

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 2, 2008, at 9:00 a.m., Lane Auditorium, County Office Building on 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 9:01 a.m., by the Chairman, Mr. Boyd.

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

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Agenda Item No. 4. Recognitions: Certificates of Appreciation for Boards/Commissions.

Mr. Boyd said that last month he attended an event celebrating 100 years of the Pepsi Cola Bottling Company in the County. Three generations of the Jessup family have run the company and it is important to recognize this kind of community involvement. He then read the following proclamation:

*On behalf of the Albemarle County Board of Supervisors and local government,  
I would like to honor and recognize*

***Pepsi-Cola Bottling Company of Central Virginia***

*Whereas, the Pepsi-Cola Bottling Company was founded in 1908 by Samuel A. Jessup and is run today by grandson Jay Jessup and granddaughter Suzanne Jessup Brooks, who continue to manage the company in the tradition of family and community values; and*

*Whereas, the Pepsi-Cola Company, having been in business for a century, is the second-oldest manufacturer in the United States, growing from its original production of approximately 100 cases a day to its current capability of producing several thousand cases of Pepsi-Cola in one hour; and*

*Whereas, the Pepsi-Cola Company has generously supported numerous community organizations, including but not limited to the Paramount Theater, the Boy Scouts, the Girl Scouts, the YMCA, the United Way, the University of Virginia, the Chamber of Commerce, the Multiple Sclerosis Society, and the Senior Center, with contributions and products; and*

*Whereas; the Pepsi-Cola Company continues to provide steady employment for approximately 375 employees at its four plants across Virginia, many of whom give back to their communities through their membership on and service to organizations such as the Albemarle Charlottesville Historical Society, Kiwanis Clubs, local PTOs, and the Center for International Disaster Information; and*

*Whereas, the Pepsi-Cola Bottling Company has served for the last century as an outstanding corporate neighbor and partner to the County of Albemarle, not only bringing economic stability and opportunity to the area, but also reaffirming the values and aspirations of our community.*

*Now, Therefore, Be It Resolved, That, We, as a community, are strengthened by the contributions and commitment of corporate leaders such as the Pepsi-Cola Bottling Company whose dedication and service make Albemarle County a better place to live and work.*

Mr. Jay Jessup stated that the whole family has been happy to be citizens of this area. They have great business and community support and are honored to receive this recognition.

Ms. Suzanne Jessup thanked everyone for their support. They would not be who they are without community support. She added that the employees make the company what it is. She thanked the Board and County for their support.

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Mr. Boyd said the Albemarle County Board of Supervisors would like to express its gratitude to Mr. John Knapp for his service on the Fiscal Impact Advisory Committee since August, 2004. Mr. Knapp brought the much needed and valued perspective of an economist to the committee, knowledge which was greatly appreciated during the formation of the proffer methodology. Mr. Knapp's experience, hard work, and dedication will be missed by all members of the Committee, as well as Albemarle County.

He then presented Mr. Knapp with a Certificate of Appreciation.

Mr. Knapp thanked the Board for giving him the opportunity to serve on the Committee. It was an enjoyable experience. The staff did an excellent job, and in particular Mr. Steve Allshouse.

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Mr. Boyd said the Albemarle County Board of Supervisors expresses its gratitude to Mr. Madison Cummings for his dedicated service to the Charlottesville/Albemarle Commission on Children and

Families from July 1, 2002 to June 30, 2008. As an Albemarle County Citizen Representative, Mr. Cummings has been an incredibly involved and hardworking leader, serving as a real catalyst for change and a role model to his peers. He has been an invaluable member of the Youth Service Learning and Teen Pregnancy/STD Prevention Work Groups, as well as the Agency Budget Review Team. He has served on CCF's Executive Committee since 2004 and was an extremely able Chair for the past two years. Mr. Cummings is the epitome of the citizen-volunteer who makes Albemarle County a strong community for children and families. He then presented Mr. Cummings with a Certificate of Appreciation.

Mr. Cummings thanked the Board for the opportunity to serve on the CCF. Other than his service on the School Board, this has been one of the most meaningful experiences of his life.

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Mr. Boyd announced that a hardworking group of people spent a lot of time working for this community; the Mountain Overlay District Committee met regularly from April of 2004 to mid-2006 and sifted through many complex, technical, cultural and political concerns. After careful deliberation, the Committee developed an outline for an effective mountain protection ordinance that represented the true consensus of a widely ranging prospectus of community members. The proposal was formally submitted to the Board in April of 2006 and supported by the Committee in public hearings and Board meetings during the summer of 2006. As a result of the MOD Committee's recommendations, in 2008 the Board approved an amendment to the Water Protection Ordinance that requires buffers for both intermittent and perennial streams throughout the rural areas. The Board approved an ordinance amendment that provides safe and convenient access to residences for emergency vehicles.

Mr. Boyd said the people on the Committee who are not present include Mr. Joe Jones, Ms. Sherry Buttrick, Mr. Harry Levins, Mr. Fred Scott, Mr. Carleton Ray, Ms. Katie Kent, Mr. Reuben Clark and Mr. Bill Lasseter, as well as Mr. Pete Craddock. He indicated that those who are not present are recognized, as well as those who are present, including: Mr. Jeff Werner, Mr. Jon Cannon and Mr. Mike Merriam. Mr. Boyd also recognized Ms. Joan McDowell and Mr. Greg Kamptner who provided staff support to the Committee, as well as Ms. Sally Thomas who was the Board representative.

Ms. Thomas said the Committee was a hard working group. Early on they decided to work by consensus which meant there was no quick and easy way to reach a vote. Everyone had to agree to everything. The Chairman, in particular, deserves a great deal of thanks.

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

Mr. Slutzky asked that information on recognitions be included in all Board members' packets.

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Mr. Slutzky said he was asked to review the February 6, 2008, minutes, in which there was a discussion about whether the County can charge citizens for staff costs related to determining development rights. Sometimes the review is labor intensive for the Legal and Development staffs. Mr. Tucker replied that there are several fees coming forward and that will be included.

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Ms. Thomas said a neighborhood near where she lives has requested that the County take over their failing dam. She was referred to Stafford County that had done something similar, and she was referred to the Stafford County Board's minutes. She was eager to see why Stafford made the decision it made, but their minutes were summary minutes with the notation "discussion ensued." This made her very glad that this Board reached a conclusion last month to not have weighty decisions covered by those simple words.

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Ms. Thomas reported that the initial meeting of the Crozet Library Task Force was held last night. This is an exciting process, with a good committee. She will not be able to attend the next meeting scheduled for July 28 and asked if another Board member would attend in her place.

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Mr. Rooker said he provided Board members with a series of pictures taken on Sunday of what were thought to be mostly illegal signs in the entrance corridors along a short section of Route 29 from its intersection with Rio Road up to about Schewels, and also on Rio Road West. Virtually every weekend a number of illegal signs are being stuck in the ground along the entrance corridors. He said the County is investing a tremendous amount of money for aesthetic quality and appearance of the entrance corridors, yet that investment is being undermined on a regular basis by illegal signs. He copied this information to Mr. Allan Sumpter of VDOT as they are in control of the rights-of-way. He thinks this Board has to do something about this situation. He does not think it would require a full time person to oversee, noting that if he had spent another 30 minutes, in addition to the 10 to 15 minutes he was there, he probably could have pulled up all the signs and put them in his car. He has received a number of e-mails from people in his district who are upset about it, and if the Board allows it to continue, it will get worse.

Ms. Mallek pointed out that during the political season, letters from VDOT were sent out, notifying that there would be \$100-per-offense for signs. She believes it would not take many enforcements of that sign fine to stop this practice. When she called to complain, people said they are legal as long as they are smaller than two-by-two, but not in the right-of-way. She noted that there are signs close to the road, within 16 feet of the centerline of Country roads and also in the median strips.

Mr. Dorrier asked if any of the County ordinances cover yard sale signs.

Mr. Rooker commented that a person could put a yard sale sign in his or her own yard, but not in the highway right-of-way.

Ms. Thomas said the Board previously went through this and it comes down to a budget decision and a work priority decision.

Mr. Davis stated that a February 1, 2006, executive summary report to the Board discussed an enforcement program that took place from August through November of 2005. Mr. Graham had provided the Board detailed information about those sweeps, their cost, and the effectiveness of those sweeps on weekends. He said the Board terminated the program at that time because it had not been very effective and had been expensive.

Mr. Mark Graham, Director of Community Development, said staff is aware of the situation, and is taking another look at it. Staffing now is a little different than it was in 2006. At that time the building inspectors and others were swamped, with no spare time. Now staff has a little time, and is looking for an alternative way of dealing with this situation. He will provide a report to the Board in the near future.

Mr. Rooker said two or three roads have the majority of these signs; a two or three-mile stretch on Route 29 inevitably gets a huge amount of illegal signs, Rio Road has a good number, and Route 250 East sometimes gets a clutter of illegal signs. Other than that, signs are scattered around the County. He suggested that if someone swept those areas once every two weeks, took up the signs, and did whatever could be done to enforce a penalty against people who are violating the ordinance, it might be effective.

Mr. Graham said staff is looking at that but it is one of the things that need to be done on weekends. A lot of people put the signs out on Saturday morning and pick them up on Sunday night.

Mr. Tucker said he spoke with Mr. Sumpter about this and he is prepared to discuss it briefly today.

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Ms. Mallek reiterated the need to do something about the dangerous sight distance issue caused by the bushes at the corner of Woodlands and Reas Ford Roads. She asked if anything can be done by request or resolution to make citizens more aware of the danger at that corner involving plants and visibility. Many intersections are similarly affected, though not as bad as this one. She has spoken to VDOT and was told that bushes planted on the property line are legal and VDOT has no recourse.

Mr. Slutzky said occasionally the Board has approved development plans where placement of plant materials disrupts the line of sight. The other day he was pulling out from the Giant Shopping Center to turn right onto Route 29, and when he looked left there was a cluster of plant materials in his line of sight. Presumably, the plants were put there after it was discussed with the applicant and/or required of them.

Mr. Tucker said the County cannot do anything about the situation at the Giant Store because it is located in the City of Charlottesville.

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Ms. Mallek noted she had sent a query to the EARL (Earlsville Area Resident's League) newsletter about school bus transportation, and so far she has received five responses from people who said they would be happy to take their kids to the end of their subdivision's driveway. It is not a scientific survey, but is interesting and it is being discussed.

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Mr. Boyd said he attended a meeting of the Forest Lakes Homeowner's Association last night with Mr. Tucker and a number of people from VDOT. Approximately eight different improvements were proposed to the intersection at Route 29 along with a timeline for getting the work done. The improvements include installing a signal head, and having a controller actuated beacon. Currently there is a flashing light on Route 29 that informs the public there is a signal ahead, but now a flashing signal will be activated when the light is red to give advance notice there is a traffic signal ahead. VDOT plans to reduce the speed limit to 45 mph along that whole section of Route 29 and install some safety pullouts so the area can be policed. One of the problems with policing has been that there was no place to pull a car over. VDOT is also going to relocate the stop bar on Ashwood Boulevard, trim vegetation on both sides of it, install a single head sign on Ashwood Boulevard, and adjust the yellow-to-red and red-to-red timings on the lights, which relates to how long it stays red on both sides before someone goes through. They are also going to install rumble strips on Route 29 before arrival at that intersection. He thinks most people are happy with the proposed changes.

Mr. Rooker asked if the rumble strips will be put on both sides of Route 29. Mr. Boyd replied "yes", and added that the most dangerous side is the southbound side, because there is a hill on Route 29 when exiting Ashwood Boulevard to turn left that affects visibility. VDOT is not sure what they can do about the hill, but it has been suggested they do some landscaping or grading of the hill; at this time, it is not on their work list. VDOT thinks the line of sight for the hill in the northbound lane is okay.

Mr. Rooker said the median contains a lot of big trees through that area, and while he hates to say trees should be removed, they make it difficult to see a vehicle coming across the intersection from Ashwood Boulevard onto Route 29. Also, if you're traveling on Route 29 it is difficult to see a vehicle

coming if they were to run a red light or yellow light. Traveling north on Route 29 the trees make it difficult to see a vehicle making a left-turn from the southbound lane of Route 29 into Ashwood Boulevard.

Mr. Boyd said several good suggestions were made by the public last night, including a pure left-hand turn signal for a vehicle coming south; currently there is not a left-hand arrow there. People talked about having "to inch out" there and then getting stuck in the middle waiting for traffic on the other side to get through.

Mr. Rooker said that is why sight distance is important where vehicles are allowed to go when the light is green in both directions.

Ms. Thomas asked if it was pointed out that Route 29 North had been on the County's list for years for widening and flattening but was removed because of lack of State funding.

Mr. Boyd responded that he does not think that was specifically talked about, but most people recognized the funding issue.

Mr. Tucker said Mr. Sumpter pointed out that there is \$2.8 million in the Six-Year Plan for planning and preliminary engineering.

Mr. Slutzky said this morning WINA Radio was claiming that the speed limit in that area is actually 35 mph and that changing it to 45 mph is actually raising the speed limit. He suggested discussing this with the radio station so they are not misinforming the public. He noted that a resident asked why it would take until fall to change the speed limit when everybody knows the speed limit should be dropped. He suggested asking VDOT if they can make an exception to some of their process steps.

Mr. Boyd responded that the issue related to the speed limit is being addressed. Mr. Butch Davies, of the Commonwealth Transportation Board, and Delegate Rob Bell were present and said they would look into helping to speed up that process. VDOT also informed them that speed limits can only be approved by Richmond.

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Mr. Boyd said Board members received a copy of a letter from Ms. Ruby Stafford-Boston regarding the African American Cultural Arts Festival. Since the County is a contributing member, there are tickets available to Board members. They are looking for an RSVP by tomorrow. He indicated the dates are Saturday, July 12<sup>th</sup> from 6:30 p.m. to 9:30 p.m. for the Heritage Scholarship Foundation fundraiser, July 24<sup>th</sup> from 6:00 pm. to 9:00 p.m. for "A Taste of Ghana," which is a sample of African scenes and more, and July 26<sup>th</sup> from 10:45 a.m. to 6:00 p.m. for the Festival.

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

There were none.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Mr. Slutzky, to approve Items 7.1 (as read) through Item 7.9, and to accept Item 7.10 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. Boyd, Mr. Dorrier, Ms. Mallek, Mr. Rooker, Mr. Slutzky and Ms. Thomas.  
NAYS: None.

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Item No. 7.1. Approval of Minutes: November 14, 2007; and January 14(A), February 6, and May 14, 2008.

Mr. Boyd asked that his minutes of November 14, 2007, be pulled and carried to the next meeting.

Mr. Dorrier had read the minutes of January 14, 2008, and found them to be in order as presented.

Mr. Slutzky had read the minutes of February 6, 2008, pages 1-23 (end at Item No.9) and found them to be in order as presented.

Ms. Thomas had read the minutes of February 6, 2008, pages 23 (beginning at Item No.9) – 47 (ending at Item No.21) and found them to be in order as presented, with some typographical errors.

Mr. Rooker had read the minutes of February 6, 2008, pages 47 (beginning at Item No.21) to the end, and found them to be in order as presented.

Ms. Mallek asked that her minutes of May 14, 2008, be pulled and carried to the next meeting.

**By the above-recorded vote, the Board approved the minutes which had been read.**

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Item No. 7.2. Resolution of the Industrial Development Authority of Albemarle County, Virginia, authorizing the issuance of up to \$30,000,000 revenue bonds for the purpose of St. Anne's-Belfield, Inc.

The following letter, dated June 17, 2008, from Mr. Mitchell E. Neuman, Secretary, Albemarle County Industrial Development Authority, was received by the Board:

St. Anne's - Belfield, Inc. (the "Borrower") has requested that the Industrial Development Authority of Albemarle County, Virginia (the "Authority"), assist the Borrower in (1) acquiring, constructing and equipping of a new academic village for students in pre-school through 8th grade at the Borrower's existing 29 acre lower school campus on Faulconer Drive in Albemarle County, Virginia (the "Lower Campus"), (2) financing working capital and capitalized interest, (3) financing routine capital expenditures at the Borrower's Lower Campus and (4) paying financing and issuance costs related to the issuance of the Bonds (collectively, the "Project") in Albemarle County, Virginia, by the issuance of its revenue bonds in an amount not to exceed \$30,000,000 (the "Bonds").

As set forth in the resolution of the Authority attached hereto (the "Resolution"), the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the proposed financing of the Project and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

Attached (on file) hereto is (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval.

**By the above-recorded vote, the Board adopted the following resolution:**

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

WHEREAS, the Industrial Development Authority of Albemarle County, Virginia (the "Authority"), has considered the application of St. Anne's - Belfield, Inc. (the "Borrower") requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$30,000,000 (the "Bonds") to assist the Borrower in (1) financing the acquisition, constructing and equipping of a new academic village for students in pre-school through 8th grade (the "Lower Campus"), located on Faulconer Drive in Albemarle County, Virginia, (2) financing working capital and capitalized interest, (3) financing routine capital expenditures at the Borrower's Lower Campus and (4) paying financing and issuance costs related to the issuance of the Bonds (collectively, the "Project") and has held a public hearing on June 17, 2008;

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

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

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

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

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

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

Item No. 7.3. Requested FY 2009 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 total of this requested FY 2009 appropriation is \$284,723.00. 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 four new FY 2009 appropriations as follows: No. 2009-001 providing funding to the Northwestern Virginia Health Systems Agency in the amount of \$4,723.00; No. 2009-002 totaling \$80,000.00 for a Fire Rescue SAFER grant; No. 2009-003 in the amount of \$20,000.00 for a donation to the School Division; and, No. 2009- 004 in the amount of \$180,000.00 establishing a revenue and expenditure in the School's operating budget relating to the storage facility lease, facilitating the transfer of appropriated capital funding.

Staff recommends the approval of the budget amendment in the amount of \$284,723.00 and the approval of the FY 2009 Appropriations No. 2009-001, No. 2009-002, No. 2009-003, and No. 2009 004 as set out below in Attachment A.

Appropriation No. 2009-001, \$ 4,723.00. Revenue Source: Board Contingency \$4,723.00. At its meeting on May 7, 2008, the Board requested staff to prepare an appropriation request to provide FY 2009 funding for the Northwestern Virginia Health Systems Agency in the amount of \$4,723.00. Funding will be provided from the Board's Contingency.

Appropriation No. 2009-002, \$80,000.00. Revenue Source: Federal Revenue \$80,000.00. The Department of Homeland Security has awarded the Fire Rescue Department a grant in the amount of \$392,000.00, which will be funded over a four-year span, to assist in the marketing and advertising components of volunteer recruitment. The funds will be used for advertising and supplies including but not limited to radio, television, pamphlets, door hangers, banners, etc. The amount of funding for FY 2009 is \$80,000.00. There is no local match.

Appropriation No. 2009-003, \$20,000.00. Revenue Source: Donation \$20,000.00. At its meeting on June 12, 2008, the School Board approved the following appropriation - Western Albemarle High School received a donation in the amount of \$20,000.00 from Chris and Donna Schuler. The donors have requested that this contribution be used toward the needs of the football program at Western Albemarle High School.

Appropriation No. 2009-004, \$180,000.00. Revenue Source: Transfer from CIP \$180,000.00. During the FY 2009 CIP Budget process, it was recommended that a facility be leased to meet storage needs for both the School Division and Local Government in lieu of building the storage portion of the Support Services Complex. Funding for the FY 2009 lease payments and one time up-front costs for both Local Government and the School Division have been provided through an appropriated transfer from the CIP to the operating budgets where the actual expenditures will occur. The School Division's initial appropriated FY 2009 operating budget did not include the revenue from the CIP or the related expenditure. This appropriation request will establish the revenue and expenditure within the School Division's operating budget.

**By the above-recorded vote, the Board approved the budget amendment in the amount of \$284,723.00 and approved FY 2009 Appropriations No. 2009-001, No 2009-002, No. 2009-003 and No. 2009-004, all as set out below:**

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-001  
 DATE: 07/02/08  
 EXPLANATION: FY 08/09 Funding for Northwestern Virginia Health Systems Agency

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
1	1000	59000	560418	Northwestern Virginia Health	J1	4,723.00		
1	1000	95000	999990	BOS Contingency	J1	-4,723.00		
TOTAL						0.00	0.00	0.00

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-002  
 DATE: 07/02/08  
 EXPLANATION: Fire Rescue SAFER Grant

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1525	33000	330214	Federal Revenue	J2	80,000.00		
1	1525	31092	600000	Materials and Supplies	J1	80,000.00		
			501	Est. Revenue			80,000.00	
			701	Appropriation				80,000.00
TOTAL						160,000.00	80,000.00	80,000.00

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-003  
 DATE: 07/02/08  
 EXPLANATION: Education Donation: School Board Meeting: 06/12/2008

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J2	20,000.00		
1	2302	61105	580000	Athletics - Misc. Expense	J1	20,000.00		

2000	501	Est. Revenue	20,000.00
	701	Appropriation	20,000.00
TOTAL			40,000.00 20,000.00 20,000.00

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-004  
 DATE: 07/02/08  
 EXPLANATION: School Division - Storage Lease

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER CODE	GENERAL LEDGER	
						AMOUNT	DEBIT CREDIT
2	2000	51000	512033	Transfer from CIP	J2	180,000.00	
1	2433	62420	540230	Building Services-Lease	J1	180,000.00	
	2000		501	Est. Revenue			180,000.00
			701	Appropriation			180,000.00
TOTAL						360,000.00	180,000.00 180,000.00

Item No. 7.4. Resolution to approve the County's participation in the Virginia Department of Transportation's (VDOT) Revenue Sharing Program for FY 2009.

The executive summary states that the VDOT Revenue Sharing Program ("Program") is a competitive funding program for road improvements which requires a minimum dollar for dollar match from participating localities. The County has participated in this Program since 1988. The Program provides an opportunity for the County to receive an additional \$1.0 million for road improvements.

VDOT suspended the Program in March of this year to modify the Program guidelines to reflect changes made to the Program in the 2008 General Assembly session. Specifically, the Revenue Sharing funding priorities (Tiers) were modified to make projects that are administered by the locality the highest priority for funding (Tier One) and projects in which the locality has provided a match in excess of a dollar for dollar match the second highest priority for funding (Tier Two). However, this change will not be implemented until the FY '09-10 application period. For the upcoming FY '08-09 application, Tier Two projects are still considered the highest priority for funding.

Last year, the County provided a \$1.5 million match and received the full award of \$1.0 million, which was applied to the Meadow Creek Parkway project.

The County must provide more than a dollar for dollar match in order to qualify for consideration at the highest priority level for funding (Tier Two) and, because the Program is expected to be very competitive this year, it must provide a significant match in order to increase its chances of being awarded funding within that tier. Staff recommends providing a \$1.5 million local match.

VDOT Residency staff recommends again applying FY '08-09 Program funds toward the Meadow Creek Parkway project to ensure that sufficient funds are available for the project to stay on schedule for construction. The additional \$2.5 million in Revenue Sharing funds and the County match will cover recent cost increases incurred for the project. As noted earlier, the County allocated its FY '07-08 Program funds to the Meadow Creek Parkway. At that time, staff and VDOT believed there were sufficient funds to cover the project costs; however, those costs have increased by approximately \$5.0 million. The total cost for the project is now estimated to be \$30,472,746. These cost increases are largely due to an increase in fuel and material costs. The increased cost can also be attributed to VDOT's new policy on maintenance of traffic during construction which increases the number of temporary traffic control devices and materials used in the temporary roadway.

The current estimated advertisement date to bid the Meadow Creek Parkway project for construction is October 2008.

One million dollars of the County's match has been allocated for Revenue Sharing in the Capital Improvement Program. The remaining \$500,000 is available from funds allocated to the Transportation Improvement Program in the CIP. As noted previously the \$1.5 million is intended to leverage an additional \$1.0 million in VDOT Revenue Sharing funds to be used toward the Meadow Creek Parkway.

Staff recommends that the Board adopt a resolution to participate in VDOT's Revenue Sharing Program for FY '08-09 and allocate \$1.5 million in funds from the CIP (as described in the Budget Impact section above) for use in matching VDOT Revenue Sharing funding for the Meadow Creek Parkway project.

**By the above-recorded vote, the Board adopted the following resolution:**

**RESOLUTION TO PARTICIPATE IN  
 VIRGINIA DEPARTMENT OF TRANSPORTATION  
 REVENUE SHARING PROGRAM FOR FISCAL YEAR 2009**

**WHEREAS**, the County of Albemarle desires to submit an application for up to \$1.0 million of Revenue Sharing Funds through the Virginia Department of Transportation Fiscal Year 2008/09 Revenue Sharing Program; and

**WHEREAS**, the County is willing to commit a \$1.5 million match in order to compete for Revenue Sharing Funds funding to fund the Meadow Creek Parkway for new construction between Melbourne Road and 0.0466 miles north of the Norfolk Southern Railway;

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby commits to provide \$1.5 million of matching funds in its application for \$1.0 million of Revenue Sharing Funds from the Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

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Item No. 7.5. Resolution designating Byrom and Preddy Creek properties as public parks.

The executive summary states that the Board appropriated funding in the Capital Improvement Program for the purpose of developing County parks on the Byrom Property (Tax Map Parcels 6-16, 6-28D, and 6-29) and the Preddy Creek Property (Tax Map Parcel 22-1). The park development for both properties is planned to occur during Fiscal Year 2009. Chapter 11, Parks and Recreation Facilities, of the Albemarle County Code establishes and authorizes the enforcement of rules and regulations necessary to properly manage public park property. Section 11-100 defines "Park" as land owned or controlled by the County which is used or designated to be used by the public for recreational purposes. The above mentioned properties currently are not expressly open to public use and have not been formally designated for public recreational use by the Board.

The Parks and Recreation Department is currently responsible for the management of the Byrom and Preddy Creek properties. In order to clarify the authority for management of these properties prior to being open for public use, the Parks and Recreation Director is requesting that the Board formally designate these properties as "Parks" for public recreational use.

Staff recommends that the Board of Supervisors adopt a resolution formally designa Parcels 6-16, 6-28D, 6-29 and 22-1 as park property to be used by the public for recreational purposes.

**By the above-recorded vote, the Board adopted the following resolution:**

**RESOLUTION TO DESIGNATE  
BYROM AND PREDDY CREEK PROPERTIES  
AS PUBLIC PARKS**

**WHEREAS**, the Albemarle County Board of Supervisors desires to establish a public park on Tax Map Parcels 6-16, 6-28D and 6-29 donated to the County of Albemarle by Robert and Patricia Anne Byrom; and

**WHEREAS**, the Board also desires to establish a public park on Tax Map Parcel 22-1 owned by the County of Albemarle along Preddy Creek; and

**WHEREAS**, Chapter 11, Parks and Recreation Facilities, of the Albemarle County Code establishes and authorizes the enforcement of rules and regulations necessary to properly manage public park property; and

**WHEREAS**, in order to manage properties under Chapter 11 of the County Code, the aforementioned properties must be used or designated to be used by the public for recreational purposes;

**NOW, THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors hereby designates Tax Map Parcels 6-16, 6-28D, 6-29 and 22-1 as park property to be used by the public for recreational purposes.

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Item No. 7.6. Agreement between River Heights Associates, Z & S Development Corporation and the County to convey real estate located on Tax Map 45, Parcel 69, in fee simple and to convey an easement across Tax Map 45, Parcel 68D, to satisfy Proffers 6, 7 and 8 of ZMA-89-23 and to authorize the County Executive to sign Agreement.

The executive summary states that in the approval of ZMA-89-23 on December 19, 1990, for what is now the location of Sam's Club, the Board accepted Proffers 6, 7 and 8 for the off-site dedication of property in which the owners proffered to dedicate a 100-foot strip for a greenway along the South Fork Rivanna Reservoir across Tax Map 45, Parcels 30, 68D and 69, upon demand by the County (see Attachment D – Proffers 6, 7 and 8 for ZMA 89-23 - and E, current Tax Map 45 showing Parcels 30, 68D and 69). The owners also proffered to provide public access to the greenway across Parcel 69. The owners of the three parcels at the time were River Heights Associates Limited Partnership (Wendell Wood, general partner) and Z & S Development Corporation (Wendell Wood, president).

The County did not immediately demand the transfer of the proffered property because it had not finalized the greenway plan for this area. As the plan was developed, the location of the greenway on these properties was difficult to achieve.

Between 1990 and 2003, both Parcels 30 and 68D were subdivided and portions were sold off. A portion of Parcel 68D was acquired by the Commonwealth of Virginia for the proposed Western Bypass. During this time period, the County identified a need for an improved boat launch facility on the South Fork Rivanna River Reservoir. This project was included in the CIP and staff sought an appropriate location.

In March 2003, the County Executive and staff met with Wendell Wood and proposed an exchange of approximately 2100 linear feet of the proffered 100-foot greenway across Parcels 30 and 68D for approximately 3.85 additional acres on Parcel 69, which would be used as part of the proposed boat launch facility. The 3.85 acre portion of Parcel 69 desired by the County, in combination with the proffered 100-foot greenway across Parcel 69, totaled 5.05 acres. Negotiations have continued to the present.

The proposed "Agreement for Transfer of Real Estate" (the "Agreement") is the culmination of these negotiations. The key provision of the Agreement requires that River Heights Associates convey to the County a 5.05 acre lot created from Parcel 69 (see Attachment A, Proposed Agreement, and Attachment B, Subdivision Plat for Tax Map 45, Parcel 69). In addition, River Heights Associates would convey an easement along Parcel 68D's Rivanna River frontage to serve as a greenway across that parcel (see Attachment C, Plat showing Greenway Easement). The other key provision of the proposed Agreement provides that the conveyance of the 5.05-acre parcel and the easement to the County would be deemed to be full satisfaction of Proffers 6, 7 and 8 of ZMA-89-23. The Agreement requires that the conveyances be completed within 90 days after its execution by the parties. The Agreement is subject to the approval of the Board of Supervisors.

As part of the Agreement, the County would pay the costs for preparing the deed(s) to accomplish the conveyances, recording costs, and the costs for a title examination and environmental reports. River Heights Associates would be obligated for all other costs, including recordation taxes, and the costs for surveys and the preparation of the required plats. The funding for the boat launch facility is not currently included in the CIP, but will be requested in the out years of the next CIP.

