

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 9, 2008, at 6:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann H. Mallek, Mr. Dennis S. Rooker, Mr. David Slutzky and Ms. Sally H. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, County Planner, V. Wayne Cilimberg, and Clerk, Ella W. Jordan.

Agenda Item No. 1. The meeting was called to order at 6:05 p.m., by the Chairman, Mr. Boyd.

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

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

Ms. Mallek said there was a great meeting held last night regarding the Advance Mills Bridge. There has been great public support for the bridge.

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

There were none.

Agenda Item No. 6. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Mr. Dorrier, to approve Item 6.4 and to accept Items 6.1 through 6.3 for information. 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.

Item No. 6.1. Albemarle County Department of Social Services, survey results on use of public transportation by customers, **was received for information.**

The Executive Summary stated that Board member Sally Thomas requested information from the Department of Social Services regarding how its customers perceived and utilized the public transportation system. The Department designed and distributed a survey to its customers over a one-week period in May 2008 in an effort to acquire this information and respond to this request.

The survey was designed and deployed for a short period of time to gather information on three items: 1) reasons customers do not choose public transportation, 2) why customers like to use the public transportation system, and 3) any additional feedback about public transportation. Fifty-four customers completed the survey for a 35.29% response rate. The top reasons identified for not utilizing public transportation included bus availability, the ability to use private transportation and the physical barrier of the distance between existing ACDSS bus stop and the ACDSS office. The primary reason to use public transportation was not surprisingly the price of gas. The second most common reason was alignment with a "green" attitude toward the environment. Nearly twenty percent of respondents also liked the fact that they could do other things while riding the bus.

Item No. 6.2. Albemarle County Sheriff's Office 2007-08 Game Enforcement Summary, **was received for information.**

The Executive Summary stated that Virginia Code 29.1-202 provides that all "sheriffs, police officers or other peace officers of this Commonwealth shall be ex officio conservation police officers." Conservation police officers have jurisdiction to enforce state hunting laws as do game wardens.

The Board agreed to provide County funding for the Sheriff's Department to supplement the effort of the game wardens during the 1998/99 deer hunting season in response to citizen concerns regarding illegal hunting. During each deer hunting season, the Albemarle County Sheriff's Office conducts game enforcement efforts to ensure compliance with state and County hunting laws. These activities include patrolling the County to verify that hunters are properly licensed, responding to E911 calls for service from concerned citizens, issuing warnings/summonses, conducting special operations and seizing property.

The Sheriff's Office has previously provided annual reports regarding the activities resulting from this effort. This report provides the 2007-2008 hunting season statistics.

During the 2007-08 hunting season, the Albemarle County Sheriff's Office checked a total of 254 hunters with 64 of these checks resulting from calls from concerned citizens. Of the 64 calls received from citizens, 31 were complaints of trespassing, 22 were complaints of shots fired/heard by land owners,

9 were complaints of road hunting, and 2 were complaints of spot lighting. Sixty-three (63) summonses were issued for illegal hunting during this period, of which approximately 30 percent involved illegal spot lighting or spot light hunting with a weapon. The Sheriff's Office also engaged in special operations utilizing decoys, stake outs and increased patrols in known trouble areas of the County. These operations further aided in ensuring compliance with state and County hunting laws. The Sheriff's Office achieved a 100 percent conviction rate.

The FY2008 Operating Budget allocated \$16,800 to the Sheriff's Office for game enforcement activities with the majority of these funds earmarked primarily for overtime expenses.

Item No. 6.3. Copy of letter dated June 26, 2008, from Ronald L. Higgins, Chief of Zoning, to John Murphy, **re: LOD-2008-0009 - OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS - Tax Map 58, Parcel 55; (property of John A. & Margaret S. Murphy) – Samuel Miller Magisterial District, was received for information.**

Item No. 6.4. Approval of Minutes: November 14, 2007 and May 14, 2008.

Ms. Mallek said she had not read her minutes of May 14, 2008, and asked that they be pulled.

Mr. Boyd said he had read his minutes of November 14, 2007, and found them to be in order.

Agenda Item No. 7. **PUBLIC HEARING: PROJECT: ZTA-2008-001. Athletic field lighting.**
PROPOSAL: Amend Sections 4.10.3.2 (Exceptions - limited) and 4.17.5 (Modification or waiver) of the Zoning Ordinance (Chapter 18 of the Albemarle County Code). This ordinance would amend section 4.10.3.2 by adding poles that support outdoor luminaires for lighting athletic facilities as a class of structures exempt from the zoning district height regulations, provided that a modification is approved by the planning commission; and amend section 4.17.5 to establish procedural and substantive requirements for the commission to modify the height of such poles. (Advertised in the Daily Progress on June 23 and June 30, 2008.)

Mr. John Shepherd, Manager of Zoning Administration, said this is an ordinance that would amend Section 4.10.3.2 by adding poles that support outdoor luminaires for lighting athletic facilities as a class of structures that are exempt from district height regulations, provided that a modification is approved by the Planning Commission. It would also amend Section 4.17.5 to establish procedural and substantive requirements for the Planning Commission to modify the height of such poles. Modification of the height of light poles would be subject to the standards of the Illuminating Engineering Society of North America, and this would assure that any waiver or modification of pole height shall be the minimum that is necessary for any particular application. On June 3rd, the Planning Commission reviewed and recommended that the Board approve this proposal. In the course of the Commissions' consideration of the proposal, Marcia Joseph noted that Dr. Philip Ianna of the UVA Astronomy Department had provided expert consultation during the drafting of the lighting ordinance in the past and asked for his opinion on this amendment. Since then, Dr. Ianna has reviewed the amendment and offered this supportive comment. "The changes are very definitely to the good since the taller poles yield a better design with a lower glare to the players, increasing safety and minimizing light trespass beyond the playing area helping compliance with property line illuminants requirements." With this in mind, staff recommends approval of the amendments as presented. Mr. Shepherd also mentioned that Mr. Tim Hughes, of the Department of Parks and Recreation is here to assist him in answering questions.

Mr. Boyd asked how this would work in cases where there are applications for lights, specifically in regards to events this Fall. The addition of lights at Darden Towe Park, both on the tennis courts and in the ball fields, would fall into this category of the extended lights. Mr. Boyd posed the questions: 1) Does this mean that all it takes is for Planning Commission approval? 2) How does the public weigh in on that if they want to appeal that decision to the Board? 3) Does it allow the Commission to simply approve lights without having it come to the Board?

Mr. Davis said that the lights on the fields at Darden Towe would not happen unless the Board of Supervisors and the City Council agreed that they would happen, so that would be subject to the Board's control.

Mr. Boyd asked what would happen about other situations. Mr. Davis said other situations where people would apply would be treated the same as a site plan. As part of a site plan, the process for the lights would involve an application for a waiver to the height restrictions for the lights, and if they wanted a waiver, it would be handled by the Planning Commission. The Planning Commission would hold an informal public hearing, although a public hearing is not required on the waiver, and any appeal would only be by the applicant to the Board.

Mr. Boyd said, that is what he thought, so if there is great opposition to lighting some fields somewhere in the County, the public would never be able to appeal that to the Board, and it would be a final decision. He asked if a waiver would go through the Planning Commission. Mr. Davis said it would be as any other waivers that are granted under the Zoning Ordinance, and it would be treated no differently than any other waiver.

Mr. Rooker commented that today, they do not have to go to the Board to have lighting approved for a field. This is an amendment that only deals with the height, how you can approve a height that is greater than is currently allowed for. He noted the question here tonight is really whether or not there is comfort in allowing the decision on the height of the poles to be made by the Planning Commission. The full cutoff lighting will still be required, so the evidence indicates that it is very difficult to have full cutoff lighting on shorter poles and make it work. He noted the UVA Astronomy Professor who was one of the key people behind getting the lighting ordinance passed in the first place supports this.

Mr. Boyd noted that it is his understanding that if a field is a certain size, such as a softball field, you cannot use full cutoff lighting. He noted that it will not work, and posed the question if this allows people to put in non-full lights.

Ms. Thomas noted that there is already in the lighting ordinance a provision that sports lighting will be looked at somewhat separately. She looked up the ordinances for Flagstaff, Arizona, which is usually regarded as having the most stringent lighting ordinance in the country because of the astronomy observatories that are near there. Ms. Thomas read a couple of sentences from the Flagstaff lighting ordinance: "Illumination for outdoor recreation facilities must conform to the shielding requirements here except when such shielding would interfere with the intended activity. For such facilities, partially shielded luminaries are permitted. Examples of activities where partially shielded luminaries are permitted, include, but are not limited to, baseball, softball and football. Specifically, tennis, volleyball, racquetball and handball courts and swimming pools must utilize full shielded luminaries."

Mr. Boyd commented that those sentences were from the Flagstaff ordinance, not from the County's ordinance. Ms. Thomas acknowledged this and said she thinks the same thing guides the County because there is a provision for different lighting for sports facilities when they cannot get the needed light with the full cutoff luminaries.

