

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 1, 2009, at 9:00 a.m., in the Lane Auditorium of the County Office Building on McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, Senior Deputy Clerk, Meagan Hoy, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 9:00 a.m., by the Chairman, Mr. Slutzky.

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

Agenda Item No. 4c. Proclamation recognizing the 30th Anniversary of The Green Olive Tree.

Mr. Slutzky read the following proclamation recognizing the Green Olive Tree 30th Anniversary:

**The Green Olive Tree
30th Anniversary**

WHEREAS, seven Crozet ladies came together in 1979 for Bible Study and fellowship, and out of this gathering grew the idea of starting a used clothing store to serve Crozet; and

WHEREAS, June Andrews, Nancy-Virginia Bain, Ruby Garnett, Sarah Rogers, Mary Shirlen Willets, Evelyn Doyle, and Grace Waller were blessed with good sense, compassionate hearts, and total dedication to their project, named The Green Olive Tree; and

WHEREAS, The Green Olive Tree took root, thrived, and outgrew each of its succeeding locations, supported by a large group of loyal volunteers over the years; and

WHEREAS, from its modest beginning The Green Olive Tree came to share its proceeds with over a hundred different ministries and organizations around the world, giving away well over \$500,000; and

WHEREAS, not only have tons of clothing been exchanged, but The Green Olive Tree has become a community center where people can share love and support, ideas and worries, and come away refreshed and up-lifted; and

WHEREAS, The Green Olive Tree has served our community faithfully for thirty wonderful and generous years, and continues to prosper with the help of numerous volunteers and board members, all who serve without compensation;

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Supervisors of Albemarle County, Virginia, does hereby recognize the many valuable contributions of The Green Olive Tree during its thirty years of service to the Albemarle County community and extend its' appreciation and heartfelt thanks for their continued service and commitment to helping to make this a better community.

Ms. Mallek said she would like to share with the audience some of the agencies who benefit from The Green Olive Tree, such as the Salvation Army, LOVE Inc., Equipping the Saints, Goodwill Industries, and area food banks, plus the Western Albemarle Ministerial Association which gives many clothing pieces to people who need them, the SPCA, college ministries, and the cash they have raised has gone to many agencies as well. She said the Green Olive Tree also helps children in the schools and from the court system to have a place to do community service. She said this group is an example of the essence of Crozet. She said all are grateful for the work done by this group. She then asked the members present to come forward and receive the proclamation.

Agenda Item No. 4a. Proclamation recognizing April 3 – 11, 2009 as Preservation Week 2009.

Mr. Slutzky read the following proclamation recognizing Preservation Week 2009:

PRESERVATION WEEK 2009

WHEREAS, our historic buildings and historic places are defining elements of our community, our well-being and our future development; and

- WHEREAS,** the preservation of historic buildings and historic places can be accomplished in an environmentally sustainable manner; and
- WHEREAS,** historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride, and enhancing livability; and
- WHEREAS,** Preservation and Sustainability: Piecing it all Together is the theme for Preservation Week 2009 in our community, sponsored by the Piedmont Area Preservation Alliance, and organized this year by Preservation Piedmont;

NOW, THEREFORE, BE IT RESOLVED that we, the Albemarle County Board of Supervisors, do proclaim **April 3 – 11, 2009 as Preservation Week 2009** and call upon the citizens of the County of Albemarle to join their fellow citizens across the Piedmont area in celebrating and participating in this special week of activities.

Mr. Jared Loewenstein came forward and accepted the certificate. He said the Lost Albemarle exhibit will be opening on April 3 at the County Office Building on McIntire Road and at the County Historical Society on Second Street. He said that the former director of the National Park Service, Mr. Roger Kennedy, will be lecturing Friday night, and Mr. Richard More, Director of the National Trust for Historic Preservation., will be present on Monday. He provided a schedule of upcoming events and encouraged attendees to visit the preservation week website for updates.

Mr. Rooker said he served on the Planning Commission with Mr. Loewenstein for several years. He is one of the community's strongest supporters of historic preservation.

Ms. Thomas encouraged people to attend the events, and noted that in the last month there have been more historic buildings torn down than ever before. She said they are not of a type like Monticello, but the country is fast losing its historic fabric.

Agenda Item No. 4b. Proclamation recognizing April, 2009 as Fair Housing Month.

Mr. Slutzky read the following proclamation recognizing April as Fair Housing Month:

FAIR HOUSING MONTH

- WHEREAS,** April 2009, marks the forty-first anniversary of the passage of the Fair Housing Act of 1968, which sought to eliminate discrimination in housing opportunities and to affirmatively further housing choices for all Americans; and
- WHEREAS,** the ongoing struggle for dignity and housing opportunity for all is not the exclusive province of the Federal government; and
- WHEREAS,** vigorous local efforts to combat discrimination can be as effective, if not more so, than Federal efforts; and
- WHEREAS,** illegal barriers to equal opportunity in housing, no matter how subtle, diminish the rights of all;

NOW, THEREFORE, BE IT RESOLVED, that in the pursuit of the shared goal and responsibility of providing equal housing opportunities for all men and women, the Board of County Supervisors of Albemarle County, Virginia, does hereby join in the national celebration by proclaiming

APRIL, 2009
as
FAIR HOUSING MONTH

and encourages all agencies, institutions and individuals, public and private, in Albemarle County to abide by the letter and the spirit of the Fair Housing law.

Mr. Ron White, Albemarle Housing Director, thanked the Board for its recognition of this event which has occurred annually for 41 years. He then introduced Ms. Karen Rifenger of the Piedmont Housing Alliance, noting that they held over 20 fair housing education classes last year serving over 400 people.

Ms. Rifenger said April commemorates the Civil Rights Act of 1968 – which eventually became the Federal Fair Housing Act. She thanked the Board for its support of fair housing throughout the years. She said that this month PHA will be celebrating fair housing and neighborhood diversity. Their signature event – living with diversity in the 21st Century – will be presented at the Carver Recreation Center by Ms. Molly Dryden Mason of the Virginia Fair Housing Office. PHA will host HUD officials on April 15, those who specifically address fair housing in HUD-funded properties. PHA will partner with the Independence Resource Center on April 21 for a workshop on fair housing for people with disabilities. On April 29 PHA will host a seminar on fair housing for landlords and property management in cooperation with CAAR. She encouraged the Board to attend these events and said there will be other activities statewide; she thanked the Board and the County's Office of Housing for their support.

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

Ms. Thomas reported that the High Growth coalition has written a letter to Governor Kaine related to the septic tank alternatives bill, and has asked that Albemarle do the same and send it today. She said VACo staff has suggested three amendments to the bill that would allow local governments to work with agencies to arrive at regulations for the Health Department to use, but the preference is that the bill be vetoed entirely. She then **moved** to send a letter to Governor Kaine expressing concerns about HB 1788 and its companion SB 1276 which preempts local regulation of alternative on-site septic systems. Mr. Slutzky **seconded** the motion.

Mr. Rooker said the bill could be detrimental to counties like Albemarle as it might open up areas for development which are inappropriate for development.

Mr. Boyd asked who has been pushing the bill forward.

Ms. Thomas said the Homebuilders' Association had requested that a packet of bills be introduced to the General Assembly. She said Loudoun County took a strong stance against this because of previous bad experiences. If passed, this bill would take away local authority in this matter completely.

Mr. Rooker said a county would not be able to impose requirements that are more stringent than the manufacturers' requirements.

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

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

NAYS: None.

Ms. Thomas mentioned that the president of the Chesapeake Bay Foundation would be speaking at the Miller Center on April 28 at 5:30 p.m., co-sponsored by the League of Women Voters.

Ms. Mallek reported that the Commonwealth Transportation Board has approved a train from Lynchburg through Charlottesville to Washington, D.C. every day. She thanked Ms. Meredith Richards and her aids for all their effort in this regard.

Ms. Mallek said residents of Crozet and Charlottesville have been meeting with her, City Councilor Dave Norris and the manager of the Buckingham Branch Railroad over the past several months to discuss the feasibility of an east-west commuter train. She said Mr. Butch Davies has suggested they get information about grant opportunities from Senator Warner, so she sent a draft letter to the Board members to get their feedback.

Mr. Boyd asked if such an operation would be sustainable.

Ms. Mallek said if a grant were received, it would be used for a feasibility study. All current information has to be provided before Buckingham Branch could go to CSX – but they are interested because they are making huge investments in the line already. There is room on the line in addition to freight. She said Amtrak would be operating the line because they are the passenger people.

Ms. Thomas asked Ms. Mallek if she wanted some form of support from this Board.

Ms. Mallek said that essentially she wanted to give an update on the Crozet link and encouragements that citizens ride the train, especially the train on the first day. Also, a companion letter to go to Senators Warner and Webb supporting the commuter service route would be good.

By consensus, the Board members agreed to send a letter from the Board to be signed by the Chairman.

Ms. Mallek reported on the remediation process at the former Teledyne plant in Earlysville (property on the western side of the Airport). Perchloroethylene degreasers have been found on the site and in the wells in Walnut Hill. There is presently negotiation going on with the parent company, Aerosonics, which apparently no longer has money to take care of the cleanup. They are negotiating with the State DEQ to try and make it an active remediation site under the voluntary program. They are also seeking funds from the former owners, who actually did the work on site in the 1950s and 1960s. The neighbors are concerned. In speaking with the lawyer in Richmond who is helping the company, it was determined that the chemical on site is a sinker, which means the contaminants go deeper into the aquifer instead of floating to the surface. If there is not active remediation to pump it out as they are doing in Crozet at the old Acme site, it could go down through a fissure and get into the watershed side of Earlysville Road

Mr. Rooker said it is one of the most penetrating substances known to man. It can go through concrete. He asked if there has been quantification of the amount of material present.

Ms. Mallek said she has only third-hand information, but what was presented to the Airport was that the volume was of a Superfund nature, but because the chemical is ranked lower in poisonousness it did not get much attention in Richmond. She thinks the County needs to get their attention again because to her it seems very serious.

Mr. Slutzky asked Mr. Tucker to have Ms. Sarah Temple look into the situation and give the Board a briefing.

Ms. Mallek said a recent UVA study shows that every job in agriculture and forestry creates another 1.5 jobs elsewhere in Virginia. She thinks that is a good reason for the Board to support farm and forestal activity.

Mr. Rooker gave the Board members a copy of an E-mail he sent to City Council asking them to write a letter to Mr. Butch Davies of the CTB asking him to include the southbound lane of Route 29 from Hydraulic Road to the Route 250 Bypass at the Best Buy ramp in their stimulus request. He said Mr. Davies has indicated that project has a reasonable chance of getting funded with stimulus money. He said Councilman Huja supports the project, but he has not heard from anyone else.

Mr. Rooker said he thinks it would be helpful if the Board got a report on stimulus funds received and how they are being allocated. Mr. Tucker said that staff is preparing that report now. He said most of the funds are for schools, but there are some opportunities for local government.

Mr. Rooker said the Regional Transit Authority (RTA) legislation has been signed by the Governor. The MPO has decided to reconvene the small committee that was working on the RTA to discuss the next steps. He encouraged Board members to provide comments to him or Mr. Slutzky. No objection was expressed by Board members with the group proceeding in this manner. He thinks the Board will need to make a threshold decision based on the cost and workload involved in creating the RTA, whether or not it makes sense given the funding level today.

Mr. Rooker said it would be helpful to get an update on the Treesdale development since they did not get their tax credits last year. He said that is a significant affordable housing project that had environmental/LEED elements to its design.

Mr. Boyd said that project is taking a different direction; Treesdale is partnering with a private supplier of this type of housing.

Mr. Slutzky said he did not think they will be applying for the Federal credit and are optimistic about moving forward.

Mr. Rooker reported that Albemarle High School participated in the Virginia High School League One-Act Play State Championships, and three students – Jeremy Weiss, Paige Goodloe and Brandon Blake – received three out of the eight Outstanding Actor Awards given.

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

Mr. John P. Wicher, Jr. said he brought some packets of material for the Board members today concerning water conservation. He mentioned that the Board may be interested in some newer technologies regarding things like gray water recycling and rainwater harvesting. His company, Commonwealth H2O, has been serving Virginia for 30 years. They have a system that will actually preserve Mother Nature's infrastructure with wells. Instead of over-pumping a well, this piece of equipment will actually harvest only what the well produces, so an 8,000 square foot house with four bathrooms can operate on a one-quarter gallon per minute well. He said that recently there was information in the newspapers about the use of phosphates in the state of Washington. They have actually taken phosphates out of most of the dishwashing products. The phosphate free detergents are causing problems with dishwashers, both commercial and residential, so people are actually driving across the state line to buy the old products. Virginia has proposed a reduction in phosphates on the same level starting in July, 2010. Other water conservation changes are "coming down the pike" so people need to know about them before they go into effect. He said if the Board would like to have more detailed information, he is available to answer questions.

Agenda Item No. 7. Consent Agenda. Mr. Slutzky offered **motion** to approve Items 7.1 (as noted) through 7.5 on the Consent agenda, removing Appropriation No. 2009-054 in Item 7.3, and to accept Item 7.6 as information.

Mr. Dorrier **seconded** the motion, which passed by the following recorded vote:

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

Item 7.1. Approval of Minutes: April 9, June 11 and June 18, 2008; and February 4, 2009.

Mr. Rooker had read the minutes of April 9, 2008, pages 1 through 16, and found them to be in order as presented.

Mr. Slutzky had read the minutes of April 9, 2008, pages 17 to the end, and found them to be in order as presented.

Ms. Mallek had read the minutes of June 11, 2008, page 23, beginning at Item No. 7, to the end, and found them to be in order as presented.

Mr. Boyd had read the minutes of June 18, 2008, and found them to be in order as presented.

Mr. Dorrier had read the minutes of February 4, 2009, page 22 (end of Not Docketed item) to the end and found them to be in order as presented.

By the recorded vote set out above, the minutes which had been read were approved. The part of February 4, 2009, not read will be put on the next agenda for approval.

Item 7.2. Resolution of Intent to Amend Section 4.2 Critical Slopes Regulations in the Zoning Ordinance.

It was noted in the Executive Summary that on May 2, 2007, the Development Review Task Force (DRTF) presented its recommendations to the Board. One of the recommendations was to establish staff authority for waivers and modifications in development areas. The Zoning Text amendment for the first phase of these waivers was adopted by the Board on January 14, 2009. In the initial discussion of the amendment on January 7, the Board indicated that the regulations delineating the circumstances under which the agent may authorize the disturbance of critical slopes in the Development Areas should be broadened.

The Zoning Text amendment adopted by the Board on January 14, 2009, authorized the agent to waive the prohibition of disturbing critical slopes in the those zoning districts typically found in the Development Areas in two circumstances: (1) the critical slopes were created during the development of the property pursuant to a site plan approved by the County; or (2) the critical slopes will be disturbed to replace an existing structure located on critical slopes under specified circumstances.

The proposed Zoning Text amendment would broaden the authority granted to the agent to grant waivers. For example, when the disturbed area would be less than an established threshold, or when the developer obtained approval of a mitigation plan addressing the impacts of disturbance. This authority would continue to extend to only those critical slopes not identified as resources in the Open Space Plan. The proposed Zoning Text amendment also could reconsider whether certain minor disturbances currently requiring a waiver, such as the disturbance of manmade critical slopes resulting from development allowed under a previously approved site plan, should be exempt from the waiver requirement, or be exempt subject to compliance with established performance standards.

Staff anticipates that adoption of the proposed ordinance would reduce staff time and costs associated with preparing staff reports and making presentations at Planning Commission meetings. The proposed ordinance would also reduce the time spent by the Commission in review and deliberation on waivers. Staff recommends that the Board adopt a Resolution of Intent.

(Discussion: Ms. Thomas asked if today's issue dealing with critical slopes in a development area would have been handled by staff and not come through the Planning Commission and the Board, had this resolution of intent been adopted earlier.

Ms. Amelia McCulley, Zoning Administrator, explained that staff is recommending that critical slopes associated with protected resources under the Open Space Plan never be approved by staff; they would need to come to the Planning Commission. In terms of process, staff is hoping to move forward with some collective assistance from a couple of volunteer members from the Board and Planning Commission to develop some recommendations and then hold a roundtable with the development community.)

By the recorded vote set out above, the Board adopted the following Resolution of Intent:

RESOLUTION OF INTENT

WHEREAS, the purposes of Sections 4.2, Critical Slopes, through 4.2.6, Exemptions, of the Zoning Ordinance are to direct development away from critical slopes to more suitable terrain in order to protect and conserve critical slopes, public drinking water supplies and flood plain areas, and to reduce soil erosion, sedimentation, water pollution and septic disposal problems associated with the development of critical slopes; and

WHEREAS, in order to achieve these stated purposes, Sections 4.2 through 4.2.6 establish minimum requirements for building sites and the location of structures and improvements, including septic systems, establish a procedure for modifying those regulations in particular cases, and delineate a limited number of exemptions; and

WHEREAS, the current regulations in Sections 4.2 through 4.2.6 have failed to allow the purposes of these sections to be fully realized for various reasons including, but not limited to, their failure to adequately distinguish the Comprehensive Plan's varying goals for development and preservation in different parts of the County; their failure to acknowledge that critical slopes may have different values depending on their location, including their proximity to waterways; and, their failure to provide standards for slope grading and retaining walls that would provide long-term safety, structural and surface stability, ease of maintenance, prevent erosion, be aesthetic, and be complementary to adjoining properties; and

WHEREAS, although Section 4.2.5 was amended on January 14, 2009 to authorize the agent to approve the disturbance of critical slopes in limited circumstances on parcels outside of the Rural Areas, Village Residential, and Monticello Historic zoning districts, the current regulations in Section 4.2.5, pertaining to modifications and waivers, and Section 4.2.6, pertaining to exemptions, still impose impediments to the purposes of Sections 4.2 through 4.2.6 being fully realized, and the Board desires to, among other things, broaden the circumstances under which the agent may authorize the disturbance of critical slopes on parcels outside of those three zoning districts and to further clarify those disturbances that are exempt from the requirements of Section 4.2 through Section 4.2.4.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Sections 4.2 through 4.2.6 and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein.

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

Item 7.3. FY 2009 Appropriations.

It was noted in the Executive Summary that the Code of Virginia § 15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget.

The total of this requested FY 2009 appropriation is \$960,328.62. A budget amendment public hearing is not required because the cumulative appropriations will not exceed one percent of the currently adopted budget. This request involves the approval of five new FY 2009 appropriations as follows: No.2009-052 totaling \$9,593.00 for two Circuit Court Clerk's Preservation Grants; No.2009-053 totaling \$206,256.27 for various Education programs and projects; No.2009-054 providing \$12,500.00 in funding from the Board's contingency for Public Recreational Facility Authority's legal services; No.2009-055 for a Virginia Department Housing and Community Development Community Improvement Grant totaling \$700,000.00; and No.2009-056 allocating the prior year refund from Health Department operations totaling \$44,479.35 to purchase modular furniture units to improve delivery of services at the Health Department building, all as set out below.

Appropriation No. 2009-052, \$9,593.00 - Revenue Source: State Revenue \$9,593.00. The Library of Virginia has awarded the Albemarle County Circuit Court Clerk's Office grants in the amount of \$4,650.00 and \$4,943.00. The purpose of these grants is to preserve court documents in paper form until such time as they are able to be provided in a suitable reformatted media. Funds associated with the first grant, in the amount of \$4,650.00, were received in August, 2008 and erroneously recorded as revenue in the Capital Improvements Fund for FY 2007-08. This appropriation requests the transfer of these funds from the CIP Fund Balance to the appropriate grant fund and the appropriation of the second grant award in the amount of \$4,943.00.

Appropriation No. 2009-053, \$206,256.27 - Revenue Source: Local Revenue \$18,411.27; School Fund Balance \$187,845.00. At its meeting on March 12, 2009, the School Board approved the following appropriation requests:

- Following completion of the FY 2007-08 audit and evaluation of current year revenues, reappropriation of school carryover funds takes place and portions of building rental funds are returned to schools. This request reappropriates \$187,845.00 from the School Fund balance.
- Cale Elementary received a donation in the amount of \$1,000.00 from the Wal-Mart Foundation. The donor has requested that their contribution be used to help pay expenses incurred when Cale's Destination Imagination (DI) team went to DI finals last May.
- V.L. Murray Elementary School received a donation in the amount of \$4,211.47 from the V.L. Murray PTO. The donor has requested that their contribution be used to help fund a teacher and TA support for V.L. Murray's after school classes from January 12 to March 3, 2009.
- Jack Jouett Middle School has been awarded a grant in the amount of \$2,000.00 from the Bama Works Fund of Dave Matthews Band, administered by the Charlottesville Area Community Foundation. These funds will be used to support the school's Year of Giving Initiative which is

designed to raise environmental awareness in students and the understanding of the role of good citizenship through participation in community service learning projects.

- Stony Point Elementary School has been awarded a grant in the amount of \$1,600.00 from the Bama Works Fund of Dave Matthews Band administered by the Charlottesville Area Community Foundation. These funds will be used for a musical program focused on writing, singing and literacy for at-risk students.
- Stone-Robinson Elementary School has been awarded a grant in the amount of \$1,500.00 from the Bama Works Fund of Dave Matthews Band, administered by the Charlottesville Area Community Foundation. These funds will be used to support the continuation of the Lyrics Alive Program for fourth grade students.
- The FREAS Foundation has awarded Carrie Finnegan, Orchestra Director for Albemarle High, Jack Jouett Middle and Sutherland Middle schools with a grant in the amount of \$4,000.00. These grant funds will be used toward the purchase of four cellos and one bass.
- Cale Elementary School has been awarded a grant in the amount of \$1,000.00 from the Wal-Mart Foundation. These funds will be used to purchase new educational supplies that will assist with the teaching of measurement concepts in both science and math.
- Broadus Wood Elementary School has been awarded a grant in the amount of \$1,000.00 from the Wal-Mart Foundation. These funds will be used toward the purchase of a Weatherbug Station.
- Target has awarded three Albemarle County elementary schools with Field Trip Grants. Recipients include Greer, in the amount of \$800.00; Scottsville, in the amount of \$800.00; and, Yancey, in the amount of \$500.00.

