

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 10, 2008, at 2:00 p.m., Room 241, Second Floor, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr. (arrived at 2:12 p.m.), 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, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

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Agenda Item No. 1. The meeting was called to order at 2:02 p.m., by the Chairman, Mr. Boyd. Mr. Morris called the Planning Commission to order and Mr. Wright called the Architectural Review Board to order.

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Agenda Item No. 2. **Joint Meeting with Planning Commission and Architectural Review Board.**

Planning Commission Members Present: Mr. Jon Cannon, Mr. William Edgerton, Ms. Marcia Joseph, Mr. Thomas Loach, Mr. Calvin Morris and Ms. Linda A. Porterfield.

Absent: Ms. Julia Monteith and Mr. Eric Strucko.

Architectural Review Board Members Present: Mr. William Daggett, Mr. Fred Missel, Ms. Candace M. P. Smith and Mr. Paul Wright.

Absent: Charles Lebo.

Staff Present: Director of Community Development, Mark Graham, County Planner, V. Wayne Cilimberg, and Deputy County Attorney, Greg Kamptner.

Item No. 2a. Discussion: Possible Changes to Current Entrance Corridor Processes.

Mr. Graham reported that one of the issues brought forth by the Development Review Task Force was uncertainty and confusion about roles with respect to legislative reviews, especially rezonings – with North Point being the case study. He said that from staff's perspective much of that concern has been addressed by processes that the Planning Commission has already put into place, and he thanked the Commission for that step. Mr. Graham added that there are still some opportunities for additional improvements, as staff has identified a number of administrative processes that could help simplify reviews and expedite processes to free up staff to work on other things.

He explained that the ARB staff and members are getting overwhelmed by the workload, and Community Development is already down four people with frozen positions to the ARB. Mr. Graham also said that a lot of the processes are appearing to become more routine and are able to be handled administratively. He stated that staff is interested in updating design guidelines, and the ARB agrees – with corridor specific guidelines and updating to reflect the slightly different direction the Neighborhood Model is taking, such as the Crozet downtown district.

Mr. Cilimberg reported that process changes were discussed at the last joint meeting, and certain things that are already underway – zoning and ARB applications being combined for signs, Entrance Corridor review of mechanical permit applications for existing buildings, draft of a checklist to be implemented, eliminating EC review for sub permits on new buildings and additions, revising the ordinances to allow rejection of incomplete ARB applications and inclusion of expiration dates on ARB approvals, establishing deadlines for ARB resubmittals, and disallowing resubmittal of denied proposals for a defined period of time. Mr. Cilimberg indicated that the Planning Commission adopted a Resolution of Intent last night that will begin that discussion, and the ARB will review them again before they come back to the Commission and eventually the Board.

In the administrative review area, he said, new building additions located 2,000 feet from the Entrance Corridor such as Old Trail, could be reviewed that way; handling telecommunications applications, second tier buildings between the EC and a proposed site (University Tire at Pantops), minor amendments for site plans or architectural review, building permits that do not require site plans or site plan amendments, signs, are also being considered for administrative review. From the staff's side, they feel like they have a way to try to deal with some of these matters. Hopefully it is something that the ARB and the Board as well as our Planning Commission will recognize as opportunities to improve process, [and] not lose any of the standards of quality that they have in their reviews now. Mr. Cilimberg emphasized the veteran staff and their knowledge, and said he hopes there will be time to look at design guidelines and legislative review process.

Mr. Cilimberg provided an overview of the points raised by the ARB: they raised concern about the need for careful decision-making and possible misrepresentation of what will actually be built in some

projects. He said that staff is being careful with new reviews to try to get good input during the legislative process from the design planner for Entrance Corridor purposes and make sure the Board and Commission are made aware of those comments; the design planner may need to bring issues to the ARB before the project goes to the Commission or the Board. Mr. Cilimberg said that the ARB emphasized the importance of not approving projects that exceed maximum capacity of the site – building, parking, and all required landscaping, cleared utilities and other easements. He stated that staff would like to have this addressed during the rezoning process with the plans the Board sees, and hopefully this is being better addressed with the Entrance Corridor review by the design planner and ARB – such as the 5<sup>th</sup> Street/Avon commercial project.

Mr. Boyd asked how projects that are too big for the site come forward since staff has reviewed them. Mr. Cilimberg replied that the ARB is trying to make sure that the Board understands that as part of their decision-making, explaining that in the legislative process the Board is dealing with conceptual plans so the fine details such as parking and uses emerge later.

Mr. Rooker indicated that it could be a problem of timing as to when the ARB sees a project.

Mr. Wright commented that the problem is sometimes an item comes from the Planning Commission and it seems as if no one has read the ARB guidelines – such as lack of screening, etc.

Mr. Rooker added that if a site is too small for the landscaping, there would be no room for the building. Mr. Wright responded that a building could then be made smaller. Mr. Rooker emphasized that it is really a timing issue.

Mr. Cilimberg noted that once an application is made from the very first conceptual plan, there is design planner review as part of that process and Ms. Margaret Maliszewski is then going to the ARB to get input before bringing it to the Planning Commission. He also said that the Commission or Board may not agree on something that the ARB has recommended is important to the project, but staff wants to make sure that they are at least aware of those issues, and the only way to ensure that is to provide that information from the beginning.

Ms. Mallek asked if staff is submitting applications for applicants as the requirements stipulate that “applicants are encouraged to submit applications but not required to do so.” Mr. Cilimberg said that they are submitting to staff, but in the rezoning stage for something in the certificate of appropriateness level decision, it is probably not going to be the right time.

Ms. Mallek commented that hopefully there would be some model designed so that a site could accommodate screening and parking as well as buildings. Mr. Cilimberg replied that there are also the factors of element relationships, visibility from the Entrance Corridor, buffers and screening, etc. That was one of the points that the ARB specifically raised regarding the 5<sup>th</sup> Street/Avon project.