Mr. Shepherd agreed and noted the Outdoor Illumination Society has different standards for different sports and different levels of play within those sports which will provide the guideline for approval of any of these applications. He noted that has been the method and process to approve the full cutoff feature of the lighting in the past, and this includes the pole height to that consideration as well. He went on to note that views in the future will be similar to those in the past, in that the Commission will be able to consider both the full cutoff aspect of the lighting and also the height of the lighting. Prior to this, the height was not subject to Planning Commission review.

Ms. Amelia McCulley, Zoning Administrator, noted that in direct response to Ms. Thomas' point, there is currently a provision in the ordinance to get a modification of the full cutoff, and there have been a couple of similar situations with athletic field lighting. She noted that Western Albemarle High School and St. Anne's-Belfield had made those applications. Ms. McCulley noted that in response to Mr. Boyd's question about notification of the public, as Mr. Davis said, this is typically done through a site plan process and staff would provide the normal notice to neighbors of this as it would any site plan. The neighbors would be notified that there is a site plan in, and as part of that review, they are requesting a waiver of the pole height. The neighbors would be able to come to the Commission meeting and have part in that discussion.

Mr. Rooker asked if an applicant comes in with a site plan application to light a field, where is full cutoff lighting. He did not think that was a discretionary decision. It is only if they are seeking a waiver that it becomes a discretionary decision. Mr. Davis said that is correct. Mr. Rooker then asked if they can, as a matter of right, have full cutoff lighting. Ms. McCulley agreed. Mr. Rooker noted that anything beyond the 35-foot height currently in the ordinance would also require a waiver. A typical application would actually be seeking two waivers. Part of the inquiry would be to make certain that to the extent reasonably possible, shielding is taking place. Ms. McCulley said that was correct and that it is the minimum distance above the horizontal in terms of cutoff, and it is a minimum height necessary to achieve the purpose and safely light the field.

Mr. Shepherd commented that is why there is reliance on the Illuminating Society and Engineering Society standards for all of these reviews. What is being approved is the minimum lighting necessary for the safe play and no more.

Mr. Boyd opened the public hearing. There was no one from the public present to speak on this item, and the public hearing was closed.

Mr. Rooker **moved** approval of ZTA-2008-001, Ordinance No. 08-18(5). The motion was seconded by Mr. Dorrier. Roll was then 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.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 08-18(5)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 4.10.3.2 Exceptions – limited
Sec. 4.17.5 Modification or waiver

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.10.3.2 Exceptions -- limited

The following structures are excepted from the height limitations in the applicable zoning districts:

a. Towers, gables, penthouses, scenery lofts, cupolas, similar structures and necessary mechanical appurtenances may be erected on a building to a height twenty (20) percent greater than the limit established for the district in which the building is located, provided that no such exception shall be used for sleeping or housekeeping purposes or for any commercial or industrial purpose; and provided further that access by the general public to any such area shall be expressly prohibited.

b. Poles that support outdoor luminaires for lighting athletic facilities, subject to approval of a modification by the commission as provided in section 4.17.5(a)(3).

Sec. 4.17.5 Modification or waiver

Modifications and waivers may be granted in an individual case as provided herein: (Amended 10-17-01)

a. The commission may modify or waive any standard set forth in section 4.17.4(a) under subsections 4.17.5(a)(1) and (2), and may modify the maximum height of poles supporting outdoor luminaires lighting athletic facilities under subsection 4.17.5(a)(3), in the following circumstances: (Amended 10-17-01)

1. Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.

2. Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable. (Amended 10-17-01)

3. Upon finding that the maximum permitted height of a pole supporting an outdoor luminaire lighting an athletic facility under the applicable district regulations would prevent the luminaire from providing sufficient illumination of the facility for its safe use, as determined by the recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable.

b. Prior to considering a request to modify or waive, five (5) days' written notice shall be provided to the owner, owner's agent or occupant of each abutting lot or parcel and each parcel immediately across the street or road from the lot or parcel which is the subject of the request. The written notice shall identify the nature of the request and the date and time the commission will consider the request.

c. The commission may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations.

d. The board of supervisors shall consider a modification or waiver of this section only as follows:

1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.

2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a). Otherwise, neither the grant nor denial of a modification or waiver may be appealed to the board. (Amended 10-17-01)

(Ord. 98-18(1), 8-12-98; Ord. 01-18(4), 5-9-01; Ord. 01-18(8), 10-17-01)

(The next three agenda items were discussed jointly.)

Agenda Item No. 8. **PUBLIC HEARING: PROJECT: AFD-2008-001. Carters Bridge Agricultural and Forestal District.** Periodic review of the Carter's Bridge Agricultural and Forestal District and consider amending section 3-210, Carter's Bridge Agricultural and Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code. The proposed ordinance would identify TMPs 112-15A, 112-16E1, 112-16E2, 112-16F2, 112-16J, 113-11F, 113-11F1, 113-11F2, 113-11F3, 113-11G, 113-11G1, 113-11G2, 113-11H, 113-11I, 113-11J, 113-11K, 114-31B, 114-31C, 114-31D, 114-31E, 114-67C, 114-67D, 114-67E, 114-67F, 114-67G, and 114-67H as being in the district (these parcels were created from parcels already in the district), would show TMP 101-60 as no longer existing (land in this parcel was distributed to other parcels in the district), would remove TMPs 112-16, 112-16C, 112-16D, 112-16F, 112-16J, 112-17, 112-19G, 112-19H, 112-19I, 113-11, and 114-31E from the district, and any other parcels for which a request for withdrawal is received before the board acts on the proposed ordinance, would add TMP 111-48 to the district, and would continue the district and set the next district review date deadline of July 9, 2018. (Advertised in the Daily Progress on June 23 and June 30, 2008.)

Agenda Item No. 9. **PUBLIC HEARING: PROJECT: AFD-2008-002. Lanark Agricultural and Forestal District.** Periodic review of the Lanark Agricultural and Forestal District and consider amending section 3-221, Lanark Bridge Agricultural and Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County. The proposed ordinance would identify TMPs 102-35, 102-35A, 102-35C, 102-40C, 103-3A, 103-3B, 103-3C, 103-3G, 103-9A, 103-9B, 103-9C, 103-9D, 103-9E, 103-9F, 103-43M and 103-68 as being in the district (these parcels were created from parcels already in the district), would show TMPs 103-10 and 103-10C as no longer existing (land in these parcels was distributed to other parcels in the district), would remove TMP 102-40A from the district, and any other parcels for which a request for withdrawal is received before the board acts on the proposed ordinance, and would continue the district and set the next district review date deadline of July 9, 2018. (Advertised in the Daily Progress on June 23 and June 30, 2008.)

Agenda Item No. 10. **PUBLIC HEARING: PROJECT: AFD-2008-003. Panorama Agricultural and Forestal District.** Periodic review of the Panorama Agricultural and Forestal District and consider amending section 3-224, Panorama Agricultural and Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County. The proposed ordinance would identify any parcels for which a request for withdrawal is received before the board acts on the proposed ordinance, and would continue the district and set the next district review date deadline of July 9, 2018. (Advertised in the Daily Progress on June 23 and June 30, 2008.)

Mr. Cilimberg noted that these three districts are subject to review for renewal. The first of which is Carters' Bridge, which would with the renewal have one addition and a total of 11 parcels withdrawn. A number of those parcels withdrawing are doing so with the intent to donate to conservation easements. They are attempting to get the resulting values that would be associated with their properties not being in a district as part of that process. The acreage is about 1,000 acres less than current. It has been recommended for approval and the renewal would be for ten years. He indicated on a map before the Board the addition and the properties that are withdrawing.

Mr. Cilimberg said the Lanark District would be slightly reduced in size and would experience a withdrawal of one parcel. There is no presented reason for that particular withdrawal, but the properties are fairly small in this location, and the district would be renewed for an additional ten years.

The Panorama District, which is one of the smaller districts, would not experience any change, and it has been recommended for renewal for a ten-year period. Mr. Cilimberg said in each case, a ten-year renewal has been recommended by both the Agricultural and Forestal Advisory Committee and the Planning Commission.

Mr. Davis noted that there is a single ordinance that would apply to these, which is in the Board package. After the public hearing, the appropriate motion would be to adopt that ordinance if your desire is to approve the districts.

Mr. Slutzky said that he represents the Board on that Ag/Forestry Committee, which briefly discussed the issue of wanting to roll these over for a period of ten years in light of the pending discussion by the Board about land use. He noted there was a unanimous decision to go ahead and do it because it was appropriate.

Mr. Boyd opened the public hearing. There was no one from the public present to speak on this item, and the public hearing was closed.