Appropriation No. 2009-054, \$12,500.00 - Revenue Source: Board Contingency \$12,500.00.

- On March 5, 2008, the Board approved up to \$5,000.00 to pursue an independent legal opinion on the potential violation of the Harris open-space easement on Turner Mountain. Invoices totaling \$5,000.00 have been paid from the Board's operating budget.
- On November 5, 2008, the Board reaffirmed its commitment to protecting conservation easements and authorized an appropriation of up to \$7,500.00 for this legal matter subject to the approval of the County Executive. To date, invoices totaling \$7,222.50 have been paid from the Board's operating budget.

This request appropriates \$12,500.00 from the Board's contingency to fund these expenses.

Appropriation No. 2009-055, \$700,000.00 - Revenue Source: Federal Revenue \$700,000.00.

The Virginia Department of Housing and Community Development has awarded Albemarle County a Community Improvement grant in the amount of \$700,000.00, of which \$644,000.00 is for direct project costs and \$56,000.00 is for the cost of administration. This grant will be used to improve the living conditions of 66 low- to moderate-income households through housing rehabilitation and infrastructure improvements in the Crozet Meadows area. This project includes installation of sanitary sewer lines, water and service lines, site grading, pavement and sidewalks.

Appropriation No. 2009-056, \$44,479.35 - Revenue Source: Local Revenue \$44,479.35. The FY 2008 year-end settlement process for the Charlottesville-Albemarle Health Department resulted in a \$44,479.35 surplus for the County. This surplus was due to the Health Department receiving one-time grant funds for their Refugee Health Program and for reimbursement for contraceptive methods. The Health Department has requested that these funds be used to purchase modular units to better maximize the use of the Health Department's space. A similar request has been made to the City of Charlottesville.

Over the past year, several changes have occurred in services delivered at the Health Department building. The Jefferson Area CHIP became a separate entity and vacated its space at the Health Department building. In addition, the Health Department recently discontinued its dental program and is allowing the Free Clinic to utilize the existing dental clinic space. Over the last several months the Free Clinic and Health Department have been working to design clinic and office space that would allow for better space utilization, particularly as the customer bases of both organizations continue to grow. The Board had previously approved, in concept, the changes to the Health Department building to allow for expansion of the Free Clinic space and a new lease will be forthcoming for the Board's approval. These surplus funds will be used to purchase modular units to replace individual desks and will help create ten additional work units for the Health Department. The County would retain ownership of the units purchased with these funds.

Staff recommends approval of the budget amendment in the amount of \$960,328.62 and approval of Resolutions of Appropriation No.2009-052, No.2009-053, No.2009-054, No.2009-055 and No.2009-056.

(Discussion: Mr. Boyd asked about Appropriation No. 2009-053 and the \$187,845.00 being appropriated from the School Fund Balance. He asked if this is for contract work set up before the end of the year which has not been paid. Mr. Tucker said he understands these are projects that were not completed in the last fiscal year so the funds need to be reappropriated.

Mr. Boyd said he know the Schools has a \$6.6 million surplus from last year, so he wondered what happened to those funds. Mr. Tucker said those funds were used to cover the shortfall in the current year.

Mr. Boyd asked that Appropriation No. 2009-054 be pulled and considered separately as he was and still is opposed to the request.)

By the recorded vote set out above, the Board approved a budget amendment in the amount of \$947,828.62, and approved Resolutions of Appropriation No.2009-052, No.2009-053, No.2009-055 and No.2009-056 all as set out in full below:

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2009-052
 DATE: 04-01-09
 EXPLANATION: Circuit Court Clerk Preservation Grants

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1216	24000	240802	State Revenue	J2	4,943.00		
2	1216	51000	512000	Transfer from CIP	J2	4,650.00		
1	1216	21010	350000	Binding - External	J1	9,593.00		
			0501	Est. Revenue			9,593.00	
			0701	Appropriation				9,593.00
2	9010	51000	510100	Appropriation - Fund Balance	J2	4,650.00		
1	9010	93010	930200	Transfer to Grants	J1	4,650.00		
			0501	Est. Revenue			4,650.00	
			0701	Appropriation				4,650.00
TOTAL						28,486.00	14,243.00	14,243.00

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2009-053
 DATE: 04-01-09
 EXPLANATION: Education Donations and Programs - School Board Meeting 03/12/2009

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J2	5,211.27		
2	2000	51000	510100	Approp-Fund Balance	J2	187,845.00		
2	3104	18000	181240	Revenue - Misc. Grants	J2	5,100.00		
2	3104	18000	181278	Revenue - Misc. Grants	J2	4,000.00		
2	3104	18000	189900	Revenue - Misc. Grants	J2	4,100.00		
1	2201	61101	601300	Ed. & Rec. Supplies	J1	967.00		
1	2202	61101	601300	Ed. & Rec. Supplies	J1	423.00		
1	2203	61101	601300	Ed. & Rec. Supplies	J1	270.00		
1	2204	61101	601300	Ed. & Rec. Supplies	J1	988.00		
1	2205	61101	601300	Ed. & Rec. Supplies	J1	11,724.00		
1	2206	61101	601300	Ed. & Rec. Supplies	J1	9,466.00		
1	2207	61101	601300	Ed. & Rec. Supplies	J1	1,936.00		
1	2209	61101	601300	Ed. & Rec. Supplies	J1	3,662.00		
1	2210	61101	601300	Ed. & Rec. Supplies	J1	12,319.00		
1	2211	61101	601300	Ed. & Rec. Supplies	J1	4,700.00		
1	2212	61101	601300	Ed. & Rec. Supplies	J1	10,829.00		
1	2213	61101	601300	Ed. & Rec. Supplies	J1	7,748.00		
1	2214	61101	601300	Ed. & Rec. Supplies	J1	1,026.00		
1	2215	61101	152100	Wages - Sub Teacher	J1	3,912.00		
1	2215	61101	210000	FICA	J1	299.27		
1	2215	61101	601300	Ed. & Rec. Supplies	J1	9,128.00		
1	2216	61101	601300	Ed. & Rec. Supplies	J1	9.00		
1	2217	61101	601300	Ed. & Rec. Supplies	J1	6,226.00		
1	2251	61101	601300	Ed. & Rec. Supplies	J1	10,904.00		
1	2252	61101	601300	Ed. & Rec. Supplies	J1	129.00		
1	2253	61101	601300	Ed. & Rec. Supplies	J1	5,323.00		
1	2254	61101	601300	Ed. & Rec. Supplies	J1	5,970.00		
1	2255	61101	601300	Ed. & Rec. Supplies	J1	18,100.00		
1	2301	61101	601300	Ed. & Rec. Supplies	J1	1,057.00		
1	2302	61101	601300	Ed. & Rec. Supplies	J1	54.00		
1	2304	61101	601300	Ed. & Rec. Supplies	J1	65,887.00		
1	3104	60201	601300	Ed. & Rec. Supplies	J1	1,000.00		
1	3104	60204	420100	Field Trips	J1	800.00		
1	3104	60209	420100	Field Trips	J1	800.00		
1	3104	60210	601300	Ed. & Rec. Supplies	J1	1,500.00		
1	3104	60211	601300	Ed. & Rec. Supplies	J1	1,600.00		
1	3104	60213	420100	Field Trips	J1	500.00		
1	3104	60214	601300	Ed. & Rec. Supplies	J1	1,000.00		
1	3104	60253	601300	Ed. & Rec. Supplies	J1	6,000.00		
			0501	Est. Revenue			193,056.27	
			0701	Appropriation				193,056.27
			0501	Est. Revenue			13,200.00	
			0701	Appropriation				13,200.00
TOTAL						412,512.54	206,256.27	206,256.27

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2009-055
 DATE: 04-01-09
 EXPLANATION: Virginia Department of Housing and Community Development – Community Improvement Grant

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1223	33000	330009	Grant Revenue - Federal	J2	700,000.00		
1	1223	81030	300205	Administrative Services	J1	56,000.00		

1	1223	81030	950164	Crozet Meadows Hsg Rehab	J1	644,000.00		
	1223		0501	Est. Revenue			700,000.00	
			0701	Appropriation				700,000.00
TOTAL						1,400,000.00	700,000.00	700,000.00

COUNTY OF ALBEMARLE
 APPROPRIATION NO. 2009-056
 DATE: 04-01-09
 EXPLANATION: Health Department Building - Furniture/Improvements

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER CODE	AMOUNT	GENERAL LEDGER	
							DEBIT	CREDIT
2	8550	19000	190301	Health Dept. Refund	J2	44,479.35		
1	8550	51025	800200	Health Dept-Furn/Fixtures	J1	44,479.35		
	8550		0501	Est. Revenue			44,479.35	
			0701	Appropriation				44,479.35
TOTAL						88,958.70	44,479.35	44,479.35

Item 7.4. Set public hearing for proposed lease agreement between the County and the Field School of Charlottesville for portion of Old Crozet Elementary School.

It was noted in the Executive Summary that the Old Crozet Elementary School was built in 1924 and was used as a public school until 1990. From 1991 through 2007 the Charlottesville Waldorf School leased the facility. The School has been vacant since September, 2007 when the Charlottesville Waldorf School lease expired. A reuse study was conducted and the final report was presented to the Board on September 3, 2008. The Board directed staff to continue to explore long-term uses, as well as interim uses of the property, until a long-term use of the building is determined. Virginia Code § 15.2-1800 requires that the Board advertise and hold a public hearing prior to leasing County-owned property.

In pursuing the Board's request to explore an interim use of the Old Crozet Elementary School by the private sector, staff solicited and received five proposals. Staff evaluated those proposals based on the following criteria:

- use in relation to proximity to elementary school and residential area
- R-2 zoning compatibility
- proposed space needs (square footage)
- compatibility with desires of community per reuse study
- maintenance responsibilities
- utility costs
- sub-leasing proposed
- use of grounds
- proposed term of lease
- proposed rental fee
- compatibility with Crozet Master Plan
- facility upgrade needed/required
- full time vs. part time use
- timeliness to occupy building.

Based on these criteria, two of the proposals were deemed potentially suitable and advantageous to the County's goals: the Field School of Charlottesville and the Old Crozet School of Arts. Because neither entity proposes to use the entire facility, it may be possible to lease to both, maximizing the use of the facility.

After discussions with the Field School of Charlottesville, staff a lease agreement to lease 11,210 square feet of building space and the use of the lower athletic field for an annual rent of \$42,710.10. That figure is based on an annual square footage rental rate of \$2.79 plus a utility rate share of \$1.02 per square foot. This rental rate is equivalent to the prior Charlottesville Waldorf School's lease rate increased by the rate of inflation to the current year. The intended use of the facility is consistent with existing zoning. Highlights of the lease provisions are:

- one year term with option to renew
- landlord to provide water, sewer, electricity, and heating services
- tenant to provide telephone, janitorial, garbage disposal, grass cutting (lower athletic field), snow removal and all other services
- tenant to provide routine maintenance and repairs, not to exceed \$2,500.00 in any one year
- tenant may, with County permission, and at the expense of the tenant, make minor alterations and aesthetic improvements to the facility
- tenant may deduct from the rent during the first term of the lease certain pre-approved costs incurred in making alterations, additions and improvements

Discussions with the Old Crozet School of Arts regarding its possible lease of a portion of the building are ongoing. Because of zoning and other unresolved issues, a proposed lease for that potential tenant will be discussed with the Board at a future meeting.

Approval and implementation of this lease would result in a gross increase in revenue of \$42,710.10. The County currently spends approximately \$29,214.25 annually from the Department of General Services' operating budget for routine maintenance and utilities.

Staff recommends that the Board schedule a public hearing on May 6, 2009, to receive public comment on the proposed lease.

(Discussion: Ms. Thomas mentioned that she and Ms. Mallek met with a firm that is interested in using historic tax credits; that company has encouraged the County to keep that in mind with the Old Crozet Elementary School because the building would fit that criterion. She noted that Mr. Bill Letteri has met with the firm.

Mr. Boyd said he was amazed at the low cost per square foot. Mr. Tucker said the rate is the same as that used for the Charlottesville Waldorf School.

Mr. Slutzky asked if there is asbestos in that building. Mr. Tucker said that is correct; it is encapsulated. That had to be verified before the building could be leased.

Mr. Slutzky asked if the Field School will be moving out of their present location at the Crozet pool.

Ms. Thomas said they will be moving and they are leaving it in better shape than they found it. Every partition had to be taken down every time there was a community event in that space, so it took 20 man-hours every time. They are leaving the gift of a nicely renovated building.

Mr. Rooker said he understands they will not be using all of the square footage in the old Crozet School. Mr. Tucker said that is why staff is looking at Crozet Arts as a possibility for leasing.

Mr. Boyd suggested looking at market rates before establishing a lease rate. If the County is doing it to help the school, that is one thing.

Ms. Mallek said it will actually help the County because the return will be twice the cost of maintaining the building. For the next several years while some other developments slowly emerge from the community and the consensus in the County, this will help the building pay for itself, be improved and used, and she thinks that is great step forward.

Mr. Slutzky said the County does not want to be competing with the private market, particularly at this time.

Mr. Rooker said no one has come forward who wants to lease the building for more money. He said it is market driven and buildings that set vacant tend to deteriorate rapidly. This does provide more money than its upkeep.

Mr. Boyd said he is not opposed to the lease.)

By the recorded vote set out above, the Board authorized staff to advertise for a public hearing on May 6, 2009, to consider the proposed lease agreement between the County and the Field School of Charlottesville for use of a portion of the Old Crozet Elementary School.

Item 7.5. Amend Section 18-30.3.05.1.1. of the Zoning Ordinance to include Rivanna Water and Sewer Authority water and sewer lines as a by-right use within the Flood Hazard Overlay District.

It was noted In the Executive Summary that while reviewing a plan for the upgrade to the Meadow Creek Sewer Interceptor, staff found that water and sewer lines owned and operated by the Rivanna Water and Sewer Authority (RWSA) are not a by right use within the Flood Hazard Overlay District. Staff also found that RWSA's water and sewer lines are a by right use within all zoning districts outside of the Flood Hazard Overlay District and that water or sewer lines owned and operated by the Albemarle County Service Authority (ACSA) are a by right use within the Flood Hazard Overlay District. Staff is proposing a Resolution of Intent to amend the Zoning Ordinance to treat water and sewer lines owned and operated by Rivanna Water and Sewer Authority the same as those owned and operated by the Albemarle County Service Authority with respect to the Flood Hazard Overlay District.

Given that the Zoning Ordinance specifically includes RWSA water and sewer lines as a by right use in all other zoning districts and that ACSA water and sewer lines are a by right use in the Flood Hazard Overlay District, staff believes it was an oversight that RWSA lines were not also made a by right use of the Flood Hazard Overlay District. In addition, staff believes that the County has an interest in the Meadow Creek Sewer Interceptor upgrade, as the Interceptor is currently over capacity and sewage spills could occur as a result. Thus, staff is proposing to expedite the processing of this Zoning Text Amendment with the goal of having it heard by the Planning Commission on May 5 and the Board on May 13. Finally, staff notes that as RWSA owns and operates transmission lines rather than distribution lines, RWSA water or sewer line projects are subject to a finding of consistency with the Comprehensive Plan. This assures that the County has the opportunity to review a RWSA project and assure it is consistent with the purpose and intent of the County's Comprehensive Plan.

There is no direct budget impact from this ordinance amendment. There is the potential of lost tax revenue if development projects are delayed as a result of inadequate water or sewer lines. Staff recommends that the Board adopt a Resolution of Intent and direct staff and the Planning Commission to expedite the processing of the Zoning Text Amendment.

By the recorded vote set out above, the Board adopted the following Resolution of Intent and directed staff and the Planning Commission to expedite the process of the Zoning Text Amendment.

RESOLUTION OF INTENT

WHEREAS, the purposes of Section 30.3, Flood Hazard Overlay District, of the Albemarle County Zoning Ordinance are to provide safety and protection from flooding and to restrict the unwise use, development and occupancy of lands subject to inundation which may result in danger to life and property, public costs for flood control measures and rescue and relief efforts, soil erosion, sedimentation and siltation, pollution of water resources, and general degradation of the natural and man-made environment; and

WHEREAS, Section 30.3.03.1, Location of Utilities and Facilities, provides in part that new or replacement sewer facilities be located and designed to minimize or eliminate the infiltration of flood waters into those facilities and the discharge of effluent into flood waters, and to minimize damage or impairment caused by flooding; and

WHEREAS, in the Flood Hazard Overlay District, water distribution and sewerage collection lines owned and operated by the Albemarle County Service Authority are allowed by right in the floodway and the floodway fringe, but public sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority are not allowed by right in either the floodway or the floodway fringe; and

WHEREAS, in all of the basic zoning districts in Albemarle County, water distribution and sewerage collection lines owned and operated by the Albemarle County Service Authority, and all public sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority are classified as by-right uses; and

WHEREAS, the relevant general principles in the Land Use Plan, which is part of the Comprehensive Plan, state that it is the policy of the County to provide an economical and safe public water system of water and sewer to serve the existing and future Development Area population and to Serve Urban Areas, Communities and Villages with public water and sewer; and

WHEREAS, in order to more fully achieve the recited principles of the Land Use Plan, it is desired to amend the Zoning Ordinance to allow the facilities of the Rivanna Water and Sewer Authority described herein to be a by-right use in the Flood Hazard Overlay District.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Section 30.3, Flood Hazard Overlay District, and any other regulations of the Albemarle County Zoning Ordinance deemed appropriate to achieve the purposes described herein.

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

Item 7.6. Department of Social Services Workload Update.

It was noted in the Executive Summary that in the fall of 2008, the Board requested that the Department of Social Services (ACDSS) provide a periodic summary of workload indicators due to the continuing economic conditions and resulting impact on the department's programs. The Board specifically requested to see caseload information for Benefit Programs, as well as a multi-year trend of caseload growth and the impact of overtime resulting from this growth.

The following graphical information is provided with this report (on file in the Clerk's Office with the permanent records of the Board of Supervisors):

- Attachment A – Applications and case trends for Benefit programs as well as Child Protective, Foster Care and Adult and Adult Protection Services programs;
- Attachment B – Workload Measures for Benefit programs, as well as Adult , Child Care, Child Protection, Foster Care and Adoption Services programs; and
- Attachment C – Overtime hours and overtime payouts for selected programs

In terms of applications and case trends for Benefit programs as well as Child Protective, Foster Care and Adult and Adult Protection Services programs, both applications received and active cases are trending upwardly for the period October 2007 to March 2009 with the exception of Medicaid applications. For the most part, employee caseloads have also increased during this period and remain above State standards. The only exception to these trends is the Foster Care caseload which has dropped slightly below State standards in recent months.

Considering the period from March, 2008 to March, 2009, ACDSS has witnessed the following changes in workload:

- Food Stamp Applications: increase of 34%
- TANF applications: increase of 15%
- Food Stamp active cases: increase of 15.6%
- TANF active cases: increase of 47%
- On-going CPS cases: increase of 59%

As indicated to the Board during its FY '09-10 budget work sessions, these caseload increases are occurring at the same time that the County is expanding its hiring freeze to 55 positions through vacancies and retirements. To attain this number of positions, the County is developing plans to reallocate staff across departments, being mindful of the impact on workloads as well as public health and safety needs. As vacancies occur within ACDSS, the County will consider these factors to ensure that the most critical positions are addressed so services can continue to be delivered as efficiently and effectively as possible. Efforts are already underway to fill vacant Office Associate positions in this manner; however, more technical positions requiring a specified college degree such as Child Protective Service Social Worker may require external recruitment.

In addition to the information provided in this summary, staff provides annual reports to the Board showing five-year trends in most program areas. The 2008 Annual Report was presented to the Board at its January 7, 2009, meeting.

(Discussion: Ms. Thomas said she found the report interesting. She is still concerned that the department is being overloaded and burning out employees. She said it was for information, but ties in with all the budget discussions. She expects staff to try and help with their situation while still cutting out positions. Mr. Tucker said he treats this department similarly to one in public safety. Staff needs to be mindful of those vacancies and how many of those employees can actually be rehired instead of holding those positions vacant. Also, staff will be looking to see if there are positions in other departments that might be moved to those areas.

Mr. Rooker said he would like to see a comparison with other localities. He thinks this is a statewide issue. Broader statistics on the understaffing of Social Services statewide might give an opportunity for VACo or some other agency to make this an issue of importance statewide.

Mr. Bryan Elliott, Assistant County Executive, responded that there are few localities that track the data in the way Albemarle does, so finding a comparison with other DSS offices is difficult.

Ms. Mallek said that she is surprised the State does not require such data be tracked and forwarded to them.

Ms. Thomas said Albemarle is probably the only DSS that went through the Baldrige process which required them to make a thorough assessment of operations.

Ms. Kathy Ralston, Director of Social Services, said Albemarle is "ahead of the curve" in terms of data analysis and tracking. She said they can get information on caseloads but not on workload measures except from one locality, James City County. She said other localities do only sporadic tracking. She said the caseloads throughout the Commonwealth are skyrocketing for every DSS. The question is whether Albemarle's workload can be compared to other localities. Do they have the same problem that Albemarle has in staffing capacity? Statewide, DSS departments are down 300 to 500 workers.

