed Ewing of the University of Maryland National Center for Smart Growth would offer the keynote address. He then mentioned the website www.unjam.org, which has a web-enabled tool that allows visitors to participate in the process by filling out a survey, viewing survey statistics, providing comments, etc.

Mr. Slutzky asked if two or more Board members attend this event, do they need to adjourn to that date.

Mr. Davis responded “no”, as long as three or more of them are not sitting at the same table discussing the issues.

Mr. Jeff Werner, of the Piedmont Environmental Council, said that the PEC is a strong supporter of rail but has long argued to the State that commuter rail and rail must address where the population of the state lives and where it is traveling – and that is the I-95 corridor. PEC believes they need to fix the problems first. It is troubling to see a request that this be a top priority in lieu of I-95. He thinks on a state-wide level, that is an irresponsible statement. It also becomes a land use issue that the County needs to plan for. If the Board is going to adopt the proposed resolution, he asked that they clarify some of the factual statements.

Mr. Slutzky said that the State had two options – the I-95 corridor or the Lynchburg to D.C. corridor, but the cost to do the I-95 project was prohibitive because of infrastructure requirements for the tracks. The other route is far more affordable and thus more realistic for completion.

Mr. Rooker added that surprisingly the projected number of riders for the I-95 route wasn’t significantly greater than the Lynchburg-D.C. route.

Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Slutzky, **seconded** by Mr. Rooker, to approve Items Item 7.1 (as read) through Item 7.10, with Item 7.9, as amended, and to accept the remaining items for information. (Discussions on individual items are included with that agenda item.) Roll was called and the motion carried by the following recorded vote:

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

Item No. 7.1. Approval of Minutes: September 12 and November 7, 2007; January 9, 2008.

Mr. Slutzky had read his portion of the minutes of September 12, 2007, pages 1–40 (end at Item #13), and found them to be in order.

Mr. Rooker had read his portion of the minutes of September 12, 2007, pages 40 (begin with Item #13) – end, and found them to be in order, with the exception of some typographical errors.

Ms. Thomas had read her portion of the minutes of November 7, 2007, pages 1–25, and found them to be in order.

Mr. Boyd had read his portion of the minutes of November 7, 2007, pages 26 – end, and found them to be in order.

Ms. Mallek had not read her portion of the minutes of January 9, 2008, pages 1–40 (end at Item #17). (These minutes will be moved to the next agenda.)

Mr. Dorrier had not read his portion of the minutes of January 9, 2008, pages 40 (begin with Item #17) – end. (These minutes will be moved to next agenda.)

By the above-recorded vote, the Board approved the minutes as read.

Item No. 7.2. McIntire Road Skatepark Renovation.

The executive summary states that McIntire Road Skatepark was originally constructed in 2000 with City, County and private funding. The County contributes annually to the park's operating expenses based on County usage. In FY 2006-2007 skatepark usage totaled 9,184 over the 10 month operating season. County residents accounted for 45.08% of the total park usage, City residents accounted for 26.25%, and residents from other localities accounted for 28.67%. In recent months the City removed most of the original wooden ramps and structures due to safety concerns resulting from heavy use and weather exposure. In an effort to restore the park as quickly as possible, the City is purchasing replacement apparatus and ramps. The City has requested that the County contribute 50% of the cost of the replacement equipment.

The skatepark is well used by County residents. Staff believes that the County's partnership with the City in maintaining the skatepark should be continued, and that contributing 50% of the costs to replace park equipment is reasonable. The replacement equipment combines a high-strength galvanized structure with a durable weather resistant high performance surface. The total cost of the replacement equipment is \$187,000 with the County share being \$93,500. The recommended funding strategy is to reprioritize and reduce existing park enhancement projects for FY08 and FY09 to cover the County's 50% share of the replacement equipment costs. The planned projects to be impacted include several park restroom renovations that would allow year round use of those facilities. It should be noted that those projects were already being reconsidered due to anticipated increased operating costs associated with year round restroom facilities. The McIntire Skatepark will eventually need to be relocated due to the planned 250 Bypass interchange project. The new equipment is capable of being moved and will continue to be used when the skatepark is relocated. City and County staff are scheduled to begin preliminary discussions to identify relocation options during the summer of 2008 in anticipation of the interchange project being approved in the fall of 2008. Once the project is approved, the City and County will involve the community in discussions regarding the relocation and design of the skatepark.

The total cost of replacing equipment is \$187,000. The County's 50% share is \$93,500, which would be funded from existing appropriated and scheduled CIP funding.

Staff recommends approval of the 50% cost share of the McIntire Skatepark renovation in the amount of \$93,500 as outlined above. No additional appropriation is necessary.

(Discussion: Mr. Boyd expressed concern about the City's handling of the County's share of the new McIntire Skate Park equipment. Too often the City assumes the County is going to pay for things.

Mr. Tucker explained that there are now more County users of the skatepark, but the process from the City has essentially included sending a bill.

Mr. Pat Mullaney, Director of Parks and Recreation, said this also came to them a couple of months ago as a little surprise. They had not known about it and therefore could not budget for it. He indicated that the County scrambled to find a way to participate, but agreed that the process hasn't been particularly inclusive.

Mr. Boyd asked if this decision was made by a committee or solely by the City.

Mr. Mullaney said this particular decision was made by the City, but he probably would have made the same decision the City did had he been in that position. They just were not aware of the degree of equipment deterioration.

Mr. Slutzky said he is not sure it is an entirely unreasonable action by the City.

Mr. Boyd expressed concern that there isn't a committee – such as the one for Darden Towe Park – that convenes to discuss specific matters. His concern is that it not be a unilateral decision made by the City. When they recognized there was a problem, they should have discussed it with Mr. Mullaney right then.

Mr. Mullaney said that it would have been helpful to have a few more months notice when they saw the deterioration occurring, but those things happen. He is glad they have found a way to address the issue.

Ms. Mallek added that being faced with possible injuries, the park didn't have much choice.

Mr. Rooker agreed with Mr. Boyd, stating that wanting some input doesn't negate the County's support of the park but simply fosters better participation in funding decisions such as buying equipment. He emphasized that it is important for the County to have equal say in arrangements where expenditures are shared. His issue is not so much with the timing.

Mr. Mullaney said he was also surprised when he first got the notice. Replacement equipment had already been ordered before he found out about this. The County does not have to pay their share if it didn't want to. Parks did have to find the funds to participate without coming to the Board for additional funds.

Mr. Dorrier said there should be some kind of standard policy in place so this does not happen again.

Mr. Rooker said the policy issue should be when the County participates with the City in ventures such as this, it should make certain that the County has an equal say in the decision to make the expenditure that it has agreed to share in.

Mr. Tucker pointed out that there was no structure set up in which Mr. Mullaney would weigh in on what improvements needed to be made.

Mr. Mullaney responded that the City and County have been discussing the need to establish more formal partnerships, with written documentation on projects. He believes that we are one community and we need to work more together.

Mr. Boyd raised the issue about revenue-sharing money going to the City, supposedly to cover expenses for County residents using facilities in the City.

Mr. Slutzky pointed out that if there were no revenue-sharing and the City had annexed the growth area, there would be no tax base so the cost burden on County citizens would be dramatically higher than the 71 cent rate.

Mr. Rooker mentioned that the State is considering lifting the moratorium on annexation after two years.)

By the above-recorded vote, the Board approved the 50% cost share of the McIntire Skatepark renovation in the amount of \$93,500 as outlined above.

Item No. 7.3. Acquisition of Conservation Easements (ACE) Ranking Order for FY 2007-08 Applicant Class.

The executive summary states that pursuant to sections A.1-110(G) and A.1-110(H) of the ACE Ordinance, the Board of Supervisors reviews the list of ranked parcels submitted by the ACE Committee and identifies on which parcels it desires conservation easements. Each conservation easement identified by the Board of Supervisors for purchase is appraised by an independent appraiser chosen by the County.

The Acquisition of Conservation Easements (ACE) Program received fourteen (14) applications for the October 31, 2007, Round 8 deadline (FY 2007-08). Four of these applications (Rives, Barksdale, Rushia, and Jensen/Barnett) were re-enrolled properties from last year's application cycle. Given available funding, the ACE Program was unable to acquire easements on these properties last year. Since the recent application deadline, staff has evaluated each of the Round 8 properties according to the ranking evaluation criteria identified in the ACE Ordinance. These objective criteria include: open space resources; threat of conversion to developed use; natural, scenic and cultural resources; and County fund leveraging from outside sources. Based on the results of the evaluation, staff has determined eligibility and a "final" ranking order for applicants from Round 8 of the ACE Program (Attachment A). These results were presented to the ACE Committee at its meeting on March 31, 2008.

The evaluation of the fourteen applications from Round 8 indicates that nine (9) properties scored high enough to be eligible for ACE funding. With \$1,627,000 of appropriated funding available for this class, the ACE Committee believes the ACE program can acquire the top 4 properties. Based on the final ranking order and eligibility status of the Round 8 applicants, the ACE Committee recommends that the Board of Supervisors approve appraisals for the seven (7) highest ranked properties: Anderson, Garnett, Hudson (Michael), Riddervold, Dutnell, Hudson (Fred) and Thurman. Although the total ACE budget for FY 2007-08 is insufficient for purchasing easements on all seven properties, the ACE Committee believes it is prudent to obtain appraisals on more properties than funding will allow, in the event that additional funding becomes available or some higher ranking applicants withdraw their application from the Program.

The acquisition of easements on the top seven ranked properties would eliminate 73 development rights and result in the protection of the following resources:

- 1,151.23 acres of farm and forestland, of which 689 acres are "prime" farm and forestland
- 11,553 feet of state road frontage
- 21,159 feet of protected stream and river frontage (with 1,333 feet on the Moorman's River – a state scenic river)
- 16,623 feet of common boundary with other protected lands
- Four of the seven properties have significant tourism value
- Four of the seven properties are productive, working farms

There is no additional request for funding related to this action. The future funding for the purchase of these potential conservation easements would come from both the CIP-Planning-Conservation budget (line-item #9010-81010-580409) and the CIP-Tourism-Conservation budget (line-item #9010-72030-580416), a budget previously approved by the Board to fund ACE properties with "tourism value." Staff will continue to pursue outside funding sources to supplement the ACE Program funding. Potential sources of outside funding include the Office of Farmland Preservation, the Preservation Trust Fund, and the Virginia Land Conservation Foundation.

Staff recommends that the Board of Supervisors, as recommended by the ACE Committee:

- 1) Approve the final ranking order for Round 8 (FY 2007-08) as shown on Attachment A and identify the Anderson, Garnett, Hudson (Michael), Riddervold, Dutnell, Hudson (Fred) and Thurman properties as those on which it seeks to purchase conservation easements; and
- 2) Authorize appraisals for the Anderson, Garnett, Hudson (Michael), Riddervold, Dutnell, Hudson (Fred) and Thurman properties.

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Attachment A

Ranking Order of ACE Applicants from Round 8 (FY 2007-08)
 (20 points are needed to qualify for ACE Funding)

Applicant	Tax Map	Acres	Points	Tourism	Eligibility
Anderson, Margaret (Carters Bridge)	TM 101, Parcel 60	247.800 acres	53.89 points	yes	eligible
Garnett, Mercer (Earlsville)	TM 44, Parcel 4J	21.500 acres	31.59 points	no	eligible
	TM 44, Parcel 4K	50.000 acres			
	Total	71.500 acres			
Hudson, Michael (North Garden)	TM 100, Parcel 1	217.140 acres	30.91 points	yes	eligible
Riddervold, Leif (Covesville)	TM 118, Parcel 1	270.487 acres	30.09 points	yes	eligible
Dutnell, Peter (North Garden)	TM 99, Parcel 36C	89.883 acres	29.38 points	yes	eligible
	TM 99, Parcel 38	62.998 acres			
	Total	152.881 acres			
Hudson, Fred (Free Union)	TM 29, Parcel 61	83.022 acres	27.76 points	no	eligible
Thurman, Thelma (Milton)	TM 94, Parcel 20A	108.400 acres	25.36 points	no	eligible
Rives, Barclay (Cismont)	TM 65, Parcel 93A1	3.811 acres	24.58 points	yes	eligible
	TM 65, Parcel 94	3.000 acres			
	TM 65, Parcel 94 "A"	1.250 acres			
	TM 65, Parcel 94 "B"	15.950 acres			
	TM 65, Parcel 95	4.872 acres			
	TM 65, Parcel 95A	3.978 acres			
	TM 65, Parcel 121	38.840 acres			
Total	71.701 acres				
Rushia, Ed & Chris (Crozet)	TM 39, Parcel 27	86.700 acres	21.92 points	yes	eligible

Roberston, Anna Lee (Milton)	TM 94, Parcel 20	106.400 acres	19.67 points	no	ineligible
Barksdale, John (North Garden)	TM 100, Parcel 34	153.010 acres	18.89 points	no	ineligible
Fallon, Marcia (Schuyler)	TM 119, Parcel 5	78.957 acres	17.30 points	yes	ineligible
	TM 119, Parcel 5A	5.992 acres			
	TM 119, Parcel 6A	15.500 acres			
	Total	100.449 acres			
Ford, Barbara (Brown's Cove)	TM 6, Parcel 21	40.000 acres ineligible	15.68 points	yes	
Cornwell, Oden (Howardsville)	TM 134, Parcel 7A	80.000 acres ineligible	12.72 points	no	
Number of New Applications:		10 Applications	1,230.279 acres		
Number of Re-enrolled Applications:		4 Applications	498.171 acres		
Number of Eligible Applications:		9 Applications	1,309.631 acres		

Note: Tourism value is determined by the presence of specific elements from the ranking evaluation criteria making certain properties eligible for funding from the transient lodging tax. The specific criteria include the following: contains historic resources or lies in a historic district; lies in the primary Monticello viewshed; adjoins a Virginia scenic highway, byway or entrance corridor; lies on a state scenic river; provides mountaintop protection

By the above-recorded vote, the Board approved the final ranking order for Round 8 (FY 2007-08) as shown on Attachment A and identified the Anderson, Garnett, Hudson (Michael), Riddervold, Dutnell, Hudson (Fred) and Thurman properties as those on which it seeks to purchase conservation easements; and authorized appraisals for the Anderson, Garnett, Hudson (Michael), Riddervold, Dutnell, Hudson (Fred) and Thurman properties.

Item No. 7.4. Requested FY 2008 Appropriations.

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

The total of this requested FY 2008 appropriation is \$254,640.51. A budget amendment public hearing is not required because the cumulative appropriations will not exceed one percent of the currently adopted budget.

This request involves the approval of six (6) new FY 2008 appropriations as follows:

- One (1) appropriation (#2008060) for five Police Department Grants totaling \$64,986.81;
- One (1) appropriation (#2008061) providing \$3,950.00 for training associated with stream buffer mitigation;
- One (1) appropriation (#2008062) totaling \$107,802.00 for various School donations, programs, and grants;
- One (1) appropriation (#2008064) totaling \$17,537.00 for Emergency Communication Center projects;
- One (1) appropriation (#2008065) providing \$59,764.70 in funding to the Registrar's office from the General Fund Balance for costs associated with the 2008 Presidential Primary elections; and
- One (1) appropriation (#2008066) in the amount of \$600.00 to replace the Sheriff's Department game enforcement decoy which was destroyed.

Staff recommends the approval of the budget amendment in the amount of \$254,640.51 and the approval of the FY 2008 Appropriations #2008060, #2008061, #2008062, #2008064, #2008065, and #2008066.

Attachment A

Appropriation #2008060 \$ 64,986.81

Revenue Source:	Federal Grant Revenue	\$62,435.11
	Grant Fund Balance	944.70
	Transfer from Police Operating	1,607.00

In FY06/07 the Department of Criminal Justice Services awarded the Police Department a \$6,717.00 grant to purchase a scanner, laminator, a video time lapse viewer, two video monitors, and a training session to

assist with developing criminal investigations and eventual prosecutions. At the end of FY06/07 the grant had a fund balance of \$944.70 which can be reappropriated for use in FY07/08. We also anticipate receiving the remaining \$78.11 in federal grant revenue during FY07/08.

The Department of Motor Vehicles has awarded the Police Department two grants (\$2,000.00 and \$1,800.00) which will assist in overtime expenses associated with national "Click It or Ticket" campaign. No local match is required.

The U.S. Department of Justice has awarded the Albemarle County Police Department a grant in the amount of \$23,557.00. The purpose of this grant is to assist in funding overtime hours by current officers in support of reducing crime and improvement of public safety for more "Community Policing". There is no local match.

The Department of Motor Vehicles has awarded the Police Department a grant in the amount of \$35,000.00 to assist in the purchase of radar units, breath testing units, as well as funding overtime hours for DUI checkpoints and increased saturation of trouble spots both on primary and secondary roads and in shopping locations. There is a local match for FICA and an "in-kind" match for other related costs. The local FICA match, totaling \$1,607.00, will be provided from the Police Department's appropriated operating budget. No additional local funding is required.

Appropriation #2008061 **\$ 3,950.00**

Revenue Source:	Other Fund Balance	\$ 3,950.00
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The Community Development Department has requested the use of \$3,950.00 in the Stream Buffer Mitigation fund balance to contract for the provision of perennial flow determination training for Community Development engineering, plan review, and natural resources staff. The training is needed to implement the Board of Supervisor's February 6, 2008 revisions to the County's Water Protection Ordinance which allows staff to determine if a stream is perennial, which will affect County requirements to preserve a vegetative buffer along a stream.

Appropriation #2008062 **\$107,802.00**

Revenue Source:	Local Revenue	\$ 7,875.00
	State Revenue	99,927.00

At their meeting on March 27, 2008, the School Board approved the following appropriations:

- Crozet Elementary School has received several donations totaling \$1,125.00. Here is a list of donors along with their donations: Polly Ashby Sheets donated \$25.00; Herbert A. Pickford III donated \$35.00; Corinne H. Wohlforth donated \$25.00; Florence D. Massie donated \$25.00; F. Page Nelson donated \$25.00; Charles H. Simmons donated \$25.00; Alyce J. West donated \$100.00; Ann S. Herbert donated \$50.00; Charles F. Witt, Jr. donated \$25.00; Jane S. Herring donated \$100.00; Gay N. Loftin donated \$100.00; Mary M. Belew donated \$50.00; Patricia R. Layne donated \$20.00; Bailey G. Wilkins donated \$50.00; Jenny Wilkins donated \$100.00; Fulton W. Marshall Jr. donated \$25.00; Robert J. Sobiech donated \$50.00; Anne Parrott Barton donated \$200.00; Ruth M. Madwed donated \$20.00; Barbara J. Phillips donated \$50.00 and Lee M. Price donated \$25.00. These contributions were sent in the memory of Virginia Parrott Williams who was a teacher with the Albemarle County Public Schools from the 1950's to the 1970's. The donors have requested that their contributions be used in the library at Crozet.
- Broadus Wood Elementary School received a donation in the amount of \$500.00 from the J&E Berkley Foundation. The donors requested that this contribution be used to purchase additional classroom supplies as needed at Broadus Wood Elementary School.
- The English Literacy/Civics Partnership Project grant is federally funded. The mission of the grant is to incorporate civics education into existing adult English as Second or Other Language (ESOL) classes where many participants are parents of Albemarle County students; by extension it is hoped that parents' learning will in turn affect their children's learning in support of the Division's strategic plan. The State required a 7.5% local match on this grant for FY07/08. This local match, \$7,500.00, was incorrectly appropriated to Adult Education instead of English Literacy/Civics.

At their meeting on April 17, 2008, the School Board approved the following appropriations:

- Western Albemarle High School received two donations totaling \$5,500.00. Hunter Craig donated \$5,000.00 and Suzanne Brooks donated \$500.00. Both of these donors have requested that their contributions go towards the Rowing Club at Western Albemarle High School.
- Burley Middle School received a donation in the amount of \$500.00 from an anonymous donor. This donor has requested that this contribution be used by the chorus program for the annual trip or other programs deemed necessary by the director at Burley Middle School.
- Baker Butler Elementary School received a donation in the amount of \$250.00 from Lorraine Haney. The donor has requested that this contribution be set aside specifically for use in a first grade class at Baker Butler Elementary.

- The Virginia Department of Education (VDOE) has selected Albemarle County Public Schools to participate with twelve public school divisions and act as fiscal agent for the Professional Partnership for School Leadership Preparation Grant. The other twelve participating school divisions are: Charlottesville, Fredericksburg, Staunton, and Waynesboro City public schools; Clarke, Fluvanna, Greene, Louisa, Manassas Park, Orange, Rockingham, and Warren County public schools. This grant program offers an alternative approach to administrative preparation that will give candidates the knowledge and skills they need to become effective school administrators. The VDOE grant award for the period of 7/1/2007 to 6/30/2008 is in the amount of \$99,927.00.

Appropriation #2008064 **\$ 17,537.00**

Revenue Source:	State Revenue	\$ 3,187.00
	ECC Fund Balance	\$ 14,350.00

The Virginia Department of Emergency Management collects funds from Dominion Virginia Power to help localities that could be impacted by an accident at the North Anna Nuclear Power Station. The funds are to be used by the various affected Offices of Emergency Management for equipment and/or supplies that would be used to help alert the public or otherwise help manage a radiological accident. Albemarle County is in the 50-mile ingestion pathway of North Anna and therefore qualifies for those funds. The Emergency Communications Center has received \$3,187.00 to purchase two laptop computers to be used by the regional Office of Emergency Management. The laptops will store contact information and software that can be used to make citizen (and other) notifications as well as radiological data. They will also be used to remotely operate the Web-EOC software and the City Watch Community Notification System. These funds cover the entire cost of the laptops.

At their March 18, 2008 meeting the ECC Management Board approved the appropriation of \$14,350.00 from the ECC Fund Balance to fund a five-year maintenance contract on the Edge Access Satellite Communications System. This system will allow the ECC to provide basic voice and data services to regional public safety personnel at both critical incidents and planned events. The system currently provides three regional command post vehicles and the ECC with basic landline telephone capabilities both internally and to the public telephone network. In addition, each command vehicle/trailer presently provide other features including internal 4-digit dialing to the ECC and other command vehicles, and wired and wireless internet access to personnel on scene.

Appropriation #2008065 **\$ 59,764.70**

Revenue Source:	General Fund Balance	\$59,764.70
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The Department of Voter Registration and Elections incurred \$59,764.70 in additional expenses as a result of the February 12, 2008 dual presidential primary elections. Some state or federal funds may be available for reimbursement, however it is unknown at this time when (or if) the reimbursement will occur.

Appropriation #2008066 **\$ 600.00**

Revenue Source:	Local Revenue	\$ 600.00
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The Sheriff's Department has received \$600.00 in court-ordered restitution resulting from the destruction of their game enforcement deer decoy. These funds are being appropriated to purchase a replacement decoy.

(Discussion: Referring to Appropriation #2008066, Ms. Thomas asked for the Sheriff to provide a yearly update on game enforcement.

Referring to Appropriation #2008065, Mr. Boyd asked why the additional expense for the Presidential Election wasn't budgeted.

Mr. Tucker replied that no one anticipated that kind of turnout.

Mr. Rooker noted that it is really an unfunded mandate, as the elections are federal.

Mr. Slutzky said that this was for the February primary.)

By the above-recorded vote, the Board approved the requested budget amendment in the amount of \$254,640.51 and approved FY 2008 Appropriations #2008060, #2008061, #2008062, #2008064, #2008065, and #2008066.

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008060 200903
 DATE _____
 BATCH# _____

EXPLANATION: Miscellaneous Police Department Grants

- 1) Reappropriation - DCJS grant, 2) Two Click It or Ticket Grants**
3) Dept of Criminal Justice Community Policing Grant
4) DMV - Traffic Patrol Grant

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1531	33000	330001	Federal Grant Revenue	J 2	78.11		
2	1531	51000	510100	Appropriation - F/B	J 2	944.70		
1	1531	31013	550100	Travel/Training	J 1	1,022.81		
	1531		0501	Est. Revenue			1,022.81	
			0701	Appropriation				1,022.81
2	1534	33000	330011	Federal Grant Revenue	J 2	3,800.00		
1	1534	31013	120000	Overtime	J 2	3,509.30		
1	1534	31013	210000	FICA	J 2	290.70		
	1534		0501	Est. Revenue			3,800.00	
			0701	Appropriation				3,800.00
2	1538	33000	300001	Federal Grant Revenue	J 2	23,557.00		
1	1538	31013	120000	Overtime	J 1	21,754.89		
1	1538	31013	210000	FICA	J 1	1,802.11		
	1538		0501	Est. Revenue			23,557.00	
			0701	Appropriation				23,557.00
2	1539	33000	330011	Federal Grant Revenue	J 2	35,000.00		
2	1539	51000	512004	Transfer from G/F	J 2	1,607.00		
1	1539	31013	120000	Overtime	J 1	21,000.00		
1	1539	31013	210000	FICA	J 1	1,607.00		
1	1539	31013	800100	Machinery & Equipment	J 1	4,000.00		
1	1539	31013	800311	Radar Equipment - New	J 1	10,000.00		
	1539		0501	Est. Revenue			36,607.00	
			0701	Appropriation				36,607.00
1	1000	31013	210000	Police - FICA	J 1	(1,607.00)		
1	1000	31013	930210	Police - Transfer Misc Grants	J 1	1,607.00		
TOTAL						129,973.62	64,986.81	64,986.81

COUNTY OF ALBEMARLE					APP #	2008061		
APPROPRIATION					DATE			
					BATCH#			
EXPLANATION: Stream Buffer Mitigation - Training								
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	9110	51000	510100	Appropriation - F/B	J 2	3,950.00		
1	9110	81022	550100	Travel/Training	J 1	3,950.00		
TOTAL						7,900.00	0.00	0.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008062
 DATE _____
 BATCH# _____

EXPLANATION: Education Donations
 From School Board Meeting - 03/27/2008 and 4/17/2008

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J 2	1,625.00		
1	2201	61101	601300	Ed/Rec Supplies	J 1	500.00		

1	2203	61101	601200	Books & Subscriptions	J	1	1,125.00		
	2000		0501	Est. Revenue				1,625.00	
			0701	Appropriation					1,625.00
2	3115	51000	512001	Adult Basic-Trsnf from Schools	J	2	(7,500.00)		
2	3221	51000	512001	E/L Civics - Trsnf from Schools	J	2	7,500.00		
1	3115	63322	132100	Adult Basic - PT Wage-Teacher	J	1	(6,967.00)		
1	3115	63322	210000	Adult Basic - FICA	J	1	(533.00)		
1	3221	61101	132100	E/L-Civics - PT Wages-Teacher	J	1	6,967.00		
1	3221	61101	210000	E/L-Civics - FICA	J	1	533.00		
	3115		0501	Est. Revenue					7,500.00
			0701	Appropriation				7,500.00	
	3221		0501	Est. Revenue				7,500.00	
			0701	Appropriation					7,500.00
2	2000	18100	181109	DONATION	J	2	6,250.00		
2	3220	24000	240000	PROF PRTNSHIP GRANT	J	2	99,927.00		
1	2217	61101	601300	ED/REC SUPPLIES	J	1	250.00		
1	2251	61101	601300	ED/REC SUPPLIES	J	1	500.00		
1	2302	61105	800100	MACH/EQUIP - NEW	J	1	5,500.00		
1	3220	61311	160300	STIPEND-STAFF DEV	J	1	23,500.00		
1	3220	61311	210000	FICA	J	1	1,797.75		
1	3220	61311	312700	PROF SERV. CONSULTANTS	J	1	46,000.00		
1	3220	61311	550100	MILEAGE	J	1	100.00		
1	3220	61311	580500	STAFF DEV	J	1	8,130.00		
1	3220	61311	601300	ED/REC SUPPLIES	J	1	16,250.00		
1	3220	61311	601700	PRINTING	J	1	4,149.25		
	2000		0501	Est. Revenue				6,250.00	
			0701	Appropriation					6,250.00
	3220		0501	Est. Revenue				99,927.00	
			0701	Appropriation					99,927.00
TOTAL							215,604.00	122,802.00	122,802.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008064
DATE _____
BATCH# _____

EXPLANATION:

Emergency Communication Center Appropriations

1) Maintenance Contract - Edge Access Satellite Communications System

2) Dept. of Emergency Management Funds to Purchase 2 Laptop Computers

					SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT
2	4100	59000	590000	ECC Fund Balance	J 2	14,350.00		
1	4100	31041	332100	ECC-Maintenance Contract	J 1	14,350.00		
	4100		0501	Est. Revenue			14,350.00	
			0701	Appropriation				14,350.00
2	4100	24000	240056	State Revenue	J 2	3,187.00		
1	4100	31045	800700	Emerg. Services - ADP Equip	J 1	3,187.00		

	4100		0501	Est. Revenue				3,187.00	
			0701	Appropriation					3,187.00
TOTAL								35,074.00	17,537.00

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008065
DATE _____
BATCH# _____

EXPLANATION: Provide funding for costs associated with the 2008 Presidential Primary elections

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1000	51000	510100	Appropriation - F/B	J	2	59,764.70		
1	1000	13020	120000	Overtime Wages	J	1	940.16		
1	1000	13020	131550	Part Time Wages	J	1	1,380.00		
1	1000	13020	210000	FICA	J	1	2,826.30		
1	1000	13020	312510	Election Officials	J	1	34,625.00		
1	1000	13020	331607	R&M - Voting Machines	J	1	14,357.65		
1	1000	13020	360000	Advertising	J	1	871.55		
1	1000	13020	390000	Other Purchased Services	J	1	1,644.80		
1	1000	13020	520100	Postage	J	1	1,303.43		
1	1000	13020	520300	Telecommunications	J	1	119.44		
1	1000	13020	540200	Lease Buildings	J	1	500.00		
1	1000	13020	550100	Travel/Training/Education	J	1	512.63		
1	1000	13020	600100	Office Supplies	J	1	562.24		
1	1000	13020	601700	Copy Center	J	1	121.50		
	1000		0501	Est. Revenue				59,764.70	
			0701	Appropriation					59,764.70
TOTAL							119,529.40	59,764.70	59,764.70

**COUNTY OF ALBEMARLE
 APPROPRIATION**

APP # 2008066
DATE _____
BATCH# _____

EXPLANATION: Sheriff's Department - Restitution for Game Enforcement Decoy

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1000	19000	199907	Sheriff-Recovered Costs	J	2	600.00		
1	1000	21072	601000	Game Enforcement Supplies	J	1	600.00		
	1000		0501	Est. Revenue				600.00	
			0701	Appropriation					600.00
TOTAL							1,200.00	600.00	600.00

Item No. 7.5. Appointment of Howard G. Lagomarsino as an Assistant Fire Marshal.