Ms. Thomas added that the Crozet Gateway was allowed to move forward with fewer parking spaces, against ARB and other staff advice.

Mr. Boyd said that the positioning of buildings at North Point was the same way, and the Board consciously made the decision in spite of the ARB’s recommendation.

Ms. Smith noted that some of those decisions are made based on recognizing hardships that the applicants have gone through, and if they had it right conceptually it would be less of a dilemma for the Board and Commission.

Mr. Wright mentioned that the ARB has never said not to build something because it had too few parking spaces, that is a decision made by other entities, but they have strongly encouraged appropriate landscaping.

Mr. Boyd added that so much of the ARB’s work is done at the site plan level, not the conceptual level, but there should be a way to figure out how to do it.

Ms. Mallek emphasized the importance of having adequate design guidelines.

Mr. Cilimberg said that the rezoning level detail of conceptual plans would essentially determine how much the ARB can weigh in, as they can make more comment. He also stated that staff is making sure to include Ms. Maliszewski as part of the initial review process, and she would take it to the ARB depending on the level of their input that is deemed necessary. Mr. Cilimberg added that rezonings and some special permits are typically going through several cycles of review with staff, and it is not hard to cycle in an ARB meeting for review.

Ms. Smith commented that ARB review of rezonings has been eliminated unless Ms. Maliszewski thinks the ARB needs to see them.

Ms. Thomas asked about eliminating ARB review of signs and cell towers. Ms. Smith explained that the ARB has not seen those recommendations.

Mr. Missel clarified that there is actually a resolution to study these issues.

Ms. Thomas commented that it might be helpful to get input from the Board now because those are two things that the public really notices and comes to the Board about if things have gone awry.

Ms. Smith responded that the ARB would also like to have an opportunity to comment on those as they are staff recommendations the ARB has not seen.

Mr. Wright added that they have had limited conversations about cell towers because they have gotten to be relatively automatic.

Ms. Mallek mentioned that there is no opportunity for the public even if it is someone who has a tower right in their backyard unless there's a process that carefully protects their being notified.

Mr. Cilimberg explained that the ARB would provide administrative input to the Planning Commission's decision.

Mr. Wright noted that the ARB has never had anyone to come to a meeting other than the people where the cell tower is located on their property.

Mr. Boyd commented that that's because the ARB meetings are during the day.

Mr. Cilimberg emphasized that staff does not have any preconceived notions about these being put into place in any particular form, but they do really need the ARB's input and these items have been identified for potential change in process.

Ms. Thomas said that signs seem to be a perfect ARB issue, not a Planning Commission issue.

Mr. Rooker commented that there is a sign ordinance that provides guidelines, and the question is whether staff requires ARB review and perhaps there is a distinction because of sizes and types of signs.

Mr. Cilimberg noted that the Task Force recommended that there was the knowledge and ability of staff to deal with these matters administratively so staff is starting from that point of view. They then need to identify what may not be a comfort to the decision makers in terms of staff review. He also said that in the rezoning and legislative review process staff has made sure to incorporate EC review from the design planner and the ARB. Mr. Cilimberg noted that there have been issues raised about enforcement, and the ARB is concerned that their efforts will become meaningless if enforcement does not happen. He mentioned that enforcement is a staffing issue, and Mr. Graham is going to bring that back to the Board at a later date.

Ms. Mallek asked what enforcement ability there is after the fact, and wondered if there was a penalty involved. Mr. Graham replied that there is no punitive component to the ordinance, but staff can issue stop work orders until the violation is remedied.

Mr. Wright added that people have had to do additional plantings, but it is a limited tool.

Ms. Mallek asked if the person can be required to plant larger trees. Mr. Wright said the ARB can require a wider caliper, but they were told by Mr. Snow, a former ARB member, that six-inch calipers grow faster than eight-inch calipers.

Mr. Davis noted that there are enforcement options at the time of occupancy, and if there are violations found there can be civil fines, and a bond can be called if an applicant does not comply with a site plan; if he ultimately defies authority the County can get an injunction and order them to follow the site plan.

Mr. Wright cited the example of Virginia National Bank at Pantops where they put a generator on top without permission, and their occupancy permit was withheld until that was dealt with; but, applicants are often not asked to re-do items.

Mr. Graham said that the two most effective tools: the stop work order during the construction process, and the certificate of occupancy at the end of the process; civil penalties are available but is extremely cumbersome to pursue.

Mr. Rooker stated that that brings up the question of what is required to be done before a CO is granted, as it seems they are often given with many things undone – such as landscaping.

Mr. Graham responded that at that point, the most effective thing is the bond, and a CO cannot be issued without the bond in place. He added that a final zoning inspection happens when a CO is issued, and with site plans it is a fairly detailed process – checking off against the ARB and the approved site plan.

Mr. Rooker asked if there was some way to get assurance that the work would be done within a certain period of time. Mr. Graham replied that the work is required to be completed within a year, and perhaps that time period could be tightened up. He said that the bond has to be in place before the CO is granted, and there are improvements that cannot be bonded – but they have to be completed before the CO is granted.

Mr. Davis mentioned that safe and convenient access is required, for example, but landscaping is one that is tricky as there are often legitimate reasons it cannot be put in. He said that the problem with bonds is it allows the County to pull the bond, buy landscaping, and plant it for the applicant – but that is a last resort.

Mr. Graham said that even if a contractor is hired to do it, somebody still has to manage the process.

Mr. Slutzky asked if there is a temporary CO that could be granted. Mr. Graham answered that it does exist but the County has learned through hard experience that it is not the way to go.

Mr. Rooker added that the people being kicked out are often the tenants, not the applicants.

Mr. Wright mentioned that this is not an enormous problem, and it would take a really silly developer to spend millions on everything else and destroy his project by not planting things.

Ms. Mallek commented that there would have to be something in his project left to get the bond.

Mr. Graham also said that staff has also tightened up on erosion and sediment control, limiting the time of disturbance so they have to "get in and get out."