Mr. Rooker said before next year's pre-legislative sessions, statistics should be gathered that could be used by VACo to get something into the statewide legislative agenda concerning the State better meeting its obligations. Ms. Ralston replied that the League of Social Services Executives has done that before, but it fell on deaf ears at the General Assembly. She said they can do that again because there will be statewide figures, as well as updated caseload measures.

Ms. Mallek said the VACo resolution committees will be meeting on May 8 and then work will be done throughout the summer.

Mr. Slutzky said there is no meaningful way to project what the current economic conditions will bring about. Ms. Ralston said they included a trend line in the report so the Board can see how it is going. Even before the economy started getting bad, her department was severely understaffed. The economy has added a significant piece to their workload, but even before that they were not in good shape.

Ms. Thomas said the charts in the report are helpful. The Board has already argued about including another staff person in next year's budget, but it was not agreed to. Ms. Ralston said the department was trending down on one thing and that was foster care. However, there has been an upward trend in Child and Protective Services. They think it is just the "calm before the storm", because they get a lot of children in as a result of abuse and neglect petitions. They think the uptick in Child and Protective Services will translate at some point in the near future into another uptick in Foster Care.

Mr. Slutzky commented that the community is just now starting to see the erosion of employment. Some of the effects of the meltdown in the economy are just beginning to be reflected.

Mr. Boyd said he knows the Board requested this report, but he wonders if Ms. Ralston will be providing such reports regularly. Ms. Ralston replied that they are hoping to do this report quarterly. The employee who does it at this time is about to go on maternity leave, so she has asked her to get all

available date together before she leaves. Then she has asked another employee to try and do it for the next quarterly report.)

This report was received for information only.

Mr. Slutzky said the Board can now discuss Appropriation No. 2009-054 which Mr. Boyd asked be discussed separately from the Consent Agenda. He asked the County Attorney to explain what the \$12,500 will be used for and whether the expenditure is based on prior actions of this Board.

Mr. Davis said on two occasions the Board has authorized expenditures up to \$12,500 for the Public Recreational Facilities Authority to retain counsel in regards to enforcement of an easement. He understands that is the amount that has come to the County Executive's office for review, and the County Executive is recommending that the funding be appropriated so legal expenses that have been, or will be incurred, can be paid.

Mr. Slutzky said many of them were incurred based on directions from this Board.

Mr. Boyd said he thought part was incurred before asking for the appropriation.

Mr. Slutzky said that is not right; the Board had approved \$5,000 and subsequent to that the Board was given an indication the bill would be higher. The Board discussed it and ended up approving the higher amount.

Mr. Boyd said he was opposed to the expenditure before and is opposed to it now.

At this time, Ms. Thomas **moved** to approve the following Resolution of Appropriation. Mr. Slutzky **seconded** the motion.

COUNTY OF ALBEMARLE
APPROPRIATION NO. 2009-054
DATE: 04/01/09
EXPLANATION: Public Recreational Facilities Authority - Legal Fees

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
1	1000	11010	300201	Board of Supervisors-Legal	J1	12,500.00		
1	1000	950000	999990	Contingency	J1	(12,500.00)		
TOTAL						0.00	0.00	0.00

Mr. Rooker said he and Ms. Thomas worked with the PRFA representatives to settle this matter in an amicable way. He thinks that will be achieved; it is close to having something done that will be acceptable to all parties. Assuming that occurs, the County will not be in a mode of having to pay for litigation.

Ms. Mallek said that hopefully this will clarify the issue so it will not happen again.

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

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

NAYS: Mr. Boyd.

Agenda Item No. 8. **Appeal:** SUB-2008-240, Little Yellow Mountain. Appeal of the Planning Commission's denial of a private street in conjunction with a preliminary subdivision plat to create 2 lots on approximately 76 acres. The properties zoned RA, Rural Areas, described as Tax Map 55 - Parcels 40D and 44, are located on Mint Springs Road (Route 684) approximately 0.45 mile southeast of the intersection with Railroad Ave (Route 788). The Comprehensive Plan designates these parcels as Rural Areas in Rural Area 3. White Hall Magisterial District.

Mr. Bill Fritz, Chief of Current Development, said this request is for preliminary subdivision approval to create two lots on approximately 75 acres; this request is for a waiver to allow access to lots using a private street; the request was unanimously denied by the Planning Commission. He said the location of the property is adjacent to Mint Springs Park and is a wooded parcel, a significant portion of which is either in critical slopes or in the Mountain Resource Area as identified by the Open Space Plan.

Mr. Fritz said there are three existing parcels, and what's proposed is a boundary line adjustment that affects some of the front parcels and the division of the larger piece into two lots. He noted the location of possible building sites and the existing road, stating that a bridge on the property has recently been rebuilt and has been determined to be adequate to carry fire equipment.

Mr. Fritz said the applicant filed this request under the provisions to alleviate significant degradation; it was verified that construction of a public street would require approximately 300 percent more earthwork than a private street in the same alignment and would require the bridge to be significantly altered – which would be development in the stream and in the stream buffer. The existing bridge crosses Powell's Creek. A provision in the ordinance (cited in the Executive Summary) states that staff shall consider that absent a compelling circumstance, private streets should not cross over dams or bridges. Staff found no compelling circumstance in this case, but has noted that using the existing bridge does alleviate construction within the stream buffer.

Mr. Fritz reported that one factor favorable to the request is that a public street would require significant upgrades in the buffer; therefore, use of a private road would alleviate a clearly demonstrable danger to the environment. A private street does not permit more development than a public street in the rural areas. When this request was before the Planning Commission the applicant had not proposed limiting further use of his development rights. The applicant has now proposed to limit further use of development rights on the property that would use the private street. Staff views that as a favorable factor.

Mr. Fritz said staff did find unfavorable factors in that the private street would cross Powell's Creek and that could be reasonably prohibitive to maintain. He said the night the Planning Commission heard this request, it also heard a similar request for Belle Vista which had a condition identical to what is now currently proposed, and they did approve that request. They found that the restriction of the use of additional development rights did provide significant benefits and could be considered a compelling reason for granting approval. Based on that, staff has changed its recommendation, and the Planning Commission is recommending approval with new conditions (shown in the Executive Summary).

Mr. Slutzky said he understands the logic of staff changing its view out of deference to the Planning Commission's position, but he has some concerns about the unfavorable factor mentioned. He said only a small number of homeowners will be responsible for maintaining that roadway so what happens when it fails over time. Mr. Fritz responded that staff used language from the ordinance which discourages the use of private streets that cross bridges. A maintenance agreement will be required and staff thinks that will help to insure its continued maintenance. He said it is a substantial bridge recently reconstructed, but staff still cited it as an unfavorable factor.

Mr. Slutzky said staff used the phrase "reasonably prohibitive" which makes it sound like an extremely expensive proposition. He wants to be sure he is not misinterpreting that phrase. He asked if it is realistic for a few homeowners to maintain a bridge over time through a maintenance agreement. Mr. Fritz replied that the bridge was built by the existing users, and the maintenance agreement would encourage that.

Mr. Slutzky said the phrasing is a little misleading. Mr. Fritz agreed.

Mr. Rooker said with the lack of State money for maintenance, it is questionable as to whether VDOT would have adequate funds to add it to the system and still maintain everything they are maintaining. The public road would require substantially more maintenance as well as the three hundred percent in grading to start with which he thinks would impair the environment around the creek significantly.

Mr. Slutzky said he thinks the staff's recommendation made sense, but he wanted some clarification for the public so it does not look like the Board is being foolish. Mr. Fritz said a better way of making the statement would have been to say "may be costly to maintain."

Ms. Thomas said she would like to know what restrictions will be placed on the deed. It should be noted that there is no County interest in maintaining that bridge so it should be known forever it will not be taken over by the County. Also, how permanent is the agreement to reduce development rights? Mr. Fritz said public maintenance is addressed by the ordinance. There must be a specific clause in the maintenance agreement which says the bridge will not be maintained by the County or any other public entity. That maintenance agreement is recorded with the plat and the deed.

Mr. Dorrier said the traffic load on this road will be relatively insignificant. Mr. Fritz said there will be four lots served by the bridge, or about 40 vehicle trips per day using the VDOT standard. Mr. Davis explained that the condition related to further subdivision of the property is the sixth recommended condition. That condition would be binding so long as the development is served by the private road; if in the future they decided to abandon the private road and build a public road, that restriction would not apply, but that is probably unlikely.

Ms. Mallek asked if that could be better clarified so it does not happen. Mr. Davis said there is no way to extinguish the development rights, but they can be restricted by the condition on the use of the private road.

Ms. Mallek said the landowner is offering to use only two of his eight development rights, so he would have to make that stipulation. Mr. Davis said they would have to place some type of open space easement or some other kind of easement on the property to do that. He does not think that is what is being recommended.

Mr. Rooker said if they abandoned the approval of a private road and went to a public road, these conditions would no longer apply.

Ms. Thomas asked if some future board would have to give permission for a public road.

Mr. Slutzky said unless a future board were to downzone those development rights into an extinguished status, they would.

Ms. Mallek said she thinks the applicant may have further clarification to give.

Mr. Slutzky asked if Mr. Fritz had finished his presentation. Mr. Fritz pointed out that the Planning Commission discussed, but did not include in their motion for denial, concern about the critical slopes and

the fact that portion of the property that are most suitable for development are in the mountain resource area.

Ms. Thomas asked if Mr. Fritz is satisfied that as much as possible as been done if this request proceeds as it is now proposed to limit development in the sensitive critical slopes and in the mountain overlay district given present ordinances. Mr. Fritz given the present ordinances, it complies.

Ms. Mallek said she visited the site yesterday with the applicant. This is a very substantial bridge and is in better condition than the one on Advanced Mills Road. She said they just re-decked it with pre-cast concrete and it can carry 40 tons. She looked in detail at the topography and it was suggested that from the middle of the driveway to the end it might be discarded in favor of having both sites accessed from the "little stub" in the middle of the property. She said that would reduce the impact of the driveway into the site.

Mr. Slutzky asked which parcels would retain the remaining development rights. Mr. Fritz said he does not know how they will allocate those, but the use of the property will have to be restricted with notes 5 and 6 (being shown on the screen) on the plat.

Mr. Rooker commented that one of the problems with transportation is that the standards often prevent doing something that would be better than what is in existence because there is not the money necessary to do what the full standards require.

Ms. Mallek said the Advanced Mills Bridge is a perfect example of that. For 15 years, VDOT said "no" to a replacement on site in favor of the \$5.5 million reconstruction project, and then when "their back was to the wall" they said there could be a little bridge for one-quarter of the cost.

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

Mr. Rob Cummings of Kirk Hughes and Associates, the applicant's representative, addressed the Board. He said the property owner approached his firm in 2006 to find a way to improve his property. They took aerial views of it as well as reviewing its critical slopes. They found three buildable areas with areas for drain fields, and determined that there was access along an existing road which would keep them from dealing with Powell Creek and the flood zone and stream buffer. Next they figured out the most logical division for the property keeping in mind the critical slopes and the need for placement of a private road. Their plan was to place the private road directly on the existing road, essentially improving the existing road to the County's private road standard in order to access the property in the back. He said the applicant does not wish to further develop the property in the back. At this time there are two existing residences which access Mint Springs Road through here, a parcel in the back they would seek an access for, and then the division of Tax Map 55, Parcel 44, to make Parcel A would be the fourth and final use along the existing road accessing Mint Spring Road.

Mr. Dorrier asked the length of the road. Mr. Cummings replied that the length of the public road is 1,100 feet versus the private road of 450 feet.

Ms. Thomas asked why the public road had to be so much longer. Mr. Cummings said the public road has to meet where the parcel line is for the division of the two pieces in the back. Before that there are three accesses to what is the public road. Once you get back to the two pieces with the private road, there can be no more than two uses, so that is why they show only two uses to the public road.

Ms. Thomas asked how the land disturbance with a public road compares to the land disturbance with a private road plus driveways if they were taken to the same point. Mr. Cummings said the design standards for a public road allow up to a 10 percent grade, while with a private road allows 16 percent; the 10 percent grade cuts and fills impact a greater area.

Mr. Dorrier asked how many vehicles would be expected to use the road daily. Mr. Cummings said the standard is about 10 trips per day per parcel which makes an average of 40 vehicle trips per day. They do not think it will be that high.

Ms. Mallek said half of those would be from the existing house and the existing cottage on the property which are within 50 yards of the highway.

Mr. Rooker said if a public road were built, the applicant would be able to put more houses on the property.

Mr. Cummings said they did multiple designs coming off of Mint Springs Road. The design shown is for only one access across the bridge. There is no need to build another crossing on Powell Creek in the flood zone.

Mr. Dorrier asked if the creek is mostly dry. Mr. Cummings said it is a calm flowing creek.

Ms. Mallek said this stream drains out of Mint Springs Park, and is sometimes a "rip snorter." It tends to be about eight inches deep and eight to ten feet wide.

Mr. Slutzky asked if anyone from the public would like to comment on this request.

Mr. Richard Bowen addressed the Board. He said he had some information about the cost of maintaining the bridge. The new deck for the bridge cost \$30,000; there are two existing house sites on or

near the property and each is assessed for \$160,000. If the cost of replacing the deck were shared four ways, that would be \$7,500 each. The ordinance says consideration should be given to not putting in a private road if the infrastructure of the bridge or dam would be reasonably prohibitive to maintain. The span of this bridge is 16 feet; it was maintained by the former owner for 60 to 70 years. He explained that this land was part of an 80-acre property owned by Mr. James Seale who acquired it in 1962; he died in 2004 and the heirs immediately subdivided the property into a 10-acre parcel with two existing residences on it, and the existing access road. A second undeveloped parcel of 70 acres had eight development rights. He said his family had owned the abutting property for nearly 100 years, and he was horrified at the thought of eight houses going up in this peaceful area. The property was auctioned and he acquired it with a view to sensitive development which they are offering by reducing the eight theoretical development rights to two, and by using the existing road and the farm road. The look and feel of the property from Mint Springs Road will be the way it has been for the past century if a private road is built. If a public road is built there will be substantial additional degradation.

Mr. Morgan Butler of the Southern Environmental Law Center said he thinks a private street would have less environmental impact than a public street. Originally staff recommended to the Planning Commission that the request be denied. However, once a condition was added that the applicant would restrict the development rights staff was able to recommend that it be approved. In looking at the map it appears that critical slopes dominate the site and there are only two or three building sites available there. It is not clear to him what that condition adds or how it restricts development over what the natural topography of the site already restricts. In terms of this particular condition becoming a future precedent, he would want it to be limited to situations where it actually has a practical effect of limiting development on a site.

Ms. Thomas asked if the three housing sites pointed out on the map are the only three housing sites available. If the applicant is giving away six development rights, they in fact only had one housing site to give away. Mr. Fritz explained that there is more area there that is buildable outside of the critical slopes, but they only studied three of those. He is not sure, but feels it is likely there are more sites there given the size of the property.

Mr. Slutzky said it is also possible that a future board would change the critical slope restrictions, which would open the hillside up for development. Limiting this to the development that is likely to occur now accommodated by the private road does make sense.

Mr. Dorrier commented that in this case the private road seems to make a lot more sense than a public road. There is not a large traffic count, and the bridge is small and narrow.

Mr. Rooker said he views the limitation on development rights as an additional benefit. He said it is a good point that in the future critical slope regulations might change. He thinks that to rebuild the bridge as a public road bridge would be ridiculous for the traffic it would serve. There would be substantial degradation of the land around the creek resulting from building a public road and he does not see a significant benefit from doing that except to impose the cost of maintenance of an overbuilt road on the State.

Ms. Thomas mentioned that one reason public roads are required in rural areas is to discourage development of the rural area, so faced with this she would stick with a public road if there were not a significant decrease in the potential development of the area with this condition and this offer. She cannot resist saying that when the Board was working on the Mountain Protection Ordinance, the public begged the Board to make it a law that houses built on the top of the mountain be less visible. However, the Board does not have the State enabling legislation that would allow it to do that. She begs that this not be a bright white house that sticks out on the forehead of the mountain.

Ms. Mallek said it was described to her that the houses will face more to the south than toward Mint Springs Road. She then **moved** to approve SUB-2008-240 with the conditions as updated. Mr. Rooker **seconded** the motion, which passed by the following recorded vote:

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

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

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the Final Subdivision Checklist which is available from the Department of Planning and Community Development;
 2. The final plat shall address all minimum requirements from Sections 14-410 (Standards for all street and alleys) and 14-412 (Standards for private streets only);
 3. Health Director approval of individual private wells and septic systems;
 4. A maintenance agreement must be submitted and approved by the County Attorney, as specified in Section 14-317 of the Subdivision Ordinance;
 5. Not more than one (1) dwelling unit may be established on Parcel A and not more than one dwelling unit may be established on TMP 55-44 (Revised), as the term dwelling unit is defined in the Albemarle County Zoning;
 6. Neither Parcel A nor TMP 55-44 (Revised) shall be further divided; and
 7. Conditions 5 and 6 shall be stated in the notes on the final plat.
-

Agenda Item No. 9. **Appeal:** SDP-2008-00012, South Pantops Condominiums – Preliminary Site Plan. Appeal of a condition imposed by the Planning Commission associated with a critical slopes waiver. The critical slopes waiver request is in conjunction with a request for a preliminary site plan approval for construction of 125 dwelling units on 13.12 acres zoned R-15, Residential. The property, described as Tax Map 78, Parcel 20, is located on South Pantops Drive approximately 800 feet from its intersection with State Farm Blvd. The Comprehensive Plan designates this property as Urban Density in Urban Area 4. Rivanna Magisterial District.

Mr. Boyd said he has a conflict of interest due to a business relationship with the next applicant; he will recuse himself from the discussion and vote - he immediately left the room.

Mr. Fritz said the applicant spoke to him just before the meeting, and he may be requesting to withdraw this application.

Mr. Slutzky asked the applicant to speak.

Mr. Tucker Hurt, representing the owner of the property, addressed the Board. He said that originally they were objecting to the condition imposed by the Planning Commission for a critical slopes waiver. They think this would be a prime project for affordable housing, especially for workforce housing, because of the new Martha Jefferson Hospital which is to be built in the area and which will be the employer of a large number of people. These units will be in walkable distance to the Hospital and Peter Jefferson Place. In the spirit of Fair Housing Month, the applicant is withdrawing the appeal.

Mr. Davis recommended that the Board vote to accept withdrawal of the appeal so the Planning Commission's action will stand.

Ms. Thomas **moved** to accept the applicant's withdrawal of his appeal of SDP-2008-00012, South Pantops Condominiums – Preliminary Site Plan. Mr. Rooker **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

ABSTAIN: Mr. Boyd.

(**Note:** At 10:31 a.m., the Board recessed and reconvened at 10:39 a.m.)

Agenda Item No. 10. **Public Hearing:** Parks and Recreation Fees. Proposed ordinance to amend County Code Chapter 11, Section 11-105, to allow the charging of picnic shelter fees during the period that park entry fees are charged and to better clarify authority for setting park fees. (Notice of this public hearing was advertised in the Daily Progress on March 16 and March 23, 2009.)

Mr. Tucker said that in October of 2008, the Parks and Recreation Department conducted a study of fees charged for comparable facilities and services by Virginia State Parks and other local parks and recreation departments in Virginia. Based on the results of that study, the Director of Parks and Recreation has determined that fees for picnic shelter reservations in the County should be increased from \$25 per day to \$50 per day and, due to the extra service provided for picnic shelter reservations, the fee should be charged year-round. Currently the County Code prohibits the charging of the picnic shelter reservation fee during the period that park entry fees are charged. In addition, in recent years the variety of activities and park uses have continued to increase which requires flexibility in the ability to assess new charges and adjust fees to increase revenues or recapture costs which may be specific to a park usage request. Some examples of new activities include triathlons, mountain bike races, television commercials, and field and court reservations by private groups. The Board had normally established park entry fees as required by the County Code and let staff establish all other fees. However, the current County Code does not clearly designate authority for setting other fees to staff.

Mr. Tucker said staff recommends that the Board retain the authority to establish fees for entry and use of the park, recreation areas and swimming facilities, and that they establish authority for all other fees to be set by the County Executive or his designee. The proposed ordinance eliminates the prohibition against charging the shelter fees during periods that the park entry fees are also being charged. If adopted, he said, there would be additional fees amounting to between \$6,750 and \$9,000 yearly.

Ms. Mallek asked if someone rented a shelter for a party, would there still be a charge per child for swimming. Mr. Pat Mullaney, Director of Parks & Recreation, replied that the person would pay a shelter rental fee and a park entry fee into the park. He said there is a lot of extra work that goes into preparing the shelters which is a special service for that citizen. However, if a person had a season pass, there would be no fee for the shelter reservation. A family of four could come to the park and pay the daily entry fee and have use of the shelter if it had been reserved in advance. If this change is adopted, they will be charging the shelter reservation fee year-round in addition to the park entry fee in the summer.

Mr. Dorrier asked if there is a lot of demand for use of County parks by its citizens. Mr. Mullaney said the department only keeps track of that number during the summer months. They are experimenting with tickers to count cars year-round. There are between 60,000 and 70,000 people coming through the gates during the period when there is a ticket attendant on duty. From their survey, it showed that in the previous year three-quarters of the citizens used the County parks.

Mr. Dorrier asked what percentage of the total number of people who attend are non-Albemarle people. Mr. Mullaney said that probably 25 to 30 percent of park users are non-County residents.

Mr. Boyd asked what is done at Darden Towe Park where there is no admission fee. Mr. Mullaney said there is still a shelter fee required.

Mr. Slutzky asked if the City had been notified that the County was considering this ordinance. Mr. Mullaney said there has always been a year-round charge for shelters at Darden Towe. This change will bring the County's charge closer to what the City charges for its shelters.