The executive summary states that Virginia Code § 27-36 provides that the Board may appoint one or more assistant fire marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal. In addition, Virginia Code § 27-34.2:1 provides that in addition to such other duties as may be prescribed by law, the governing body may authorize an assistant fire marshal to have the same police powers as a sheriff, police officer or other law enforcement officer and the authority to investigate and prosecute certain designated offenses.

The appointment of Howard G. Lagomarsino, Jr., who is currently a Fire Prevention Inspector/Investigator, as an Assistant Fire Marshal is necessary in order for him to fulfill the duties and responsibilities of the Fire Marshal's office. He has satisfactorily completed all required training for fire marshal designation as promulgated by the Virginia State Department of Fire Programs. This training program has been approved by the Virginia Fire Services Board and is a prerequisite for a fire marshal to exercise police powers pursuant to Virginia Code § 27-34.2:1. The Board has previously authorized assistant fire marshals to exercise police powers.

This action will have no impact on the County budget.

Staff recommends that the Board adopt the attached Resolution appointing Howard G. Lagomarsino, Jr. as an Assistant Fire Marshal with full police powers as authorized in Virginia Code §§ 27-34.2:1 and 27-36.

By the above-recorded vote, the Board adopted the following Resolution appointing Howard G. Lagomarsino, Jr. as an Assistant Fire Marshal with full police powers as authorized in Virginia Code §§ 27-34.2:1 and 27-36.

RESOLUTION TO APPOINT ASSISTANT FIRE MARSHAL

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize an assistant fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officers; and

WHEREAS, the appointment of Howard G. Lagomarsino, Jr. as an assistant fire marshal with police powers will promote the efficient and effective operation of the County of Albemarle Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Howard G. Lagomarsino, Jr. as an Assistant Fire Marshal pursuant to Virginia Code § 27-36; and

BE IT FURTHER RESOLVED, that he be authorized to have the same powers as a sheriff, police officer or law-enforcement officer pursuant to Virginia Code § 27-34.2:1.

Item No. 7.6. Habitat for Humanity Southwood Clean Up Project.

The executive summary states that Habitat for Humanity has taken over ownership of Southwood Trailer Park and has been actively working on improving conditions for the many County residents who live in this neighborhood. Over the past year, Habitat's focus has been on correcting septic, sewer and plumbing issues as well as removal of dangerous trees. The majority of funds available to Habitat were spent on these neglected health and safety issues. Their focus is now shifting to the actual clean up of the common areas as well as to providing assistance for each resident to clean up the areas around their residences. There are currently areas of trash and debris located throughout the neighborhood, resulting in health and safety issues related to the build-up of trash. Habitat officials are hoping that by engaging the community in this process, the culture of living at Southwood will begin to change so residents begin to take personal responsibility for their area and the common areas.

The Albemarle County Board of Supervisors is being requested to provide support to Habitat for Humanity for a community clean up day at Southwood Trailer Park. The clean up is a partnership effort between Habitat for Humanity, Comcast, Inc. and the Southwood Boys and Girls Club. Comcast has provided funding for nineteen dumpsters that will be distributed throughout the community on May 3rd. Cavalier Container LLC is providing the dumpsters and a tractor with an operator at a greatly reduced rate. Habitat expects up to 200 Comcast, Inc. volunteers to participate in this effort and the goal is to get an equal number of Southwood residents involved, with a focus on clean up of the common areas as well as providing assistance for each resident.

Habitat has asked the County to provide funding to cover the tipping fees required to dispose of the trash. Staff believes that this major clean up effort is a critical step in helping to create a safer and healthier environment for the many families who live in this community. This clean up represents a unique partnership between local non-profits, businesses and the County and has significant and lasting benefits to our community. While the County usually considers these funding requests during its regular budget cycle, this opportunity to significantly improve conditions at Southwood arose after agency budgets were considered and decided upon. Staff feels that there is a clear and compelling community benefit to participating in this non-profit partnership which advances the County's strategic goal regarding support for affordable housing.

The requested funds are available in the General Services Department Operating Budget for tipping fees and staff feels that this is an appropriate and worthwhile expenditure of those funds. If approved, General Services Director George Shadman will coordinate with staff at Habitat for Humanity to arrange for payment of the tipping fees.

This request is for funds already available in the General Services budget allocated for tipping fees.

Staff recommends that the Board of Supervisors approve a donation to Habitat for Humanity not to exceed \$3,000.00 to pay for tipping fees associated with the Comcast Cares Clean up Day on May 3.

By the above-recorded vote, the Board approved a donation to Habitat for Humanity not to exceed \$3,000.00 to pay for tipping fees associated with the Comcast Cares Clean up Day on May 3.

Item No. 7.7. Rural Rustic Roads Paving Projects.

The executive summary states that Sections of Red Hill School Road (Rt. 760), Walnut Level Road (Rt. 668 and Rt. 765), Old Green Mountain Road (Rt. 722) and Estes Ridge Road (Rt. 806) are identified as priority road paving projects in the County's Six Year Secondary Road Priority List and VDOT's Six Year Secondary Road Construction Plan under the Rural Rustic Road Paving Program (Location Maps--Attachments A-E). Rural Rustic Roads are paved at a width based on reduced and flexible standards that leave trees, vegetation, side slopes and open drainage abutting the roadway undisturbed to the maximum extent possible without compromising public safety. Rural Rustic Road standards allow a road to be paved within a 30' easement. In a traditional paving project, improvements are typically done within a 50' right-of-way. Rural Rustic Road paving projects are considerably less expensive than traditional paving projects.

These projects are programmed for construction in the upcoming fiscal year (FY 08-09). The Board has established a policy for notifying adjacent owners and the public of a potential Rural Rustic Road project prior to project construction and to provide an opportunity for the public to comment on the proposal. The public input process for this project has now been completed.

Pursuant to the policy adopted by the Board of Supervisors (Attachment F), staff posted a zoning sign on each road and mailed a letter to every property owner along these five roads informing them of the paving project and that VDOT would pave the road using Rural Rustic Road standards instead of traditional paving standards. Staff will summarize the results of the public input process for each of the road projects:

- Walnut Level Road (Rt. 668) from Rt. 810 to Rt. 765 – This road serves Innisfree Village. There were eight property owners contacted. Only one property contacted staff to oppose any form of paving (rural rustic or traditional). They did not believe the road needed to be paved. Their comments were not provided in writing. There is no conservation easement or Agricultural-Forestal District adjacent to this road. Staff is recommending this road to be paved using Rural Rustic Road standards.
- Walnut Level Road (Rt. 765) from Rt. 668 to End of State Maintenance - This project is part of the Rt. 668 section of Walnut Level Road (noted above), but is treated as a separate project because the roads have different State Route numbers. There were two property owners contacted. Staff did not receive any opposition. There is no conservation easement or Agricultural-Forestal District adjacent this road. Innisfree Village is located at the end of this segment of road. Staff recommends that this road be paved using Rural Rustic Road standards.
- Old Green Mountain Road (Rt. 722) from Rt. To Rt. 723 - There were twenty property owners contacted. Only one property owner contacted staff to oppose any form of paving – rural rustic or traditional. The owner did not believe there was a need to pave the road. This property owner did not live on the road and would sympathize with local residents who support paving the road. The owners' comments were not provided in writing. There is no conservation easement or Agricultural-Forestal District adjacent to this road. Staff recommends this road be paved using Rural Rustic Road standards.
- Estes Ridge Road (Rt. 806) from Rt. 663 to End of State Maintenance – There were five property owners contacted. One person owned three of these parcels adjacent to the project. At the resident's request, County and VDOT staff met with him on site to discuss the project. This particular resident questioned the need to pave the road, but will support the paving if the other residents want it to be paved. There is no conservation easement or Agricultural-Forestal District adjacent to this road. Staff recommends this road be paved using Rural Rustic Road standards.
- Red Hill School Road (Rt. 760) from Rt. 29 to Rt. 710 – There were eighteen property owners contacted. Staff received a petition and a letter (Attachments G and H) from nine property owners opposing rural rustic or traditional paving. The main concerns of these residents are the cost of paving the road, and that paving will increase the speed of traffic and the cost of maintaining the road. Staff also received two requests (one from Red Hill Elementary School) to pave the road using traditional paving standards. Staff was contacted by four residents who support paving this road using Rural Rustic Road standards. There is a conservation easement adjacent to this road improvement.

Based on the input from the residents, the condition of the road, and the presence of a public school which is served by this road, staff believes further evaluation of this project is needed and is not recommending this road be approved for paving at this time. It may be appropriate to hold a community meeting with residents of the area to discuss the proposed paving project. Staff seeks direction from the Board regarding the paving of Red Hill School Road.

In order to pave these roads under the Rural Rustic Road standards, VDOT requires a resolution from the Board of Supervisors designating the roads listed below as Rural Rustic Roads and requesting the use of Rural Rustic Road standards (Attachments I – L). If the resolution is adopted by the Board of Supervisors, VDOT will begin work on these projects this summer using state resources. Each project will take 45-90 days to complete.

These projects are included in the County's Six Year Secondary Road Priority List and will be paid for by VDOT.

Staff recommends that the Board of Supervisors adopt the attached resolutions designating both sections of Walnut Level Road, Old Green Mountain Road, and Estes Ridge Road as Rural Rustic Roads and request VDOT to hard surface these road segments as Rural Rustic Road paving projects. Staff does not recommend paving Red Hill Road at this time and will further evaluate the need for this project and provide additional comments to the Board.

(Discussion: Mr. Boyd asked if, by approving this item, the Board would not approve one road. Mr. Tucker responded, "yes".

Ms. Thomas stated that the process seems to be working as there has been significant public feedback from letters sent to them.

Mr. Slutzky asked if the rural rustic road money could be spent elsewhere if it isn't spent on rural roads.

Mr. Rooker responded that it could be.

Mr. David Benish, Chief of Planning, explained that there is a list of unpaved road projects, and rural rustic road monies come out of that funding. He said that the Board has set Dickerson Road as the next unpaved road priority, so funds would be allocated there if they elect not to proceed with rural rustic projects. Mr. Benish added that the Board agreed in the Six Year Plan to finish up the rural rustic roads already in the process, and there are four roads in the pipeline now.

Mr. Slutzky said constituents have asked him why the County would spend money on "obscure rural roads" when there are road close to the urban center that are in need of paving and are not sufficiently funded.

Mr. Benish said there will be more information coming to the Board with the next Six Year Plan on the future of rural rustic road paving.)

By the above-recorded vote, the Board adopted the following Resolutions designating both sections of Walnut Level Road, Old Green Mountain Road, and Estes Ridge Road as Rural Rustic Roads.

**RESOLUTION
TO PAVE WALNUT LEVEL ROAD BETWEEN ROUTE 765 AND ROUTE 810
USING RURAL RUSTIC ROAD STANDARDS**

WHEREAS, during the 2002 session of the General Assembly, legislation was passed to revise Section 33.1-70.1 of the Code of Virginia, to allow for the improvement and hard surfacing of certain unpaved roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, such roads must be located in low-density development areas and have a minimum of 50 vehicles per day (vpd) but no more than 500 vpd; and

WHEREAS, this Board is unaware of pending development that will significantly affect the existing traffic on the road; and

WHEREAS, the citizens using this road have been informed that this road may be paved under rural rustic road standards with minimal improvements; and

WHEREAS, this Board believes that the segment of Route 668 (Walnut Level Road) between Route 765 to Route 810 should be designated a Rural Rustic Road because of its qualifying characteristics; and

WHEREAS, the road segment aforesaid is in the Board's Six Year Plan for improvements to its Secondary System of State Highways:

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates and requests VDOT's Resident Engineer to concur in the aforesaid road segment as a Rural Rustic Road; and

BE IT FURTHER RESOLVED, that this Board requests that this road segment be hard surfaced and, to the fullest extent prudent, be improved within the existing rights of ways and ditch lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in its current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

**RESOLUTION
TO PAVE WALNUT LEVEL ROAD BETWEEN ROUTE 668 TO END OF STATE MAINTENANCE
USING RURAL RUSTIC ROAD STANDARDS**

WHEREAS, during the 2002 session of the General Assembly, legislation was passed to revise Section 33.1-70.1 of the Code of Virginia, to allow for the improvement and hard surfacing of certain unpaved

roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, such roads must be located in low-density development areas and have a minimum of 50 vehicles per day (vpd) but no more than 500 vpd; and

WHEREAS, this Board is unaware of pending development that will significantly affect the existing traffic on the road; and

WHEREAS, the citizens using this road have been informed that this road may be paved under rural rustic road standards with minimal improvements; and

WHEREAS, this Board believes that the segment of Route 765 (Walnut Level Road) between Route 668 to End of State Maintenance should be designated a Rural Rustic Road because of its qualifying characteristics; and

WHEREAS, the road segment aforesaid is in the Board's Six Year Plan for improvements to its Secondary System of State Highways:

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates and requests VDOT's Resident Engineer to concur in the aforesaid road segment as a Rural Rustic Road; and

BE IT FURTHER RESOLVED, that this Board requests that this road segment be hard surfaced and, to the fullest extent prudent, be improved within the existing rights of ways and ditch lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in its current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

**RESOLUTION
TO PAVE OLD GREEN MOUNTAIN ROAD
USING RURAL RUSTIC ROAD STANDARDS**

WHEREAS, during the 2002 session of the General Assembly, legislation was passed to revise Section 33.1-70.1 of the Code of Virginia, to allow for the improvement and hard surfacing of certain unpaved roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, such roads must be located in low-density development areas and have a minimum of 50 vehicles per day (vpd) but no more than 500 vpd; and

WHEREAS, this Board is unaware of pending development that will significantly affect the existing traffic on the road; and

WHEREAS, the citizens using this road have been informed that this road may be paved under rural rustic road standards with minimal improvements; and

WHEREAS, this Board believes that the segment of Route 722 (Old Green Mountain Road) between Route 6 to Route 723 should be designated a Rural Rustic Road because of its qualifying characteristics; and

WHEREAS, the road segment aforesaid is in the Board's Six Year Plan for improvements to its Secondary System of State Highways:

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates and requests VDOT's Resident Engineer to concur in the aforesaid road segment as a Rural Rustic Road; and

BE IT FURTHER RESOLVED, that this Board requests that this road segment be hard surfaced and, to the fullest extent prudent, be improved within the existing rights of ways and ditch lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in its current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

**RESOLUTION
TO PAVE ESTES RIDGE ROAD
USING RURAL RUSTIC ROAD STANDARDS**

WHEREAS, during the 2002 session of the General Assembly, legislation was passed to revise Section 33.1-70.1 of the Code of Virginia, to allow for the improvement and hard surfacing of certain unpaved roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, such roads must be located in low-density development areas and have a minimum of 50 vehicles per day (vpd) but no more than 500 vpd; and

WHEREAS, this Board is unaware of pending development that will significantly affect the existing traffic on the road; and

WHEREAS, the citizens using this road have been informed that this road may be paved under rural rustic road standards with minimal improvements; and

WHEREAS, this Board believes that the segment of Route 806 (Estes Ridge Road) between Route 663 to End of State Maintenance should be designated a Rural Rustic Road because of its qualifying characteristics; and

WHEREAS, the road segment aforesaid is in the Board's Six Year Plan for improvements to its Secondary System of State Highways;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates and requests VDOT's Resident Engineer to concur in the aforesaid road segment as a Rural Rustic Road; and

BE IT FURTHER RESOLVED, that this Board requests that this road segment be hard surfaced and, to the fullest extent prudent, be improved within the existing rights of ways and ditch lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in its current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Item No. 7.8. Revised Historic Preservation Committee Rules of Procedure Regarding Membership.

The executive summary states that Albemarle County Historic Preservation Plan was adopted in the Fall of 2000. In April 2001 the Board established a standing Historic Preservation Committee ("Committee"). The Committee first held meetings in 2002 with 23 members. Rules of Procedure were adopted by the Committee on April 26, 2004, and a copy provided to the Board on August 3, 2005 (Attachment A). The Board did not establish any term length when Committee members were appointed.

The Committee has benefitted from having members with extensive training and experience in the various fields related to historic preservation. However, individuals with this level of training and experience are often presented with numerous other preservation-related opportunities and commitments that can conflict with long-term and/or consistent Committee membership. The lack of a defined term has led to decreasing levels of participation by its members. In addition, it has been difficult to achieve a quorum due to the large number of members. To address these issues, the Committee proposes that its Rules of Procedure be amended to 1) allow members to take leaves of absence; 2) allow advisory members to be appointed; 3) establish three-year terms; and 4) establish a maximum number of members. The Committee unanimously voted to approve the proposed revisions (Attachment B) on December 10, 2007.

No impact to the budget is anticipated.

The Committee and staff recommend that the Board approve the proposed revised Rules of Procedure (Attachment B).

By the above-recorded vote, the Board approved the revised Rules of Procedure:

**ALBEMARLE COUNTY HISTORIC PRESERVATION COMMITTEE
RULES OF PROCEDURE**

1. Officers and Membership

- A. Chairman. At its annual meeting, the Committee shall elect a Chairman who, if present, shall preside at the meeting and at all other meetings during the year for which elected.
- B. Vice-Chairman. At its annual meeting, the Committee shall elect a Vice-Chairman, who, if present, shall preside at meetings in the absence of the Chairman and shall discharge the duties of the Chairman during his absence or disability.
- C. Secretary. At its annual meeting, the Committee shall elect a Secretary, who, if present, shall record the proceedings of the meeting.
- D. Term of Office. The Chairman and Vice-Chairman shall be elected for one-year terms; but either or both may be re-elected for one or more additional terms.

- E. Absence of Chairman and Vice-Chairman. If the Chairman and Vice-Chairman are absent from any meeting, a present member shall be chosen to act as Chairman.
- F. Leaves of Absence. Upon the request of a member, the Committee may vote to allow that member to take a leave of absence from membership for no more than six months. No more than two voting members may be on leave of absence at the same time. For purposes of establishing a quorum, the voting membership of the committee shall be reduced by the number of members on leave of absence at the time the meeting is held.
- G. Advisory Members. The Committee may designate members as "Advisory" members. Advisory members may participate in Committee discussions and Committee work, but they shall not be voting members and their attendance at a meeting shall not be counted towards that number required to constitute a quorum.
- H. Number of Members. Voting members of the Historic Preservation Committee shall be appointed by the Board of Supervisors and shall be limited to twelve.
- I. Terms. Members shall serve three-year staggered terms with 1/3 of the membership appointed each year.

2. Meetings

- A. Annual Meeting. The first meeting in January of each year shall be known as the annual meeting. At the annual meeting, the Committee shall establish the day, time, and place for regular meetings of the Committee for that year, and shall elect the chairman, vice-chairman, and secretary.
- B. Regular Meetings. The Committee shall meet in regular session at the time and place and on the day or days established for regular meetings. The Committee may subsequently establish a different day, time, or place to conduct its regular meetings by passing a resolution to that effect.

If the Chairman, or the Vice-Chairman if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for Committee members to attend a regular meeting, the meeting shall be continued to the next regular meeting date. This finding shall be communicated to the members of the Committee and to the press as promptly as possible.

Without further public notice, a regular meeting may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Committee is complete.

- C. Attendance. Two unreported absences from regular meetings shall be considered grounds for dismissal from the Committee.

3. Order of Business

A. Establishment of Agenda. The agenda for each regular meeting shall be established by staff in consultation with the Chairman.

B. Organization of the Agenda. The agenda of each regular meeting shall be organized in substantially the following order, subject to change at the request of the Chairman and with the consensus of the other members of the Committee:

- (1) Call to order
- (2) Announcements
- (3) Scheduled presentations
- (4) Discussion Items
- (5) Questions for the Members
 - New owners of historic properties?
 - Threatened properties to watch?
 - Recently demolished structures?
 - Resources available to assist in implementation of HP plan?
- (6) Subcommittee Updates
- (7) Other business
- (8) Adjourn

C. Deferrals. The Committee may defer any matter at the request of a member of the Committee, or County staff. The request may be either oral or in writing, and may be made at any time prior to the vote on the matter. The person making the request shall state the reasons therefor. A motion to defer shall either specify the date to which the matter is deferred or defer the matter indefinitely.

4. Quorum

A simple majority of the members of the Committee not on leave of absence shall constitute a quorum for any meeting of the Committee. If, during a meeting, less than a majority of the members of the

Committee remains present, no action can be taken except to adjourn the meeting. If, prior to adjournment, a quorum is again established, the meeting shall continue.

5. Voting Procedures

- A. Approval of Motion by Majority. Except for a decision on a motion of the previous question, each decision of the Committee shall be made by approval of a majority of the members present and voting on a motion properly made by a member and properly seconded by another member. Any motion that is not seconded shall not be further considered.
- B. Manner of Vote. The vote on a motion pertaining may be either by roll call vote or voice vote, in the discretion of the Chairman; provided that a roll call vote on such a motion shall be required if requested by a member of the Committee. For each roll call vote, staff shall record the name of each member voting and how the member voted on the motion. For each voice vote, staff shall record the result of the vote.
- C. Tie Vote. A tie vote shall defeat the motion voted upon.
- D. Abstention. If any member abstains from voting on any motion, he shall state his abstention. The abstention shall be announced by the Chairman and recorded by staff.
- E. Motion to Amend. A motion to amend a motion before the Committee shall be discussed and voted by the Committee before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Committee for its consideration. If the motion to amend is not approved, the original motion is again before the Committee for its consideration.

6. Amendment of Rules of Procedure

These Rules of Procedure may be amended by a majority vote of the Committee at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

7. Suspension of Rules of Procedure

These Rules of Procedure may be suspended by the majority vote of the members of the Committee present and voting. The motion to suspend a rule may be made by any member of the Committee. Upon a proper second, the motion may be discussed and voted. The effect of the motion to suspend a rule, if approved, is to make that rule inapplicable to the matter before the Committee; provided, however, approval of a motion to suspend the rule shall not permit the Committee to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

8. Rules of Procedure not Covered by These Rules of Procedure

Any rules of procedure not covered by these Rules of Procedure shall be governed by the current Robert's Rules of Order.

Item No. 7.9. State Rail Plan Resolution.

This resolution came forward in a request from Butch Davies of the Commonwealth Transportation urging local governing to adopt supportive resolutions for the Route 29 corridor rail Amtrak effort.

(Discussion: Ms. Mallek suggested adding the following language to the proposed resolution in the 12th paragraph:

“WHEREAS, the relocation of more of the Federal Government’s national security activity from the Washington area into Albemarle County, the increase in the extent and national reputation of the University’s healthcare and research activities, and the rising cost of oil and the environmental concerns brought on by carbon based emissions have heightened the interest in energy efficient and environmentally friendly alternatives to the automobile, and VDRPT has calculated that new Piedmont Corridor rail service would reduce CO2 emissions by over 1500 tons/year; and”

Ms. Mallek said this language gives a little specific anchor; something that can be accomplished. She added that this is a travel slot that is currently available, but won’t be available for too long. She hopes the Board will add its’ weight to the other communities.

Board members concurred with the additional language.)