Mr. Cilimberg stated that another issue raised was that fees for review should correspond to review time required, and the last of the fee changes that Mr. Graham wants to make would cover ARB fees and many others under the ordinance, and would come to the Board by early 2009. He said that the ARB brought up the question of ARB purview relating to buildings that would transform the County skyline even when those properties are beyond the boundaries established for the EC review, as Hollymead Town Center was. Mr. Cilimberg stated that the other concern was whether the ARB review should extend to all County building projects regardless of location in an Entrance Corridor; and whether ARB review should come earlier in the process. He emphasized that that's really a policy matter to be discussed, not a staff decision, but if the ARB review would be codified for public projects more staff resources would be needed.

Mr. Rooker said that the County is limited by law to extend the ARB review.

Mr. Davis explained that enabling legislation restricts the authority to parcels which are contiguous to arterial roads which have been designated as Entrance Corridor roads, and what contiguous means is up to a little bit of debate because legally it's been interpreted in various ways – generally meaning "in close proximity or near proximity." He added that how deep review could happen with non-adjacent parcels would be an issue of debate.

Mr. Wright stated that there is no reason the ARB cannot go to what the City has in terms of limiting building height unless a special use permit is granted, adding that their advice could be advisory not statutory.

Ms. Smith explained that if there is a 10-story building that is currently 2,000 feet away, there is a visual impact. She added that you can visually see the University of Virginia's "white hospital" from almost any place in the County. She emphasized that when the ARB is asking to review something the intent is not to "pick at it" but to consider the overall effect.

Mr. Rooker asked how the VNB building at Pantops was agreed upon. It has a conglomeration of different brick colors. Ms. Smith responded that the ARB is presented with samples in the office and tries to make an assessment based on that and they are shown computer generated CAD drawings. The ARB tries to make their best guess as to what it is going to look like.

Mr. Rooker asked if it was their architect that came up with using the different kinds of brick. Mr. Wright responded, "yes", added that using a single brick makes a building look massive, and using different bricks can minimize that. Mr. Rooker commented that he has had a lot of people comment negatively on the VNB building.

Mr. Missel commented that as the ARB is redoing the guidelines, there could be a merger of the "objective with the subjective."

Ms. Smith noted that the reason for the ARB's creation is to "preserve and enhance the traditional resources and character for the County" and if tall buildings could impact and affect that character there could be legislation to address that.

Mr. Rooker stated that legislation is not needed to accept advisory information.

Mr. Slutzky asked what would happen in the case of a by-right building with a condition that the Board requires ARB review. If the ARB says the building is in a bad location, the County does not have the ability to not grant the building permit.

Mr. Rooker responded that it would have to be in a mode where the County would have some control to begin with.

Mr. Slutzky said that if there is something that is not by-right, there's an argument for making it subject to an advisory review by ARB as determined by staff.

Mr. Boyd emphasized that there is more money and staff time needed for this, and that is going to be problematic.

Mr. Wright agreed, but also said that staff is overwhelmed and people need to pay their fair share through fees for resources they are using. He added that he is not asking the Board to raise fees, but he is asking that the Board make them fair.

Mr. Rooker pointed out that going to an administrative review process would eliminate some of the ARB's current work, and perhaps the ARB could be asked for an advisory opinion.

Ms. Mallek noted that there are some buildings that are going to have a tremendous impact, now and in the future.

Ms. Thomas said that regulations should be made in preparation for the next boom.

Mr. Wright mentioned that technology is coming along very quickly, such as the LED sign at the Airport that changes prices, and the ARB has tried to be reasonable about those types of signs.

Mr. Slutzky commented that he would like for policy decisions not to be made today because of staff resources, as that is a separate issue, and there is a Comp Plan and Strategic Plan that dictates those policy items. The Board will have to separately tackle the economic impacts of implementation of its Plans and may have to make some tough decisions.

Mr. Boyd added that this could go in conflict with density issues particularly when talking about limiting the size and height of buildings. Other Board members responded that this pertains to how they look, not the materials.

Mr. Rooker said that there are building height restrictions already in place, and what is being requested here are comments from the ARB before a project gets too far along.

Ms. Smith mentioned that the ARB would like to review the proposals that were made, and subsequently make comments on those.

Mr. Rooker added that he would like for the ARB to consider the recommendations in light of the amount of time it might save the Board, and some indication as to whether adopting these items might balance out staff time.

Ms. Smith commented that the ARB has attempted to take on more responsibility, as a board, to relieve staff time.

At 3:00 p.m., there being no further discussion, Mr. Morris adjourned the Planning Commission meeting and Mr. Wright adjourned the ARB meeting.

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Agenda Item No. 3. **Joint Meeting with Albemarle County Service Authority**

Albemarle County Service Authority Members Present: Mr. James Colbaugh, Mr. Robert Humphries, Mr. John Martin, Ms. Liz Palmer, Mr. Clarence Roberts and Mr. Donald Wagner.

Absent: None.

Staff Present: Mr. Gary Fern, Executive Director, and Mr. Jim Bowling, Attorney.

At 3:05 p.m., Mr. Wagner, Chairman, called the Albemarle County Service Authority to order.

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Item No. 3a. Discussion: Do connection fees adequately compensate cost of capital improvements?

With regard to this first item, Mr. Wagner said that the process has been: a developer wants to build a new subdivision, draws plans for the sewage, pays the Service Authority to examine the plans, puts the pipes in the ground and pays the Service Authority a fee to inspect that to see that it has been done properly, then turns them over to the Service Authority at no cost for maintenance. After the developer has paid those costs, he said, when a house is connected to the new lines the homebuilder pays fees for connecting to the unit – a system developer charge to the Service Authority, Rivanna capacity charge, and a mountain surcharge. All of these things combined amount to about \$5,000 per new house. He explained that when a local facility is not created, a house pays \$11,200 because they pay for local facilities – sewer and water – that somebody else has previously furnished. This number was established by principles used in other places. In a new subdivision, he said, the water subtotal is \$2,290 and the sewer is \$2,630; for a homeowner adding on, the cost of water is \$4,080 and the sewer cost is \$6,320.