Staff recommends that the Board approve the Agreement (Attachment A to the executive summary) and authorize the County Executive to execute the Agreement on behalf of the County in the form approved by the County Attorney.

**(Discussion:** Ms. Thomas said she is glad to be moving forward with this boat launch facility on the South Fork Rivanna Reservoir that has been in the works since 1990. She wants to be sure there is representation from the County's Parks and Recreation Department and other potential recreational users when the task force begins discussion of the South Fork Rivanna Reservoir.

Ms. Mallek said in looking at the map, it appears to be a five-to-one ratio of access in terms of what is given up versus what is being received. It looks like the County is relinquishing all access along TM 45-69. Mr. Tucker responded that the County is giving up a strip of land for access, a walkway.

Mr. Pat Mullaney, Director of Parks and Recreation, commented that the area is very steep and a path could not be put in that area. That is why that trade was made.

Mr. Slutzky noted that this adjustment in the proffers involves the applicant accommodating the County's needs beyond what was originally proffered and accepted by the Board. Mr. Mullaney said that is correct. This has been discussed since about 1995; an agreement was made in 2003, and is now being finalized.

Ms. Mallek asked if it is customary for the County to cover all the legal costs and everything when it's a proffer situation. Mr. Davis said this is an unusual situation. In the bargaining for this property, it was agreed to expend those costs because the County is acquiring the property.)

**By the above-recorded vote, the Board approved the following Agreement and authorized the County Executive to execute the Agreement on behalf of the County in the form approved by the County Attorney:**

#### AGREEMENT FOR TRANSFER OF REAL ESTATE

THIS AGREEMENT is made this \_\_\_ day of June, 2008, by and between RIVER HEIGHTS ASSOCIATES, a Virginia Limited Partnership, and sometimes known as RIVER HEIGHTS ASSOCIATES LIMITED PARTNERSHIP (hereinafter, the "Transferor"), Z & S DEVELOPMENT CORPORATION, and the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as the "County"):

WHEREAS, as a condition of ZMA-89-23, Transferor, United Land Corporation and Z & S Development Corporation (collectively, the "Landowners") made certain proffers dated December 19, 1990, which proffers were accepted by the Albemarle County Board of Supervisors with minor amendments agreed to by the Landowners;

WHEREAS, as part of Proffers 6 and 7, as identified in the minutes of the Board of Supervisors' December 19, 1990 meeting, the Transferor and Z & S Development Corporation agreed, upon demand of the County, to deed a 100-foot strip for a pathway along Transferor's (pertaining to Tax Map 45 Parcel 69, under Proffer 6) and Z & S Development Corporation's (pertaining to Tax Map 45 Parcel 30, under Proffer 7) entire reservoir frontage along Tax Map 45, Parcels 30 and 69;

WHEREAS, the parties now wish to transfer a certain 5.05-acre parcel, more or less, in full satisfaction of Proffers 6 and 7;

WHEREAS, as part of Proffer 8, as identified in the minutes of the Board of Supervisors' December 19, 1990 meeting, Transferor further agreed to provide an easement sufficient for a pathway along its Rivanna River frontage on Tax Map 45, Parcel 68D;

WHEREAS, pursuant to Proffer 8, the County now wishes to acquire the greenway easement along Transferor's Rivanna River frontage on Tax Map 45, Parcel 68D; and

WHEREAS, the Transferor estimates that the value of the land and easement described herein that would be transferred is six hundred thousand dollars (\$600,000.00).

WHEREFORE, the parties hereby agree as follows:

1. Transfer and Description of Property. In consideration of the mutual promises contained herein, Transferor agrees to transfer and the County agrees to accept certain real estate with all improvements thereon and appurtenances thereto (hereinafter, the "Property"), located in the County of Albemarle, Virginia, and described as that parcel of land containing approximately 5.05 acres, more or less, being a portion of Tax Map Parcel 45, Parcel 69, located east of the South Fork Rivanna Reservoir and west of Route 659, and more particularly identified as Lot B on the plat entitled "Rural Division Plat Parcel A, Containing 21.00 Acres A Portion of the River Heights Associates Property and Parcel B "Special Lot" a Portion of the River Heights Associates Property Located on State Route 659 and the South Fork of the Rivanna River Reservoir Rio District Albemarle County, Virginia," dated September 19, 2007 and last revised December 17, 2007, prepared by Roger W. Ray & Assoc., Inc., a copy of which is attached hereto. The Transferor further agrees to transfer and the County agrees to accept an easement along Transferor's Rivanna River frontage on Tax Map 45, Parcel 68D (hereinafter, the "Easement"), located in the County of Albemarle, Virginia, and more particularly identified as the Greenway Easement on the plat entitled "Plat Showing Greenway Easement Located on T.M.P. 45-68D," dated December 16, 2003 and prepared by Robert W. Coleman, Jr., a copy of which is attached hereto.
2. Title. The Transferor agrees to convey the Property by appropriate deed containing General Warranty and English Covenants of Title, which title shall be good, marketable, and insurable, free and clear of all liens, indebtedness, encumbrances and tenancies, and subject only to such easements, covenants, and restrictions of record which do not adversely affect marketability and insurability of title. The Transferor agrees to convey the Easement by appropriate deed containing General Warranty and English Covenants of Title and authorizing the County and members of the public to use the Easement for purposes as a public greenway. The Property and the Easement may be conveyed in a single deed. The Deed(s) shall be in a form that is acceptable to the County Attorney and the Deed of Easement shall substantively achieve the Easement purposes described herein. In the event the County Attorney finds title to be defective, and should Transferor fail to remedy any default within sixty (60) days of notice thereof, the County may declare this Agreement null and void.
3. Full Satisfaction and Release of Proffers 6, 7 and 8. Transferor's conveyance of the Property and the Easement shall be in full satisfaction of its Proffers 6, 7, and 8 as identified in the recitals hereinabove. The County hereby agrees that upon conveyance of the Property and the Easement, it will not demand from either Transferor or Z & S Development Corporation, pursuant to said Proffers, further conveyance of any other reservoir frontage on Tax Map 45, Parcels 30 or 69, outside the subject Property.
4. Expenses and Prorations. The County agrees to pay the expenses of preparing the Deed(s), and Transferor agrees to pay the recordation tax applicable to grantors, survey costs, and preparation of the plat of subdivision and the plat showing the greenway easement. Except as otherwise agreed herein, title examination, environmental reports, and recording costs shall be borne by the County. All taxes, assessments, interest, and rent, if any, shall be prorated as of the date of closing and paid by Transferor.
5. Inspection. The County and its agents shall have the right to enter upon the Property and the Easement at any time prior to closing for purposes of engineering, surveying, site analysis, and such other work, so long as the studies do not result in a change in the character or topography of the Property or the Easement. This Agreement is contingent upon the Property being free of hazardous waste or other dangerous environmental contamination. If the County determines, in its sole judgment, that such contamination exists, the County may declare this Agreement null and void.
6. Subdivision and Easement Plats. The Transferor agrees to execute upon request all plats and other legal documents necessary to subdivide the land owned by it to transfer the Property to the County and to accurately depict the Easement. With respect to the subdivision plat, the Transferor may retain any development rights applicable to lots of less than twenty-one (21) acres.
7. Time Is of the Essence. The Transferor agrees that, with respect to all obligations specified herein, time is of the essence.

8. Closing. Closing shall take place at the Albemarle County Attorney's Office within ninety (90) days after the final execution of this Agreement, or earlier if the County and Transferor agree, or as soon thereafter as title can be examined and papers prepared.
9. Risk of Loss. All risk of loss or damage to the Property by fire, windstorm, casualty or other cause are assumed by, and shall be borne by the Transferor, until closing. In the event of any material loss, destruction or damage to the Property, the County may declare the Agreement null and void.
10. Condition of Property. Transferor warrants that the Property and the Easement shall be in substantially the same condition at Closing as it is at the time of the execution of this Agreement.
11. Construction, Benefit and Effect. This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia, shall be binding upon and inure to the benefit of the successors and assigns of the parties, constitutes the entire Agreement between the parties, and may not be modified or changed except by written instrument executed by all parties.
12. Agreement Survives Closing. All agreements, promises, stipulations and representations contained herein shall survive closing and shall bind the heirs, executors, administrators, agents, successors and assigns of the parties hereto.
13. Contingent on Board Approval. This Agreement is expressly contingent upon its approval by the Albemarle County Board of Supervisors (hereafter referred to as the "Board"). If the Board fails to approve this Agreement within sixty (60) days of its execution by Transferor, the County or Transferor may declare this Agreement null and void.
14. Same Owner. Title to Tax Map 45 Parcel 69 is held in the name of "River Heights Associates" and title to Tax Map 45 Parcel 68D is held in the name of "River Heights Associates Limited Partnership." The Transferor represents that the two names refer to and are the same entity, "River Heights Associates."

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day first above written.

RIVER HEIGHTS ASSOCIATES

By: \_\_\_\_\_  
Wendell W. Wood, General Partner

Z & S DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Wendell W. Wood, President

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_  
Robert W. Tucker, Jr., County Executive

Item No. 7.7. Authorize County Executive to execute Memorandum of Understanding with the Albemarle County Sheriff.

The executive summary states that the Department of Human Resources and the County Attorney's Office have been working with the Albemarle County Sheriff, Commonwealth's Attorney and Clerk of the Circuit Court to develop memoranda of understanding with each of these offices. The memoranda will clarify which County personnel and administrative policies apply to these constitutional officers and their employees. Under Virginia law, constitutional officers are legally independent from their local governments. Absent an agreement with the County, constitutional officers have no legal obligation to follow Albemarle County personnel or administrative policies.

James City County, York County and Roanoke County, among other localities, have agreements with their constitutional officers addressing pay plan entry, personnel policy application, and benefits. The attached Memorandum of Understanding (on file) with the Sheriff confirms that the Sheriff entered the County's pay plan in 2005 and that his employees will be subject to the County's policies concerning salary administration, leave, benefits, personnel selection and evaluation, and vehicle usage, among other matters.

In addition to clarifying County policy application, this Memorandum of Understanding provides that the County will furnish "accident and health" insurance coverage for the Sheriff's auxiliary (volunteer) deputies to protect them solely in the event of injury, illness or death in the line of duty. The Sheriff's roughly 40 auxiliary deputies volunteer hundreds of hours of service each year in programs such as Search and Rescue, Project Lifesaver and Senior Triad. In addition, auxiliaries provide security at mass events and supplement the Sheriff's career staff in various public safety functions and in many areas of crime prevention. The County already provides accident/health coverage to all Albemarle County fire and rescue company volunteers through Provident Agency, Inc. Provident would underwrite a substantially identical policy to cover the Sheriff's auxiliaries.

The Sheriff is not requesting additional funds in FY 2009 and will fund the insurance this year only if the necessary funds for this insurance can be identified in his current FY 2009 budget. In future years, the Sheriff's operating budget request would include funding for this coverage.

Staff anticipates that the cost of providing accident/health insurance coverage to auxiliary deputies in FY 2010 will be approximately \$4,000 - \$4,750 based on current quotes. The MOU should have no other budget impacts.

Staff recommends that the Board authorize the County Executive to sign the Memorandum of Understanding between the Albemarle County Sheriff and the County of Albemarle, Virginia.

**(Discussion:** Ms. Thomas said the Board used to receive a hunting season report from the Sheriff's Department, and it would be good to get one. Mr. Davis commented that the Board will be receiving such a report on next week's agenda.)

**By the above-recorded vote, the Board authorized the County Executive to sign the following Memorandum of Understanding between the Albemarle County Sheriff and the County of Albemarle, Virginia:**

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF ALBEMARLE, VIRGINIA AND  
THE SHERIFF OF ALBEMARLE COUNTY

This Memorandum of Understanding (the "Agreement") made and entered into on the 3rd day of July, 2008, by and between the County of Albemarle, Virginia (the "County") and the Sheriff of Albemarle County (the "Sheriff");

WHEREAS, the County and the Sheriff desire to enter into an agreement setting forth their understanding with respect to compensation, benefits and personnel policies applicable to the Albemarle County Sheriff's Office;

NOW THEREFORE, the parties hereto covenant and agree as follows:

1. Employee Status. Individuals employed by the Sheriff are, and shall remain, appointees of the Sheriff rather than employees of the County. Nothing in this Agreement shall alter or diminish the Sheriff's duties and rights with respect to his deputies and other employees under the Virginia Code, Title 15.2, Chapter 16. The Sheriff's employees shall not be covered by the County's grievance procedures.
2. Compensation. Employees of the Sheriff will continue to participate in the County's pay plan and merit evaluation program as they have since entering the County's pay plan in 2005. The Sheriff agrees to provide all information and cooperation requested by the County for the purpose of administering compensation and classifying employees.
3. County Personnel System. Without diminishing the Sheriff's authority to appoint, hire or discharge his employees, the Sheriff agrees to follow the County's personnel policies in force during the period of this Agreement that pertain to:
  - a) the recruitment and selection of personnel, although the Sheriff shall be the final decision-maker on the selection of all personnel (currently Policy §P-24);
  - b) the administration of salaries and classification of positions, including procedures regarding entrance, promotional and reclassification pay (currently Policy §P-60);
  - c) the administration of leave and absences except as otherwise required by law (such as the six-week vacation leave accrual limit imposed by Va. Code §15.2-1605), including, but not limited to: annual, sick, compensatory, military, emergency, Workers' Compensation, and Family and Medical Leave Act leave (currently Policies §§P-61/62, 80, 82, 83, 84, 85, 87, 88, and 90);
  - d) the usage of County vehicles (currently Policy §P-29), as well as any administrative policies and regulations issued by the County Executive concerning equipment, technology and vehicles provided by the County;
  - e) the administration of the County's employee recognition program (currently Policy §P-65) and retirement benefits (currently Policy §P-63);
  - f) the determination of eligibility for benefits (currently Policy §P-02);

- g) the performance review of employees, except that the Sheriff's employees shall not be subject to a probationary period (currently Policy §P-23); and
- h) fitness for duty evaluations of employees (currently Policy §P-12).

The County agrees to provide assistance and services to the Sheriff concerning the personnel matters referenced in this paragraph through its Department of Human Resources. The Sheriff and County agree to cooperate in matters involving interagency operations and to develop joint protocols for such work as may be needed.

- 4. Benefits. In addition to the insurance coverage that the County currently provides to the Sheriff's employees, the County agrees to provide accident and health insurance coverage to auxiliary deputies of the Sheriff's Office to protect them in the event of their injury, illness or death in the course of performing auxiliary services, subject to the following conditions:
  - a) The Sheriff shall fund the cost of insurance coverage through June 30, 2009. Beginning in fiscal year 2010, the Sheriff shall include the cost of insurance coverage in his operating budget request to the County.
  - b) Subject to appropriations by the Albemarle County Board of Supervisors, the County shall pay for the cost of insurance coverage throughout the term of this Agreement, beginning in fiscal year 2010, provided that the Sheriff: (i) does not increase the number of auxiliary deputy sheriffs above the current number except upon mutual agreement by the County and the Sheriff; (ii) exercises reasonable control and supervision over the auxiliary deputies; and (iii) complies with all applicable legal and Department of Criminal Justice Services requirements concerning auxiliary deputies.
  - c) In the event that the Board of Supervisors fails to appropriate funds for the insurance coverage or the Sheriff fails to adhere to the requirements of this paragraph, the County shall be entitled to terminate the insurance coverage upon providing thirty (30) days prior written notice to the Sheriff.
- 5. Term of Agreement. This Agreement shall take effect upon the full execution of this Agreement by the Sheriff and the County and shall remain in force for the duration of the Sheriff's term in office, unless terminated by either party upon thirty (30) days prior written notice. This Agreement may be amended only upon the written agreement of both the Sheriff and the County.

SHERIFF OF ALBEMARLE COUNTY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
J. E. "Chip" Harding

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert W. Tucker, Jr., County Executive

Item No. 7.8. Darden Towe Park Committee, request to set public hearings to receive public input on tennis and softball lighting.

The executive summary states that at its April 2, 2008, meeting, the Board was advised of a citizen request to allow the tennis courts at Darden Towe Park to be lighted. This matter was referred to the Darden Towe Park Committee ("Committee") for a recommendation and a Committee meeting was held on May 29, 2008.

In addition, on May 19, 2008, City Council adopted a new master plan for McIntire Park which defined the exact boundaries for the YMCA lease area and the desired redevelopment of the remaining park land in that area of McIntire Park. The proposed location of the YMCA and the associated parking encroaches upon the existing two lighted softball fields. The remaining softball field area is proposed to be converted to a rectangular athletic field to serve City and County residents.

In order to maintain the current level of service for softball, City and County staff have recommended lighting the Charlottesville High School girl's softball field and the three softball fields at Darden Towe Park. The City expects to complete the Charlottesville High School field lighting in the spring of 2009. The Darden Towe Park softball field lighting issue was added to the May 29 Committee agenda.

The Darden Towe Park Agreement between the City and the County requires the mutual agreement of the City and County to light any competitive sport or other recreation facility at Darden Towe Park. The Committee discussed the tennis and softball lighting as two separate issues.

Tennis Court Lighting. There are four unlighted tennis courts at Darden Towe Park. Staff recommended to the Committee that the City and County mutually agree to allow these courts to be lighted for the following reasons:

- Darden Towe Park is a regional park with a very large service radius.
- Lighted facilities are typically the norm for regional parks as opposed to the exception.
- Darden Towe Park is in the Pantops Development Area.
- Providing lighting for the courts will extend their use throughout the year.
- No negative impact to park neighbors is anticipated due to improvements in lighting technology and a recommended 10:00 pm park closure time.
- The Charlottesville Tennis Patron's Association has offered to lead a fund-raising effort to light the courts.

Staff advised that the cost estimate for lighting the tennis courts is approximately \$125,000 and that approval of the concept of lighting is not a commitment of funding. The Committee also briefly discussed tennis court lighting technology and the importance of meeting the requirements of the County's lighting ordinance, if possible. The Committee agreed that if the concept of lighting is approved by the Board and by Council, an acceptable funding and lighting plan will be required before proceeding with the project.

The Committee recommended that the Board and Council set this item for public hearing in order to receive input from the public prior to taking action.

Softball Field Lighting. There are three unlighted softball fields at Darden Towe Park. Staff recommended to the Committee that the City and County mutually agree to allow these fields to be lighted for the following reasons:

- It is the only publicly owned regional recreational sport complex in the area and serves residents of Charlottesville, Albemarle County and surrounding counties.
- The longstanding City League Softball Program has 160 teams and 2400 participants from the City (20%), the County (46%), and other localities (34%), and would have to be drastically reduced if the additional playing time is not made available.
- No existing alternative space is available for the program.
- Lighting the fields is the most cost-effective way to provide additional playing time.
- Lighting technology, the natural terrain and the large buffer of parkland around the field will allow lighting with minimal impact to surrounding properties.
- City League Softball uses no amplified sound system and games would not extend beyond 10:00 pm.
- City League Softball draws few spectators after 8:00 pm and by 9:00 pm less than 100 people are expected to be in the park.

Staff advised that the cost estimate for lighting the softball fields would be approximately \$550,000 and that participation from other localities would be requested and other fundraising strategies considered. The Committee generally had more concerns with the softball field lighting than the tennis court lighting. The Committee agreed that if the concept of lighting is approved by the Board and by Council, an acceptable funding and lighting plan will be required before proceeding with the project.

The Committee recommended that the Board and Council set this item for public hearing in order to receive input from the public prior to taking action. There is no budget impact at this time. Future project implementation will depend upon the development of an acceptable lighting plan and funding strategy.

Staff recommends that the Board 1) set a public hearing for Wednesday, August 13, 2008, to receive public input on lighting the Darden Towe Park tennis courts, and, 2) set a public hearing for Wednesday, September 10, 2008, to receive public input on lighting the Darden Towe Park softball fields.

**(Discussion:** Ms. Thomas said throughout this planning, staff needs to be aware that there is very good sports lighting available with full cutoff features and is preferable to almost all full cutoff that has previously ended up on fields. It usually requires more poles and is the reason the County is allowing a change in the Zoning Ordinance to allow acceptance of higher pole standards. Mr. Mullaney commented that full cutoff lighting is possible for tennis courts but is not possible with current technology on a 300-foot softball field. Some people have claimed they've lit 300-foot softball fields with full cutoff fixtures, but it is only possible by tilting them. Parks and Recreation would use the closest thing possible on the softball field. If the Board allowed the fields to be lighted it would be contingent on approval of a lighting plan and funding.

Ms. Mallek commented that if it is a larger field, there could be lights on the first base and third base sides that are aimed in, copy it that way and everything would not spill out. Mr. Mullaney said that is correct. He thinks there is a better product for lighting the softball field that would achieve what is desired without having a full cutoff fixture that is tilted.

Mr. Boyd said in the 1980's there was concern from the neighborhood about lighting pollution, noise pollution and the traffic impact because lighting greatly increases activity. When this comes back to the Board, he would like to have something in the staff report regarding the increased noise level, increased activity, as well as the traffic impact on Route 20. With lighting, a lot more games would occur, with tournaments held on weekends. Mr. Mullaney said the lighting for tournaments could be cut off at

their current times because they play all day. Lighting is mainly for the recreational league that operates during the week.

Mr. Boyd said that consideration should be included in the staff report. He asked that it also include minutes from prior Board discussions because his constituents are telling him there were commitments made by the Board at that time.)

**By the above-recorded vote, the Board set a public hearing for Wednesday, August 13, 2008, to receive public input on lighting the Darden Towe Park tennis courts, and to set a public hearing for Wednesday, September 10, 2008, to receive public input on lighting the Darden Towe Park softball fields.**

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Item No. 7.9. Resolution to accept road(s) in Deerwood Subdivision, Phase 4, into the State Secondary System of Highways.

**By the above-recorded vote, the Board adopted the following resolution, at the request of the County Engineer:**

#### RESOLUTION

WHEREAS, the street(s) in **Deerwood Subdivision, Phase 4**, as described on the attached Additions Form AM-4.3 dated **July 2, 2008**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Deerwood Subdivision, Phase 4**, as described on the attached Additions Form AM-4.3 dated **July 2, 2008**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

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

#### DESCRIPTION IS MISSING

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Item No. 7.10. Proffer Management – FY 2008 Third Quarter Cash Proffer Report.

The executive summary states that the following summary represents all cash proffer activity occurring in the third quarter (January-March) of FY '08. Since the quarterly reports were initially requested by the Board in 2007, several changes and improvements have been made in order to provide more details regarding cash proffer activity. In addition to cash proffer revenue, expenditures, new rezonings and total obligated proffers, this report provides the calculation of the 2008 inflation adjustment for those proffers subject to an annual adjustment implemented under the Board's proffer policy. In an effort to provide more timely reports to the Board, the fourth quarter report, which will include consolidated data from the Finance Department, will be presented to the Board in August. The information below provides details regarding the amount of cash proffered, received and expended during the third quarter, and the total amount of outstanding proffer obligations at the end of the third quarter of FY'08.

**A. Proffered:** During the third quarter, the rezoning of Fontana 4C (ZMA-2004-18) and Patterson (ZMA-2007-11) were approved accepting a total of \$819,300 in cash proffers. The cash is designated for general CIP improvements and affordable housing (see Attachment A – on file).

**B. Revenue:** During the third quarter, the County received a total of \$84,278.10 in proffered funds from Hollymead Area C, Wickham Pond and Belvedere Station for general CIP improvements and affordable housing (see Attachment A).

**C. Expenditure:** The County expended a total of \$814,011 of cash proffers from four rezonings in the third quarter. Of this total, \$59,161 was received from Wickham Pond and designated to the Crozet Streetscapes CIP and \$200,000 was received from North Pointe and designated to affordable housing down-payment assistance. The remaining \$554,850 funds were previously received from Hollymead Town Center Area's C and D and were designated to the Hollymead Fire Station (see Attachment A).

**D. Total Obligated Cash Proffers:** The total amount of cash proffer obligations at the end of the third quarter of FY '08 was \$56,146,937.47. For some proffers, the total amount is based upon a presumption of maximum build-out; however, the actual amounts could be less if maximum densities are

not achieved. Ten rezonings are subject to a 2008 adjustment multiplier calculated using the Marshall Swift Mid-Atlantic Index for Masonry Bearing Walls (1.015). With the adjusted value added, the total obligated adjusted cash proffer amount is \$56,742,558.28 (see Attachment B).

One staff person oversees the collection, tracking and disbursement of cash proffers and non-cash proffers with the assistance of other departments.

**The report was received for information.**

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Agenda Item No. 8. Board-to-Board, *Monthly Communications Report from School Board, School Board Chairman.*

Mr. Brian Wheeler, Chairman of the School Board, said the School Board provides a monthly written report and they appreciate the quarterly opportunities to have a joint luncheon meeting. He offered to answer questions.

Mr. Wheeler said he will highlight one item. During the last budget discussions, the School Board talked about how its' budget was needs based. It was strategically oriented toward their goals and priorities but also fiscally constrained. A lot of credit has to be given to Dr. Moran for her leadership in setting the course for that budget process. By devising a needs-based budget, all of the community's needs and priorities were not addressed in that funding request. He cited two examples – funding for gifted resource teachers and for full-time nurses in the elementary schools.

Mr. Wheeler said the Board members received a copy of the recommendations from the School's Gifted Advisory Committee. This is a committee of people involved in gifted education who are recommending increasing resources for gifted instruction. Their recommendation is for one full-time equivalent gifted resource teacher per school, relating primarily to elementary schools. He suggested looking at a staffing standards sheet in the budget which indicates that a full-time gifted resource person is not funded in each school. It depends on how many students are in the school, and it might range from .5 of a person up to one full-time person. In terms of the middle schools and high schools, there is only one gifted resource teacher per school. In September all of the Advisory Committee recommendations will be collected and used during consideration of the next budget.

Mr. Rooker asked how many children at Albemarle High School qualify to receive services from a gifted resource teacher. Mr. Wheeler responded that he did not have that information, but would provide it.

Mr. Boyd asked for clarification, pointing out that it does not refer to gifted resource teachers, but gifted resource specialists. There are people who teach advanced courses, and AP classes, and lots of gifted opportunities. It is not limited to one person and what that person does. Mr. Wheeler acknowledged that this is a gifted resource coordinator for gifted activities within that school.

Mr. Rooker asked if they spend time in the classroom as well as in planning activities. Mr. Wheeler replied that they support teachers with their work in helping students.

Mr. Wheeler said he is pleased to announce a new partnership between Albemarle County Public Schools, the University of Virginia's Darden School of Business and its Curry School of Education. Starting later this month a team will be participating in the Executive Leadership Program for educators. This initiative, valued at \$200,000 for a two-year program, is being offered free of charge to Albemarle County. He envisions this as a bridge between the Resource Utilization Study that identified areas in the School Division's operation which could be more efficient and more effective.

Mr. Wheeler said at the other end is the Baldrige criteria which the School Board has said it will use to measure whether the system is world class or not. This tool will be utilized by the School's executive leadership team, including Dr. Moran and himself, to assist with project management (help with what the private sector knows as a balanced scorecard), which will help identify how to manage project teams working on different initiatives. How will the project teams be made effective and measure the right things and get the right data to the Board leading the system toward being world class. This is a great professional development opportunity for the School Board's executive leaders and will provide that deeper and systematic focus on identifying key metrics in improving project management. There will be an intensive one-week session where the whole team from the central office will at the Darden School. There are also other schools systems involved from places around the country. They have had this partnership between Darden and Curry for the past three years and Albemarle is not getting involved. Charlottesville City Schools will also be involved; Ms. Annette Michie and Superintendent Rosa Atkins will be participating. He added that within 90 days, the School Board will have a plan of action, and Darden will provide support them over the next two years, checking with the team periodically and being available for assistance.

Mr. Rooker asked for an explanation of the Framework for Quality Learning and the Professional Learning Community Programs.

Mr. Wheeler said the Framework for Quality Learning is basically the School's curriculum, the outline for what students need to be learning. Periodically they get framework curriculums presented to the School Board; next week it will be the Science Curriculum. He said Albemarle could just use the Standards of Learning and what the Virginia Department of Education provides each School Division in the state. Instead, the School Board has said their standards are going to be higher. They are trying to

get students beyond the SOLs. They are committed to creating a priority for building this framework, which had required intensive staff work. There is an understanding vertically from kindergarten through the 12<sup>th</sup> grade so the teachers working with these students know exactly what has happened the year before or in the elementary school versus the middle school, to constantly build on those activities to ensure there are no overlaps or gaps. He noted that all of this is tied into the Standards of Learning.

Mr. Wheeler said that Professional Learning Communities is their approach to working with the educators and creating professional development opportunities, and creating conversation opportunities for teachers during planning time to make it more effective; they can look at data and look at ways to intervene with specific students and improve things. While at Darden, they will be discussing Mr. Jim Collins' work and his concept of a hedgehog as being illustrative of the focus of an organization. The hedgehog in the County's School System is the Framework for Quality Learning, Professional Learning Communities and the Teacher Performance Appraisal.

Ms. Thomas asked when the School Board will have a decision about bussing in terms of where the children will be picked up. Will that go into effect in the coming school year.

Mr. Wheeler said parents were given a survey to order to find out if they would be signing up for school bus service, with the idea that bus routes could be optimized and be more efficient next year. That information will be coming to the School Board next week from the Transportation Department. At the joint meeting, Ms. Mallek had referred to a survey of her constituents about whether they would bring their kids to the end of a street in their subdivision for pickup. The School Board will also be discussing that with Transportation. He wants to make sure there is follow-up on Bundoran Farm, which is a rural area subdivision where the busses will not be running. He said the local media reported that the School Board was considering whether to pick up students or not, in the rural area. He thinks that was a response to the discussion by the joint boards; there is no specific proposal before the School Board at this time to change that. The School Board will be looking at whether parents are committed to their children riding the bus, optimizing bus routes, and discuss a point Mr. Boyd brought up about doing something different in the rural area for new subdivisions or grandfathering existing subdivisions, etc.