Mr. Rooker **moved** approval of Ordinance No. 08-3(1). The motion was seconded by Mr. Mallek. Roll was then 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.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 08-3(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, 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 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, is hereby amended and reordained as follows:

By Amending:

Sec. 3-210 Carter's Bridge Agricultural and Forestal District
Sec. 3-221 Lanark Agricultural and Forestal District
Sec. 3-224 Panorama Agricultural and Forestal District

Chapter 3. Agricultural and Forestal Districts

Article II. Districts of Statewide Significance

Division 2. Districts

Sec. 3-210 Carter's Bridge Agricultural and Forestal District.

The district known as the "Carter's Bridge Agricultural and Forestal District" consists of the following described properties: Tax map 101, parcels 55A, 60; tax map 102, parcels 17A, 17B, 17B1, 17D, 18, 19, 19A, 19C, 20B; tax map 111, parcel 48; tax map 112, parcels 3, 15, 15A, 16E, 16E1, 16E2, 16F2, 18H, 19E, 19F, 20, 21, 33A, 37D; tax map 113, parcels 1, 1A, 6A, 11A, 11F, 11F1, 11F2, 11F3, 11G, 11G1, 11G2, 11H, 11I, 11J, 11K; tax map 114, parcels 25A, 30, 31B, 31C, 31D, 51, 55, 56, 67C, 67D, 67E, 67F, 67G, 67H, 68, 69, 70; tax map 115, parcel 10; tax map 122, parcels 4, 4A, 6, 7, 8, 9, 10, 12, 12N, 33, 33A, 36; tax map 124, parcel 11. This district, created on April 20, 1988 for not more than ten years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(Code 1988, § 2.1-4(j); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(4), 5-12-99; Ord. 08-3(1), 7-9-08)

Sec. 3-221 Lanark Agricultural and Forestal District.

The district known as the "Lanark Agricultural and Forestal District" consists of the following described properties: Tax map 90, parcels 12, 14A; tax map 90B, parcel A-11; tax map 91, parcels 21, 21A, 21B, 31; tax map 92, parcels 64, 64A; tax map 102, parcels 33, 35, 35A, 35B, 35C, 37, 40, 40B, 40C; tax map 103, parcels 1, 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1J, 1K, 1L, 1M, 2A, 3, 3A, 3B, 3C, 3G, 5, 9, 9A, 9B, 9C, 9D, 9E, 9F, 10A, 10B, 10D, 43, 43L, 43L1, 43M, 68 (part). This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(Code 1988, § 2.1-4(k); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(5), 10-6-99; Ord. 08-3(1), 7-9-08)

Sec. 3-224 Panorama Agricultural and Forestal District.

The district known as the "Panorama Agricultural and Forestal District" consists of the following described properties: Tax map 31, parcel 21E; tax map 44, parcels 9A, 9C, 12, 12Q, 12X, 12Y, 12Z; tax map 45A, section 1, parcel 27. This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(6-14-95; Code 1988, § 2.1-4(l); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(3), 3-17-99; Ord. 08-3(1), 7-9-08)

Agenda Item No. 11a. **Work Session:** Land Use Taxation Program – Option 2.

The following Executive Summary was previously forwarded to Board members:

At its work session on May 14, 2008, the Board of Supervisors discussed the land-use value taxation program. At the conclusion of the discussion, the Board asked that staff review "Option 2," as described in a prior Executive Summary dated September 5, 2001 included with *Attachment 3*, and report back to the Board with additional information and assessment of this option. As described in the prior Executive Summary, Option 2 would allow "Use Value Taxation for the Open Space Classification Only." Information regarding the land use classifications in other Virginia localities is included in *Attachment 4*. Recent information on the properties currently in land use is included in *Attachment 5*.

Attached to this executive summary is background information and analysis on considering a change in the current land use program to allow only the open space designation to qualify for land use value taxation. *Attachment 1* provides an overview and further background information on land use value

taxation generally and Option 2 specifically. It also outlines legal requirements and steps that will need to be taken should this option be pursued. *Attachment 2* attempts to assess short and long term administrative as well as policy implications of making this change. While actual impacts may vary from the analysis included for a number of reasons including the length of time for implementation, this analysis serves to identify key issues and the potential implications of the proposed change.

In considering whether or not to limit land use value taxation to the open space classification, three central questions will need to be considered by the Board. Staff has included important points from the enclosed analysis to assist in considering answers to these questions.

How effective is this strategy in protecting the rural areas?

- While this change has the potential to extend the time period that land is restricted from development when compared to the current program, after 4-10 years (depending on time frame established by ordinance), the land can once again be subdivided for development.
- In the short term, this change has the potential to accelerate the pace of subdivision and development in the rural areas for any landowners not willing to accept a restriction on the development of their land beyond one year.
- A perpetual easement is the only way to fully protect rural property from development.

How are County revenues likely to be impacted?

- If a change is implemented, a portion of development area property that no longer qualifies for land use value taxation will generate additional revenue. However, there is the potential that this change will result in declining values on other properties due to new properties suddenly being added to the market. The degree to which this will occur is difficult to predict and will be impacted by market conditions. It is also important to note that of the approximate 4,000 development area acres currently in land use, it is estimated that only about 1,400 are actually developable and therefore subject to a significantly higher assessment.
- Setting aside the potential for declining values noted above, the amount of additional revenue generated from the rural areas will obviously depend on the number of landowners with developable properties that choose not to pursue the open space designation. It is also important to acknowledge that to the degree additional revenues are generated from rural area properties, more properties in the rural areas have also been subdivided for development.

What implementation issues need to be considered in making a change?

- In the short term, assuming a one year implementation, staffing impacts are anticipated to be fairly significant as a result of needed property owner assistance and application processing and review for new Agricultural/Forestral Districts, property agreements and subdivisions. While this impact may vary based on the final approach and the length of time for implementation, staff anticipates a significant impact given the number of properties impacted and individual assistance likely to be required.
- In the long run, after initial actions taken by property owners, staff believes the impact will be less significant, although the addition of an FTE dedicated to administering the Agricultural/Forestral Program is anticipated.

The budget impact of this change is outlined in the attached analysis and will depend on the approach to implementation. Based on the assumptions in the attachment and a one year implementation, staff anticipates the equivalent of 7-8 FTE's in the short run and 1 FTE over the long run. Again, the approach to implementation will determine the actual impact.

Given staff's opinion that changes to the land use program through Option 2 will have little impact on improving rural area protection in the long term and are likely to create negative impacts in the short term, staff recommends that changes to the land use program be limited to establishing a revalidation process.

Mr. Graham said the information provided to Board members was very thorough. He noted the first thing is to make sure everybody understands that only Option 2 is being discussed. Within the rural areas, it maintains land use taxation as open space with certain conditions. Properties must commit to maintain land use in one of three ways: 1) to enter into an agricultural and forestal district, (most property would use this option if they did not go into a conservation easement for other reasons; 2) enter into a recorded agreement with the County, and as noted in the staff report, that is a much more restrictive agreement than the agricultural forestal district; and 3) enter into a perpetual easement, or conservation easement. Under Option 2, with open space, the property in the development areas that is currently open space would not qualify. Using a map before the Board (copy on file), he noted the properties in the red are currently in land use, and are divided up into two parts. First is those properties that are not currently in an agricultural forestal district or in a conservation easement, which staff has estimated at 4,398 parcels with 2,846 property owners. These are the people who would need to make one of those three choices in order to maintain their land use. The other is the properties that are already in the agricultural forestal district or conservation easement, 410 parcels and 266 property owners.

Mr. Graham commented about the properties in the development areas that would not be allowed to continue with land use; there are 73 properties shown with 47 property owners. He noted that the map before the Board is old and need to reflect some recent changes such as Biscuit Run and Livengood rezonings.

Mr. Graham referred to the Executive Summary in which staff focused on three additional questions to ask with Option 2:

- 1) How effective would the program be in protecting rural areas from development?
- 2) How would the program affect property values in the County's tax revenues as a result of those property value changes?
- 3) How difficult do we believe it would be to implement this program?

Mr. Graham noted that with respect to the first question, the effectiveness in protecting the rural areas, the basic conclusion was that it can partially constrain residential development in the short term, but probably have marginal affect in the long term. Within the agricultural forestal districts, properties under current agreement, there is still an opportunity to develop that property, to add additional uses. Family divisions can be created while still in an agricultural forestal district. In addition, 21-acre lots can be created. With both the restrictive commitments and the ag/forestal district, property could be cut out before the property was put into those districts or the commitment. And then similarly, whereas the property comes out of the district, except for renewal when people elect to come out, they can do a subdivision and then take the remainder of the property and put it back in, or the same is true with those commitments. Finally, staff recognizes that this program is not permanent and future boards can modify it, so if the idea is that it guarantees long-term preservation of the rural areas as you see it now, it should not be considered to do so.