Mr. Wagner stated that redevelopment is paying for itself, and whenever plans come in for examination by engineers, they look at them and determine whether the sewer line is big enough to handle this subdivision and the vacant land uphill that might be developed in the future. If it is, then the developer is required to oversize the sewer and water lines, and the cost of that is split with the Service Authority paying the cost of the larger pipe; the developer does not get any extra for putting it in the ground. Mr. Wagner noted that the Service Authority fronts that money but plans to get it back later on, and if sewer is available on one parcel in a developed area, a parcel in between two parcels must also be given lines and credit is given that can be used to offset system development charges.

Mr. Rooker commented that a broader question is whether those numbers are adequate to provide for the capital needs of the system, as the north area is experiencing a \$35 to \$40 million project resulting from changes to the system.

Mr. Wagner explained that there are areas where the emphasis has been on denser development, and the area near Target was zoned for industrial development, and the sewer lines that were run over there were sized for that zoning; since then, that has been rezoned for dense residential development and hence more sewer is required and lines will need to be upgraded. He said that there is a negotiation happening to minimize the financial impact on the Service Authority.

Mr. Fern pointed out that the Authority enters into an agreement with the developer to say that when they reach a certain point they won't have to upgrade the sewer or water mains and they agree because they want their development to continue.

Ms. Mallek asked if the people who come in after that point foot the bill for those improvements. Mr. Fern replied that if the developer is paying for those improvements, it is how they sell their piece of property and they can choose to do it by individual buyers or wait until the end.

Mr. Rooker asked if it was feasible to have an upgrade to a system that is based upon the last 30 percent of the development, which isn't built out because the cost imposed is too great. Mr. Fern responded that that potential does exist but the initial developer now has land they cannot sell so from a market standpoint that is unlikely.

Ms. Thomas commented that she has never quite been comfortable with that, and the growth management strategy has been not to leave potential for big vacant parcels.

Mr. Rooker said that it seems to make more sense to determine up front what the ultimate buildout will require if there is a big parcel, and try to recover that instead of pushing it off on the later buyers.

Mr. Slutzky noted that the challenge is there is no certainty as to when it is going to be built out, and the cost of construction is going to vary dramatically.

Mr. Fern agreed, stating that in Biscuit Run it has already been negotiated with the developer that they will pay 100 percent of what is needed to get to build-out, and nothing will be coming out of the pockets of the Service Authority or its current customers.

Mr. Rooker said that if there is an upgrade needed only for the last 30 percent of a property, a situation arises where there is a "ridiculously high charge" applied to a small percentage of the property.

Mr. Slutzky asked if there was a way to spread that cost so that some number is put in to over time and still leave the 30 percent rule in.

Mr. Fern agreed that could be done.

Mr. Martin said that this issue is going to come up again in the near future, and encouraged the Board to take a serious look at it. He also said he wanted them to look at the fee structure, noting that there is money in the Authority's budget this year for a thorough review.

Ms. Palmer commented that currently there is a "buy-in" method, which is not designed to pay for new construction but is designed to equalize the equity between the new and the old.

Ms. Thomas said that it is up to them how to raise their money, but it becomes a Board issue when it has an impact on how the development area is developing and whether it meets the Comprehensive Plan and its goals.

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Item No. 3b. Provision of service in the Growth Areas (Northfields, Carrsbrook and Oak Hill)

Mr. Fern referenced the map of the Northfields area, noting that the sewers are marked in green and the magenta lines note the parts that do not have sewer. He said that one of the difficulties the Authority is facing is trying to service those small areas because they are very costly and the costs are difficult to recoup, even with connection charges. Mr. Fern stated that Phase IV in Northfields will allow them to collect a possible \$100,000 in connection charges, but the cost of the project is almost \$400,000.

Mr. Slutzky said that those not in the perimeter would inevitably have to be done and it will be even more expensive; additionally, older couples' houses will be sold to families with children and septic systems might not stand up to the new usage. He clarified his concerns as how to change the cost impacts on homeowners so they will participate, completing the sewer network in the growth area while the market is down, and developing an equitable funding strategy so that the new entrants into the market are not getting an advantage that the already existing growth area residents do not have. He said that he has suggested having people connect and then pay for it over an extended period of time, or have a lien on their property.

Ms. Palmer said that there has always been discussion of having County taxpayers pay it, but then having the assessment for that property increased so it could be collected through taxes.

Mr. Davis explained that you could create a service area and impose a higher tax rate on that service district, but depending on the time parameters set for repayment the rate might have to be "significantly higher." He said that under State law, anyone who has an operable septic tank cannot be required to connect but there is authority that would allow for mandatory payment of a connection fee, a front footage fee, and minimum monthly service charge even if they are not connected.

Mr. Slutzky asked about charging an "availability fee."

Mr. Davis clarified that that's what he was explaining – a connection fee without requiring connection.

Mr. Rooker said the issue is going to be how well it will be received if there are 40 houses and 35 have functioning septic systems with no problems, to substantially increase their fees and expenses because five homes may need sewer. He then asked if there was a requirement at the time of the Northfields Subdivision for a back-up septic field. Mr. Fern replied, "no".

Mr. Martin said that the sewer currently installed there has 53 homes that have chosen not to connect because of the cost, and perhaps an informational campaign might generate some more connections. He added that it would be helpful to know if this is a problem worth pursuing by the Service Authority.

Mr. Slutzky suggested a hybrid of some of these suggestions.

Ms. Palmer agreed, stating that perhaps an increased assessment on the individual who needs the connection for the cost of the connection fee.

Mr. Davis clarified that the properties within the service district would need to be defined, and everyone within that boundary would pay that tax for the district – into a segregated fund for upgrading the system.

Mr. Slutzky asked if they could have a choice – a payment, a lien on the property, amortization over time, or opting into the district with property tax.