Ms. Thomas said parents are probably going to be slower reacting to the fuel crisis than private industry. Mr. Wheeler said funds have been set aside for a fuel contingency. The School Board may have to come back and discuss with the Board use of the one penny of the tax rate that was set aside in a "lockbox". Because of the fiscal realities, the School Board may have to make some decisions over the next year to cut back but there is nothing specific in front of them at this time.

Mr. Rooker noted that the *Washington Post* had an article about several school systems around the D.C. area that are considering cutting back on their bussing services. It might be helpful to do a survey of various locations to see how they are looking at this problem and ways to deal with it.

Ms. Mallek mentioned that in Arlington, which is a highly urbanized area, the busses do not go into subdivisions; it is strictly a main artery operation. If she had a choice, she would rather have the nurses in the schools than bussing children through every tiny street.

Mr. Wheeler said the School Board is thinking about safe routes to school, creating safe opportunities for students to get to schools, and having crossing guards. Also, bus service cannot be taken away without making sure those who want to walk have a safe way to do that.

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Agenda Item No. 9. ACSA/RWSA Updates, Gary Fern and Tom Frederick.

Mr. Gary Fern, Executive Director of the Albemarle County Service Authority, said this fiscal year the ACSA will be instituting an e-bill, e-pay system so their customers can pay their water and sewer bills easier. The ACSA Board and staff are initiating a strategic planning session during the first and second quarters of the fiscal year. They will map out where the ACSA wants to be in the future. In terms of the CIP, the biggest project they will be undertaking this year and next year is the North Fork pump station. They hope to be able to take the Camelot wastewater treatment plant out of service once that pump station(s) are up and running. Currently, Whitman Requardt and Associates are preparing the preliminary engineering report which is due in September. The next steps are final design and bidding and construction. This will be one of the largest projects undertaken this year.

Ms. Thomas asked about the cost of the project. Mr. Fern said the project will cost millions of dollars, and once he has the preliminary engineering report he can provide more specific information.

Mr. Rooker asked if there is any developer contribution to the cost of that project. Mr. Fern stated there will be some developer contributions. The ACSA have been meeting with the developers as part of a group, and then will meet with them individually to learn what their needs are for the next 20 to 40 years.

Mr. Rooker asked if there will be monetary contributions. Mr. Fern responded that all the details have not yet been negotiated.

Mr. Rooker asked if the need for this is being generated by additional development. Mr. Fern replied that the need is being generated because the Camelot Treatment Plant has served its' useful life and needs to be taken out of service. Both the component of existing users and future growth must be taken into account.

Ms. Thomas said in terms of the whole water supply plan, she would find it useful to know how much of it is to replace worn out infrastructure. She thinks the public would be interested in knowing how much of this is replacement and how much of it is due to new growth and development. Mr. Fern said that information will be known once they know the future growth component. Currently, the Camelot treatment plant is discharging approximately 120,000 gallons per day. After determining the future component, they will know the difference.

Mr. Rooker said he read in the minutes of the ACSA Board that the cost was between \$25.0 million and \$30.0 million. Mr. Fern said that figure was done by Greeley and Hansen at the end of last year, as a component of the expansion of the interceptor study being done by the RWSA. He would not use that figure; currently Whitman Requardt and Associates are fine-tuning the cost.

Ms. Mallek asked if there will be hookup fees when this new station comes on line, or will the existing users just transfer over but new users will make contributions toward its cost. Mr. Fern said it would be no different than any other new user of the ACSA; they would be paying hookup charges established by the ACSA Board.

Mr. Fern said in response to Ms. Thomas' e-mail request for information on irrigation usage and water usage, he has provided a copy of a chart that is given to the ACSA Board members monthly. This Board will begin receiving this report electronically. The report provides information on how much water is used for irrigation over a particular month or for domestic use. The report is separated by classes, institutional use, single-family residents and multi-family residents.

Mr. Slutzky commented on the chart, noting the amount of irrigation shown is small. Mr. Fern noted that in June, July and August there will probably be a little larger use of irrigation.

Mr. Slutzky said that even looking at last July it is still a fairly small layer.

Ms. Mallek noted that there were water restrictions last year.

Mr. Rooker commented that adding up all of the various irrigation components, there is a substantial amount of irrigation. He asked the meaning of "irrigation through exclusion." Mr. Fern said it has to do with the type of meter being used. There are exclusion meters which can be used to fill a swimming pool or for irrigation, something other than for domestic use. They exclude that amount of water so that the user is not billed for sewer service.

Ms. Mallek asked if the well water cost is the same as the faucet cost. Mr. Fern replied "yes", the ACSA pays the same wholesale cost for water.

Ms. Mallek asked if discounts are given to larger users. Mr. Fern said no discount is given to larger users. He added that the ACSA has a three-tiered system, and people who can cut back on their water usage fall into a lower tier and would pay less. He said water conservation is encouraged through the rates.

Ms. Mallek asked for an update on what the ACSA is doing in the way of preparation of minutes. Mr. Fern said the ACSA Board discussed its minutes and left it to the Executive Director to decide what type of minutes they would be receiving. This month the minutes were prepared in a form that is not substantially verbatim, but also is not a summary form.

Mr. Rooker said the last set of minutes he received were lengthy. Mr. Fern said the minutes were extremely lengthy, and very time consuming to prepare and costly; their minutes will not be developed to that level. This month the amount of detail has been cut back.

Mr. Rooker said that it was nice being able to go through the minutes, to see what happened at the meeting and to see who said what.

Mr. Slutzky said he wishes the ACSA would do detailed minutes. It is a cost, but this Board chose to do it for a good public purpose.

Ms. Mallek commented that there are discussions involving millions of dollars, and when there are new board members they need that background to read and find out what happened. She thinks detailed minutes are important. Mr. Fern said that he thinks the minutes will provide the Board with enough detail, and if upon reading something and further information is needed, Board members should feel free to contact him and he will provide additional information.

Ms. Mallek said she really likes to have things written down. She would also find it helpful to have a written report.

Mr. Slutzky agreed.

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Mr. Tom Frederick, Executive Director of the Rivanna Water and Sewer Authority, said the RWSA is currently involved in capital project issues. The Meadow Creek interceptor project is for a major sewer interceptor that goes through parts of the urban area at the juncture of the City and the County, in the northern part of the City and in the southern part of the County's urban ring to the north of the City. That project continues to move forward aggressively and on schedule. The detailed plans for construction are close to completion and will be completed within the next 30 days. The plans need to be submitted to the

Department of Environmental Quality, and there will be a two to three month process involved with their review of those plans. At the same time, right-of-way acquisition is being initiated. Owners along the route of the pipeline are being contacted and given the opportunity to speak with RWSA's real estate agent to negotiate the easements needed for construction. It is hoped the project will be under construction before the end of this calendar year, depending on right-of-way acquisition and permit processes. Within the last 30 days permits have been received from the Corps of Engineers to use a nationwide permit to construct this project. Also received is a permit from the Virginia Marine Resources Commission, which has state jurisdiction. Those permits have been issued and the project is moving forward. It is anticipated that the construction project completion date will be in late 2009 to early 2010.

Mr. Frederick noted that the RWSA is moving forward aggressively on completion of the design for the nutrient-enriched treatment at the Moores Creek wastewater plant, which is a major capital project. The estimated costs for the components related to E&R are approaching \$42.0 million for the total project. Odor control facilities are being added and they are being budgeted separately, but that will boost the total project cost into the upper \$40.0 million. This is a major project and within the next eight to twelve months, construction is expected to begin. There will be major renovations going on at the Moores Creek site where the RWSA has its administrative offices; that will be challenging. It is all related to efforts to continue the enhancement of our rivers in Virginia, especially in the estuary areas where nutrients tend to be of greater concern. He noted that everybody knows about the problems with the Chesapeake Bay. The Chesapeake Bay Foundation recently made the statement that the wastewater industry is out ahead of everybody else and they're doing their part. Part of the message behind that is for stormwater systems and non-point sources to also do their part. He said they were proud to hear that statement, feeling that is accurate and reflective of what facilities across Virginia are doing to try to clean up the Chesapeake Bay.

Mr. Frederick noted that the RWSA is spending a lot of effort now on rehabilitation of sewers, which has been neglected in this community in past years. He said they are meeting with their partners, the Albemarle County Service Authority and the Charlottesville Public Works Department, on ways to reduce the amount of rainwater that gets into the sewer systems in order to extend the life of the joint systems. Those negotiations are cooperative at this point, and exceed what he had anticipated could be accomplished at the outset. The Rivanna Water and Sewer Authority is specifically focused now on the evaluation of the Shenks Branch interceptor, which largely serves the City of Charlottesville. It is the oldest of the interceptors and by tightening that will restore some flows close to the central part of the City of Charlottesville. They will branch out more throughout the system as time goes forward. That is a long-term, major undertaking.

Mr. Frederick stated that the RWSA is working to move forward an interconnecting pipeline between the South Fork Rivanna treatment plant and North Fork Rivanna treatment plant. Portions of that pipeline are necessary now because there is an agreement with the Virginia Department of Transportation to get an existing pipeline that's now under load-bearing traffic out of the section of Route 29 that was recently widened to six lanes in the vicinity of the Hollymead Towncenter; there is a short deadline to get that done. The interconnection between South Fork and North Fork has long-term dividends to this community in enabling the RWSA to ensure it can reliably serve the ACSA as the Places29 development of that area occurs. He mentioned that the most economical and efficient way to get an interconnector between the South Fork and North Fork completed up to Hollymead Towncenter would be through a new alignment and construction of an extension of Berkmar Drive. He said that project is not approved at this point in time. He has temporarily placed completion of the design for this project on hold due to absence of an understanding about alignment and grading for a future Berkmar Drive extension. The next best alternative proposed by the consultants' is to run a line parallel to U.S. 29, probably on the west side of the highway, but it would have to be west of a power line right-of-way that runs along the edge of the road. He said that area is undeveloped now and lined with trees, and the topography does not match the topography of the highway. That introduces questions about to what grade the pipe would be built on, and how many trees would have to be cut down. There are so many questions related to that option that he asked staff to stop, pending discussion with County staff and others about whether or not the Berkmar Drive project is going to go through in the near term. If it is a joint project which enables them to put the waterline there that would be the best solution for the community.

Mr. Rooker asked what is done when running a pipeline such as that gets to the river. Can there actually be a pipeline on the underside of bridge. Mr. Frederick said in the absence of a bridge, an attempt would be made to lay the pipeline under the creek, which means going through rock, and that requires directional drilling which is very expensive.

Mr. Slutzky pointed out that a pipeline could be put on a retrofit of an existing bridge because typically it does not have the ability to carry that extra load, but the extra load could be designed into the bridge for a nominal additional cost. Mr. Frederick agreed. He said departments of transportation are reluctant to allow attachments to existing bridges because they usually did not design the bridges structurally to carry that additional load. However, if a bridge is proposed, especially if local money is involved, there is leverage to make it happen, and the bridge can be designed structurally to carry it. The pipeline can be placed supported to the bridge when the bridge is constructed, or if arrangements have been made it can happen afterwards.

Mr. Dorrier asked if there is any grant money available for that. Mr. Frederick stated he was not aware of any available grant money. He said this creates an opportunity, and while he has slowed the project down, he does not want to do that for an endless amount of time because there is a reliability issue. He said the ACSA customers in the vicinity of the Airport, in the Forest Lakes area and in the areas north of there through the Camelot neighborhoods and on up to Piney Mountain are basically relying on the RWSA's ability to continuously operate the North Fork water treatment plant. That works as long as there is not an emergency or a reason to shut the plant down. He indicated that there are a lot of

customers in the area who are vulnerable to loss of service with no reliable second means of getting water to that area, so he does not want to delay this project for a long period of time.

Mr. Rooker asked if there is plenty of capacity at the North Fork plant right now. Mr. Frederick said in the short term the North Fork plant will treat up to two million gallons per day. Currently, they are treating about a half a million gallons a day but it fluctuates a little. As the Places29 development occurs, they estimate it will exceed two million gallons in about 20 to 25 years. North Fork is not the sole long-term supply for that area. Because the North Fork plant is a river intake system and not a reservoir system, expanding the North Fork treatment plant is not an option because that causes problems with stream flows in the North Fork Rivanna River and RWSA does not think it should "go down that path."

Mr. Slutzky asked if the urgency for RWSA is that the useful life of the plant has passed, and it needs to get an alternative in place before that reality catches up. He said Mr. Frederick also mentioned the VDOT requirement to get their pipeline from underneath their traveled road, so is that driving relocation or can it be solved with some small relocation of some portions of the pipe while figuring out whether or not a bridge over the Rivanna can be built. Mr. Frederick said if they want to delay completion of the interconnection all the way to the South Fork, a portion of the new pipeline could be laid in the Berkmar tract through the Hollymead Towncenter area. He said some of that is occurring now as development occurs but that is piecemeal and is not comprehensive. Wherever they decided to stop that line based on the uncertainty south of that, they would need to run a line east to tie into the existing system below the point where VDOT is requiring RWSA to get out of the highway which is below the six-lane area. There would be extra cost to make that diversion, but it would buy some time. It does not give the ability to have that interconnection between north and south if there is an emergency. If there should be a spill in the North Fork River and there is a chemical that should not be in the water and they wanted to halt the treatment at North Fork, that would put a lot of people out of water now - that is the longer-term concern about delaying the project.

Mr. Rooker asked if there is any intention to abandon the North Fork treatment plant. Mr. Frederick affirmed that there are no plans to abandon the North Fork treatment facility.

Mr. Rooker asked if replacements were needed there, they would be done anyway. This is really a redundancy and an additional supply source when capacity is exceeded. Mr. Frederick indicated that is true. He said staff has discussed whether the North Fork is in the right location for the long term as there is interest in the health of the river, and water is being withdrawn directly from the river. He said that a long-term focus that should be answered if and when major repairs are needed at North Fork in the future. Right now there is no indication of any major repairs and their current plans are to continue to operate that plant and ramp up the treatment as water demand in that area grows, which would be the only means RWSA has to serve that area until the interconnect is in place.

Mr. Slutzky said he had been trying to figure out how to build a bridge and get a road across the River. He met with VDOT yesterday and the biggest obstacle to getting a bridge is the cost of doing the engineering in that corridor. He asked if RWSA will do preliminary engineering that might be useful for VDOT in determining grades or if there are obstacles like rock that would increase the cost of the bridge. He asked if engineering is needed for the right-of-way or if there are different design criteria that probably wouldn't result in having useful information for VDOT. Mr. Frederick said if there were a green light to pursue a Berkmar corridor, some engineering would be needed which would help confirm cost. He said RWSA would go out of its way to be supportive of working alongside a roadway engineer; knowing the final grade of the roadway would be important to their investigations. They would see this as a parallel track if roadway design were also being pursued.

Mr. Slutzky asked if VDOT said this was of interest to them, could RWSA react quickly. Mr. Frederick said they could.

Mr. Slutzky noted that VDOT's principle obstacle at this point is the cost of the bridge. They have to do engineering to make that determination. He suggested that he and Mr. Frederick meet with Mr. David Pierce, the VDOT bridge engineer who would know what RWSA's engineering could provide them. Mr. Frederick indicated that he would be happy to attend a meeting and participate noting that one of the next decisions is where to put the pipe, if this project is to go forward.

Mr. Dorrier asked if there will be savings from putting in the pipe in conjunction with the road and bridge. Mr. Frederick replied that those computations can be made as soon as the line and grade and where the pipe can be located.

Mr. Rooker said there are numerous projects in RWSA's CIP, and he assumes a priority has been established for those projects. He said there has been discussion about floating bonds to finance some of the projects. He said it would be helpful if the Board got a list of RWSA projects, their estimated cost and the priority of those projects with an indication of the time when those projects are scheduled to be addressed. Mr. Frederick said that information is available on the RWSA website, and if more detailed information is needed a written copy can be provided.

Mr. Rooker said changes are made periodically in that plan, cost estimate changes, and it would be helpful to him when discussing these projects to look at that list and understand where projects fall on the priority list. Mr. Frederick said the CIP is updated annually; it is a rolling five-year plan. He said the RWSA does financing in five-year blocks instead of single-year blocks, which helps in terms of helping it and the City understand changes with respect to wholesale rates to finance capital improvements. Revisions are introduced to the RWSA Board in January, and with adoption of the CIP sought in the

February/March timeframe, which moves ahead of the operating budget. When that time approaches he can have another update for the Board, and focus specifically on the update to the CIP.

Mr. Frederick said with respect to the water supply plan, the RWSA is in active design of the Ragged Mountain Dam foundation and the Ragged Mountain Dam itself. The dam is in the early phases of design, geotechnical work has been done, and the location for the new dam established. Geotechnical work includes a variety of investigations such as boring – boring involves sophisticated technology which sends signals between bores that help to understand what's going on with the rock underground – that is the most important decision in building a dam. Plans will be submitted to the Department of Conservation and Recreation's Dam Safety office in the fall; hopefully a contract will be let to start excavation of soil and loose rock to expose the hard foundation upon which the dam will be built by the December/January timeframe. At this time, information from that excavation will be used to finalize the bid documents for construction of the dam itself. That takes a lot of risk out of the hands of the dam construction contract because the foundation for the dam will be known. It is expected that the dam will be under construction by this time next year. Many people in the community have said they want that project to proceed, so that project is moving forward as quickly as reasonable.

Mr. Frederick noted that this Board had adopted a resolution saying that in addition to the water supply plan, when the time is right RWSA should entertain a study of dredging or some other technique to maintain the South Fork Rivanna Reservoir. The RWSA Board last week authorized staff to coordinate a meeting with the chairmen of the four local boards, and that happened on Monday of this week. At that meeting, the four board chairmen asked the RWSA to pull back on issuing a request for qualifications to consulting firms to allow time for creation of a task force to study what should be in the scope of services of that study. He noted that RWSA staff is ready to prepare and issue an RFP for consultants when the time is appropriate. The composition of the task force was identified Monday, and efforts are underway to recruit a task force of about eleven people. One representative will come from the Supervisors, one from City Council, one from the Albemarle County Service Authority Board and one from the RWSA Board, with the rest of the membership coming from civic and interest groups in the community. The four board chairmen will together appoint a chairperson for the task force. The chairmen asked that the task force complete its work by November of this year.

Mr. Rooker said he thinks it would be helpful when this task force begins its work if the minutes of its meetings, including all relevant reports, could be copied to all Board members.

Ms. Mallek agreed. She said if Mr. Frederick and Mr. Fern have information that was not provided in this verbal report today, she would appreciate having a copy of that also.

Ms. Thomas said she appreciates the staff of RWSA helping to keep her informed of what is going on in the Ragged Mountain area because it is in her district; also neighbors in the Ragged Mountain area also want to be kept informed. She said a couple of RWSA's staff members spent considerable time making sure she knew what was going on. Mr. Frederick indicated he would pass Ms. Thomas' comments on to Mr. Kent, who deserves a lot of credit for that.

Mr. Dorrier asked the timeframe for preparing an analysis of the new pipe along Route 29 North in the Berkmar Drive area. Mr. Frederick asked if he was inquiring about the savings that could be obtained by installing the pipe in Berkmar Road instead of putting it along U.S. 29. He said that once RWSA has information about the roadway, that study could be done in 30 to 45 days for a preliminary cost comparison, not a detailed comparison.

Mr. Slutzky asked how quickly the engineering and road right-of-way could be done. Mr. Frederick said it would take about three months for preliminary engineering. It would not be the final detailed plans and specifications, but it would give much of the information needed.

Mr. Rooker said the cost of the pipeline to connect the Ragged Mountain reservoir with the South Fork Rivanna reservoir has been discussed. He asked if there are any recent updated cost estimates of that component of the water supply project. Mr. Frederick said that cost estimate has not been updated since it was published in 2006. A number was provided that included a new intake on the South Fork Rivanna River, and also pretreatment facilities so that sediment is not carried into Ragged Mountain. That was submitted as a package, but he can break out the cost of the pipeline.

Mr. Rooker said he thinks it would be helpful to provide a breakdown of that cost, and the cost of the right-of-way.

Ms. Thomas said it has always been assumed that the right-of-way would be reasonably acquired because so much of it is the same right-of-way that VDOT has already acquired for the Western Bypass. She asked if there have been any further developments or any meetings with VDOT about the use of that right-of-way. Mr. Frederick said there have been no recent meetings with VDOT but there have been phone inquiries from time-to-time to keep up with their activities. He noted that RWSA has programmed in its five-year CIP to complete the alignment of that pipeline and acquire necessary right-of-way. It is not in the current five-year program to build the pipeline. That is subject to further discussion if this Board or other boards want to consider changing the timing of the pipeline.

Mr. Rooker asked if there is any assurance that the VDOT right-of-way can be used. He thinks it would be wise, as soon as reasonably possible, to initiate discussions with VDOT about the use of that right-of-way. If VDOT is not going to build the Western Bypass (indications are that they're not going to construct anything at this time), they may be selling that right-of-way. He thinks it would be wise to get

easements in place before that might occur. Mr. Tucker said VDOT indicated to RWSA that the right-of-ways are secure through 2012.

Mr. Slutzky said VDOT cannot give an easement if they then have to give back their right-of-way, and he asked if that is the problem. Mr. Frederick said RWSA had discussions with VDOT a number of months ago when it was developing the idea of the South Fork Rivanna pipeline. They have a letter from VDOT that is supportive of the idea that to the extent that their policy allows encroachments they would grant encroachments. The letter does not state the RWSA absolutely has a secure corridor, and that is because they have uncertainties as to whether or not they're going to retain the land, build a highway, or if the land may at some point be reverted. Those questions have not been answered yet. It is the intention of the RWSA to make sure it does not get behind VDOT in those decisions so they can take the appropriate action in conjunction with their decisions.

Mr. Slutzky said if VDOT does not use the right-of-way for road construction and has to offer the land back to the original grantors, while it has ownership of the land, can it grant an easement to the RWSA. Does that easement survive the replacement of the land back to the original owners, or are they obligated to provide it back to the original owners unencumbered by subsequent easements.

Mr. Rooker said that is the kind of legal question that he thinks it would be wise to get answered now. He said that several years ago Mr. Frederick met individually with members of this Board, and it was said that use of that right-of-way might significantly reduce the cost of right-of-way acquisition; dealing with one property owner as opposed to fifty would make the job quicker and easier. He thinks RWSA needs to make certain there aren't legal impediments to actually doing that.

Mr. Boyd indicated that is a good point. He thanked Mr. Frederick for the report.

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Agenda Item No. 10. Commission on Children and Families (CCF) Annual Report.

Ms. Ruth Stone, Director of Piedmont CASA, said she is the new chair of the Commission on Children and Families. She thanked the Board for its support of CCF over the years. She gives time to the Commission because it is a model of community engagement and collaboration. The report today will show that it does a lot to leverage resources and bring in new dollars to the community. She reiterated that the Commission is working diligently to try and improve the quality of life for children and families.

Ms. Gretchen Ellis, Director of CCF, said the report has been postponed a few times so is a bit dated in terms of the work being done legislatively. When the Commission was chartered by the Board of Supervisors and the City Council in 1998, a number of charges were given for them to follow. The first charge was to adhere to the responsibilities of the community policy management team for CSA (Comprehensive Services Act). They try to prevent children from having to go into that system or into the juvenile justice system because they're very costly. If the Commission can prevent the kind of troubles that lead children to be there, a lot of children and families are saved, as well as a lot of money. Over the past couple of years, a utilization review process was instituted and in 2007 it resulted in a \$110,000+ decrease in the loss of Medicaid funding, and cost recovery from their vendors of about \$155,000.

Ms. Ellis said that on September 1 they will start working with community partners and specifically Region 10 to create a local assessment and stabilization process for children in the CSA population. In the past, many children were sent out of the community for long-term inpatient assessment and diagnostics because there was no capacity here; that typically cost between \$15,000 and \$20,000 a month per child. Also, when a child goes out of the community it's harder to bring them back because you don't have the opportunity to work with the families. They think this will be a cost saver and provide a higher level of service for the children.

Mr. Slutzky noted a slide on the screen and asked if it is indicating that the Commission had an extra quarter of a million dollars. Ms. Ellis replied in the affirmative.

Ms. Ellis said their second charge was to provide comprehensive short- and long-range planning for children and family issues. She said they have issued an eighth edition of *Stepping-Stones* with the ninth edition coming out in October. She said CCF had talked to the Board earlier this year about their human services, early childcare and education strategic priorities; their strategic plans for those will be completed in September. The Commission has strengthened its community, university research and service partnerships and in 2007 were able to accrue almost \$200,000 in valuable services from University professors and students; they are making a difference. What had been a casual relationship with the University has become more formal with the creation, at the recommendation of their work group, of an office of community affairs at the University to work on service and research in the community.

Mr. Rooker asked if the researchers listed at the front of the report donate their time. Ms. Ellis said almost all of it is, they spent \$5,000 to support two graduate students last summer. Some of the University fellowships have supported other graduate students, but in essence it's been donated time.

Ms. Ellis said the third charge was to make program and funding recommendations. She said the Commission continues to provide technical assistance to agencies on their funding requests to the County. Her goal is that every program that applies for money from the County will be an excellent program so its money is well invested in the nonprofits the Board supports.

Ms. Ellis said the Commission is working hard on review of current and service delivery. The Comprehensive Services Act is a big budget item for the Board and for the City. The Commission is

looking at how to make that process more effective, efficient and less costly. She thinks the Commission is ahead of what the State brought forth effective today – it is looking at developing a local system of care in order to bring children back into the community in less costly placements. A consultant from Hampton is here today working with some of the Commission's clinicians on that project. She said the State changed the match rate for localities for children who are in out-of-community placements. For Albemarle County, over the course of the next two years, that rate will go up to almost an 80 percent local match for those placements. The Commission is working diligently to bring and keep these children in the community where the match rate is lower; it will be 20 percent lower for some local services.

Ms. Mallek asked if Region 10 providers will be the treatment people or will there be specialists working with younger clients. Ms. Ellis said it is a public-private partnership in terms of local services. Region 10 provides services as do three private agencies that provide intensive in-home and wraparound-type services. There is the family support program which provides that level of support for younger children. The Commission will be looking at establishing care coordination, which is a different model that has been used successfully in places like Hampton, Hawaii, Minnesota and some communities in Ohio. The Commission is looking at changing the model of how it does business.

Ms. Ellis said the Commission was charged with identifying and encouraging new and innovative approaches to program development. Last year and into this year they have moved forward the youth development network which is a one-stop phone number where teachers, parents, and others in the community who want to connect children with productive activities, can call and get connected. She said their Partnership for Children and the Early Childhood Strategy Group, together with the United Way, was awarded the Smart Beginnings Grant. The Commission is looking at expanding Truancy Prevention Services with the pilot project for elementary school students. There have been remarkable results so they hope to be able to expand that program. It was piloted at Greer and Burnley-Moran Elementary schools and they have seen some real changes in those young children. She said truant behavior is a gateway behavior to delinquency and to foster care, so it needs to be addressed earlier when a child is young enough to learn in school; that will make a real difference.

Ms. Ellis said the Commission has created the Foothills Child Advocacy Center, with a child victimization multi-disciplinary team to address the needs of children who are victimized. In the last year they have seen 110 child victims, with successful prosecutions in about a dozen cases; in all of the cases that have gone to court so far.

Ms. Ellis said they are using social norms marketing to address adolescent substance abuse. That program has been in place at Albemarle High School for the past year and it's being expanded to Western and Monticello next year. There has been tremendous growth in the seal of childcare quality that establishes standards for childcare. They just awarded the first two level three seals, which means it is a very solid childcare center.

Ms. Ellis said the Commission is working with the City on a Youth Summer Employment Program, which is in its third year. It is something she would recommend that the County consider at some point. The City has 60 young people who are working in internships 20 hours a week in City agencies and with nonprofits, and these are all low-income kids. She said the Commission was also charged with identifying additional sources. Last year they wrote grants that brought in \$1,227,000 with \$572,000 of that earmarked for 2008 programming. They also assisted their community partners in securing an additional \$1.0 million. Next week they should be advised as to whether they have been awarded the \$6.0 million Safe Schools Healthy Students grant. That money would make a change in how they can serve children over a five-year period. The Commission is charged with providing structured opportunities for community input. Their website is well visited as is their list service. She said that in 2007 the Commission conducted 15 forums on a variety of topics.

Ms. Ellis said the Commission is in the process of completing its evaluation of the CSA system. In September their strategic action plans will be completed for early childcare and youth service. They would like to be able to expand the youth development network, but unfortunately they do not have the funding to support it so are looking for grants to continue to support that hotline. They have completed a final report and recommendations related to the community and University partnership. She offered to answer questions.

Ms. Thomas said many of those all-encompassing terms don't mean a lot to her. She assumes the programs took a lot of effort and she is hopeful for their success.

Mr. Dorrier said that as economic times get harder, there will be more need for assistance. He asked if Ms. Ellis has anyway to identify students in the school system that need assistance or is there anything in place to identify young people who need help. Ms. Ellis replied that the County schools do a good job of identifying those students. If they see a child struggling, they pull together a team to look at developing a plan, separate from special education. Community partners are poised to work with the schools to support those kids. They cannot help children who are struggling by themselves; they must have additional assistance, and both public and private partners are working with the schools to assist those students.

Mr. Dorrier asked if that program is the Partners Program. Ms. Ellis replied in the affirmative.

Mr. Rooker said he appreciates CCF responding to this change in funding formulas for CSA outplacements and immediately looking at putting in place a program that might significantly help the budget issues and provide better outcomes at the same time. Ms. Ellis said the Commission knew this

was coming, and it was the right thing to do, so were about a year ahead of many other localities in preparing for this change.

Mr. Boyd said the burden of that has been one of the Board's top legislative issues for the last couple of years on a regional basis. He thanked Ms. Ellis for the report.

**(Note:** The Board took a recess at 10:59 a.m. and reconvened at 11:07 a.m.)

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Agenda Item No. 11. Local Government Resource Management Review: Scope of Work.

Mr. Tucker said that at the May 7, 2008, Board meeting, staff was directed to proceed with an external study of the County's resource management. The Board indicated a preference for a review that would provide a one-time general overview of all County operations. Such a study would closely resemble the School Division's 2007 Resource Utilization Study by broadly examining how the County utilizes its dollars, staff and facilities. The review would also complement staff's ongoing continuous improvement efforts, such as the Program and Service Review and Baldrige self-assessment processes. Today staff is requesting input and approval on a proposed scope of work for a resource management review of Local Government.