Mr. Rooker asked if the provisions currently permissive in agricultural forestal districts can be allowed in the agreements not for development. In regards to the provision for family division in an agricultural forestal district, would the provision for 21-acre lots be permitted in the agreements? Mr. Davis replied, "no". Mr. Graham stated that is one of the reasons why the property would overwhelmingly elect to go to the ag/forestal district if this program was put in place.

Mr. Graham said next staff looked at property values and County revenue. This was then divided into the short term, the more immediate and then the longer term. As noted in the Executive Summary, there is some concern, especially in the development areas, if forced out of land use, some of the property owners may find it very difficult to be able to pay the property taxes at full assessed value. There would not be a rollback as a result of this change, so they do not have to worry about the five-year back taxes, but still, the taxes moving forward could be pretty intimidating for some of these property owners. If a lot of that property is put out into the market, especially at a time like now where the market is struggling with the inventory that it has, there is concern that it could adversely affect the assessed values, not just for that property, but overall and may actually have resulted in a net loss as far as assessed value and tax revenue.

Mr. Rooker asked if it is correct that under the current plan, the current plan could not be altered to exclude property in the development areas. Mr. Davis said that is correct because the criteria is set by the State. With the four categories of use taxation, that the County has adopted, if they meet the criteria, then they are entitled to land use taxation. Those properties that are in the growth area are properties that have been in continuous agricultural or forestal use since the program was established in the 1970s.

Ms. Mallek said, when rezoning happens on those properties, then they automatically will process out, not immediate, but it does happen over a couple of months. Mr. Davis noted that if the properties are in the growth area and if they are rezoned, they come out of the Land Use Program, and if they change the use, they come out of the Land Use Program. They are then subject to the five-year rollback, too.

Mr. Graham elaborated that a similar thing applies for the rural areas. The speculation is about if the property owners are going to see that they need to go in an agricultural forestal district or one of these recorded agreements and lock their property up for a four- to ten-year period, how many property owners are going to be interested in creating a lot, two lots, or something like that to have as an insurance policy. That is the kind of a question that staff cannot really answer.

Mr. Rooker noted that right now, there are approximately 8,000 existing lots in the rural area, most of which are not offered for sale. If it is not the creation of the lot that affects the market, it is when somebody decides to sell the lot. Mr. Graham stated that that is exactly true, and staff is struggling to read the tea leaves. How many of these people who create these lots could afford to hold those lots and continue to pay the property taxes at assessed value on those lots. That is assuming that the lot they created was so small that it could not qualify as part of ag/forestal district or some other way. If it was a large-enough lot, they could presumably subdivide the property and just keep it in the ag/forestal district and sell it at any time.

Mr. Boyd pointed out that if a neighbor sold a lot that will impact your property, and the assessed values.

Mr. Rooker acknowledged that is true today, noting that if two people divide their property and one or two persons sell a lot, that has a tendency to set the market for the assessments of lots in the area.

Ms. Mallek noted that that is a good example about how much is not known about the effect of the hardship on people. If they are in a hardship to begin with to pay the taxes, then the County would throw them into a market where they cannot sell anything. She commented that the hardship would be great on them, and that is very troubling.

Ms. Thomas said that even though she had been advised that no disclosure is required under the Conflict of Interests Act because this decision, whatever the Board decides about land use taxation, is going to affect the public generally. Ms. Thomas disclosed that she and her husband owns less than 20 acres of property that is currently in the Land Use Taxation Program under the agriculture category of land use. The Option 2 proposal would affect whether their property would remain eligible for land use as well as the eligibility of a number of other people's properties. She wanted to state on the record that this decision will affect her property interest; however, she had been advised that the Conflict of Interest Act does not restrict her participation in this decision because it is a matter affecting the public generally and she has determined that she can participate in this decision fairly, objectively, and in the public interest. She wanted to make this disclosure.

Ms. Mallek stated that her land has been in a conservation easement since 1998, and so she is also in that category of people who is affected in some ways by the Board's decisions tonight.

Mr. Graham stated that for the long-term what the staff believes relative to the market, aside from year to year fluctuations, is that the amount of developable land can be readily absorbed, and they should see some increase in the property values within the development area. Within the rural area, for the reasons stated, it is not anticipated that it will significantly alter the amount of development that occurs in the rural area over the long term. It is not anticipated to affect the property values in the rural area over the long term. People will have the opportunity to take property out over the long term and subdivide it if that is their interest.

Mr. Graham said the last issue for staff is what it is going to take to implement this. After careful analysis he thinks that he was being overly conservative and cut his estimate in one-half as a result of that. He thinks this program will have a lot of short-term issues as it is being implemented with the 2,800 property owners, noting the focus is on the property owners rather than properties, which is going to require a lot of property owner education and assistance. It is somewhat complicated. It is anticipated that it will be necessary to create some new A/F districts as a result of this, and a process would be required for the recorded agreements, on an ongoing program. The Board today approved three pretty simple district renewals, but on the staff end, it takes quite a bit more work. Staff believes those are going to get more complicated as time goes on because this will be the one window of opportunity for property to develop. The property owners could take these periods of time to withdraw, maybe not put the property into conservation easement, but to develop the property and then take those property additions and try to get them back into conservation easements. Also, recognizing those property additions when they are trying to put those remnants back in, will become time-sensitive. The property has to be back and ready in land use on January 1st, so whatever the addition to get back into the agricultural forestal district, it has to be approved by this Board before that date in order to qualify for the land use. If you have not done it and if it happens in February, you pay taxes for that year. If it happens in December, you do not pay taxes for that year, so a couple of months one way or another could be very sensitive to a lot of property owners.

Mr. Slutzky commented that if the Board went ahead with Option 2, and if the vast majority of rural area property owners are not currently in ag/forestal they may want to get into the district so that they can continue to stay in land use tax. Mr. Graham said, yes. Mr. Slutzky continued, noting, the impact on staff that was referred to. One of them is that at the anniversary of those ag/forestal districts, ten years from this year, a whole bunch of properties potentially might want to come out so that they could then be developed. He noted that it was suggested that when they come out and they are subject to being developed, there is going to be a lot of new development, site plans, etc. for staff. Mr. Graham replied that he does think there will be surges in workload that way, because when the ten-year period for a district ends, if they want to develop their property, it is the one opportunity to do so.

Mr. Slutzky said if he were a property owner in a rural area and he decided he wanted to sell his property, he would be subject to a significantly higher tax rate because he would not have the land use tax. He would not be able to afford to hold his land unless he sells it to a developer because to hold it and pay that higher tax rate is going to be a huge tax burden. He asked if theoretically, the only people that would come out of the district would be the people who actually could sell their land. And, if a whole bunch of parcels were coming out at the same time, they would not all be able to sell their land unless there is some huge abrupt change in the economic conditions that drive market demand for rural area real estate. He is trying to understand why staff thinks that most of those properties would come out at one time. Staff would have to believe that there are some market reasons why all of those properties could be developed at the same time, because if not then people probably would not take their land out because they wouldn't be able to sell it and they would not want to pay the significantly higher holding cost of the land.

Mr. Rooker commented that he thinks Mr. Graham was saying that if a lot of people wanted to get into the ag/forestal district, the action to put them in the districts would have to take place before January 1st. The renewal of the ag/forestal districts would come up at different times during the year, and they are going to come up in different years. They do not come up all once. He noted that that happens today, and three were just reviewed today, and some people withdrew property. Some property was added. The Board would not discourage people from putting their property in ag/forestal district. Even if there is no land use program, anybody in an ag/forestal district gets land use treatment.

Mr. Slutzky said, if he was a property owner and not in an ag/forestal district, he is going to scramble to get into al district. If he is not contiguous to an existing one, he is going to find neighbor landowners and form a new district. Probably more often, it is going to be people forming a new one because even if they are contiguous to an existing one, if it does not roll over in the next six months, it does not really help.

Mr. Davis noted there are 24 existing ag/forestral districts, and within a mile of that core, you can elect to join into one of those ag/forestral districts by making an application to join and that would be processed. It is a process that has to go the Planning Commission, referred to a Review Committee, back to the Planning Commission for public hearing, then to the Board of Supervisors for public hearing, and adoption of an amendment to the district. It is a bit of a process, but a lot of these property owners, if they were forced to join ag/forestral district, would join into these existing 24 districts. There probably would be some areas of the County where additional districts would have to be created. Staff does not know how many of those there would be. Those would all be processed basically in the same time frame probably and would repeat on the same cycle, but the 24 would be on their own cycle.

Mr. Slutzky said that if he joined a nearby district and it had four years to run, not ten, he is obligated for four years and then can either stay with it and roll over, or he had better sell his land because otherwise, he is going to be paying a much higher tax rate. Mr. Davis said that was correct. Ms. Thomas commented that alternatively he can take a piece out, which happened today.