By the above-recorded vote, the Board adopted the following Resolution as amended:

**STATE RAIL PLAN
RESOLUTION**

WHEREAS, the Virginia Department of Rail and Public Transportation (VDRPT) is developing a State Rail Plan that will address the present and future needs for rail in the Commonwealth and provide a strategy to address them; and

WHEREAS, the State Rail Plan will address commuter, intercity, higher speed and high speed rail services as well as multimodal integration of rail with other modes of transportation; and

WHEREAS, the DRPT has asked for public input on the needs, priorities and rail improvements to be considered when developing the State Rail Plan; and

WHEREAS, the US29 – I-66 (Piedmont) rail corridor between Danville and Alexandria is home to 30 percent of the state's population; and

WHEREAS, the cities, towns and counties of the Piedmont Corridor have experienced significant growth — both residential and commercial — and with it, significant increases in highway traffic travel time for through-corridor trips; and

WHEREAS, the City of Charlottesville and the surrounding Albemarle County, home of Thomas Jefferson and the University of Virginia, have been a transportation cross roads since colonial times, as well as a major east-west and north-south rail hub; and

WHEREAS, fifty years ago, when the combined population of the City of Charlottesville and Albemarle County was less than 60,000 and the University of Virginia had an enrollment of 5,000 students, the City was the stop for 22 passenger trains a day operated by the Southern and C & O Railroads; and

WHEREAS, today, with a metro area population of almost 200,000 and a University enrollment of more than 20,000, the community is served by only one round-trip train a day between New Orleans and New York and an additional train three days a week between Chicago and New York; and

WHEREAS, these trains are frequently overbooked and cannot meet the passenger demand in our area, and ridership is hampered by the poor on-time performance (Crescent 68%; Cardinal 18%) on their long-distance routes, due largely to interference with freight and poor infrastructure in non-Virginia portions of the route; and

WHEREAS, in spite of these impediments the Charlottesville Amtrak station has the highest ridership per scheduled weekly train of any Amtrak station in Virginia, including Richmond, Newport News, Alexandria, Fredericksburg and Williamsburg; and

WHEREAS, a Charlottesville Regional Chamber of Commerce survey found that more than 60 percent of area businesses regularly conduct business in DC and Northern Virginia; 84 percent of the time they travel there by car, and more than two-thirds (66.6 percent) said they would use rail as an alternative if a speedy rail line were available; and

WHEREAS, the relocation of more of the Federal Government's national security activity from the Washington area into Albemarle County, the increase in the extent and national reputation of the University's healthcare and research activities, and the rising cost of oil and the environmental concerns brought on by carbon based emissions have heightened the interest in energy efficient and environmentally friendly alternatives to the automobile, and VDRPT has calculated that new Piedmont Corridor rail service would reduce CO2 emissions by over 1500 tons/year; and

WHEREAS, recognizing Charlottesville as an underserved market, Amtrak has recommended to VDRPT that steps be taken to implement new Lynchburg to Washington rail service "as soon as possible" — including any capital improvements needed to the existing rail line by the host railroad; and

WHEREAS, Amtrak reports that the addition of a second daily train can be accomplished easily and at a relatively low cost; and

WHEREAS, the Route 29 passenger rail corridor is significantly under-served compared to the I-95 corridor, where the State has made massive investments for rail infrastructure and operations, having fewer than one-half the weekly service of Newport News and one-sixth the weekly service of Richmond; and

WHEREAS, an application for State Rail Enhancement Funds (REF) for capital investments in the corridor in support of the proposed new Amtrak passenger service has been developed by Norfolk Southern Railroad and is included in the list of projects recommended by VDRPT for inclusion in the State's 2009-2014 Six Year Improvement Program;

NOW THEREFORE BE IT RESOLVED, that the Albemarle County Board of Supervisors urges the VDRPT to include enhanced passenger rail service for US29 (Piedmont Corridor) in the State Rail Plan, specifically the proposed new daily direct service between Lynchburg and Washington, DC and on to New York and Boston, as proposed by Amtrak; and

BE IT FURTHER RESOLVED, that the Albemarle County Board of Supervisors urges the Commonwealth Transportation Board to approve the DRPT's recommended REF funding needed for infrastructure investments to support new passenger service in the corridor; and

BE IT FURTHER RESOLVED, that the Albemarle County Board of Supervisors requests that the DRPT identify the US29 corridor as the State's top priority for funding new rail service according to Amtrak's recommended Short Term Action Plan for Advancing Passenger Rail in the Commonwealth.

Item No. 7.10. FY 2008/2009 Resolution of Appropriations.

The executive summary states that the County's FY 08/09 Operating and Capital Budgets were adopted by the Board of Supervisors on April 9, 2008, for a total estimated amount of \$334,656,795. The attached Annual Resolution of Appropriations for the fiscal year ending on June 30, 2009 provides the authority from the Board of Supervisors for the County to spend those funds, effective July 1, 2008.

This Resolution is a comprehensive Resolution which appropriates the total County budget, including both operating and capital funds in a single resolution, and includes many of the initial Special Revenue Fund appropriations.

Staff recommends approval of the attached Annual Resolution of Appropriations for FY 08/09 that allocates a total of \$333,715,685 to the various General Government and School Division operating, capital improvement, and debt service accounts for expenditure in FY 08/09. This appropriation is made up of the following major funds:

General Fund	\$224,391,325
School Fund	151,295,942
School Self-Sustaining	16,525,489
Special Revenue	14,169,284
Capital Projects	49,243,476
Debt Service	15,351,534
TOTAL	\$470,977,050
Less Inter-fund Transfers	(\$137,261,365)
GRAND TOTAL	\$333,715,685

The FY 08/09 total budget recommended for appropriation is \$941,110 less than the budget formally adopted by the Board on April 9, 2008. This is due primarily to a reduction in State revenues to the School Fund that was not incorporated into the original adopted budget. The appropriated budget reflects the School Fund that was approved by the School Board at its April 24, 2008 meeting.

Staff also recommends approval of the attached Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing. This would allow the County to use bond proceeds to reimburse the capital budget for expenditures incurred prior to the future planned issuance of bonds.

By the above-recorded vote, the Board adopted the following Annual Resolution of Appropriations for FY 08/09 that allocates a total of \$333,715,685 to the various General Government and School Division operating, capital improvement, and debt service accounts for expenditure in FY 08/09, and adopted the following Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing.

**ANNUAL RESOLUTION OF APPROPRIATIONS
OF THE COUNTY OF ALBEMARLE
FOR THE FISCAL YEAR ENDING JUNE 30, 2009**

A RESOLUTION making appropriations of sums of money for all necessary expenditures of the COUNTY OF ALBEMARLE, VIRGINIA, for the fiscal year ending June 30, 2009; to prescribe the provisions with respect to the items of appropriation and their payment; and to repeal all previous appropriation ordinances or resolutions that are inconsistent with this resolution to the extent of such inconsistency.

BE IT RESOLVED by the Albemarle County Board of Supervisors:

SECTION I - GENERAL GOVERNMENT (Fund 1000)

That the following sums of money be and the same hereby are appropriated from the GENERAL FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2009:

Paragraph One: TAX REFUNDS, ABATEMENTS, & OTHER REFUNDS:

Refunds and Abatements	\$169,500
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Paragraph Two: GENERAL MANAGEMENT AND SUPPORT

Board of Supervisors	\$529,699
County Attorney	\$906,986
County Executive	\$1,084,020
Department of Finance	\$4,444,245

Department of Human Resources	\$916,869
Department of Information Technology	\$2,655,164
Voter Registration/ Elections	<u>\$506,649</u>
	\$11,043,632

Paragraph Three: JUDICIAL

Circuit Court	\$102,176
Clerk of the Circuit Court	\$734,588
Commonwealth's Attorney	\$905,049
General District Court	\$19,100
Juvenile Court	\$114,833
Magistrate	\$4,800
Sheriff's Office	<u>\$1,980,405</u>
	\$3,860,951

Paragraph Four: PUBLIC SAFETY

Albemarle County Fire/Rescue Department	\$6,788,770
Building Codes and Inspections	\$1,058,535
Community Attention Home	\$60,149
Department of Police	\$12,580,232
Emergency Communications Center	\$2,008,069
Fire Department Contract (City of Charlottesville)	\$655,000
Fire/Rescue Credit	\$50,430
Forest Fire Extinguishment	\$13,216
Juvenile Detention Center	\$769,767
Offender Aid and Restoration (OAR)	\$155,382
Regional Jail Authority	\$3,347,030
SPCA Contract	\$175,650
Thomas Jefferson EMS Council	\$21,184
Volunteer Fire Departments	\$1,240,783
Volunteer Rescue Squads	<u>\$447,045</u>
	\$29,371,242

Paragraph Five: GENERAL SERVICES/PUBLIC WORKS

Facilities Development Department	\$757,805
General Services	\$3,515,460
Rivanna Solid Waste Authority	<u>\$400,000</u>
	\$4,673,265

Paragraph Six: HUMAN SERVICES

AIDS Support Group	\$4,861
Arc of the Piedmont Infant Development Program	\$8,970
Boys and Girls Club	\$13,887
Bright Stars Transfer	\$794,092
BRMC - Latino Lay Health Promoter	\$5,613
Charlottesville - Albemarle Legal Aid Society (CALAS)	\$38,494
Charlottesville Free Clinic	\$9,819
Children, Youth and Family Services (CYFS)	\$97,614
Commission on Children & Families (CCF)	\$250,292
Comprehensive Services Act Transfer	\$2,636,432
Computers4Kids	\$20,253
Department of Social Services	\$11,434,730
Health Department	\$938,097
JAUNT	\$725,492
Jefferson Area Board on Aging (JABA)	\$280,478
Madison House	\$10,370
Music Resource Center	\$6,335
Piedmont CASA	\$8,925
Piedmont Virginia Community College (PVCC)	\$23,475
Piedmont Workforce Network	\$13,805
Region Ten Community Services	\$566,276
Sexual Assault Resource Agency (SARA)	\$23,690
Shelter for Help in Emergency (SHE)	\$89,974
Tax Relief for Elderly/Disabled	\$678,638
Teen Pregnancy Programs Contingency	\$28,395
United Way - Information and Referral Center	\$12,875
United Way -Child Care	\$106,632
Urban Vision	<u>\$25,220</u>
	\$18,853,734

Paragraph Seven: PARKS, RECREATION AND CULTURE

African American Festival	\$3,000
Ash-Lawn Highland	\$10,164
Darden Towe Park Transfer	\$151,682
Department of Parks & Recreation	\$2,321,163
Jefferson-Madison Regional Library	\$3,173,138

Literacy Volunteers	\$26,355
Municipal Band	\$18,190
Piedmont Council of the Arts	\$12,594
Save the Fireworks	\$10,000
Virginia Discovery Museum	\$11,978
Virginia Festival of the Book	\$11,960
Virginia Film Festival	\$16,380
Visitors Bureau	\$545,721
WHTJ Public Television	\$5,463
WVPT Public Television	<u>\$5,463</u>
	\$6,323,251

Paragraph Eight: COMMUNITY DEVELOPMENT

Albemarle Housing Improvement Program (AHIP)	\$416,328
Alliance for Community Choice in Transportation	\$6,500
Central Virginia Small Business Development Center	\$7,800
Charlottesville Transit Service	\$678,372
Department of Community Development	\$5,227,954
Housing Office	\$794,958
Monticello Area Community Action Agency (MACAA)	\$179,060
Piedmont Housing Alliance (PHA)	\$113,396
Planning District Commission (TJPDC)	\$108,292
Soil and Water Conservation	\$95,921
Stream Watch	\$10,816
VPI Extension Service	<u>\$195,445</u>
	\$7,834,842

Paragraph Nine: CAPITAL OUTLAYS

Transfer to General Government Capital Improvements Fund - Recurring	\$8,427,962
Transfer to Schools Capital Improvements Fund	\$1,000,000
Transfer to Storm Water Fund	<u>\$800,000</u>
	\$10,227,962

Paragraph Ten: REVENUE SHARING AGREEMENT

Revenue Sharing Agreement	\$13,633,950
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Paragraph Eleven: OTHER USES OF FUNDS

Board Contingency Reserve	\$447,118
Revenue Shortfall Contingency	\$1,614,072
Salary Contingency - Merit	\$224,000
Salary Contingency - Reclassifications	\$20,000
Total Rewards	\$25,000
Transfer to General Government Debt Service	\$1,930,644
Transfer to School Division Debt Service	\$12,913,103
Transfer to School Fund - Recurring	<u>\$101,225,059</u>
	\$118,398,996

Total GENERAL FUND appropriations for the fiscal year ending June 30, 2009: \$224,391,325

To be provided as follows:

Revenue from Local Sources	\$194,720,789
Revenue from Local Sources - Transfers	\$1,474,241
Revenue from the Commonwealth	\$23,530,551
Revenue from the Federal Government	\$4,254,244
Revenue from Fund Balance	\$411,500

Total GENERAL FUND resources available for fiscal year ending June 30, 2009: \$224,391,325

SECTION II: REGULAR SCHOOL FUND (Fund 2000)

That the following sums of money be and the same hereby are appropriated for SCHOOL purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2009:

Paragraph One: REGULAR SCHOOL FUND

Administration, Attendance & Health	\$11,061,434
Facilities Construction/ Modification	\$147,600
Facilities Operation/ Maintenance	\$13,959,360
Instruction	\$111,647,121
Pupil Transportation Services	\$9,830,408
Other Uses of Funds	\$4,650,019

Total REGULAR SCHOOL FUND appropriations for fiscal year ending June 30, 2009: \$151,295,942

To be provided as follows:

Revenue from Local Sources (General Fund Transfer)	\$101,225,059
Revenue from Other Local Sources	\$946,553
Revenue from School Fund Balance, Carry-Over, Transfers	\$1,345,546
Revenue from the Commonwealth	\$45,110,478
Revenue from the Federal Government	\$2,668,306

Total REGULAR SCHOOL FUND resources available for fiscal year ending June 30, 2009: \$151,295,942

SECTION III: OTHER SCHOOL FUNDS

That the following sums of money be and the same hereby are appropriated for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2009:

Paragraph One: FOOD SERVICES (Fund 3000)

Maintenance/ Operation of School Cafeterias	\$4,340,873
Summer Feeding	<u>\$300,000</u>

Total FOOD SERVICES appropriations for fiscal year ending June 30, 2009: \$4,640,873

To be provided as follows:

Revenue from Local Sources	\$3,270,452
Revenue from the Commonwealth	\$56,000
Revenue from the Federal Government	<u>\$1,314,421</u>

Total FOOD SERVICES resources available for fiscal year ending June 30, 2009: \$4,640,873

Paragraph Two: PRE-SCHOOL SPECIAL EDUCATION FUND (Fund 3205)

Special Ed Pre-School Program	<u>\$67,416</u>
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Total PRE-SCHOOL SPECIAL EDUCATION FUND appropriations for fiscal year ending June 30, 2009: \$67,416

To be provided as follows:

Revenue from the Federal Government	<u>\$67,416</u>
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Total PRE-SCHOOL SPECIAL EDUCATION FUND resources available for fiscal year ending June 30, 2009: \$67,416

Paragraph Three: McINTIRE TRUST FUND (Fund 3501)

Payment to County Schools	<u>\$10,000</u>
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Total McINTIRE TRUST FUND appropriations for fiscal year ending June 30, 2009: \$10,000

To be provided as follows:

Revenue from Investments Per Trust	<u>\$10,000</u>
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Total McINTIRE TRUST FUND resources available for fiscal year ending June 30, 2009: \$10,000

Paragraph Four: PREP PROGRAM

C. B. I. P. Severe (Fund 3201)	\$1,037,286
E. D. Program (Fund 3202)	<u>\$818,586</u>

Total PREP PROGRAM appropriations for fiscal year ending June 30, 2009: \$1,855,872

To be provided as follows:

Revenue from Tuition and Fees	<u>\$1,855,872</u>
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Total PREP PROGRAM resources available for fiscal year ending June 30, 2009: \$1,855,872

Paragraph Five: FEDERAL PROGRAMS

Adult Education (Fund 3115)	\$126,500
Carl Perkins (Fund 3207)	\$161,441
Chapter I (Fund 3101)	\$1,318,896
Drug Free Schools (Fund 3107)	\$37,881
Migrant Education (Fund 3103)	\$113,191
Title II (Fund 3203)	\$394,970
English Literacy/Civics (Fund 3221)	\$116,500
Economically Dislocated Workers (Fund 3116)	\$50,000
Title III (Fund 3215)	\$113,870
Title V (Fund 3216)	\$14,023
Reading First (Fund 3302)	\$172,000

21st Century Grant (Fund 3219)	\$163,177
Technology Challenge Grant (Fund 3131)	\$15,058
Race to GED (Fund 3309)	\$29,876
Families in Crisis (Fund 3304)	<u>\$25,000</u>
Total FEDERAL PROGRAMS appropriations for fiscal year ending June 30, 2009:	\$2,852,383
To be provided as follows:	
Revenue from Local Sources	\$54,000
Revenue from Local Sources (Transfer from School Fund)	\$50,000
Revenue from the Federal Government	<u>\$2,748,383</u>
Total FEDERAL PROGRAMS resources available for fiscal year June 30, 2009:	\$2,852,383
Paragraph Six: COMMUNITY EDUCATION FUND (Fund 3300)	
Community Education	<u>\$1,620,115</u>
Total COMMUNITY EDUCATION FUND appropriations for fiscal year ending June 30, 2009:	\$1,620,115
To be provided as follows:	
Revenue from Local Sources (Tuition)	<u>\$1,620,115</u>
Total COMMUNITY EDUCATION FUND resources available for fiscal year ending June 30, 2009:	\$1,620,115
Paragraph Seven: SUMMER SCHOOL (Fund 3310)	
Summer School	<u>\$550,183</u>
Total SUMMER SCHOOL appropriations for fiscal year ending June 30, 2009:	\$550,183
To be provided as follows:	
Revenue from Local Sources (Transfer from School Fund)	\$239,243
Revenue from Local Sources (Tuition)	\$171,440
Miscellaneous Revenues	\$2,000
Revenue from the Commonwealth	<u>\$137,500</u>
Total SUMMER SCHOOL resources available for fiscal year ending June 30, 2009:	\$550,183
Paragraph Eight: SCHOOL BUS REPLACEMENT (Fund 3905)	
School Bus Replacement	<u>\$500,000</u>
Total SCHOOL BUS REPLACEMENT appropriations for fiscal year ending June 30, 2009:	\$500,000
To be provided as follows:	
Revenue from Local Sources (Transfer from School Fund)	<u>\$500,000</u>
Total SCHOOL BUS REPLACEMENT resources available for fiscal year ending June 30, 2009:	\$500,000
Paragraph Nine: AIMR SUMMER RENTAL FUND (Fund 3145)	
AIMR Summer Rental	<u>\$446,010</u>
Total AIMR SUMMER RENTAL FUND appropriations for fiscal year ending June 30, 2009:	\$446,010
To be provided as follows:	
Revenue from Local Sources (rental)	<u>\$446,010</u>
Total AIMR SUMMER RENTAL FUND resources available for fiscal year ending June 30, 2009:	\$446,010
Paragraph Ten: INTERNAL SERVICE - VEHICLE MAINTENANCE FUND (Fund 3910)	
Vehicle Maintenance	799,536
Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2009:	\$799,536
To be provided as follows:	
Revenue from Local Sources (Charges)	<u>\$799,536</u>

Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND resources available for fiscal year ending June 30, 2009:	\$799,536
Paragraph Eleven: GENERAL ADULT EDUCATION FUND (Fund 3133)	
General Adult Education	<u>\$19,000</u>
Total GENERAL ADULT EDUCATION FUND appropriations for fiscal year ending June 30, 2009:	\$19,000
To be provided as follows:	
Revenue from Local Sources	\$9,000
Revenue from the Commonwealth	<u>\$10,000</u>
Total GENERAL ADULT EDUCATION FUND resources available for fiscal year ending June 30, 2009:	\$19,000
Paragraph Twelve: DRIVERS SAFETY FUND (Fund 3305)	
Drivers Safety Fund	<u>\$401,500</u>
Total DRIVERS SAFETY FUND appropriations for fiscal year ending June 30, 2009:	\$401,500
To be provided as follows:	
Revenue from Local Sources (Tuition)	\$341,000
Revenue from the Commonwealth	<u>\$60,500</u>
Total DRIVERS SAFETY FUND resources available for fiscal year ending June 30, 2009:	\$401,500
Paragraph Thirteen: OPEN DOORS FUND (Fund 3306)	
Open Doors Fund	<u>\$123,000</u>
Total OPEN DOORS FUND appropriations for fiscal year ending June 30, 2009:	\$123,000
To be provided as follows:	
Revenue from Local Sources (Tuition)	\$120,000
Revenue from Local Sources (Advertisements)	<u>\$3,000</u>
Total OPEN DOORS FUND resources available for fiscal year ending June 30, 2009:	\$123,000
Paragraph Fourteen: STATE PROGRAMS	
Special Education Jail Program (Fund 3212)	\$140,489
Algebra Readiness (Fund 3152)	\$38,000
Individualized Student Alternative Education (Fund 3142)	\$23,576
Teacher Mentor Program (Fund 3151)	<u>\$9,586</u>
Total STATE PROGRAMS appropriations for fiscal year ending June 30, 2009:	\$211,651
To be provided as follows:	
Revenue from the Commonwealth	<u>\$211,651</u>
Total STATE PROGRAMS resources available for fiscal year ending June 30, 2009:	\$211,651
Paragraph Fifteen: AMERICAN HISTORY GRANT (Fund 3158)	
1 American History Grant	<u>\$95,000</u>
Total AMERICAN HISTORY GRANT appropriations for fiscal year ending June 30, 2009:	\$95,000
To be provided as follows:	
Revenue from Local Sources	<u>\$95,000</u>
Total TNE PARTNERSHIP GRANT resources available for fiscal year ending June 30, 2009:	\$95,000
Paragraph Sixteen: COMPUTER EQUIPMENT REPLACEMENT FUND (Fund 3907)	
Computer Equipment Replacement Fund	<u>\$1,000,000</u>
Total COMPUTER EQUIPMENT REPLACEMENT FUND appropriations for fiscal year ending June 30, 2009:	\$1,000,000
To be provided as follows:	

Revenue from Local Sources (Transfer from School Fund)	<u>\$1,000,000</u>
Total COMPUTER EQUIPMENT REPLACEMENT FUND resources available for fiscal year ending June 30, 2009:	\$1,000,000
Paragraph Seventeen KLUGE-CLUB YANCEY (Fund 3157)	
Kluge-Club Yancey	<u>\$20,000</u>
Total KLUGE-CLUB YANCEY appropriations for fiscal year ending June 30, 2009:	\$20,000
To be provided as follows:	
Revenue from Local Sources	<u>\$20,000</u>
Total KLUGE-CLUB YANCEY resources available for fiscal year ending June 30, 2009:	\$20,000
Paragraph Eighteen: FOUNDATION FOR EXCELLENCE (Fund 3502)	
Foundation for Excellence	<u>\$12,000</u>
Total FOUNDATION FOR EXCELLENCE appropriations for fiscal year ending	\$12,000
To be provided as follows:	
Revenue from Local Sources (Miscellaneous)	<u>\$12,000</u>
Total FOUNDATION FOR EXCELLENCE resources available for fiscal year ending June 30, 2009:	\$12,000
Paragraph Nineteen: Textbook Replacement Fund	
Textbook Replacement	<u>\$1,300,950</u>
Total TEXTBOOK REPLACEMENT FUND appropriations for fiscal year ending	\$1,300,950
To be provided as follows:	
Revenue from Local Sources (Transfer)	<u>\$1,300,950</u>
Total TEXTBOOK REPLACEMENT FUND resources available for fiscal year ending June 30, 2009:	\$1,300,950
GRAND TOTAL - OTHER SCHOOL FUNDS	\$16,525,489

SECTION IV: OTHER SPECIAL REVENUE FUNDS

That the following sums of money be and the same hereby are appropriated for OTHER PROGRAM purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2009:

Paragraph One: COMPREHENSIVE SERVICES ACT FUND (Fund 1551)	
Comprehensive Services Act Program Expenditures	<u>\$7,308,722</u>
Total COMPREHENSIVE SERVICES ACT appropriations for fiscal year ending June 30, 2009:	\$7,308,722
To be provided as follows:	
Revenue from Local Sources (Transfer from General Fund)	\$2,636,432
Revenue from Local Sources (Transfer from School Fund)	\$1,040,000
Revenue from the Commonwealth	<u>\$3,632,290</u>
Total COMPREHENSIVE SERVICES ACT resources available for fiscal year ending June 30, 2009:	\$7,308,722
Paragraph Two: BRIGHT STARS 4 YEAR OLD PROGRAM FUND (Fund 1553)	
Bright Stars Program	<u>\$1,215,991</u>
Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND appropriations for fiscal year ending June 30, 2009:	\$1,215,991
To be provided as follows:	
Revenue from Local Sources (Transfer from General Fund)	\$794,092
Revenue from Local Sources (Transfer from School Fund)	\$93,518
Revenue from the Commonwealth	\$270,936
Revenue from Fund Balance	\$57,445
Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND resources available for fiscal year	\$1,215,991

ending June 30, 2009:

Paragraph Three: TOWE MEMORIAL PARK FUND (Fund 4200)

Darden Towe Memorial Park	<u>\$236,506</u>
Total TOWE MEMORIAL PARK FUND appropriations for fiscal year ending June 30, 2009:	\$236,506
To be provided as follows:	
Revenue from Local Sources (Transfer from the General Fund)	\$151,682
Revenue from Other Local Sources	<u>\$84,824</u>
Total TOWE MEMORIAL PARK FUND resources available for fiscal year ending June 30, 2009:	\$236,506

Paragraph Four: MJ HEALTH GRANT (Fund 1563)

MJ Health Grant	<u>\$5,000</u>
TOTAL MJ HEALTH GRANT appropriations for fiscal year ending June 30, 2009:	\$5,000
To be provided as follows:	
Revenue From Local Sources	<u>\$5,000</u>
Total MJ HEALTH GRANT resources available for fiscal year ending June 30, 2009:	\$5,000

Paragraph Five: VISITOR CENTER FUND (Fund 9800)

Repair and Maintenance	<u>\$62,090</u>
TOTAL VISITOR CENTER FUND appropriations for fiscal year ending June 30, 2009:	\$62,090
To be provided as follows:	
Revenue from Local Sources	<u>\$62,090</u>
Total VISITOR CENTER FUND resources available for fiscal year ending June 30, 2009:	\$62,090

Paragraph Six: COURTHOUSE MAINTENANCE FUND (Fund 9150)

Transfer to General Government Capital Improvements Fund	<u>\$32,782</u>
TOTAL COURTHOUSE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2009:	\$32,782
To be provided as follows:	
Revenue from Local Sources	<u>\$32,782</u>
Total COURTHOUSE MAINTENANCE FUND resources available for fiscal year ending June 30, 2009:	\$32,782

Paragraph Seven: TOURISM FUND (Fund 1810)

Tourism Enhancement (Transfer to General Fund)	\$653,736
Tourism Projects (Transfer to General Government Capital Improvements Fund)	<u>\$486,264</u>
Total TOURISM FUND appropriations for fiscal year ending June 30, 2009:	\$1,140,000
To be provided as follows:	
Revenue from Local Sources	<u>\$1,140,000</u>
Total TOURISM FUND resources available for fiscal year ending June 30, 2009:	\$1,140,000

Paragraph Eight: CRIMINAL JUSTICE PROGRAMS FUND (Fund 1520)

Criminal Justice Grant Programs	<u>\$720,698</u>
Total CRIMINAL JUSTICE PROGRAMS FUND appropriations for fiscal year ending June 30, 2009:	\$720,698
To be provided as follows:	
Revenue from the Commonwealth (Grant)	<u>\$720,698</u>

Total CRIMINAL JUSTICE PROGRAMS FUND resources available for fiscal year ending June 30, 2009: \$720,698

Paragraph Nine: VICTIM-WITNESS GRANT FUND (Fund 1225)

Victim-Witness Program \$101,128

Total VICTIM-WITNESS GRANT FUND appropriations for fiscal year ending June 30, 2009: \$101,128

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund) \$76,221
Revenue from the Commonwealth (Grant) \$24,907

Total VICTIM-WITNESS GRANT FUND resources available for fiscal year ending June 30, 2009: \$101,128

Paragraph Ten: METRO PLANNING GRANT FUND (Fund 1208)

Metropolitan Planning Organization Funding \$14,500

Total METRO PLANNING GRANT FUND appropriations for fiscal year ending June 30, 2009: \$14,500

To be provided as follows:

Revenue from the Federal Government (Grant) \$11,600
Revenue from the Commonwealth (Grant) \$1,450
Local Funds (Transfer from the General Fund) \$1,450

Total METRO PLANNING GRANT FUND resources available for fiscal year ending June 30, 2009: \$14,500

Paragraph Eleven: HOUSING ASSISTANCE FUND (Fund 1227)

Family Self-Sufficiency Program (Transfer to General Fund) \$323,000
Section 8 Housing Assistance Payments \$2,482,867

Total HOUSING ASSISTANCE FUND appropriations for fiscal year ending June 30, 2009: \$2,805,867

To be provided as follows:

Revenue from the Federal Government \$2,805,867

Total HOUSING ASSISTANCE FUND resources available for fiscal year ending June 30, 2009: \$2,805,867

Paragraph Twelve: VEHICLE REPLACEMENT FUND (Fund 9200)

Vehicle Replacement \$526,000

Total VEHICLE REPLACEMENT FUND appropriations for fiscal year ending June 30, 2009: \$526,000

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund) \$384,495
Revenue from Other Local Sources \$25,000
Revenue from Fund Balance \$116,505