Mr. Tucker said that in developing a scope of work, staff sought input from the Virginia Commonwealth University's Commonwealth Educational Policy Institute (CEPI), which completed the School Division's 2007 Resource Utilization Study. CEPI proposed a scope of work for this review based on the Board's direction to proceed with a study that focused on a one-time general overview of all County operations. However, in addition the study will also include a more extensive review of several key functional areas.

Mr. Tucker said staff believes CEPI is best suited to conduct this review based on their review team's expertise and the quality of the 2007 Resource Utilization Study delivered to the School Division. CEPI would be able to begin the study almost immediately and staff believes the proposed cost of the study is highly competitive compared to other less comprehensive studies done in other localities. Because CEPI is a part of Virginia Commonwealth University, it could conduct a Local Government review through a memorandum of understanding with the County. Present today from CEPI is Mr. Bill Boshier, Executive Director of CEPI, was formerly the State Superintendent of Instruction as well as a school superintendent in other localities. Also present is Mr. Lane Ramsey who was for 20 years County Manager in Chesterfield County, and with the county a total of 35 years. He said they would answer questions.

Mr. Tucker said the estimated cost of the scope of work is \$89,000, slightly less than what the School's contract - amendments to the scope of work could change that total cost. The one-time cost for this review would be funded from the Board of Supervisors' Reserve Fund.

Mr. Tucker said staff recommends approval of the scope of work, as may be amended, and authorization to enter into an agreement with CEPI to conduct a review of the County's resource management.

Mr. Rooker said the second sentence under "Review Limitations" in the scope of work says, "Further, this review will make no specific recommendations related to utilization issues of facilities raised in the report, ...." He asked what that means. Mr. Tucker said it is talking about issues of facilities. They will not become in the CIP, etc. They will focus on the operational side of Local Government.

Mr. Rooker said it might be helpful to clarify that sentence. Mr. Tucker agreed.

Mr. Boyd asked if this referring to facility utilization or facility planning; facility planning should be looked at. Mr. Tucker said they will look at facility planning from the financial side. They will not say the County should, or should not, build this or that. If they look at the financial side they may have suggestions about the management of some of these facility improvements. They will not be defining each facility in the CIP and whether or not they should be funded.

Mr. Rooker said there is another part to that – in the School's report they did discuss utilization of space in facilities and capacity issues.

Mr. Boyd asked Mr. Boshier to comment.

Mr. Boshier said that particular item probably has a different meaning in the Schools. Staff talks about how they use their resources and the same thing would be appropriate in this study. This study will make no recommendations as to the need for facilities. It is about whether or not there are efficiencies, the level of services expected, and in some instances whether or not those services can be collapsed and coordinated with others. He said there are two different meanings if the study is being done in the two different areas.

Mr. Rooker asked if the study will look at how the County's existing space is used. Mr. Boshier replied affirmatively.

Mr. Rooker asked if there will be a recommendation about how to better use space. Mr. Boshier said it is a fine point, and perhaps a disclaimer, because they go into each of the spaces and look at those spaces to see how they are used. But it's not a goal of this study as the present scope is structured to tell

the County whether or not one space should be closed or expanded. That's not their role; it's how existing space is being used.

Mr. Dorrier asked if they would just be looking at the County's resources; they would not be looking at the city of Charlottesville and a possible combination of or merging of services. Mr. Boshier this study is County specific.

Mr. Slutzky said the County's Comprehensive Plan and the Board's Strategic Plan lay out plans for the community. He asked if this study will take into account the commitments that have been made and identify where the Board might be going down a certain path at the expense of fulfilling other commitments. In terms of effective and efficient utilization of resources is the Board targeting optimally those aggregated commitments. Mr. Boshier replied affirmatively. This scope would include interviews with Board members, a review of all available data, and checking that data against the existing benchmarks the County has identified and also what are projected to exist in the future.

Mr. Boshier said there was tremendous cooperation from staff when working through the study for the schools. He commends the County for areas like Human Resources because it is unusual to have such a coordinated service between the County Government and the Schools. At times they find centralized accounting and procurement systems, but rarely find that for the Human Resources side. They will attempt to look at each of those planning documents and commitments, even hold a sort of town hall meeting, and invite constituents to come in and talk about anything they feel relates to how resources, people, money, and facilities are used.

Mr. Dorrier asked if they will look at the organizational structure of Local Government, i.e., whether or not agencies or departments could be combined. Mr. Boshier said they will look at organizational structure. The exception to this is Albemarle's constitutional officers – they do not get into most of the constitutional roles that are part of the structure. How day-to-day operations are configured and the impact that they have on one another will be part of the review and will come with specific recommendations.

Mr. Dorrier asked if they would be looking at the water and sewer agencies and that sort of thing. Mr. Boshier said those are internal agencies for which Mr. Tucker is responsible. Where there are joint ventures, such as with the City of Charlottesville and others, they can only look at Albemarle's piece of that operation.

Mr. Tucker said this study will not focus on those regional agencies. Only the things that can be controlled at the Board level or at his level will be subject to their focus.

Mr. Dorrier said that millions of dollars are involved in these regional agencies, so if this study is to look at the whole operation, should they be looked at too. Mr. Tucker said that would take a different study for one and two of them. He said there has to be a separate study for fire services. Mr. Boshier said that unless they were able "to put their arms around" all of the other participating jurisdictions it would be difficult to give a reasonable view of the agency.

Ms. Thomas asked what the Board can expect to get at the end of the study in the sense of comparisons. She said the County's public opinion survey is important to her because people will say the County is unusual in X, Y or Z. Is that something the Board will get a feeling for in the end.

Mr. Boshier replied in the affirmative. They will be doing a lot of benchmarking; the County already does much of that. He said Mr. Lane Ramsey who has 20 years of experience in an outstanding system will be coordinating the team. They will be looking at State data to see how Albemarle's operations compare across the board. They will bring in a team of at least six people who have expertise in areas of public safety. Mr. Carl Baker, who was a colonel in the State Police Department, a deputy commissioner in New York, the Deputy Secretary of Public Safety for Virginia, and chief of police in Chesterfield, will be a member of the team. They will have people on the team who have deep experience who will bring another set of eyes to a really outstanding operation. It is their perception that the Board of Supervisors desires to strengthen something that's already really strong.

Mr. Boyd said in looking at the review team membership he did see any private sector people on that team. He thinks it is important to get a private sector viewpoint of some of these issues. Mr. Boshier said they have not selected all of the team members yet. There is one person from the private sector, in the human services area, that he thinks will be a member. There is another person who is working with the Planning District Commission who is from the private sector. They will ask the Board members to help identify business leaders in the community who should be interviewed. There is merit in harvesting as many perceptions as possible and quantifying them.

Mr. Boyd noted the last bulleted item under "Focused Purposes and Resource Management Review" where it talks about the County and organizational structure and delivery of services using metrics benchmarked with comparable jurisdictions. Although he understands the need to have "apples-to-apples" comparisons, he would like to see best management practices as part of this review. He would like Albemarle compared to some of the most efficient and best-practice organizations that there are. Mr. Boshier said they will make sure that that is part of the case.

Mr. Boshier said he is excited at this rare opportunity to look at these two entities (Board of Supervisors and Albemarle County School Board) that have two constitutional bodies in the same community, with one as the funding source and the other as a giant distributor of services to young

people. He said they will be looking at both through the same sets of lenses because their architecture for doing the study will not change.

Mr. Boyd said he will speak for everybody and say that the Supervisors are just on the periphery, but in observing what they did for the School Board they are very impressed the team's work. Mr. Boshier replied, "thank you."

Ms. Mallek said regarding best practices, she notes that they will not be doing detailed process looks such as the permitting process or anything like that. She asked if they will be looking at the number of interactions or the number of handoffs of decisions. Mr. Boshier said Mr. Ramsey and Mr. Tucker have already discussed this question. He suggested that Mr. Ramsey speak.

Mr. Ramsey addressed the Board giving some of his credentials. They will be making observations about workflow analyses to assist in making efficiencies, but will not have the time within this study to do comprehensive detailed workflow analyses.

Mr. Boshier said people often want to do efficiency studies, but the truth is there are many things that are done efficiently that they don't need to do in the first place. There is a need to be effective, and then do those things efficiently. They will be looking at operations from the viewpoint of effectiveness - delivery of services. The transaction level is analogous to what Ms. Mallek just described and is clearly something they will "bump into" but "post-holing" those kinds of transactions is beyond their manpower or even expertise. They have people who understand those processes so will focus on the process.

Mr. Dorrier asked if they will analyze infrastructure needs. Mr. Boshier said they will probably look at those in two ways - how the numbers drive the potential need for infrastructure and what that might look like with comparables. They will certainly have to touch on that question.

Mr. Slutzky said when the team measures the increase in population of students in the School System they might not see any measure of discernible growth. But, when looking at the growth and demographics of surrounding counties, and the pattern of employment for those counties, there are infrastructure needs in Albemarle that would not be identified in the population of the County in isolation. There are a lot of dimensions to this study that they will have to consider when making those determinations.

Mr. Boshier said that is a critical observation. In another study he supported a recommendation by Mr. Ramsey to decrease the percentage of new revenue going to the schools. He did that because the rate of increase in the population of non-school aged persons was greater than the rate of growth in the population of school aged children.

Mr. Slutzky said that same thing is happening in Albemarle. Population growth is about one and a half to two percent. Mr. Boshier said the County would likely have different kinds of infrastructure demands than what would be identified by simply looking at the school side. There is now a greater demand for services to seniors than ever before.

Mr. Boshier asked if there are other questions about the scope of work.

Ms. Mallek asked if there will be a citizen who sits in on meetings or will most of their work be done in Richmond. Mr. Boshier said the team will probably spend three days here walking every space, and conducting all of the interviews. That's when they will talk with citizen groups identified for them. Then they will take all of that information back and have multiple team meetings until they come to some consensus about their observations

Mr. Boyd thanked Mr. Boshier for the presentation. He asked Mr. Tucker if a motion is required. Mr. Tucker said a motion is needed to authorize staff to enter into an agreement with CEPI to conduct this review of the County's resource management.

Mr. Slutzky offered **motion** to authorize staff to enter into an agreement with CEPI to conduct this review of the County's Resource Management and to approve the Scope of Work (as set out below), subject to amendment as needed. The motion was **seconded** by Ms. Mallek.

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

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

NAYS: None.

(Note: The Proposed Scope of Work is set out in full below.)

## **Proposed Scope of Work**

### Introduction and Purposes

Local governments across the Commonwealth, as well as regionally and nationally, are routinely faced with difficult budget, planning and resource allocation decisions. At the same time, they are confronting ever-increasing demands for expanded services, unfunded mandates and an increasing regulatory environment. With rapidly changing technologies available to local policy-makers and managers, as well as demands for efficient operational systems to support the core mission of the locality, public accountability in leadership and management is more important than

ever. Periodic reviews of policy, regulations, administrative and operational systems assist organizations to respond effectively to these demands and continuous operational improvement. More importantly, a periodic external review can make a difference in maximizing resources for achieving the ultimate outcomes of the organization.

In response to a request from the Albemarle County Board of Supervisors and County Executive, the Commonwealth Educational Policy Institute (CEPI) has prepared a proposal to conduct a "Resources Management Review" of the County's administrative, financial, organizational and operational structures, service delivery, policies and procedures.

CEPI is a joint venture of the Center for Public Policy in the L. Douglas Wilder School of Government and Political Affairs and the School of Education at Virginia Commonwealth University. CEPI supports the improvement of local government and school divisions through research, policy analysis, technical support services and support services for local, state and national policy makers.

#### Scope of Work

**Focused Purposes of the Resource Management Review.** The primary focus of the review is to assist Albemarle County in identifying ways to improve the utilization of its resources – financial, human, facilities and others – to provide the most efficient and effective services to the community. Focused areas for study will include a review of:

Administrative and operational support systems to assure maximization of financial resources for direct service needs,

Long-term financial planning policies; five and ten years,

Long-term facility needs and planning to accommodate departmental growth and changes,

The organization, operation and service delivery of functional areas including Community Development, Public Safety, Human Services, Human Resources and Finance.

Human resource components such as recruitment, training, professional development, salary/benefits,

Local policy development processes and regulatory systems including staff and community involvement and communications,  
and

The County's organizational structure and delivery of services using metrics benchmarked with comparable jurisdictions in Virginia.

#### Scope of Services and Review Processes

To accomplish these intended purposes, CEPI will interview key County officials and leadership, conduct an open meeting for County staff, review and analyze County documents and data, visit County facilities, hold public meetings to receive community input related to the purposes of the review, and submit and present a report of its findings.

#### Review Limitations

This review is not designed to provide any information related to specific employee or program performance or effectiveness. Further, this review will make no specific recommendations related to utilization issues of facilities raised in the report, nor will the scope and time limitations permit detailed financial projections related to the utilization issues of resource areas being reviewed.

#### Time Frame for Delivery

CEPI estimates completion of a final report no later than December 1, 2008. This completion date is contingent upon an approval of the proposal by August 1, 2008, and the completion of on-site visits no later than October 15, 2008.

#### CEPI Review Team Membership

The Albemarle County Review Team will be led by Dr. William C. Boshier, Jr., Executive Director of CEPI, and include several former state and local government administrators that collectively have expertise and experience in a range of functional areas including public safety, human services, finance and administration.

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Agenda Item No. 12. Open Burning of Debris Waste.

Mr. James Barber, County Fire Marshal, and Assistant Chief of Prevention, was present. He said this item is on the agenda because of complaints received about open burning of debris waste. Staff was

asked to look at and compare Albemarle regulation regarding this matter to other localities, and then evaluate options such as banning open burning or strengthening existing restrictions. He said the staff recommendation is:

Staff recommends that the Board strengthen existing open burning regulations as outlined in option two of the Executive Summary to require contractors to use burn pits and blowers and increase the resident permission distance from 500 to 1000 feet. If the Board approves this action, staff will bring forward an executive summary introducing appropriate language in the Burn Ordinance at a future Board meeting. Under Virginia Code §10.1-1321 and State Air Pollution Control Board regulations, a locality that seeks to deviate in a substantive manner from the State Air Pollution Control Board's model ordinance must obtain that board's prior approval. Accordingly, staff would need to seek approval from the Board of Supervisors, present the proposed ordinance to the State Air Pollution Control Board for its approval, and then bring the ordinance back to the Board of Supervisors for adoption.

Mr. Boyd said he was having a little trouble understanding the recommendation and the process. Mr. Davis noted that there are State regulations that provide a model for a burning ordinance. Under State Law if the Board wants to adopt regulations that are more stringent than the model ordinance, the ordinance must first be reviewed and approved by the State Air Pollution Control Board. Staff has looked at how other jurisdictions have dealt with this matter. Generally, the first step is to get an ordinance the board is happy with, take that to the State Air Pollution Control Board for its approval, and bring that ordinance back to the Board for adoption.

Mr. Boyd asked if a public hearing is required. Mr. Davis suggested having a public hearing before taking the ordinance to the State Air Pollution Control Board. If any changes are required that may necessitate another public hearing, and if not, the ordinance would be ready for adoption without a second public hearing.

Mr. Rooker said there are two options listed in the Executive Summary. He asked if either option one (Ban all open burning in the development areas), or option two (Strengthen current debris waste regulation in the development areas) would require that process. Mr. Davis said if either option is more restrictive, that process is required. The option of increasing the separation distance and requiring special incineration devices is more restrictive than the model ordinance, and, obviously, the total ban on burning would be more restrictive.

Mr. Slutzky said he personally favors the idea of a total ban on burning in the growth areas. He noted that if that was the will of the board then we should do that. If other Board members do not agree he has a number of thoughts about how the recommendations of staff could be modified.

Mr. Dorrier said 157 burn permits were issued in the past year. He asked how many problems arose from those burn permits. Did neighbors complain, was there a lot of smoke, did a lot of fires get out of hand, were there any problems. Mr. Barber said there were nine complaints from neighbors complaining about smoke and ash fallout.

Mr. Dorrier asked what staff did as a result of the complaints. Mr. Barber said they talked with the contractor and had them either stop the burning until weather conditions improved or adjusted the burn to make it hotter in order to reduce the amount of material being burned so a thermal column developed and the smoke was carried away.

Mr. Dorrier asked if they cooperated with staff. Mr. Barber replied in the affirmative.

Mr. Dorrier said the problem was then eliminated by mutual agreement and the neighbors didn't complain after that. Mr. Barber said in some cases the complaints continued.

Mr. Slutzky said in Belvedere the burn had to be shut down every night, which meant that at the beginning and at the end of every day the thermal column lost its draw, so there was smoke and particulates dispersed through the neighborhood. Under the current program that was unavoidable, but there was a constant inundation of particulates and smoke in the neighborhood. The fire people did what they could within the confines of current rules, but they allowed it to happen for a couple of weeks. There was another case in Still Meadows where at a certain point the burn was shut down and the burn permit revoked. Some of these things were not resolved to the entire satisfaction of neighbors, but there's a limit to what the fire marshal can do because burning is permitted.

Mr. Rooker noted the Board has two options. Basically a total shutdown and actually putting a formal process in place and extending the radius within which residents could make the determination they don't want to burn. If option two had been in place, would it have adequately dealt with the nine complaints? Mr. Barber said it is hard to tell if it would have adequately dealt with those situations. Certainly, it would involve more people and give more people the opportunity to weigh in.

Mr. Rooker said he understands from reading this that if one person living within 1,000 feet of where the burn is to take place objects, the permit would not be issued. Mr. Barber replied in the affirmative.

Mr. Rooker said he understands the neighbor gets a notice describing the proposed burn and the length of the burn, and they have a right to object. Mr. Barber said the contractor is responsible for sending out a notice to all residents within 500 feet (the current number in the ordinance) or the 1,000 feet in the proposed ordinance. It would outline the scope of work and the contacts if a person had a problem

and wanted to contact a contractor. If someone in that area had a problem that could not be resolved then a permit would not be issued.

Mr. Slutzky read from the Executive Summary "Currently contractors must have the written permission from residents of all occupied dwellings within 500 feet." He asked if he was correct that contractors are currently putting out a notice saying they are going to burn, and then the burden is on the residents to raise their hand and object. The contractors aren't actually obligated to obtain written permission from each residence. Mr. Barber said the contractor is required to have written permission from folks within 500 feet.

Ms. Mallek said she is shocked that the residents in Still Meadows would have signed something like that because they were suffering.

Mr. Slutzky said he believes the issue in Still Meadows was that the distance was "sort of around 500 feet." This Executive Summary noted that a site plan is not required. His question then is how to determine accurately what's 500 feet and what's not. There are a lot of subtleties as to how this can be implemented. Mr. Barber said a site plan is not required because for every permit that's issued an inspector has to go to the site and physically look at it. Therefore, a site plan would not show anything staff does not see while on site.

Mr. Slutzky said he lives in Northfields and he got particulate matter at his house from the burn pit in Belvedere which is probably one-half a mile away. He said an administrative burden is placed on the person burning to physically get written permission from every residence. Beyond 500 feet, that's a significant administrative burden in the case of a subdivision that could potentially have 100+ homes. Even at that, 1,000 feet doesn't go as far as the impacted community in the case of the larger burns occurring in the growth area. There have been some recent approvals in the growth area that will likely give rise to large-scale opportunities for bonfires. He thinks the Board needs to look seriously at whether or not this approach is manageable or fair.

Mr. Boyd said that under the current ordinance, and even under either one of the options, the burn has to be shut down each night and restarted every morning. Is that part of the real problem.

Mr. Slutzky said it is a subset of the problem.

Mr. Boyd said he understands that not requiring the burn to be shut down would cut down on the ash and particulate.

Ms. Mallek said burns in the rural area are certainly not shut down at night, and often they are abandoned and nobody watches them. It is a real problem for the fire people to manage. Mr. Barber said leaving a fire burning and unattended is a violation. The contractor must either pay someone to man the burn through the night or shut it down in the evening. Until that fire gets hot again and develops that thermal column, there is smoke and ash to deal with.

Mr. Slutzky said in Belvedere the developer actually offered to burn through the night but was told he couldn't – the fire needed to be shut down every night. Mr. Barber said he is not sure the Fire Marshal told them they could not burn through the night. There is a State regulation which only allows burning from February 15 through April 30, because of weather conditions and dryness, to take place between 4:00 p.m. and midnight. Beyond that there's no regulation that would restrict a contractor who wished to burn through the night.

Mr. Slutzky said he thought they said it would have been better to get the burning over with quicker instead of having it attenuated for two weeks and losing the thermal column twice a day. Mr. Barber said that there is a Noise Ordinance on the books and maybe they were concerned about noise.

Mr. Slutzky said that maybe the blowers were an issue. He said they got the impression that they couldn't burn, so when allowing for these burns under these managed and controlled circumstances, there's still a lot of difficulty in actually implementing it.

Mr. Dorrier asked how many of the 157 permits issued last year went to residents and how many to developers. Mr. Barber said staff does not have a breakdown on that number.

Mr. Dorrier asked the alternative for a developer if he doesn't burn. Mr. Barber said they can haul the material away or they can grind it on-site. There are alternatives available, but sometimes they are expensive.

Ms. Thomas asked what the grinding alternative is like. Mr. Barber said one alternative would be to use a tub grinder which burns a hydrocarbon fuel, typically it is diesel. It is a large apparatus into which the stumps would be put and it would then grind that material into mulch - it produces dust and noise.

Ms. Thomas asked if a lot of particulates go up with the grinding operation.

Mr. Rooker said that has been a subject of controversy in Nelson County where a person wanted to operate a tub grinder operation on his property. It was litigated for a number of years because the neighbors did not want the noise and the particulates which are significant.

Ms. Thomas said environmentalists will say the material should be turned into mulch instead of ash. At a place like the landfill where everybody knows it will be there occasionally, it's accepted. If

talking strictly in terms of particulate matter, which is a major issue here, how does having the tub grinder compare to burning.

Mr. Slutzky said he did not know the answer to the question of the size of the particulates themselves, but he thinks it is the geographic domain on which they are deposited. They are significantly larger in the case of the fire versus the grinder. It would be helpful to have answers to these technical questions before making a determination. There is also the option of hauling the material which requires trucks; although none of the options are good, there has to be an option. Hauling it to landfills can be an expensive option which the developers probably don't want.

Ms. Thomas said that puts more trucks on the roads and more strain on the roads. That is not attractive either.

Mr. Slutzky said all three of these are problematic, whether it's grinding, hauling away to a landfill or burning. There have been difficult experiences with burning lately, and if it is expanded beyond 500 feet he thinks a lot of the people with larger burns will not get a permit. The community will still have to choose between other options in most cases. If it is not expanded to at least 1,000 feet, there will be a continuation of a completely unacceptable condition in the growth area which he thinks will only get worse as some of the larger scale developments come on line.

Mr. Boyd said Mr. Slutzky was concentrating on the number of square feet. What about the other aspects such as the pit and blowers. That would not impact whether you get approval from people 1,000 feet away or 500 feet away. Would it improve the situation significantly if the Board just went with that. Mr. Barber said it might offer some improvement; it is not foolproof. In Belvedere, Still Meadows and Fontana there have been complaints, and contractors have been using a pit and blower combination. As these processes start up, there is incomplete combustion so there is smoke and ash for a period of time. Certain weather conditions will cause the smoke and ash to do different things - it's very difficult to offer a foolproof method.

Ms. Mallek said she knows from personal experience that at Tanager Woods, which was a mile away, they burned some and ground some. She could always smell the smoke and had to keep the windows closed, even at that mile distance. She could hear the grinder but never smelled anything. Just for the health issues of the way smoke behaves and its effect on citizens, it's a serious issue.

Mr. Rooker said there were 157 permits issued for burning and a total of nine complaints. Does the Board want to shut down all burning because of that? There were obviously over 140 burns where there were no complaints. With the tub grinding, the people who were near it in Nelson County indicated the noise was a huge issue.

Ms. Mallek said that was not a temporary operation – it was to be there forever. That was a request for a permit to run a business. The burning being discussed is for a short-term period of time, which is different from the neighbor's perspective.

Mr. Rooker said even if the Board chose Option 2 and the distance was expanded, it is likely that large-scale burnings near existing houses would probably be shut down. He would be cautious about adopting something that shuts down burning that is not near anybody and for which there is no complaint. Telling people to take materials to the landfill puts additional cars and trucks on the road, burns additional fuel and that pollutes the atmosphere. He cannot conclude that in some cases burning is not the best option.

Mr. Slutzky said he is not interested in shutting down burning in the rural area, and he guesses the vast majority of those permits were for burning in the rural area. He asked if the fire staff determines that every resident has signed an approval before the burning permit is issued. Mr. Barber said the contractor is responsible for sending out letters and getting written permission as part of his burn plan - after that's done the permit can be issued.

Mr. Slutzky said every resident in Still Meadows was furious about being "smoked out", having to keep their windows shut around the clock and being miserable from the experience. He does not think any of those residents signed anything. He talked with field staff at the time and got the impression that a notice had to go to every residence, which is different from requiring a written document. He asked if staff just takes the word of the person applying for the burn permit that the signatures have been obtained. After the burning starts, if a neighbor within 1,000 feet or 500 feet said he never signed giving permission, would the County have the manpower to implement the rule as written. He thinks the County would have to rely on representations of the permit holder, and he is not sure that works.

Mr. Rooker said if the Board chooses Option 2 there would need to be an administrative procedure in place so staff could determine whether or not they had all the consents necessary before issuing the permit. The notice should be uniform and set up in a way that clearly notifies the person of their rights in this matter. Mr. Davis noted that under the current process, if someone did not give permission and the fire marshal was notified of that fact, the permit could be revoked. That would be an expense of the contractor who started the operation.

Mr. Rooker asked if the burden has been on the County to determine whether the consent of every resident had been obtained. Mr. Davis said he did not know how that has been processed by staff. Mr. Barber said that currently the burden is on staff. They don't maintain those records but do check to make sure that regulation has been upheld when issuing the permit.

Mr. Slutzky asked if staff checks to see actual signatures on pieces of paper. Mr. Barber said "yes", but there is always the potential that one was missed. From what he has heard today, it sounds as though something happened with the permit process for Still Meadows. He agreed to look into it. He said staff does not maintain the letters.

Mr. Slutzky said it was his impression the County allowed the permit holder to just say he had contacted all of the required people, and "contacted" did not mean he had received their written permission.

Mr. Rooker said he thinks staff should retain those signatures for some period of time in case a resident came in and said they did not consent. Mr. Barber said the responsibility to maintain the records had been put on the contractor.

Mr. Slutzky asked how many staff hours were required for the burn in Belvedere – he thinks that type of situation will be replicated with the other large projects that have been approved. Will there need to be more than one signature per household? Mr. Davis said as a practical matter, if there's going to be a lot of people involved, they're not going to burn. He does not think a developer will go through the mechanics of getting an entire subdivision to agree when it's likely one person will not grant that permission. The purpose of the 1,000 feet regulation is so burning cannot take place within 1,000 feet of occupied buildings. That distance creates a more restricted open burn area in development areas, which in some parts is very rural looking.

Mr. Rooker said this ordinance speaks to where the burn is located on the property. Mr. Davis said this would remove burning from populated areas. Even under the existing ordinance, if the conditions are such that the burn is causing a danger to health or welfare, the fire department has the authority to shut the burn site down if the particulate matter is bothersome to a populated area.

Mr. Slutzky asked how Option 2 is different from the existing ordinance. Mr. Davis said the 1,000 feet in this proposal would require special incineration devices, which creates a more complete hot burn.

Mr. Slutzky said in each of the two instances mentioned they had the heat column. They were following that higher standard, whether it was required of them or not, and it still didn't solve the problem. Mr. Davis said under this ordinance the fire department has the authority to require the hot burn (which they don't always require now), and they could require that the site be operated continuously so it's not shut down and started up again if that's a cause of concern.

Mr. Slutzky said State law would not allow that at certain times of the year - that may have been the case at Belvedere. Mr. Davis said if it was found that the health and welfare of residents was being compromised by that burn situation, they would shut it down entirely and tell them to wait until May to burn.

Mr. Slutzky said he is struggling with this. Mr. Davis has said the fire department could shut down the burn based on assertions that there were health and welfare problems. Mr. Slutzky said there have been issues where there was a perception of health and welfare problems in large numbers of nearby residents, and the burn was not shut down. Is there something in this proposed ordinance that changes that? Mr. Davis said there's a perception of health and welfare problems and then there's a finding of health and welfare problems - the fire department has to make those findings.

Mr. Slutzky said he does not think it is realistic to put the fire department in a position to have to say what size particulates are being produced from a particular burn. Mr. Davis said the people who have the expertise in this matter must be relied on to make those determinations if the ordinance is to work effectively.

Mr. Slutzky asked Mr. Barber if he is qualified to make such a determination. Mr. Barber said he is not qualified to do that. There is nothing in the code that mentions anything other than objectionable smoke and ash. To investigate a complaint, they go to the site to see if there is ash or if they can smell smoke. There's no better way currently to do it.

Mr. Boyd said he does not think the Board will be able to resolve this question today. The question before the Board is whether there is enough interest to move forward with one of the two options, ask staff to flesh out the details and bring that information back to the Board.

Mr. Slutzky asked if Mr. Boyd wants to discuss this again before having an ordinance to vote on.

Mr. Boyd said that is what he is saying.

Mr. Rooker said he supports doing one of the two options. However, he wonders if a burn could be allowed to start after getting the necessary consents and then if it exceeded expectations someone could withdraw their consent and the burn be shut down.

Mr. Dorrier said he would like to see the Blue Ridge Home Builders weigh in on this. He said Option 2 looks good. He does not think a ban on burning would be good because it would drive up the cost of houses. He thinks the nine complaints would have been solved with Option 2.