Mr. Boyd said some constituents had requested that when this change in park fees was considered there be discussion of standardization of fees between County and City residents. He asked if that had been considered. Mr. Mullaney said he talked with the City's former Parks Director before he left, and he was not ready to get into that discussion. They talked about some very specific things related to the City's golf courses versus swimming fees. They decided that the discussion should take place when the City hires a new Parks & Recreation Director – the process is supposed to begin in the summer.

With no further questions for staff, Mr. Slutzky opened the public hearing.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board. He said he is interested in the cost analysis with regard to uses and fees, and what type of cost containment the Board is trying to address with regard to triathlons and other uses in terms of direction to the County Executive for providing a fee structure.

Mr. Mullaney said it differs with the program and the activity. He explained that cost recovery for summer swimming at the beaches is about 70 percent; for fee-based classes and special events such as triathlons they aim for a 100 percent recovery. Now that the department is keeping better performance measures, they are trying to move the 70 percent up to 89 percent for the summer swim program. This year, hours are being reduced on the expense side. In this economy they are sensitive to increasing fees to some services. He noted that people who cannot afford to pay a fee can be qualified by Social Services so they can get into a program. People with high incomes will not be affected by the increased fees, but others are being squeezed financially and they do not want to make it impossible for them to enjoy the parks. It may be the only type of leisure activity available to them and that is a quality of life issue. They are looking at slowly increasing all fees and do surveys to try and keep track of how it impacts use. When fees are increased often attendance is reduced resulting in less total fees.

Mr. Slutzky said he agrees with the logic, and appreciates the department trying to get closer to a 100 percent recovery. He said that even though it is called a fee, it is not that much different from raising taxes during a downturn in the economy.

Mr. Boyd asked if the overall fees for entry to the parks will still be at the discretion of the Board. Mr. Mullaney said the major entry fees to the parks will still be set by the Board. The County Code has language which is not clear about the setting of other fees and they have traditionally been set by staff.

Mr. Rooker said this seems to be a common sense approach to setting fees. Mr. Davis said this change essentially clarifies the existing process for setting fees. Currently the County Code requires a public hearing before park entrance fees are changed. He said that was a process established by the Board; it was not legally required. Under this amendment, the County Executive will have the authority to change the other fees.

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

Mr. Rooker then **moved** for adoption of An Ordinance to Amend and Reordain Chapter 11, Parks and Recreation Facilities, by amending Article I, In General, Division 1, Parks Generally, Section 11-105 Fees. Mr. Dorrier **seconded** the motion, which passed by the following recorded vote:

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

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

ORDINANCE NO. 09-11(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, PARKS AND RECREATION FACILITIES, BY AMENDING ARTICLE I, IN GENERAL, DIVISION 1, PARKS GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 11, Parks and Recreation Facilities, is hereby amended and reordained by amending Article I In General, Division 1 Parks Generally, Section 11-105 Fees.

ARTICLE I. IN GENERAL

DIVISION 1. PARKS GENERALLY

Sec. 11-105 Fees.

A. The board of supervisors shall, from time to time by resolution, establish fees for daily and seasonal passes for entry to and use of parks, recreational areas and swimming facilities under the county's jurisdiction. The board of supervisors shall hold a public hearing to receive public comment on any proposed fee changes. Public notice shall be provided for such public hearing at least ten days prior to the hearing date. A copy of the adopted fee schedule shall be posted in the park at points where such fees are to be collected.

B. Fees for programs or activities, and the rental of county-owned property, to include but not limited to boats and picnic shelters, shall be established by the county executive or his designee. The director of parks and recreation shall maintain a schedule of established fees.

C. Reservations and payment of fees for the use of reserved picnic shelters shall be made in advance of such use under procedures established by the director of parks and recreation or his designee. Any picnic shelter that is not marked as reserved shall be available at no charge on a first come, first served basis.

D. No person shall be permitted to use such facilities for which fees are charged without first paying the fee.

E. Fees may be suspended by order of the county executive or his designee for good cause.

F. No fees paid under paragraphs A and B, above, shall be refunded without the approval of the director of parks and recreation or his designee. Daily park passes and season passes shall not be transferable to any other person.
(4-20-72; 5-15-75; 4-21-76; 4-12-78; 6-17-81; 4-14-83; 5-7-86; 4-13-88; Code 1988, § 14-11; Ord. 98-A(1), 8-5-98)

State law reference—Va. Code § 15.2-1806

Agenda Item No. 11. **Public Hearing:** Concurrent Resolution to amend and restate the Articles of Incorporation for the Rivanna Water and Sewer Authority to increase the membership of the Authority Board from five to seven members by the addition of one member of the Charlottesville City Council and one member of the Board of Supervisors of Albemarle County. (Notice of this public hearing was advertised in the Daily Progress on February 13, 2009.)

Agenda Item No. 12. **Public Hearing:** Concurrent Resolution to amend and restate the Articles of Incorporation for the Rivanna Solid Waste Authority to increase the membership of the Authority Board from five to seven members by the addition of one member of the Charlottesville City Council and one member of the Board of Supervisors of Albemarle County, and to allow for the appointment of an Albemarle County Department head in place of the Albemarle County Engineer, if desired by the Board of Supervisors. (Notice of this public hearing was advertised in the Daily Progress on February 13, 2009.)

Mr. Davis said he will present these two items together and then will request that the Board hold separate public hearings and take separate votes on them. He said that at the request of both the City Council and the Board of Supervisors, staff has prepared a concurrent resolution for the Rivanna Water and Sewer Authority (RWSA) and the Rivanna Solid Waste Authority (RSWA) to amend the articles of incorporation of those entities. The RWSA was created in 1972 by a concurrent resolution; the RSWA was created in 1990 by a concurrent resolution. Within those resolutions were established the Articles of Incorporation for each entity. The Articles of Incorporation establishes the number and qualifications of the membership on the boards of those entities. The process for changing those Articles is to again adopt concurrent resolutions and that is why this matter is before the Board today. City Council adopted the resolutions presented today on March 16, 2009. He said there was a clerical mix-up as to the attachments to the resolutions in the Board's packet, but the actual concurrent resolutions adopted by City Council are before the Board today with some slight changes regarding the terms of the members.

Mr. Slutzky asked if when the error was discovered the correct information was posted to the County's website with a note that it had been changed and the date of that change. Mr. Davis said he thought that had been done, but has now been advised that the wrong resolution was still posted as of today. Mr. Tucker said the Clerk told him the change was made, but the link to the web evidently did not work.

Mr. Davis explained that the RWSA currently has five members – the City Manager, the City Director of Public Works, the County Executive, the Executive Director of Albemarle County Service Authority (the articles allow the Board of Supervisors to appoint a County department head in his place), and a fifth person who is appointed by concurrent resolution of the Council and the Board for a two-year term. He said the proposed resolution for the RWSA would add a member of the governing body (both a Board member and a Council member) to that body; all would be voting members. He said the State Code states that Authority members may not serve terms greater than four years so the proposed

amended articles would now limit terms for the ex-officio members that are County or City employees to a term of not greater than four years - they would be eligible for reappointment as long as they hold their offices. For the Board and the Council member, their terms would be until the end of their term or until they no longer hold office. They would also be eligible for reappointment if reelected to the Board or City Council.

Mr. Slutzky said that last item was the technical error that was reflected. He said that is what the public did not see, but it is just codifying in this document what is already State law. Mr. Davis said that is correct.

Mr. Davis said for the RSWA it is the same as for the RWSA except in the Articles of Incorporation it currently says that the second County member is the County Engineer. Staff wanted to clarify that also and say that the Board of Supervisors has the authority to appoint any County department head to that position. He said Mr. Mark Graham has been appointed as the County Engineer for purposes of this article and staff thought it made sense to fix that with this change as well as adding the City Council and Board of Supervisors members.

Mr. Slutzky asked if the version that City Council adopted is reflective of that change. Mr. Davis said "yes." He said the concurrent resolutions before the Board are those adopted by City Council. The Board is required to have a public hearing on each resolution. If the Board makes any substantive changes in the resolutions they would have to be readvertised for a public hearing by both bodies. He offered to answer questions.

Ms. Thomas said at the bottom of Page 6 for the RWSA it talks about the Authority not contracting with any other party desiring service except upon written consent of the City or County. She asked how septage haulers who get their service directly from the RWSA would fit into this structure. Mr. Davis responded that the clause means the RWSA cannot provide water or sewer services without approval. The Authority was created to serve Albemarle County and the City of Charlottesville. They cannot serve another jurisdiction without approval of City Council and Board of Supervisors.

Ms. Thomas said the statement is that they cannot contract with any other party desiring service. She thinks that is what the septage haulers do. Mr. Tucker said that service is not a contractual arrangement. They just pay for service. Mr. Davis said that provision is not being changed; it is in the existing Articles of Incorporation.

With no further questions for staff at this time, Mr. Slutzky opened the public hearing on the concurrent resolution to amend and restate the Articles of Incorporation for the Rivanna Water and Sewer Authority. With no one from the public rising to speak, the hearing was closed, and the matter placed before the Board.

Ms. Thomas said this is all being done at City Council's behest. She sees no reason to do it, and it will add slightly to the expense just in terms of putting together agenda packets. There was sort of an informal agreement between the chairs that there would be no objection to it, so she will not bring up a major objection now. When she looks at what is good or bad about the RWSA, what is bad is that for many years it allowed infrastructure to deteriorate. What is good about the addition of a Councilor to that body is that City Council may look at education regarding infrastructure in a way that they have not done through their staff. What is bad is that there will be an even stronger voice saying "don't do something expensive" because it will raise the rate our purchasers have to pay. She thinks that has driven the City's response to infrastructure needs for years. That has not been as strong on the County side because there is the separate Service Authority. A good thing is that there will be two more elected officials who will get a good education about infrastructure needs, but otherwise she does not see much value in doing this. She does not want County staff to assume that this indicates they have not been doing a good enough job, because that has not been the case.

Mr. Rooker agreed with Ms. Thomas. He said in some ways the ACSA is a better model since the people appointed to that board view it as the primary thing they are doing in community service. It is not an afterthought or just another meeting they must attend. Also they view it from the standpoint of needs and requirements for the operation to function as a successful entity in the community and that includes taking care of long-term infrastructure. They are not nearly as subject to political considerations as are boards that are composed a way that the boards of the RWSA and RSWA are. He thinks that now they will become more politicized rather than operating in a business-like fashion to make certain both short- and long-term needs are adequately attended to. He will not vote against this resolution but he thinks there is a better model for a board than what there is currently. He does not think this change will in any way improve it.

Mr. Boyd said he would like to make one clarification. He was the chair that Ms. Thomas referred to, but agreed only after consultation with each individual Board member.

Ms. Mallek said that originally she thought it was a good idea to have "more eyes on the prize", but now she is not certain this will benefit the County at all. She hopes there will not be consequences by taking this action that will make the Board regret it.

Mr. Slutzky said he thinks it is a good idea partly because it is important for the City Council and the Board to collaborate when one body feels strongly about something. He thinks it is appropriate and respectful that the Board tries to honor that as everyone has indicated a willingness to do. He also thinks that with the challenge of funding infrastructure there are benefits in some respects to having elected

officials held accountable. He agrees with City Council's objective of trying to politicize the process, but having said that, he will ask for a motion.

Mr. Dorrier commented that elected officials on a body tend to give it a perspective that is not always there. He served on the CIP Oversight Committee with Mr. Boyd and he knows that the elected officials on that committee have a different slant on issues than the non-elected members.

With no further discussion, Ms. Mallek **moved** to adopt the following Concurrent Resolution of the City Council of the City of Charlottesville, Virginia, and the Board of Supervisors of the County of Albemarle, Virginia, to amend and Restate the Articles of Incorporation of the Rivanna Water and Sewer Authority (Attachment A to the Executive Summary), as set out in full below.

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

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

**CONCURRENT RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
AND THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA TO
AMEND AND RESTATE THE ARTICLES OF INCORPORATION OF THE RIVANNA WATER
AND SEWER AUTHORITY**

WHEREAS, by concurrent resolution of the City Council of the City of Charlottesville, Virginia (the City) and the Board of Supervisors of the County of Albemarle, Virginia (the County) and a certificate of incorporation issued by the State Corporation Commission pursuant to the Virginia Water and Sewer Authorities Act (currently enacted as the Virginia Water and Waste Authorities Act, Virginia Code Section 15.2-5100 *et seq.*), the Rivanna Water and Sewer Authority (the Authority) was incorporated as a public body politic and corporate in 1972; and,

WHEREAS, the City and the County amended and restated the Articles of Incorporation of the Authority in December 1985 to limit its powers regarding the treatment and transmission of potable water and the treatment and disposal of sewage; and,

WHEREAS, the City and the County further amended and restated the Articles of Incorporation of the Authority in August 1986 to place the Executive Director of the Albemarle County Service Authority, or such Albemarle County Department head as the Board of Supervisors of Albemarle County may appoint, on the Board of the Rivanna Water and Sewer Authority in lieu of the County Engineer of Albemarle County; and,

WHEREAS, the City and the County desire to amend and restate the Articles of Incorporation of the Authority to increase the number of members of the Board of the Authority from five (5) to seven (7) through the addition of one (1) member of the Charlottesville City Council, to be appointed by the City Council and to serve as an *ex officio* member of the Board, and one (1) member of the Albemarle County Board of Supervisors, to be appointed by the Board of Supervisors and to serve as an *ex officio* member of the Board; and,

WHEREAS, pursuant to Virginia Code Section 15.2-5104 the City and the County caused to be advertised in a newspaper of general circulation in the City and the County a descriptive summary of this Concurrent Resolution and the proposed change to the Authority's Articles of Incorporation with a reference to the location in the City and the County where a copy of the Resolution could be obtained, and giving notice of the date on which public hearings would be held on the proposed Concurrent Resolution; and,

WHEREAS, public hearings on the proposed Concurrent Resolution were held by the Charlottesville City Council on March 16, 2009 and by the Albemarle County Board of Supervisors on April 1, 2009.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of Albemarle County, Virginia that:

(1) The proposed amendment to the Articles of Incorporation for the Rivanna Water and Sewer Authority which increases the number of members of the Board of the Authority from five (5) to seven (7) through the addition of one (1) member of the Charlottesville City Council, to be appointed by the City Council and to serve as an *ex officio* member of the Board, and one (1) member of the Albemarle County Board of Supervisors, to be appointed by the Board of Supervisors and to serve as an *ex officio* member of the Board, is hereby approved.

(2) Pursuant to Virginia Code Section 15.2-5107, the City Council and the Board of Supervisors shall cause a certified copy of this Concurrent Resolution to be filed with the State Corporation Commission.

(3) The Articles of Incorporation of the Rivanna Water and Sewer Authority as amended and restated shall be substantially as follows:

**THIRD RESTATED ARTICLES OF INCORPORATION
OF RIVANNA WATER AND SEWER AUTHORITY**

The Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle having created an Authority pursuant to the Virginia Water and Sewer Authorities Act (Chapter 28, Title 15.1, Code of Virginia of 1950, as amended), as a public body politic and corporate, and having signified their intention to amend and restate its Articles of Incorporation pursuant to the Virginia Water and Waste Authorities Act (Chapter 51 of Title 15.2 of the Code of Virginia, 1950, as amended), hereby certify:

(a) The name of the Authority is Rivanna Water and Sewer Authority and the address of its principal office shall be Charlottesville, Virginia.

(b) The names of the incorporating political subdivisions are the City of Charlottesville and the County of Albemarle.

(c) The powers of the Authority shall be exercised by a Board of Directors of seven members consisting of the four persons holding the offices, from time to time, of City Manager and Director of Public Works of the City of Charlottesville, County Executive of the County of Albemarle and Executive Director of the Albemarle County Service Authority, or such Albemarle County Department head as the Board of Supervisors of Albemarle County may appoint in the Executive Director's place; one member of the Charlottesville City Council to be appointed by the City Council; one member of the Albemarle County Board of Supervisors to be appointed by the Board of Supervisors; and a seventh person appointed by the concurrent action of the Charlottesville City Council and the Albemarle County Board of Supervisors. The names and addresses of the current members of the Authority Board are as follows:

<u>Name</u>	<u>Address</u>
Robert W. Tucker, Jr. (Albemarle County Executive)	401 McIntire Road Charlottesville, VA 22902
Gary Fern (Executive Director, Albemarle County Service Authority)	168 Spotnap Road Charlottesville, VA 22911
Gary B. O'Connell (Charlottesville City Manager)	605 East Main Street Charlottesville, VA 22902
Judith M. Mueller (Charlottesville Director of Public Works)	305 4 th Street, N.W. Charlottesville, VA 22903
Michael A. Gaffney (Concurrent City / County Appointee)	119 Morgan Court Charlottesville, VA 22903

The terms of the members of the Board serving as such by virtue of their appointed offices with the City, the County and the Albemarle County Service Authority shall expire upon the earlier of their ceasing to hold such appointed offices, or after four years from the recordation of these Restated Articles of Incorporation by the State Corporation Commission; provided that such members shall be eligible for reappointment for terms not in excess of four years for so long as they hold their appointed offices. The terms of the City Councilor appointed by the City Council and the Supervisor appointed by the Albemarle County Board of Supervisors shall expire upon the earlier of their ceasing to hold such offices or expiration of their term of office as a Councilor or Supervisor; however, if they are re-elected to those offices they may be reappointed to the Board. Any person hereafter holding the office of Albemarle County Executive, Charlottesville City Manager or Charlottesville Director of Public Works shall automatically succeed to the membership of his predecessor in such office on the Board of the Authority. The term of the member of the Board serving as such by virtue of his office with the Albemarle County Service Authority shall also expire upon the decision of the Albemarle County Board of Supervisors that a County Department head shall serve on the Board in the Executive Director's place. Any person hereafter holding the office of Executive Director of the Albemarle County Service Authority (or, if a County Department head has been appointed by the Albemarle County Board of Supervisors to serve in the place of the Executive Director of the Albemarle County Service Authority, any person holding the office of such Department head) shall automatically succeed to the membership of his predecessor in such office on the Board of the Authority. The current term of the member of the Board appointed by the concurrent action of the Charlottesville City Council and the Albemarle County Board of Supervisors shall expire on December 31, 2010, and his successor shall be appointed for a term of two years, except that a vacancy shall be filled only for the unexpired term. The appointed member shall hold office until his successor has been appointed and qualifies and he shall be eligible for reappointment to succeed himself. The appointed member shall receive such compensation not to exceed \$1,800.00 per year as the Board of the Authority may determine, but those members who are employees or officials of the City or the County or the Albemarle County Service Authority shall serve without compensation. Each member shall be reimbursed the amount of his actual expenses necessarily incurred in the performance of his duties.

(d) The purpose for which the Authority is formed is to acquire, finance, construct, operate and maintain facilities for developing a supply of potable water for the City of

Charlottesville and Albemarle County and for the abatement of pollution resulting from sewage in the Rivanna River Basin, by the impoundment, treatment and transmission of potable water and the interception, treatment and discharge of wastewater, together with all appurtenant equipment and appliances necessary or suitable therefore and all properties, rights, easements or franchises relating thereto and deemed necessary or convenient by the Authority for their operation. Except to the extent of providing incidental services and the sale of excess products, the Authority's powers are limited to providing wholesale services to the City and the County.

The Authority may contract with the City, the County, any sanitary district thereof or any authority therein created pursuant to the Virginia Water and Waste Authorities Act (or its predecessor, the Virginia Water and Sewer Authorities Act) to furnish water and to treat sewage delivered to its facilities upon such terms as the Authority shall determine; provided, however, that any such contract shall include as parties thereto the City and the County (or any agency of the County designated for that purpose by its Board of Supervisors). The Authority is expressly prohibited from contracting with any other party desiring service in the City or the County, except upon the written consent of the City or County (or any agency of the County designated for that purpose by the Board of Supervisors), respectively.

(e) The Authority shall cause an annual audit of its books and records to be made by the State Auditor of Public Accounts or an independent certified public accountant at the end of each fiscal year and a certified copy therefore to be filed promptly with the City Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle.

IN WITNESS WHEREOF, the City Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle have caused these Third Restated and Amended Articles of Incorporation to be executed in the name of the City of Charlottesville and the County of Albemarle, respectively, by their presiding officers and attested by their Clerks this ____ day of April, 2009.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Mayor

Attest:

Clerk of Council

COUNTY OF ALBEMARLE, VIRGINIA

By: _____
Chair, Board of Supervisors

Attest:

Clerk, County Board of Supervisors

At this time, Mr. Slutzky opened the public hearing on Agenda Item No. 12. Public Hearing: Concurrent Resolution to amend and restate the Articles of Incorporation for the Rivanna Solid Waste Authority. With no one from the public rising to speak, the hearing was closed and the matter placed before the Board.

Ms. Thomas said the Board needs to recognize that the Rivanna Solid Waste Authority is an endangered authority. The City is doing its best to work its way out of having any connection with the RSWA. They may very well say their budget should not support the McIntire Road Recycling Center. In fact they could decide not to put their money in the same way as they did with the Solid Waste Authority a few years ago. She hopes that going along with their request and adding an elected official to this body will show the Board's good intentions at keeping this body alive. There is no artificial reason to keep it alive, but when dealing with solid waste as a larger entity, better prices and arrangements can be obtained. She said both localities have a 30-year ongoing responsibility to clean up the Ivy Landfill. She will not oppose this request, but she thinks the County does it with some conditions attached which is that the Board hopes the City will take its membership in this body seriously.

Mr. Slutzky said that is a good point. He hopes that whoever the Board chooses to represent it on the RSWA Board will be particularly focused in their communications with the public about the dissent over the matter of supporting the McIntire Recycling Center. He then asked for a motion.

Mr. Boyd **moved** to adopt the Concurrent Resolution of the City Council of the City of Charlottesville, Virginia, and the Board of Supervisors of the County of Albemarle, Virginia, to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority (Attachment B to the Executive Summary) all as set out in full below.