Total VEHICLE REPLACEMENT FUND resources available for fiscal year ending June 30, 2009: \$526,000

GRAND TOTAL - SPECIAL REVENUE FUNDS \$14,169,284

SECTION V - GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND (Fund 9010)

That the following sums of money be and the same hereby are appropriated from the GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2009:

Paragraph One: ADMINISTRATION

Voting Machine Replacement \$106,000

Paragraph Two: COURTS

Court Square Maintenance/Replacement Projects \$100,000
J&D Court Maintenance/Replacement Projects \$15,000
\$115,000

Paragraph Three: PUBLIC SAFETY

Pantops Fire Station	\$124,000
Ivy Fire Station	\$567,000
VFD Fire & EMS Apparatus Replacement	\$1,016,000
Crozet Ladder Truck	\$1,138,000
Fire/Rescue Mobile Data Computers	\$200,000
Public Safety Training Facility	\$1,051,000
Emergency Radio Notification System	<u>\$171,000</u>
	\$4,267,000

Paragraph Four: PUBLIC WORKS

County Facilities - Maintenance/Replacement	\$610,000
Recycling Centers	\$263,000
Ivy Landfill Remediation	\$914,000
Crozet Streetscapes Phase II	\$1,920,000
Storage Facility Lease	<u>\$70,000</u>
	\$3,777,000

Paragraph Five: COMMUNITY/NEIGHBORHOOD DEVELOPMENT

Neighborhood Implementation Plan Program	\$550,000
Revenue Sharing Road Program	\$1,000,000
Sidewalk Construction Program	\$422,000
Transportation Improvement Program - Local	\$2,125,000
Transportation Improvement Program - Regional	\$100,000
Roadway Landscaping Program	\$220,000
Streetlamp Program	<u>\$49,000</u>
	\$4,466,000

Paragraph Six: HUMAN DEVELOPMENT

PVCC Roundabout	\$43,000
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Paragraph Seven: PARKS, RECREATION & CULTURE

County Athletic Field Development	\$42,000
Paramount Theater	\$33,000
Greenway Program	\$50,000
River and Lake Access Improvements	\$35,000
Park Enhancements	\$100,000
Parks - Maintenance/Replacement	<u>\$189,000</u>
	\$449,000

Paragraph Eighth: LIBRARIES

Central Library Maintenance/Replacement	\$91,000
Gordon Avenue Library Improvements	<u>\$148,000</u>
	\$239,000

Paragraph Nine: TECHNOLOGY AND GIS

County Server/Infrastructure Upgrade	<u>\$360,000</u>
	\$360,000

Paragraph Ten: ACQUISITION OF CONSERVATION EASEMENTS

Acquisition of Conservation Easements (ACE) Program	\$1,614,000
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Paragraph Eleven: CAPITAL RESERVE

Capital Reserve	\$140,476
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Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2009: \$15,576,476

To be provided as follows:

Revenue from Local Sources (Tourism Fund Transfer)	\$486,264
Revenue from Local Sources (General Fund Transfer)	\$8,427,962
Other Local Sources (including Proffers)	\$1,106,250
State Revenues	\$300,000
Loan Proceeds	\$4,256,000
Use of Fund Balance	\$1,000,000

Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2009: \$15,576,476

SECTION VI: SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND (Fund 9000)

That the following sums of money be and the same hereby are appropriated from the SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the

fiscal year ending June 30, 2009:

Paragraph One: EDUCATION (SCHOOL DIVISION)

Support Services Complex	\$645,000
Administrative Technology	\$175,000
Instructional Technology	\$550,000
Maintenance/Replacement Projects	\$4,451,000
State Technology Grant	\$700,000
Gymnasium HVAC and Lighting Replacement	\$100,000
Greer Elementary School Renovations	\$5,140,000
Albemarle High School Addition/Renovation	\$10,316,000
Brownsville Elementary Addition	\$9,415,000
Crozet Elementary Addition	\$45,000
Vehicle Maintenance Facility Addition	\$1,150,000
Storage Facility Lease	\$180,000
Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2009:	\$32,867,000

To be provided as follows:

Revenue from Local Sources (General Fund Transfer)	\$1,000,000
Proffers	\$100,000
Interest Earned	\$100,000
State Construction Funds	\$200,000
State Technology Grant	\$700,000
VPSA Bonds	\$30,767,000
Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2009:	\$32,867,000

SECTION VII: STORM WATER CAPITAL IMPROVEMENTS FUND (Fund 9100)

That the following sums of money be and the same hereby are appropriated from the STORM WATER CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2009:

Paragraph One: STORM WATER PROJECTS

Storm Water Control Program	\$800,000
Total STORM WATER CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2009:	\$800,000

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$800,000
Total STORM WATER CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2009:	\$800,000

SECTION VIII: DEBT SERVICE

That the following sums of money be and the same hereby are appropriated for the function of DEBT SERVICE to be apportioned as follows from the GENERAL GOVERNMENT DEBT SERVICE FUND and the SCHOOL DIVISION DEBT SERVICE FUND for the fiscal year ending June 30, 2009:

Paragraph One: SCHOOL DIVISION DEBT SERVICE FUND (Fund 9900)

Debt Service Payments - School Division	\$12,913,103
Debt Service Payments - PREP	<u>\$224,609</u>
Total SCHOOL DIVISION DEBT SERVICE appropriations for fiscal year ending June 30, 2009:	\$13,137,712

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$12,913,103
Revenue from Local Sources (PREP Fees)	<u>\$224,609</u>
Total SCHOOL DIVISION DEBT SERVICE resources available for fiscal year ending June 30, 2009:	\$13,137,712

Paragraph Two: GENERAL GOVERNMENT DEBT SERVICE FUND (Fund 9910)

Emergency Services Radio System Lease/Debt Service Payment	\$826,556
Debt Service Payments - General Government	\$1,377,266
Bond Issuance Cost	<u>\$10,000</u>

Total GENERAL GOVERNMENT DEBT SERVICE appropriations for fiscal year ending June 30, 2009: \$2,213,822

To be provided as follows:

Revenue from Local Sources \$283,178
 Revenue from Local Sources (Transfer from General Fund) \$1,930,644

Total GENERAL GOVERNMENT DEBT SERVICE resources available for fiscal year ending June 30, 2009: \$2,213,822

GRAND TOTAL - DEBT SERVICE FUNDS \$15,351,534

TOTAL APPROPRIATIONS MENTIONED IN SECTIONS I - VIII OF THIS RESOLUTION FOR THE FISCAL YEAR ENDING June 30, 2009

RECAPITULATION:

Appropriations:

Section I	General Fund	\$224,391,325
Section II	School Fund	\$151,295,942
Section III	Other School Funds	\$16,525,489
Section IV	Other Special Revenue Funds	\$14,169,284
Section V	General Government Capital Improvements Fund	\$15,576,476
Section VI	School Division Capital Improvements Fund	\$32,867,000
Section VII	Storm Water Capital Improvements Fund	\$800,000
Section VIII	Debt Service	<u>\$15,351,534</u>
		\$470,977,050

Less Inter-Fund Transfers

General Fund to School Fund	(\$101,657,425)
General Fund to Special Revenue Funds	(\$3,986,430)
General Fund to Capital Improvements Funds	(\$10,227,962)
General Fund to Debt Service Funds	(\$14,843,747)
Special Revenue Funds to General Fund	(\$976,736)
Special Revenue Funds to Capital Improvements Funds	(\$519,046)
School Fund to Self-Sustaining Funds	(\$3,113,606)
School Fund to Special Revenue Funds	(\$1,133,518)
School Fund to General Fund	(\$402,895)
Self-Sustaining Funds to School Fund	<u>(\$400,000)</u>
	(\$137,261,365)

GRAND TOTAL - ALBEMARLE COUNTY APPROPRIATIONS \$333,715,685

SECTION IX: EMERGENCY COMMUNICATIONS CENTER

That the following sums of money be and the same hereby are appropriated from the EMERGENCY COMMUNICATIONS CENTER FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2009:

Paragraph One: EMERGENCY COMMUNICATIONS CENTER FUND

Emergency Communications Center \$4,919,609

Total EMERGENCY COMMUNICATIONS CENTER FUND appropriations for fiscal year ending June 30, 2009: \$4,919,609

To be provided as follows:

Revenue from Local Sources \$4,366,463
 Revenue from the Commonwealth \$540,000
 Revenue from the Federal Government \$13,146

Total EMERGENCY COMMUNICATIONS CENTER FUND resources available for fiscal year ending June 30, 2009: \$4,919,609

BE IT FURTHER RESOLVED THAT the Director of Finance is hereby authorized to transfer monies from one fund to another, from time to time as monies become available, sums equal to, but not in excess of, the appropriations made to these funds for the period covered by this appropriation resolution.

SECTION X

All of the monies appropriated as shown by the contained items in Sections I through VIII are appropriated upon the provisos, terms, conditions, and provisions herein before set forth in connection with said terms and those set forth in this section. The Director of Finance (Richard Wiggans) and Clerk to the Board of Supervisors (Ella W. Jordan) are hereby designated as authorized signatories for all bank accounts.

Paragraph One

Subject to the qualifications in this resolution contained, all appropriations are declared to be maximum, conditional, and proportionate appropriations - the purpose being to make the appropriations payable in full in the amount named herein if necessary and then only in the event the aggregate revenues collected and available during the fiscal year for which the appropriations are made are sufficient to pay all of the appropriations in full.

Otherwise, the said appropriations shall be deemed to be payable in such proportion as the total sum of all realized revenue of the respective funds is to the total amount of revenue estimated to be available in the said fiscal year by the Board of Supervisors.

Paragraph Two

All revenue received by any agency under the control of the Board of Supervisors included or not included in its estimate of revenue for the financing of the fund budget as submitted to the Board of Supervisors may not be expended by the said agency under the control of the Board of Supervisors without the consent of the Board of Supervisors being first obtained, nor may any of these agencies or boards make expenditures which will exceed a specific item of an appropriation.

Paragraph Three

No obligations for good, materials, supplies, equipment, or contractual services for any purpose may be incurred by any department, bureau, agency, or individual under the direct control of the Board of Supervisors except by requisition to the purchasing agent; provided, however, no requisition for items exempted by the Albemarle County Purchasing Manual shall be required; and provided further that no requisition for contractual services involving the issuance of a contract on a competitive bid basis shall be required, but such contract shall be approved by the head of the contracting department, bureau, agency, or individual, the County Attorney, and the Purchasing Agent or Director of Finance. The Purchasing Agent shall be responsible for securing such competitive bids on the basis of specifications furnished by the contracting department, bureau, agency, or individual.

In the event of the failure for any reason of approval herein required for such contracts, said contract shall be awarded through appropriate action of the Board of Supervisors.

Any obligations incurred contrary to the purchasing procedures prescribed in the Albemarle County Purchasing Manual shall not be considered obligations of the County, and the Director of Finance shall not issue any warrants in payment of such obligations.

Paragraph Four

Allowances out of any of the appropriations made in this resolution by any or all County departments, bureaus, or agencies under the control of the Board of Supervisors to any of their officers and employees for expense on account of the use of such officers and employees of their personal automobiles in the discharge of their official duties shall be paid at the same rate as that established by the County Executive.

Paragraph Five

All travel expense accounts shall be submitted on forms and according to regulations prescribed or approved by the Director of Finance.

Paragraph Six

All resolutions and parts of resolutions inconsistent with the provisions of this resolution shall be and the same are hereby repealed.

Paragraph Seven

This resolution shall become effective on July first, two thousand and eight.

* * * * *

RESOLUTION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF A BORROWING

WHEREAS, the Albemarle County Board of Supervisors, Virginia (the "Borrower"), intends to acquire, construct and equip the items and projects set forth in Exhibit A hereto (collectively, the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, to pay the costs of the Project in an amount not currently expected to exceed \$53,070,424.

2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.

3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.

4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.

5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

6. This resolution shall take effect immediately upon its passage.

Exhibit A

**CAPITAL IMPROVEMENT PROGRAM
 BONDED PROJECTS
 FY 2008/09**

Schools	Amount
1. School Maintenance Projects	\$3,956,000
2. Support Services Complex	\$645,000
3. Gymnasium HVAC & Lighting Replacement	\$100,000
4. Greer Elementary School Addition/Renovations	\$5,140,000
5. Albemarle High School Addition/Renovations	\$10,316,000
6. Brownsville Elementary School Addition/Renovations	\$9,415,000
7. Crozet Elementary School Improvements	\$45,000
8. Vehicle Maintenance Facility Addition	<u>\$1,150,000</u>
Schools Subtotal	\$30,767,000
General Fund	Amount
1. Pantops Fire Station Equipment	\$124,000
2. Ivy Fire Station Apparatus	\$567,000
3. Fire Rescue Apparatus	\$1,016,000
4. Crozet Ladder Truck	\$1,138,000
5. Public Safety Training Facility	\$1,051,000
6. County IT Infrastructure/Server Upgrade	<u>\$360,000</u>
General Fund Subtotal	\$4,256,000
TOTAL DEBT ISSUE – FY 2008/09 PROJECTS	\$35,023,000

REAFFIRMATION OF PREVIOUSLY BONDED PROJECTS

General Fund	Amount
1. Juvenile & Domestic Relations Court Renovations	\$4,000,000
2. Hollymead Fire Station	\$5,841,218
3. Pantops Fire Station	\$2,611,000
4. Ivy Fire Station	\$1,634,000
5. Fire Rescue Apparatus	\$1,328,000
6. Public Safety Training Facility	\$788,206
7. Crozet Library	\$1,500,000
8. County IT Infrastructure/Server Upgrade	<u>\$345,000</u>
General Fund Subtotal	\$18,047,424
TOTAL DEBT ISSUE – ALL PROJECTS	\$53,070,424

Item No. 7.12. 2007 Annual Report of the Citizens Advisory Committee of the Charlottesville-Albemarle Public Defender Office, **was received for information.**

Item No. 7.13. FY08 Third Quarter Financial Report.

The executive summary states that the attached Quarterly Financial Report provides information on the County's General Fund operations and Fund Balance as of March 31, 2008. The Financial Report includes a bar chart that compares fiscal year revenue and expenditure data with the prior year.

(\$ in Millions)

A. Attachment A – General Fund Quarterly Financial Report:

1. Revenues:

The Department of Finance estimates that General Fund revenues, transfers, and use of fund balance will be \$3.609 million (1.6%) less than current appropriations of \$221.649 million. Recent national indicators suggest that the economic outlook has weakened further. Consumer confidence moved lower for the fourth straight month. Consumers' assessment of the present situation plunged almost ten points to its lowest level in five years. Many economists now believe that we are in the midst of a recession. State and local indicators recently edged up slightly giving mixed messages. Final revenues may vary from estimates due to continued market uncertainty.

- a. Real Estate tax revenues are estimated to be \$0.547 million (0.5%) less than appropriations. The estimate is based on collections to date, the 2008 tax roll, and the Board-approved 2008 tax rate of \$0.71.
- b. Personal Property tax revenues are estimated to be \$0.930 million (4.4%) less than appropriations. The reduction is due to decreased 2007 tax revenues resulting from a sales shift from high dollar fuel inefficient to lower dollar fuel efficient vehicles, average used vehicle sale prices falling faster than prior year comparable vehicle sales, and an actual decrease in new vehicle unit sales from prior years.
- c. Delinquent Property tax revenues are estimated to be \$0.339 million (35.0%) less than appropriations. The decrease is being experienced both in real estate and personal property collections. New delinquent fees are being implemented which should encourage timely payment of future tax bills.
- d. Sales tax revenues are estimated to be \$1.350 million (9.2%) less than appropriations. Actual collections are slightly less than FY07 for the same period. Local audit procedures have commenced to ensure proper situs credit for dealer remittances. The Commonwealth is also experiencing lower than anticipated collections across the state which are attributed to current economic conditions.
- e. Business License revenues are estimated to exceed appropriations by \$0.806 million, 8.3%. Business licenses are based on prior calendar year gross receipts. Due to the one-year lag in recognition, the County is now realizing an increase in license fees from the prior year when market conditions were stronger. The County is also experiencing increased contractor fees from UVA related construction.
- f. Utility tax revenues are estimated to exceed appropriations by \$0.230 million, 2.5%. The 2006 State Communications Sales and Use Tax Act mandated that Telecommunications Consumer Utility, E-911, and Right-of-Way tax receipts formerly collected directly by localities be gathered by the state and remitted back to localities based on a fixed FY06 apportionment formula. These revenues were formerly recognized in 3 different funds. They are all now credited to the General Fund.
- g. Other Local tax revenues are estimated to exceed appropriations by \$0.128 million, 1.1%. Increased Public Service, Bank Franchise, and Transient Occupancy taxes are offset by decreased Vehicle License and Clerk fees. The Public Service boost is due to a higher public service ratio resulting from the minimal reassessment increase. The decreased Vehicle License fees result from the reduction in vehicle unit purchases. The decreased Clerk fees result from lower local seller's tax and recordation receipts due to real estate market conditions.
- h. Other Local revenues are estimated to be \$0.218 million (3.8%) less than appropriations. Increased Court fees, Computer Maintenance recovery, and Traffic fines are offset by decreased Interest revenue and Inspection fees.
- i. State revenues are estimated to be \$0.251 million (1.1%) less than appropriations. The decrease is primarily attributed to reduced state reimbursement for Public Assistance and 599 funding of law enforcement.
- j. Federal revenues are estimated to be \$1.160 million (21.1%) less than appropriations. The decrease is due to reduced federal reimbursement for Public Assistance. There is a related decrease in local expenditures. Economically sensitive expenditures for food stamps, TANF, and Medicaid are administered by the state.

- k. Other categories are estimated to vary less than \$0.100 million from appropriations.
2. Expenditures:
Total expenditures, including transfers, are within appropriate levels, 73.9%, for the first nine months.
- a. Departmental expenditures are projected to be \$2.319 million (2.8%) less than appropriations.
 - i. Administration expenditures are projected to be \$0.368 million, 3.3% less than appropriations, due to personnel-related reductions and software maintenance savings.
 - ii. Public Safety expenditures are projected to be \$0.124 million, 0.4%, less than appropriations, due to Hollymead fire station contingency reductions.
 - iii. Human Services expenditures are projected to be \$1.311 million, 7.1%, less than appropriations due to Social Services personnel and operations savings.
 - iv. Community Development is projected to be \$0.501 million, 5.6%, less than appropriations, due to personnel reductions and operations savings in Planning and Community Development.
 - b. Non-Department expenditures are projected to be \$0.679 million (4.6%) less than appropriations due to savings in the reclassification and merit reserves.
 - c. Transfers are projected to be \$1.266 million (1.0%) less than appropriations due to reduced transfer amounts to School Operating and School CIP, reflecting projected revenue shortfalls.
3. Revised Revenues less Expenditures:
- a. Revenues are expected to exceed expenditures by \$0.655 million.
 - b. Fund Balance available May 07, 2008 is \$2.820 million.
 - c. Projected June 30, 2008 Available Funds is \$3.475 million.

B. Attachment B – General Fund Budget Comparison Report:

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

- a. Revenues in all categories except Sales Tax, Federal Revenue, Transfers from Other Funds, and Fund Balance show positive growth from FY07.
- b. Expenditures in all categories except Non-School Transfers are expected to increase over FY07.

C. Attachment C – General Fund Balance Report:

The Report indicates that the County:

- a. Had an audited FY07 Fund Balance of \$18.314 million at June 30, 2007,
- b. Appropriated \$2.370 million for FY08 projects,
- c. Has remaining FY07 Fund Balance of \$15.944 million at March 31, 2008,
- d. Reserved \$13.000 million for cash flow purposes,
- e. Appropriated \$0.065 million subsequent to March 31, 2008,
- f. Has Proposed commitments of \$0.060 million, and
- g. Has Unobligated Funds Available of \$2.820 million as of May 07, 2008.

This Financial Report is based on Audited financial data for FY07 and the first nine months of operations for FY08.

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

By the above-recorded vote, the Board received the report for information.

Item No. 7.14. Copy of letter dated April 15, 2008, from Ronald L. Higgins, Chief of Zoning, to Brian S. Ray, c/o Roger W. Ray & Assoc., **re: OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS - Tax Map 8, Parcel 40 (property of Gary Wayne Morris) – White Hall Magisterial District, was received for information.**

Item No. 7.15. Comparative Report of Local Government Revenues and Expenditures for Fiscal Year Ended June 30, 2007 as prepared by the Commonwealth of Virginia, Auditor of Public Accounts, **was received for information.**

Agenda Item No. 8. Request to change name of Industrial Development Authority to Economic Development Authority.

Mr. John Lowry, Chair of the Industrial Development Authority addressed the Board, and introduced the Authority's Attorney, Mr. Jim Bowling. Mr. Lowry stated that he is here to request a change in name to the Economic Development Authority, as the "industrial" borrower doesn't really come to the Authority any longer. He said that in 2004 the General Assembly passed legislation to allow for this name change, and this just catches Albemarle up with what others have done – including about half of IDAs around the state such as the City of Charlottesville which changed its name last year. Mr. Lowry said the IDA adopted a resolution, which was forwarded to Board members, requesting this name change. He asked for the Board's support.

Mr. Boyd commented that this seems to be a very logical step and asked if others on the Board had questions or concerns.

Mr. Davis pointed out that the name is set by ordinance in the County Code, so in order to change the name the ordinance would need to be amended. If it is the desire of the Board, staff will prepare an amendment to the ordinance, advertise it, and bring it back to the Board for a public hearing and vote.

Motion was then offered by Mr. Rooker, **seconded** by Mr. Slutzky, authorize the County Attorney's office to prepare an ordinance, for advertisement, to change the name of the Industrial Development Authority of Albemarle County to Economic Development Authority of Albemarle County.

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

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

NAYS: None.

Ms. Thomas suggested that the IDA have "as strong a set of questions as possible" for funding applicants, and encouraged Board members to talk to their Authority appointees and clarify expectations – such as provision of living wages, day care, bus service, LEED Certification, rain harvesting, fire and police assistance, heightened soil erosion efforts, etc.

Mr. Slutzky agreed, and also asked if entities that benefit from this can get a tax deduction for the interest on their debt.

Mr. Rooker responded that the holder of the debt does not pay income tax on it.

Mr. Slutzky asked if agricultural activities or farmers could access this fund.

Mr. Rooker replied that there are requirements related to job creation, etc.

Mr. Tucker indicated that the Code stipulates those requirements.

Mr. Lowry explained that it is "low-cost capital" available to applicants, but confirmed that there is a requirement for job creation.

Mr. Slutzky said that perhaps the IDA could reach out to the agricultural sector of the economy as it might be helpful to them.

Mr. Lowry stated that they will incorporate Ms. Thomas suggestions into their questionnaire. He added that bond counsels around the state know qualified buyers so they are always seeking the lowest cost capital. They are willing to do some outreach. He said that the practical minimum is the fee – which is about \$15,000 essentially for bond counsel to have the application go through.

Mr. Rooker said that there has not been an application for less than \$1 million in a long time.

Mr. Jim Bowling, Counsel for the IDA, said most applications are higher than \$1 million.

Mr. Rooker added that that becomes a limiting factor.

Regarding Item 7.13, - FY08 Third Quarter Financial Report - Mr. Rooker said the report shows unobligated funds of \$2,820,000 as of May 7, 2008, and wondered how it might run out by the end of the year.

Mr. Tucker responded that's what is available to the fund balance in addition to what is already there, although it may dwindle somewhat.

Mr. Rooker pointed out that the national housing market has declined and there are lots of projections that show it will get even worse. He suggested rather than just putting funds into capital at the end of the year to put them in a rainy day fund.

Mr. Tucker indicated that is what he is planning to do, agreeing with those concerns and stating that under the Board's policy, savings will be recommended to go to fund balance.

Agenda Item No. 9. Formation of Crozet Library Steering Committee.

The executive summary states that the Board adopted the Crozet Master Plan in December of 2004, which included a new Crozet Library to provide enhanced library services to the community, and authorized construction of the Downtown Crozet location in November of 2006. The library is envisioned to serve as an anchor for a revitalized downtown Crozet, a major public sector investment and a visible presence that will help support critical infrastructure improvements such as parking, sidewalks and the new Main Street. Construction is anticipated to begin in the Summer of 2009 and completed in the Spring of 2011. Additional background information regarding the library is provided in Attachment A.

The design of a community library in a central downtown center is a complex undertaking, involving multiple stakeholders, competing interests and the need to balance a multitude of factors. The formation of a steering committee provides a venue for managing this process in a timely and efficient manner. The committee's success will depend on it being vested by the Board of Supervisors with a level of responsibility that will allow the project to move along on the desired timeline, with appropriate check-ins by the Board of Supervisors. The committee will not be a substitute for the general public engagement process involving all interested area residents that will be a critical part of this project.

The proposed Steering Committee is an advisory committee and will provide the following functions:

- Public/stakeholder engagement process;
- Analysis, evaluation and consideration of design alternatives;
- Development of preferred conceptual design;
- Recommendation to Board of Supervisors on preferred design.

The work of the committee shall begin with the start of the formal design of the library and end with the conclusion of the schematic design phase. The Office of Facilities Development will oversee the design development, construction document and construction phases of the project.

No budget impact is anticipated.

Staff requests that the Board approve the formation and charge of the Crozet Library Steering Committee as outlined in attachment B.

Mr. Bill Letteri, Director, Office of Facilities Development, said they are ready to proceed with the formal design of the Crozet Library downtown. They are excited to be at this place. This event follows the Board's approval of the Crozet Master Plan in 2004 and the authorization to proceed with other major improvements such as the streetscape project, relocation of downtown utilities, and stormwater improvements. He said that the Library is an important part of the investment downtown, and is a complex undertaking as it involves a lot of issues and quite a number of stakeholders. Mr. Letteri stated that the public will be involved in the process. The Committee will work closely with Ms. Lee Catlin and her office as well as providing oversight to the design team – which would be present at meetings. He indicated that a critical role of the Committee will be to balance interests and reach general consensus, and he is hopeful that several alternative designs are considered.

Mr. Letteri explained that early on in the process the Committee will establish guiding principles, which would attempt to clearly articulate the Committee's role in getting the library built. He noted that project cost will be a critical area of focus as the library needs to stay within budget.

Mr. Slutzky said that the Board supported five to one a 20,000 square foot building with a 10,000 square foot library and asked how many dollars per square foot have been considered.

Mr. Letteri responded that the cost would be about \$325 per square foot.

Mr. Boyd stated that the additional square footage was authorized on the assumption that the additional cost would be raised privately.

Mr. Letteri replied that more than \$1.6 million has been raised – about \$1 million for books.

Mr. Boyd said that it was for the building, not the books.

Mr. Slutzky commented that this may be a problem, as the public was "outraged" at the cost per square foot of the Hollymead fire station at \$200+ per square foot.

Mr. Letteri stated that his office has shared with the Board through the CIP process the careful evaluation of all projects – including this one – as to reasonableness of square footage numbers, adding that this is a LEED certified building.

Mr. Slutzky responded that LEED only adds about five percent to the cost.

Mr. Rooker emphasized that this needs to be put in the context of similar projects, and the Board has already been through a comparison process.

Mr. Slutzky encouraged Mr. Letteri to work with the committee on cost containment.

Mr. Letteri replied that they are indeed already doing that, and they have obtained a lot of information from other libraries around the state.

Mr. Dorrier noted that there is no IT person on the committee, and strongly encouraged that a person with that expertise be included.