Ms. Thomas said this conversation reminded her that Martha Jefferson Hospital left the City because the City was more protective of its neighborhoods than it was of development opportunities. She would like to hear from developers about the impact of the 1,000 feet or an outright ban. The Board wants the development areas to be developed, but it also wants the urban area to be an attractive place to live

so existing neighborhoods must also be protected. This is not a cut-and-dried issue in terms of the Board's larger responsibility both to the people already living in the development areas but also to developers. She would like to know more about the alternatives, particularly grinding, and what the State Air Pollution Control Board says about that. Mr. Barber noted that in researching this matter, staff spoke with some local contractors. Some of them felt that regulations are strict enough already. They felt that some of the complaints were not due to burning but because of development in general.

Mr. Boyd suggested the Board consider setting a work session and taking public input at that time. He thinks there are plenty of questions to be answered before moving forward with any ordinance.

Mr. Slutzky suggested that staff bring back to the Board at a public hearing an ordinance change that is a total ban and an alternative ordinance – the Board could consider two ordinances at the same time on the same subject, and then choose one of them or neither of them. He asked Mr. Davis if that is correct, and Mr. Davis concurred that it is.

Mr. Slutzky said in support of the Board's deliberations and the public's understanding of the issue the Board should ask staff for a report on several specific elements. One would be on the relative health consequences associated with grinding versus burning versus land filling.

Mr. Rooker said he would like to understand a little more about the noise from grinding.

Mr. Slutzky said there is also the noise factor, the particulate factor, and there is the truck damage to roads. In other words, a staff report should lay out all the relative pros and cons, including cost, and a specific explanation of what 1,000 feet means. Would the ordinance require County staff to review each of those permission slips and confirm that every single resident has been contacted. Would this be left in the hands of the permit applicant.

Mr. Boyd said he does not think staff should draft an ordinance with all of these questions needing to be answered. That is why he suggests having a work session and taking public input at the same time.

Mr. Slutzky said he would then **move** that a moratorium be imposed until that meeting is held. If the Board is going to have a work session and study it for a few months, there is the potential of having a summer of large burns - the impacted residents should be protected from that.

Mr. Boyd asked if a lot of large burn permits have recently been approved or in the "mill". Mr. Barber said he does not know how many permits have been approved. Staff could suspend burning for a time if that is the Board's desire. Mr. Davis said he is not sure that can be done. There is an ordinance in effect, so if they can meet those ordinance requirements, the County has no authority to ban burning unless there are conditions that warrant that situation.

Mr. Slutzky asked if the Board could ask staff to make sure that within 500 feet of the burn every house has been counted and signed approvals obtained. Mr. Davis said the process the fire people are using can be tightened up. The current ordinance requires that there be consent of the property owners within 500 feet. It also gives the fire marshal the authority to suspend operations and place additional permit conditions on anything that endangers the public health and welfare or to ensure compliance. There is already a lot of authority within this ordinance that can be exercised if the conditions merit it, but it has to be based on the judgment of the fire officials.

Mr. Slutzky said fire officials have acknowledged that they don't feel qualified to determine what is unacceptable, other than if they smell the smoke or see the ash. They can't make the health determinations.

Mr. Rooker said he would like to make certain that the form being used for people to sign clearly describes the nature and the extent of the burn, including the time period over which that burn is proposed to take place.

Mr. Tucker said that is why the burden was on the developer - because they knew where the actual burn pit would be located staff felt it was better for them to explain what was to be done. Then there is the matter of signatures. Currently, for the dog leash law, there has to be a request by 51 percent of residents within the area to get the question before the Board. He agrees with a statement made earlier, that if everyone in an area would have to sign to approve burning, it will never happen.

Mr. Rooker said apparently that has happened in the past somehow. That's why he wants to be sure everyone is presented with the same form requiring certain information so the person signing it does so under full disclosure.

Ms. Mallek suggested there be a form on the County's website for the developer to fill out showing distances, approximate location, and with an explanation of what they would explain to the citizens. She thought it was simple to get County records easily from the GIS system plus mailing addresses. She does not think there should be any excuse that people were not notified correctly. Mr. Tucker said that is correct.

Ms. Mallek said she thinks the files should come back to the permitting authority so if there were a complaint, staff could look quickly to see if that person had signed. She said there was one other thing with the burn in Still Meadows. The fire people went out and turned off the fire and then five minutes later somebody came with a gas can and started it again – this went on for weeks.

Mr. Rooker said in Still Meadow there are probably places that are more than 500 feet from any existing residence before it was built out. He said that even under the current ordinance, the 500 feet might not have been adequate.

Mr. Slutzky asked if the other Board members agree that the Board ask the fire people to not issue a permit until they have a drawing showing the approximate location of the proposed burn, a list of all of the residential homes within 500 feet from the person requesting the burn, and a copy of their signed approval documents, and that be the status of this until the Board has time to review it again.

Mr. Rooker said he wants the consent form to be a standardized form.

Mr. Slutzky said the Board can ask the fire department to prepare such a form, but starting tomorrow they don't have one. That might be a topic for the Board to address.

Ms. Mallek asked if the Board is talking about 1,000 feet everywhere. She said a lot of people live in the country within 1,000 feet of a whole lot of things who would like equal protection under the law as well. She would be happy to ban burning in the growth area and not in the rural area, but if that is not possible, the wider distance is needed.

Mr. Davis said he is not clear now as to what the Board's expectation is for the work session.

Mr. Boyd said the Board has a number of questions and it wants to give the public a chance to speak, and they want to hear directly from the development community. Mr. Davis said based on the questions raised today, the Board does not want ordinances advertised or prepared.

Mr. Boyd said that is correct.

Mr. Slutzky said the new information should address all the topics raised such as the health effects and the cost. Mr. Tucker clarified that within the bounds of the current ordinance, what's sent to the public should be refined, there should be a new document for people to sign, and the actual burn pit should be identified - staff can do all of that immediately.

Mr. Slutzky said written permission from all affected parties should be identified. Mr. Tucker agreed. He said staff will bring back for a public comment work session the two options discussed.

Ms. Mallek said the extra condition in option two about shutting down is not in the proposed ordinance now. That needs to be added.

Mr. Rooker said the concept that someone can withdraw consent at a later time needs to be included. He asked if the current ordinance applies both in the rural areas and in the growth areas. Mr. Davis said that is correct.

Mr. Bryan Elliott, Assistant County Executive, said as soon as staff can make the new consent form available, these new practices can be implemented. If the Board can wait 90 days or so before holding a work session, staff could get a track record on the effectiveness of these measures in terms of a decrease in number of complaints.

Mr. Slutzky said he thinks that information would be useful to some limited extent, but due to the economy, he does think there will be many large bonfires in the next three months.

Mr. Boyd said he has no problem waiting that long for a work session. All agreed.

Ms. Mallek said she went on a fire call that was actually a burn. Apparently they had a permit but did not have it on site so there was a lot of telephoning back and forth. When the call came into the ECC there was a question about a burn permit and the location of the burn. The fire department ran up and down the road until access to the spot was found. Procedurally there should be more information readily available to the firefighters when they respond to a complaint or a call. If something is happening and she calls, the first question she asks is whether there is a controlled burn in the area - the dispatcher can usually answer that question.

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Agenda Item No. 13. Closed Meeting.

At 12:21 p.m., **motion** was offered by Ms. Mallek that the Board to into a 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. The motion was **seconded** by Mr. Slutzky.

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

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

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Agenda Item No. 14. Certify Closed Meeting.

At 2:03 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. The motion was **seconded** by Mr. Slutzky.

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

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

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

Mr. Slutzky **moved** that the Board:

Appoint Ms. Chelsea Henderson to the Commission on Children and Families as the youth representative, with said term to expire June 30, 2009.

Appoint Ms. Janette Martin to the Commission on Children and Families, with said term to expire June 30, 2011.

Appoint Mr. Duane Zobrist to the Region Ten Community Services Board, with said term to expire June 30, 2011.

Appoint Mr. Terry Rephann to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2010.

Reappoint Mr. Morgan Butler to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2010.

Reappoint Mr. Jamie Spence to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2010.

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

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

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Agenda Item No. 16a. Transportation Matters: VDOT Monthly Report/Advance Mills Bridge Update, and Agenda Item No. 16b. Transportation Matters not listed on the Agenda.

Mr. Allan Sumpter, Residency Administrator, said with regard to traffic engineering items, VDOT has had full resources dedicated to working on the Route 29 and Ashwood Boulevard traffic study. He said VDOT has received a verbal approval from Ms. Connie Sorrell, the Chief of System Operations, to proceed with the reduction of the speed limit in that area to 45 miles per hour. This has been discussed with Mr. Malcurley...(sp), VDOT's Chief Engineer, who also has to sign off on the speed reduction. They are expecting that the paperwork will be signed today. If all goes well, signs noting the decrease in the speed limit should be installed before the holiday weekend, but there is one issue. Some of these signs need to be placed in a new location, so it is not just a matter of taking the old sign down and putting a new sign up. They had to get Ms. Utility to come in and do the markings. VDOT stressed to them the urgency of that, but that is a controlling factor. VDOT is expediting that as much as possible.

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Mr. Sumpter indicated that because the department has been focusing on the Route 29 project, some other things have fallen behind such as Ms. Thomas' guardrail request for Faber Road.

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Mr. Sumpter said there is a sight distance issue at the intersection of Woodlands Road and Reas Ford Road due to brush and shrubs. VDOT had been working with the property owner attempting to get her permission to allow removal of the bushes replacing the shrubbery at another location. There was also an underground dog fence the owner wanted adjusted. If VDOT cannot get this accomplished with the owner, a plan would have to be established, a survey done, and a condemnation public hearing held if a sight easement is required. Partnering with the owner is the better alternative, but suddenly there is a different property owner and VDOT has been unable to contact him by phone. A letter has been sent asking that discussions with him begin.

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Mr. Sumpter said Mr. David Miller had contacted Mr. Rooker about a pipe on Route 601. VDOT is in the process of getting environmental clearance so it can replace that pipe. There is a stream in the vicinity that is shown to have the spiny mussel, an endangered species, so environmental clearance is required. He said VDOT has to go in front of all the different governing agencies and make a presentation of their plans before any work can be done. It is on their agenda for August, and VDOT is currently doing its upfront work to get the pipe and everything ready to go. He has advised Mr. Miller of the process and he responded that he is satisfied with the explanation.

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Mr. Sumpter said Mr. Rooker also brought up an issue concerning illegal signs. He has talked with Mr. Tucker about working with the County on this issue. He proposes that they draft a letter to the development community and some businesses, to let them know of the concerns and issues with these signs. Beyond that, VDOT can try to aggressively pursue some of the sign issues. The difficulty for VDOT is that there are so many illegal signs it would require more positions to take care of the problem.

Mr. Rooker said there are probably not more than five miles of roads involved because most of the signs are posted in certain areas. Mr. Sumpter said VDOT is getting more complaints from the general public about these signs. He said that right in front of the VDOT office, on weekends, signs are being put up. It is a problem to deal with, but it is a resource problem. He said the Code of Virginia allows assessing a penalty, but it would not cover the costs to enforce. He proposes working together with the County to get the word out.

Ms. Thomas asked if this is a situation where volunteers could be trained and be of any assistance. She said some people in the community are incensed with these signs so she thinks there would be a dozen people who would be willing to spend an hour every single Saturday morning working on this. She asked if that would be legal. Mr. Davis said VDOT has liability issues with people being in their right-of-way. These signs are usually posted in high traffic areas. A few years ago a volunteer removed a sign and then was sued for doing so. There is always a judgment call that has to be made whether the sign is in the right-of-way or not. If it's in the right-of-way then VDOT has the authority to remove those signs. If it's not in the right-of-way, County Zoning laws take effect, and there is a notice requirement, et cetera. He thinks it is possible to use volunteers, but there would be some trepidation in doing that.

Ms. Mallek said when she was campaigning there was mention that a fine of \$100 per sign can be assessed. She asked if that is relevant to this. Mr. Sumpter acknowledged that it is \$100 per sign fine.

Ms. Mallek said she thinks a little enforcement would probably change behavior overnight. She asked if fines had been collected in the past. Mr. Sumpter said VDOT has not collected any fines locally. There is a provision in the State Code that allows the person who puts up the sign to challenge its being removed, and often they go to court. VDOT then has the expense of the Attorney General's office to defend its action. He said that with the cost of staff time and the legal expenses, it becomes challenging.

Mr. Rooker said there are signs in the median, so there is no argument about whether they are legal. Mr. Sumpter agreed, and noted that the ownership of the sign is the challenge at times.

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Mr. Sumpter said Ms. Thomas had a question about the triangle at Bellair Market. He has asked that it be cleaned up

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Mr. Sumpter said the next item concerns the Advance Mills bridge. The public hearing on that project will be held on Tuesday, July 8, at the Best Western Charlottesville-Airport on Route 29 at Ruckersville, from 5:00 p.m. to 7:00 p.m. There will be renderings on-site (computer-simulated pictures), showing the existing bridge at its existing location, then it will show what a truss bridge would look like sitting at that same location. There have been questions about the documents needed for this project. The most significant document is the Memorandum of Agreement. He received word this morning that the document is 98 percent complete - DHR and VDOT have been exchanging edits over the last several days. It is to the point where a decision is needed on one or two words, and it will be ready for DHR to sign.

Mr. Sumpter said after the public hearing there will be a two-week comment period, and then VDOT will put together all the information collected to date and send that information to its Central Office to have the public hearing approved. It would be helpful for VDOT to have a resolution from this Board in support of the concept within two weeks after July 8.

Mr. Boyd said the Board would have to discuss a time when it could meet to adopt such a resolution and would notify Mr. Sumpter of that date, but it appears that it would be on July 23 at 6:30 p.m.

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Ms. Mallek said she had spoken to Mr. Sumpter about the drainage issue at the Harold Gentry property on Buck Road in Crozet. Where drainage comes off the mountain and goes under Buck Road into a 24-inch pipe, the landowner on the downfall side has contained that flow in a smaller pipe underground, so it creates flooding back over the road. Mr. Sumpter indicated he would check on it.

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Mr. Rooker said Mr. Sumpter was going to check with Mr. Greg Krystyniak. Mr. Sumpter said some work has been ongoing. He said almost his full staff has been devoted to getting the Meadow Creek Parkway going. He plans to resume work on Georgetown after this is off their plate. Much like the Traffic Engineering Division which has been involved with the Ashwood Boulevard project, the design staff has been involved with the Meadow Creek Parkway. A couple of things have happened; he has been able to start coordination with the utility section, to try and avoid as many conflicts there as possible by giving them preliminary information.

Mr. Rooker said the utility issue is probably the major outstanding issue now. Mr. Sumpter affirmed that it is.

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Mr. Thomas mentioned the Dry Bridge Road bridge that the railroad is in charge of, and asked if they have finally received their wood planking. Mr. Sumpter said he has not received a report this week. He spoke with Mr. Gary Wilson from their office last week and he said that the company where they get their timbers has to set their machine special to cut those timbers. They are trying to fit that work in with their other work. He said assistance has been requested from VDOT representatives in Richmond who deal with the railroad every day.

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Ms. Thomas said Route 250 West was being impacted due to construction on I-64 so she was delighted to hear that construction at the Stockton Creek has ended. Some who travel that road every day think the two stoplights (one at Farmington and one at Ednam Forest), may be contributing to the backup of traffic. They think there is something more involved than just the I-64 additional traffic. Mr. Sumpter said at the entrance to Farmington there will be an upgrade done as part of a maintenance project. That signal is presently on a tether wire and will be changed to a regular mast system. Presently, the camera at that location is swaying so it does not pick up some of the vehicles on the road there. VDOT does not want to spend time, effort and money at this time on something that would be just a temporary fix. Backing up traffic is not life threatening, although it is impacting some of the recalls and the timing of the signal.

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Ms. Thomas said Mr. Sumpter was going to see whether a blinking light could be put in at the White Gables development – is was part of the proffer. Mr. Sumpter said it is on VDOT's list, but it has not been resolved because of their other workload.

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Mr. Slutzky said all along both sides of Hillsdale Drive and also on Pepsi Place there are six-foot boring cuts in the pavement that are empty. He said someone could walk across that road at night and have an accident. He asked if those holes can be patched – they have been around for a few months. Mr. Sumpter affirmed he would check into it.

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Mr. Slutzky said heading south on Route 29 as one approaches either Rio Road or Hydraulic Road, the light sequence only allows about four cars to make a left turn before the light turns again. Mr. Sumpter said they are still working with some of the controllers. There is also a detection issue at that location so further work is needed on the loops - it's almost running like an automated sequence.

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Mr. Slutzky said heading east on Rio Road there is a turn arrow to turn left onto Northfields Drive, and also onto Old Brook Road. He has lived there for 10 years and recently discovered a turn arrow there - because the timing sequence is so illogical one rarely runs into it because it is so short. He suggested Mr. Sumpter look at the timing sequence of that signal.

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Mr. Slutzky noted that the speed limit on Carrsbrook Drive has been dropped to 25 miles an hour in an effort to reduce the amazing speed people drive on that road. He asked if there are traffic calming options available on a 25 mph road Mr. Juandiego Wade, Transportation Planner, replied that County staff has been working with that neighborhood association for the last few months, and VDOT is waiting to hear from them as to whether they want four-way stops or speed humps. Mr. Slutzky indicated he would talk to the neighborhood association.

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Mr. Dorrier said work is needed on Route 713 in the Keene vicinity between the Quiet Entry Farm and Route 795, because the road is rough.

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Mr. Sumpter stated that at the store on Route 20 (Salem 12) VDOT is working on the road to improve turning movements and to help people crossing the road.

Mr. Dorrier noted that there are some white markers there. Mr. Sumpter said some delineators will be added and they are working on other things also.

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Mr. Boyd thanked Mr. Sumpter again for the work that VDOT did at the entrance to Forest Lakes on Route 29. He told the Board earlier today how well the meeting went last night. It is nice to hear that the sign might be put up before the holiday. He asked that the Board members be sent a copy of the report concerning that intersection. Mr. Sumpter said the report is being converted to a PDF document, and it will be sent as soon as available.

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Mr. Boyd said he appreciates the work done on the Black Cat Road railroad bridge, because that needed to be done.

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Ms. Mallek asked, referring to the discussion about the speed sign going up on Route 29, if VDOT ever uses a temporary sign while waiting for Miss Utility to respond. Because of the holiday weekend, she thinks this would be a good time to get people's attention. Mr. Sumpter said that when talking about a

temporary measure there is always the possibility of having a sign blow into the road or be blown down. VDOT would want that sign to be placed permanently for enforcement purposes.

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Mr. Slutzky said that on the last page of the VDOT Monthly Report, the maintenance budget is shown - actual vs. budgeted. There is a pleasant gap between the actual and the budgeted, so he is curious as to what happens to that \$2.5 million that wasn't spent. Mr. Sumpter said that in reality the number shown does not reflect the final number for the year. VDOT will not close the fiscal year and know the final number until mid to late July. He indicated that the biggest part of the gap involves program-paving money because in this fiscal year the contractor doesn't actually get the paving done until after July. He said there is a rollover effect with that.

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Agenda Item No. 17. **Public Hearing:** Elections - Central Absentee Voter Precinct. To consider the adoption of an ordinance to amend Section 2-107, Central absentee voter election district, of Article I, Elections, of Chapter 2, Administration, of the Albemarle County Code. The proposed ordinance would change the central absentee voter precinct from the Albemarle County Office Building at 401 McIntire Road to the Albemarle County Office Building at 1600 Fifth Street. (*Public Hearing advertised in the Daily Progress on June 16 and June 23, 2008.*)

Mr. Tucker said the Electoral Board is requesting that the absentee voter precinct be relocated from their office in the County Office Building on McIntire Road to their office in the County Office Building on Fifth Street. They want the central absentee voter precinct to be located in the Registrar's Office which is now at the Fifth Street location. It will eliminate transporting ballot counting machines to Fifth Street and increase ballot security. Staff recommends approval of the advertised ordinance after holding the public hearing.

Mr. Slutzky asked how the public will be notified of this change.

Ms. Clarice Schermerhorn, Elections Manager, said the only thing that will be moved is the place where they process and count the absentee ballots on election day. Currently, all in-person voter absentee balloting takes place in the Registrar's Office. The people who come in on election day to vote in person are usually coming in as a result of a phone call. They have their absentee ballot in hand and do not know if they are supposed to vote at their precinct or at the central absentee precinct. They are told where to hand in that vote - the central absentee sign is put up 45 days prior to election day at the Fifth Street building. She does not think anyone will be confused.

Mr. Boyd said if there were no further questions for staff, he would open the public hearing. With no one from the public rising to speak, the hearing was closed and the matter placed before the Board.

**Motion** was offered by Mr. Slutzky to adopt Ordinance No. 08-2(4), An Ordinance to Amend and Reordain Chapter 2, Administration, Article I, Elections, of the Code of the County of Albemarle, Virginia, by amending Section 2-107, Central absentee voter election district, as set out in full below.

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

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

NAYS: None.

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

#### ORDINANCE NO. 08-2(4)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, ARTICLE I, ELECTIONS, 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 2, Administration, Article I, Elections, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained by amending Section 2-107, Central absentee voter election district, as follows:

### CHAPTER 2 ADMINISTRATION

#### ARTICLE I. ELECTIONS

##### **Sec. 2-107 Central absentee voter precinct.**

There is hereby established a central absentee voter precinct on the first floor of the Albemarle County Office Building, 1600 5<sup>th</sup> Street, Charlottesville, for the purpose of receiving, counting and recording absentee ballots in all elections.  
(11-14-84; Code 1988, § 6-9; Ord. 98-A(1), 8-5-98; Ord. 01-2(1), 5-9-01; Ord. 08-2(4), 7-2-08)

**State law reference**—Authority to establish central absentee voter election precincts, Va. Code § 24.2-712, as amended.

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Agenda Item No. 18. **Public Hearing:** ZMA-2006-008, Berkmar Business Park.

Proposal: Rezone 5.67 acres from R-6 zoning district which allows residential uses and up to 6 units per acre to Neighborhood Model District (NMD) for up to 275,000 square feet of commercial use and up to 190 units. NMD allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses.

Proffers: Yes.

Existing Comprehensive Plan Land Use/Density: Regional Service - regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre) in Neighborhood One.

Entrance Corridor: No.

Location: Along the east side of Berkmar Drive between Woodbrook Drive and Hilton Heights Drive north of Planet Fun.

Tax Map/Parcels: Tax Map 45, Parcels 112, 112 E, and a portion of 112G.

Magisterial District: Rio.

*(Public Hearing advertised in the Daily Progress on June 16 and June 23, 2008.)*

Ms. Elaine Echols, Principal Planner, summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. She said the signed proffers have just been received, so have not been reviewed by the County Attorney's Office. This is the first time she has seen an original set of proffers, so she does not think the Board is able to take action today on the public hearing. She asked the County Attorney if that is correct. Mr. Davis said his office has not reviewed the proffers.

Ms. Echols stated that she believed the applicant has that same expectation.

Mr. Boyd asked if the Board should go ahead with the presentation.

Mr. Rooker said he thinks the Board should go ahead with the public hearing. The Board could always reopen the public hearing if necessary at a reconvened date. He said this petition is fairly complicated so it would be helpful to have some time to go through it.

Ms. Echols said that normally the Board would see such a request at a work session before getting to this particular point in the process. She said this is a request for a rezoning that was originally requested in 2006. It is a request to rezone 5.67 acres from R-6 and C-1 to Neighborhood Model District for a maximum of 275,000 square feet and 190 units. The property is located on Berkmar Drive but also sits to the rear and west of Keglers Bowling. There is an existing roadway easement that goes almost to Schewels Furniture - there is a roadway that comes out between Better Living and Schewels. She showed on the screen a zoning map of the area proposed area for rezoning - part of the property on the south is zoned C-1 and part of it is R-6. In the Comprehensive Plan, Land Use Plan, all of that area is shown for regional service. The Places29 Master Plan has different land use recommendations for the area - Office R&D and commercial use. The idea is that the area would be more employment related than commercial and retail.

Ms. Echols said the applicant has provided a general development plan as well as an illustrative plan. A general development plan is the guide to the form of development that is to take place on the site. There is an area of special enclosure shown - there would be buildings along the front of the property on Berkmar Drive. On the side of the property there would be Level 1 spatial enclosure - that means 65 percent of the frontage would be covered with buildings. She pointed out parking areas. A main street of sorts is proposed and it has less spatial enclosure - there would not be as many buildings along that side of the street. On the opposite side of the street would be spatial enclosures. The concept for the primary and secondary development zones is that those areas would be built first in order to get a face to the street with parking relegated behind the buildings.

Ms. Echols said the next image is an illustrative plan. It is not the exact expectation for the development, but instead shows how development might take place in accordance with the general development plan. There are buildings along Berkmar with parking behind those buildings. She indicated an image showing buildings along the secondary or main street area - it shows a driveway coming into the development and going through to indicate this would be a structured parking development. She showed an image giving the relationship of this development to the old Planet Fun site; staff currently has a site plan for that property for review. There have been different plans showing the possibility of having a road come all the way from an intersection on Route 29 between Schewels and Better Living. There's a four-block layout on the plan showing primarily office and retail development. There is also an option for residential uses and townhouses or apartments. The applicant's Code of Development shows buildings with a minimum of one story and a maximum of five stories.

Ms. Echols said the proffers that went into the Board's packet (not those received at today's meeting) contained 15 percent affordable housing; some cash proffers for the impacts of residential units in accord with the Board's policy; \$363,000 for transportation improvements, a right-of-way dedication, and a transit stop; a commitment to do some stormwater basin improvements because the stormwater basin currently is maintained by the County; and, some enhanced erosion and sediment control measures. Factors favorable to this development are: it would be a compact and urban design; and, it would reflect most of the design elements of the Neighborhood Model. Staff believes the uses proposed are in conformity with both the Land Use Plan and the proposed Places29 Master Plan in terms of use.

Ms. Echols said staff would like to talk about the factors that are unfavorable later in the meeting. First is the need for a connector road and/or other transportation improvements. Staff does not believe that's been proffered adequately. There is need for off-site permanent easements or commitments to use

an easement for the northern entrance drive, or the applicant needs to build and dedicate a driveway on his own property. There is a need for a better spatial enclosure along Berkmar Drive, and staff believes the amenity areas are too small.

Ms. Echols said the connector road to Route 29 is shown on the Places29 Master Plan but is not shown at this time on any other plans. However, it's a link staff believes is important to creation of the County's parallel road system. The traffic study provided by the applicant showed that a connector road was needed to mitigate the impacts of development when there is over 60,000 square feet of development. The road is shown as a commercial driveway on the development plan, but there is no guarantee it can or will be built, partly because there's an unwilling adjoining owner and partly because the owner is not willing to build it solely on his property. There is a cash proffer of \$363,000 which staff does not think is sufficient to cover the costs to mitigate the impacts, but it could be used by either the County or VDOT to build some kind of transportation improvement in that general area. If the commercial drive (northern driveway or connector road) is not built, there would be only a single point of access into a very intensive development.

Mr. Rooker asked if the owner can actually build the road solely on his property, since it was indicated that he is not willing to do so. Ms. Echols said the road has not been engineered, but the County Engineer looked at the site and thinks it is possible. She then pointed out on a map the location of the road, and the land controlled by the owner. She said the easement extends from Berkmar Drive down to the end of Schewels driveway; from that point out to Route 29 she is not sure who owns the property. The County Engineer believes the driveway could be moved over and then constructed to a certain point on the applicant's property. This has not been seen on a previous proposal because until recently staff thought the road could be built. The indication now is that the adjoining property owner has no interest in it ever becoming a connector road, so the applicant had to change his proffers. The applicant does not have full control of the easement that would help set up the connector road.

Mr. Slutzky commented that Ms. Echols stated in her report that it's a road the applicant is choosing not to build, but it seems from viewing the map that he can't actually build a connector road at all. Ms. Echols said he does not own the property needed to build all the way down to the point she pointed out on the map - he can't build it past his property line.

Mr. Rooker asked Mr. Davis about the easement area. Mr. Davis said he had not looked at the easement, but it is his understanding it is a private easement area for the benefit of those properties. It would most likely require the consent of all of those property owners to dedicate it.

Mr. Rooker said he could not build a public road, but what about a private road. Mr. Davis reiterated that he had not seen the easement agreement so does not know what can be built in it.

Ms. Echols said staff was told by the applicant and the adjoining property owner that they have to jointly agree about the use of that particular easement. Staff has a letter from the adjoining property owner indicating the conditions under which he would allow that to be used as a driveway, and the proffers conflict with that now. She suggested the applicant speak to that.

Mr. Rooker said as far as building the road all the way out, there is a letter from Better Living that they have no interest in closing off their existing entrance, and that VDOT wouldn't allow the new entrance unless their existing entrance was closed. Ms. Echols said there is an alternate way for transportation here: the situation starts down where there is the equivalent of a service road in front of Better Living and in front of Schewels. She said when the Board members saw the request for a special use permit for Rivanna Plaza that plan indicated that Schewels is closing off an entrance, so the issue would come up with the Better Living property. She thinks there may be an issue with Schewels since they use this parking lot.

Mr. Slutzky asked if they just newly constructed that parking area in the back. Ms. Echols replied in the affirmative.

Mr. Slutzky asked if Ms. Echols was saying they just created that and will stop using it. Ms. Echols said "no." There is customer parking in front, but delivery trucks would still come through to the back. She said there is two-way traffic on a service road in front of Better Living. She continued by saying that in order to have a public road, intersection improvements would be needed. In order for this property owner to allow for use of the easement as a public road, there would have to be a recirculation plan developed. She said staff had discussed this with the owner, Mr. John Nunley, and he is not interested in participating in any kind of a plan to make any recirculation happen now - he is not interested in seeing it ever become a connector road.

Mr. Boyd said he thinks Mr. Nunley is reluctant to have access to his store hindered by an entrance there. It's not a matter of him being against a connector road, but it would create an untenable situation for his delivery trucks. Ms. Echols said he sent a communication recently saying he's not interested in a connector road. She said staff understands from conversations with him that if the circulation could be re-worked so that he is not losing the opportunity for his delivery trucks to get in at the light, he might agree to something in the future. Right now he's not ready to redesign that circulation.