Ms. Mallek **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

**CONCURRENT RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA
AND THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA TO AMEND
AND RESTATE THE ARTICLES OF INCORPORATION OF THE RIVANNA SOLID WASTE
AUTHORITY**

WHEREAS, by concurrent resolution of the City Council of the City of Charlottesville, Virginia (the City) and the Board of Supervisors of the County of Albemarle, Virginia (the County) and a certificate of incorporation issued by the State Corporation Commission pursuant to the Virginia Water and Sewer Authorities Act (currently enacted as the Virginia Water and Waste Authorities Act, Virginia Code Section 15.2-5100 *et seq.*), the Rivanna Solid Waste Authority (the Authority) was incorporated as a public body politic and corporate in 1990; and,

WHEREAS, the City and the County desire to amend and restate the Articles of Incorporation of the Authority to increase the number of members of the Board of the Authority from five (5) to seven (7) through the addition of one (1) member of the Charlottesville City Council, to be appointed by the City Council and to serve as an *ex officio* member of the Board, and one (1) member of the Albemarle County Board of Supervisors, to be appointed by the Board of Supervisors and to serve as an *ex officio* member of the Board; and to allow for the appointment of an Albemarle County Department head in place of the Albemarle County Engineer, if desired by the Board of Supervisors; and,

WHEREAS, pursuant to Virginia Code Section 15.2-5104 the City and the County caused to be advertised in a newspaper of general circulation in the City and the County a descriptive summary of this Concurrent Resolution and the proposed change to the Authority's Articles of Incorporation with a reference to the location in the City and the County where a copy of the Resolution could be obtained, and giving notice of the date on which public hearings would be held on the proposed Concurrent Resolution; and,

WHEREAS, public hearings on the proposed Concurrent Resolution were held by the Charlottesville City Council on March 16, 2009, and by the Albemarle County Board of Supervisors on April 1, 2009.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of Albemarle County, Virginia that:

(1) The proposed amendment to the Articles of Incorporation for the Rivanna Solid Waste Authority which increases the number of members of the Board of the Authority from five (5) to seven (7) through the addition of one (1) member of the Charlottesville City Council, to be appointed by the City Council and to serve as an *ex officio* member of the Board, and one (1) member of the Albemarle County Board of Supervisors, to be appointed by the Board of Supervisors and to serve as an *ex officio* member of the Board, and allows for the appointment of an Albemarle County Department head in place of the Albemarle County Engineer, if desired by the Board of Supervisors, is hereby approved.

(2) Pursuant to Virginia Code Section 15.2-5107, the City Council and the Board of Supervisors shall cause a certified copy of this Concurrent Resolution to be filed with the State Corporation Commission.

(3) The Articles of Incorporation of the Rivanna Solid Waste Authority as amended and restated shall be substantially as follows:

**RESTATED ARTICLES OF INCORPORATION
OF RIVANNA SOLID WASTE AUTHORITY**

The Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle having created an Authority pursuant to the Virginia Water and Sewer Authorities Act (Chapter 28, Title 15.1, Code of Virginia of 1950, as amended), as a public body politic and corporate, and having signified their intention to amend and restate its Articles of Incorporation pursuant to the Virginia Water and Waste Authorities Act (Chapter 51 of Title 15.2 of the Code of Virginia, 1950, as amended), hereby certify:

(1) The name of the Authority is Rivanna Solid Waste Authority and the address of its principal office shall be Charlottesville, Virginia.

(2) The names of the incorporating political subdivisions are the City of Charlottesville and the County of Albemarle.

(3) The powers of the Authority shall be exercised by a Board of Directors of seven members consisting of the four persons holding the offices, from time to time, of City Manager and Director of Public Works of the City of Charlottesville and County Executive and the County Engineer of Albemarle County, or such Albemarle County Department head as the Board of Supervisors of Albemarle County may appoint in the County Engineer's place; one member of the Charlottesville City Council to be appointed by the City Council; one member of the Albemarle County Board of Supervisors to be appointed by the Board of Supervisors; and a seventh person appointed by the concurrent action of the Charlottesville City Council and the Albemarle County

Board of Supervisors. The names and addresses of the current members of the Authority Board are as follows:

<u>Name</u>	<u>Address</u>
Robert W. Tucker, Jr. (Albemarle County Executive)	401 McIntire Road Charlottesville, VA 22902
Mark B. Graham, P.E. (County Engineer / Director of Community Development)	401 McIntire Road Charlottesville, VA 22902
Gary B. O'Connell (Charlottesville City Manager)	605 East Main Street Charlottesville, VA 22902
Judith M. Mueller (Charlottesville Director of Public Works)	305 4 th Street, N.W. Charlottesville, VA 22903
Michael A. Gaffney (Concurrent City / County Appointee)	119 Morgan Court Charlottesville, VA 22903

The terms of the members of the Board serving as such by virtue of their appointed offices with the City and the County shall expire upon the earlier of their ceasing to hold such appointed offices, or after four years from the recordation of these restated Articles of Incorporation by the State Corporation Commission; provided that such members shall be eligible for reappointment for terms not in excess of four years for so long as they hold their appointed offices. The terms of the City Councilor appointed by the City Council and the Supervisor appointed by the Albemarle County Board of Supervisors shall expire upon the earlier of their ceasing to hold such offices or expiration of their term of office as a Councilor or Supervisor; however, if they are re-elected to those offices they may be reappointed to the Board. Any person hereafter holding the office of Albemarle County Executive, Charlottesville City Manager or Charlottesville Director of Public Works shall automatically succeed to the membership of his predecessor in such office on the Board of the Authority. The term of the member of the Board serving as such by virtue of his position as County Engineer for Albemarle County shall also expire upon the decision of the Albemarle County Board of Supervisors that a County Department head shall serve on the Board in the County Engineer's place. Any person hereafter holding the office of County Engineer of Albemarle County (or, if a County Department head has been appointed by the Albemarle County Board of Supervisors to serve in the place of the County Engineer, any person holding the office of such Department head) shall automatically succeed to the membership of his predecessor in such office on the Board of the Authority. The current term of the member of the Board appointed by the concurrent action of the Charlottesville City Council and the Albemarle County Board of Supervisors shall expire on December 31, 2010, and his successor shall be appointed for a term of two years, except that a vacancy shall be filled only for the unexpired term. The appointed member shall hold office until his successor has been appointed and qualifies and he shall be eligible for reappointment to succeed himself. Board members other than the member appointed by concurrent action of the City and the County shall receive no compensation from the Authority for serving as members of the Board. The member appointed by the concurrent action of the City and the County shall be compensated by the Authority for serving as such in an amount to be determined from time to time. Each member shall be reimbursed by the Authority for any actual expenses necessarily incurred in the performance of their duties.

(4) The purposes for which the Authority has been formed are to develop a regional refuse collection and disposal system, as such terms are defined in Virginia Code Section 15.2-5101 of the Virginia Water and Waste Authorities Act, including development of systems and facilities for recycling, waste reduction and disposal alternatives with the ultimate goal of acquiring, financing, constructing, and / or operating and maintaining regional solid waste disposal areas, systems and facilities, all pursuant to the Virginia Water and Waste Authorities Act.

(5) Since its inception the Authority has assumed all responsibility for the operation of the existing landfill which has served the City and the County. Additional projects will be identified by the Authority and implemented through agreements with and among the City and the County. It is not practical to set forth herein any estimates of the Authority's capital costs, project proposals and project service rates.

(6) The Authority shall cause an annual audit of its books and records to be made by an independent certified public accountant at the end of each fiscal year and a certified copy thereof to be filed promptly with the governing bodies of the City and the County.

IN WITNESS WHEREOF, the City Council of the City of Charlottesville and the Board of Supervisors of the County of Albemarle have caused these Restated and Amended Articles of Incorporation to be executed in the name of the City of Charlottesville and the County of Albemarle, respectively, by their presiding officers and attested by their Clerks this ____ day of April, 2009.

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
Mayor

Attest:

Clerk of Council

COUNTY OF ALBEMARLE, VIRGINIA

By: _____
Chair, Board of Supervisors

Attest:

Clerk, County Board of Supervisors

Mr. Slutzky asked if the Board should make its appointments at this time. Mr. Davis said the Articles of Incorporation now need to be filed with the State Corporation Commission, and as soon as it issues a Certificate of Incorporation for the amended articles it will be effective. Mr. Tucker said that it may happen as soon as July 1, but that is uncertain.

Ms. Mallek said she understood from Mr. Frederick that the County cannot go out on its own and make arrangements with one of the recycling businesses in one of the remote pickup areas because all of that had to be handled by RSWA. Now she is hearing that the City may go it alone so she hopes staff will get some clarification regarding that. The County has been waiting for the study to be completed, and for all of the group effort to happen. Mr. Tucker said the City needs to be reminded of that.

Agenda Item No. 13a. Transportation Matters: VDOT Monthly Report.

Mr. Sumpter said it is his understanding that through the process of the public hearings regarding the VDOT blueprint, several members of this Board expressed some kind words about him and his staff. He expressed his appreciation for that. In the time he has been in Albemarle, he believes a good relationship has been established with the Board and County staff. At this time, he does not know what impacts the restructuring of VDOT will bring about. He knows a methodical process was put forward, but he does appreciate all of those comments.

Mr. Sumpter said he had received calls from a couple of the Board members about a broken-off shoulder area on Route 649 (Proffit Road). He said VDOT had to get environmental clearance because the repair was close to the stream, but that repair was made yesterday.

Mr. Sumpter stated that he has still not received notice that the Commissioner has signed the award for the Advance Mills Bridge, but there is 60 days built into the specifications for that to occur. The contract has a fixed date which is around the time of Thanksgiving. He has been told by everyone concerned within the department, that it is still moving on schedule to make that fixed date.

Ms. Mallek asked if it is common that bids are challenged. Mr. Sumpter said it is not so much a challenge process as the number of steps that have to be gone through. There is a thorough analysis of the bid, and occasionally there is a challenge. Also, there is a review of the bonding documents submitted.

Agenda Item No. 13b. Transportation Matters not listed on the Agenda.

Ms. Thomas said she noticed the telephone-pole type of things going up along the highways and in the median strips. She was worried that these things had to do with cell towers, but they do not. They are for the cameras that will be used to help in accident prevention and the routing of people around accidents. She said there was a public hearing, and a citizen information meeting which slipped her mind. She said it does bring back the issue she has mentioned several times, and that is when I-64 is blocked, there ought to be a way to easily tell people what detour to take. She said whenever there is a blockage it creates a problem for people who simply do not know how and where they can get around. Mr. Sumpter said it is not VDOT's intent to proliferate the highways with poles and signs. However, another step will be installation of message boards to get those messages out to the driving public.

Mr. Dorrier asked how VDOT determines when they will pick up trash from roads, and are people still active with the Adopt-A-Highway program. Mr. Sumpter said there are still many groups that are actively doing the spring pickups. With the ongoing work of VDOT, trash pickup is not a high priority for their crews. They look at the roads which have the most trash and try to address them on an as-needed basis. Most of their attention is focused on the primary roads.

Ms. Thomas asked if there is anyway the Board might help VDOT get more highways adopted. She is part of a group that picks up trash along Route 250 West. They actually cleaned about two weeks after VDOT had done so, and there was not nearly as much trash as usual. Mr. Sumpter said he does not know of a way to do that. He knows that with the change in the level of services there is going to be further need for that program. He imagines emphasis will be put on the Adopt-A-Highway Program again.

Mr. Rooker suggested that VDOT's spokesperson work with the County's public relations staff to get the word out about the program.

Mr. Dorrier asked if people from the Jail might be used to do this. Mr. Tucker said that is done for the Entrance Corridors.

Mr. Juandiego Wade, Transportation Planner, said it was added to the County's website about two weeks ago.

Ms. Mallek asked if there is a graphic which shows the streets that have been adopted. Mr. Wade said there is not.

Mr. Rooker said it might be helpful if people could see on the website the roads that have been adopted, and also have a place where they could sign up to be on one of the crews.

Mr. Slutzky asked about the status of safety improvements on Hillsdale Drive. Mr. Wade said the project is in the hands of Facilities Development now. At this time, staff is finalizing the contracts and work should begin later this month with completion anticipated this summer.

Mr. Slutzky said the Board had approved an appropriation so Sunridge Road could be extended. He asked the status of that project. Mr. Wade said that project has been out of Community Development's hands for several years.

Mr. Slutzky said he would like to have an update. Mr. David Benish said he would make sure the Board gets an update on that.

Mr. Sumpter said the low bidder on the Hillsdale Drive project did not meet DBE goals so the contract proposal is now being reviewed by the Civil Rights Department at VDOT to determine whether there should be a recommendation for the award.

Mr. Slutzky asked if Mr. Sumpter still believes that work will begin later this month. Mr. Sumpter said it will all depend on that analysis.

Mr. Rooker said he appreciated VDOT looking into the surface deck repair of the bridge over Broomley Road. He hopes some way can be found to make that improvement.

Mr. Rooker said the design public hearing for the Georgetown Road project had a good turnout, and he felt it was handled well by VDOT. The oral comments about the project were positive. There was an assumption that there will be fluorescent green crosswalks and signs and that the sidewalks will be lighted, similar to those on Emmet Street. He thinks that internally VDOT has some aversion to using things that would draw people's attention to the fact that there is a crosswalk. He thinks a way needs to be found to do that; it is imperative to have extra safety measures made available on this road which carries over 17,000 vehicles trips per day, and where people normally speed.

Mr. Slutzky said when he discussed crosswalks for Hillsdale Drive with Mr. Sumpter and their safety aspects, it was his impression that the problem for VDOT was the cost. He asked Mr. Sumpter to get the Board information on VDOT's position on this question. Mr. Sumpter said in many cases where localities get permission to have a pilot program, eventually there is an FHWA report which says "yes" or "no." It is his opinion that FHWA has a tendency to say "no" and then say the devices need to be removed. He said VDOT's philosophy has been that the answer will be "no" so it operates on the conservative side. He has gotten eight written comments on the Georgetown Road project and they echo Mr. Rooker's comments about the crosswalks and making them visible. He said VDOT's Traffic Engineering staff is reviewing whether flashing lights are appropriate in this location.

Mr. Dorrier said there are an increasing number of marathons, races and jogging in the area. He wonders if there are any rules dealing with the routes they follow and how the runners get across the roads. Mr. Sumpter explained that typically the sponsoring entity approaches VDOT and presents the route for their race and then VDOT issues them a permit. In some cases depending on the impact of the event, VDOT provides assistance with signs or messages boards; there has to be a traffic plan coordinated with the County police to manage those types of events.

Mr. Rooker said an issue arose last year with a marathon race where the entrance to subdivisions was closed off and there was no other way out of that subdivision. In situations where people cannot get out for long periods of time because of a race, either the race should not be permitted in those areas or there should be a good plan for handling such situations. Mr. Sumpter noted that there are a couple of locations impacted by Foxfield so VDOT staff is working with track representatives, County and State police to draw up a traffic management plan.

Mr. Rooker said for years there has been concern about the synchronization of traffic lights on Route 29 in the City from Hydraulic Road to the Route 250 Bypass where they are not synchronized. Mr. Sumpter said the controllers VDOT replaced on Route 29 were supposed to be compatible with those used in the City. VDOT's Traffic Engineering department is working on synchronization at Angus Road. He indicated that work between the City and VDOT staff is more aggressive than in the past.

Mr. Slutzky asked if there has been an issue with synchronization of the County's portion of Route 29 recently. Mr. Sumpter said occasionally there is a problem. He was told that a storm threw off the timing of the light near the Lowe's store; the lights are now tied all the way through to Hollymead so if one light is out of sequence it affects everything in the entire corridor.

Mr. Rooker asked if there is some type of notice to a central office if something happens to one of the lights. Mr. Sumpter said VDOT has not progressed to that point yet; it is planned for the future.

Agenda Item No. 13c. Transportation Matters: Six-Year Secondary Road Plan, Work Session.

Mr. David Benish, Chief of Planning, said this is the annual review of the Six-Year Secondary Road Plan. The Planning Commission reviewed it in October, but staff delayed bringing it to the Board until the State transportation budget picture was better established. He said there are no major changes recommended to the Plan. Most of the issues relate to the Dickerson Road paving project and road paving projects in general. He will focus on that project and the bridge projects related to it. Based on the statewide forecasted transportation budget there will be no allocations for unpaved roads for at least the next six years.

Mr. Benish said Dickerson Road was added last year as a project to be funded using available unpaved road funds. Lacking any future funds over the next six years, there is \$1.8 million allocated to that project now. The total cost of the project including the two bridge improvements is \$12.0 million. He emphasized that the project cannot move forward using unpaved road funding.

Mr. Benish said the Board needs to make a decision regarding Dickerson Road. Staff has three proposed options for that project: one is to leave the funding presently allocated – which is not a viable option unless the County decided to augment State funding. It was hoped that Dickerson Road could provide a viable parallel road option; however, it would provide only a “useful” third parallel option. Because it would not carry a significant amount of traffic even if paved, it is a lower project on the Priority List. Although it would be a “desirable” project, given limited resources, any regular funds available should be focused on Priority List projects such as the Meadow Creek Parkway, Jarmans Gap Road, Georgetown Road, Proffit Road and then on down the list.

Mr. Benish said transferring regular road paving funds - or local County funds - would not be sufficient to fund the project anyway so the Board needs to decide what to do with the \$1.8 million. Staff has other options: One would be to transfer the \$1.8 million to identified bridge projects or other regular funding projects on the Priority List. That amount is not sufficient to adequately do any permanent improvements to the bridges on the list. Given that, he said the third option is to use the unpaved road funds for their original purpose – the series of unpaved roads that are noted in the Executive Summary.

Mr. Rooker said he does not want to let go of the idea that these funds could be used for another project in the Six-Year Plan. He referred to a statement which says: “This would effectively reduce all future allocations of road paving funds to the County.” He said the County is not getting any paving funds, so could there be a penalty assessed against the County. Mr. Benish said until the County knows it will get funds, what is referred to as a penalty would not “kick in.”

Mr. Rooker asked if the requirement to use paving funds for unpaved road projects would only apply to the current year of operations. Mr. Sumpter explained that the unpaved road funds are intended for use on unpaved roads; the Virginia State Code does allow the Board to elect to put those funds on other projects, but the amount moved in future unpaved road allocations is reduced by one mile for every \$250,000 moved. If unpaved road money showed up in the formula in 2017, that rule would apply.

Mr. Rooker responded that if that is the case he is confident the County would be able to obtain a waiver for allocating the money to more necessary projects given the current economic circumstances in the State. Mr. Sumpter said the County would need to have an exception granted by the General Assembly in order to do that because the Code says the eligible amount of funding will be reduced by one mile. That \$1.8 million would amount to about seven miles, so in 2017 the amount of qualifying unpaved road mileage would be reduced by seven miles.

Mr. Rooker asked if Mr. Sumpter had an idea of what that would amount to. Mr. Sumpter said when the Board discussed this about a year ago, he ran the numbers and it came to about \$650,000 for a six-year period.

Mr. Slutzky asked how much money the County got in unpaved road money in the last two years. Mr. Sumpter said it was about \$600,000 per year.

Mr. Slutzky said even with the \$1.8 million for Dickerson, the Board still expected it to take several years to accrue the money necessary to do that project. He said there is a possibility that with a different General Assembly, that “tap” may be turned back on, so he would hate to see the County run the risk of the penalty feeling the voters won't let this situation continue much longer.

Ms. Thomas asked which projects in Option C are setting the County up for a penalty. Mr. Benish said if the Board chooses Option C this penalty to the formula does not kick in.

Ms. Thomas said if the \$1.8 million can be used for spot improvements. She is thinking about White Mountain Road and other places where a short section of hard surfacing would do a

lot of good. Mr. Sumpter said the policy is what VDOT calls a "logical termini." They will not go in the middle of a road, and put in hard surface.

Mr. Rooker said if the Board was willing to run the risk of incurring a penalty if unpaved road money is ever started again, is there a reason why the money could not be allocated to one or more bridges. Mr. Sumpter responded that it could be allocated that way – it is listed as one of the scenarios.

Mr. Benish said he and Mr. Sumpter had talked about that option, but the \$1.8 million wouldn't go very far given the cost of those projects.

Mr. Sumpter said he would like to speak about Dickerson Road. VDOT treated this unpaved road project and the bridge projects together and felt it was feasible as one project. He said there were dedicated bridge moneys which would have been part of that funding equation. If the road isn't funded, it draws into question the viability of the bridge projects on that traffic count. If it is no longer a viable project, VDOT would then consider moving the funds as Mr. Benish mentioned in the options given or moving the funds to the unpaved road. He said that scenario would be looking at what would give the County "the most bang for its buck."

Mr. Sumpter said if the Dickerson Road bridges were lowered in priority and one of those other projects moved into its place, that \$1.8 million will not make that project happen next year. Presently bridge projects are: Advanced Mills Bridge, Dry Bridge, so if not Dickerson Road, what is the next priority? It looks like it would be 2014 or 2015 before the next bridge project would have the design work and everything completed and all the funding needed to come on line with the bridge money in order to move forward. The question is, if the Board does not want to do Dickerson Road, what bridge would be done in 2014?

Mr. Rooker said both Dry Bridge and Old Ballard Road have low sufficiency ratings, and high traffic counts. There are also safety issues with respect to the bridges and the weight load they can carry. Also there are people who live on one side of the bridges who do not receive adequate fire and rescue services because it takes ten minutes to go another way to get to these people.

Ms. Mallek said she thinks the Broomley Road Bridge would be a higher priority from a fire and rescue point of view, much more than Dry Bridge.