Mr. Letteri stated that they would like to convene a committee of 15 to 18 people, including key groups that should be involved. He said that the committee recommends going to these groups and having them nominate their own representatives, adding that the committee is recommending having two Board members and the Assistant County Executive. Mr. Letteri noted that chairmanship of the group would be administrative and technical, and the regional library director would be involved as would the branch manager for Crozet; he added that a Library Board member would be included as would the Crozet Community Advisory Council. Mr. Letteri said that the Crozet Community Association, Crozet Downtown Association, Planning Commission member, and Crozet Library Fundraising Committee would also be involved. He stated that to address the IT aspect of library science, the committee is hoping to include someone from U.Va.; if not that advice would be sought elsewhere. Mr. Letteri mentioned that the committee would have the option to select two or three other memberships – such as representatives from the School Board, PTO, service clubs, historic resource groups, etc.

Ms. Mallek commented that library representatives would eagerly incorporate IT advancements that they have now, in addition to the University person.

Mr. Letteri reported that the expected timeline for the committee's work would include convening the first meeting in June and then during the summer do the "key work," such as the refinement and completion of the program for the library, development of site models and schematic plans, and consideration of different facades. He said that in the late fall it is hoped the group would come back to the Board with a formal recommendation, although they may be back to provide a general update and review the guiding principles. Mr. Letteri indicated that the committee hopes by summer 2009 to have completed all formal design and work to bid the project – which should take 18 to 20 months to complete – and the committee would stay together through the schematic design phase.

Mr. Letteri stated that today the steering committee is hoping to have the Board authorize the formation of the committee, approve the committee's charge, appoint two Board members to serve, appoint the committee chair, and approve membership as recommended.

Mr. Dorrier commented that there should be someone designated as a computer technology person, rather than just have the University appointing someone.

Ms. Mallek said that U.Va. would be the source of nominations for the person, but would not appoint the person.

Mr. Dorrier responded that someone from the County's IT department should be involved.

Mr. Letteri stated that perhaps Michael Culp could provide suggestions.

Mr. Boyd suggested looking at PVCC as well.

Ms. Thomas emphasized that there is a difference between technology and library technology, and U.Va. is a leader in library technology. That is a goldmine of technology information sitting at our backdoor. She thinks they could probably get what other communities would be spending hundreds of thousands of dollars to get the technology that we can get from someone that the University encourages to be appointed.

Mr. Slutzky suggested adding something to the "charge statement" that says "actively consider the cost aspects of the project."

Board members agreed on this addition.

Mr. Boyd asked how much cost overrun has been built into this project.

Mr. Letteri responded that they would establish a ten percent contingency, adding that the committee wants to create a design that clearly is no more than 90 percent of the allocated construction budget.

Mr. Dorrier mentioned that this committee may not know all the nuances about the construction industry, noting the Monticello High School project.

Ms. Thomas replied that the group with the school project spent a lot of time and gathered a lot of expertise to come up to speed on the construction aspects. It was a mistake, but not a mistake done with eyes partially shut.

Mr. Boyd said a step missing in this process is that he does not think it comes back to the Board for the actual allocation of expenses. It seems that as long as the cost comes within the budget, the Board does not have an opportunity to readdress whether \$325 is a good estimate. It only comes back to the Board if it costs more.

Mr. Rooker emphasized that the question becomes whether you have designed something that is more expensive than what you need to build. Value engineering is worked into all County projects. The process is designed to get lowest possible cost for the design.

Mr. Slutzky cautioned that the Board could essentially signal that the \$325 a square foot benchmark is what should be used. He asked if there are things that might be taken out of the "wish list" because they are expensive elements relative to their costs.

Mr. Rooker said things occur in meetings that Board members forget about. He agrees with what is being said, but a lot of these questions had been asked early in the process, and there have been many involved who have expertise in library design and building.

Mr. Slutzky pointed out that he voted against this project because the comparative projects used had been very high-end, adding that he also questioned the scale of the Crozet project. He felt that building a structure half the size would serve the purpose and be a significantly lower burden to the taxpayers. His purpose for raising this issue again is because he wants to make sure that the steering committee is fully aware that what they are designing is not just tied to the functionality and aesthetics of the building, but also the economic impact of the building.

Mr. Rooker said that, as with all projects, it would be helpful for the Board to have information about how costs were established.

Mr. Letteri responded that in the CIP process they have gone through a much more rigorous exercise. These projects are projected to happen 18 to 24 months out and the committee has to be as prudent and diligent as possible in identifying real costs. He added that there could be changes in materials costs, and they have built into the process "stopping points" to check on budget issues.

Mr. Rooker commented that the value engineering part of the process is to identify ways to cut costs in the project.

Mr. Boyd said his point is he never sees a point in the process where staff or anyone comes back to the Board and say this building could be designed another way and would save \$50 a square foot. He asked what type of building is being built.

Mr. Tucker noted that there will be two Board members involved in the process so they will ensure adequate information-sharing and cost evaluation.

Mr. Rooker mentioned that the Hollymead Fire Station is no "Taj Mahal," but is a plain building inside; external styling was required to meet the U.Va. architectural guidelines for the Research Park. It is not a motel or something overly expensive once you get inside the building. He objects to these continued references by a lot of people in the public who have never set foot in it.

Mr. Letteri noted that there is an independent construction management firm included in the standard operating procedures to help identify opportunities, as well as hiring independent constructability reviews.

Mr. Slutzky suggested a two-step bidding process. He asked if the County invites in its bid process alternative bids.

Mr. Davis explained that the Procurement Act does not allow for a design-build contract process. In most projects the State requires the design to be established first with an architect, then put out to bid for that specific design – which would not allow for a change in design – unless the bids exceeded the cost of the project that was budgeted. He said that at that point, a project can be negotiated to come within bid to the lowest responsible bidder.

Mr. Boyd asked if architects bid on the projects.

Mr. Letteri responded that the architectural phase involves a quality-bid structure, not a low-bid structure. He added that there are programs that include contractors earlier in the process, and there are plusses and minuses with that approach. Mr. Letteri encouraged the Board to let him bring back more information about options for procurement.

Ms. Thomas said that in this case the architect dealt very well with the community, as they were "dumped into the lion's den" as far as library location and design. They have shown that they can deal with a diverse community that is going to have diverse ideas. She added that the Crozet community is likely to be in favor of a modest design.

Mr. Rooker asked if there could be incentives given for contractors to come in under budget.

Mr. Letteri replied that the architect must develop drawings, specifications and a plan that once bid come in within ten percent of the budget, and if it exceeds that they have to go back and redesign at their own cost.

Mr. Slutzky asked if they are paid a percentage of the final price or a fixed rate.

Mr. Letteri said their fee is based on a fixed rate. The actual rate is negotiated at the beginning of the process; typically the rate is established by looking at the overall volume of construction they are needed to do. In their experience there is sufficient incentive for these architects to make sure that these projects come in low.

Mr. Rooker asked if there could be one Board member and an alternate instead of two Board members on the committee, as there is a tendency for Board members to dominate committees.

Ms. Mallek responded that the citizens who will be served by the library are from Samuel Miller and White Hall, and it is important that both districts be represented.

Mr. Dorrier asked if the committee will have representation from the School Board.

Mr. Letteri said that was on the potential list of representatives, possibly from the School Board or a PTO member.

Mr. Rooker then **moved** to authorize the formation of the Crozet Library Steering Committee with the composition as indicated in the staff report; to approve the Committee charge with the addition, as Mr. Slutzky indicated earlier, to appoint Ms. Thomas and Ms. Mallek as the Board members of the Committee, to appoint Mr. Letteri as Committee Chair, and to approve Committee membership specified in the staff report in Attachment B, and to authorize the Committee to add up to three additional members as it may deem appropriate. Mr. Slutzky **seconded** the motion.

Mr. Davis asked if the Board is going to appoint individual members or if the intent is that the different groups will appoint their member.

Mr. Rooker said his understanding was that the individual groups would appoint their members.

Mr. Boyd said he thought they would suggest members and the Board would make the appointments.

Mr. Letteri said he did not contemplate coming back but if that is the desire of the Board, they will do so. He is concerned about losing the month of June if that is done.

Mr. Slutzky said he had no problem with the groups making their appointments.

Ms. Thomas agreed.

Mr. Slutzky commented that he is very appreciative of Mr. Letteri's efforts with the project and his work to keep costs contained.

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

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

County of Albemarle
Crozet Library Steering Committee
Charge Statement, Membership and Organization

Steering Committee Charge

The Crozet Library Steering Committee is an advisory committee charged with a) providing direction and advice on a public/stakeholder engagement process; b) providing oversight and direction to the project's design team; c) considering and balancing the concerns/issues of the affected stakeholders and building public consensus for committee recommendations; d) reviewing alternative designs; e) to actively consider the cost aspects of the projects; and f) making a recommendation to the Board of Supervisors on a final preferred program and concept plan. The preferred program and plan should be based on the Board's Vision to develop a new and expanded public library in downtown Crozet as a critical priority to provide a focal point for community activity and to help catalyze expanded opportunities for new and existing downtown businesses.

The Steering Committee shall work directly with the County's project design team including consultants and staff. Its work shall be coordinated with the County's efforts to promote a vibrant business and community center in downtown Crozet.

The Steering Committee's recommendation shall include at a minimum:

- A program description for the Library.
- The Library's layout, including the type, size and location of uses and activities.
- How the plan fulfills the County's vision and adheres to the guiding principles for the Library.

- The estimated costs for both building and operating the facility.
- An architectural concept of the preferred plan for the facility.

The Steering Committee will conclude its work at the end of the Schematic Design phase and make a final recommendation to the Board of Supervisors no later than October 30, 2008. The Committee shall provide periodic updates to the Board on the progress of their work.

Membership Selection Process

The Crozet Library Steering Committee shall consist of approximately twelve (12) voting members appointed by the Board of Supervisors. Appointments will be based on staff recommendations and nominations from community and business groups. The committee may appoint up to three additional voting members.

Membership Selection Criteria

The Crozet Library Steering Committee will be composed, at a minimum, of the following representatives:

- Two members of the Board of Supervisors
- The County's Director of Facilities Development (Chair)
- The County's Executive Office
- The Regional Library Director
- The Crozet Library's Branch Manager
- One Library Board member
- One member of the Crozet Community Advisory Council
- One member of the Crozet Community Association
- One member of the Crozet Downtown Association
- One member of the Planning Commission
- One member of the Crozet Library Fund Raising Committee
- One member of the Crozet area PTO

The Board of Supervisors will appoint members based on their qualifications and interest in serving on the Committee. An individual may be appointed to represent more than one of the above referenced groups. The Board will strive to appoint an overall membership that is diverse in age, abilities, experiences, professions, interests, etc.

Member qualifications include:

- Experience working within a consensus-driven decision-making process, and a commitment to such a process in fulfilling the Committee's responsibilities as outlined in the charge statement;
- Willingness to work within established County procedures and processes;
- Ability to be open-minded; to listen and be respectful of the values, views and opinions of other representatives;
- Ability to share information with, and receive information from the community at large;
- Ability to meet once a month and possibly more often over the next year; and
- Being a resident of Albemarle County

Steering Committee Organization

The Board of Supervisors shall designate the Committee Chair. The consultant design team and other County staff shall serve as technical representatives and shall be responsible for assembling and compiling all information and reports necessary for the Committee's work to progress, including meeting notes.

Meetings will be held approximately once a month. The date and time of Committee meetings shall be established at the first meeting; additional meetings may be called by the Chair. All meetings will be open work sessions, where the general public is invited to attend to listen and observe, unless participation is deemed appropriate by the Chair. Active participation will be extended to the general public at open houses, workshops and public hearings. In addition to the Steering Committee, the project will include a comprehensive public engagement program for the public at large to include active participation at open houses, workshops, public hearings, and other appropriate venues.

No quorum shall be necessary to conduct business, but no vote will be taken unless a quorum is present. A majority of the voting members of the Committee shall constitute a quorum. Decisions shall be made, if possible, by an indication of general consensus among the Committee members present. Staff (other than appointed members) will not participate as decision makers. When this method does not serve to establish a clear direction, the chair shall call for a roll-call vote. When an agreement cannot be achieved on an issue, business shall proceed and County staff shall document and present minority positions for future Board of Supervisors consideration.

Facilitation will be provided in those instances when it is considered beneficial in helping the Committee achieve its stated purposes.

Agenda Item No. 10. Local Government Resource Management.

The executive summary forwarded to the Board members stated that the mission of the Albemarle County local government is “to enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds.” In addition to the guidance provided through the County’s mission statement, staff also aims to operate according to the principles of a High Performance Organization (HPO). Since 2005, the County has used the *Baldrige Criteria for Performance Excellence* to frame the County’s HPO efforts. HPO’s focus on thinking and acting strategically, continuous quality improvement, innovation and aligning processes, people and resources to achieve sustainable results. Because continuous improvement is an important principle in this approach, staff recognizes that additional opportunities exist to improve the County’s operations beyond current efforts. As part of striving to fulfill the County’s mission and to continue being a HPO, the County regularly scrutinizes its processes, operations and organization, as is outlined in this executive summary. Staff views an external review of how local government utilizes its resources to be consistent with the County’s continuing focus on improvement and performance.

This item is before the Board to inform it of the County’s past and current efforts to effectively manage County resources and to receive direction from the Board as to whether and, if so, how the County should proceed with an external evaluation of the County’s resource management. In considering this decision and the potential purpose and scope of an external review, if any, it is important to be aware of the County’s current ongoing review and improvement efforts.

Existing Efforts:

Financial Planning Processes: The County evaluates itself through several existing processes, among the most visible of which are the financial planning processes that collectively shape the County’s future and guide the development of the annual budget: the Strategic Plan, the Five-Year Financial Plan, the Capital Improvements Program and the department and community agency request processes. In the preparation of these plans and the annual budget for Board consideration, staff utilize a plethora of information including Board policy and direction, the citizen survey, and progress towards achieving Strategic Plan and departmental objectives. Staff also analyzes current practices and requests using additional data including departmental performance indicators, historical trends, and benchmarks with comparable jurisdictions. For a more detailed overview of each of these processes, please see Attachment A-copy on file – Financial Processes Overview. To see how Albemarle compares to other localities in comparative expenditures, please see Attachment B-copy on file – Comparative Expenditures.

Administrative Continuous Improvement Initiatives: In addition to these financial planning processes, as a standard practice, the County aims to examine its operations through numerous continuous improvement initiatives. Notable examples include the 2004 consolidation of the County’s planning, zoning, engineering and inspection departments into one single department to better serve citizens and the current Access Albemarle project that will improve the local government and school division’s key business systems and processes. The County has also implemented a number of administrative policies to establish uniformity in shared procedures across departments, including policies for fleet management, energy management and workers’ compensation. Individual departments have also strived for and have been recognized for organizational performance such as the Police Department and Sheriff’s Office, both of which have earned accreditation from the Virginia Law Enforcement Professional Standards Commission. Additionally, the Emergency Communications Center has earned national accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA), making it one of 50 communication centers in the country to achieve this recognition.

Partnerships: The County aims to efficiently and effectively provide services through numerous partnerships, most notably with the school division and other localities. The County’s collaboration with the school division exceeds that of most localities, including the uncommon structure of shared Finance and Human Resources departments. Please see Attachment C (copy on file) for a comprehensive list of local government – school division collaboration efforts. The County also partners extensively with its neighboring localities in participating in and funding a range of joint agencies and authorities. Efforts are also made to examine expansion of regional partnerships, such as the 2007 Regional Fire Rescue Study and the current Regional Transit Authority Plan study conducted through the Metropolitan Planning Organization (MPO).

Recent Improvements:

Five-Year Financial Plan: In 2007, the Five-Year Financial Plan process was significantly expanded to include a greater focus on Board approval of priority goals and assumptions that drive the budget, more extensive review of expenditure assumptions and Board approval, for the first time, of a *balanced five-year* financial plan. This process takes place in the fall just prior to development of the annual budget.

Program Service Review: An annual process that began in 2007 is the Program and Service Review which as part of the County’s Five-Year Financial Plan, challenges departments to review all programs and services and identify potential reductions including whether services could be delivered through alternative means and what operational efficiencies could be achieved to reduce costs. Departments also considered the impact of any reductions on customers/citizens, future expenditures and revenues, and the timing of any proposed reduction. This ongoing process resulted in approximately \$790,000 in reductions in the FY09 budget. See Attachment D (copy on file) – Program and Service Review Summary for further details on this process and its results to date. As part of staff’s future work in this area, additional items submitted by departments will be identified and studied and staff will place an additional emphasis on benchmarking with and identifying the best practices of comparable communities or industries.

Budget Process Review Committee: In order to examine the previously discussed financial planning processes with a different perspective, a committee has been established, by the County Executive, to suggest potential areas for improvement and is expected to complete its work during the summer of 2008.

The Baldrige Self-Assessment Process: The County's Social Services, Human Resources, Community Development, General Services departments and the Emergency Communications Center are presently undertaking comprehensive self-assessments using the Baldrige National Quality Program's *Criteria for Performance Excellence*, a program that promotes strategy-driven performance, innovation and provides national management standards. The Baldrige National Quality Program was established in 1987 and is managed by the National Institute of Standards and Technology (NIST), an agency of the U.S. Department of Commerce. The criteria, initially developed for U.S. businesses, were revised in 2007 to incorporate the special requirements of government agencies. These are the same performance criteria that the Department of Social Services utilized to frame its performance improvement efforts and was the basis of the Virginia Senate Productivity Quality Award that the department received in 2007.

The goal of this process is to conduct an intensive operational analysis in order to develop and implement a plan for increasing performance and improving results. In the course of these self-assessments, departments examine seven areas of their operations: 1) Strategic Planning; 2) Leadership; 3) Customer and Market Focus; 4) Measurement, Analysis and Knowledge Management; 5) Workforce Focus; 6) Process Management; and 7) Results. Upon completion of an assessment, an improvement plan for the department is prepared and implemented. This process will be repeated for departments on an annual or bi-annual basis as it is systematically expanded organization-wide.

External Reviews:

While the aforementioned efforts to evaluate the organizations' processes have and are expected to continue to yield results, staff recognizes that an external entity scrutinizing these same processes could provide additional benefits. Though staff benchmark with other localities in the course of its own reviews, an external entity could provide additional insight and expertise based on the best practices of other jurisdictions or industries. An external entity's evaluation would also likely bring additional credibility to the efforts of County staff by scrutinizing operations with a perspective from outside of the organization in order to validate or improve staff's efforts.

Should the Board desire to conduct and fund an external evaluation of the County government, the purpose of such an evaluation first must be clarified. The Board's intended purpose may also guide how an external evaluation is to be completed. Staff will work to ensure the review's purpose, scope and process are aligned with staff's ongoing efforts. Based on staff's discussions with others that have conducted external evaluations, such a review could be conducted in one of two ways depending on the Board's intended purpose and outcome: 1) a one-time general overview of all County operations or 2) an ongoing review process that specifically examines individual functional areas or departments. Regardless of which approach the Board selects, if any, staff plans to continue the Program and Service Review, departmental self-assessments based on Baldrige criteria, continuously review departmental operations on an annual basis and identify areas for evaluating further improvements.

1) A one-time general overview of all County operations: Such a one-time study would closely resemble the school division's 2007 Resource Utilization Study by broadly examining how the County utilizes its dollars, people and facilities to achieve results. This type of review would best capture improvements or savings associated with inter-departmental processes and costs. However, because of the broad nature of this study and the County's wide range of provided services, this type of review will likely not examine detailed department specific processes, though it may assist in identifying departments that could benefit the most from an external evaluation conducted exclusively within a department or function. Finally, it is worth noting such a study is unlikely to be completed as quickly as the school division's review, again due to the County's more diverse mission and group of departments.

2) An ongoing review process focused on individual functional areas or departments: As an alternative, the Board could utilize an approach similar to what certain localities in Northern Virginia have recently begun where a few departments are selected each year for a more detailed external review. Only a few departments per year are reviewed due to the studies' more complex and unique scopes of work and to allow for the management capacity required to implement each study's recommendations. To accommodate this, studies are staggered over time. While this study would not provide an informative review of inter-departmental processes and costs, it better addresses improvements in departments' specialized day-to-day operations.

In considering a study's purpose or how it should be completed, it is important to note that in staff's review of other external evaluations, none were conducted where "efficiency" was the sole purpose. While "efficiency" certainly is examined, it is not done in isolation of management practices and effectiveness, both of which are critical components of being a good organization.

If the Board seeks to evaluate local government's operations with a broader perspective similar to what was completed for the school division, then a one-time external evaluation of the entire organization may be appropriate. Upon completion of this initial overview, the Board could then initiate department specific evaluations or rely on current processes in place, such as the Program/Service Review and Baldrige Self-Assessment process. However, if the Board would prefer a more detailed examination of specific functions and is comfortable with the staggered timeline necessary to evaluate individual functions, then it may be more appropriate to begin any external reviews with department specific studies.

Staff's ongoing work in the aforementioned internal processes will continue and is not anticipated to have an additional budget impact. The budget impact of an external study will ultimately be driven by the alternative, if any, the Board chooses and the project's scope of work. For perspective, the County school division's Resource Utilization Study was completed at a one-time cost of approximately \$96,000, though it is notable that a local government study may have a more expansive scope and therefore cost due to the greater range of services provided. The cost of a department-specific study is difficult to quantify based upon departments' greatly varying functions and sizes that would significantly influence a study's scope of work.

Staff has presented its ongoing administrative efforts to evaluate the County government's efficiency and effectiveness as an organization. These efforts will continue to be undertaken and modified as necessary to deliver and document results. Beyond these efforts, staff requests direction on whether the Board desires to conduct and fund an external review of the County local government.

Staff recommends the Board contract with an external entity that would utilize a broad organization-wide approach to evaluate the County's resource management. An external review could provide insight into staff's ongoing efforts, identify additional areas for improvements with a perspective from outside the organization and would support the principles of a HPO. A broad organization-wide approach will not preclude any department specific evaluations, whether done through current processes or through an external review, but rather compliment them. If the Board does desire to eventually conduct reviews for individual functional areas, a broad study may help identify those areas where initial studies could be directed to derive the greatest benefits.

If the Board chooses to proceed with a study, staff will prepare a scope of work for the Board's consideration at a future meeting.

Mr. Tom Foley, Assistant County Executive, reported that this item is on the agenda because of recent conversations with Board members and the public regarding the utilization of current resources and the potential of a study to look at the utilization of those resources. He said that it is being discussed in part because of declining revenues but also because of accountability on how funds are being spent.

Mr. Foley said that the primary guides staff uses to improve its organization are the County's mission, "to enhance the well being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds." He noted that the Board added that last phrase a few years ago to try to emphasize their view of its importance. Mr. Foley stated that staff is guided by their own goal of becoming a high-performance organization through the basic principles of thinking and acting strategically, pursuing continuous quality improvement on a regular basis, looking for innovation, and aligning processes, people and resources to achieve sustainable results.

As a part of these efforts, he said, the Leadership Council has adopted the Baldrige *Criteria for Performance Excellence* to help guide efforts toward improvement. The Baldrige model is a national and state standard for organizational improvement and performance, and establishes criteria for public and private organizations to assess where they are in becoming high performance organizations. Mr. Foley said that Social Services has gone through the State's rigorous assessment process and has received the SPQA award, and four other departments (Community Development, General Services, ECC and Human Resources) are going through the Baldrige self-assessment process using national criteria. He indicated that the model presented shows that high performing organizations should have a leadership focus that emphasizes strategic planning and a focus on the customer, as well as a results focus that emphasizes workforce development and improvement to work processes. He said that once leadership establishes clear direction and considers strategic planning and what the customer needs and desires, that should set direction for the organization; aligning that direction with results requires examination of people and the workforce to ensure that they are well trained to deliver services and that processes are adequately incorporated. Mr. Foley said that underlying all of that is the importance of measurement and analysis and knowledge management, and there needs to be constant monitoring of progress.

Mr. Foley mentioned that the County's strengths have resulted in recognition of an AAA-bond rating, and other evaluation processes have resulted in lower per-capita expenditures. He also said that other localities have looked at the Community Development Department now that it is combined and communicates more effectively. Mr. Foley noted that the business process and key systems evaluation was the predecessor to Access Albemarle, and included a rigorous evaluation of how bills are paid, how staff is utilized, etc. He added that the best management practices the County employs make it a state leader in regional cooperation, noting that Albemarle has more regional authorities and associations than just about any locality in the state. There are very few school divisions and local governments that are working together to do finance, human resources, capital projects, legal, etc. For the first time, the County truly has a five year financial plan that is used for decision making and balancing revenues and expenditures against. Mr. Foley said that internal program and service reviews have resulted in savings already this year and will continue to do so, adding that the Budget Process Review Committee has also played a role in improving efficiency.

He emphasized that having an outside efficiency review will enhance current efforts, and staff is fully supportive of the review. Mr. Foley said that the review will include a broad look at the entire County organization, with another tier of review focusing on specific functional areas to examine work processes. He indicated that staff has already spoken with Dr. Boucher, who conducted the School's efficiency review, and other experienced personnel would be included. Based on the Board's direction, staff will prepare a scope of work and bring back to the Board for approval.

Mr. Slutzky asked if the work products would include a recommendation as to how the ongoing internal review processes might be improved.

Mr. Foley responded, "yes", he believes the review will include looking at the County's use of Baldrige, current HPO model, some of the results of that work and assess whether that is effective or can be improved by doing other things. That is one of the benefits of doing the broader review, a look at how the County does business.

Mr. Slutzky said the questions should not just be what are we doing inefficiently and where can we save money, but also where we are failing to deliver services that we should be doing and are not doing. He would like the review to include recommendations as to how the County should allocate resources.

Mr. Tucker said when staff talked to Dr. Boucher he indicated that the study look at effectiveness and efficiency.

Mr. Rooker said the amount of services being delivered is a policy issue that he does not think an outside expert will comment on. The effectiveness of what is being done with current resources is another issue.

Mr. Foley said it is looking at current expenditures but the study will not get into how the County should spend additional dollars in the future.

Mr. Slutzky said there may be things that an outside party could say we should be doing instead of some of the things we are choosing to do. It may be a policy question that they should be raising.

Mr. Rooker responded that that type of study would equate to about a million dollar study, and emphasized that the reviewers would essentially be making policy recommendations.

Mr. Rooker then **moved** that the study be limited to the scope described in the staff report. To go beyond that is an entirely different scope. He does not think the Board wants to retain an efficiency firm to tell them what roads should be built in the County, whether there should be expanded library service in the northern sector, etc. Those are policy decisions that this Board should make.

Mr. Foley emphasized that the key is that this review would be limited to current services.

Mr. Slutzky said that he does not understand why effectiveness is not represented in this study.

Mr. Dorrier said that there are not enough incentives offered to employees to identify waste, and Albemarle should have an active program as to how to encourage identifying waste.

Mr. Foley and Mr. Tucker said that "gain-sharing" has been used to encourage this in the past, but it wanes over time.

Ms. Mallek stated that these hired experts should be asked to focus on their area of expertise, not on making suggestions to change County policy.

Ms. Thomas clarified that the motion is to accept the staff recommendations to have the review team conduct a one-time general overview of all County operations, but also include the paragraph that says "in considering the study, none were conducted where efficiency were the sole purpose, it considers management practices and effectiveness."

Mr. Rooker said that his motion would incorporate that paragraph as a part of the charge. His **motion** is that staff proceeds with funding an external entity to evaluate local government's resource management, with the study limited to the scope described in the executive summary, specifically item 1 on page #3 which reads: "A one-time general overview of all County operations: Such a one-time study would closely resemble the school division's 2007 Resource Utilization Study by broadly examining how the County utilizes its dollars, people and facilities to achieve results. This type of review would best capture improvements or savings associated with inter-departmental processes and costs. However, because of the broad nature of this study and the County's wide range of provided services, this type of review will likely not examine detailed department specific processes, though it may assist in identifying departments that could benefit the most from an external evaluation conducted exclusively within a department or function. Finally, it is worth noting such a study is unlikely to be completed as quickly as the school division's review, again due to the County's more diverse mission and group of departments."