Mr. Wagner pointed out that the area being discussed in Northfields is Northfield Road and Huntington Road, and those lines were put in when the subdivisions were built by the Service Authority when they could get at least 50 percent of the people to sign up. He noted that when water systems failed on Route 250 West, the Authority ran water lines out there and collected less in fees than the cost of the project. The Service Authority has tried to set its rates so that the rates reflect what they are paying Rivanna and what it takes to deliver the water to the customers.

Mr. Slutzky said that the bigger picture item is the possibility of septic failure, contamination of streams, and the lack of money to address these issues. The underlying request would be for the Authority to figure out a way to provide sewer service to those areas of the growth area that are older subdivisions that need to have service completed.

Mr. Rooker noted two different issues: the cost of running lines into areas where they do not exist, and recognizing that the cost will not be recovered from those properties; and the requirement that homeowners pay a normal hook-up fee to get the service. He said that the second part to be addressed is the expectation of people paying a hook-up fee, and a homeowner would be allowed to pay over time, but the County cannot ask them to make decisions where the recovery of fees to pay the cost of extending service is "grossly non-comparable." Mr. Rooker added that this cannot be mandated if the cost is exceptionally prohibitive.

Mr. Slutzky responded that the reasons these small parcels are not served is there wasn't enough subscription.

Mr. Wagner said the reason was that it was done strictly by application to the Service Authority. The other people did not ask for the service. Mr. Wagner said that a rough design was made for the area and it was determined that the Authority could not spend that much money to accommodate those homes.

Mr. Slutzky commented that he is just concerned that adding smaller sections later is going to be more expensive, and hopefully doing this on a larger scale at this moment in construction would solve the problem for the least possible amount. He would rather not do this in response to a failed septic system.

Mr. Wagner stated that the Authority would take that under advisement. He then asked the Board to consider mandatory connections because that would be over \$600,000 for the houses that presently have access and do not use it, and the houses that would have access – over 100 houses at \$6,000 each.

Mr. Davis noted that if someone could not pay that, a lien could be put on their property.

Mr. Slutzky said he would support that outcome so long as a mechanism was in place for them to pay the fee.

Mr. Davis also said that the Service Authority could establish a policy to address how it would be paid for, and how a lien would be collected would be the policy issue.

Mr. Bowling commented that the problem with putting a deed of trust and note on properties is turning the Service Authority into a bank, and putting a lien on a property means it continues to exist. The Service Authority does not want to get into the foreclosure business. He emphasized that the reason this is an issue is because the Authority finds itself financially restricted in its ability to ride to the rescue unless everyone participates, because of the great increase in cost.

Ms. Palmer said that the preferred approach would be having people take out home equity loans. She also said that the Authority has a hefty list of priorities right now.

Mr. Rooker commented that the tax assessments necessary to support this would be "very significant," and the question here is whether the County wants to get into the business of assessing taxes on people's property in order to pay for the Authority's operations.

Mr. Boyd said that people could be required to pay for service even if they do not elect to commit to it.

Mr. Davis responded that it is a concurrent action and a decision of the Authority with the concurrence of the Board to impose a connection charge and "front footage charge" and a monthly non-user fee that is limited by the statute even though they would not be required to abandon their functioning septic tank. He confirmed that it could be applied to geographical boundaries as determined by the Authority and defined in a manner that the Board agrees to.

Mr. Rooker noted that when the sewer line came down Carrsbrook Drive, a lot of people didn't hook on, and careful consideration must be given to impose a cost on people for something that they are not using. He thinks there are going to have a lot of unhappy people that have septic fields out there that work fine and have worked fine for 40 or 50 years, a lot of them last for long, long periods of time. He expressed concern about curing a problem for a few people by imposing something on a whole lot more people, but he said he did think Mr. Slutzky's suggested public policy change is sound.

Mr. Boyd asked if there was a mechanism in place to allow citizens to say their septic system was failed.

Ms. Mallek added that it may be difficult to assess whether the systems are failing.

Mr. Slutzky mentioned that he has a constituent who has no sewer.

Mr. Martin noted that Oak Hill might be a brighter picture because it may be eligible for CDBG funds, which would be submitted through the County.

Ms. Thomas said that many of those people have lived there for a long time, and she would like for there to be a PSA encouraging pumping out of systems.

Mr. Wagner said that he would ask staff to put together a package with specific numbers.

Mr. Boyd added that he would like some type of means testing to make sure that people could afford to pay.

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Item No. 3c. Albemarle Place: status of sewer service and status of Meadow Creek Interceptor.

Regarding Albemarle Place, Mr. Fern reported that the developers are working on laying out sewer lines for their entire site and there is a meeting scheduled for September 24<sup>th</sup> to look at their latest layout. One of their key components is trying to get it from their site to the Meadow Creek interceptor, and the City and County would be working together to make that happen.

Ms. Thomas commented that she thought that interceptor was slated for replacement due to its current inadequate capacity.

Mr. Fern replied that the latest schedule is moving along and the sewer should be ready when Albemarle Place is ready.

Mr. Wagner said that when the question of the size of the sewer line came up, it was questionable as to whether there was adequate capacity.

Mr. Rooker mentioned that staff brought that to the developer's attention and the Planning Commission's attention.

Mr. Fern said that Mr. Tom Frederick (Rivanna) is looking to submit final Meadow Creek interceptor plans to DEQ very soon and construction is scheduled to begin next February with completion in April, 2010.

Mr. Boyd asked how much capacity will be added. Mr. Fern said the capacity is based on growth. The Authority is taking into account projections provided by the County Planning Department.

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Item No. 3d. North Fork Sewer Project: status of engineering design and status of financial plan.