Mr. Slutzky said there are big trucks that need to get into their storage yard and the hill on that driveway is on quite a grade. In order to make a left turn, part of the vacant land would have to be used between the right-of-way and their building. That would foreclose the opportunity to use that land for building something in the future. There may be good business reasons why the property owner would choose not to collaborate in the current alignment for the road.

Mr. Rooker said trucks don't have to come in the back way. He is talking about customers, not trucks. How many people go to Sam's Club using Berkmar Drive as opposed to using Route 29. He thinks it would be interesting to do a survey and find out how many customers arrive at places off of Berkmar Drive as opposed to Route 29.

Mr. Slutzky said it's not just the furniture store but it's also the lumberyard at Better Living. They have a lot of truck customers who couldn't make it down that grade. The important issue is that the property owner has said he is not going to do it and does not want it done. He said that in Places29 there is a vision for a connecting road in this area but that is compromised by the near-term reality of property rights. He asked if the Board can impose on this applicant the burden of doing something he can't do. Does the Board provide an opportunity for that connecting road to be built at another time by having the applicant proffer a dollar value equivalent to what they would have spent to solve their problem. He said that is separate from whether or not the dollar amount is correct.

Mr. Rooker said it might be helpful to set up a meeting with Mr. Nunley to discuss this. Ms. Echols said staff has done that and it was their impression that they were not ready to put together a plan for future use and development of their site. At this time, anything that happens on that connector road will potentially affect their potential to use the property. It is a matter of timing; they are not ready. If they had filed a site plan on this part of their property, staff would be talking to them about this intersection. She thinks they understood that, but under a by-right scenario, VDOT has some ability to require modifications. The real issue is that they don't want to have their truck access cut off, and they fear that someone will cause that to happen.

Mr. Boyd asked what kind of modification VDOT would make to that intersection if a connector road could be put through there. Ms. Echols suggested that the County Engineer answer that question.

Mr. Glenn Brooks, County Engineer, said they have no clear solution in mind. They would close the two side entrances. One would be the access road to the Nunley's (Better Living) and the other one would be into the Schewels parking area. He said the two service entrances are within the intersection they would want to close; they are within the operational queuing of the intersection.

Mr. Boyd said that in essence it would cut off their access. Mr. Brooks said VDOT suggested that the access be moved back.

Mr. Slutzky said that would compromise the potential use of the vacant parcel of land that's next to their store, and they're not ready to make that commitment at this time. Mr. Brooks said that is correct.

Mr. Rooker asked that if that connection were made on Route 29 the service road would be closed. Mr. Brooks said the service road has four entrances on it.

Mr. Rooker said he understood one entrance on Route 29 would be closed, but not the service road itself. Mr. Brooks said that is correct.

Mr. Rooker said service roads normally run very close to major roads. Mr. Brooks said that was correct.

Mr. Slutzky asked if going southbound one must make a sharp right turn to get onto that service road. Mr. Brooks said that currently cars use the entrances in front of the store.

Mr. Slutzky asked if those entrances would remain open. Mr. Brooks said they would.

Mr. Slutzky asked if VDOT is proposing they be shut down. Mr. Brooks said it would be easier to explain if he had a picture of the site. Someone furnished an aerial of the site, and he said the service road entrance across from the Schewels entrance would have to be closed.

Mr. Boyd said it would create a left-hand turn for a truck to get in. A northbound truck would have to make a U-turn and come back south to get in there. Mr. Brooks said that is their claim. An 18-wheeler truck goes in at a diagonal if it's heading north.

Mr. Slutzky said he understands the logic, but it is even more important to understand it is that property owner's right to not collaborate at the moment.

Mr. Rooker said he has the right to not go along with it. He was just trying to understand why he did not view it as advantageous. Mr. Brooks said staff met with Mr. Nunley at his store and talked about it at length; he has concerns about the future use of his parcels.

Mr. Slutzky said it does not seem to be possible for the Board to require the applicant to build the connector road. The question is: where does that leave the Board as a matter of course. Mr. Cilimberg suggested staff finish its presentation so the Board can see the questions it thinks are important.

Ms. Echols said there are two other issues internal to the development. One of them is the spatial enclosure issue – that means there is a building setback which is a little shallower than what has been used in commercial settings because parking lots are usually in front of the buildings. The applicant is proposing having buildings along Berkmar with those buildings fronting the street instead of having the parking located there; but he is not proposing multi-story buildings. She noted that the image on the screen was taken from the Places29 Master Plan looking north toward the proposed Berkmar Bridge. This is not the exact location of that representation, but shows what Berkmar Drive might look like.

Mr. Slutzky asked if the applicant is proposing a tall one-story building. Ms. Echols said that is correct. It would be a tall one-story on Berkmar with no minimum two stories interior to the development.

Mr. Slutzky asked if that is consistent with the form and design. Ms. Echols said it is and noted that when trying to create a pedestrian-friendly environment, you want the pedestrian to know how tall the building is next to him. That is done by having windows which show the number of stories. She said the scale of a 20-foot-tall one-story building doesn't work well to do that. She said the ARB has problems with these things on the entrance corridor because it's just a tall building with a fake story.

Mr. Boyd asked how the pedestrian knows the height of the building they're walking next to. Ms. Echols said by seeing windows they can know what their proportionality is. If you were walking in an area with skyscrapers, the closer they are to the road and the taller they are, makes one less comfortable because things are too tight. She noted that this was done recently in downtown Crozet with the minimum two-story requirement.

Mr. Boyd said he never had that particular sense as a pedestrian walking by a building. He questions where that psychology comes from.

Mr. Rooker said he agrees with the aesthetic preference of staff on this. He would like to understand from the applicant why he wouldn't want to build a multi-story building there.

Ms. Thomas said her reaction is to think about what is on the other side of the road. That side of the road is open area because it's been condemned by VDOT and is in front of the SPCA, etc., and is wooded. She asked if that changes staff's thinking about what should be on this side of the road. Ms. Echols replied that it does not; the area is fairly narrow. Staff does not know what the future use of that right-of-way might be. If one-story buildings are the image being created, even though the other side of the street is wooded, she tends to think that having two-story buildings front the street would create a better aesthetic. It is really an aesthetic call for the Board.

Mr. Boyd recommended returning to the presentation.

Ms. Echols said the last thing concerns the amenity areas. This is a very intensive development; 34 units to an acre if they do residential. They can also do 275,000 square feet on a little less than six acres. She pointed out on the screen the only amenity areas shown for this development and said it's only 2.5 percent of the site. The requirement for a Neighborhood Model District for areas shown as regional service on the Land Use Plan is 10 percent. Staff thinks that not much can be made of the 2.5 percent – it is just in leftover spaces. She indicated that the applicant disagrees. Staff and the applicant just agree to disagree on some things and this is one of them. The applicant is asking that the Board of Supervisors modify the requirement for 10 percent down to 2.5 percent.

Mr. Rooker said he would not support reduction of the amenity area. This location is not near any significant recreational type of amenity. The applicant may not ultimately build residential and in that case this would not come into play. But if he built it to the kind of density that's possible, it would be a mistake to allow it to be built with virtually no amenity area on the property.

Mr. Slutzky said he agrees with Mr. Rooker, but slightly differently. He thinks there needs to be more amenities. He asked if that is a possibility except for the current parking requirements. If there were less of a parking footprint, there would be more space to accommodate the amenity requirements. Since the proffer for 2.5 percent is below the 10 percent standard in terms of form and design, could there be a proffer toward transit to help alleviate some of the need for parking. He asked if that is something staff would support, or is the Board "stuck" with the parking requirement.

Ms. Echols said she did not think the County is totally stuck with the parking requirement. At this time, nobody knows what use will be made of the property. Some proposed uses have lesser parking requirements while others have more parking requirements. She noted that there are opportunities for shared parking, but nothing can be determined until the use is known. A proffer has been made for a transit stop. She knows the applicant is concerned about the amount of parking required. In the future, the Board might look at parking requirements again to see if they are appropriate.

Mr. Slutzky asked if the applicant might proffer to give up some parking for certain uses, but if the actual build out of the property were such that he could not give up parking, he could proffer "x" dollars to a transit system. He asked if that would make sense to staff. Ms. Echols said it might, and while it has not been thought through at this time, it's something that could be considered.

Mr. Slutzky said amenities are needed. There may or may not be a problem achieving those depending on the uses and the parking requirements that may be in place at the time this development would take place in the future. He wonders if there is a way to build in contingencies to make the County motivated to mitigate some of those parking requirements for good reasons.

Mr. Rooker asked if the Board has an absolute right to grant waivers of the minimum parking requirements. Mr. Davis said the Board has the right to reduce the amenity areas below 10 percent. Mr. Cilimberg said there is the opportunity to reduce parking through a reduction strategy, a study and strategy that the Zoning Administrator has to review and approve; they can also do shared parking. The adjacent Planet Fun property is going to be under redevelopment soon and there might be opportunities for shared parking there. There might also be shared opportunities internally so they could reduce parking based on the uses.

Ms. Echols said they also have the ability to have their own parking. There is a Parking Strategy with the Neighborhood Model District which can be approved with the NMD through the modifications section. She said the Zoning Department is reluctant to recommend those at the rezoning because they don't know what the uses will be. If there is a heavy parking user and the spaces are not distributed appropriately, they get complaints. Staff can look to see if there is that opportunity because nobody wants to see a big expanse of parking lots.

Mr. Slutzky said he would like to see those parking spaces offset with transit service. He asked if there could be a contingency in the proffers that said if the use required additional parking the applicant could achieve the equivalent of that by making a contribution to a transit system.

Ms. Thomas said on the topic of amenities, if the applicant offered five percent more amenities, how would they be seen on the development plan. Ms. Echols said for areas that are a little larger there would be more definition as to what's going in those areas. In the applicant's Code of Development, there are images of what they are trying to achieve, but it's not a lot of outdoor area for employees. As to the residential, in their Code of Development they say that if one of the buildings becomes a residential building, they will replace one of the other buildings with the required recreational amenity, which is 15 percent, so residential is covered. This is just for employees and patrons of the particular area. She said 2.5 percent is small –if it were a little more than 2.5 percent staff might be able to find some justification.

Mr. Slutzky asked if a green roof on one of the buildings which was accessible to the building occupants would be the kind of amenity to satisfy the spirit of the requirement. Ms. Echols said it would have to have features that made it an amenity for the users.

Ms. Echols said staff did not have signed proffers when the report was put together so they did not think action was possible today. She said the Planning Commission recommended denial; there are 13 items on a list that the Commission wanted to see resolved. While many of them have been resolved, not all have been. Some are the key issues being discussed right now. After discussing these key issues, the Board may want to refer this request back to the Commission to work out the details before it comes back to the Board for action.

Ms. Echols said she will go through the questions one by one. Should there be a connector road at the location indicated on the plan. Staff thinks that is a good question because the Places29 Master Plan has not been totally vetted by the Board - it's not an adopted plan, only an idea. If staff wants a connector road at the location indicated on the plan, should the applicant be obligated to provide as much of it as he can. If he can't build a connector road, should he wait until it is in place before he does more than 60,000 square feet? Should the County accept \$363,000 to cover about half of the cost of the connector road if he wants to build more than 60,000 square feet? If there shouldn't be a connector road at that location, should there be a guarantee that the applicant will build the driveway shown on his property or in that general area on the plan.

Ms. Echols said the next question is whether there should be a minimum of two stories for the buildings fronting Berkmar Drive and should there be more than a 2.5 percent amenity area provided. She then offered to answer questions - she knows the applicant is interested in speaking.

Mr. Boyd asked if there were more questions for staff before the Board asks the applicant to speak.

Ms. Thomas said she has a theoretical question. Five or ten years ago, how much of this connector road would VDOT have been expected to provide. Would any of this road been provided by the State. Would the improvements on Route 29 been provided by the State? How much is the County in this dilemma because of the failure of the State Legislature to have money in VDOT's coffers to deal with this, or would all of this still have been private development. Mr. Cilimberg said this connector was shown in the County's Comprehensive Plan a few years ago. He went back to the '89 plan and it was there but it was not a part of the '96 plan. When the widening of Route 29 occurred, VDOT created the problem that exists now. When that improvement was done, access to Schewels and Better Living should have been configured to meet VDOT requirements, but they only had enough money to basically do what is there now. From a historical perspective, a connecting road between Route 29 and Berkmar Drive would not likely have qualified for primary road funds. He said the County has pushed VDOT over the years for a parallel road system and connections to be built with primary road funds because it would benefit Route 29. They have never taken the position that it could be done using primary funds. It has generally been difficult to create new secondary roads or connecting roads with Secondary Funds. It is not as much availability of VDOT funds as to their policies. The one opportunity the County had would have been in that Route 29 widening project.

Mr. Rooker said the other thing that has not been discussed is how this roadway would line up with the entrance to the new shopping area on the east side of Route 29. Mr. Cilimberg asked if he was referring to the North Town Center.

Mr. Rooker asked how that entrance compares with this proposed road connection. Mr. Bill Fritz, Chief of Current Development, said the entrance to the North Town Shopping Center uses that crossover as its entrance.

Mr. Rooker asked if it is built if it would be in alignment with the proposed road. Mr. Fritz said "yes." They are also proposing some improvements to the turn lanes on Route 29.

Mr. Rooker asked if a single traffic light would service that intersection. Mr. Fritz replied in the affirmative, noting that North Town has to add the fourth phase to the light.

Mr. Rooker said one of the options presented by staff is that only 60,000 feet be built until such time as a connector road is completed. He asked what would happen to traffic if the whole project were built and there was no connector road. Also, where would intersections start to fail as a result of ignoring that limitation? Mr. Brooks said the applicant's traffic engineer is present and will talk about that more specifically. Basically, failures start with turning movements at the intersections on Route 29 - at the entrance into Wal-Mart and back along Berkmar Drive to where it intersects with Woodbrook Drive.

Mr. Rooker asked if the failure is at the intersection with Route 29 as opposed to Berkmar Drive itself. Mr. Brooks said that because of the large volume of traffic on Route 29 there are some failures, but the intersections at Hilton Heights Road and at Woodbrook Drive where it intersects with Berkmar Drive are troublesome.

Mr. Rooker asked if anyone knows what the level of service is reduced to at those intersections.

Mr. Slutzky asked how much of an impact there would be from 60,000 feet. Mr. Brooks said it would be small, noting that there would have to be around 150,000 square feet before seeing a significant increased delay.

Mr. Slutzky asked if Berkmar Drive were extended to cross the river so there was a parallel road network in place, would that address the traffic impact from this property. Mr. Brooks said that is a good solution for Route 29, but he does not know that it would act the same as the connector road would.

Mr. Rooker asked if VDOT has done an analysis of this. Mr. Brooks said it is all based on the applicant's traffic studies.

Mr. Slutzky said the reason for the connecting road is to prevent a decline of the intersections at Route 29/Hilton Heights Road and at Route 29/Woodbrook Drive. Mr. Brooks said it does not specifically do that; the reason for the connection is because it's shown in the Comprehensive Plan and it promotes a road network and alternatives to use of Route 29.

Mr. Slutzky said requiring this applicant to put in the connector road does not really address the transportation impacts of the development. Mr. Brooks said it can, but marked differences in levels of service at these intersections will not be seen. It adds one more intersection, one more way out, and one more way to travel between Berkmar Drive and Route 29. It relieves some of the pressure on Hilton Heights Road and Woodbrook Drive, but the numbers are not large.

Mr. Rooker asked what would be gained from a traffic movement standpoint and the potential failure of intersections. What difference is there with and without the connector road? Traffic will be generated off of this site, and at the 60,000 square foot point the connector road was requested. He asked if 275,000 square feet were built on this site, would the impact be about the same on Route 29 and at these intersections with or without the connector road. Mr. Brooks said it changes location slightly. Some of the traffic would go to the light at Schewels instead of - going northbound - going to the light at Hilton Heights Road and taking that left queue.

Mr. Slutzky said if a connector road is wanted because it is in the Comprehensive Plan and for good connectivity reasons, but the applicant can't build it, should the applicant contribute the same amount of money to the County that he would have spent to build the road and let the County choose how to use it to mitigate the traffic impacts of this project.

Ms. Thomas said there is an additional question; is the \$363,000 sufficient for that purpose. She does not know how they came up with that amount, but if all four of those intersections are impacted, that amount of money is not more than "a drop in the bucket."

Mr. Slutzky agreed and asked if the cost of the connector road is closer to \$700,000. Ms. Echols said she believes it is.

Mr. Boyd pointed out that it is not just the applicant's property, but the other person's property too.

Mr. Slutzky asked if the County would normally accept a proffer of only half of the cost of the connector road if it was buildable.

Mr. Rooker said if it is buildable and shown in the Comprehensive Plan, he thinks the applicant would typically be required to build it.

Mr. Boyd said he thought Mr. Cilimberg said the road had been taken out of the Comprehensive Plan. Mr. Cilimberg said it is shown in Places29. He said there was a comparable circumstance when the bank on Pantops requested a rezoning and they were having difficulty getting cooperation to connect through from Route 250 to South Pantops Drive. Part of that road existed up to the Albemarle County Service Authority property, and in that circumstance the Board said the applicant needed to build the full road. Mr. Brooks said he has one clarification. That \$750,000 number isn't the cost of the connector road. That is the full cost of all the turn lane improvements at the different intersections in the traffic study. They propose to do a prorated share of that based on their impacts, which is the \$363,000 figure.

Mr. Rooker asked if there is an estimate on the cost of constructing that road. Mr. Brooks said he does not have that amount at this time.

Mr. Slutzky asked if the Board were to accept the proffer in lieu of construction of the road, what is the right dollar amount and based on what? Mr. Cilimberg said he was trying to say there is somewhat of a precedent where a connecting road was needed and that obligation was put on the applicant during a rezoning. That was not a road that was specifically shown in the Comprehensive Plan but was generally in accord with what the Board had been trying to accomplish by getting good parallel and perpendicular road systems in place along major corridors.

Mr. Boyd said he is still struggling with how that works. Where did the numbers for a connector road come from? It was said a connector road is needed every 200 feet as opposed to every 500 feet. This plan shows two connector roads on either side of this one, yet it is felt this one is important. There is a connector road at Woodbrook Drive and a connector road at Hilton Heights Road, and in addition it is felt that one is needed halfway between those two. Is that driven by a development that would be on Berkmar Drive, not on Route 29?

Mr. Slutzky said there is a vision in Places29 for a connecting road there. But when you go the site there is a new parking area behind Schewels and it's at an elevation that makes the grade on that road, which was just built, going down to Route 29, problematic. At some point, it clearly would make sense to have a road there. He said that road might belong in the Places29 Plan but it is not likely to be built in the near future. If the Board decides not to approve an application because a road cannot be built right now but needs to be built later, maybe there are alternatives available. That is why the Board has asked if that road can be built, how much it would cost, and should the applicant have to proffer other improvements.

Mr. Boyd said the Board is talking about the Places29 Plan and it has not even been approved. He does not think the Board should do any guidelines based on that at this time. He suggested that the Board finish the Places29 Plan first.

Mr. Slutzky asked if he was recommending that the Board hold up development until that's done.

Mr. Boyd said "no" he was in favor of it being done when it was supposed to have been done; that time has already gone by.

Ms. Thomas said she has a question because of the picture on the screen now. It shows this road going across Route 29 and connecting with another road. She asked if there is a chance that road can become a reality. That seems to emphasize the importance of this connector road, but it may be impossible given the new rezoning.

Mr. Slutzky said it is totally impossible with the new North Town Center. It can't be built behind because there is Carrsbrook and because of grade changes and all sorts of things.

Ms. Thomas asked if others think that's relevant.

Mr. Rooker said he thinks it is relevant. However, it comes back to the traffic impact of having or not having that road. Mr. Brooks said that currently that is shown as a travelway on the North Town Center site plan. It is built halfway through the property. He can see a future scenario where it is a connected travelway through the properties, but not a road as one thinks of a road.

Mr. Slutzky asked if the Board's feedback to staff is that actually building a connector road at this time isn't as important as having the applicant make a proffer that addresses the traffic impacts of his development.

Mr. Rooker said between now and the next time the Board has this petition before it, he wants to get an understanding of the difference in traffic impact if the connector road is not built, but the development is built to its fullest extent.

Mr. Boyd suggested hearing from the applicant at this time.

Mr. Frank Stoner said he was present on behalf of the applicant, Berkmar Business Park LLC. He said he works for Stonehaus. He then made a PowerPoint presentation. He said this project started three years ago with the idea of building a connector road between Berkmar Drive and Route 29. They got all of the property owners together and it was agreed that it was a great idea. They met with VDOT, and VDOT said forget it, and he should have listened to them. He said Ms. Echols covered the benefits of this development adequately, but there would be improved stormwater retention for all of the properties in the area. That was an issue with the Woodbrook and Carrsbrook neighborhoods because there is a longstanding flooding problem on the opposite side of Route 29. There would be lane improvements on Berkmar Drive.

Mr. Rooker asked how improved stormwater retention would benefit Woodbrook and Carrsbrook subdivisions. There was mention in minutes of previous discussions about the problem of trying to expand the current stormwater basin. Is it certain that this proposal would actually improve the stormwater situation on that side of Route 29? Mr. Stoner said the current pond only retains a 10-year storm, and current regulations require retention of a two- and a 10-year storm. In modification of the existing pond you would get two- and 10-year retention; it handles the Lowe's site, the Keglars site, this

property, and Berkmar Drive has runoff into this regional pond. It is their understanding that the overall retention for the area would be improved.

Mr. Rooker asked if Mr. Brooks would address this point. Mr. Brooks said that is generally correct, noting that in simple terms there is a large pipe going out of that basin now and they would reduce the size of it a bit, so water would get to the Carrsbrook area a little slower.

Mr. Rooker noted there was discussion about trying to deal with this situation. Mr. Brooks said the applicant changed their grading plan so as not to dig the basin deeper so they would not run into rock. He indicated there is still a risk, but they're willing to take that on and enlarge the basin anyway.

Mr. Rooker asked if the applicant is actually undertaking that work. Mr. Brooks said "yes." Staff put a lot of conditions on that work. There were a lot of meetings about it, and staff feels comfortable with it now.

Mr. Stoner said he will discuss the issue of the 2.5 percent amenity area. He said the 2.5 percent does not include any of the sidewalk areas on the property. In a typical retail zone those sidewalk areas are in fact part of the amenity. It's unusual in this case to look at amenity areas as being specific improvements or specific areas that have to be defined when their function is sometimes uncertain, particularly in a commercial district. He showed on the screen some examples of comparable amenity areas in and around Charlottesville – those that fit their definition of an appropriate amenity for this project - Queen Charlotte Square, the courtyard at Barracks Road, Miller's outdoor seating area downtown, and the area between the Michie buildings on East Market Street. He said the most effective amenity areas in a commercial context need to be smaller because that's the human scale. He encouraged the Board to focus less on a percentage and more on the quality of the area being created.

Mr. Rooker asked how definite the proposals are for the amenity areas. In their Code of Development, are amenity areas clearly defined? Mr. Stoner said they have tried to define the areas in terms of number of seats, tables, landscaping requirements, etc. They want to create areas of about 2,000 square feet per block so it is a significant amenity. He said this development may end up with 150,000 square feet sharing 2,000 square feet per block.

Mr. Rooker asked if the total amenity would be 0.1 acres. That is equal to about 4,400 square feet for the whole area. He asked how that is 2,000 per block. Mr. Stoner said they have proffered 2,000 square feet per block.

Ms. Echols referred the Board to the Code of Development, pages 11 and 12 show a total of 6,500 square feet. In the two larger blocks, 1 and 2, it's 2,200 square feet. In the two smaller blocks, 3 and 4, it's 1,000 and 1,100 square feet respectively. She is not sure that this would guarantee the kinds of spaces Mr. Stoner is talking about. There is no way of knowing how these elements would turn out. If this is something that is important to the Board, staff will work with the applicant to better define those spaces. There is some definition provided in the Code of Development.

Mr. Stoner said the spaces can also be combined. The intent of the Code is to provide flexibility. Ultimately this will depend on how the buildings are developed. He noted that in the narrative there are various examples of ways in which those blocks might be developed and different building configurations.

Mr. Slutzky asked if in their efforts to comply with staff's request a green roof or an upstairs park was considered. Mr. Stoner said it was not, although he thinks it is a great idea. It was not considered because it does not fall into what would be considered a site amenity; the way it's written may be an ordinance issue. He does not know if an amenity's base can be defined within the building. Would a rooftop terrace qualify as an amenity is a good question? It would have to be open to the public in order to be a public amenity.

Mr. Stoner next showed a slide with an example of how Berkmar Drive might be developed at some point in the future. On the east side of Berkmar Drive there is a plaza of less than 2,000 square feet. It functions as a significant amenity for the Berkmar area. It is interesting that people think a big space is needed because when the space is too big it is uncomfortable; people like "outdoor rooms." That is why their amenities are proposed as they are; they are going to hold firm to that unless the Board pushes them in another direction. The alternative would be for something like they have at Sagem Village which has plenty of green space, but none of it is usable.

Mr. Stoner said the second issue concerns having one versus two story buildings on Berkmar Drive. He thinks two stories is a valid goal and may be the way this property develops. He would encourage all to take a long-term view of what has been proposed as a durable and sustainable Code of Development for the initial development period of this property, and then 50 years into the future when there will be vast changes in transportation and transit in the area. The point he wanted to make is that they can build two stories on Berkmar, but it would be at the expense of the spaces on the internal street, which is where they believe that sense of spatial enclosure could be created in the short term. In the long-term, the right-of-way may come back from VDOT and the west side of Berkmar Drive could then be developed. He would rather see a park there now. Maybe they could take their remaining amenity space and put it on the other side of the street and have a pedestrian crossway so there could be a meaningful park on the other side of the street because there's nothing that can be done with that property currently.

Mr. Slutzky asked if there will be a transit stop on the interior street or on Berkmar Drive. Mr. Stoner said it will be up on Berkmar Drive. He showed an image on the screen of a section of Berkmar which is not pedestrian-friendly. On one side of the road there is no sidewalk in front of any of the

development. That is an obvious obstacle to creating a pedestrian-friendly environment within the time period they would like to develop this property.

Mr. Stoner then noted the grade of the area and the challenge to build higher on Berkmar Drive. They would either have to build higher structured parking in order to accommodate that or have to reduce the scale of the buildings on the main street down below. The buildings function to take up grade as one goes down the site. Reducing the scale of the interior development is less feasible than the practicality of reducing the size of the development to enable the interior parallel road to function properly. They want two-story development on Berkmar Drive, but they do not want it to be mandated. He said the town center built in Gainesville is an example of how one story can be built to look like two stories; it was done successfully there. He referred to an image showing the interior street with two stories, and the same image with a four-story elevation on the left side and a three-story on the right. He said as the scale goes up, variety is obtained so the street feels better.

Mr. Stoner said rezoning issue number three is that essential elements of the plan are off site and there is no guarantee they can be built. He said adjoining properties to the south and to the east are ones over which they have some control. The significant amenities to which Ms. Echols referred are actually on the balance of the Berkmar Business Park site to the south of the rezoned area. They include three buildings, one terminates the street vista, and the other is actually on the internal street. The Keglers site to the east prevents any opportunity for a future connection. He pointed out on the screen the existing development and said the Keglers entrance is proposed to be relocated to the north side, which would enable a connection straight through. His partners at Keglers have not agreed to the connection currently, but he thinks long-term the expectation is that they would probably make that connection.

Mr. Rooker asked if Mr. Stoner means that he and Keglers would make that connection; it is not a proffer. Mr. Stoner said it is not a proffer; he does not have controlling interest in the development below it, so he can't force that upon his partners. He has suggested that it would be a good thing.

Mr. Slutzky said at some point in time Keglers highest and best use of their property will probably not be as a bowling alley. Whatever the then-current owners ask for permission to do, it is obvious the Board would hold them accountable to fill out the road.

Ms. Thomas said if the road comes out on Route 29 at the wrong location everyone will wonder why that was done instead of having it come out opposite the entrance to the new North Town Center. Mr. Stoner said he is not suggesting it become a public road all the way through, at least in the short term. He thinks there should be some way to get from Berkmar Drive to Route 29 that does not involve this connector road.

Mr. Slutzky said the cross street is not in intensive use and that connection does not go up into the next neighborhood because of the topographic change and the existing residential neighborhood of Carrsbrook. In the long run, an alignment with the street across Route 29 is probably not relevant. It would be a good spot to have the crossover because of the traffic signals.

Ms. Thomas said that without a light there would be no way to get across Route 29.

Mr. Slutzky said that is a good point so what is the value of having the connection come down through Keglers? Mr. Stoner said for the crossover that was originally planned in front of Keglers entrance, the road was to have been extended up to Berkmar Drive. The light was moved up to the Schewels property partly because the Nunley's lobbied for it to be moved to accommodate their truck traffic. Then Mr. Nunley actually paid to build that service road in front of his property to facilitate that entrance. At this point in the meeting, the timer rang and Mr. Stoner said he had evidently exceeded his ten minutes, so would just mention that his traffic engineer is present to show some slides if the Board would like to see them. He thanked the Board for listening to his presentation.

Mr. Rooker and Mr. Slutzky both said he should ignore the clock and finish his presentation.

Mr. Stoner said he will speak about Item No. 4 which has to do with transportation. He said the proffers are inadequate. The mitigation staff wants will do little or nothing to solve the long-term problem because Route 29 is reaching capacity. His traffic engineer can address that in more detail. He said the only realistic solution would be to find a parallel road network, east, west, or both. What they've offered is to be part of that solution. It is not something they can do on their own.

Mr. Stoner said the proffer amount was questioned, but he thinks it is consistent with the methodology the traffic engineers used, which has been used in Florida and Pennsylvania and other states as a way of determining a fair-share allocation for developers who have impacts on the transportation system but whose impacts can't readily be mitigated, so the contribution goes toward the long-range transportation plan. As to a greater cash proffer, once suburban development gets above 60,000 square feet (traditional suburban density), to achieve the parking requirements of the County they would have to build structured parking. Economically, structured parking is not feasible in this location because of the economics of land. The commercial land value on Berkmar Drive is somewhere between \$12 and \$13 a square foot. Equating that to an average suburban yield, which is about 25 percent of the land, dividing that \$12 to \$13 into the square feet of the building and parking, it ends up being somewhere in the \$52 to \$56 a square foot per building square foot. The cost of surface parking is roughly \$2,500 a space. When you add a deck or second level of parking the cost premium is about \$17,500 on top of the \$2,500. So it's about \$20,000 premium for the upper level. Now, if you average that over the two it's somewhere between \$10,000 and \$12,000 per space for structure parking, but the premium is \$17,500. The office area per parking space per the County Code is about \$250. If you divide that into the \$17,500

premium you're paying \$70 a square foot. That amount for parking would be paid before paying a single dollar in proffers.