Mr. Graham clarified, noting an example would help. Somebody has a 50-acre tract of property and their financial situation is such that they want to continue to own the vast majority of the property, but they need cash. And at the end of the period, they come out; they subdivide two or three lots off that 50 acres, and they immediately want to turn around and put that remnant, 40 acres back into an ag/forestral district, minimizing the time exposure where they got the full assessed value. Where this timing can be sensitive is they have to go through this agricultural forestal process that Mr. Davis referred after they go through the subdivision process. If it gets to around September of the year and they are just starting the district process to add into it, they are probably not going to make it by the end of the year. They then would probably have another year of full taxes on that property before they can get back to land use, and that is the time sensitivity issue. In considering how many people will come out, the Board should think about it in terms of little sub-markets and the property owners in those district are going to be looking at their own financial situation. They are going to be looking at how many of the other properties in that district are coming out and how many lots are going to be dumped onto the market versus how much demand is there for those lots.

Mr. Graham said he thinks that the long term will probably require an additional full time employee as far as maintenance of the agricultural forestal districts. Staff does not anticipate this will significantly alter the rural area development rate. The programs anticipated create some short-term fiscal impacts if implemented during poor market conditions. It is thought to result in additional long-term property tax revenue from that undeveloped property in the development area that is currently receiving land use and cannot under this Option 2. It is not thought that in the long term much change will result in the assessed property values or tax revenues from the rural area properties. It is projected that it will require significant staff resources for the implementation phase of this option. It is expected to require an additional FTE for the long-term operation and maintenance of the program.

Mr. Dorrier stated that it appears that the present ordinance produces 40 percent of County land in agriculture. He also noted that 66 percent is in forestry, one percent in open space, and it appears to be working well if the Board is in favor of creating agriculture and encouraging agriculture and forestry. Ninety-nine percent of the land in land use is in agriculture or forestry. It appears that Option 2 is going to drastically reduce the amount of land in land use. He asked if it is not going to be destructive to the land use idea. Mr. Graham replied, that those properties qualified as agricultural forestal could still qualify as open space. It would not force them to change their use. The question raised is a good one in that open space is the only use as far as land use is concerned. Is it creating some sort of perception that it does not matter if you practice agricultural or forestry.

Ms. Thomas noted that you do not have to prove that you have the productive use of your land if you are in an open space. Mr. Graham agreed.

Mr. Davis noted that there are two parts to the March response. The property that remains in agricultural and forestal districts continues to qualify as ag/forestral land use regardless of whether the County abolishes those categories generally. If you have an ag/forestral district, that automatically allows property to qualify under the agricultural use or the forestry use, so those would not be affected. Those properties which are in the ag/forestral district would be treated the same way. So only the properties that are outside of ag/forestral districts would be subject to the open space restriction if the Board adopted Option 2. Those properties would have to meet the open space criteria. Part of that open space criteria could be having the land in a forestry or agricultural use because those types of uses can qualify as open space as well as other non-productive open space uses. The Option 2 probably would not have a dramatic impact about how people use their property except as Ms. Thomas points out, those people who elect to qualify under open space rather than under agricultural or forestry would no longer have to document that they have productive use of their property. It could simply be open space if they chose to qualify under the open space classification.

Mr. Dorrier noted that this encouraged farming and horticulture, which is really vineyards and the type of thing we want in Albemarle County; i.e., apple crops, peaches, vineyards. Mr. Davis noted that it would put an extra requirement on those types of properties to be in an ag/forestral district if they couldn't otherwise qualify as open space.

Mr. Slutzky said, Option 2, as a practical matter, is going to impose an administrative burden on citizens because they will have to make some adjustments in their status. They will have to get into an ag/forestral district or they will have to go through this fairly restrictive contractual agreement with the County. There will be increased burden on staff to accomplish this, but everybody who is in land use tax today, except those that are in the growth area, could get into land use tax under the new program. They

just would have to go through some administrative burdens to do it. If the Board were to do Option 2, it would not necessarily reduce the number of participants in land use tax.

Ms. Thomas replied that assumes that they do not care whether they have the ability to sell off any of their land during the period in which they are in an ag/forestal district. It is a situation of guessing on their financial future; it is not simply jumping through some more hoops.

Mr. Slutzky commented that it is through hoops and incurring the risk that if they do need money and they cannot liquidate their property holdings, because they are in an ag/forestal district, they are actually at a worse spot financially. There are a lot of folks in the growth area who have written him saying there is a problem with the County not collecting all this money because of the land use program. It sounds like staff is saying that if the Board adopts Option 2, we are probably not going to significantly change our revenue picture from land use tax revenue. The County would not have many pieces of property that will drop out of land use tax, but there still might be an unintended consequence of driving down the value of rural property somewhat, which might have an aggregated effect of reducing revenues to the County even more.

Mr. Rooker commented that he does not think you could have it both ways. If everybody goes into land use, it won't have an impact. If people leave land use, they would pay higher taxes because there might be a diminution in the value of some rural lots, and if a lot of lots came on the market at the same time. He noted that it is a difficult computation to try to guess at. He does think the summary of the staff report which indicates that staff does not predict this will change the development patterns occurring in the rural area is an important factor here.

Mr. Slutzky noted that it perhaps may not reduce the amount of lost tax revenue attributable to land use tax. It might have a small negative impact on rural property values which in turn reduce revenue to the County. The question is why would we do this?

Mr. Boyd noted that everyone has had the opportunity to review an extensive staff report and the Board has held one other work session. Mr. Boyd asked if there was any need to go on any further. Mr. Boyd asked if there were four votes to continue this discussion, or to drop the discussion at this point and move on to revalidation.

Ms. Thomas said SLEAC values are applied to land use and is indirectly connected to this discussion. If people think the \$18.8 million gap is driving this discussion, then one way to talk about that gap is to say it is driven by the State's valuation of agriculture and forestal land in Albemarle County. In those people's opinion, forestry is going right along and increasing at three percent in value over last year, but agriculture is decreasing by 40 or 44 percent over last year. Likewise, horticulture is in the 30 percent decrease and open space in the 40 percent decrease. She noted that in the past the Board always decided to stick with the SLEAC values. She asked if the Board can freeze those values by sticking with the 2007 SLEAC values. The agricultural value of land and crops and does not include cattle, and they include hay and corn crops.

Mr. Davis said his understanding is that you can either use the current SLEAC values, or you can do your own local study, and validate that study, then you can use local land use values. Mr. Woodzell may be able to speak to the difficulties of accomplishing that.

Ms. Thomas noted that the Farm Bureau asked that question a few years ago, could we freeze the SLEAC values, and the answer is that the State does not allow us to do that. Mr. Davis agreed.

Mr. Boyd said he has had an overflow of information on this, and he would like to get a straw poll of where everybody is to see if we can move on to the next item. Mr. Boyd stated that he is opposed to it. He has been opposed to making any changes all along. He thinks it is going to do more harm than good and does not see a real need to do it.

Mr. Dorrier said he is against Option 2, noting the Board needs to leave land use the way it is.

Mr. Slutzky indicated he is not an enthusiastic supporter of the Option 2 approach. He thinks there is another option, if the Board had the interest in exploring it. There is another option which is open space only, with the eligibility requirement being the land being in conservation easement. The objective would be to try and reduce the available development opportunities in the rural area. The problem with that strategy is that it would entail an extinguishment of the use of the land having to put the land in conservation easement. There is also the issue of the potential lost value to the property owner. He is not sure at this point that he would support going forward with land use tax revised so that it had as the only eligibility open space with conservation easements unless there was a TDR program so that those development rights that the property owners would have to give up to get into the program wouldn't be simply extinguished. Instead a detached real estate asset could be sold in an open market. In that case, there might be the potential for a fair solution to this issue. He is not comfortable taking the only eligibility requirement being open space conservation easement. Mr. Slutzky indicated that, if other Board members are interested, he would be interested in pursuing an alternative strategy to Option 2, that being open space only based on conservation easements, so long as there was a TDR program associated with it.

Ms. Thomas stated that she did check this out a little bit, not with definitive legal advice, but the way that many people are encouraged into getting into conservation easements is because of the way the IRS and the State tax provisions allow this as a gift. There are significant financial incentives to do so. She noted that if we were to force people into conservation easements, then the charitable intent would

be brought into question. She does not think that is something the Board should get into. She would not be in favor of that.

Mr. Slutzky indicated he cannot see supporting Option 2. The question is does the Board have any interest in looking at a combination of the other suggestion with TDRs. If the answer is not with TDRs, then he would not be interested in just the conservation easement as a requirement either.

Mr. Boyd said he agrees with Ms. Thomas.