Regarding the North Fork Pump Station, Mr. Fern reported that the engineering firm is working with ACSA staff and is currently preparing a preliminary engineering report to be submitted the first week of October. At that time the most cost effective solution will be established with the intention of abandoning the Camelot treatment plant in the next two to three years. He also said that they have meetings over the next few weeks with developers for the projects served by this plant, and have asked them for projected flow rates from now through 2060. Mr. Fern added that there is a short term solution being put in place currently – an equalization basin at Camelot, which will increase flows to handle all the current construction and that being proposed for the next few years. He said that these new projects will be serviced by the short-term solution and when Camelot is abandoned they will be folded into the long-term solution.

Ms. Mallek asked how the new developments would be contributing to the new line. Mr. Fern replied that based on their projected wastewater flows they would have a percentage of the overall project, and they are expected pay their appropriate share for usage and construction.

Ms. Palmer commented that she understood that people who are going into NGIC were originally going to be treated at the Camelot plant. Mr. Fern said that the increased development there would pay for part of the North Fork pump station project.

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### **NonAgenda Items.**

Mr. Tucker said there is one additional item the Service Authority would like the Board to consider which relates to compensation for their Board members. The following letter was received from Mr. Fern:

“The Virginia Water & Waste Authorities Act, Virginia Code Section 15.2- 5113(C) states that “Board members shall receive such compensation as fixed by resolution of the governing body or bodies which are members of the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.” The Albemarle County Service Authority’s (ACSA) By-Laws, Section 2-4 provides for “...a reasonable compensation for members of the Authority who are not County employees.”

Since July 1, 1997, ACSA Board members have been compensated \$100.00 per regular meeting attended, and \$50.00 for each additional meeting attended per month. In addition, Board members have been reimbursed for mileage to and from their homes to attend the meetings. The ACSA interprets the Virginia Water & Waste Authorities Act to require that the County of Albemarle Board of Supervisors must authorize increases in compensation to ACSA Board Members. The ACSA Board of Directors is recommending the following for your consideration:

1. The increase in Board Member compensation, effective July 1, 1997, was not authorized by the Albemarle County Board of Supervisors. It is requested that the Supervisors authorize the increase in compensation to \$100.00 per regular meeting attended and \$50.00 for each additional meeting attended per month, retroactive to July 1997.
2. The compensation per meeting be increased to \$150.00, effective upon the authorization of the Board of Supervisors.
3. The compensation per meeting be adjusted annually, based on the Consumer Price Index (CPI). This adjustment, if authorized, would occur annually on April 1<sup>st</sup>.
4. The compensation for the ACSA Board of Directors will be reviewed every five years.”

Board members expressed support for the request.

Mr. Davis suggested a resolution be prepared and included on the Board’s agenda in October. Board members concurred.

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Ms. Thomas mentioned that a couple of Planning Commission members felt that they have not been getting the kind of communication necessary with the Authority to make informed decisions. She suggested that there be ongoing communication between the two and/or possibly a joint meeting.

Mr. Wagner said that several years ago the Authority had decided it was not their job to say what was put in each jurisdictional area, but would respond to those questions from the Board.

Ms. Thomas commented that she thinks it is more of an aging infrastructure issue, not so much the jurisdictional areas.

Mr. Rooker suggested forwarding the ACSA minutes to the Planning Commission. It has been good for Board members to receive a full copy of the Service Authority minutes which allow them to get a better understanding of what they are doing. He is very impressed that the County has a Service Authority that operates in a very professional manner and operates the Authority as a business and in a business-like manner.

Mr. Wagner commented that when the Service Authority depreciates something, they put money in the bank for future items that need to be fixed. In response to Mr. Rooker's question, he confirmed that there are hook-up fees charged on irrigation systems. Mr. Fern said it is not a connection charge.

Mr. Fern said that there is going to be a rate study that considers numerous components.

Ms. Mallek said, as a new Board member, she appreciates meeting with the Service Authority and learning about what they do.

Mr. Roberts noted that the ACSA has a very aggressive capital improvements budget, and if funds are needed they are going to have to come from somewhere.

**Note:** At 4:07, Mr. Boyd recessed the Board of Supervisors and Mr. Wagner recessed the Service Authority Board.

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**(The Board of Supervisors reconvened at 4:17 p.m.)**

Agenda Item No. 4. **Work Session:** Update on current financial conditions.

Mr. Tucker presented information regarding the County's financial situation, noting that state, local and federal governments everywhere are struggling with an economic downturn. The duration and severity are expected to last at least through FY 2010. Citizens and businesses are also significantly impacted. Despite significant savings enacted during the FY 2009 budget process and planning for reduced revenue, the situation has become worse than originally anticipated, but staff is confident that the County is taking appropriate steps and has the necessary fiscal tools needed to meet these economic uncertainties.

He reported that in FY09, a shortfall of \$4.1 million is anticipated, with \$2.4 million less for schools at the 60 percent level and \$1.4 less for local government (40 percent), as well as a \$300,000 shortfall in capital based on the County's formula. Mr. Tucker said that the situation could worsen and this does not reflect anticipated state reductions which are likely as that the State shortfall is predicted to be about \$1 billion. Last year the State's shortfall was a little less and the County's amount was approximately \$400,000. Despite continued emphasis on savings through efficiencies, the County must go beyond efficiencies to examine reductions in service levels. He explained that the shortfall reflects about 1.8 percent of the total general fund budget, with estimated real estate tax revenues being less than budget because of a greater than anticipated decline in housing values; personal property and vehicle license tax revenues are down due to a decline in new vehicle sales and the value of used vehicles; and sales tax revenues are less than budgeted due to limited growth in both the local and regional economy.

Mr. Tucker said that last year, the County utilized a five-year financial plan to address long-term financial issues, limited the department baseline operations to two percent - below the rate of inflation, held back purchases of small capital items such as furniture and small equipment, enacted significant savings, enacted efficiency measures totaling almost \$1.5 million, and eliminated four positions and froze 17 others, totaling \$1.0 million. Program and service review saved another \$490,000 due to extended computer and vehicle replacement cycle, and other operational efficiencies.

To respond to FY09's shortfall, staff is recommending that in general terms, cost-savings measures would continue as enacted in FY08, but the hiring freeze would be expanded to an additional 15 positions – recognizing possible further expansion in light of state reductions.