The **motion also includes** the paragraph which reads: "In considering a study's purpose or how it should be completed, it is important to note that in staff's review of other external evaluations, none were conducted where "efficiency" was the sole purpose. While "efficiency" certainly is examined, it is not done in isolation of management practices and effectiveness, both of which are critical components of being a good organization."

Mr. Foley said staff will bring the final scope back for the Board's review.

Mr. Slutzky said if he reads that added paragraph, it says that beyond efficiency, we are looking at effectiveness. He thought he was describing this notion of effectiveness, but his sense from Mr. Rooker's comments was that he does not interpret the word "effectiveness" to include looking at other things that the Board might be choosing to do that might cost money towards the advancement of the purpose that current expenditures are to address.

Mr. Rooker stated that the consultant would not view it as part of his charge to make recommendations about specific programs such as ACE, downzoning, buffers, etc., as they are policy recommendations on which the Board receives public input and votes. He said that the term "effectiveness" to him means how efficiently the public is served, how cost effective that service is, and how departmental structure might improve those things. He does not think we are looking for an efficiency expert to come in and start making policy recommendations.

Mr. Slutzky said that he would like to incorporate into this exercise an element that addresses effectiveness so that the consultant is empowered to identify places where the County in its effort to fulfill its responsibilities that it set for itself in the Comprehensive Plan and recommend areas for the Board to act to advance those.

Mr. Dorrier **seconded** Mr. Rooker's motion.

Mr. Davis indicated that under Robert's Rules, Mr. Slutzky could move to have a substitute motion, which would then be voted on.

Mr. Slutzky then made a **substitute motion** to reflect his earlier statement.

There was no second to Mr. Slutzky's motion.

Mr. Davis stated that for lack of a second, Mr. Slutzky's motion fails, and Mr. Rooker's motion was back on the floor.

It was noted that Mr. Dorrier had seconded the motion.

Mr. Boyd mentioned that the County may need an internal auditor, given its organizational size and potential cost savings realized through items being prepared in advance of the external audit.

Mr. Foley indicated that staff had conducted a study of other localities using an internal auditor, and associated costs. He offered to bring that back to the Board for review.

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

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

(Note: At 11:41 a.m., the Board took a recess, and reconvened at 11:51 a.m.)

Agenda Item No. 11. Regulating the number of adult dogs allowed per dwelling in residential zoning districts.

The executive summary forwarded to Board members stated that keeping dogs is allowed in all residential zoning districts when the dogs are accessory to a primary residential use. Because the zoning regulations do not regulate the number of dogs allowed, whether the number of dogs kept is accessory to a primary residential use depends on whether the dogs are "subordinate and customarily incidental" to the primary residential use.

Last October, the Deputy Zoning Administrator issued a notice of violation to Ellen Hawkins, a resident in the Rio Magisterial District, after an inspection found 27 adult dogs and 7 puppies, along with associated equipment and supplies, at her residence. Hawkins appealed the determination to the Board of Zoning Appeals, which after a public hearing, modified the Deputy Zoning Administrator's determination by finding that the dogs that were Hawkins' pets, approximately 8 in number, were accessory to the primary residential use, and affirmed the portion of the Deputy Zoning Administrator's determination with respect to the remaining dogs, which Hawkins temporarily kept at her house in her work for an animal rescue operation until she could find a permanent placement for the dogs, that those dogs were being kept in violation of the Zoning Ordinance. (See Attachment A)

Although the Board of Zoning Appeals received information from County staff about the number of dogs other localities had determined to be appropriate under their respective zoning ordinances, the Board of Zoning Appeals demurred from establishing a specific maximum number of dogs that would be found to be accessory. Recognizing the precedential and policy-setting effect such a decision could have, the Board of Zoning Appeals correctly stated that such a decision should be left to the Board of Supervisors by amending the Zoning Ordinance.

Most zoning complaints about dogs, including the complaint that led to the inspection of the Hawkins' property, pertain to barking. However, barking is an exempt sound under the Zoning Ordinance's noise regulations. In addition to noise, dogs may cause other impacts including odors, flies, and pollution of stormwater, all consequences of improper waste control and disposal.

Before the Deputy Zoning Administrator issued the Notice of Violation to Hawkins, staff reviewed the zoning regulations of selected Virginia counties. Fairfax County allows a specified number of dogs depending on lot size, e.g., up to 6 dogs are allowed on lots of at least 20,000 square feet, 7 dogs are allowed on lots of at least 25,000 square feet, and one additional dog is allowed for each additional 5,000 square feet in lot size. Fauquier County allows up to 4 dogs on lots less than 2 acres, and up to 12 dogs

on any lot 2 acres or larger subject to certain requirements. Henrico County allows up to 3 pets per residence, but allows an owner to seek a special use permit for a private kennel to have more than 3 pets. Though additional research will be conducted for the text amendment itself, the current consensus of staff will be to recommend that the maximum number of adult dogs (6 months or older) in the residential zoning districts should be limited to 5 per residence.

Staff does not recommend the number of dogs in the Rural Areas zoning district be limited at this time. The generally agricultural and forestal nature of that district presents a different situation than the those districts that are strictly residential in nature: (1) the purpose and intent of the Rural Areas zoning district is to provide a lower level of services than the urban and suburban parts of the County and to promote agricultural and forestal activities; (2) working dogs are a part of agriculture and hunting dogs are a part of the traditional activities of the County's rural areas; and (3) livestock and other domesticated animals may also create noise, odors and other impacts, but regulating those animals would be contrary to the agricultural purposes of the district. Nonetheless, if staff finds that there are dog-related complaints coming from the small lots and suburban subdivisions in the Rural Areas zoning district, it will recommend an amendment to the Rural Areas zoning district regulations to address dog-related impacts in such Rural Areas subdivisions.

This amendment would increase the workload of zoning inspectors because it would add a new ground for a zoning complaint.

Staff recommends that the Board adopt the attached resolution of intent.

Mr. Ron Higgins, Chief of Zoning/Deputy Zoning Administrator, reported that in the fall the County had an enforcement issue based on a number of neighborhood complaints, and an investigation revealed that the ordinance did not stipulate a limit on the number of dogs allowed in a residential district. He said that the Board of Zoning Appeals looked at two parts of the County's determination – a rescue operation with dogs coming and going, and personal dog ownership where there are several animals. Mr. Higgins stated that they distinguished between the two situations, and staff proceeded with pursuit of a definition for the maximum number of dogs allowable in a residential district. He indicated that the County Attorney's Office did a significant amount of research and found that most localities attempt to address this through ordinance. Mr. Higgins said that the rule was determined not to be applicable in the rural areas, but just in residential, with most numbers found to be between three and six dogs; staff came back with a limit of five but the BZA shied away from establishing a specific number. He indicated that staff prepared a resolution of intent which is now before the Board for action.

Mr. Boyd asked if there were a way to define and include neighborhoods in rural areas.

Mr. Davis responded that it is a difficult issue that needs to be examined by the Planning Commission, as there are rural area subdivisions in the County. Staff has attempted to do that in the barking dog ordinance by regulating rural areas lots that are less than five acres. He said that a similar provision could be carried into this ordinance as well.

Mr. Boyd asked if it would be possible to impose the regulation based on distance between homes.

Ms. Mallek mentioned when there is a dog kennel right next to the property line.

Mr. Davis replied that it would be acceptable to stipulate that.

Mr. Rooker commented that he would be in favor of applying the same standard to both ordinances.

Mr. Boyd indicated that this would go back through the Planning Commission, and the Board could send a clear message to them that the Board is concerned about rural area needs as well as the growth area.

Mr. Davis confirmed that this resolution of intent would direct this back to the Commission, but the barking dog item is not a planning issue – it is an amendment to the Animal Control Ordinance.

Ms. Thomas suggested that this ordinance be patterned after the leash law, where there is a definition of each neighborhood area.

Mr. Davis responded that under zoning powers that would not be allowable because there is a requirement that similar zoning districts have the same regulations and you cannot distinguish within zoning districts.

Ms. Mallek said she would rather have the regulations more uniform.

Ms. Thomas mentioned that her predecessor warned her not to get involved in dog issues, and the Board that he sat on established the leash law – which leaves it up to the neighborhoods.

Mr. Rooker said that he has received more calls about barking dogs since he has been on the Board than anything else, and there is a requirement to try to maintain "some peace and tranquility in the community," and to fail to deal with that issue "is dodging an issue that is very important to a large number of people."

Mr. Dorrier indicated that it would be helpful to know whether the number of complaints is increasing or decreasing.

Ms. Mallek said she does not think the numbers matter, because people's lives could be in misery because of one barking dog.

Mr. Slutzky commented that having a lot of dogs on a small parcel, next to other homes with similar land area, the barking issue exists whether there is an ordinance or not. He said that this is a zoning issue and should be dealt with as such.

Mr. Davis emphasized that there are two different issues, and Mr. Higgins is presenting the Zoning Ordinance amendment that needs to be uniform in how it is applied in zoning districts. The recommendation of staff at this point is to apply a five-dog zoning limit in all residential neighborhoods and if the Board desires, staff and the Commission can come back with suggestions on how to deal with small lots in the rural areas in a way similar perhaps to what is being advised under the barking dog ordinance.

Mr. Slutzky asked if the Planning Commission could be asked to come back with a recommended amendment that would require no more than five dogs be allowed without a special use permit in the growth area, and no more than five dogs be allowed without a special use permit on lots of five acres or less in the rural area.

Mr. Davis responded that that approach would be acceptable, and the resolution of intent presented will cover that – and staff will draft an ordinance to that effect for the Planning Commission to consider.

Mr. Rooker then **moved** to adopt, Attachment D, Resolution of Intent, amending the third clause to read “Whereas the Zoning Ordinance does not regulate the keeping of dogs as pets in a residential zoning district or on rural area lots of five acres or less.” Mr. Slutzky **seconded** the motion.

Ms. Mallek asked if it is appropriate for the County to consider the conditions as stipulated in the bulleted list with the recommended resolution language.

Mr. Slutzky commented that the barking dog issue is being dealt with separately.

Ms. Thomas commented that she has issue with the “rural area lots of five acres” or less addition to the motion. She may have trouble extending this to that zoning category.

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

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

NAYS: None.

RESOLUTION OF INTENT

WHEREAS, dog custodians and dog owners have a responsibility to not only their dogs to assure that they are properly cared for, but also to their neighbors to assure that their dogs do not become a nuisance to the neighborhood as a result of excessive barking, odors, and other problems; and

WHEREAS, the Zoning Ordinance allows the keeping of dogs in commercial kennels and animal shelters by special use permit in several commercial and industrial zoning districts (commercial kennels are also allowed in the Rural Areas zoning district), and the special use permits include conditions that regulate the operation of the kennel or shelter in order to address the impacts resulting from the use; and

WHEREAS, the Zoning Ordinance does not regulate the keeping of dogs as pets in the residential or the Rural Areas zoning districts, provided that the number of dogs kept are subordinate and customarily incidental to the primary residential use so that the use may be allowed as an accessory use; and

WHEREAS, the intensity of an accessory use such as the keeping of dogs on residentially-zoned lots or on lots five (5) acres or less in size in the Rural Areas zoning district may exceed a threshold where the number of dogs is no longer subordinate and customarily incidental to the primary residential use, and, as the intensity of the use increases, the potential for adverse impacts to neighbors may increase; and

WHEREAS, in order to facilitate the creation of a convenient, attractive and harmonious community, it is desired to amend the Zoning Ordinance to establish the maximum number of adult dogs that will be allowed as accessory to a primary residential use.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good land development practices, the Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance §§ 3.1, 10, 13, 14, 15, 16, 17, 18, 19, 20 and 20A and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein.

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

Agenda Item No. 12. Set public hearing to consider proposed ordinance which addresses animal noises.

The executive summary forwarded to the Board stated that the Board members have recently received complaints regarding excessive dog barking. Currently the Albemarle County Code does not regulate dog barking or other animal noises that disturb the quiet, comfort or repose of any person. The Board previously considered adopting a barking dog ordinance on October 16, 1996. After the public hearing, the Board unanimously declined to adopt the ordinance and advocated that such complaints be addressed through private civil actions.

The SPCA estimates that there are over 30,000 dogs in Albemarle County; however there were only 3,022 County dog licenses sold in 2007. The animal control officers handle approximately 3,600 calls for service each year and the types of complaints handled are broad and wide ranging. For example, the new dangerous dog registry requires animal control officers to closely monitor dogs that have been declared dangerous by the court. Also, there are an increasing number of complaints involving livestock and farm animals. Animal control officers are now being trained in equine investigations, which have proven to be complex and time consuming.

Currently there are three animal control officers assigned to the unit. Their work schedule provides coverage Monday through Sunday, but no night coverage after 6:00 p.m. All animal related calls for service between 6:00 p.m. and 7:00 a.m. are handled by patrol officers.

Fifty-four barking dog complaints were taken by the animal control officers in 2006, seventy-one in 2007, and twenty-eight to date in 2008.

The draft ordinance amends the current Albemarle County Animal Ordinance by adding Article IV, Animal Noise, making it unlawful for the owner or custodian of an animal to harbor an animal which disturbs the peace and quiet of any person in the County through frequent, excessive and untimely sounds. The proposed ordinance would not apply to any animal located on property zoned Rural Areas District of five acres or more, to any animal in an animal shelter or commercial kennel, or to sounds caused by livestock or poultry. Based upon recommendations by the County's animal control officers, the draft ordinance sets the duration of noise at thirty consecutive minutes in order for the noise to be deemed frequent and excessive.

The procedure for being charged with a violation of the ordinance is simple and direct, allowing the complainant to appear before the magistrate and swear out a summons. Other localities, such as Spotsylvania County, Stafford County, and Prince William County require a more staff intensive process before a person is issued a summons for violating an animal noise ordinance. These localities require at least two complaints of a noisy animal, with such complaints being made from persons from different households. Additionally, the animal control officers in these localities must first investigate the complaint and provide a warning to the animal owner or custodian before a summons is issued. The proposed ordinance authorizes the complainant to swear out a summons before the magistrate without the involvement of an animal control officer, which is a more direct process for the complainant to address the disturbance.

The proposed ordinance provides that the penalty for violation of this ordinance is a class 3 misdemeanor punishable by a fine of up to \$500. The punishment in most other localities ranges from a fine of \$100 to punishment as a class 3 or class 4 misdemeanor. Finally, similar to the City of Charlottesville's ordinance provisions, the draft ordinance provides that a third offense for the same dog in a one year period requires that the dog be removed from the areas of the County where the ordinance applies or be seized by animal control officers for appropriate disposition.

Staff anticipates limited additional enforcement by animal control officers under the proposed ordinance and, therefore, there should not be a significant budget impact.

If the Board desires to move forward with the attached proposed ordinance, or a modification of the proposed ordinance, staff recommends that the Board authorize a public hearing for a June or July meeting date.

Mr. Davis reported that this is always a contentious issue for local government officials, but it has been a recurring problem in the County and most urbanizing counties do have barking dog ordinances. He said that the Board last considered it in 1996 when they went to public hearing on an ordinance and ultimately decided afterward not to adopt one. Since that time the issue arises periodically and Board members continue to receive citizen complaints. Mr. Davis said that Animal Control has been consulted about this and Lt. Allen and Sgt. Mainzer are in attendance to provide information about those efforts. Currently the County does not regulate barking dogs but there is a brochure available outlining how to deal with it in a civil manner. He indicated that this does not always work, and Animal Control investigates complaints and facilitates discussions between neighbors to resolve the issues. Ultimately, he said, if it cannot be resolved, the only recourse is initiation of a civil procedure where a complainant must prove there is damage or that the barking is a nuisance.

Mr. Rooker commented that the remedy if the dog keeps barking is to bring another action, as it is very difficult to show money damages. It is a long arduous process.

Mr. Davis indicated that staff has researched the approach adopted by other localities, and several urbanized locations have initiated a more process-intensive approach whereby Animal Control

provides a written warning and then has to substantiate two households with complaints. The Animal Control Officer takes out the summons. Based on current discussions Albemarle's Animal Control and the Police Department do not feel they have the resources to take that approach. Mr. Davis stated that the alternative approach is to allow property owners who are the complainants to initiate their own process, which is fairly common in other jurisdictions. Staff is suggesting that this is the more realistic approach. He said that staff supports application of the barking dog restrictions in all residential zones, and in rural areas where lots are five acres or less; it would specifically exempt livestock and poultry noises, and any sounds generated from RA property that is greater than five acres. Mr. Davis stated that it also exempts commercial kennels – which are regulated by zoning – and rural area acreage.

Ms. Mallek asked if implied with that acreage, there was anything about distance from a property line.

Mr. Davis replied that they have not proposed to regulate it at that fine of a level.

Mr. Davis added that the proposed punishment under the ordinance is a Class 3 misdemeanor – which carries a fine of up to \$500 to be determined by the court based on the severity of the evidence – and does have a provision that if you have had three violations within a 12-month period the court would order removal of the dog(s) from any area of the County that is controlled by the ordinance, enforced by Animal Control.

Mr. Slutzky asked if the benchmark would be a dog barking for 30 minutes or more.

Mr. Davis responded that there needs to be some measure of duration, and staff's proposal in the ordinance is 30 minutes – based on the testimony of the complainant, as they are the primary witness. He added that the complainant could work outside of Animal Control and go to a Magistrate with the complaint; the Magistrate could issue a summons to be served by the Police or Sheriff's Department, and a trial date would thus be established.

Mr. Boyd asked how the "he said she said" could be avoided.

Mr. Davis replied that "you never do."

Mr. Rooker indicated that this is the situation in many court cases, and with barking dogs sometimes a complainant will bring in a recording of the noise.

Mr. Slutzky asked how Animal Control would be included in this process.

Mr. Davis explained that when there are complaints, they are low priority for the Police Department and currently there are three Animal Control officers that work a day shift. If the complaints are received in the evening, Police respond when they can and if they cannot it is shifted to an Animal Control officer the following day. In either case, he said, they will "do what they can" and the officers investigate as to whether the animal is distressed or being abused, then try to mediate the dispute as much as they can. He emphasized that this ordinance provides a new remedy as it allows for a complainant to pursue the issue as a criminal matter rather than just a civil matter.

Mr. Boyd commented that this could provide an opportunity for feuding neighbors to use the ordinance as a weapon against them.

Mr. Rooker replied that the burden of proof is on the complainant.

Mr. Davis commented that early morning joggers and deer generate barking dogs.

Mr. Rooker said that the calls he has received about barking dogs are not generated from a single incident; they occur because of repeated or daily incidences and they have no remedy.

Mr. Slutzky then offered **motion** to set the proposed ordinance for public hearing for June 11, 2008. He complimented staff on their work on this, noting that they "made the most sense out of a complicated issue."

Mr. Rooker agreed, and **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 13. Closed Meeting.

At 12:24 p.m. **motion** was offered by Ms. Mallek, that the Board go into closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees, and commissions; under subsection (1) to conduct an administrative evaluation, and under subsection (7) to discuss with legal counsel and staff specific legal matters regarding an agreement related to emergency services. Mr. Rooker **seconded** the motion.

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

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

Agenda Item No. 14. Certify Closed Meeting.

At 2:14 p.m., the Board reconvened into open meeting and Ms. Mallek **moved** that the Board certify by a recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Mr. Rooker **seconded** the motion.

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

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

Agenda Item No. 15a. Boards and Commissions: Vacancies/Appointments.

Mr. Slutzky offered **motion** to make the following appoints/reappointments:

- **appoint** Nancy Virginia Bain, Jon Mikalson, William Schrader, and Kelly Strickland to the Crozet Community Advisory Council with said terms to expire March 31, 2010.
- **appoint** Christopher Dumler to the Fire Prevention Code of Appeals with said term to expire November 21, 2012.
- **appoint** Michael Peoples, as the AHIP Representative, to the Housing Committee, to fill an unexpired term which will expire December 31, 2008.
- **appoint** Andrew Dracopoli, Daniel Goodall, and Cal Morris (Planning Commission Member) to the Pantops Community Advisory Council.
- **appoint** Margaret DeMallie to the Route 250 West Task Force to fill an unexpired term which will expire September 5, 2009.
- **reappoint** Clyde Gouldman to the Region Ten Community Services Board with said term to expire June 30, 2011.

Mr. Rooker **seconded** the motion.

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

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

(Not Docketed. Mr. Boyd stated that there was an individual present who had wanted to address the Board under Other Matters this morning and he would allow him to speak at this time.

Mr. Austin Schuler addressed the Board, stating that he is an 8th grade student at Jack Jouett Middle School and for a civics project he had to take up an issue in his community and get an impact and result from it. He said that for his project, he chose the Advance Mills Bridge, which is less than a mile from his home. Mr. Schuler stated that people drive up to the bridge without realizing it is closed, so they drive up through his subdivision and ask for directions. He explained that he wrote a letter to Ms. Mallek and Mr. Hatter, of VDOT, asking for detour signs. He added that directions obtained through Google and Yahoo takes you directly across the bridge.

Mr. Rooker said that Ms. Mallek brought Mr. Schuler's issues to the Board. He indicated that VDOT would be addressing the issue shortly.

Agenda Item No. 16.a. VDOT Monthly Report/Advance Mills Bridge Update.

Mr. Allan Sumpter, Residency Administrator, said that VDOT would be placing signage that indicates Durrett Ridge is an alternate route. They are not going to place detour signs but rather indicate alternate routes because people are using various routes. He said that VDOT felt it was appropriate to do work and improvements to Durrett Ridge and complete those prior to installing signs – consisting of completing roadway work and making the road's bridge legal limit capacity for carrying vehicles. Mr. Sumpter reported that the bridge work would take about a week of having Durrett Ridge Road closed, and with Advance Mills bridge closed it would be best to do that after school lets out. They plan to try to do it the after the second week that school is out. After that is done, VDOT intends to install the alternate route signs.

Ms. Thomas asked how far ahead of the Advance Mills bridge signs are placed.

Mr. Sumpter responded that there are signs on Route 29 now, as well as signs as you turn onto Route 743 from Route 29 and signs at the store in Earlysville where the road splits. There are also some

signs in Greene County on Route 607 and other locations. The current signs just states that the bridge is closed and to use alternate routes. He indicated that the signs for Advance Mills would include directional signs for travelers but would not say "Detour."

Ms. Thomas asked if VDOT has anything to do with directions on Google and Yahoo. Mr. Sumpter explained that VDOT has no direct control over that but does provide roadwork updates through Virginia 511 system and VDOT's website.

Ms. Mallek suggested having signs that name the best alternate roads because the directional signs are not easy to follow, especially at night. She encouraged VDOT to have the signs keep the drivers on Route 29 as long as possible rather than take them through the countryside.

Mr. Slutzky suggested that Mr. Sumpter check with VDOT on the possibility of updating GPS systems.

Mr. Sumpter reported that he has touched base with the project manager for the bridge project, and everything is still on schedule. Everyone is working on the environmental document; the designers are still actively engaged and lines are being drawn on maps. He added that the public hearing is scheduled for July 8th from 5:00 to 7:00 p.m. now to be held at the Best Western Hotel on Route 29 in Greene County. Since this is a federal project, certain Civil Rights Title VI requirements require it to be held at a location other than a church.

Mr. Sumpter announced that VDOT is working on the Durrett Ridge Road Bridge during the week of June 8th to increase its capacity. The tar and gravel is in place, and they will be doing some more work on slopes so that they install some guardrail.

Ms. Mallek asked when the Board would be able to get a report on the interested party agreement.

Mr. Sumpter said the draft for the Memorandum Agreement is expected to be completed by the end of May and then circulated by their Preservation Manager.

Ms. Mallek asked if that agreement will also be provided to the local citizens. Mr. Sumpter replied, "yes".

Agenda Item No.16b. Transportation Matters not Listed on the Agenda.

Mr. Rooker asked if the safety improvement project to extend the right turn lane on Route 29 at the Post Office is still on schedule.

Mr. Joel Denunzio, of VDOT, stated that the work is expected to begin the week of May 19, 2008.

Mr. Sumpter said this project has to be completed by the end of their fiscal year so it is high on the priority.

Mr. Slutzky commented that VDOT has done an excellent job coming up with creative solutions for the Hillsdale Drive pedestrian improvements, which will result in a very safe road. In lieu of doing the raised crossings, VDOT came up with a series of alternative strategies that will probably result in just as safe of an outcome.

Ms. Thomas thanked VDOT for its work on Stribling Avenue Extended, as it is a major dumping site, and the U.Va. Research Park does not want to be listed on the road signs as a clean-up partner.

Ms. Thomas also complimented him on the Batesville traffic-calming measures.

Mr. Sumpter stated that Mr. Darin Simpson, who was VDOT's Assistant Residency Administrator and is now in Regional Traffic Operations – which ensures that signals get installed and upgraded. He then introduced Mr. Christopher Byington, who has assumed Mr. Simpson's position as the Assistant Residency Administrator. Mr. Byington comes from the Staunton District.

Ms. Thomas noted that Reservoir Road is being worked on in anticipation of the Ragged Mountain project and is moving forward with some creative thinking.

Mr. David Benish, Chief of Planning, provided an update on the Route 250/Route 22 Luck Stone situation. He noted that previously Luck Stone came to the County requesting additional help with funding the project due to cost increases. He reported that the project is proceeding forward and now Luck Stone is no longer requesting that funding, as the County's share is coming from the Glenmore rezoning and Rivanna Village proffer monies. Mr. Benish said that with VDOT and Luck Stone contributions, as well as

the County's share, the project is able to move forward and construction "could be imminent" within weeks if not days.

Agenda Item No. 17. **PUBLIC HEARING: PROJECT: SP-2007-064. Camp Watermarks (Sign #29).**

PROPOSAL: Amendment of special use permit for day camp to permit increase of an activity building from 800 square feet to 2,160 square feet.

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH Flood Hazard - Overlay to provide safety and protection from flooding.

SECTION: 10.2.2.20, Day camp, boarding camp (reference 5.1.05).

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

ENTRANCE CORRIDOR: No.

LOCATION: 1145 James River Drive, west of Route 726 and Hatton Ferry Road.

TAX MAP/PARCELS: Tax Map 136 Parcels 6B, 9, 9A2, 9D, 9D1, 9E.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on April 21 and April 28, 2008.)

Mr. Cilimberg reported that the camp currently allows a maximum of 75 campers and 20 staff per weekly session with 16 sessions per year. The camp is located just north of the James River in the Hatton area off of James River Road. He said that the last special permit amended the prior special permit to allow for a 800 square foot accessory building, but as it turns out they need a larger building to accommodate arts and crafts, staff overnight stays, etc., which requires another amendment. Without the special permit, the building could only be used for agricultural purposes. Mr. Cilimberg indicated that staff finds several positive aspects of the camp in support of rural area goals and finds no unfavorable factors. Both staff and the Commission recommend approval with some changes to conditions to accommodate the amendment.

Mr. Slutzky said that the fact that this structure was already built is not a positive factor but he is inclined to support it.

Mr. Cilimberg said it became a special use permit request when the camp indicated they wanted to use the building for this purpose. If it was used for agricultural purposes, it would not be before the Board. This is a larger builder than they were approved for in the original special use permit.

Mr. Slutzky said his concern is that they built the building then came back for permission to use it which implies that they will have that approval. In spite of that, he is comfortable with the use.

Mr. Rooker stated that in many cases an applicant will not be aware that he needs a special use permit, but this applicant went through the process already and in this case "it is troublesome."

Ms. Mallek asked if there is maintenance of the tree cover that is providing the buffer to the property line.

Mr. Cilimberg said the referenced plan show that relationship.

Mr. Boyd asked the rationale for the proposed condition limiting food deliveries.

Mr. Cilimberg said that had to do with the level of activities at the site and trying to have some control over it being a rural areas location and not having traffic coming back and forth for a combination of purposes. He added that the condition is a carryover from prior conditions.