Mr. Slutzky said he would like to know the thoughts of the other Board members on this issue. He could see an argument that above 60,000 square feet there's going to be an increased need for parking because of people coming into this complex or there's going to be a need for a transit system. He noted that the Board could choose to allow a contribution in lieu of parking spaces to accommodate that higher level of commercial density. He said if Places29 happens as it is anticipated, it would be consistent to create an environment where the funding mechanisms to support a transit alternative would be robust. He does not know that this would take enough people out of cars and parking spaces so there is not a parking crisis in these buildings. Nobody can answer that question, so it may be reasonable for the Board to accept proffers.

Ms. Thomas said everything she has read says this is the time to tell an applicant to go for transit instead of a parking structure. She said that considering the County's parking requirements, it is probably complex. However, several things are coming together with this request to make this be a transit-using development as opposed to having a parking structure.

Mr. Slutzky asked if anyone knows the dollar value of the marginal increase in cost of constructing parking above ground. Could that be reflected as a contribution toward transit?

Mr. Rooker suggested asking the applicant whether he would be comfortable committing to building commercial space for which there is not adequate parking hoping people would approach this development solely by transit.

Mr. Stoner said if they were building in a market in which people were still primarily getting to and from their destinations by vehicle, transit would not necessarily be an effective replacement until there was sufficient density and an effective transit system so people would use it. This area is primarily in suburban, but they are proposing to build something that's fairly urban in character. If the County wanted more money because they were building over 60,000 square feet, the alternative would be for them to fall back and just build 60,000 square feet. He said they can build that at suburban density and not have to worry about all of this stuff.

Mr. Slutzky said Mr. Stoner is misinterpreting what he said. He is thinking they might choose to proffer to build structured parking, but his question was whether the Board would consider an alternative proffer allowing them to contribute money in lieu of the structured parking. Mr. Stoner said if the applicant were enabled to consider that as proffer money that either goes toward structured parking or transit that might be a good solution.

Mr. Slutzky asked Mr. Davis if there is a way to do that. Mr. Davis said if they're proffering cash, typically the County likes to be in control of how that money would be used to address impacts.

Mr. Slutzky asked if the proffer could say that above 60,000 square feet they would build structured parking, or at the County's choice, they would contribute proffer dollars adjusted for inflation and in return they would not be required to have the parking spaces. Mr. Davis indicated that certainly could be proffered.

Mr. Tucker asked if the County's parking requirements would have to be amended to allow that through a proffer. Mr. Davis said in the Neighborhood Model District a study demonstrating parking needs and strategies dealing with those needs is required. When staff reviews the parking needs study, they can determine whether or not it's adequate, and ultimately the Board determines whether or not it's adequate. He said specific parking requirements are not mandated for the Neighborhood Model District.

Mr. Cilimberg said a worst-case scenario would be that the needs study determined that transit in place of parking would not work so the applicant provided the structured parking.

Mr. Slutzky said it sounds like the Board members would at least be open to such a proffer in this and other applications.

Mr. Dorrier said he thinks the County should also set a rule concerning the bridge and combine that with the pipe that was mentioned this morning. He said the County needs to work in conjunction with Mr. Stoner to bring about improvement of that whole area. The connecting road seems to be the main problem now.

Mr. Slutzky asked what the Board might work on.

Mr. Dorrier asked if Mr. Nunley is "dug in" on this. Mr. Stoner said he thinks he is "dug in." He said the traffic engineer is here and may be able to speak for Mr. Nunley if the Board wants to hear his perspective.

Mr. Boyd suggested that the Board take a break before having the traffic engineer come forward.

**(Note:** The Board recessed at 4:12 p.m. and reconvened at 4:21 p.m.)

Mr. Bill Wuensch said he is a traffic engineer and a transportation planner with the Renaissance Planning Group, which has an office in Charlottesville. He said he would make a PowerPoint presentation of the traffic study, some assumptions about future volumes, general findings and some of

their recommendations. Then he will talk about how to use the concept of a pro-rata share. He did not know until today that the County had so much experience with the pro-rata share, VDOT having given a presentation of that concept.

Mr. Wuensch said they talked with the County and VDOT prior to conducting their traffic study. They looked at the intersections along Berkmar Drive and on Route 29, and the middle intersections on Hilton Heights Road and Woodbrook Drive, as well as on Rio Road and Berkmar Drive. To conduct the study they used the worst-case scenario for the site because there are a lot of options for how that site develops. If it develops with specialty retail and some office and residential, that's a lower overall site trip generation; residential only would be very low. The absolute worst case would be general office uses because that calculates to about 3,275 trips a day. As part of the analysis they grew the background traffic of 1.73 percent a year which represents a booming time for the economy. They also added in traffic from the North Town Center; the bottom line is that they are confident that their traffic numbers are conservatively high.

Mr. Slutzky asked if the meant 1.73 percent per year compound growth takes into account traffic that comes in from Fluvanna and Greene counties, and surrounding areas. Mr. Wuensch said that is a straight trend of ADT (average daily traffic) on Route 29 over the last few years. He said that is consistent with the North Town Center traffic study; he feels their numbers are conservatively high.

Mr. Wuensch said at the end of the analysis they found that Route 29 is under a lot of pressure, and is highly congested. They predict that the turning movements, particularly northbound in the a.m. turning left heading up Woodbrook Drive to access the site will get worse. Likewise, on the Hilton Heights Road side, the southbound traffic turning right gets higher and needs some mitigation. Conversely, in the evenings it's reciprocal movements coming east along both Hilton Heights Road and Woodbrook Drive. At Hilton Heights Road the left turns are high and they see need for mitigation there. Likewise, at Woodbrook Drive, the right turns are high, but there is not a huge affect at Rio Road and Hydraulic Road. He indicated that some of the queuing gets worse but it is not so bad in terms of level of service or queuing that they felt anything needed to be mitigated.

Mr. Wuensch referred to the image of a table that summarizes mitigation that is a style of calculating the pro-rata share that is used in Florida. They looked at how much capacity this new development would need to add to the transportation network to offset its impact. They came up with some improvements - at Woodbrook Drive they envisioned adding a second westbound left-turn lane which would free up some green time at the intersection. That green time can be assigned to the eastbound movement to mitigate that; it gets it back down almost to the no-build level of service. They calculated a cost for the developer's proportionate share of the improvements - he adds "x" amount of capacity but takes "y" amount of it. He said that "y" divided by "x" in this case is 43 percent. Applying that to VDOT's planning numbers for a turn lane comes up with a figure.

Mr. Rooker asked if these planning numbers are average around the state. Mr. Wuensch said they are per district, and what he was showing on the screen are the Culpeper District numbers.

Mr. Rooker asked if any right-of-way costs are assumed in the numbers. Mr. Wuensch stated that it is a factor that is applied of about 25 percent.

Mr. Wuensch said at the Hilton Heights Road intersection some mitigation is needed in terms of southbound right-turn storage, extending that out longer. There is also a need for an additional eastbound left-turn lane which would fit, in theory, in that widened pocket at the east end of Hilton Heights Road. There is a 16-foot wide section that could be modified to create a small amount of storage, which offsets the operational problem there. At Woodbrook Drive near Lowe's, there is a need to extend the westbound storage, if possible. They calculated a cost for that. That is where they built the \$363,000 figure. That is not relative to the connector road cost but is a proportionate share of the cost to add the capacity this development is using.

Mr. Slutzky asked if the underlying assumption in this case is the degree of full build-out. Mr. Wuensch said the full build-out (worse case scenario) is 275,000 feet of office in 2016.

Mr. Rooker said it looks like the base cost of all these improvements is estimated to be \$600,000 or so, and it does not seem to him that all of these things could be done for \$600,000. Mr. Wuensch said a lot of this, extending turn lanes and existing medians, are not high-dollar improvements. The only relatively expensive improvement is adding the additional westbound lane at Woodbrook Drive. He said he spoke with Mr. Chuck Procter (at VDOT) today, and they are going to debate about whether there is a need to apply another second of green time at two of the intersections. That number may shift a little but it's probably within \$100,000 of where it will end up.

Mr. Wuensch said there is a bigger picture he was hoping to discuss. The overarching concept is to have the development pay for the capacity of road that it uses and then take those funds and apply them in a transportation planning sense. Considering the Places29 Plan, implementing these improvements might not make sense. Should money be spent on things that are going to be obsolete? That brings up a question in terms of the corridor, and the Route 29 corridor is both the Berkmar Drive extension and Route 29, and all the roads in between. Its multi-modal, busses, bikes and walking. What are the desired long-term improvements? They are not looking at building improvements not needed in the future such as the specific mitigation measures he identified, but instead looking at other long-term solutions.

Mr. Wuensch said that brings him to the long-range plan, Places29. It identifies this rich roadway bed in a multi-mode sense and various improvements. The Route 29 Corridor Study was just released and it contains specific recommendations for the area of Hilton Heights Road and Woodbrook Drive. A key element is the proposed Berkmar Drive bridge across the Rivanna. If another 20,000 vehicles a day will be added in the next 20+ years, there's got to be a parallel corridor. That is why it is important to get the Berkmar corridor set up and going. He then showed on the screen images of detailed plans in both the southern and northern areas of Route 29 – of which the bridge is a major part. At a recent TIP meeting it was stated that \$330 million worth of improvements are needed over the next 20+ years. He said there is an opportunity to take money from this development and apply it toward the long-range goal for a true multi-modal corridor.

Mr. Wuensch said in summary, they did the traffic study and need to do some additional coordination with Mr. Chuck Procter at VDOT. They have identified what it's going to take to replace the capacity the development is using. He said if the Board had specific questions about the intersection improvements, he would be happy to answer those questions.

Mr. Rooker asked if they had computed the impact of this development on those intersections at full build-out, and at what point would those intersections begin to fail. Mr. Wuensch said the Route 29 corridor will fail even without this development. How will they establish when an impact occurs – basically if cars are queued up on Route 29 and don't make that first cycle then psychologically people will think things are worse than they are. He said there are a lot of places with service level "F" even without this project. He then showed some graphics demonstrating this fact.

Mr. Rooker asked if Mr. Wuensch would discuss the levels of service at these intersections. Mr. Wuensch said levels of service can be a little misleading. He said the green time on Route 29 is about 50 seconds, which is nearly a minute. A level of service "F" occurs if one has been waiting for about 50 seconds, so if a car at the side street hits the red light immediately, then in theory that's a level of service "F" vehicle.

Mr. Boyd said he thinks what is being proposed is that the County look at a methodology similar to one being used in Florida to determine what it should look for in the way of proffers from commercial development for its impact on transportation. He does not know whether that can be done legally.

Mr. Rooker said the Board can accept any proposal for contribution that is proffered.

Mr. Boyd asked if the Board has done any proffers for commercial properties in the past. Mr. Davis said that in the past, generally the Board required improvements to be constructed as part of large commercial developments rather than having cash contributions – however, a cash contribution could be proffered for these improvements. The County's impact fee enabling authority isn't set up exactly the same way as Florida's, it's much more complicated than what Mr. Wuensch described. If the Board were going to do it under an impact fee ordinance rather than under proffers, it would be more complicated. It requires a series of calculations and deductions in order to get to the final impact fee number, which is not as simple as what has been mentioned.

Mr. Slutzky said if the Board decided to go the proffer route he would want staff to give some feedback on Mr. Rooker's question about whether all of these improvements could be built for \$600,000 given recent experiences. He thinks the Board would want to revisit the underlying assumptions before embracing a particular formula. Mr. Cilimberg said this is now back before VDOT waiting for a response. He thinks confirmation is needed on the methodology of determining the intersection impacts, and verification on the costs being assumed is needed. He said there is a methodology here that staff can work with and make sure it gets VDOT to answer those questions.

Mr. Boyd said the Board is talking about a specific application now. Does the Board give the applicant "a green light" to come back with this as an alternative to the connector road? Mr. Cilimberg said that is part of what staff wants to finalize with the Board today.

Mr. Slutzky said his instincts told him the \$300,000+ was low until he went through this exercise, and now he is not sure. He wants time to digest it.

Mr. Boyd asked if the Board comes up with the appropriate amount, is it an acceptable concept.

Ms. Mallek indicated that she likes the concept.

Mr. Rooker said he thinks it is an acceptable approach. In this situation the applicant might not be able to build the preferred alternative from a land use standpoint as reflected in Places29. He is not sure building that improvement actually improves the flow of traffic over not building that improvement, versus doing some other things.

Mr. Slutzky said Mr. Glenn Brooks said building that road would have a negligible impact.

Mr. Rooker said he wants confirmation from staff. He wants to make certain there isn't a significant difference in traffic flow or traffic impacts at the key intersections whether or not that improvement is built. Obviously, if that improvement is built and there is a red light there, that has to be worked into the sequence on Route 29, so that becomes a factor on Route 29 and could serve to slow traffic on Route 29. Before the Board abandons that connector road, he would like to have confirmation of that fact.

Ms. Thomas said a light has to be in that location because of what's happening across the road.

Mr. Rooker said there wouldn't have to be a sequence for traffic coming in from the west. Mr. Cilimberg said the light is there; it's going to get an added phase.

Mr. Slutzky said there are two things here. One of them is in the context of formal design of the Places29 build-out and wanting a road for larger strategic reasons. Then, as a separate matter, there is the traffic impact of this development on the surrounding area. They are not the same issue. On the one hand the road can't be built because of circumstances outside of the control of the applicant, but that doesn't reduce the need for a right-of-way dedication so that connecting road could be built at some point in the future. The Board has an opportunity now to make that road building possible later. They are really separate issues.

Mr. Rooker said there is a connection between them. If building that road would not have a positive affect on traffic, does the Board want the applicant to render a significant land area useless for the potential building of a road that traffic models indicate won't improve traffic flow in the area? He thinks that is a fair question. Personally, he would rather have that land in amenities than reserved for that road.

Mr. Slutzky said this is really a Places29 issue. Mr. Cilimberg said staff can "step the Board" through those things, but the conversation has wandered off of the point. Staff would like the Board to focus on those questions. He does not know if the Board has finished discussing this petition with the applicant, and it has not heard from the public.

Mr. Rooker asked Mr. Wuensch if he had concluded from his analysis of the traffic information. Would building that connector road actually improve the flow of traffic at the key intersections? Mr. Wuensch said the first round of studies included a connector road because they did not know of the problem with making it happen. In the sense that the inbound left-turn lane at Woodbrook Drive would be relieved a little by that connector road, as well as the egress movement in the evening which would otherwise use Hilton Heights Road, there could be an advantage for those turning movements from that road. The overall Route 29 corridor isn't really relieved by it; it would just be a couple of movements at those adjacent intersections.

Ms. Thomas said most traffic engineers say they can't plug rapid transit or busses into their modeling to show any impact. Is that true of the modeling done for this case? Did they look at this from the point of view that there could be a good transit system along this corridor? Mr. Wuensch said that is a much larger modeling project. There are a couple of different layers of modeling. One is the regional model that predicts traffic volumes and transit ridership. Then there's traffic operations modeling which is what they did at this level.

Mr. Slutzky said there will be new origin and destination data available in 2010. Those mega-scale models could be created and then the transportation analysis done. He asked if that is correct. Mr. Wuensch said "yes" but a lot of judgment is applied along the way. It would show the increase in ridership between traffic analysis zones. From there they would have to pull out how many might be going to this development versus whatever else is in the traffic analysis zone. He said that would take a great deal of effort.

Mr. Slutzky said that is being done now with cars, so it would just add another layer of complexity because there's an alternative modality. If they had the existing model for how that modality operated based on origin and destination studies, presumably that could be done. Mr. Wuensch said they could project ridership between zones.

Mr. Boyd said if there were no further questions at this time, he would open the public hearing. With no one from the public rising to speak, the public hearing was closed, and Mr. Boyd said the Board would return to questions.

Mr. Slutzky asked if Mr. Cilimberg would reiterate what he thinks has been said so far. Mr. Cilimberg said that first, in terms of any obligations beyond the 60,000 square feet, they're still talking to VDOT about the actual dollar amount. The Board has indicated that it wants VDOT to confirm that the figures they're using for cost of construction are accurate, in addition to the methodology they are using which the Board seems to be comfortable with.

Mr. Rooker said the underlying improvements that have been selected should be costed out. He said that Mr. Wuensch was obviously being extremely honest when he acknowledged the negatives and the positives of various things. He appreciates the traffic engineer's approach on this.

Mr. Cilimberg said he thinks the Board has an expectation that there will be a cash amount above 60,000 square feet to address transportation impacts. In terms of the connector road at the location on the plan, the Board might want to go back to the plan.

Mr. Slutzky asked how quickly the development would get to 60,000 square feet. If the Board wanted that dollar amount by a time certain, is that something that could be proffered or would the proffer have to be contingent upon exceeding 60,000 square feet? The County knows that Berkmar bridge will be built so the timing issue is relevant. Mr. Stoner said it is difficult to predict, although they would like to build 150,000 square feet in five years, but it might be only 40,000 square feet over 10 years. They would have a difficult time proffering lump sum cash amounts in a time specific above 60,000 feet. Mr. Cilimberg said it is important to remember that there isn't any cash until they get beyond the 60,000 feet.

Mr. Slutzky said that was the answer he was interested in.

Mr. Rooker asked if the money is received all at once at that point. Mr. Cilimberg noted it would be a lump sum plus an amount per square foot. Ms. Echols said it is \$132,000 after 60,000 square feet, and then \$1.32 for every square foot over 100,000.

Mr. Rooker asked if there is an inflation adjustor built into the proposal. Ms. Echols said "yes."

Mr. Boyd asked that staff discuss the right-of-way issue. Mr. Cilimberg said there is no argument about the value of the connector road, but a realization that this applicant can't make it happen. There's a question of whether there is significant degradation if the connector road is not built – that needs to be verified for the Board. Staff's first question was if the applicant should provide for that road. The way they've provided for it at this time is in the driveway that's connecting their parking area from Berkmar Drive; that would be the western end of the connector road. It would be private based on their discussions with Mr. Nunley because Mr. Nunley would have to dedicate some of the land in order for them to build the road. It would not be public right-of-way until such time as the full connector road was built all the way through. The beginnings of the connector road can be accommodated as long as it's understood there would not be dedication of the right-of-way for public use until such time as the complete road were built.

Mr. Rooker said it would not be until such time as the other property owner agreed, so that should be one of the provisos. Mr. Cilimberg agreed. He commented that in an ideal world they would have gotten Mr. Nunley to agree to allow them to not only build this piece but to dedicate right-of-way all the way through, and then it would just be a matter of building the road at such time as possible.

Ms. Thomas said the other assumption is that the road that goes through the center of their development and down into Schewels is not a substitute. She said it is not nearly as good because of where it's going to come out on Route 29. Mr. Cilimberg said it is serving as a substitute.

Mr. Slutzky said in the context of Places29, it may be relevant to reexamine the question of why this connector road is in the plan when it does not appear to mitigate any transportation impacts. The Board may want to reaffirm those reasons so when the public is discussing this part of Places29, reasons to support it are available.

Mr. Cilimberg said that is a good point. In explaining the recommendations in Places29, this is a good example of the need to explain the transportation system benefit of having parallel and perpendicular roads. There also was a question concerning the two stories for buildings fronting on Berkmar Drive. It is the applicant's position to internalize their verticality rather than put it on Berkmar Drive. Staff suggested it be a minimum of two stories on Berkmar Drive rather than the 20 feet. Staff needs the Board's response to that question.

Mr. Rooker said given the current state of Berkmar Drive with the sidewalk being located on the other side of the road and considering what is already built along Berkmar Drive, it's going to be difficult to create a sense of enclosure on Berkmar Drive. If the applicant has to allocate square footage to buildings on Berkmar Drive versus buildings that are interior, his plan to create a sense of enclosure on the internal streets seems to make more sense. He does not think the applicant is opposed to having a two-story building on Berkmar Drive, but he's trading square footage. It seems to make a lot of sense to have that sense of enclosure be internal rather than external.

Mr. Slutzky said in the unique circumstances of this case he agrees with Mr. Rooker. From the design impact of this experience of Berkmar Drive, a proffer that obligates that 20-foot tall veneer to feel as much as it can through aesthetic peculiarities like a two-story building is actually an important way to support the request that they not be required to build two stories.

Mr. Rooker said he understands that the applicant is really trading square footage and would rather have that square footage interior. He assumes the 20-foot building on Berkmar Drive is in the proffers now. Ms. Echols said it is in their Code of Development and that is where it should be.

Mr. Slutzky asked if it is clear that the presentation of that 20-foot veneer is like a two-story building. Ms. Echols said it needs "to be tied down more." That would not take a lot of work.

Mr. Dorrier said he thinks Mr. Rooker made a good analysis of this, and he supports it.

Mr. Cilimberg said as to the amenity, he gathered from the discussion that functionality is important. That may be beyond what they've shown as areas of amenity. There needs to be a clear understanding of what the amenities they've shown will include. The applicant would also like consideration of where amenities, beyond what they have shown, could be provided - maybe through a green roof with access, maybe utilizing their sidewalk system to create on the street some enclosure, or sidewalks that can accommodate outdoor dining or more outdoor activities. It's not as much about percentage as it is about those kinds of functional provisions. He asked if that is a fair statement.

Mr. Rooker said the applicant might make it work with 2.5 percent, but it seems to him that it should be something closer to five percent. He said the County has a requirement for 10 percent. Maybe staff can define it to show that it provides reasonable space for amenities.

Mr. Slutzky said if the County were to accept five percent, it would in effect be undermining the County's standard. He suggested the Board ask staff to revisit the question of whether the 10 percent

requirement is appropriate. If so, is there a way to achieve it through a combination of intensive use of that square footage, or go back to the green roof to accomplish it.

Mr. Rooker said he does not disagree, but he would ask staff if the space is properly designed and set into a development if they would agree the 10 percent number could be reduced and still end up with an attractive, usable, adequate amenity space. Ms. Echols said she thinks it can be reduced, although she does not know what number should be used. There is a challenge at this juncture - the applicant wants more flexibility and staff wants more of a known commodity in these particular places.

Mr. Rooker said the Board is being asked to accept substantially less square footage and in order to do that there must be some degree of specificity as to what that judgment is based on.

Mr. Dorrier said he thinks it depends on how you define amenities, whether narrowly or broadly. A broad interpretation includes what is being requested.

Ms. Thomas said she liked the images presented to the Board, particularly the little square at Queen Charlotte Square. She thinks the Board needs to pin down what is being proposed so it will know what it will get. She said everybody realizes that developments can be sold. The Board would be approving what this developer has in mind but it might end up being someone else's land - it needs to be pinned down.

Ms. Mallek said as the project develops there will be more details at the site plan level. Mr. Cilimberg confirmed that the most specificity is seen at the site plan level, because it enforces what was written. He said one idea that was not on the list (in came up during the conversation today), was that for over the 60,000 square feet, the applicant proffer the option of doing structured parking or commit to the cost of that structured parking in some kind of a dollar commitment for transit with an escalator provision; he thinks the applicant is agreeable to this suggestion.

Mr. Slutzky said that would be at the applicant's option. The model for that proffer might be found in the Biscuit Run proffer for the per square foot contribution.

Mr. Rooker said Mr. Stoner gave a financial analysis of the cost of structured parking versus non-structured parking. He thinks that is what the Board is talking about - the dollar value.

Mr. Slutzky said the form of how that dollar value would be expressed was his suggestion, a per square foot basis on the common area maintenance cost paid annually, or that kind of thing. Mr. Davis said the ordinance requires the applicant to provide a study to justify a reduction in parking.

Mr. Boyd asked if that answered Mr. Cilimberg's questions. Mr. Cilimberg said staff had posed another question in the recommendation. It had to do with referring this petition back to the Planning Commission - the Commission had recommended denial. There were a number of issues mentioned in the staff's report. The question is whether the Board agrees that the petition should go back to the Commission based on the directions it has given tonight.

Mr. Slutzky said he is not sure that is necessary.

Mr. Boyd said he does not think it should.

Mr. Rooker said there were 13 issues mentioned in the staff's report, and most of those issues were dealt with before today. He thinks the Board has expressed its opinion on how the remaining issues should be dealt with.

Mr. Boyd said the Board also identified some new issues which would have to be explained to the Planning Commission, so he does not think it's necessary.

Ms. Thomas said she appreciates all the hours the Planning Commission usually spends on petitions such as this. She knows that Mr. Cilimberg takes back to them a report about what the Board does. She suggested changing the process a little and letting them make comments back to the Board. Mr. Cilimberg said he brought up this idea at the joint meeting.

Ms. Thomas said since this petition will be coming back to the Board and there is time to get those comments, she would offer the Planning Commission an opportunity to make comments. This short-circuits the system, but at least it's not totally "thumbing our nose" at their opinions.

Mr. Dorrier said that is a good idea as long as they get the minutes of the Board's meeting because they would not have the benefit of what it has heard.

Mr. Cilimberg said he would take a little extra time to let the Planning Commission know exactly what the Board has focused on, and then through him or directly to the Board members, they can make comments. He said that he is hearing that the Board does not want this petition to go back to the Commission for them to make another recommendation.

Mr. Rooker said they made a recommendation based on 13 factors, but nine of them were dealt with by staff in the way they recommended before it came to the Board. The Board was left with four issues which really are primarily policy issues that this Board has to decide. He appreciates it when the Planning Commission turns something down because they don't have policy guidance from the Board at

that point in order to make a recommendation. If you read the Commission's minutes, there are different reasons shown for why different people voted as they did.

Mr. Slutzky said the minutes of the Planning Commission clearly show that they respected and appreciated the overall character and form of this project. He thinks this is a really good and quality-designed project. He also appreciates the idea the applicant brought to the table through their traffic engineer as a way the Board might gain a little certainty going forward as a matter of policy.

Mr. Cilimberg said there is one final thing. There's some work to be done with VDOT. There's work to be done on the proffers. There is some back and forth usually involved with that and staff wants to get the County Attorney's office and the Zoning Administrator involved as well. He needs to know that the Board does not want this petition scheduled for public hearing again until the proffers are in complete order. That is not the Board's actual process now; staff would like to know that the proffers are basically shut down when the petition is advertised so it is not dealing with them after the advertisement. In that way, everybody has a chance to know what they are and there are no changes between when the petition is advertised and the time of the Board's public hearing.

Ms. Mallek said from the public's point of view it's essential so they know what to react to. Mr. Cilimberg said that was an issue for the Development Process Task Force. They had planned to discuss this with the Board in a formal way to make this recommendation for all future applications.

Mr. Boyd said he thought that if the Board made significant changes to a petition it had to hold another public hearing. He asked Mr. Davis if that is correct. Mr. Davis said that applies to changes made after the public hearing has been opened. He said Mr. Cilimberg is suggesting that the negotiation period between the end of advertisement and the opening of the public hearing be eliminated.

Mr. Slutzky said he would support that approach

Mr. Rooker asked if the Board has to vote on a deferral. Mr. Davis indicated the applicant has a question.

Mr. Stoner said there is one item that needs clarification and that is with regard to the amenity space. Currently, what constitutes amenity space and what constitutes green space is ill defined. If the Board wants more amenity space, in what form is that wanted and how does that relate to the existing NMD code because there is no clarity on that issue currently for the applicant.

Mr. Slutzky asked is there is a proscribed percentage for amenity and a separate proscribed percentage for green space; have they satisfied the green space but are short on the amenities. Ms. Echols said that is correct. The Board usually waives the minimum requirement if there is an alternate area offsite, but within a quarter mile. There has not been an almost totally commercial development before, so she thinks there is an opportunity to reduce the amount, but she is not sure it would be down to 2.5 percent.

Mr. Slutzky asked if the Board could allow it to be five percent with some portion of that borrowed from the green space; that is what he thinks the applicant is asking for. He asked if there a balancing of whether this postage stamp of dirt is an amenity or a green space. Mr. Davis said there is a definition of amenity in the Zoning Ordinance, and although it's pretty general, it is defined. Under the Neighborhood Model District, since the Board has the ability to reduce the 10 percent to a lower level, if staff can make a recommendation as to whether amenity needs have been addressed, it becomes less of a requirement to distinguish between the green space and the amenity area if it all functions as one common amenity green space component.

Mr. Slutzky said the current language doesn't require that they be separate places. There has to be the functionality of this amenity. Mr. Davis stated that is right.

Mr. Boyd said it seems the Board is requiring amenities for residential-type development. In this applicant's proposal, it is amenities that apply to a commercial-type development. That is probably where the confusion's coming in. Mr. Davis said it is envisioned that there would be amenity areas for commercial development. The definition addresses both.

Mr. Slutzky said there might be a subset for green space.

Mr. Rooker said he agreed to provide the 15 percent amenity space for residential square footage. He said Ms. Echols clarified that. The issue here is the 10 percent which is required for commercial. He agrees with Mr. Davis that the Board is looking for a combination of green space and amenity that are appropriate for the development and, something less than 10 percent might be appropriate for the development. He thinks it requires more specificity by the applicant as to what he's going to do with that reduced square footage so the Board will know what it is getting.

Mr. Slutzky asked if Mr. Stoner is asking that the five or 10 percent amenity space be existing on what's already laid out as green space. Is that the ambiguity you're asking us to resolve? Mr. Stoner said the requirement is for a five-foot sidewalk, and if he builds a ten-foot sidewalk and puts park benches periodically along that sidewalk, how much of that sidewalk is amenity area?

Mr. Rooker said since five-foot sidewalks are required, if 10-foot sidewalks are built he thinks that would create an amenity area in that additional five-foot space. Also, if there are park benches where people can sit and eat lunch, then that is something that should be considered. Mr. Stoner said that

currently they have wider sidewalks but none of them are considered in their amenity area. The 2.5 percent amenity area is just the dedicated squares the Board saw on the plan.