Mr. Rooker noted that there are 32 positions being frozen. He asked how many are not occupied. Mr. Tucker responded that none of them are occupied and he is recommending that that be continued.

Mr. Tucker also said that staff would be reviewing fee structures to maximize cost recovery and fund frozen positions where possible. Today staff is suggesting use of the lock-box fund. Board members will recall that last year it increased the tax rate three cents, two cents was applied to operations and one penny was held in a lock-box. He added that here are implications to that for the current and future needs. Mr. Tucker said that spending on travel, training, and other discretionary items would be curbed, including overtime, implementing efforts for building energy efficiency and reducing fuel consumption measures to offset substantial costs increases. He added that they are asking departments to start preparing for a five percent contingency plan in case there are fairly severe State reductions based on total budget, including personnel. Mr. Tucker said that they are also considering the multi-year program service review process, as there are some external reviews that have been completed or underway – and the Budget Process Review Team has completed their review. He said that the Local Government Resource Utilization Study should come forward in the form of draft recommendations by this December. Board members should be interviewed in October as part of this effort.

With regard to service impacts, Mr. Tucker said, services with direct health and public safety impacts will be maintained. He said that existing staff and resources are being redirected to meet the county's most critical needs and some services will be provided by existing employees but at a lower level of service. Mr. Tucker stated that expansion of some core programs will be delayed. For example, the long range plan had two fire stations and additional police officers for FY10. In addition some of the enhanced initiatives will have to be delayed.

Mr. Tucker reported that staff is recommending these budget adjustments for the current fiscal year based on a current projected shortfall of \$1.4+ million: freezing 15 additional positions with perhaps

more after state reductions, resulting in a savings of \$870,000; using the lock-box for local government at the 40/60 split with schools, or \$606,000 for local government and \$960,000 for the schools. He said that that provides only \$1.476, and depending on state reductions, the County would need to look at additional frozen positions, the capital budget, the capital fund, and even the Board's reserve fund.

He also said that it is important that the Board get some idea of next fiscal year's shortfall, and the FY10 budget also has a shortfall of \$6.8 million without any state reductions – based on assumptions from the five-year financial plan: a one-cent tax increase in FY10 and FY11 budgets, with savings continued from 17 frozen positions in FY08. He said that there were assumptions made for additional police officers, two new fire departments at Pantops and Ivy with associated staffing, additional funding for affordable housing, transit and other new initiatives, and other operating impacts of capital projects. For FY10, Mr. Tucker said that even if none of those new initiatives were pursued and 32 frozen positions were maintained or eliminated, there would still be a projected shortfall of \$2.5 million.

Mr. Tucker explained that he reviewed this with the Leadership Council last week, and there was consensus that no new departmental initiatives would be submitted this year despite continuing needs based on the financial situation. He said that if any additional revenue becomes available, it should go to the frozen positions first. He added that the public safety positions are considered within new initiatives. Mr. Tucker emphasized that the County cannot move forward with some of the expenditures identified in the five-year financial plan.

Ms. Thomas commented that she was pleased to learn recently of new preventive measures the police were implementing to address speeding and drunk driving, and if someone comes up with a strategy that is going to save money it seems it should be considered for adoption. Mr. Tucker agreed, and said that staff can submit an item that will show savings, but noted that the focus would need to be short-term savings.

Mr. Boyd asked what was factored in for salary increases. Mr. Tucker responded that four percent has been included in previous years, but if that was reduced to two percent would mean a \$1.5 million savings. Mr. Boyd said that it should be on the table. Mr. Tucker replied that it would be on the table.

In summary, Mr. Tucker said that the current revenues are inadequate to meet expenditures and the situation could worsen in light of state cuts and local impacts. Mr. Tucker said that the County has been and will continue to take proactive steps to meet these fiscal challenges, and despite significant savings made during last year's budget process, the County will need to make challenging choices to meet obligations in this fiscal year. He emphasized that cost-saving measures would impact some service levels and delay some initiatives. Decisions in the current fiscal year will have cumulative impacts on subsequent fiscal years. There is a joint meeting with the School Board regarding compensation on October 1<sup>st</sup>, and the Board has their strategic planning retreat on October 24<sup>th</sup>, with a five-year financial review to be considered in November or December.

In terms of distribution of the 15 frozen positions, Mr. Tucker reported that Community Development and Finance are two of the largest departments and encompass six positions and five positions respectively that are frozen; the County Attorney's office and Parks and Recreation are the only departments without vacancies right now. He also explained that positions may be moved around within a department.

Mr. Slutzky asked if he is confident with these cuts and potential other frozen positions that the County can operate adequately. Mr. Tucker responded that this year they do not have any choice. He added that either additional positions or the capital fund may need to be looked at as well as the Board reserve.

Mr. Rooker asked if there were any projects out on the capital side that might have come in less, and wondered if there could be an update provided on how cost reductions on that side might help. Mr. Tucker commented that is one time money, but Mr. Bill Letteri is already compiling that list.

Mr. Slutzky noted that if construction projects have been historically low it would be a shame to lose out on the opportunity to redirect capital money into the operating budget.

Ms. Thomas said that some services are just not going to be provided, and it would be useful to know what's happening before the next budget session. Mr. Tucker responded that a long-range planning effort can be delayed, but when citizens are impacted because of delay in the review process that is a different matter.

Mr. Slutzky asked if police and fire are included in the frozen positions. Mr. Bryan Elliott, Assistant County Executive, reported that the recruitment retention captain for volunteers and one police officer is in the mix of frozen positions as well. Mr. Rooker asked how long the recruitment position has been vacant. Mr. Elliott responded that it has been vacant since early summer.

Mr. Slutzky expressed concern about delays in response times in police and fire.

Mr. Tom Foley, Assistant County Executive, explained that every vacancy goes through a review process with some criteria to determine if it has a health or safety impact, and those would be filled; those with revenue impacts would be filled as well – such as the County Assessor. There is specific criteria used in determining whether to fill a vacant position.