Mr. Boyd asked the applicant to come forward.

Mr. Travis Critzer, the applicant, addressed the Board, stating that the camp was growing faster than they could build. He came back to meet with Ms. Amelia McCulley and Mr. Jay Schlothauer to discuss building a larger building in the same place. They made it clear he could do that as an agricultural building but would have to go through this process to be able to use it for camp. They could build the building during the winter, their slow time, in hopes of using it for the upcoming season. He knew that if the Board did not approve the permit, it would not be a part of the camp, but would be his personal agricultural building. He did not think he was doing anything wrong. He followed the procedure that he was directed to do. The question has come up about how much more will be added to the camp; his response is that he does not know. He had no idea when they started this that it would grow to what it is. His dream is that the camp would grow to where they could run it year round and have lots of children from all over, but he does not know where to tell the Board the camp is or where to stop. He does not know why the County would want to put a cap on this because he does not understand the harm in having the camp.

Mr. Boyd asked if the Board should try to determine the maximum sustainable size for the property and change the conditions to reflect that.

Mr. Cilimberg said he does not have an answer because staff does not know what they could anticipate for the future.

Mr. Slutzky said that may not be ideal because the threshold may have a lot to do with what the neighbors are thinking. Thus far no one from the neighborhood has come in and objected. He would suggest that if the applicant feels he needs to expand in the future, it might be important to bring community advocates to acknowledge that they are still in agreement that the requested increase is not problematic for the immediate neighbors.

Mr. Boyd said he does not want the applicant to be criticized every time he comes back about when he is going to stop doing this.

Mr. Rooker indicated that the applicant can certainly come in and make application for the reasonable maximum for the site, and it is not up to the Board to self-initiate that.

Mr. Boyd commented that he wasn't sure if the applicant or the Commission were requesting 75 campers.

Mr. Critzer responded that he is happy with the number of campers now, but it may be necessary to provide more buildings in the future. They are a nonprofit organization. It is just a slow process for them. He stated that for this coming summer there are 10 weeks of camp all booked with 75 campers and 20 counselors each week.

Mr. Dorrier asked how many years the camp has been in operation.

Mr. Critzer responded this is their fourth year.

Mr. Dorrier asked about their location.

Mr. Critzer responded that the camp is in the middle of 250 acres.

At this time the Chairman opened the public hearing. There being no one coming forward, the public hearing was closed, and the matter placed before the Board.

Mr. Cilimberg clarified for Ms. Mallek that the 75-foot buffer requirement does not indicate maintenance of any landscaping or screening but just makes reference to the distance.

Mr. Davis noted that this permit would allow them to cut the trees as the condition only applies to location and scale of improvements.

Mr. Dorrier then **moved** to approve SP-2007-064 subject to the fourteen conditions as presented. Mr. Slutzky **seconded** the motion.

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

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

NAYS: None.

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

1. The improvements, and the scale and location of the improvements authorized by Special Use Permit 2007-64 Camp Watermarks, shall be in general accord with the concept application plan dated February 15, 2008, prepared by Angela and Travis Critzer, and titled "Watermarks Christian Ministries Camp" (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. Compliance with the Virginia Statewide Fire Prevention Code shall be verified by the Fire Marshall prior to issuance of a zoning compliance clearance;
3. Amendment of the building permit for a storage building (permit # 2007-2448 NNR), as shown on the concept application plan (Attachment A), shall be required to allow overnight occupancy of staff, as well as other camp uses;
4. Prior to issuance of the zoning compliance clearance, compliance with the Virginia State Department of Health (VDH) regarding minimum septic requirements shall be required. The VDH shall re-review the status of septic standards within one year of the date of the approval of the special use permit. At that time, and if necessary, systems shall be upgraded or enrolment reduced based on VDH recommendations;
5. Prior to issuance of the zoning compliance clearance, compliance with the Virginia State Department of Health regarding kitchen and food service approvals shall be verified;
6. Total number of staff (in addition to the applicant and their family) on site at one time shall be limited to twenty (20);
7. Camp sessions shall be limited to a maximum of sixteen (16), each one (1) week long, overnight sessions per year;
8. The maximum number of children per session shall be limited to seventy five (75);
9. The maximum number of bus or van trips (round trips) to and from the camp, each week long session shall be six (6). Bus or van trips shall be the primary means of transportation for the children;
10. Five food deliveries by truck shall be permitted per week long session;
11. Camp activities are permitted on Tax Map 136, Parcels 6B, 9, 9A2, 9D, 9D1, 9E;
12. Outdoor amplified sounds or bull horns shall be prohibited;
13. Compliance with the Virginia State Department of Health regarding water supply shall be verified by the Health Department prior to issuance of a zoning compliance clearing and the

- commencement of the special use. The VDH shall re-review the status of water standards within one year of the date of the approval of the special use permit. At that time, and if necessary, systems shall be upgraded or enrolment reduced based on VDH recommendations; and
14. This special use permit does not include approval for additional lighting subject to Chapter 18, Section 4.17 of the Zoning Ordinance.

Agenda Item No. 18. **PUBLIC HEARING: PROJECT: SP-2007-065. Herring Property - Verizon Wireless PSWF (Signs #30&72).**

PROPOSAL: Installation of a personal wireless facility with a 73-foot tall treetop monopole tower.
ZONING CATEGORY/GENERAL USAGE: RA - Rural Areas; EC Entrance Corridor overlay.
SECTION: 10.2.2(48) Special Use Permit, which allows for Tier III personal wireless facilities.
COMPREHENSIVE PLAN LAND USE: Rural Area in Rural Area 3.
LOCATION: Off of Green Hill Lane approximately 1/2-mile northwest of the Route 64 West overpass of New Town Road [Route 690].
TAX MAP/PARCEL: Tax Map Parcel 05300-00-00-00600, contains 83.417 acres.
MAGISTERIAL DISTRICT: White Hall.
(Advertised in the Daily Progress on April 21 and April 28, 2008.)

Mr. Bill Fritz, Chief of Current Development, reported that this request is to construct a 73-foot tall steel monopole wireless facility on the north side of I-64 with the site located in an area without critical slopes. He noted the access area to the site, and presented photos from a balloon test taken from the scenic overlook, with the height of the tower being the bottom of the balloon. Mr. Fritz said that the request was reviewed by the Planning Commission and it involves a critical slopes waiver. When staff analyzed the critical slopes waiver, it looks at the requirements of the ordinance and the requirements for the special use permit and found it met all requirements of the special use permit including supplemental regulations for wireless facilities. He explained that the critical slopes area is about 1,600 square feet, and analysis includes a technical analysis and a discretionary analysis that found that the applicant's construction techniques and erosion and sediment control measures would satisfy the critical slopes provisions to at least an equivalent degree. Mr. Fritz stated that granting the modification could also allow for the telecommunication facility to be constructed, which appears to be encouraged by the County's Wireless Policy and the Telecommunications Act, as this western portion of the County has difficulty finding sites that do not involve significant critical slopes.

Mr. Fritz said that the Planning Commission recommended approval of the special use permit by a vote of 4-3 but denied the critical slopes waiver by a vote of 4-3. He explained that the Commission was also concerned about the distance of the tower from the tallest tree within 25 feet – the reference tree – and wanted it to be 25 feet from the trunk, not the drip line. Mr. Fritz said that the Commission also expressed concern about the number of facilities already here, as there are more than three within 200 feet; there are four other facilities. He stated that the Architectural Review Board has reviewed the request and has recommended approval; the Commission's additional recommended condition is included.

Mr. Boyd asked about staff's position regarding the critical slopes waiver.

Mr. Fritz replied that staff recommended denial because the application ended "in mixed findings" for the critical slopes and came down on the side of denial although favorable factors were found.

Mr. Slutzky asked if the applicant had demonstrated that they looked at every other possible location on the property that were off the critical slopes and determined they were not as effective for their intended purpose, would staff recommendation have been different.

Mr. Fritz replied that he thinks so. Staff tries to site these facilities so they mitigate visual impact, but that can often land them on critical slopes. He pointed out that the factors to grant approval are there should the Board choose to.

Mr. Rooker said that he has a bit of an issue with putting together a wireless policy that is primarily based on siting and allowing towers that minimizes visibility with the imposition of the critical slopes overlay on it, and it seems that many of the best sites are the sides of hills that are well-treed. Generally speaking a tower does not involve significant disturbance of critical slopes in terms of the areas being disturbed and the ongoing operations impact on critical slopes is extremely minimal. The applicant brought up the question of whether a critical slopes waiver was even required for a cell tower, arguing that it was not exercising a building right to put up a tower.

Mr. Davis responded that the County does not agree with the applicant's position on that, and under critical slopes regulations some facilities are specifically exempted but towers are not. The County regulates critical slopes outside of the building site on many levels. Again, he does not think that argument is persuasive.

Ms. Thomas asked about the "after market" shielding device that complies with the County's lighting requirements.

Ms. Mallek said in the staff's recommendation, on page 12, it states that the applicant has not provided an alternative location for this facility that would require disturbance of critical slopes. Judging by the photographs and the map, it looks like in order to find one of those pockets you would have to create a long distance of brand new road, and she would assume that to be an important feature of disturbance. Using an existing place might be better.

At this time the Chairman asked the applicant to come forward.

Mr. Steve Blaine, representing Verizon Wireless, said that his client has tried to meet the expectations of the ordinance. Mr. Blaine indicated that the photograph Mr. Fritz showed represents four existing towers and the proposed new one as depicted by the balloon test, and this location provides a backdrop that reduces tower visibility. When a wireless facility is located on the side of a ridge, in most cases you will encounter critical slopes. He said that there are very few alternatives in this location that do not have critical slopes, and those are in gullies or in areas that are not readily accessible and would require more disturbance to access them. Mr. Blaine stated that this tower area was created years ago through a logging operation, and the other tower facilities have been located just off of the access road. At least two of the other applications encountered critical slopes but those were not required to go through a critical slopes analysis. They believe they meet the criteria for a waiver. He said that the applicant's proposal for this site would include retaining walls with netting that protect the slopes while allowing moisture to go through. He stated that an erosion and sediment control permit is not necessary for any disturbance less than 10,000 square feet yet they have agreed on the condition to undergo that permitting. At the minimum they would maintain impact to 25 percent slopes. Mr. Blaine indicated that the lighting shown on the plan may not meet the ordinance and the applicant is aware that he may have to include an "after-market" product that will. The lights are typically located near the entrance and activated by motion. Lights are for the purposes of access and safe entry only.

Mr. Blaine said the applicant is proposing an amendment to the condition that applies to the drip line or the distance from the tree. The applicant's arborist and landscape consultants recommend against locating improvements or disturbance within the drip line of trees, and they are thus suggesting that the condition be amended to reflect a distance from the drip line – not the trunk. The applicant also has no problem with a condition that says it will be no closer than the drip line. If they somehow invaded the drip line and invaded the root structure and lost the tree, they would lose part of the screening they are trying to achieve.

At this time the Chairman opened the public hearing.

Mr. Hawes Spencer, a journalist with The Hook, asked if the Board planned to make a statement about the rates the Albemarle County Service Authority just put up on its website. Although the Rivanna Water and Sewer Authority approved an increase of about two and one-half percent for water and a little over ten percent for sewer, the ACSA is raising its rates 11 to 13 percent for water and 29 percent for sewer.

Mr. Boyd commented that the Board was taking comments on the public hearing for this request.

In response to Mr. Spencer, Mr. Rooker said the Board has a time at the beginning of each meeting where individuals can speak to any issue.

Since no one from the public came forward to speak on the public hearing for SP-2007-065, the public hearing was closed and the matter was placed before the Board.

Mr. Rooker asked what happens if the drip line extends more than 25 feet, and if it would be possible to make it 25 feet from the trunk or one foot from the drip line – whichever is greater.

Mr. Fritz explained that at the recent Commission work session they did not come up with specific language, so staff had to craft that, and that is what is presented to the Board. The language could easily be amended to say "it is located within 25 feet from the trunk of the referenced tree but may be relocated so that it is not within the drip line."

Mr. Davis said that if the Board feels that locating the improvements within the drip line might kill the tree then they may want them not to be within the drip line.

Mr. Rooker said that makes sense to him.

Ms. Thomas stated that she would like to make the tree as close to the tower as possible, because when a tower is lighted it can make a big difference in visibility, even though this tower is not.

Mr. Fritz suggested language to state "the tower shall be located so that it is located within 25 feet from the trunk of the reference tree; this distance may be increased to allow the tower to be located no more than ____ feet from the drip line."

Mr. Rooker suggested one foot.

Ms. Mallek said as long as that means the closest point of the tower.

Mr. Fritz replied that staff would interpret it that way.

Mr. Blaine mentioned that the reference tree is actually up-gradient, so moving the pole closer to it will mean encountering more critical slopes. He said that in the depiction presented in Exhibit C1-A the pole at 23 feet is just inside of the retaining wall, down-gradient from the tree. Mr. Blaine stated that issues with other applications have had to do with faulty measurements to the reference tree, and the applicant in this case has had them measured several times.

Mr. Slutzky asked for staff's opinion on placement.

Mr. Fritz replied that staff is comfortable with the recommendation as shown – 24 feet from the drip line – in terms of minimizing skylighting, etc.

Mr. Rooker commented that the goal here is limiting visibility, and there is no skylighting in this case, adding that it seems to make sense to locate the tower where it is sited.

Mr. Boyd agreed.

Ms. Thomas said as long as this is not setting a precedent and she does not want the Commission to think this means the Board is always going to want the drip line to be the measurement reference. She agreed that the visibility is minimal here, but however this is worded staff needs to ensure that the Board is not setting a precedent.

Mr. Fritz indicated that he would share their thoughts at the Commission meeting next week.

Ms. Thomas said that she has heard several complaints from people about Verizon service in this area, but that is not grounds for discrimination. She stated that she had hoped that the company would address the customer dissatisfaction by this time, but that did not happen. She will express her disappointment, but she does not think that that gives the Board a legal basis for denying this application.

Mr. Rooker agreed, noting that there has been a lot of communication about the situation but that does not provide a reason for denial. The Board cannot legally condition the approval of the site of a tower on the provision of some entirely different service by someone else.

Mr. Slutzky replied that it could be denied on unrelated grounds, but he would vote in favor of it and requested that Verizon address the poor service situation.

Mr. Davis commented that there are two actions the Board needs to address; the special use permit and a separate action on the critical slopes waiver. As he understands, there are no conditions on the critical slopes waiver.

Mr. Fritz provided for the Board the six recommended conditions of approval.

Ms. Mallek **moved** for approval of SP-2007-065 subject to the six conditions as presented. Ms. Thomas **seconded** the motion.

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

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

NAYS: None.

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

1. Prior to issuance of a building permit, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to assure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, and identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility. Except for the tree removal expressly authorized by the agent, the applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all directions surrounding the lease area of any part of the facility. In addition, the agent may identify additional trees or lands up to two hundred (200) feet from the lease area to be included in the plan;
2. The installation, operation and maintenance of the facility shall be conducted in accordance with the tree conservation plan. Dead and dying trees identified by the arborist's report may be removed if so noted on the tree conservation plan. If tree removal is later requested that was not approved by the agent when the tree conservation plan was approved, the applicant shall submit an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to assure that the purposes of this paragraph are achieved;
3. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Afton, Herring Property", with a final zoning drawing submittal date of 2/27/2008;
4. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) the annual report states that the tower or pole is no longer being used for personal wireless service facilities; (ii) the annual report was not filed; (iii) there is a change in technology that makes it likely that tower or pole will be unnecessary in the near future; (iv) the permittee fails to comply with applicable regulations or conditions; (v) the permittee fails to timely remove another tower or pole within the county; and (vi) whenever otherwise deemed necessary by the agent;
5. The owner of the facility shall submit a report to the agent by no earlier than May or and no later than July 1 of each year. The report shall identify each user of the existing structure, and include a drawing, photograph or other illustration identifying which equipment is owned and/or operated by

- each personal wireless service provider. Multiple users on a single tower or other mounting structure may submit a single report, provided that the report includes a statement signed by a representative from each user acquiescing in the report; and
6. The following shall be submitted to the agent after installation of the monopole is completed and prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two (2) feet above the top of the monopole and width does not exceed a diameter of one (1) inch.

Ms. Mallek then **moved** for approval of a waiver of Section 4.2.5, the disturbance of critical slopes for SP-2007-065. Mr. Slutzky **seconded** the motion.

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

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

Agenda Item No. 19. **PUBLIC HEARING: PROJECT: ZMA-2007-025. Wavertree Hall LLC (Signs #104&105).**

PROPOSAL: Rezone 145.33 acres from PRD Planned Residential District zoning district which allows residential use (3 - 34 units/acre) with limited commercial uses to RA Rural Areas; residential density (0.5 unit/acre) zoning district which allows agricultural, forestal, and fishery uses and 0.5 unit/acre.

PROFFERS: No.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre).
ENTRANCE CORRIDOR: No.

LOCATION: Plank Road (Route 692), approximately 0.75 miles west of the intersection with Dick Woods Road (Route 637).

TAX MAP/PARCEL: Tax Map 70 Parcel 39.

MAGISTERIAL DISTRICT: White Hall.

(Advertised in the Daily Progress on April 21 and April 28, 2008.)

Mr. Cilimberg distributed a signed version of the proffers, noting that they were inadvertently not included in the Board's package. He reported that the request changes zoning from Planned Residential to RA in an area that is designated RA in the Comprehensive Plan. This is an old planned development located off of Plank Road in the western part of the County. Mr. Cilimberg said the area under the rezoning request includes a separate piece as noted on the map presented. He indicated that the concerns in review were the potential for additional development, which under the zoning that existed would have allowed for many more units. The easement on the property actually restricted development considerably. Mr. Cilimberg noted that this zoning will bring the zoning in compliance with provisions of the easements, and the proffers will prevent any additional development over current restrictions of the easement alone. He said that there will still be open space accessibility for the residents of the planned development, including trail access, and there will be some reduced tax revenue for the County as the property owner will be eligible for use-value tax. Mr. Cilimberg noted that the applicant will be able to qualify for use-value taxation because of the downzoning to RA.

Mr. Cilimberg said the Commission and staff have recommended approval subject to acceptance of the applicant's proffers which will establish the parameters for use of the property under the rezoning.

Mr. Slutzky asked why this property did not qualify for the tax break before.

Mr. Davis said this property did not qualify because of its zoning. A number of years ago, Albemarle obtained specific legislation that disqualified land that was zoned in a planned development from land use taxation.

Mr. Slutzky asked if the County can reform its land use tax rules so that property owners would not have to go through this process in the future to become eligible.

Mr. Davis said the Board could, but this is a rare instance. He does not think it would be necessary.

Ms. Thomas stated that in this case there was a working farm that was not able to get land use taxation.

Mr. Davis said the Code does allow a special treatment for this. Typically if you rezone property from a more intensive use you have to wait five years before it is eligible for land use taxation, but this property will be eligible for land-use tax in the next tax year because it was originally zoned prior to 1980.

Mr. Cilimberg added that the proffers would also further limit future use of the property.

The Chairman asked the applicant for comments.

Mr. Richard Carter, representing the property owner, stated that this is the first time he has requested a downzoning in 37 years of coming before the Board. He said that the purpose of downzoning

here is to be able to receive the tax benefits. The property owner, Mr. Gladden, is also present and would be happy to answer any questions.

Ms. Thomas mentioned that she is pleased to see the conservation easement on this property.

The Chairman opened the public hearing. With no one coming forward, the public hearing was closed, and the matter was placed before the Board.

Ms. Mallek **moved** for approval of ZMA-2007-025 subject to the applicant's proffers dated March 26, 2008. Ms. Thomas **seconded** the motion.

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

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

NAYS: None.

(The proffers are set out in full below:)

Original Proffers X
Amendment _____

PROFFER STATEMENT

ZMA No. ZMA-2007-00025

Tax Map and Parcel Number(s): **07000-00-00-03900**

Owner(s) of Record: **Wavertree Hall LLC**

Date of Proffer Signature: March 26, 2008

145.33 acres to be rezoned from PRD Planned Unit Development to RA Rural Areas

Wavertree Hall LLC is the owner (the "Owner") of Tax Map and Parcel Number **07000-00-00-03900** (the "Property") which is the subject of rezoning application ZMA No. **ZMA 2007-00025**, a project known as "**Wavertree Hall**" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. There shall be no more than four single-family dwellings on the property. Other structures permitted by right in the Rural Areas zoning district, and structures that are accessory to a permitted use in the Rural Areas zoning district, are also permitted on the property. The property may be subdivided or partitioned into not more than two parcels.

2. The property subject to this rezoning shall remain as "common area" for the benefit and use of the residents of Wavertree Hall Subdivision. The amenities, as they may exist within the subject property, shall also remain and be maintained so that they are available for use by the residents of Wavertree Hall Subdivision. These amenities consist of a twenty (20) foot walkway easement and a bark mulch path within a ten (10) foot walkway easement, both as shown on the "Physical Survey Showing 145.33 Acres of Land-A Portion of Wavertree Hall Farm," prepared by Wm. Morris Foster, dated June 5, 1987, recorded in Deed Book 950, pages 185 and 186, a copy of which is attached hereto for reference. These matters are subject to termination or amendment pursuant to the terms of 7.06 of the Wavertree Hall Farm Declaration of Restrictions Covenants and Conditions Imposed By Christian Retreats, Inc. recorded in Deed Book 667, beginning at page 101.

OWNER

Wavertree Hall, LLC

(Signed) Joseph R. Gladden

By: **Joseph R. Gladden, Jr.**

Title: **Member-Manager**

(The next two items were held concurrently.)

Agenda Item No. 20. **PUBLIC HEARING: ZTA-2007-006. Monticello Historic District (MHD) - Monticello Scholar Residence.** PROPOSAL: Zoning text amendment to amend the MHD regulations by adding Section 11.3.1(24) to allow "Monticello Scholar Residence" as a use permitted by right. The existing density for new residential development authorized in the MHD is one dwelling unit per twenty-one acres, and the proposed zoning text amendment would not change that density. (*Advertised in the Daily Progress on April 21 and April 28, 2008.*)

Agenda Item No. 21. **PUBLIC HEARING: PROJECT: ZMA-2007-023. Montalto (Signs #87&90).**

PROPOSAL: Rezone 329.68 acres from RA Rural Areas zoning district which allows RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to MHD Monticello Historic District zoning district, a planned historic district to permit the restoration, preservation, education, programs, research and business activities related to the operation of a historic house museum and historic site at Monticello; residential density (1 unit/21 acres).

PROFFERS: Yes.

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

LOCATION: 1400 Montalto Loop Road, Route 53 at the entrance to Monticello.

TAX MAP/PARCELS: TMP 77-31; TMP 77-31B; TMP 78-25A.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on April 21 and April 28, 2008.)

Mr. Cilimberg reported that these two requests would change the zoning to historic district and would add two scholar residences to the by-right uses in the district. He said that the center would involve renovation of the three existing buildings and the grounds for a variety of activities in association with Jefferson Studies to provide residences and areas for seminars, conferences, outdoor events, etc. Mr. Cilimberg stated that this would abut the existing historic district zoning and property that is under Monticello ownership and the center would come under its ownership. He noted that most of what would happen would utilize the buildings that remain on the property, although there is some additional parking proposed. They have proffered control on access to the mountain for activities. Mr. Cilimberg mentioned that there is a conservation easement in place for about 150 acres which represents about half the property. He said that 29 potential residences under rural area zoning would change to a maximum of 15 permissible under historic district zoning. There will be shared parking at Monticello and controlled access at Montalto. Mr. Cilimberg stated that there are two proffers regarding outdoor lighting and how access will be controlled. The Zoning Text Amendment alleviated the need for a third proffer because of the definition of scholar residences as a by-right use.

Mr. Rooker asked if the entry road would remain unchanged.

Mr. Cilimberg replied that it would for the most part and has been determined by fire and rescue to be acceptable for their purposes. The fire equipment was able to make the trip up the driveway.

Mr. Cilimberg added that staff and the Commission recommend approval based on a number of positive findings, with proffers dated April 21, 2008 and recommended approval of the ZTA regarding the scholar residences.

Ms. Thomas asked if the Board would be setting a precedent that they might regret when the University comes in with a plan for a conference center at Morven.

Mr. Cilimberg replied that the precedent was set when the Monticello Historic District was created, as it recognized the importance of a World Heritage property and established that property within the district was to be uniquely associated with Jefferson. He said that staff's review focused on activities that are very particular to Jefferson that would not otherwise be acceptable in the rural areas. Mr. Cilimberg noted that the applicant provided significant comparative information on other kinds of facilities that operate in association with a heritage-type situation. This is for an existing group of buildings, not new construction, and directly connected to Jefferson. He does not think other properties will be able to make the same kind of argument because they won't be able to qualify for historic district overlay.

At this time the Chairman asked the applicant for comments.

Mr. Mike Matthews, of Matthews Development Company, addressed the Board, stating that he is representing the Thomas Jefferson Foundation. He introduced the Executive Vice President of Monticello, Ann Taylor, and Valerie Long of Williams Mullen. He also recognized Kat Imhoff, who was not present, for her work with Monticello. Mr. Matthews said that the Thomas Jefferson Foundation has owned Monticello since 1923 and their mission has been twofold: preservation and education. The Foundation now owns nearly 3,000 of Jefferson's original 5,000 acres. He stated that in 2000 they created a master plan that has helped improve Saunders Bridge on Route 53 and Kemper Park and the Saunders Monticello Trail – which has preserved the entrance corridor of 53 up to Monticello. In 2003, he said, the Foundation began work to create the Monticello Historic District, as none of the property was covered under the 1980 County Zoning Ordinance and thus was entirely non-conforming. Mr. Matthews added that at the time this was put forward the Foundation did not own Montalto, but it came up for sale when they had begun their work on the visitors' center.

Mr. Matthews said that there was a plan for a 16-lot McMansion subdivision planned for that mountaintop, so the Foundation Board put together an emergency effort and purchased Montalto for \$15 million in April 2004. He said that there were a number of apartments as part of the property and that use was terminated with those non-historic residences eliminated. Mr. Matthews stated that the Foundation felt the property needed no additional structures other than the existing historic ones, and felt it should be incorporated into the Monticello Historic District. He presented a depiction of the building uses – the Repose House to be used for educational seminars and distance learning, scholar residences to be used for study, and some support space in the towers complex. Mr. Matthews said that a small amount of parking would be added under the "chin" of the mountaintop and would have low visibility; he added that it would be handicap accessible and they are considering pervious paving for a number of areas onsite. He

stated that the main house would be unchanged except for a minor change to the column placement and to the service courtyard where there have been modern additions. Mr. Matthews said that a future phase would revamp a parking lot into an educational amphitheatre.

He emphasized that the Foundation has saved Montalto from a potential subdivision and has reunited it with the home farm that was part of Jefferson's original holdings, adding that everything planned for the site is consistent with their mission of preservation and education. Mr. Matthews noted that there is already a central water system in place, but there is a chance that the Foundation may need to come back and get the systems recertified and approved.

Ms. Thomas asked what the Foundation's plans are to ensure that the lighting is not obtrusive to the community below.

Mr. Matthews responded that the Foundation shares that concern, and Monticello's history has been a subdued approach. He said that they are hoping to include small bollard lights and garden lighting, focusing mostly on safety for those onsite. They do not want an illuminated beacon on the mountaintop.

Mr. Boyd asked what the capacity of the largest seminar room would be.

Mr. Matthews replied that the largest room would probably hold 60 to 80 maximum, and the goal is to have the educational opportunities go out rather than having a lot of people come into the site.

The Chairman opened the public hearing. There being no one coming forward, the public hearing was closed, and the matter was placed before the Board.

Mr. Dorrier **moved** approval of ZMA-2007-023 subject to the applicant's proffers dated April 21, 2008. Mr. Rooker **seconded** the motion.