Mr. Rooker stated that he does not support Option 2. It was good that staff came back with information. There has been a lot of interest by people in the community. The County is getting a good bargain for the cost of land use. Option 2, according to staff, would not reduce development occurring in a rural area. It would not increase County revenues, and it would impose a significant administrative factor that is not there today and, and in fact probably cost around \$150,000 to \$200,000 in staff time next year. With regard to Mr. Sluzky's suggestion, if the Board gets around to looking at a TDR program, the Board can look at various permutations of how that might work which might include easements, land use, etc. A lot of his constituents are concerned about the expenditure on land use which next year is about \$19.0 million. That is about 14 percent of all the real estate revenues in the County. There is a significant component of the population that feel they are paying 14 percent higher taxes to support other property owners, and that is their perception. Most people present tonight have land use and nobody wants to see the taxes increase. The people that are not in land use say you could eliminate land use and their taxes would go down 14 percent. There is a perception issue that needs to be dealt with. It would be helpful, especially the Farm Bureau and others who are interested in maintaining this program, to educate the public about the value of the program because there is a perception that it is a costly program that is not achieving its purpose.

Ms. Thomas said that she went on the Internet and pulled up a lot of information on what different counties do in terms of their land use taxation and the information they put out to the public. Many other counties say what the purpose of land use taxation program is. The County does not actually say that on its web page. There is a stated purpose that is expressed by State law and the Board could pick up that and, as other counties have done, state the purposes because the Board does have to defend it as having a public purpose. It cannot be for the private benefit of private landowners, it has to serve a public purpose. Ms. Thomas suggested the Board discuss a simple statement of what is regarded as the purpose of land use taxation. That would help those who think that the County is spending some of their money for this program and what is it doing. It might be helpful in delineating what its purpose is and would help with things like the revalidation form.

Mr. Rooker agreed.

Ms. Mallek said she is glad the Board has had this time to dig into this issue. She agrees that much more clarity of information is needed, along with more information from the Real Estate Assessors office about how the current program is functioning, and how people who do not qualify are being taken out. She asked, what is the goal of the program? In her mind, the goal of the program is to support the County value which makes Albemarle County so different from Fairfax, and that is the agricultural community. She noted that 50 years ago, Fairfax was just as rural as Albemarle, and Albemarle will be like them if the Board is not careful. For the people who came to Albemarle, the reason was the agriculture and scenery, and they are willing to support that. The growth area residents have said they are happy that they can look out of their nice neighborhood and see open space and see a farm across the street or a couple of hills away, and not look out of their neighborhood and see neighborhoods all the way to the horizon. There are people who are very concerned about the money, but we also need to remember that the farmers and the people in land use are paying 100 percent on their house, their cars, their tractors, all of the improvements on the property. If those properties are compared to others that do not qualify, the same rules are followed, based by SLEAC people on its production value. It is not as accurate as it should be. There should be more credit for the vineyards and cattle, which are huge amounts of money right now, instead of just corn and other things where there is no soil to grow those commodities. She thinks that it has been a bit of a political football and the land use program has been sucked into a debate about development. She would like to stop trying to use the land use program as a growth management tool and use it strictly as something that can be defended which is to preserve the agricultural quality of life in the community, emphasize the economic and employment benefits that it brings us, and emphasize the reduced expenses that it provides.

Mr. Boyd stated that from what he had just heard, Option 2 will be dropped as a discussion point as of tonight and land use is left intact.

Ms. Mallek noted that three years ago lots of people resented the idea of filling out a form and did not want to participate even though it works in lots of other places. She noted that there has been a change in the last several years and people have realized that a simple form is not burdensome, and they are not going to have to hire somebody to fill it out for them. She noted that that is a way that the Board can also get better statistics and a better understanding of how the program is functioning and will help to educate the rest of our citizens who are not in the program.

Mr. Boyd again stated that the Board has decided to not institute any changes in land use taxation.

Agenda Item No. 11b. **Work Session:** Revalidation Program.

The following Executive Summary was previously forwarded to Board members:

Virginia Code § 58.1-3234 authorizes the governing body of any county, city, or town to request property owners in the land use tax program to revalidate any previously approved land use tax program application. Revalidation requires the submission of forms and/or other documents by owners of property in the land use tax program to establish that the property continues to meet program requirements.

Albemarle County currently does not have a revalidation process. Prior to January 2007, the County conducted property reassessments on a biennial cycle. That two-year schedule for reassessments allowed appraisal staff to conduct site visits of each property in the County every two years to reassess the property and, if the property was in the land use tax program, physically inspect the property to gauge compliance with program guidelines.

In 2007, the County changed from biennial to annual reassessments. This change will result in the assessor's staff visiting each property every three to four years instead of every two years. Revalidation could be used to ensure parcels enrolled in the County land use program continue to qualify for the program without a field visit by an assessor.

The purpose of this executive summary is to provide the Board of Supervisors with the advantages and disadvantages of revalidation, comparative information of revalidation programs in other jurisdictions, and to recommend a plan for the implementation of a revalidation program in Albemarle County.

Advantages/Disadvantages:

There are several advantages and disadvantages of a revalidation requirement for property owners in the land use tax program. Advantages of requiring revalidation include:

- provides a basis for greater public confidence that only qualifying parcels are receiving the special tax benefits of the program.
- notifies all property owners on a regular basis that they are enrolled in the program and provides a reminder of the requirements of the program.
- requires proof from program participants of a farming/forestry/horticulture/open space use (i.e., Schedule F, income receipts, farm numbers, etc.).

Disadvantages of requiring revalidation include:

- additional cost to administer the program (i.e., additional supply/postage expense, staff assistance, and storage space needs).
- failure to meet deadline(s) and/or provide proper documentation will result in parcel(s) being removed from the program, resulting in the possible assessment of roll back taxes and taxpayer complaints.

Comparative Information:

Locality	Land Use Parcels	Application Fee	Revalidation
Augusta County	6,000	\$12.00 plus \$0.12/acre over 100 acres	Every Year, With Fee
Chesterfield County	800	\$10.00	Every Year, No Fee
Fluvanna County	1,500	\$10.00 plus \$0.10/acre over 100 acres	Every Year, No Fee
Greene County	600	\$15.00	No
Henrico County	410	\$20.00 plus \$0.10/acre over 100 acres	Every Year, No Fee
James City County	249	\$10.00 plus \$0.10/acre over 100 acres	Every Year, No Fee
Louisa County	3,400	\$10.00	Every Two Years, No fee
Loudoun County	5,000	\$60.00 plus \$0.60/acre over 100 acres	Every Year, With Fee
Nelson County	2,000	\$50.00 plus \$0.25/acre over 100 acres	Every Six Years, With Fee
Orange County	1,000	\$15.00 or \$0.15/acre	Every Year, With Fee
Rockingham County	5,400	\$60.00 plus \$25.00 for adjoining parcels	Every Six Years, With Fee

Albemarle County currently has 4,981 land use tax parcels. The application fee is \$0.15/acre with a minimum fee of \$15.00.

Recommended Process:

Staff recommends that property owners in the land use tax program be required to file revalidation forms every two years beginning in 2009 for tax year 2010. This two year approach would ease the burden of the property owner having to file every year while still providing the County adequate documentation of conformity with land use tax requirements.

Staff recommends an extensive education process prior to implementation of a revalidation requirement. This education process would begin with the inclusion of information about revalidation to all owners of property in the land use tax program with the second half 2008 tax bills (to be mailed in late October 2008) and the 2009 reassessment notices (to be mailed in January 2009). Using the tax bills and reassessment notices for this step of the education process will save the cost of additional mailings to land use participants.

The second step of the process would be the distribution of revalidation applications with the first half 2009 tax bills (to be mailed in late April 2009) to all owners in the land use tax program. The deadline for filing the forms with the Assessors Office would be September 1, 2009. Staff recommends no fee for applicants who file by the deadline. However, applications would be accepted after the deadline until December 5, 2009 upon the payment of a late fee of \$125.

The following documentation, as well as any other pertinent information, may be requested from the parcel owner(s) at the time the revalidation is filed in order to determine that the property is being used in a bona fide agriculture, horticulture, forest, or open space use.

1. The assigned USDA/FSA farm number and evidence of participating in a federal farm program
2. Federal tax forms (1040F) Farm Expenses and Income, (4835) Farm Rental Income and Expenses, or (1040E) Cash Rent for Agricultural Land
3. Certification of Forestry intent by the owner can be shown by:
 1. A signed commitment to maintain and protect forest-land by documenting land-use objectives to include methods of resource management and soil and water protection or;
 2. Submitting a plan prepared by a professional forester.

Administration of the Program:

Examples of revalidation forms from Chesterfield County and Orange County are attached to this report. A decision by the Board on potential changes to the Land Use Program through consideration of Option 2, also planned for review at the Board's July 9th meeting, must be made prior to a form being finalized for the County.

Upon receipt of the revalidation forms, the assigned real estate staff would review the paperwork and accompanying documentation to ensure the accuracy and completeness of the information. Staff would make every attempt to contact landowners concerning incomplete applications prior to the final filing deadline. Property that qualifies would remain in the program. Owners of property that does not qualify would be notified and removed from the program.

The implementation of the revalidation program will require the Board to amend Chapter 15, Taxation, of the County Code pertaining to the land use tax program. In order for the forms to be mailed in spring 2009, effective for the 2010 tax year, that Code amendment would need to be adopted by October of 2008. This would provide time for a public service announcement campaign to be conducted this fall and again in January (in conjunction with the 2009 reassessment) to notify the public of this new requirement.