Mr. Slutzky said he thinks Mr. Stoner and staff will be able to sort this out. He just needs some clarity about what can be accepted as amenity areas and what is not an amenity area.

Ms. Thomas said the Board also wants clarity of the descriptions of those amenities. Mr. Stoner said they did that in their Code of Development. They don't have a plan yet, so he cannot say how many linear feet are involved.

Mr. Rooker said to him there's a difference between providing a ten-foot sidewalk and providing a six-foot sidewalk and wanting amenity credit for the extra foot. A ten-foot sidewalk would provide room for outdoor dining, etc. that would actually be an amenity whereas some reduced square footage might not. Mr. Stoner said with respect to the proffers one of the problems was that they did not get the final staff report until a week before this public hearing. If there are issues in the proffers that need to be addressed, they need the staff report sooner.

Mr. Cilimberg said staff is working in a new process to provide the staff report to the applicant so they can decide whether they want to respond to anything in that report or if it is fine and let it go at that point. Ms. Echols said the petition would not be advertised until it got to the point where the applicant said they were not giving any additional changes.

Mr. Boyd asked for a motion to defer.

At 5:20 p.m., Mr. Slutzky **moved** that the Board defer ZMA-2006-008, Berkmar Business Park, indefinitely. The motion was **seconded** by Mr. Rooker. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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Agenda Item No. 19. **Public Hearing:** SP-2008-012, Embarq-Verizon Wireless-Tier III PWSF.  
Proposal: Collocation of a personal wireless service facility on an existing tower.  
Zoning Category/General Usage: CO, Commercial Office; Industrial  
Section: 23.2.2(15) Special Use Permit, which allows for Tier III personal wireless service facilities in the CO Zoning District.  
Comprehensive Plan Land Use: Office Service uses in Urban Area 2.  
Location: South side of Rio Road East (State Route 631), approximately 1/8 mile east of the intersection with Route 29 North, and near Fashion Square Mall.  
Tax Map/Parcel: Tax Map 61, Parcel 129C.  
Magisterial District: Rio.  
*(Notice of this public hearing was advertised in the Daily Progress on June 16 and June 23, 2008.)*

Mr. Bill Fritz, Chief of Current Development, summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said this is a request for a special use permit for a Tier III wireless facility on Sprint property on Rio Road near Fashion Square Mall. He said the existing tower has antenna arrays and some microwave antennas. He showed a photograph of the existing site and tower which included a simulation of the addition of an antenna array at the 240-foot level. He said the antennas that were there have been removed, but not the armatures. A Tier III permit is required because there are more than three existing antennas on the site. He said some ground equipment would also be installed.

Mr. Fritz said staff reviewed this application to determine whether or not it was consistent with the Zoning Ordinance. Staff found that it generally met many of the criteria of Section 31-241 which is the criteria that all special use permits are reviewed against. However, staff also reviews these types of requests against the criteria for wireless facilities contained in Section 5. This particular facility is a collocation and it is an opportunity site. It is staff's opinion that it results in additional adverse visual impacts and is not consistent with the goals of Albemarle County and the Wireless Policy which says, "Collocation which results in adverse visual impact is not consistent with the goals of Albemarle County. From a visibility perspective, collocation should be discouraged."

Mr. Fritz said staff found that the site has negative visual impacts; it is their opinion that the additional antenna array would be an additional negative impact. He said it's the array that's causing the staff the biggest concern, the fact that it is not flush-mounted. It is staff's opinion that flush-mounted would have less of an adverse visual impact so it would be able to recommend approval of the permit.

Mr. Fritz said in general, the finding of the Planning Commission was that the additional adverse visual impacts were not that substantial. A number of conditions were proposed by staff, and the applicant and staff worked together. Since this is an amendment of a prior special use permit, they recommend deletion of some existing conditions and addition of some new conditions. In recommending approval of the permit, the Planning Commission added conditions that staff had not included. Condition No. 10 would require some landscaping and Condition No. 11 would limit the offset of the antenna from the tower to no greater than the offset of the existing array that was up at the top of the facility; they were recommended by the Architectural Review Board. With that the Planning Commission, by a vote of 4:2, recommended approval of the special use permit. He offered to answer questions.

Mr. Boyd said if there were no questions for Mr. Fritz, he would ask the applicant to speak.

Mr. Maynard Sipe said he is the attorney representing Verizon Wireless. He works at the firm of LeClair Ryan in their Charlottesville office. With him today are Mr. Matt Winstead, Mr. Nate Holland and Mr. Steven Waller who are the consultants working on this project. Basically the proposal is to collocate on an existing tower in an effort to make the best possible use of an opportunity site under the County policy and to deliver the best possible wireless service to that immediate area. He showed a slide on the screen of the area in and around Route 29 and Rio Road. He said the policy itself favors use of opportunity sites. It contains language that disfavors full arrays under circumstances where they have a visual impact that's significant; however, they believe the policy does not bar the use of full arrays. The ordinance has provisions for a special permit so the Board can evaluate sites having unique circumstances and this is a unique site where they believe it is appropriate to make a request for a full array.

Mr. Sipe said the technical reason for the full array is that this is an area where there is a high demand, and that demand calls for a full array. The array would provide the ability to have multiple antennas facing in each direction defined as sectors being served. By having multiple antennas, Verizon can get a better quality reception for the handheld unit and the in-home unit and maintain calls longer and less likely to be lost due to interference and conditions. That is important when providing quality for broadband service, which is part of the services that Verizon anticipates providing for both residential and business use.

Mr. Sipe said there are visual considerations; probably no one views the existing tower as favorable. He thinks it is important to focus on the existing tower that has its own visual impacts and then judge the Verizon application by the incremental additional amount of impact being added. Under the Telecommunications Act it is important for the Board to focus on that. They think the additional impact is not significant. That is borne out by staff's findings that they meet the criteria for a special use permit. Staff has acknowledged that it's not detrimental to the adjacent properties and it's not negatively or adversely impacting the character of the area.

Mr. Sipe referred to a graphic of the tower and a schematic that shows the existing arrays. He said there are five existing arrays similar to the one they are proposing. As to visual impacts, they provided a series of photos to the Planning Commission along with a letter; these were also furnished to the Board. He pointed out the existing mounting bracket that Verizon will be removing.

Mr. Rooker asked if there is some reason why that mounting bracket has not been removed. Mr. Fritz said there was no requirement on the existing special use permit to do that.

Mr. Rooker asked if the Board should request that of the owner of the tower.

Mr. Slutzky asked if it would not come down under Mr. Sipe's rendering. Mr. Sipe said it is part of their proposal and they will take on the burden of arranging for it to be removed as Verizon installs its own array.

Mr. Rooker said regardless of that application, he thinks the Board should require that things that are on towers, especially visible towers like this, be taken down when they're no longer used.

Ms. Thomas concurred noting that the County requires that the tower come down when it's no longer used. She guesses the County does not require that the brackets come down when an array is no longer being used.

Mr. Slutzky said if it can't be required, the Board should ask the party responsible for it to take it down and remind them that if they choose not to do that it will be reported to the County when they next come asking for permission to put a different one up. Mr. Tucker said he thinks the County used to do that.

Mr. Rooker said that obviously Mr. Sipe is not responsible for the existence of the current state of the tower. Mr. Sipe said he thinks this old tower predated the policy. He thinks the conditions being imposing by the County now on new towers probably address this issue. He thinks the way to get at it in this particular circumstance is by letting Verizon remove it as they install their new array.

Mr. Sipe said they do not think it has a significant adverse visual impact, and there are many factors that mitigate the impact (listed in the letter sent to the Planning Commission), including: it's in the midst of a commercial area; all of the adjacent or abutting properties are commercial properties; and, it has the existing mounts and arrays. He referred to a photo view from the mall parking lot behind the tower next to a multi-family residential area. The views from the residential area are very limited - almost negligible. He said Verizon has agreed to do a landscape plan that will provide screening of some existing ground facilities that are not a part of the Verizon proposal. They will also add some trees along the corridor to bring the site up to the standards for entrance corridor sites. Those trees would provide some additional screening of the existing tower from Rio Road.

Mr. Rooker asked the height of the proposed shrubs. Mr. Sipe said they are to the standard asked for with the entrance corridor. These trees will obscure much of the tower because of the angle of visibility from Rio Road. They will provide some visual screening of the base of the tower. They are intended as an additional amenity for the site as a whole. He said most of the equipment is behind the brick building; the equipment in the rear is not that visible from the road. There is a utility yard that serves

the building and Verizon is going to provide the shrubbery to screen that better. It is an added amenity they agreed to provide as part of this special use permit.

Mr. Sipe said there is also an issue of fairness. Verizon is seeking approval for an array like those the County previously approved on this site. They would like to provide the same quality of service that other carriers are able to provide to this area. In conclusion, he stated that collocations are an efficient way to provide quality wireless service to the urban area. They are a way to minimize potential impacts from having multiple new towers or other sites located in these areas. He then offered to answer questions.

Ms. Thomas asked if there is significance to the proposed height of this array. She asked if it needs to be at the very top to get the coverage Verizon needs. Mr. Sipe said the height provides the ability to cover as much area as possible from this location. The coverage would be approximately the same as a flush-mount, but capacity is important and height also helps capacity because it provides a clearer line of sight to a larger area so gets better reception from a handheld unit. Verizon is trying to maximize the quality of service it can provide from this particular site.

Mr. Boyd said if there were no further questions for the applicant, he would open the public hearing. With no one from the public rising to speak, the hearing was closed, and the matter placed before the Board.

Mr. Slutzky said he really likes the County's cell tower ordinance; he is proud the County has gone to the trouble to provide for less obnoxious sighting experiences. In the rural area the Board absolutely has to rigidly adhere to that. In the growth area, he thinks it's an important social benefit to have access to good coverage, but there is a trade-off with the aesthetic impact these things can have. In the growth area he would not embrace putting up a new tower that wasn't shrouded with trees and was not compliant with the ordinance. He said taking an existing tower that's ugly and making it a little uglier, but improving the aesthetics at the base, and giving improved coverage favors approval. Mr. Slutzky then **moved** to approve this request.

Mr. Rooker requested that there be some discussion before a motion is made.

Mr. Davis asked Mr. Fritz to clarify Condition No. 11. He said that what was shown on the screen is different from the language in the Planning Commission's recommendation letter. Mr. Fritz said it is slightly different; it should be as written in the Planning Commission's action letter which is: "No antennas shall project from the monopole to a distance that is greater than that of the narrowest of the five existing full sector panel antenna arrays on the pole, the existing mounting bracket to be removed as shown on Attachment A." He said that last sentence was omitted from the text seen on the screen.

Mr. Davis said the conditions as set out in the Planning Commission's action letter are the recommended conditions. Mr. Fritz said that is correct.

Mr. Sipe said the conditions commit Verizon to development in accordance with the plan and removal of the bracket is noted on the plan, but the Planning Commission wanted to add that simply to be extra clear that Verizon will remove it. He said Verizon is fine with that.

Mr. Rooker said the County's ordinance is considered a model by people around the country who have looked at cell tower ordinances. Several newspapers out of this area editorialized that their area should adopt a cell tower ordinance comparable to Albemarle's. The whole ordinance is based on reducing the visibility of towers and antenna while still allowing reasonable coverage for the community. The Board has adhered to that since the ordinance was adopted. He thinks everyone will agree this existing tower is a visual blight. It is a non-conforming tower magnified. There is no other tower in the area that is as nonconforming as this tower. The question is whether the Board will allow additional items to be placed on this tower that themselves are non-conforming. Not only is this tower non-conforming but the use of array antennas is non-conforming.

Mr. Rooker said the County does not allow array antennas on monopoles that are hidden in trees, so why would it allow an additional non-conforming antenna at 240 feet, which is about 24 stories high, at the corner of two entrance corridors. He said there are many opportunity sites in the urban area for cell towers. If the Board allows an array antenna on this tower as opposed to one flush-mounted it would, in his view, be setting a precedent.

Mr. Rooker said this is a "slippery slope." He said Mr. Sipe had exemplified that when he said the County had set a precedent so Verizon should be able to do this also. He talked about the need for this unique array at 240 feet, but there is no distinction between the rural areas and the urban areas in the tower policy. It's based on visibility. What will happen with the next request to put an array on a tower in the rural area? If the Board starts allowing these things as a matter of course on non-conforming towers, it will have a bunch of exceptions, but no longer have a policy. He thinks this is wrong and the Board should not approve it. He concluded by saying that an array antenna at 240 feet is not contemplated by the policy so shouldn't be approved.

Ms. Thomas said the last time Verizon came before the Board it was for a fourth tower on a site on Afton Mountain - she felt that she shouldn't vote against it because she had voted for the others in that location. She said she has consistently voted against ugly additions to ugly poles, so she will be totally consistent in voting against this request. When cell towers were first introduced to the County, all the applicants said they could offer better service if they were allowed to be bigger and taller. She said this community decided it preferred smaller and less visually obtrusive. The County went all the way to the

Federal Court of Appeals in order to uphold its view that visual intrusiveness was something that could be considered. For the urban areas, the Board was told it should be talking about panels and not towers. Panels can be attached to buildings, or existing structures of all sorts. They don't need tall towers or huge arrays in order to offer service. Of course, they can offer cheaper, better, quicker service if they have a huge array high up in the sky.

Ms. Thomas said that a long time ago the Board decided that was not the right direction for this community. She said this is an old tower and all have agreed it is ugly. She thinks adding that array at the very top of this tower is a significant visual addition to a significantly visual intrusive pole. The last point she will make is that each time the Board approves something that it doesn't like and allows it to go on a tower because the tower is already there, it makes it much harder for that tower to ever come down - the tower does not come down until the last user is no longer using it. The more users attached to it the longer its life is going to be.

Mr. Dorrier said he will support Mr. Slutzky on this. He pointed out that it's in a commercial district. It is true that ugly things are not wanted in the commercial district as well as the rural district, but sometimes you have to compromise. Hopefully, people do not notice it as much because it's commercial. He said the 11 conditions are a sign that the applicant realizes he needs to compromise on the issue, and these conditions help his application. The Planning Commission recommended approval 4:2 so they agreed it should be a use permitted in the County. He thinks that sometimes the Board has to compromise and this is one of those times.

Ms. Mallek said she has always objected to towers being in the midst of neighborhoods. She was struck by something in the applicant's letters about landowners in the commercial areas being unwilling to lease their land in urban areas because they view it as restricting their future development. That is exactly what the residential neighbors said - it's going to affect my resale value, I don't want to have it nearby. She knows none of that's really appropriate to this decision. She guesses that she would rather have collocation than another big pole. Now that the big poles are no longer available, it removes that concern.

Mr. Rooker said there is a distinction. This pole is at the corner of two entrance corridors. The County spends a huge amount of money trying to protect the aesthetics of entrance corridors. If there's any place where you don't allow this kind of thing it's at the corner of two entrance corridors.

Mr. Slutzky said he almost agrees with what the other Board members said, but he has struggled with the request because he does not want it there. If the Board says "no", the pole is still there, and it is still ugly. Is the marginal additional aesthetic affront to that choice location sufficient justification to turn it down? He thinks it is a nominal additional aesthetic affront and he is glad they will be putting screening at the ground level. Because of that he is willing to support it. He would not, in any way, be supportive of a new structure like this anywhere in the County.

Mr. Rooker said there is a distinction between the structure and the antenna array. The County does not allow, as a matter of policy, antenna that are not flush-mounted, on any tower.

Mr. Slutzky asked why that is the policy.

Mr. Rooker said it is because of visibility. They could have proposed flush-mounted; staff recommended denial because the request violates the visibility requirements of the County's ordinance. The primary reason is that they're proposing the kind of antenna array the County does not approve. Why the Board would approve it at 240 feet when it would not approve it at 60 feet is beyond him. He said their application could have been for all flush-mounted antennas. He said every applicant, for any height, has the same argument as that given by Verizon. He does not want the Board to confuse the existence of the tower with the use of this kind of antenna array. The argument that they're going to be able to provide better coverage with this kind of antenna array is an argument that's available to anybody anywhere with any kind of tower. He does not know how to distinguish between allowing that kind of antenna array, not the tower which is already there, at 240 feet at the intersection of two entrance corridors - it should not be allowed when you're not going to allow it out in the woods.

Mr. Slutzky said he makes the distinction. He would not approve this tower out in the woods because that experience would be significantly different to him. Having an array on a pole out in the woods versus this location is the difference between its current condition and the new condition which would result from the Board's approval; to him that difference is nominal.

Ms. Thomas said there is a very tall tower at the corner near where the Meadow Creek Parkway will come in at Melbourne Road near Charlottesville High School. It is pretty obtrusive yet not nearly as obtrusive as this one. It's painted red and white, which she presumes is for FAA reasons. She believes every applicant has asked to have an array, and the Board has said no, it has to be flush-mounted. She said the flush-mounted stick out a little at the top, but it is not nearly as visually obtrusive as this big set of arrays. She said the Board has held firm and applicants have made do with the flush-mounted.

Ms. Thomas said the other thing she would like the Board to remember when considering this sort of thing is that panels can be attached to all sorts of structures, including water towers, and nobody thinks of them as a tower. There are panels, not well placed, on top of the Monticello Hotel, for example. There are panels in all sorts of places, and the urban area is exactly the right place to put panels. They do not give as much coverage because they are not as high up in the air, but a lot of cell phone coverage can be obtained from panels that are not high up in the air. That is why the telephone pole type of poles in the

rural area work. She does not think the Board has to think it is this proposal or an ugly tower somewhere else in the neighborhood - because it is this or an array of panels in various locations.

Mr. Slutzky said for him it's this pole with this array on the top or not, and he does not see a huge difference in this case because the existing structure is so ugly. He said that is the only reason he is willing to support it.

Ms. Mallek asked if the Board could require that it be a flush-mounted array. Otherwise she cannot vote for it.

Mr. Rooker said he thinks all the Board can do is vote on what's before it now, and the Planning Commission recommended denial. Mr. Davis said this is a special use permit request so the Board has the discretion to put conditions on it. If the Board is inclined to support that concept, he thinks staff would need to work with the applicant to get appropriate drawings and conditions in place to do that. He does not know if the applicant would be interested with proceeding with the plan if it was flush-mounted, but that would be their option.

Mr. Tucker said that on page 10 of the Staff Report, Item 3c shows that condition, but it has been marked through on flush-mounted.

Mr. Rooker said that condition was actually in existence before, so there was already a restriction that prohibited anything but additional antenna that were flush-mounted. Today, the Board would be removing that restriction.

Mr. Boyd asked if the applicant would like to address that point. Mr. Sipe said he would like to address it because he failed to mention a couple of points that are important. Because of the wording of the existing condition, they believe they can get the flush-mounted antenna by-right with a building permit. They were going through the special use permit process with the extra expense and effort because they believed the array was essential to providing capacity for the area. He said Verizon has done the flush-mounts in another location – they got a building permit to do them on a site off of Barracks Road slightly west of the last apartment complex on the north side of the road. In that case the objective was purely to provide coverage to that area, and it will not have the demand to necessitate an array.

Mr. Sipe said Verizon uses panels on existing structures to the extent it can – it is mounting panels on the Hilton Hotel which is one of the few tall buildings that can be utilized in that corridor. When they researched the area, they found few buildings of sufficient height to allow placement of those panels. Verizon is also placing a panel on the retirement home that's a multi-story building in Crozet. Verizon adheres to the policy in everything it does. The policy does not prohibit arrays on this site, although it talks about their visual impact. They only bring these types of applications to the Board where they have already carefully considered the visual impact. They think this request is warranted by the technical need, the necessity for the service, and the impact is mitigated or minimal. They don't think they need a special use permit to do the flush-mount antennas because they're already provided for in the conditions. He requested support for the Verizon request as requested.

Mr. Rooker asked if there had been a second to Mr. Slutzky's earlier motion.

Mr. Dorrier offered a **second**.

Mr. Boyd asked that Mr. Slutzky repeat the motion.

Mr. Slutzky **moved** that the Board approve SP-2008-00012, Embarq-Verizon Wireless Tier Three PWSF, with the 11 conditions recommended by the Planning Commission. The motion having been **seconded** by Mr. Dorrier, roll was called, and the motion **died** by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier and Mr. Slutzky.

NAYS: Ms. Mallek, Mr. Rooker and Ms. Thomas.

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Mr. Fritz said he believes that even putting a flush-mount antenna on this tower requires a special use permit because it is still a Tier III type facility. There are already three antennae on that particular tower.

Mr. Davis said Mr. Fritz is correct in that they need a special use permit to do the flush-mounted tower. If the Board were inclined to support a flush-mounted tower, before adjourning today there is an opportunity for the Board to reconsider its denial and approve a flush-mounted tower. He noted that after today, it would require that a new application be filed and the applicant would have to go back through the Planning Commission process before coming back to this Board.

Mr. Boyd suggested the Board take up other matters and come back to this discussion.

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Agenda Item No. 20. Other Matters Not listed on the Agenda from Board members.

Mr. Dorrier suggested discussion of the bridge over the Rivanna, and Mr. Boyd declined.

Ms. Mallek noted that there are bake sales for the bridge over the Rivanna.

Mr. Slutzky said in his conversations with VDOT, he was asked how they know it is not just one member of the Board of Supervisors who is pushing so hard to get a bridge over the Rivanna to complete the parallel road. How does it know the entire Board is in agreement? He asked if it would be worth having each Board member acknowledge whether he thinks it would be a good priority for VDOT to be supportive in any way to get that completed parallel road network, in particular the bridge.

Ms. Mallek said she is annoyed to hear that because since 2002 during development of the UNJAM Plan all the way through to CHART, it was number one on the priority list.

Mr. Slutzky said the question was asked of him. VDOT hears from him all the time.

Mr. Rooker said it is in the long-range transportation plan.

Mr. Slutzky said he pointed out that at the MPO meeting. He said Mr. Rooker had specifically asked to have it added as a priority, and it was discussed at the MPO level. He asked if the Board members would confirm yet again their enthusiasm for the project.

Mr. Boyd said he does not think that is needed

Ms. Mallek said to do it anyway because obviously they cannot read.

Mr. Rooker said it is a project that is in the long-range plan, and he supports the long-range plan and that project.

Ms. Mallek noted that she has supported it since CHART.

Ms. Thomas said she certainly supports it.

Ms. Mallek said it is absolutely core to the Route 29 function.

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Agenda Item No. 19. Back to SP-2008-012, Embarq-Verizon Wireless-Tier III PWSF.

Mr. Sipe said there may be a disagreement of their interpretation of the language of the condition, but they will certainly accept the recommendation for approval of the special use permit with flush-mounts that would alleviate any question about that interpretation. He said if they are restricted to flush-mounts, according to their engineer they will have to build multiple sites to cover the same area.

Mr. Rooker pointed out that those sites would be new sites so they would comply with the County's policy.

Mr. Slutzky asked what the Board would do to accommodate that request since it has already voted. Mr. Davis said there should be a motion to reconsider the previous action on this application, vote on that motion, and then offer a new motion.

Mr. Slutzky **moved** that the Board reconsider the Board's previous action on this application. The motion was **seconded** by Ms. Mallek. Roll was called, and the motion passed by the following recorded vote:

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

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Mr. Davis said Mr. Fritz determined that if the Board members looked at the staff's report, and Condition No. 3(c) and Condition No. 3(d) as previously approved were added back, and then Condition No. 11 eliminated, the Board would have the proper conditions in front of it for their application for a flush-mounted antenna.

Mr. Slutzky **moved** that the Board approve SP-2008-012, Embarq-Verizon Wireless-Tier III PWSF, as amended. Ms. Mallek **seconded** the motion.

Ms. Thomas said she is still going to vote against it because she is being consistent in her policy of not adding anything to existing towers that are not wanted because it extends their life.

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

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

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

1. The tower shall not be increased in height;
2. All antennae, dishes and their replacements attached to the tower shall be used for personal wireless service providers;
3. Additional and replacement antenna arrays may be attached only as follows:

- a. Omni-directional or whip antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter, and shall be of a color that matches the tower;
  - b. Directional or panel antennas shall not exceed seven (7) feet in height or two (2) feet in width, and shall be of a color that matches the tower;
  - c. Only flush mounted antennas shall be permitted; no new antennas shall project from the structure beyond the minimum required by the mounting equipment, and in no case shall an antenna project more than twelve (12) inches from the existing structure. The replacement of omni-directional, whip, directional or panel antennas in existing antenna arrays shall be subject to this condition; and
  - d. Existing arrays of directional and panel antennas that are mounted with brackets that separate them by more than (12) inches from the structure may remain. Provided, however that if any of these arrays are replaced at any time, they shall be flush-mounted as provided in condition 3c. This condition shall not pertain to the maintenance and/or replacement of a single panel antenna that malfunctions or is in need of repair;
4. Not more than six (6) satellite or microwave dishes may be attached to the tower at one time, and only as follows:
- a. The existing six (6) foot diameter grid dish that is subject to this request may be replaced by the specified six (6) foot diameter High Performance dish at a height that is not more than 95.5 feet;
  - b. Other existing satellite and microwave dishes may be replaced on the tower by the same type of dish, provided that the diameter of the replacement dish does not exceed the diameter of the dish being removed, the color of the replacement dish matches the tower, and the mounting height does not exceed that of the dish being replaced;
  - c. Other existing satellite and microwave dishes may be replaced on the tower by a different type of dish if the mounting height is no less than twenty (20) feet below that of the dish being removed, the diameter of the replacement dish does not exceed that of the dish being removed, and the color of the replacement dish matches the tower;
  - d. Other existing satellite and microwave dishes may be replaced by a different type of dish if the proposed mounting height of the replacement dish does not satisfy the height requirements of condition 4c with the written approval of the Zoning Administrator. This approval shall only be granted after the submission of a microwave path survey indicating that the proposed replacement dish will be mounted at the lowest possible height that allows the system to function. In such a case, the path survey shall demonstrate the reason(s) why the proposed height is the lowest possible height, but in no case shall the replacement be higher than the dish it is replacing;
  - e. All replacement satellite or microwave dishes shall be mounted as close to the face of the pole as structurally and mechanically possible and, in no case, shall the distance between the back of the dish and the face of the pole be greater than eighteen (18) inches; and
  - f. Prior to the issuance of a building permit for replacing a dish, the applicant shall provide engineered drawings demonstrating the dimensions of the existing dish to be removed and its replacement dish, and additional information demonstrating the mounting distance between the pole and the dish to the Department of Building Code and Zoning Services;
5. The current owner and any subsequent owners shall submit a report to the Zoning Administrator once (1) per year, by not later than July 1 of that year. The report shall identify each user of the tower and that each user is a personal wireless communications service provider;
6. The permittee shall comply with Section 5.1.12c of the Zoning Ordinance;
7. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless communications services purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney;
8. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Rio Road, Embarq Property", with a final zoning drawing submittal date of 3/10/2008;
9. The following shall be submitted to the agent after installation of the antenna is completed and prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the antenna, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified; and

10. The applicant shall provide landscaping along Rio Road East generally as shown on the Landscape Plan by J. Thomas Dalton sealed 5-21-08, with a final landscaping plan to be administratively approved by staff.

Agenda Item No. 20. From the Board: Matters Not Listed on the Agenda.

Mr. Boyd said he had one thing to mention. The Board needs to adopt a resolution setting the FY 2009 Compensation and Benefits for the County Executive. The resolution was sent to the Board members, and it has been discussed and approved in prior discussions.

Mr. Rooker **moved** approval of the following Resolution to Set FY '09 Compensation and Benefits for the County Executive. The motion was **seconded** by Ms. Mallek. Roll was called, and the motion passed by the following recorded vote:

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

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

**RESOLUTION TO SET FY 09  
 COMPENSATION & BENEFITS FOR  
 THE COUNTY EXECUTIVE**

**WHEREAS**, the County of Albemarle operates under the County Executive Form of Government; and

**WHEREAS**, the Board of Supervisors determines the compensation and benefits to be paid to the County Executive for the performance of his duties and responsibilities.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby finds that Robert W. Tucker, Jr., County Executive, shall receive the following compensation and benefits for FY 09, beginning July 1, 2008:

- 1) Annual salary of \$177,721.
- 2) Annual vehicle allowance of \$9,650.
- 3) Deferred Compensation paid by the County in the amount of \$23,500.
- 4) Benefits provided to all County employees in the Personnel Policy & Procedures Manual.
- 5) VERIPlus benefits to consist of the VERIP benefits provided to County employees under the Personnel Policy & Procedures Manual with the following additions and modifications:
  - a) VERIPlus benefits shall extend for a period of 10 years from the date of retirement regardless of age;
  - b) VERIPlus benefits shall be equal to the base VERIP benefits plus on the following vesting dates the Virginia Retirement System (hereinafter "VRS") component of the benefits shall increase to the designated percentages of the base VERIP benefits:

June 30, 2008 123%  
 June 30, 2009 136%  
 June 30, 2010 150%

The vesting percentage shall be set at the designated percentage as of June 30<sup>th</sup> prior to the date of retirement if retirement occurs before the next vesting date. Attachment A provides an example of the possible VRS component of the VERIPlus benefits.

- c) The retirement requirement for VERIPlus will be met if retirement is approved under any of the retirement plans of the VRS, including any disability retirement provision.
- d) VERIPlus benefits shall accrue to the benefit of a designated survivor, as designated for purposes of VRS, if death should occur prior to receiving ten years of VERIPlus benefits.

As of:	Vesting Ratio	Monthly VERIP Benefit	+	Monthly Additional Benefit for VERIPlus	=	Monthly Benefit to be Paid for 10 years for VERIPlus
June 30, 2008	123%	\$2,718	+	\$626	=	\$3,344
June 30, 2009	136%	\$2,864	+	\$1,030	=	\$3,894
June 30, 2010	150%	\$2,987	+	\$1,494	=	\$4,481

July 2, 2008 (Regular Day Meeting)  
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Agenda Item No. 21. Adjourn. With no further business to come before the Board, the meeting was adjourned at 6:01 p.m.

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Chairman

Approved by the Board of County Supervisors
Date: 10/14/2009
Initials: EWJ