Mr. Rooker asked if the \$1.8 million could be used for the Old Ballard Road Bridge, which has been estimated at between \$2.0 and \$3.0 million for a replacement, why would it take five or six years from today to replace a bridge? Mr. Sumpter said the bridge itself at that location would probably cost that much. There is also a lot of approach work necessary that would require additional funding. It is his understanding that the project would still be slated for the 2014 timeframe; it is not as much the funding, as the timing.

Mr. Rooker said based on what he has seen there will not be the necessary funding in 2014 to do the project. At some point, some of these projects are going to have to be dealt with. He said there is a more crucial aspect to some of these bridge projects than in paving a couple of miles of unpaved road.

Mr. Slutzky said he agrees with that last comment, but there is another option – Option A. For the moment leave the funds in place recognizing they will sit there for a year to see if there is any change in funding circumstances in that year, rather than moving them to a road project that will result in the County being subject to a penalty. He would not mind shifting the money to Old Ballard Road versus Dickerson Road. He thinks that makes more sense as a priority. He is not comfortable risking the penalty because he believes there is likely to be a public reaction to this lack of transportation funding.

Mr. Dorrier asked if the Highway Department uses the "use it or lose it" test. Mr. Sumpter said "no." Once the funds are accrued, they are there to be used.

Mr. Rooker said the longer the money remains unspent, the less value it has. He does not think Dickerson Road will be built in the next 20 years.

Mr. Slutzky said he is agreeable to moving the money to the Old Ballard Road Bridge.

Ms. Thomas asked if he would agree to move them to Dry Bridge. Mr. Sumpter emphasized that Dry Bridge is already on a funding scheme which the District feels will get that funding in the current timeframe.

Ms. Thomas asked if the State's Bridge Fund may come to the rescue of that bridge. Mr. Sumpter said it is to be funded through dedicated bridge money.

Ms. Thomas said that project does not then have to be on the County's list.

Mr. Sumpter said he needs to get back to the discussion of Dickerson Road. He said there are two bridges on that road. The smaller bridge is currently posted at 12 tons, and the truss bridge is currently posted at three tons (it was at eight tons). Then, there is the actual truss itself and the approach span bridges leading to it. He said the approach span bridges are currently of the most concern with their condition. He said with the deterioration curve of that bridge it is possible it would be closed within two or three years. He said VDOT spent about \$300,000 to keep the Advance Mills Bridge open as long as it was open. That kind of funding will not be available to use on Dickerson Road.

Mr. Slutzky asked the cost of doing sufficient replacement work to keep the Dickerson Road Bridge open and maybe carry a greater weight. Mr. Sumpter said it's estimated to be about \$0.5 million, but the \$1.8 million cannot be used for that rehabilitation. He said the Dickerson Road paving is about \$4.0 million, with the big bridge being about \$6.0 million and the small bridge being \$2.0 million.

Mr. Slutzky said conceivably there might be some bridge replacement money coming in the next Federal stimulus package. If the \$1.8 million were available wherever it was "parked", maybe some of the paving could be done. It seems like a "shell game" until there is enough money to do anything, unless the Board wants to go ahead and spend the money on the rural roads, which he is disinclined to do.

Mr. Rooker said if the current financial situation continues, he thinks the Board should request some legislation in the next legislative package to deal with the issue of being penalized because of taking unpaved road funds allocated from prior years and putting them toward a safety project. It seems to be a common sense thing especially considering the current lack of transportation funds.

Mr. Sumpter said he is part of the equation of trying to develop a road plan, so he will summarize by saying that the options are: 1) either leave the money for the Dickerson Road projects in the plan as the same priority as now; or, 2) if the Board wants to move along until bridge funding becomes available to build a new bridge, the County will have to supplement road construction funding to make that project viable. He said with \$2.6 billion being cut from the Transportation Plan statewide, what is the likelihood that any stimulus money would become available for a bridge that carries only 200 vehicles per day. The option is to leave it in the plan with the idea that at some point the County will supplement the road project based upon current funding streams in order to make the entire project viable. If the answer to that is "no", then the Dickerson Road bridge projects must be moved down on the County's priority list. It would also be deleted from VDOT's Six-Year Plan, and another project put in its place which would be the No. 3 priority for the County. At that point, the Board could by resolution say it wants to move that money toward that project or leave it on the unpaved road list and bring others on the list in and build those. The most "bang for the buck" the County will get will be to put it in as a rural rustic project.

Mr. Slutzky said in the short term that is probably true, but if additional funding for paved roads comes out of a different General Assembly in the future then that may not be the best use.

Mr. Sumpter said that is the decision the Board needs to make today so they can finish drafting the Plan that must go to public hearing in the month of May; status quo, bridge priorities, or rural rustics.

Mr. Rooker said based on what he has heard, he would suggest moving the funds to the Old Ballard Road bridge project and try to get it done as opposed to leaving the money sitting there. He does not think Option A makes sense. Under the current scheme, the funds to do the Dickerson Road project will never be available. It would probably take more than 20 years of unpaved road allocations. The question is where to put the \$1.8 million. There are a lot of safety reasons to do Old Ballard Road Bridge. The same arguments could be made for Dry Bridge, but it does not have the fire and rescue issues that Old Ballard has, and it is in the schedule to be funded. He thinks it is more acute than throwing out more rural rustic roads.

Mr. Slutzky asked if the Board moved the money from Dickerson Road to Old Ballard Road today, it will not have incurred a penalty; that would occur when the funds are actually spent. Mr. Sumpter said he would need to confirm everything he is going to say. He knows the Board has to pass a resolution asking that the money be moved, realizing that it would have that effect – the Code does not actually call it a penalty. From that point forward, the department would work under the assumption that the County's road mileage would be reduced on any future allocation. He is not positive, but if in five years the money had not been spent but was being banked, the Board could adopt another resolution to move the funds back.

Mr. Slutzky asked if the money were left on Dickerson Road with the expectation that the Board would like to move it if there is an actual opportunity to build that bridge on Old Ballard Road, could it then choose to move the money in time to actually build that bridge.

Mr. Rooker said the penalty would not be an assessment against the County. Whenever they start up the unpaved road program again, and if there were no changes in it, then the County would have road mileage reduced from the formula that's used to compute the County's allocation of unpaved road funds.

Mr. Boyd said since the money has to be parked somewhere until there is more information about it, why not just leave it where it is today.

Mr. Rooker said in the meantime maybe some reasonable estimate can be obtained.

Mr. Slutzky asked the advantage to moving the money now versus the time when there is the actual opportunity to build the project. Mr. Sumpter said he would like to stress that both Dickerson Road and its bridges are seen as one project, so we will not be able to build the road project without building the bridges.

Mr. Slutzky said he realizes the money might be parked for another year, but if it is moved it might trigger the loss of revenues later which is effectively a penalty and still not be able to build the bridge. If the money is parked at Dickerson, would it be harder to get the Old Ballard Road Bridge project moved forward if the \$1.8 million were moved and the rest of the money found elsewhere. That bridge project will move forward at a certain pace naturally. Would that be changed by a decision to move the money? Mr.

Sumpter said that at some point a decision must be made. With the Dickerson Road project the initial scoping and survey work needs to begin within the next 18 months.

Ms. Mallek noted that the right-of-way has already been done.

Mr. Rooker said that would "blow" \$1.0 million in planning for a project when there is no expectation of receiving the funds to actually build it. Mr. Sumpter said VDOT is not going to put projects in the Plan without knowing there is a reasonable outcome in the future.

Mr. Slutzky said that was done for Dickerson Road. Mr. Sumpter said that is the reason for this conversation today. The Board has to set the direction and be able to tie down a plan.

Mr. Rooker asked if the Board might be able to amend the Six-Year Plan later in the year. Mr. Sumpter said that is possible, but would require a public hearing, etc.

Mr. Rooker said the Board needs to get answers to some of the questions raised today, but keep this in mind because the money is worth less all the time. It should try to come to some resolution on this between now and the fall, and also talk to the area legislators to try and get some flexibility for using funds that are just sitting there.

Mr. Boyd said he thinks that if there is additional stimulus money and it has to be spent, safety situations should get some consideration.

Mr. Slutzky said Old Ballard Road has the highest traffic count so it should be a priority.

Mr. Rooker said in his discussions with VDOT staff in their Central Office, the likelihood that stimulus money would trickle down to areas like Albemarle is very slim. The State has other big projects that will take precedence; the stimulus money that went to the Culpeper District all went to paving. The stimulus money is not funding any new road projects in the entire district. There is only one project on the list that has a "shot" of getting money earmarked for primary roads.

Mr. Sumpter said that is attributed to years of abdication on the part of the General Assembly. He is in favor of just leaving the money until November and the Board gets answers to its questions.

Mr. Sumpter said in the draft of the plan to go to public hearing essentially there will be no changes to the current plan.

Ms. Mallek said there were some changes in the order of streets. She asked about moving Old Ivy Road and the Southern Parkway down on the list and moving Hillsdale Drive up. Mr. Benish responded that the Board could do that now.

Ms. Mallek said she thought Hillsdale was at the top of the list. She also mentioned that the Dickerson Road traffic count in 2003 was 960 vehicles per day. Mr. Benish said there are different segments of that road. Mr. Sumpter said that is not in the section where the bridge is located, but is near the Airport.

Mr. Benish said staff had included information for the whole segment of the improvement project. The highest volume on that segment is 900, but the section where the bridge is located is low. The sufficiency rating for the span bridge over the North Fork Rivanna is at 25.5, but this data is about a year old so it could actually be lower than that. He also mentioned that the Planning Commission suggested that the Eastern Avenue in Crozet be moved up from No. 15 to right behind Sunset Avenue, which puts it in front of the Hillsdale Drive project. The intent of the Commission was just to move it up on the list.

Mr. Boyd said he does not agree with that recommendation.

Ms. Mallek said the reason Eastern Avenue is important sometime in the next decade is that Main Street will be built because things are going to change in downtown Crozet. This is the main north-south connector to downtown, but it still should not be ahead of Hillsdale Drive. She thought Hillsdale would be moved to No. 6, with No. 7 and No. 8 being moved down.

Mr. Rooker said the amount of money needed for that project is small.

Ms. Slutzky asked if the Board agrees that Eastern Avenue will be left where it is in the Plan and Hillsdale Drive be moved up on the list.

Ms. Thomas noted that the Planning Commission's discussion included moving Old Ivy Road and the Southern Parkway down on the list, and moving Hillsdale Drive and Eastern Avenue up on the list, but they never came out with a specifically numbered priority list. Mr. Benish said he will propose that staff compile a priority list for the public hearing, and the Board can change it at that time; the most important item for the public hearing is to know what to do in the VDOT Six-Year Plan as it has to be signed soon.

Mr. Dorrier asked about the money for the Hatton Ferry operation at \$120,000. He thought it was already funded, and an additional day was being added.

Ms. Thomas said a day is being taken away.

Ms. Mallek said it has been cut 30 percent and it is only going to save \$6,000.

Mr. Dorrier asked when the groundbreaking will occur for the Meadow Creek Parkway. Mr. Benish said they are staging and beginning work on it now.

Mr. Dorrier asked about the spot improvement for No. 12, James River Road, which is just outside his home. There is a three-way stop there which is dangerous. Mr. Benish said that project is still on the priority list but has not reached a point to be included in the VDOT Six-Year Plan, adding that it was requested by the Town of Scottsville.

Ms. Mallek asked if No. 5, Proffit Road, is a proffered project. Mr. Benish replied that there are some proffers toward it, but they are not sufficient to cover the entire length; this project would go from Route 29 North to the Baker-Butler Elementary School. The County has proffers for the first segment from Route 29 through the Leake/Worth Crossing intersection that would be the access into the North Pointe development.

Ms. Thomas asked if Board members had received the video of a man trying to walk down that road. It was pretty scary.

Mr. Boyd said he has walked that road many times when campaigning so he understands the danger.

Ms. Thomas said she is not arguing to move Old Ivy Road up on the list, but wonders if it has reached its build-out potential. Years ago the Board said it would not allow any more office construction until the road was enlarged and the intersection improved. Mr. Benish said that is a good question and he would need to get more information before answering. He said there was an undeveloped piece of property that under a zoning done in the early 1980s had significant development potential but only if the road was upgraded. In order to answer that question, he will have to contract the University which owns the land and may have proposals for it, but it is his opinion that it is largely built out. There were a couple of pre-applications filed recently on a couple of out-parcels which are relatively small. He thinks one was a University project. He thinks it is relatively built-out but is not sure how much of it is in VDOT right-of-way.

Mr. Rooker asked if working with the University a plan could be devised to make part of that road more pedestrian and bicycle-friendly without dealing with the bridge issue, which is a major cost. He said that perhaps they could even get a class involved adding that it could also be brought up at a PACC Committee meeting. Mr. Tucker and Ms. Thomas agreed that it would be a good PACC project. Mr. Benish said they just went through that exercise with Ivy Road so he thinks they could follow up with PACC on that.

Mr. Dorrier asked if the Southern Parkway is still in the planning stages or is it in a holding pattern.

Mr. Rooker said if Avon Park builds a connection there and ultimately the Biscuit Run development builds a connection further south, the Southern Parkway that had been contemplated might be removed from this schedule. Mr. Benish said that under the long-range plan of the MPO, essentially the Southern Parkway was moved to the vision list. In previous years it had been strongly supported by the City as an essential connector. Their direction now on the MPO is that Sunset/Fontaine Avenue is the more important new connector, and the other roads mentioned by Mr. Rooker supplant the need for the Southern Parkway, although emergency responders still believe the connection is important.

Mr. Dorrier asked about the Berkmar Road extension bridge.

Mr. Slutzky said that is the connection that makes Places29 a reasonable idea.

Mr. Rooker said he does not necessarily hold that opinion. He thinks there are a lot of ways Places29 can work without that bridge. He hasn't seen a traffic number indicating that building that bridge would take significant traffic off of Route 29 North, or that rezoning the property would not result in more traffic being on Route 29. He has always supported having it in the plan. But, he has not seen a traffic number yet that necessarily justifies the expense of building the bridge.

Mr. Boyd said he thinks the Board needs to take another look at the traffic numbers on Berkmar Drive now because it appears to be pretty high on that stretch of road now.

Mr. Slutzky said the bigger question is one the Board will have to discuss when the Places29 Plan comes before it. What is the relevance of that bridge and that road to the viability of Places 29? He was reminding Mr. Dorrier that that was the logic that got the bridge elevated in priority. He suggested the discussion be held until the Plan is actually before the Board.

Agenda Item No. 14. Outstanding FY 2009-10 County Budget Issues, Follow-up Discussion.

Mr. Tucker said his presentation tonight is based on the recommendation he will present now. During the Board's March 11, 2009, work session on its proposed FY 2009-10 operating budget, staff was requested to provide clarification on funding requests from JAUNT and Woods Edge as well as the recommended Capital Improvement Plan. He said the State reduced its funding to JAUNT by \$73,400 and will eliminate an additional \$99,295 in FY '10. Staff recommends that the JAUNT request be fully funded for a total of \$876,442 which is \$150,950 more than in the proposed budget.

Mr. Tucker said for Woods Edge, staff is supporting JABA's request to continue the Woods Edge rental subsidy for another seven years subject to some conditions. The \$40,000 needed would be

realized through a reduction in down-payment assistance funds which will have minimal impact on the assistance program and require no additional funds. Also, if an existing tenant moved out of Woods Edge, the subsidy would no longer benefit that unit, there would be a non-appropriation clause, and JABA would continue to provide quarterly reports as they do now.

Mr. Slutzky said he does not agree with discontinuation of support when units change hands, and suggested that the condition be removed.

Mr. Boyd said he feels differently about that. He has concerns because the same thing happened with the Mountainside Nursing Home facility in Crozet where the County is subsidizing permanently and forever that facility.

Mr. Slutzky said at the end of the first seven years JABA has actually demonstrated a plan for taking over the ownership of the Woods Edge project.

Mr. Boyd responded that they had the same plan for Mountainside.

Mr. Slutzky said they have an operating analysis showing that they will be able to pick up the \$40,000 subsidy out of their cash flow. They were asked to make that demonstration, and they have.

Mr. Rooker said he spoke with the Chair of JABA Board yesterday to determine whether the plan to take over and buy the project is realistic. He feels they have a very realistic plan to buy out the project when the tax benefits run out in approximately seven years. He also said that JABA will provide tonight the income level of the people being subsidized. The County is making changes to the Affordable Housing Plan to make sure it is focusing on people across the spectrum of income.

Mr. Boyd said by taking the money out of the Housing Fund, he wonders how many people will be displaced. Mr. Ron White, Housing Director, said Mr. Leonard Lohman of JABA sent him information yesterday. It looks like their plan for acquiring the property in 15 years (which is seven years from now) and taking over existing debt will be possible with their cash flow and considering annual increases in rent of three percent, and annual increases in expenses of four percent. Staff did not have that information when the proposal was put together. If the Board intends to fund this item for seven years, staff would like to put it in the budget next year as a line item rather than taking the money out of the Housing Fund particularly if the market picks up. He said that fund can provide about \$400,000 in homebuyer assistance per year so they do not want to dilute that effort.

Mr. Slutzky said he thinks that is reasonable.

Mr. Rooker said the Board is not making that decision today. Next year there will be a new budget and they will have to decide how to best fund this item.

Mr. Boyd asked how many people could be helped with that \$40,000. Mr. White said that would equate to about three people getting down-payment assistance.

Mr. Boyd asked if the County is contractually committing future boards to spending \$40,000 for the next seven years. Mr. Tucker responded that there is a non-appropriation clause attached so the Board can make changes next year.

Mr. Rooker said that year by year, the Board can look at the income level of the people being assisted, and make an appropriation decision annually based on that information. Rather than having that clause be automatic, he would rather look at some kind of income factor to determine qualification for the subsidy.

Mr. Slutzky said that second condition would then be deleted for this year. He asked if everyone was comfortable with that one change.

There was general agreement.

Regarding the recommendation for JAUNT, Mr. Rooker said the Executive Summary states that there is a \$110,000 shortfall resulting from the fact that employee turnover is less than they had planned on. They typically have a 25 percent turnover in a year and they had less than that. That implies to him that in effect they have grown the operation with less people. The lapse factor saves money.

Ms. Donna Shaunesey, Executive Director of JAUNT, explained that they save money on turnover of staff by not paying retirement. They are not subject to retirement benefits for a year. Also, health insurance is not available immediately either. Those two savings are lost by keeping good staff.

Mr. Boyd said at the last work session the Board wanted to be assured that other people were going to contribute to this gap. Ms. Shaunesey said Fluvanna County has "kicked in" most of the money requested, but Nelson hasn't yet made a statement about their budget yet. She said rates will have to be raised and cut some services in Fluvanna, but they did get additional money.

Mr. Tucker said the Board wants to be sure the extra money Albemarle contributes will not be used to subsidize other localities. Ms. Shaunesey emphasized that JAUNT only spends Albemarle's money on Albemarle clients.

Mr. Slutzky said it seems like there is a consensus based on the Executive Summary to move forward with funding for JAUNT and for Woods Edge with the one suggestion for a change. Mr. Tucker said that will be brought back to the Board for further discussion later.

Mr. Rooker said the Board will have a chance to address most of these projects when it makes the appropriations.

Mr. Boyd said he felt from the CIP meeting that the School System is taking the downturn in the economy as seriously as Local Government is. He still feels there are areas they could bring forward for reductions.

Ms. Thomas responded that she had a conversation with a teacher yesterday who had received their reduction in force notice. Those are being sent to employees.

Mr. Dorrier said he thinks the Board needs to look at the CIP Committee recommendations. He has some changes to recommend.

Mr. Tucker asked if the Board wanted to have another work session before making the FY '10 appropriations. There was that general consensus.

Agenda Item No. 15. Closed Meeting. At 12:43 p.m., **motion** was offered by Ms. Thomas that the Board adjourn into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees and commissions; and, under Subsection (7) to consider specific legal matters requiring legal advice regarding a contract for services provided by the SPCA.

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

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

NAYS: None.

Agenda Item No. 19. Call to Order.

Mr. Slutzky called the meeting back to order at 6:00 p.m. and asked that those present stand for the posting of the colors by the Monticello High School AFJROTC, Unit VA-20023, Honor Guard.

Agenda Item No. 20. Pledge of Allegiance.
Agenda Item No. 21. Moment of Silence.

Agenda Item No. 16. Certify Closed Meeting.

Motion was immediately offered by Ms. Thomas 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 session were heard, discussed or considered in the closed session.

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

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

NAYS: None.

Agenda Item No. 17. Boards and Commissions: Vacancies/Appointments.

Ms. Mallek **moved** to:

Appoint Mr. Christopher Dumler to the Region Ten Community Services Board to fill an unexpired term which will end on June 30, 2009.

Appoint Mr. Paul Clark, Ms. Meg Holden and Mr. David Mellon to the Crozet Community Advisory Council with terms that will expire on June 30, 2011.

Reappoint Ms. Robin Mellon to the Agricultural and Forestal District Advisory Committee for a term which will expire on April 17, 2013.

Reappoint Mr. Larry Wilson and Mr. Gregory MacDonald to the Charlottesville-Albemarle Convention and Visitors Bureau Management Board for terms that will expire on June 30, 2011.

Reappoint Mr. Brian Hemmert jointly with the City Council as the joint City/County Private Service Provider on the Commission on Children and Families with a term to expire on June 30, 2012.

Reappoint Ms. Amy Laufer to the Commission on Children and Families as the County's representative for a term to expire on June 30, 2012.

Mr. Boyd **seconded** the motion, which passed by the following recorded vote:

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

Agenda Item No. 18. From the Board: Committee Reports and Matters Not Listed on the Agenda. There were no reports to give at this time.