Postage expenses would be minimized by utilizing the current tax bills for distribution of information and forms to property owners in the land use tax program. It is anticipated that existing staff will be sufficient to review the documentation upon submission. Minimal expenses are anticipated for supplies and storage. Minimal late fee revenues are projected.

Staff recommends Board approval of the process outlined in this executive summary for implementation of the revalidation program. After final consideration of Option 2 and input from the Board, staff will come back to the Board with a recommended form and an ordinance amendment to be set for public hearing.

Mr. Bruce Woodzell, Real Estate Assessor, addressed the Board. Revalidation means that the Real Estate Office would begin to take a new step in how land use is treated. It has been decided that revalidation is an important tool to use in evaluating land use. This comes about somewhat from the fact that their last biannual assessment was in 2007, and after that annually, effective for 2008. With that requirement, the Assessment staff is no longer going to be able to get around to each property over a biannual period. In fact, each property may now be visited over a three-, four- or five-year period by IWAO standards, which is the association used to determine assessment qualifications and standards. The Assessment staff should be on a property at least every six years, but the County's goal is to do it more often. If the Assessment staff is not on the property but every three or four years, they will not be able to visually check to see if these properties continue in the capacity that they originally enrolled.

Revalidation would be a form that would be mailed to all property owners under land use, with a request that the property owners fill out that form and verify back to the office exactly what the property is being used for, crop-wise, forestry-wise, horticulture-wise, or open-space-wise. Those forms would be taken to verify if they appear to meet State qualifications for land use assessment. The Assessment staff would work with property owners in the event of confusion. Staff believes that an advantage is that the public would be better served if they had stronger confidence that property owners in land use assessment are actually using these parcels in a qualifying use. This would be one advantage, having the property owner to submit a form and verify, in certain methods, how they are actually using the property. It also would be a tool to have a regular communication avenue with the taxpayer. If someone was new, they may not be familiar with land use, and it would be informative for them to understand what the Assessment staff is looking for. A disadvantage would be some slight additional costs to the program,

and that would be in the cost of forms, postage, envelopes, staff time, etc. The main disadvantage to this program to the taxpayers is that it is a form that must be filled out and submitted on a given date. Failure to submit this form would be exactly like failure to reapply in a regular fashion, which would mean the property would be disqualified from the program for the following tax year and would not be eligible until all proper forms are filled out. There would not be an assignment of a rollback. It just means for that period of time that they are not actually in the program, they would be subject to fair-market tax. It would take timely application of this form.

Mr. Rooker asked if there is a penalty if you are late. Mr. Woodzell replied that there would be a regular filing date and then an extension date. No filing fee would be required for the regular filing date. If it is late, it would be accepted with a \$125 late filing fee, the same as with the land use application. Some other counties currently administering a revalidation program are: Augusta, Fluvanna, Greene, Louisa, Orange and Nelson. Most of them used it from the initial period. He does not think the County did because it was on a biannual assessment. The Assessment staff was on the properties all the time and that relationship was nice for the taxpayer. The assessment period was much longer for some other counties. Mr. Woodzell said if the Board decides to initiate revalidation, some extensive education with the public is needed which would entail flyers in the October 2008 tax bills, and again with the January 2009 reassessment notices, notifying the public that the Board has adopted this, what it means and what the property owner will be required to do. The Assessment staff would do its best to make sure the public is well aware of their obligation well in advance of the first timely application.

Mr. Slutzky said if a property owner has a mortgage on the house and the tax bill goes to the mortgage company, the property owner can slip through the cracks. He asked if there is a way that can ensure that every property owner will get the notice whether they are the primary recipient of the tax bill. Mr. Woodzell replied that a property owner is going to get the original tax bill. The mortgage company gets an electronic printout of what is owed.

Mr. Boyd said that he realizes there is extra expense, but he would be opposed that first year including it with the tax bill. He surmises that a lot of people getting stuff with their tax bill just throw it away and do not look at it. He thinks it should be a separate mailing the first year.

Mr. Woodzell noted that staff plans to use publicity, the County internet site, as well as radio, television, etc., to get the story out to the folks, but that would be a Board decision.

Mr. Boyd said if it is going to be printed on the actual bill that might be better because people do not throw away the bill, just those inserts.

Mr. Dorrier commented that the late fee is a little stiff. Mr. Woodzell said that is the exact same fee currently charged now for the land use application. Again, there is no fee for the initial application for revalidation. There is a fee for the initial land use application.

Mr. Slutzky noted that once property owners are in land use, if they go through revalidation, they do not pay any extra fee unless they mess up and do not make the deadline.

Ms. Thomas said the County is not allowed to have a fee for revalidation. Mr. Woodzell noted that they are allowed to charge a fee every sixth year, and no more than the initial original application fee.

Ms. Thomas noted that one of the things that other counties are doing appeared to involve a \$10 revalidation fee every year. Mr. Davis noted that unless they have some special legislation or charter that provides something other than the State law, that would seem to be out of alignment.

Mr. Woodzell said the revalidation application forms are anticipated to be mailed in the April 2009 tax bill envelope. If the Board prefers to have that in an individual envelope, that can be done, and if that route is taken, it would only go to the folks that are in land use. The application initially is due back September 1, 2009, with no fee. The applications accepted through December 5th, are with a \$125 late fee. Staff decided on revalidation for a two-year cycle since the original avenue of relationship was biannual with the taxpayer. That two-year revalidation should make sure that the folks are doing what they say they are doing, and provide some comfort to the Assessment staff that that is the truth.

Ms. Mallek asked if the property owner would report each of two years on one form. Mr. Woodzell replied affirmatively. Ms. Mallek then asked if that would allow for a drought and not so much production one year and catching up the next year's cutting or something like that. Mr. Woodzell replied that if the Board approves this tonight, a form will be generated consistent with that recommendation, for approval. The form can contain any and all information that is most important, to verify the results.

Mr. Slutzky noted that Mr. Dorrier had pointed out earlier that 99 percent of folks are in land use because they are either agricultural or forestry use. He asked if all the applicant has to do is affirm land use, or do they have to demonstrate in some way that they are. Mr. Woodzell replied, "no"; the recommendation to the Board will be to have the form, confirm use, with a form schedule, like an IRS return. One method of confirming would be receipts and checks, whatever a landowner would furnish as proof. If someone is in forestry, they would be asked to provide a forestry management plan or a commitment form that is available in the Assessment office.

Mr. Slutzky said when he lived in the rural area, he had someone cut his hay which made him eligible for land use. He did not have any paperwork. He asked if folks will actually have to have some kind of a documentation that confirms the fact that someone cuts their hay and it is an even trade. Mr. Woodzell noted staff is going to recommend a leasing form as well. Mr. Slutzky asked if staff is going to

propose some sort of model forms for people to use to make it as easy on them as possible. Mr. Woodzell replied, "yes". Mr. Slutzky asked if they would get from the County website all they need to do to be able to be compliant and then make the appropriate documentary support. Mr. Woodzell said that forms will be mailed to them and tell them what they need to furnish to the office for proof and then allow them to send it back. Once the Assessment office gets the form back, if there seems to be the need to re-contact the landowner, the office staff will take that initiative.

Ms. Thomas commented that some of the forms look like their main intent is to discourage the applicant, and others look like their main intent is to make sure that there is agricultural activity going on. The Board has said consistently that it wants our rural area to be used for agriculture, for forestry, and for protection of natural resources. The Board has not said that it wants to make it complex or difficult for people to be farmers. She will be looking at that form with an eye to how easy it is and how it encourages those uses as opposed to the opposite.

Mr. Boyd agreed with Ms. Thomas.

Ms. Mallek commented that there should be clear, specific questions: number of acres, number of cattle, number of hay bales.

Mr. Boyd suggested it might be a good idea before bringing something back for a recommendation to talk to some of the stakeholders, such as the Farm Bureau and get their feedback.

Mr. Slutzky said the form should be as user-friendly and as non-burdensome as possible to the farmer and the forestry.

Mr. Rooker said that the Board does want to validate that the activity is taking place on property that is supposed to be taking place, in order to qualify.

Ms. Thomas stated that she had some conversation with the Department of Forestal and there are some of their staff people who would be interested and willing to discuss that with the Board tonight. The Department of Forestal staff have put a good deal of thought into what they think would be a valid way of verifying forestry which is 67 percent of the people who are in land use, because they have forests. She thinks the validation should be quite different because a forest has its value and the Department of Forestal is recognizing this in most recent years in terms of clearing the air, the water and holding the soil in place. Forestry does not have to be done the same as farming.

Mr. Boyd suggested moving forward with the concept because this would have to come back for public hearing. The Board certainly wants staff to gather some input from the stakeholders, and the Forestry Department would be one of those.