Mr. Tucker stated that even if none of the new public safety initiatives in the five-year plan were pursued, the \$2.5 million deficit would still exist.

Mr. Foley noted that they are in the process of evaluating the CIP, and determining if revenue transfer were scaled back what projects would have to be financed and which would be delayed. He added that the operating impacts of opening up new fire stations would also be delayed.

Mr. Slutzky said that these capital projects could be built for a lot less now given the construction market. There are other ways to backfill the gap. Mr. Foley responded that staff's job in that regard is only to bring forth scenarios, and that is part of what the financial plan review would be.

Mr. Rooker noted that it is staff's job to bring forth a balanced budget and these suggestions are just an attempt to do that.

Mr. Slutzky said he is amenable to the staff's suggestion about the lock box because that is the concept in which it was designed.

Mr. Tucker said that he was hoping to be able to handle the shortfall without the lock box, but that does not seem likely in light of state cuts.

Ms. Thomas asked what action is required by the Board today. Mr. Tucker said, if there is a consensus, staff will bring the necessary appropriation to the Board next month or when needed.

Ms. Mallek asked when the funds would need to be used. Mr. Tucker said he does not believe there is currently any urgency; the immediate savings will be in the frozen positions.

Mr. Boyd asked if he had thought about additional freezes and cuts by department. Mr. Tucker responded that he has asked staff to look at a five percent contingency plan and then it would be decided as to whether it would be a formal hold-back.

Mr. Foley added that the schools have a \$2.4 million deficit and they will have to make decisions as to how they will handle that.

Mr. Slutzky asked if Board members were opposed to putting the lock box into play to achieve a balanced budget this year.

Mr. Boyd said he was until the Board had an opportunity to take a hard look at the expenditures, at least through the Resource Allocation Study to see what that might show in additional savings.

Ms. Mallek said it is an emergency fund and she would like to do everything else first.

Ms. Thomas said that she would like an explanation as to opening up the lock box now versus later given that the Schools' schedule is different than local governments. Mr. Tucker replied that they have already been looking at this, and the Schools have an end-of-year reserve fund as well, with carryover from last year.

Mr. Slutzky asked how confident he is that the \$4.1 million shortfall is accurate. Mr. Tucker responded that staff is confident today, but the numbers are soft because the fiscal year is only two months old. This is the best estimate staff could provide with current data. The County still has a lot to do with regard to real estate assessments by the end of the year, but he feels pretty confident with the numbers they currently have.

Mr. Rooker noted that the \$4.1 million does not include future State cutbacks, and they are running a \$1 billion deficit will likely fall on localities. He added that last year State cuts impacted the County by over \$400,000. It seems to him the County can expect at least \$500,000 in cuts from the State this year.

Mr. Foley mentioned that the other revenue sources outside of real estate are still in flux. Just yesterday the State came out with some more gloomy predictions.

Mr. Tucker said that the State is not sharing information right now, and that is likely due to the election, which puts localities in a bigger hole because there is a shorter time period to make any changes. He also agreed with Mr. Slutzky that the \$1 billion state shortfall may be understated. The State is continuing to refine its numbers.

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Agenda Item No. 5. Discussion: Regional Transit Authority (RTA) Funding Options.

Mr. Rooker said that on September 19, 2008, the RTA will be meeting with the Funding Options Group with the idea of discussing a one-cent sales tax to go toward transportation for enhancing transit. He also stated that the Northern Virginia and Tidewater funding options approved by the General Assembly last year would be considered by the group. Mr. Rooker said that the Funding Options Group has UREF representation, realtors, the PEC, SELC, the City, the County, neighborhood representatives, the Chamber of Commerce, etc., and based upon the result of that meeting there would be a meeting set up with legislators to see what they would support.

Mr. Rooker reported that the group decided that regardless of separate funding authorization, they would like to get statutory approval for an RTA.

Mr. Slutzky said that they have been asked by the TJPDC staff to fund an extra amount of money. They provided some information to show that the funds would be spent on work done by TJPDC, but some would be done by other entities, i.e., legal support for drafting legislation, and community outreach.

Mr. Rooker added that they originally wanted a commitment of \$50,000. They retained a consultant who put together the report for presentation to the community and the consultant participated in the joint meetings of the Board and Council. The funding for the consultant runs out at the end of this month, and to continue work on the RTA, TJPDC staff said that for the balance of the fiscal year the \$50,000 was needed. Mr. Rooker said that the timing for that is not very good, and there is the possibility that legislative approval for the RTA would not be secured. He explained that it was agreed to take it on a month-by-month basis and it has been determined that about \$3,500 per month is needed per jurisdiction, a total of \$10,000 from each locality for the Planning District Commission to support this ongoing process over the next three months. Mr. Rooker noted that they are going to have to hire another person because they are absolutely overwhelmed at the TJPDC office, with the three months needed to get ready for the legislative session.

Mr. Boyd asked what was in the Board's reserve fund balance. Mr. Tucker indicated it was \$400,000.

Mr. Rooker emphasized that if the effort is to be continued, the \$10,000 is needed.

Ms. Mallek said that transit is more important every day.

Ms. Thomas said that there may be a chance in the legislature this year, as there are many localities going forward this year.

Mr. Boyd stated that he is in favor of it, in light of how much has been invested already in terms of resources.

Mr. Dorrier agreed that he supports this and thinks it is a good idea.

Mr. Rooker and Mr. Slutzky indicated that they and other group members went through the budget and cut the request to the bare bones.

Mr. Tucker said he would have an appropriation, with funds from the Board's Contingency, prepared for the October 1<sup>st</sup> agenda.

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Agenda Item No. 6. Adjourn.

At 5:07 p.m., with no further business to come before the Board, the meeting was adjourned.

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Chairman

Approved by Board of Supervisors
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Date: 10/01/2008
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Initials: EWJ
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