Agenda Item No. 22. **Public Hearing** to receive public comments on the Recommended Operating and Capital Budgets for FY 2009-2010, and the Proposed FY 2009 Tax Rates. (Notice of this public hearing was advertised in the Daily Progress on March 22, 2009.)

Mr. Tucker said the recommended FY 2009-10 Budget reflects changes identified in response to significant public input and work sessions held over the last few weeks. He said the sobering budget situation demands that the County make a deliberate, intense and thorough examination of where available resources are invested and that it remain mindful of and sensitive to the difficult financial conditions facing many residents. The budget is influenced by a dramatic decrease in revenues and major increases in mandated expenses which requires that substantial reductions be made in expenditures to bring forward a balanced budget.

Mr. Tucker emphasized that those choices have been made based on the following guidelines: maintaining a level real estate tax burden for the average single-family homeowner. The Board has worked diligently to balance the budget within a tax rate to keep the average residential bill flat. Sixty percent of the budget is dedicated to School operations, debt service and capital needs. Public safety and human service staffing has been maintained as much as possible. All departments and operational areas were asked to find reductions and savings with no functional service areas considered to be off the table. This budget includes a revenue shortfall Reserve Fund of \$1.35 million created by using existing funds from the VDOT Revenue-Sharing Program to be used in case of continuing reductions in revenues. Vacant positions will continue to remain open and the workforce will be reduced by nine percent through attrition. The County is looking for ways to consolidate the work of departments, where appropriate.

Mr. Tucker said changes in service levels and delays for certain projects are the inevitable result of the significant reductions proposed by this budget. Some examples of those service reductions are: reduced hours at the county swimming beaches this summer, reduction in level of maintenance such as mowing and trimming at parks and other properties, reduced hours of the drive-through window at the Finance Department, slower Police response times in the rural areas, fewer counter staff to help walk-in visitors in the Finance Department, and reduced hours for the Visitor's Assistance Center in the first floor lobby at the County Office Building on McIntire Road. He said budget requirements necessitate adjustments to programs and project schedules, but strategic priorities and the long-term course of the community will not be changed.

Mr. Tucker said he will outline the major changes reflected in the recommended budget. The Board eliminated the proposed 2.5-cent tax increase for a shortfall contingency fund for a reduction of \$3.9 million. VDOT Revenue-Sharing Funds amounting to \$1.5 million have been reallocated in order to provide \$151,000 for JAUNT services with the remaining \$1.35 million for a Reserve Fund. Also, \$40,000 of the Affordable Housing Trust Fund has been allocated to the Woods Edge Apartments to provide rent subsidies for senior citizens. Also allocated is \$3,255 for the Mohr Center, and five additional staff positions have been frozen or eliminated due to decreased revenues for a total of 55 frozen or eliminated positions.

Mr. Tucker said with those changes the recommended budget is comprised of the following components. The Operating budget amounts to \$268.3 million. The Capital budget totals about \$17.4 million. The Revenue-Sharing payment to the City amounts to \$18.0 million or about a 32 percent increase from the current year. The total budget comes to \$303.7 million, a decrease of \$30.0 million or nine percent from FY 2008-09. He said General Government departmental expenditures are reduced by \$2.4 million – or 3.1 percent. The budget is balanced on a tax rate of 74.2 cents for operations, but the County provides services on a 64.2-cent rate because 10 cents of the rate goes to the Revenue-Sharing payment to the City. There are no increases in employee compensation, and 60 percent of the budget continues to support the School Division for operations, debt service and capital needs.

Mr. Tucker reported that total County revenues amount to \$303.7 million, with property taxes accounting for about 46.0 percent of the budget, State revenues accounting for about 24.0 percent, other local revenues at about 20.0 percent. Other sources including Federal funds, use of Fund Balance and bond proceeds amounts to about 10.0 percent. On the expenditure side the School Division accounts for about 60 percent of County expenditures, General Government about 34.0 percent, and the Revenue-Sharing payment to the City amounts to about six percent.

Mr. Tucker said the budget has been impacted significantly by the downturn in revenues due to the economic conditions facing the country. Major revenue sources that have declined include property taxes, taxes and fees related to the building and housing activity, sales tax receipts, and personal property taxes – collectively these changes represent a \$5.49 million reduction in the FY '10 budget when compared to the FY '09 budget. At the same time, the County is required to meet substantial increases in

obligations and mandates in areas that are not discretionary and that it is not able to reduce. These areas include the Revenue-Sharing payment to the City of Charlottesville, School and Local Government debt service, and Tax Relief for the Elderly and Disabled – accounting for a collective increase of \$7.57 million in required expenditures.

Mr. Tucker said in order to address the combination of reduced revenues and significant increases in obligations and mandates, the County has aggressively scrutinized all expenditures to find significant reductions to work toward a balanced budget. He explained that the reduction in General Government departmental spending of \$2.4 million (3.1%) includes expansion of the frozen or eliminated positions by 20, resulting in a total of 55 positions (9%) of Local Government's workforce since positions began to be frozen in the FY 2007-08 Budget. He said this work force reduction is being managed in a careful and thoughtful way by making reductions and cuts strategically and looking for opportunities to improve County government and not just by slashing across the board in reaction to changes in the economy. He said vacant positions will be left open reducing the number through attrition, and looking for ways to consolidate the work of departments where appropriate.

Mr. Tucker said in some cases staff will be asked to take on different and expanded duties to make sure critical functions are covered. For example, on the building and development side of the Community Development Department, a slowdown is being seen, so personnel are being reassigned and staffing reduced. Between frozen and eliminated positions and shifted work assignments, Community Development is down 12 positions since 2007. Staff is still in the process of working through these types of changes; this will be a continuing job for staff as it keeps 55 positions open in order to balance the budget. In addition, non-personnel operating expenses continue to be reduced resulting in savings totaling \$1.4 million, or a 10 percent decrease since the reductions began. He reiterated that there are no salary increases for employees, there is no increase for the vast majority of community and human service agencies, there is no funding for new programs or initiatives, and there is a reduction of \$100.0 million (42%) in the Five-Year Capital Improvement Program which includes a \$31.8 million reduction in next year's budget; in most cases these projects have not been eliminated, but they have been delayed.

Mr. Tucker said this budget is balanced on an effective residential tax rate of 74.2 cents. This will result in a 2009 tax bill that is essentially flat when compared to the 2008 tax bill for the average single-family residential home – that was the guidance given by the Board for building a budget. He said Albemarle is in a better position than many localities because of its early and proactive approach to these challenges. It will continue to meet its mission of providing high-quality, cost-effective services to the citizens. In summary, the budget is balanced through aggressive decreases in various areas of expenditure totaling \$30.0 million or about nine percent; the tax rate provides for a relatively flat tax burden for the average single-family homeowner; and, the budget continues the proactive approach to savings and expenditure reductions begun in FY '07-08 including realignment of staff as necessary to perform core functions. He said that after the public hearing this evening, the Board is scheduled to adopt the FY 2009-10 Budget and set the tax rates for 2009 on April 8, 2009.

Before opening the public hearing, Mr. Slutzky reviewed the Board's policy for hearing speakers, and then invited public comment.

Mr. Tom Strassburg said he is an Earlysville resident and expressed appreciation for some Board members holding town hall meetings in their district. He said the County has learned some ways other than raising property taxes to solve budget problems, and they have achieved that through better management – especially in the personnel arena. He believes that items such as reduced police response times and elimination of reasonable cost-of-living increases to teachers and other public servants are red herrings, noting that cuts should be made to executives being paid more than \$150,000 a year in salaries and benefits. Although Mr. Tucker alluded to making tough decisions, there are much tougher decisions that need to be made. The work of the Community Development staff has been reduced drastically over the years, and he suggests that staff needs to be pared down even farther. To the extent that those employees have skills that can be used in more critical public services, great, but if not, then like any business they must be let go. Resources need to be directed to public safety, paying good teachers well and doing all the things the County really needs to do. There needs to be a better job of allocating resources and not looking to the taxpayer to make up for shortfalls in management of County government.

Ms. Amy Gore addressed the Board. She is a parent of children at Crozet Elementary and Henley Middle Schools, and is here tonight on behalf of the Executive Committee of the Albemarle County Public School Parent Council, which has representatives from the 27 schools of the County – serving more than 12,000 students and 2,000 employees. They ask the Board to fully fund the Schools budget based on the advertised tax rate. She said County residents ranked public schools as the item of highest importance in spending in the most recent Citizens' Satisfaction Survey. In January, Albemarle received the Virginia Board of Education Competence to Excellence Award in recognition of the fact that the County schools met all State and Federal benchmarks the last two consecutive years and are making progress toward the Governor's goals for increased achievement and expanded education opportunities for all of the County's students. Three County schools have been awarded the Governor's Education in Excellence award, and 12 others have received the Board of Education's Excellence in Education award. The community's commitment to education has yielded demonstrable results. Last month *Forbes Magazine* published an article on the best small metropolitan areas for development of careers and businesses, and Charlottesville was ranked 11th in the country. One of the major factors in this ranking was the community's commitment to educational attainment which they ranked seventh in the nation. She emphasized that the recommended School budget is \$149.1 million, which is \$2.2 million less than this year's budget. She said the School Board and the Superintendent worked diligently to address the tough economic times and developed a bare bones budget based on the advertised tax rate. The Parent

Council urges the Board to fully fund education at the advertised rate. If the Schools have to cut more from the proposed budget, the students and the community will suffer.

Mr. David Oberg said he enrolled his daughter in kindergarten at Crozet Elementary last Tuesday and left feeling confident that she is going to have the best education in Albemarle County. He thinks the teachers, the administrators and the staff are incredibly dedicated to ensuring that the students succeed. He agrees that everybody has to think outside of the box and hopes that creative and critical thinking are not lost during these tough budget times. He stated that in lean times, it's even more important to support education.

Ms. Jane Kulow said she is a parent of children in County schools and serves as the Murray Elementary School representative to the Parent Council. She expressed her support of the Schools' proposed budget and the 74.2-cent tax rate. She thinks Dr. Moran's budget request and the reorganization of the central office are both fiscally responsible responses to the economic situation. The budget was based on available tax revenues using the projected tax rate rather than on needs. The revenues of the County and State decreased even before the national economic crisis began. The Schools have experienced cuts and holdbacks the past two years and this year's budget represents a \$2.2 million cut from last year. She said the proposed revenue-neutral tax rate is based on projected revenues, but it is not known whether those revenues will continue to fall or not. No one knows if those projections will prove to be solid. Every bit of the proposed 74.2-cent tax rate may be needed to provide the basic needs of the County. A lower tax rate would force a \$3.0 million shortfall to the Schools in addition to the \$2.0 million in cuts which have already been made; it would also force severe tax cuts to all departments including loss of jobs through cuts to the bone rather than through attrition. She urged the Board to adopt the 74.2-cent tax rate so the School budget is fully funded and so the County can efficiently operate and serve the needs of the County.

Ms. Charlotte Hogue said the taxpayers have been asking the Board for years to run the government more efficiently but that does not seem to be getting through to them. The budget has been larger each year, and the tax rate has continually increased. County government has expanded into more space with more employees. Citizens were told that the increase in taxes was for purchasing new computers and related technology would decrease the number of employees needed and save money, but that is not so. She said the tax rate should be the same as last year's rate of 71 cents, not be raised. The County still needs to cut more spending and operate more efficiently. No new departments or programs should be created because they cost money for additional space, equipment and staff. She thinks the Board needs to look closer at the money being requested and not just accept department budgets. She thinks taxes should be spent only on absolute necessities. For example, look at the fancy and larger buildings, new football fields and expanding welfare programs. Being on welfare has become a way of life for some people. Many social programs are abused. She said the car decal fees have been increased from \$25 to \$38, and increases are also needed for libraries, parks and recreation programs. These programs should be self-supporting. She got a brochure in the mail from the County about meeting the FY 2009-10 challenges and she quoted: No funding to any new programs or initiatives. However, according to the Daily Progress two Supervisors have just committed to spending \$500,000 to create and staff a new department with the City to help people find affordable housing. Higher taxes make it more expensive to buy a house, or to rent. Those calling for higher taxes can always make a donation to the County, but should not assume that everyone can afford to pay more or even afford what they have to pay now. Because election of Board members is coming up, some Supervisors are changing their statement on tax increases. She hopes the voters in November will remember who they are and what they have done in the past.

Mr. Keith Drake said he is Chairman of the Albemarle County Truth in Taxation Alliance. He handed the Board members a copy of a petition that encourages the Board to spend County tax money more effectively and more efficiently. The proposed 74.2-cent tax rate is a step in the right direction. When the Board decided against the 76.7-cent rate a few weeks ago that was not defeat of a rainy day fund, but the defeat of a tax increase in these tough economic times. The rate of 74.2 cents represents a six percent increase on commercial real estate, and those business owners will pass that increase onto their consumers. He stated that the Alliance supports the concept of a contingency fund. That is a good tool for sound, fiscal management, but it does not want it to be created by raising taxes. Two months ago the Board received the Resource Management study from the consultants. They expect that the County Executive's report on that study to contain specific, quantified goals; a timeline; and, a report to the taxpayers. That report will show the taxpayers how serious the County is about spending tax money more effectively and more efficiently. Lastly, he will mention the concept of a windfall the County has in times of rising assessments. Hopefully, in a few years things will turnaround, assessments will increase and take the burden off of everyone. He said a rainy day fund is a good idea; do not collect it through a tax increase.

Ms. Pam Evans said cuts usually end up being paid for in other ways. She hopes the Board is not being penny-wise and pound-foolish and she will not have to pay higher tax rates for the next 10 years to cover some of the things being done now. She encouraged the Board to adopt the advertised tax rate.

Mr. Robert Hogue said the County government still has a way to go to become efficient. He thinks the size of County government still needs to be reduced. Parents do not pay their fair share; they should be paying for kids playing sports or the number of sports offered should be cut. School buses should not be run on private roads, and the School System should be more efficient. He said it is often mentioned that teachers buy supplies; it's the teacher's option to buy supplies or not. In the private sector, some employees are required to buy their own tools. He gives back to the community by helping some of his elderly neighbors. He uses his pickup truck each year to pick up more than a truckload of trash off of County roads. He has cut back on charitable donations because of higher property taxes. He pays more

than \$6,000 in property taxes for one house. He said his property taxes have tripled over the last eight years. Since the last meeting in February about the budget there have been more layoffs and cuts in work hours. Think about this and vote against the tax rate increase.

Mr. Dave Phillips said he a trustee of STAR Swimming, a nonprofit organization that supports and promotes swimming in Central Virginia. He has been working with the County for four years to find a solution to the growing problem of having too little water to support the activity of swimming between September and May of each year. He is frustrated; he asked the Board to approve an addition to the CIP budget to fund \$500,000 toward the construction of an indoor swimming facility in partnership with STAR Swimming. He said this partnership has been through a thorough evaluation by County officials and was recommended for approval because it offers the County a cost-effective way to meet both the recreational needs of Albemarle residents and the needs of competitive swimmers. He said this project was recommended for approval and was to be included in the CIP until a misunderstanding occurred that caused it to be labeled a school project. At that point, the process was seeded to the School Board and they had other priorities. He said the facility has always been intended for the use of all County residents including the high school swim teams. The facility which would expand on a current facility would be open to the public nine months of the year and host many activities. He said as part of the County's review process STAR demonstrated significant economic benefit to the County surrounding the hosting of State and regional swim meets. For all these reasons, the special review committee who evaluate the proposed partnership recommended it be included in the CIP. Only after the project was mistakenly labeled a school CIP program did it get derailed. He said they attempted to present the project to the School Board but it decided the project needed to go through the normal CIP process. They did go through the process and demonstrated a significant cost savings to the County with the partnership. He asked that the Board reconsider including this proposal and the long-term financial benefits to the County in the CIP budget. He said these are tough economic times and this type of creative solution needs to be looked at even though it does not fit in a normal departmental boundary.

Ms. Ashley Kindler said she was representing the principals and assistant principals in the schools. She has several things to mention. First, she sold a house in Albemarle County this morning based on class size ratio. Second, last week she spoke with an attorney who was working on a case involving an extensive discussion of the programs the Schools offer. He told her three or four times that he was very ignorant of the extensive services provided for students and how amazed he was at the thought that goes into almost every child's education. Third, she attended a conference recently and listened to several superintendents who had traveled to India and visited many schools. Their main message was that Albemarle students will be competing with the students in India, but she would rather think that Albemarle students will be partnering with students all over the world. She would like to be sure that the students are capable and well educated enough to think of themselves as partners and have the skills necessary. Fourth, she hopes the Board understands the implications of the No-Child-Left-Behind Act and the resources needed by teachers to be able to reach that mandate and also insure that all children are educated to their potential.

Mr. Alexander Hahn said he is an 8th grader at Henley Middle School and is a violin player/strings student there. He asked that the Board fully fund the School Board's budget. If the Board does not do so, he is afraid the strings program will be in jeopardy. He hopes there will be a vibrant music program in County schools, but in order to do so excellent teachers must be retained. He said that violin player Boyd Tinsley of the Dave Matthews Band has spoken about the music and poetry classes he had, and how they had impacted his life. He said early music training helps develop brain areas used in language and reasoning, and that music study students learn the value of a sustained effort to achieve excellence and the concrete rewards of hard work, as well as enhancing teamwork skills and discipline. It focuses on doing, as opposed to observing.

Ms. Reenst Lesseman said he came to speak in support of the request by STAR Swimming. He said County schools have problems finding pool space to practice, and this swimming proposal should be viewed as a decision of how to participate, not whether or not to participate. The project is not just an out-of-pocket proposal because there is a creditable payback. It would save on rental fees for the high schools, and would provide incremental food and lodging revenue from swim meets. Currently Lynchburg, Roanoke and other cities are beneficiaries of these large youth winter meets which can attract hundreds of families for long weekend stays and add over a thousand hotel nights and thousands of extra meals for local businesses. Local high schools would benefit from having a vastly improved facility, having better practice times and holding more local meets. He added that there would be other offerings such as Special Olympics, swimming lessons, water aerobics and scuba classes. He urged the Board to visit the current facility before the inflatable bubble comes down in May. It is old and will have to be upgraded. Part of the burden needs to be shared or he fears there will be a severe shortage of space for everyone. He believes the proposal by STAR Swimming provides a clear and tangible benefit to the citizens of Albemarle County. He asked that it be made a part of the 2009-10 CIP Capital budget.

Mr. Jake Shrum said he was Varsity Swim Coach for the Albemarle Swim Team this year. He grew up in Charlottesville swimming in the Jefferson Swim League in the summer which was an entry point to the sport. Later he swam all four years at UVA where he learned time management and goal setting, which are two great qualities for any student. He said the lack of year-round facilities in the County is a liability if swimming is going to be taken to the level it should be based on the excitement and participation it enjoys during the summer. The Albemarle Swim team at Albemarle High is forced to have its practices late (9:30 p.m. to 10:30 p.m.), four days a week, which isn't nearly enough time to get through the drills and conditioning needed to be successful. Having the kids go home at 11:00 p.m. each night is kind of ridiculous. He thinks the STAR Swimming proposal provides the ideal answer. He added that although the ACAC pool is a fine pool for practice it was not built to support a swim team; it has no start blocks and is too shallow to dive into. The swim team could not be successful without those options. He

said that six varsity sports would be helped, and the competitions would bring visitors to the Charlottesville area for meets.

Ms. Elizabeth Crooks encouraged the Board to support the STAR Swimming Program, stating that she is the parent of two children who swim competitively and have learned from their experiences. Not spending is not good for the economy. How you spend, however, is a very big difference. This proposal is smart spending. She said the request is for \$100,000 per year, which equals 3/100 of one percent of the budget and it would allow for all three high schools to swim in a new facility at no cost. She said that no School Board member made inquiries of parents or participants about the need for pool space. She added that the facility would provide programming for seniors, adults, Special Olympians and would provide space for hosting swim meets, noting that other localities similar to Charlottesville's size invest millions in their swimming facilities.

Mr. Peter Wurzer said he is director of research for Albemarle Truth in Taxation. He complimented the Board members on what was a hard task this year. He agrees with the 74.2-cent budget that the Board came up with; it represents some tough soul searching, but he thinks there is more to be done. He expressed concern about Education, Public Safety and Social Services; they are all urgent and important. He is glad to see the \$1.35 million Contingency Fund but said it is probably not enough. He suggested that the Board reallocate the ACE funding into a contingency for the Social Services Department. He thinks there will be tough times for the next few years, so he asks that the Board continue to look at areas where it can spend more wisely. He expressed concern that VRS funds might be tied into the stock market, and there could be a margin call on that next year – which would equate to two or three percent more for each employee of the County. He hopes there has been a systematic and disciplined review of the Resource Management Study. He does not think the citizens are able to take any more tax increases in the near term.

Mr. Tucker said he would like to correct something just said. The Resource Management Study is not scheduled for review on April 8, it will probably be in early May.

Mr. Eric Hahn asked that the Board fully fund the School Board's budget. As president of the student body at Henley Middle School he wants to be sure the rights and needs of his fellow students are heard and considered. In these hard economic times, it is more important than ever that the School Board's budget be funded. The quality education funded now will be an investment in a stronger community in the future. More importantly, the Board would create an educated society who would know how to think outside of the box to overcome and survive these complex times. In some instances a quality education is the only chance of hope that some students can rise above the unfortunate economic situations all are facing now. He asked what the Board envisions for the future of the community. A world-class education in the Albemarle County Public School System can create a future community of leaders, health care providers, civic leaders and even teachers. Twenty-first Century tools and programs are needed to get the students moving in the right direction. He suggested that we move toward the future and not back to the past.