Ms. Thomas suggested that an application could ask up front if the land is in a conservation easement, and if so, your qualification is confirmed, skip to the bottom and sign your name. This would make it evident it is an easy process by having land in a conservation easement. The second question is, if you have your land in an ag/forestal district, your land use is confirmed, then skip to the bottom and sign your name.

Mr. Davis stated that even land that is in an ag/forestal district or in a conservation easement still has to meet the requirements for the classification in order to qualify for land use. A piece of property could be in an ag/forestal district and if it is not being farmed or not in forestry, it would not qualify for land use. The same applies to land in a conservation easement; if it did not otherwise meet the requirements for a classification at the time that it was put into a conservation easement. For example, if it was four acres of property that was put into a conservation easement, it would not qualify for land use taxation even though it is in a conservation easement.

Mr. Rooker commented that the SLEAC value is going to be different, dependent upon the uses. Mr. Davis said the value would be different depending on how it qualified. If it did not qualify at all, it would have to be assessed at full fair market value minus the value of the easement. It is not as easy as you would first sense.

Ms. Thomas asked if there is any way to carry out that spirit in using the revalidation form as a way of encouraging conservation easements. That would fit the Board's strategic goal of encouraging conservation easements without doing the requirement that was talked about in Option 2.

Ms. Mallek commented that the Chesterfield form has the requirement that all persons having an interest in the property must sign the form. That is a disaster because people are scattered all over the country that are not responsible for paying the taxes. She hopes that a way can be found to have a sort of general partner/farmer, the main local person who pays the bill be able to fill out this form, not someone out of state who really has no idea about the hay or anything else.

Mr. Woodzell said he understands that and would have to defer to legal counsel. For the initial land use form, all owners must sign the form. He believes that is where this verbiage comes from. Apparently, Chesterfield may feel that is the case.

Mr. Davis said his presumption, without having researched that specific issue, is that if you do not have to require revalidation, that you could have a lesser standard for revalidation than you would for the initial application, but the initial application does require all property owners' signatures. He doubts that a revalidation form must have that requirement.

Mr. Slutzky said that if it is not required, he prefer that it not. He then asked if he is in forestry use, in order to be eligible, would he be required to have a forestry plan if he is not in an ag/forestry district. Mr. Woodzell replied that is one of the State standards. Mr. Slutzky continued, noting that there are a significant number of County land use property owners in forestry use because they have represented it as such, who may not realize that they actually have this obligation, and might have something of a sizeable burden to go and implement a forestry plan to become eligible. He asked if there is a way that the Board can provide some kind of detailed web information and other supplemental information in the mailings that just go out to people who are in land use for forestry reasons to make it as easy as possible for them to know how to go through those steps short of having to spend lots of money paying somebody to create a forestry plan.

Mr. Rooker noted that it is not complicated to have a forestry plan. Ms. Thomas pointed out, that if it is a good one, it is. Mr. Rooker said he thinks that the Forestry Department has specific directions about establishing a forestry plan for a property that are not really complicated.

Ms. Mallek said she is happy that it is a State requirement. It is a huge step forward to get Best Management Practices put into effect.

Mr. Woodzell said there is a form in his office called the Landowner Commitment Form, that was prepared by the Department of Forestry and is being used for any and all new applicants. Some of the original initial landowners have had property in land use since 1973, and there are probably plans from way back then. It is to everyone's benefit to know what you have and to be able to maximize the use. It also helps staff to make the decision, and it is a good tool to have a forestry management plan. The plan can be done through a landscape architect or the Department of Forestry.

Mr. Slutzky said that it might be helpful in the staff report that comes back to the Board to include information that describes what constitutes a minimally acceptable forestry management plan and how one might go about obtaining a plan.

Ms. Thomas stated that she thought when land use was first adopted by the State, the Forestry Department and many other people assumed that the use of a forest was to create lumber, and that if you did not have a forest management plan that said in a certain number of years you were planning to harvest a certain amount, that your forest was not legitimately a forest. Even the Forestry Department has changed its views of what is a value in a stand of trees, and it is not always its potential lumber as much as the other effects that it has. It is something like 85 percent of the nitrogen that would otherwise end up in the Chesapeake Bay gets absorbed by the forest. She encouraged the staff to work with the Forestry Department on that part of the questionnaire.

Mr. Davis said once a forestry plan has been submitted, the reapplication would not require that another one be submitted every two years. The application can simply ask if the landowner is still following the forestry plan that was submitted in a previous year. He thinks that for the revalidation of the forestry part, once you get people in the program with a valid plan, should be fairly simple.

Ms. Mallek noted that the farm service agency would do this with the farm plans that the agriculture folks have. It is something you refer to and make changes to when you need to, but the government offices are able to help with all of that.

Mr. Rooker asked to explain what was meant by a commitment form. Mr. Woodzell stated that it is a form that includes various information. It is a form that goes through an interview with the landowner and asks them, "Tell me about your property, its forest; tell me how you're using it, best management practices." It was designed by the Department of Forestry and is dedicated to tell the County exactly what is going on.

Mr. Rooker asked if the commitment form was in lieu of a forestry management plan. Mr. Woodzell answered affirmatively. The Department of Forestry also had a limited staff and staff could not physically go out and do all of these overnight given that there were 66 percent of acreage in forestry, This plan was done in lieu of having that professional plan until folks could request that plan. It maybe not the best substitute for a plan, but it is information submitted to the office.

Mr. Woodzell provided examples of documentation, such as farm number, evidence of participating in a federal farm program, federal tax forms relating to farm operations and certification of the forestry intent. This was just to show possible documentation that staff would request of the landowners to document how the property is being used.

Ms. Thomas stated that she is very interested in the eat local movement that is taking place in the agricultural community, and lots of people at the City Market have four and a half acres but cannot get into the program. She is interested that it is going to be the small holdings that may produce the strawberries, or truck farms, the more intensive agricultural use. She wants to make sure that whatever forms are used do not assume large acreage and large farm operations because the value in agriculture in the coming decade is going to be in small holdings.

Mr. Slutzky asked if there is any circumstance under which a four-and-a-half-acre parcel can qualify for land use. Mr. Davis replied that the only situation where that could occur is if the property was subdivided prior to July 1, 1983, and there is an adjacent property under the same ownership, then that parcel could be aggregated with an adjacent parcel and still qualify for the minimum requirements.

Mr. Woodzell noted that the next steps would be Board approval of the revalidation implementation process. Staff would then come back at a later date for public hearing for adoption of the ordinance and the form.

Mr. Tucker indicated one more work session is needed. He thinks it would be good for Board members to see the form, and then tweak it as seen fit before it goes to public hearing.

Ms. Thomas noted that there should be lots of time for public input before the public hearing, put the information on the County website and send the information to different organizations.

Mr. Tucker said before staff brings this back a work session, they want to have the stakeholders' input.

Motion was then offered by Ms. Mallek that the Board proceed with the development of a revalidation program. 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.

Mr. Slutzky commented, for clarification, that the Board did not just vote to go forward with revalidation, and instead voted to go forward to have a public hearing and before that a work session to see whether or not the County is actually going to do a revalidation program.

Ms. Thomas said she thought the Board voted to go forward with revalidation, but subject to the work session and public hearing as to what information would be included on the form.

Ms. Mallek said that was also her impression; and that the clarity of the form and content of the form would come back to the Board.

Mr. Rooker said that was also his intent.

Agenda Item No. 12. From the Board: Matters Not Listed on the Agenda.

Mr. Slutzky moved that the Board appoint Margaret Peggy Echols to the Pantops Community Advisory Council, and to appoint Steve Ashby to the Community Mobility Committee, with said term to expire January 12, 2009. Ms. Thomas **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.

At 7:42 p.m., Mr. Slutzky then offered **motion** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions. 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.

At 8:15 p.m., the Board reconvened into open meeting. **Motion** was offered by Ms. Mallek, **seconded** by Mr. Rooker, 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.

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.

Motion was then offered by Mr. Slutzky that the Board appoint Dennis Rooker as the Board of Supervisors' representative and Ken Boyd as the alternate, to the South Fork Rivanna Reservoir Maintenance Task Force. Ms. Thomas noted that is called the South Fork Rivanna Reservoir. Ms. Mallek **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.

Ms. Thomas commented that someone from the public, who owns land in Fauquier County that is in land use, said that in Fauquier, there is a fee attached to revalidation if you have undergone any changes in your property in the last two years. He thought that could be a revenue source to cover staff costs.

Mr. Davis said if someone subdivides their property they have to pay a fee to re-enter land use. That is a new application.

Agenda Item No. 13. Adjourn to July 23, 2008, 6:30 p.m.

Motion was then offered by Mr. Slutzky that the Board to adjourn to 6:30 p.m., Wednesday, July 23, 2008. 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.

Chairman

Approved by Board

Date: 10/01/2008

Initials: EWJ