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

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

(The proffers are set out in full below:)

Original Proffer: X
Amendment:

**Proffer Statement
Montalto**

Date: April 21, 2008
ZMA #: ZMA 2007-00023 Montalto
Tax Map and Parcel Numbers: 07700-00-00-03100, 07700-00-00-031B0,
& 07800-00-00-025A0

329.68 acres to be rezoned from RA (Rural Areas)
to MHD (Monticello Historic District)

TJF Realty, LLC, a Virginia limited liability company, is the fee simple owner (the "Owner") of tax map parcels 07700-00-00-03100, 07700-00-00-031B0, and 07800-00-00-025A0 (collectively, the "Property"), which is the subject of zoning map amendment application number ZMA 2007-00023 known as "Montalto."

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.

This Proffer Statement shall relate to the two-page application plan entitled "Application Plan - Montalto Zoning Map Amendment," prepared by Draper Aden Associates, dated March 27, 2008 (the "Application Plan").

1. All outdoor lighting shall be arranged or shielded to reflect light away from the abutting properties.
2. Vehicular access to the Property shall be controlled during peak events that require off-site parking.

WITNESS the following signature:

TJF Realty, LLC

By: Thomas Jefferson Foundation, Inc., sole member

By: (Signed) Daniel P. Jordan
Daniel P. Jordan, President

Mr. Dorrier **moved** for approval of ZTA-2007-006, Ordinance 08-17(2). Mr. Rooker **seconded** the motion.

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

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

ORDINANCE NO. 08-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article III, District Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 11.3.1 By right uses

Chapter 18. Zoning

Article 3. District Regulations

Sec. 11.3.1 By right uses

The following uses shall be permitted by right in the MHD:

1. Uses relating to the operation of Monticello as a historic house museum and historic site as follows:
 - a. Interpretative, educational and research uses such as tours; interpretive signs, walking paths, displays and exhibits; classes, workshops, lectures, programs and demonstrations; field schools and history-related day camps; and archaeological laboratories.
 - b. Administrative and support activities including visitor ticketing and shuttle bus operations, maintenance operations, equipment storage, vehicle maintenance and refueling, security and general administration, and related support spaces and offices.
 - c. Visitor amenities including: parking lots; travelways; public restrooms; food and drink preparation and vending; picnic areas; walking paths and pedestrian bridges.
 - d. Display and sale of products related to Thomas Jefferson and the history of Monticello.
 - e. Other uses not expressly delineated in subsection 1(a) through (d) authorized by the zoning administrator after consultation with the director of planning and other appropriate officials; provided that the use shall be consistent with the express purpose and intent of the MHD, similar to the uses delineated in this subsection in character, locational requirements, operational characteristics, visual impact, and traffic generation.
2. Temporary events related to or supportive of the historic, educational or civic significance of Monticello, such as, but not limited to the Naturalization Ceremony on the Fourth of July, Thomas Jefferson's Birthday celebration, summer speakers series, presidential inaugural events, and commemorative events similar to the Lewis and Clark bicentennial.
3. Display and sale of gifts, souvenirs, crafts, food, and horticultural and agricultural products, including outdoor storage and display of horticultural and agricultural products, including wayside stands for display and sale of agricultural products produced on the premises (reference 5.1.19).
4. Establishment and changes to structures shown on the approved application plan:
 - a. Modification, improvement, expansion, or demolition of "modern structures" existing on the effective date of this section 11.
 - b. Modification, improvement, re-creation, or restoration (including expansion) of "historic or interpretive structures."
 - c. Establishment of "new primary structures or features" identified as such on the approved application plan.
5. Cemeteries.

6. Detached single-family dwellings, including guest cottages and rental of the same.
7. Side-by-side duplexes; provided that density is maintained and provided that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
8. Agriculture, forestry, and fishery uses except as otherwise expressly provided.
9. Game preserves, wildlife sanctuaries and fishery uses.
10. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable laws.
11. Accessory uses and structures including home occupation, Class A (reference 5.2) and storage buildings.
12. Temporary construction uses (reference 5.1.18).
13. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12).
14. Temporary sawmill (reference 5.1.15 and subject to performance standards in 4.14).
15. Agricultural service occupation (subject to performance standards in 4.14).
16. Divisions of land in accordance with section 10.3.
17. Tourist lodging (reference 5.1.17).
18. Mobile homes, individual, qualifying under the following requirements (reference 5.6):
 - a. A property owner residing on the premises in a permanent home wishes to place a mobile home on such property in order to maintain a full-time agricultural employee.
 - b. Due to the destruction of a permanent home an emergency exists. A permit can be issued in this event not to exceed twelve (12) months. The zoning administrator shall be authorized to issue permits in accordance with the intent of this ordinance and shall be authorized to require or seek any information which he may determine necessary in making a determination of cases "a" and "b" of the aforementioned uses.
19. Farm winery (reference 5.1.25).
20. Borrow area, borrow pit, not exceeding an aggregate volume of fifty thousand (50,000) cubic yards including all borrow pits and borrow areas on any one parcel of record on the adoption date of this provision (reference 5.1.28).
21. Commercial stable (reference 5.1.03).
22. Stormwater management facilities shown on an approved final site plan or subdivision plat.
23. Tier I and Tier II personal wireless service facilities (reference 5.1.40).
24. Monticello scholar residences, which shall be private lodging accommodations in multiple-family dwellings for educators, academic fellows or scholars working on Jefferson related research and/or programs, Montalto program participants, persons directly engaged in the programming, research, or operation of Monticello as a historic museum and historic site, and for a sole caretaker, provided that not more than three dwelling units shall be occupied at any one time by persons directly engaged in the programming, research, or operation of Monticello as a historic museum and historic site except during the semi-annual meetings of the owner's governing board.

Agenda Item No. 22. **PUBLIC HEARING: WPTA-2008-00001.** Water Protection Ordinance; stream crossings for roads, streets and driveways; mitigation plans. PROPOSAL: Amend Sec. 17-320, Types of development authorized in stream buffer, Sec. 17-321, Types of development which may be allowed in stream buffer by program authority, and Sec. 17-322, Mitigation plans, of Chapter 17, Water Protection, of the Albemarle County Code. This ordinance would add stream crossings for roads, streets

and driveways as an authorized type of development in a stream buffer, subject to specific requirements (Sec. 17-320); would authorize the program authority under specified conditions to allow stream crossings for roads, streets and driveways that could not meet the requirements of Sec. 17-320, subject to approval of a mitigation plan (Sec. 17-321); and would amend the procedural and substantive requirements for mitigation plans (Sec. 17-322). (*Advertised in the Daily Progress on April 21 and April 28, 2008.*)

Mr. Mark Graham, Director of Community Development, summarized the following executive summary that was forwarded to Board members. He said the purpose of this public hearing is to consider amending the Water Protection Ordinance (WPO) by making certain stream crossings that meet specific requirements an allowed use and revising the requirements when other stream crossings may be allowed by the program authority with a mitigation plan. On March 12, 2008, the Board was presented three options for the treatment of stream crossings of protected stream buffers in the WPO. After consideration, the Board directed staff to proceed with developing an ordinance amendment that permits stream crossings where necessary for the lot to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the Subdivision Ordinance. These stream crossings would be allowed provided that specific requirements have been met.

The proposed text amendment is provided as Attachment B. In addition to the allowed stream crossings, staff is recommending changes that would give the program authority the discretion to allow other stream crossings with a mitigation plan, and that clarify and strengthen the procedural and substantive requirements for mitigation plans. A discussion of the proposed amendments to sections 17-320, 17-321 and 17-322 follows.

17-320 Allowed Uses:

The proposed amendments to section 17-320 would allow a stream crossing of an intermittent or perennial stream, provided that specific requirements have been met. The following requirements focus on assuring the stream crossing will not result in excessive stream erosion: 1) proper sizing and installation of the structures for perennial streams (the crossing structures must allow the streambed and streambanks to retain a natural cross-section, a requirement that is consistent with typical State and Federal permit requirements); 2) stabilization measures to assure the stream is restored; 3) keeping the stream disturbance to the minimum necessary for the use; 4) restoration of the disturbed area as soon as reasonably possible; 5) mitigation for the disturbed area through vegetated buffers where possible; 6) the limitation to a single stream crossing under this section; and 7) notification by the owner of any State or Federal permit conditions associated with the crossing prior to County approval. The last requirement provides the program authority the opportunity to review State or Federal approval conditions and to verify that the County is not approving anything contrary to those permit conditions.

17-321 Types of development allowed in the stream buffer:

Recognizing that a property owner may desire a stream crossing that cannot satisfy all of the requirements of section 17-320, the proposed amendments to section 17-321 would provide the program authority the discretion to permit other stream crossings, including crossings in addition to those allowed by section 17-320, with an approved mitigation plan.

If an additional stream crossing is sought, the owner must also demonstrate to the program authority that the environmental impacts from the entire road, street or driveway necessitated at a single stream crossing would be greater than the environmental impacts caused by an additional crossing and its associated road, street or driveway if the additional crossing was not allowed. The relevant environmental impacts to be considered are delineated in the ordinance (Sec. 17-321(4)).

17-322 Mitigation plans if development allowed in stream buffer:

The proposed amendments to section 17-322 would require that mitigation plans for a road, street or driveway encroaching into or crossing a stream buffer be submitted and reviewed with the subdivision plat, site plan or building permit (Sec. 17-322(A)). This requirement would assure that a building permit dependent upon a stream crossing would not be approved before the mitigation plan has been approved. In addition, the proposed amendments would authorize the program authority to require design changes to assure that the development meets the purposes of the Water Protection Ordinance and to require ongoing maintenance of the mitigation measures (Sec. 17-322(C)(2) and (C)(3)). Also, if the owner proposed more than a single stream crossing for a road, street or driveway, the proposed amendments would require that the owner demonstrate that environmental impacts resulting from a single crossing would be greater than those if the additional crossing was allowed (Sec. 17-322(C)(6)) as discussed above. Finally, the proposed amendments would add criteria for evaluating a mitigation plan (Sec. 17-322(D)(4) and (D)(5)).

Mr. Graham said staff recommends approval of WPTA-2008-001, as set forth in Attachment B.

Mr. Dorrier asked if this applies to a family subdivision.

Mr. Graham said it makes no distinction with regard to ownership of the property.

Mr. Dorrier asked if this applies to all intermittent and perennial streams.

Mr. Graham said it applies to anything the ordinance calls; not all intermittent streams. Intermittent streams are not part of the protected stream buffers in the development areas.

Mr. Boyd asked for clarification on the section on the second stream crossing.

Referring to some drawings, Mr. Graham provided some examples and described various situations. The presumption is people are allowed to use any developable piece of the property. The question is how that is done in a way that minimizes the environmental impact with respect to stream crossings.

Mr. Boyd asked for clarification on whether this covers potential buildable sites.

Mr. Graham responded that that is the intent of this amendment; they are not making the determination of how people should develop their property.

Mr. Dorrier asked what would happen in the case of disputes.

Mr. Graham replied that the issue would come to the Board.

Mr. Davis clarified that a landowner could appeal to court but would have to prove that the staff's action was "arbitrary and capricious," which is typically a tough thing to prove.

Mr. Rooker noted that this is a permissive ordinance; staff was interpreting the current ordinance to prohibit stream crossings except for one single family residence. This amendment strikes a reasonable balance of allowing people to exercise rights on their land while preserving the environmental characteristics of that land.

Ms. Mallek asked if all the mitigation materials will be on the site and ready before work starts or will they do the work and then determine what they have to do mitigate.

Mr. Graham indicated that the way the ordinance is written a landowner could not get a permit to initiate a disturbance until a mitigation plan is approved, and under allowed conditions, within seven days of reaching a point on the construction, it could be backfilled and the stream must be stabilized.

At this time, the Chairman opened the public hearing.

Mr. Neil Williamson, of the Free Enterprise Forum, stated that the ordinance stipulates that a stream crossing must be in a place where it is best located, it must do the least harm possible, and damage must be repaired to return a stream to the way it was. He commented that these are "very reasonable steps" to preserve both property rights and environmental rights. He applauded the Board for moving forward with this action.

Mr. Richard Carter said he represents several landowners in the County. He got into this with the VanClief brothers because the way the ordinance was initially being construed took the value of the property and dropped it, and might discourage people from putting property into conservation easement. Mr. Carter stated that this amendment alleviates those issues and he expressed his appreciation for staff's work on the modification and the Board's attention to the issue.

Mr. Stuart Kessler addressed the Board, stating that there should not be any action taken on this until the public has had sufficient time to review the amendment. He said that if this relates solely to the betterment of the environment, he supports it, but if it is intended to discourage growth he is opposed to it. He is concerned with the term "Program Authority". There is no where in the text where the word "reasonable" is used. Mr. Kessler also stated that there is a procedure used in many cities where an engineer, architect, or civil engineer land surveyor can perform the functions of review of the mitigation plans, and attest under certification that the intention has been met. This would get it out of the political arena.

Mr. Roger Ray said there will be many properties in Albemarle County that have several streams that run through their property and he would suggest changing the language to allow one stream crossing for each stream. He thanked the Board for making these changes and said they are very positive changes.

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

Mr. Slutzky commented that the perception that any action the Board takes that has the effect of reducing opportunity for development will reciprocally reduce the value for real estate is not accurate.

Mr. Rooker noted that there would be a significant conservation easement appraisal benefit to a landowner who has 500 acres and is willing to put it into easement and eliminate development rights.

Ms. Thomas asked for an explanation of the Program Authority term raised by Mr. Kessler.

Mr. Davis explained that it is a term used under the Water Protection Ordinance to establish who administers the act, and it is typically a staff person – typically the County Engineer.

Mr. Rooker reiterated that this amendment makes the ordinance more permissive, and is supported by many who have indicated no issue with mitigating environmental impacts that might occur from stream crossings.

Mr. Boyd agreed and offered his support of the amendment, but wondered if there should be more time for the public to have an opportunity to review it.

Mr. Slutzky responded that he is comfortable moving forward with this, and if there is issue with it later, it could be reconsidered and possibly revised in the future.

Ms. Mallek said that people in her district are waiting, having expected a decision in February. This was discussed in detail a month ago at the Board's work session. She also asked what the situation would be in the event that streams are widely spread apart.

Mr. Graham replied that staff debated that at length, but it is possible to have circumstances where a second stream does not need to be crossed but the landowner chooses to do so.

Mr. Davis stated that this does not preclude a second stream crossing, and there would need to be a mitigation plan for those additional crossings.

Mr. Graham added that there is no mitigation plan for that first stream crossing. For every additional stream crossing, there would be a plan.

Mr. Davis said the mitigation plan is a reviewed plan that is personalized for that particular situation.

Mr. Dorrier said he supports the proposed ordinance. It goes a long way to do what it was intended. It also adds a safety valve and if it does not work, the Board members will know.

Ms. Thomas pointed out that Mr. Graham's report implies that every stream crossing has mitigation, but something he said in this meeting seems to indicate there is not mitigation required for some stream crossings.

Mr. Graham clarified that there is mitigation for the disturbance, but there is not a requirement for a mitigation plan; an applicant would just submit an erosion control plan or road plan – and as part of that would look as to whether they are offsetting impact. The mitigation plans that are under 17-322 would not apply with that first stream crossing.

Mr. Rooker noted that 17-320 #5 applies for the first allowed use.

Mr. Graham confirmed that it requires mitigation but not a mitigation plan.

Mr. Boyd asked if there still needs to be a plan made, even if there are no obvious impacts requiring mitigation.

Mr. Graham replied that if there are no additional areas to be planted, you don't plant, but on the second stream crossing there is a full mitigation plan that staff would analyze and evaluate for impacts. He stated that there would still need to be a plan because the disturbance increases environmental impacts, increases the impacts on the stream buffer, and to balance the interest of protecting the natural resource with the ability to develop there is a need to do a case by case determination as to where that balance point is.

Mr. Boyd commented that it seems a person with two streams is being penalized.

Mr. Rooker pointed out that this is "a much more measured approach" than some people recommended. He said that the amendment says that crossing over a stream is allowed without a mitigation plan, but if you're going to go beyond that a plan would be required. Mr. Rooker emphasized that there could be a plan required for one stream crossing, so this is definitely more permissive.

Mr. Slutzky said he thinks this is very fair and balanced. It addresses environmental concerns but also property rights concerns.

Ms. Mallek added that for a small project it doesn't require someone with a single driveway to go to the expense of a big mitigation plan.

Mr. Rooker **moved** for approval of WPTA-2008-001, Stream Crossings, Ordinance 08-17(2). Mr. Slutzky **seconded** the motion.

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

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

NAYS: None.

ORDINANCE NO. 08-17(2)

AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA, BY AMENDING ARTICLE III, STORMWATER MANAGEMENT AND WATER QUALITY

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection, Article III, Stormwater Management and Water Quality, is amended and reordained as follows:

By Amending:

- Sec. 17-320 Types of development authorized in stream buffer
- Sec. 17-321 Types of development which may be allowed in stream buffer by program authority
- Sec. 17-322 Mitigation plans

Chapter 17. Water Protection

Article III. Stormwater Management and Water Quality

Sec. 17-320 Types of development authorized in stream buffer.

If otherwise authorized by the applicable regulations of the zoning ordinance, the following types of development shall be allowed in a stream buffer, provided that the requirements of this section are satisfied:

A. A building or structure which existed on the date of adoption of this chapter may continue at such location. However, nothing in this section authorizes the continuance, repair, replacement, expansion or enlargement of such building or structure except as provided in sections 6 and 30.3 of the zoning ordinance.

B. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:

1. To the extent practical, as determined by the program authority, the location of such facilities shall be outside of the stream buffer;

2. No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility, as determined by the program authority;

3. The facilities are designed and constructed so as to minimize impacts to the functional value of the stream buffer and to protect water quality; and

4. Facilities located within a flood plain adhere to flood plain regulations of the county and are designed and located, to the extent practical, to maintain their water quantity and/or water quality control value, according to the standards of this article, during flood conditions.

C. Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities; provided that all applicable federal, state and local permits are obtained.

D. Stream crossings of perennial and intermittent streams for roads, streets or driveways, provided the following requirements are addressed to the satisfaction of the program authority:

1. Bridges and culverts shall satisfy the following:

a. For crossings of perennial streams, bridges, arch culverts, or box culverts shall be used for the stream crossing and sized to pass the ten (10) year storm without backing water onto upstream properties. Bridges or culverts shall either leave the stream section, consisting of the stream bed and the stream bank, undisturbed or shall allow the stream to return to a natural stabilized cross-section upon completion of installation. The lowest interior elevation of the culvert (the culvert invert) shall be a minimum of six (6) inches below the stream bed. Culvert walls and bridge columns should be located outside the stream banks wherever possible;

b. For crossings of intermittent streams, bridges or culverts shall be used for the stream crossing and sized to pass the ten (10) year storm without backing water onto upstream properties;

2. Stream stabilization and energy dissipation measures below each bridge or culvert shall satisfy the standards for stream bank stabilization and outlet control provided in the county's design standards manual;

3. The stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the subdivision ordinance. Stream crossings shall not disturb more than thirty (30) linear feet of stream for driveways and sixty (60) linear feet for roads or streets, provided that the program authority may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length;

4. The stream bed and stream banks shall be stabilized within seven (7) days from the start of backfilling for the bridge or culvert;

5. For stream crossings where any portion of the pre-construction stream buffer is not fully vegetated as determined by the program authority, and for any portion of a vegetated stream buffer that is disturbed during the installation of the stream crossing, buffer vegetation shall be established and maintained within the stream buffer but outside of the stream crossing at a ratio of two (2) square feet of stream buffer restored for every one (1) square foot of stream buffer that was either not fully vegetated or is disturbed during the installation of the stream crossing. Buffer vegetation shall be established and maintained at the 2:1 ratio to the extent that the stream buffer is fully vegetated outside of the stream crossing, provided that the owner shall not be required to establish vegetation outside of the stream buffer in order to satisfy the 2:1 ratio. The program authority may require that the owner enter into an agreement providing for the ongoing

maintenance of the plantings in the stream buffer, and may require a bond with surety or other acceptable instrument, which agreement and bond with surety or other acceptable instrument shall be of a substance and in a form approved by the program authority and the county attorney. Stream buffer plantings shall be consistent with guidance supplied by the program authority;

6. In order to assure that the encroachment into or across the stream buffer is minimized, on and after May 7, 2008, it shall be presumed that one stream crossing is adequate to serve the owner's lot(s) existing on that date and all lots created therefrom on and after that date. The program authority shall allow only one stream crossing to serve all lots, provided that it may allow additional crossings under section 17-321(4);

7. The owner shall provide the program authority with copies of approved federal and state permits associated with the stream crossing, if applicable.

(§ 19.3-44, 2-11-98; § 19.2-7, 6-19-91, § 7; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-7, 19.2-8, 19.3-44; Ord. 98-A(1), 8-5-98; Ord. 08-17(2), 5-7-08)

State law reference--Va. Code § 10.1-2108.

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:

1. on a lot which is located within a development area but is not within a water supply protection area: within the fifty (50) horizontal feet of stream buffer that is the most landward (furthest from the stream);

2. on a lot which is located within a water supply protection area or other rural land: within the fifty (50) horizontal feet of stream buffer that is the most landward, but only for stormwater conveyance channels or other necessary infrastructure, and only if such development is determined by the program authority to be necessary to allow a reasonable use of the lot. In all cases under this paragraph, the building site and the sewage disposal system shall be located outside of the stream buffer;

3. on a lot on which the development in the stream buffer will consist of a lake, pond, or ecological/wetland restoration project;

4. on a lot on which the development in the stream buffer will consist of the construction and maintenance of a road, street or driveway that would not satisfy the requirements of section 17-320(D) and the program authority determines that the stream buffer would prohibit access to the lot necessary for the lot to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the subdivision ordinance, or to establish more than one stream crossing;

5. on a lot which was of record prior to the date of adoption of this chapter, on which the development in the stream buffer will consist of the construction, installation and maintenance of water and sewer facilities or sewage disposal systems, and the program authority determines that the stream buffer would prohibit the practicable development of such facilities or systems. Any such sewage disposal system must comply with all applicable state laws; and

6. on a lot which was of record prior to the date of adoption of this chapter, if the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the lot, or to allow redevelopment as permitted in the underlying zoning district.

(§ 19.3-45, 2-11-98; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-8, 19.3-45; Ord. 98-A(1), 8-5-98; Ord. 08-17(1), 2-6-08; Ord. 08-17(2), 5-7-08)

State law reference--Va. Code § 10.1-2108.

Sec. 17-322 Mitigation plan if development allowed in stream buffer.

Each owner who seeks to develop in a stream buffer pursuant to section 17-321 shall submit to the program authority for review and approval a mitigation plan as provided herein:

A. The owner shall submit a mitigation plan that satisfies the applicable requirements of this section, the fee required by section 17-310, and a certification stating that all requirements of the approved plan will be complied with. If the mitigation plan pertains to a road, street or driveway encroaching into or crossing a stream buffer, it shall be submitted with and reviewed by the program authority in coordination with the preliminary site plan or preliminary subdivision plat, if such a plan or plat is submitted or, if not, in coordination with the final site plan or final subdivision plat, or building permit.

B. The mitigation plan shall be reviewed by the program authority to determine whether it complies with the requirements of this section and all other requirements of this article. The program authority shall approve or disapprove a mitigation plan within thirty (30) days that a complete plan was accepted for review. The decision shall be in writing and shall be communicated to the owner. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.

C. Each mitigation plan shall:

1. identify the impacts of proposed development on water quality and lands within the stream buffer;
2. ensure that, where development takes place within a stream buffer; (i) the proposed development shall be located on those portions of a site and in a manner that will be least disruptive to the natural functions of the stream buffer; (ii) no more land shall be disturbed than is necessary to allow a development that is permitted in the underlying zoning district under the applicable regulations of the subdivision ordinance; (iii) indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the proposed development; and (iv) the impervious cover shall be minimized consistent with the proposed development;
3. demonstrate and assure that development will be conducted using best management practices; where best management practices require regular or periodic maintenance in order to continue their functions, the program authority may require that the owner enter into an agreement providing for the ongoing maintenance of the plantings in the stream buffer, and may require a bond with surety or other acceptable instrument, which agreement and bond with surety or other acceptable instrument shall be of a substance and in a form approved by the program authority and the county attorney;
4. specify mitigation which will address water quality and stream buffer impacts;
5. contain all other information requested by the program authority; and
6. where an owner seeks to establish more than one stream crossing as provided in section 17-320(D)(6), demonstrate that the environmental impacts from the entire road, street or driveway necessitated by a single stream crossing would be greater than the environmental impacts caused by an additional crossing and its associated road, street or driveway. For the purposes of this subsection, the environmental impacts considered by the program authority include, but are not limited to, impacts to soil, soil erosion, stormwater quantity, water quality, loss of vegetated stream buffer, impacts to stream beds and stream banks, the creation of impervious surfaces, and the disturbance of slopes of twenty-five (25) percent or greater.

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;
3. whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions;
4. whether the design and construction of the development will satisfy the criteria in subsections 17-322(C)(2) and (C)(3); and
5. for driveways, roads and streets, whether their alignment and design are optimized, consistent with all other applicable requirements, to minimize encroachment in the stream buffer and adverse effects on water quality.

(§ 19.3-46, 2-11-98; § 19.2-8, 6-19-91, § 8; § 19.1-13, 6-19-91, § 13; Code 1988, §§ 19.1-13, 19.2-8, 19.3-46; Ord. 98-A(1), 8-5-98; Ord. 08-17(2), 5-7-08)

State law reference--Va. Code § 10.1-2108.

Agenda Item No. 23. From the Board: Matters Not Listed on the Agenda.

Ms. Mallek asked when the cell tower work session is scheduled. Mr. Cilimberg responded that the Planning Commission is holding a work session on May 13, 2008 as part of its regular meeting. Board members will be invited.

Ms. Thomas commented that the Mountain Overlay District Committee worked for two years and was never thanked when it disbanded. The first time they had the Mountain Protection Ordinance Committee it was basically insulted by the Chairman of the Board and never heard of again. She said that she would at least like to recognize the Overlay District members for all of their efforts and thank them for their services.

Mr. Rooker said that a proclamation from the Board would be appropriate.

Mr. Tucker responded that a Certificate of Appreciation would be the typical recognition.

Ms. Thomas said in the afternoon the staff uses the screen and technology in the room, but not as much in the mornings. She suggested making more use of them in the mornings because it adds to what the public can determine what the Board is talking about.

Mr. Tucker said this morning Mr. Rooker mentioned an appropriation for the Northwest Virginia Health Systems Agency. The amount is \$4,723. To date the City has not funded their request of \$1,980. They requested five cents per capita. He asked if Board members want to fund the request subject to City funding or staff bring forward an appropriation.

Mr. Boyd responded that he would like it to be contingent on City participation.

Mr. Tucker said that he would contact the City about it.

Mr. Slutzky asked if three people until the UnJam meeting, does it constitute a quorum.

Mr. Davis responded that if three people attend, it is okay, unless they are convened in a manner where the purpose is to discuss or transact County business. As long as they are not convened together, they are okay. If they are in separate breakout groups, that is okay. If they are just there to listen, that is okay.

Mr. Cilimberg commented that the Planning Commission meeting next week will also include an initial discussion on the wind turbine issue.

Mr. Davis said that at any of these meetings, if three or more Board members attend and participate in discussion, it constitutes a meeting of the Board.

Agenda Item No. 24. Adjourn to May 14, 2008, 3:30 p.m., Room 241.

At 4:39 p.m., Mr. Slutzky **moved** to adjourn the meeting until 3:30 p.m. on May 14, 2008. Mr. Rooker seconded the motion.

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

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

NAYS: None.

Chairman

Approved by Board
Date: 07/08/2009
Initials: EWJ