Mr. Andy Lockman said he has been involved with competitive swimming his whole life. Many other localities have municipal aquatic facilities and have made year-round swimming a priority – that hasn't been done in Albemarle despite the approximately 2,500 children participating in the Jefferson Swim League during the summer. He realizes these are difficult financial times, and a new pool from the ground up facility would cost millions of dollars; the STAR proposal would require a fraction of that amount. It would provide most of the benefit one would derive from a more expensive facility. The benefits of such a facility are not just for those in competitive swimming. As a physician he has many patients who cannot exercise on land and have a difficult time finding convenient and affordable places to exercise in the water. He strongly encourages the Board to support the STAR Swimming proposal.

Mr. Sean Cudahy said he is a junior at Albemarle High School and swims both the Virginia Gators and the varsity team at AHS. He practices with his teammates (they come from various high schools in the area) from 5:30 a.m. to 7:30 a.m. each morning, and it is an ongoing problem for AHS practices which end at 10:30 p.m. He said this is an especially difficult schedule for those who get up to swim for the Gators as well, and participating on a high school swim team shouldn't involve late nights and sleep deprivation. He said a facility would be a worthwhile addition to the County and would enhance competitive swimming in the area. The lack of current facilities and the state of the existing ones are completely inadequate to a sport which has become an exponentially larger part of the County's athletic scene in the last decade. He strongly encouraged the Board to fund the proposal by STAR Swimming.

Ms. Mary Ann Doucette said she lives in White Hall and is a member of the Albemarle Truth in Taxation Alliance. She thanked the Board for their concern, wisdom, and awareness in holding the line with this proposed budget. She said that many on fixed incomes have had all they can handle. The Alliance is glad to absorb the service reductions reflected in this budget, and they ask that the Board continue to look at the budget for more possible cuts and continue the current policies to maintain a zero increase. She said government cannot do everything for everybody, and there are ongoing operation and maintenance costs associated with every capital improvement. She encouraged the Board to continue pursuing user fees and pay-as-you-go whenever possible. She suggested that the County not pay the City of Charlottesville the \$18.0 million in Revenue-Sharing money; let the City sue the County. She thinks it is a chance the Board should take.

Mr. Nick Lang said he is a County resident and his taxes have increased about 80 percent in the seven years he has owned his home. He can say that he has never heard as much thinking inside the box as he has heard from the speakers here tonight. He will address just one aspect of the budget, and that has to do with the postponement of major elements of the Five-Year CIP Program. He said that

includes transportation infrastructure, needed expansion of selected schools, and funding for stormwater management, as well as funds for sound conservation easements. Looking at these things in slow motion (i.e., the budget situation today), that makes sense until you remember that the County's population is growing very rapidly and will continue to grow. When postponing funding of capital improvements, there will be two choices to be made in the future. One will be to fund them at higher tax rates because these projects do not become less expensive over time, or cut corners and fund them less well. To him that means an assault on his quality of life. He said that as a taxpayer, he is willing to pay more taxes to keep that from happening.

Mr. Greg Quinn said government cannot provide all the needs of the people as some of that responsibility needs to fall on parents and households. Relying on government for needs is an absolute abomination. He stated that there is a country club environment in the County. He thinks the Board needs to have more power and it should go to the State and Federal legislatures, turn it upside down and collect all of the revenue here, do away with the Federal income tax and the State tax, and create a consumption tax at the local level to provide for those needs. There should be a Federal and State Constitutional amendment that would eliminate the property tax on a person's property altogether. He said we are losing our country and its original way of life. Don't throw money in a hole like the current administration is doing. He is appalled at the Socialist environment the country is merging into.

Mr. Steve Gissendanner was present on behalf of the Albemarle Education Association. He believes the decision to add a few pennies in order to create a Contingency Fund was a good one although the State is working off of what they insist are honest revenue projections. But, most Legislators have said they expect those revenue projections to be revised downward. He asked what contingency plans the Board has to adjust the budget when that occurs. At the last meeting someone asked the purpose of the proposed Contingency Fund, and what would trigger its use. He suggests the Board go back and include the Contingency Fund in the tax rate and clearly communicate both its use and its triggers. He said the Board should clarify some misleading information. Much of the public seems to think that 60 percent of the real estate tax is shared with the Schools after the Revenue-Sharing money comes off of the top. He said the 60/40 split of revenues is after a substantial number of pennies are pulled off the top for specific targeted programs. He thinks the Board should clearly explain this in a public hearing. He will reiterate what he has said for the last few years, be careful about the decisions the Board chooses to make this year because they will impact the decisions they will have to make next year.

Mr. Kip Newland said he is worried about the future of the County and expressed his appreciation to the Board and Mr. Tucker for the budget deliberations this year. As a public servant of over 40 years, he was struck by Mr. Tucker's continued optimism expressed tonight. He said the CIP budget is woefully inadequate, but he is not here to ask the Board to raise the tax rate or lower it, just to express concern that the future of the County is at risk at this point. He was happy tonight to hear the discussion and to see all of the young people here, and that much of the discussion surrounded the future of the young people. He said that is heartening because they are engaged and he sees that the Board is listening to them. He hopes they will continue to stay engaged in the future and continue to understand that the Board is doing the best job it can.

Mr. Gary Grant said he is here tonight about the process. On March 3 he attended a budget forum at the Earlysville Fire Department which Mr. Slutzky and Ms. Mallek held. That evening Mr. Slutzky said any budget questions posed by citizens would get answered. He provided both Mr. Slutzky and Ms. Mallek with five budget questions and he still hasn't received an answer to any of them. He said that on Sunday, March 15, he heard Mr. Slutzky and Ms. Mallek on WNRN Radio so he called and asked again when he might receive an answer to his questions. Mr. Slutzky indicated that staff was handling the questions, but he had not been provided with the answers. Here it is 30 days later and he still has no answers. Mr. Grant said his five questions were: Why is the Board of Supervisors' line item in the budget proposed for a 10 percent increase? Why is the Human Resources budget proposed for a 16 percent increase? Why is the budget for the Free Clinic proposed for a 1,067 percent increase? Why is the budget for CHIP proposed for a 1,016 percent increase? Why is the revenue contingency shortfall fund proposed for a 142 percent increase? He cannot comment on the budget without answers to these questions.

Mr. Harold Pillar said he has not missed any of the services which would have been provided by the 35 frozen positions from last year. At the last budget meeting, several people came forward and said they moved to Albemarle because of the school system. He encouraged the Board to consider what these people do after their children leave the schools. Do they leave the County? He suggested there be a degrading of the schools and only provide that which is needed by the children. He does not think there is a need for a world-class education system, only a good education system. He said the County is proud of having a super credit rating with Moody's and Standard & Poors, but maybe the County does not need that when it is considering paying \$18.0 million to the City of Charlottesville. Maybe the County should consider going bankrupt and getting out of that contract altogether. Although that puts a smile on the face of the Board members, it concerns \$15.0 million, and something should be done about it.

Ms. Clara Belle Wheeler said this country used to be based on a free-enterprise system, but it seems that everybody wants things immediately and they do not want to worry about how to pay for it. She has been working since she was 14. She also swam, but she worked hard to pay for it. Free enterprise would say that you put your pennies together, build a building, charge admission, and then everybody can use it. She does not think the Board can ask people who are losing their jobs and income to pay for something that is a luxury in a great many places in the world. She said people are losing their jobs, and they cannot continue to be taxed when they don't have anything to give. To the students in the room she would suggest that every student in the Albemarle County School System be required to read the Constitution, the Federalist Papers, and Atlas Shrugged.

Ms. Ann Garity thanked the Board members for their consideration of the remarks she makes in her e-mails to them and for their attendance at the IMPACT assembly on Monday night. She is the parent of a child who went through the schools in the western part of Albemarle and she is also a teacher. She knows the Board is in a difficult place, but when cutting services, that impacts people; many are also County employees. It is not so simple as to say the County will not increase services because people cannot afford it. Last week she sent a thank-you note to one of her daughter's teachers at WAHS to tell him what an impact he had had on her daughter's life. He sent back a note saying that was the physic of teaching. Most of those teaching know about physic rewards because there are not the financial rewards. She is not a full-time teacher and does not have a retirement benefit. She spent a full day a couple of Saturdays ago volunteering with the Destination Imagination tournament. She coaches a robotics team as a volunteer and provides a ride home for a child who could not otherwise participate in robotics. These are the people who are impacted by a failure to fully fund services, so she asked the Board members to keep in mind that when services are cut it has an impact on people.

Mr. Corky Shackelford said he would like to make a few remarks about the ACE Program. He said a lot of people in the County, including members of the Board, have expressed support for limiting population growth and protecting the local landscape and environment. He thinks the ACE Program, which is volunteer and offers fair compensation, is an ideal way of accomplishing those goals. He agrees with a lot of what has been said tonight about holding back on expenses and he agrees with holding back on taxes, but ACE is an important program that has enjoyed a lot of success and it should be continued. He thinks it would be a mistake to let this program be a casualty of the current budget crisis. He appreciates all of what the Board and the County Executive have done to hold the line, but he thinks this program deserves a lot of support.

Mr. Steve Koleszar said he is speaking as a citizen and taxpayer rather than as a member of the School Board. He was disappointed that the Board dropped the contingency fund, as construction costs for capital projects are some 40 percent below what they were last year and two years ago. The County could have gotten a lot of bang for its capital improvement buck if there was the 2.5-cent contingency fund. There are local companies and local contractors who are on the edge. If the County were able to do capital improvement projects, the County might keep some of those people from bankruptcy and keep some people employed and that would keep them from losing their homes because they lost their jobs. He said it is smart to cut back a little, because things will slow down, but the economy will pick up by itself. If this downward spiral into a depression continues, the only force that can bring the country out of that kind of a spiral is government. He asked that the Board watch what is happening with the local economy over the next six months and if this deep downward spiral continues, the Board will have to step up next year because construction will be cheaper and something will need to be done to create jobs. A lot of people lose their jobs in this budget. As a School Board member he is very unhappy with the number of positions that had to be cut from the Schools budget. There are certain functions they may not be able to perform without those positions. They still do not know what the revenue numbers will be and until that is known he does not know how many positions they will actually have to cut. He asked that the Board be alert because next year it will have to do something to try and revive the local economy.

Mr. Lee Schultz said he has been a County resident and taxpayer for over 30 years. He expressed his appreciation for the Board's hard work on this budget. He also appreciates the Board's attempt to make services available to County residents, but he thinks it needs to plan for five or more years into the future what will be needed in the County so there will not be problems such as those on Proffit Road with its one-lane bridge or on Stony Point Road which is narrow and has much increased traffic. He said there are tax plans that have been used in other areas that don't depend on an increase in revenue from a real estate property. Senior citizens should have some way to fix appraisal of their property so that they do not have a doubling of taxation like that in recent years. His property increased over 30 percent in one year because of inflation.

An unidentified gentlemen asked if the cost of JAUNT tickets will be increasing in July. Mr. Tucker explained that the Board will be fully funding JAUNT so there should not be any increases in the cost to ride.

There being no further public comment, the public hearing was closed and the matter placed before the Board.

Mr. Slutzky said in response to a comment made earlier, the County has a tax relief program for the elderly and disabled who are 65 years of age and older and on limited income. He encouraged citizens to find out more about the program if they feel they may qualify.

Ms. Thomas said this budget is being balanced on the backs of the people who are not getting the services, and on staff people who are doing more work because there are fewer people doing the work, and they are getting no increase in salary which means that with inflation they are getting a salary cut. She thinks that in most communities if that were done, the room tonight would have been full of very angry employees and unions and there was none of that here. She appreciates the efforts and understanding the Board is seeing from County employees. This budget is also being balanced on the back of the CIP. She said the Board can talk more about swimming facilities but cutting the CIP as drastically as it has been cut is bad long-term planning. She hopes that money is not put back in the CIP at the same time as the economy recovers because the dollar value will have fallen drastically. Timing will be crucial. She hopes the Board will not find that it has done exactly the wrong thing by cutting it this year and then putting money back when it is harder to do. She said the problem with narrow roads like Stony Point Road and the Proffit Road bridge are because of State legislators, and there wouldn't be any money to pave any unpaved roads until 2017 at the earliest. Things are not good with the roads and they're going to get a lot worse before they get better. She hopes the citizens will comment about this to their State legislators.

Mr. Boyd said he was concerned tonight when Mr. Tucker talked about slower response times by the Police in the rural areas. He thought that was going to be held harmless. He knows staff elected to reduce some positions, but he did not think they were critical police positions. He asked for a clarification. Mr. Tucker explained that additional officers are not being added, and as officers are lost through attrition, the County may experience slower response times in the rural areas.

Mr. Boyd asked if that will happen even if the Police force is not reduced. Mr. Tucker said the Police force will not be reduced. Every year the population increases and no additional officers are being added. He said a Byrne Grant may be available to the County which would give a grace period of two or more years before the County would have to fully fund the additional positions. He said this used to be called the COPS Program, and it has been used by the County in the past.

Mr. Boyd said he would like to speak about the STAR Swimming proposal. He said the proposal was brought to the Board in the summer of 2008. The Board discussed it on August 8 and decided to set up a committee to look at the proposal. He was on that committee along with several other members. They decided that a proposal could not be accepted from just one group so opened it up to proposals from others. In the second or third year of the CIP there was \$1.25 million planned for a competitive swimming at the YMCA. The proposal from STAR was for \$500,000, and the Committee asked the YMCA to resubmit a proposal based on criteria the committee established. They also had another proposal from a group in Crozet. The Committee decided that the best proposal to move forward with what was the STAR proposal of the three it had. He emphasized that the request went through the CIP process as a Parks & Recreation project because it would serve much more than just the high schools. It would be of great benefit to the high school swimming program because it provided lane space at ideal times and would be a place to hold meets. The YMCA was going to charge a fee for doing that while the STAR proposal and the Gators proposal would not charge a fee. He said this proposal was dropped along with a lot of other items that were dropped out of the CIP. He thinks it is disingenuous to say it has not been through the process, as it did go through the process. It simply was one of the items that were cut along with the \$1.25 million.

Mr. Pat Mullaney, Director of Parks & Recreation, explained that their report was given to the CIP Review Committee. They actually made recommendations on all three projects to the Committee. They recommended against funding the YMCA request for a competitive swimming facility in the first five years of the CIP; to put the Crozet Park request in the six to ten-year range; and, to consider funding the STAR request with other CIP projects.

Mr. Dorrier asked if that is at a rate of \$100,000 per year.

Mr. Boyd asked if there was not already \$100,000 in that budget for the current year. Mr. Mullaney said if the Board had decided to fund the STAR request, and because the requestor wanted to get the project started immediately, the Parks Department was going to try and find some other projects that could be cut to accommodate that funding.

Mr. Boyd said this is a project that he is very interested in. He thinks there is a great need for a competitive swimming facility in the County. The County has a terrific opportunity for take advantage of what might be called a sale. He said it really would be a multi-million dollar project if it were done later. He said the YMCA facility was going to cost \$1.25 million, and this would piggyback onto a community effort because they are going to build the pool which is a multi-lane pool designed for competitive swimming that could be used year-round, and they are only asking for the County to help with some of the costs of the enclosure. He said the Board has talked about the CIP process and where it is going from here. He said this afternoon that he is not at all happy with the way the CIP turned out. This is something he would like the Board to consider putting back in the CIP.

Mr. Rooker said he would like to get some clear direction from the CIP Committee about the status of the project and its recommendations. He found it alarming that the School Board completely dismissed the project when its primary public purpose is to serve the school swim teams.

Mr. Boyd said the Schools always viewed it as a Parks & Recreation project. He said that in the process everybody was asked to find a better way to handle the requests; County staff cut 64 percent of the CIP budget, part of which was in these swimming proposals. The School Board only cut about 17 percent from their budget. Obviously, this was not a proposal that they championed or even felt they wanted. He said the first contact for this project was made with the School Board. He thinks they were told by the Chair of the School Board to take the proposal to the Board of Supervisors. He said the Board did not have a chance to discuss the CIP this afternoon because the meeting ran over the time limit, so if the Board is going to ask the County Executive to find a way to adjust some of these projects, he would like to see this one be part of that consideration.

Mr. Dorrier said the CIP Oversight Committee is willing to look at it again.

Mr. Boyd said he thinks the Oversight Committee said they had made their recommendations, so if there was going to anymore tweaking, staff should make the next proposal. The Oversight Committee did not feel it was their job to take votes on projects, only to come up with a consensus. Mr. Tucker said he thinks the decision is now in the Board's hands. He said staff talked this afternoon about holding a work session to go through the CIP so the Board can agree or not, and then discuss these kinds of things. This needs to be done before making the appropriations, which need to be done this month if possible.

Mr. Boyd asked if the Board members will agree to include the project as part of the CIP discussion.

Mr. Rooker agreed, but said it needs to be made clearer whether the full CIP Committee is recommending the project or not. Mr. Mullaney said one thing impacted this request from a Technical Review Committee standpoint before it even got to the Oversight Committee. This was originally going to be a regular CIP year but it became an amendment year and this project does not fit an amendment year. It would not even qualify to be reviewed.

Mr. Slutzky said one fundamental attribute of this proposal that would make it worthy for the Board to look at closely is that this proposal will spend \$100,000 each of five years and that is it. Ongoing maintenance of the facility is being accepted by the private sector partner. There are also revenue implications by having a facility in the community that could attract larger meets resulting in outside dollars coming into the community. Also, the proposal will not just satisfy the needs of the school students, although that clear strong argument in favor of the proposal, but it will serve a larger public use. He thinks the Board needs to determine if it's possible to work this into this current year's CIP allocation.

Mr. Rooker said originally he thought this was a good proposal. A lot of the \$100.0 million in Capital Improvement programs that were eliminated are very defensible. Projects need to be evaluated on the basis of their benefit to the community along with the pressing need for the expenditures. He said all Board members serve on various committees, and the Board relies on those committees to make good recommendations. If this project is to be reconsidered for funding, he thinks it should go back to the CIP Oversight Committee along with additional information if it is available. He is hesitant to pull things out for separate judgment when the Board is not weighing their decision against the projects which were cut.

Mr. Boyd said he appreciates Mr. Rooker's comments, but it is also the reason the Board holds public hearings. Things can be brought forward and the Board can then consider whether it wants to reconsider them. He said the Board did that with JABA and JAUNT which were things that came to the Board's attention after the budget had been put together, and the Board decided to take a second look and make changes.

Mr. Rooker said those were not CIP requests, but operational requests. But, if this request is going to be reconsidered, he would like to have the CIP Oversight Committee to reconsider it.

Mr. Dorrier said they are in the process of redefining the duties of the Committee. There was a meeting about a week ago and there were a variety of opinions expressed as to what the Committee should be doing. He thinks they need to ask the tough questions about finances and these large expenditures. The Committee has not been voting on the various items, but instead reaching a consensus.

Mr. Boyd said there was one particular item that Mr. Dorrier suggested the Committee vote on, but there was a strong objection to that by a majority of the Committee members, at least by the School Board members who did not think it was their place to vote, specifically Local Government CIP projects.

Mr. Slutzky stated that there is a need for the Board to revisit the CIP process to insure it's reflective of what the Board wants. He thinks that is all Mr. Rooker is asking for. He said there will be a work session soon to sort out the process. If the process is not perfect now, the Board might consider this item in isolation at this time with the understanding that the CIP process needs some additional thought.

Mr. Boyd said the Committee recommended that if there were anything to be reconsidered, rather than trying to reconvene the Committee, the staff should put together the proposals and the decision be left to the Board.

Mr. Slutzky asked if the Board could discuss this proposal at the April 8 meeting. Mr. Tucker said that is possible if the Board started its night meeting at four in the afternoon.

Mr. Rooker said he, personally, would like to have someone from the Schools present at any discussion of the pool funding. Although there are general public benefits involved, its primary public benefit is the benefit to school programs. He said the Board is dealing with what is essentially a school program without some kind of consensus from the Schools that they want the project.

Mr. Boyd said there has been competitive swimming in the County for much longer than there have been high school competitions.

Ms. Mallek said if this request is going to be considered in isolation, Crozet Park has a pool the County helped to renovate a number of years ago. In their master plan, there is agreed-upon operation and maintenance without any cost to the County with the YMCA maintaining other programs there and operating the pool. She wants to make sure that if the Board chooses to go ahead with the STAR Swimming Program quickly, the students at Western Albemarle will not be obligated to travel the longer distance to the STAR pool in a couple of years when the Crozet Pool would be available. She said the budget for Western Albemarle to use lanes is \$1,500 a year. When the closer pool becomes available for the benefit of the community, she does not think it would be right that students in the area who could ride the school bus to that site would be required to be part of this package that has to continue to come to the pool in Charlottesville. She needs an answer before she can make a decision.

Mr. Rooker asked if she is suggesting that the Board consider investing in the enclosure of both pools.

Ms. Mallek said she understands the CIP Oversight Committee moved the Crozet Pool project off a couple of years. There was no discussion that it is a bad idea or that it should not be done, so she did not think that was on the table for debate.

Mr. Slutzky said he thinks the subject matter is closely enough related that the Board should include the Crozet issue in its discussions next week.

Mr. Rooker said when the CIP cuts were made, none of the three pool proposals were left in the CIP.

Ms. Mallek said during discussions the STAR proposal seemed to come out higher on the list even though it may not be funded this year. The Crozet Pool project may be six to ten years out, rather than one or two years. Mr. Mullaney said if the YMCA and Crozet Park form a partnership sooner than that and the YMCA says it can make an indoor pool work, perhaps that would be expedited in the CIP.

Ms. Mallek said there is already a written statement to that effect. Mr. Mullaney said that was the Parks Department's recommendation during the August 8, 2008, presentation to the Board. If the County chose to participate in the STAR proposal, when the Crozet Pool is ready, if Western Albemarle chooses to go to Crozet and pay for lane space, they could do that instead of swimming for free at STAR's pool.

Mr. Boyd said there is nothing in the agreements that said any of the high schools have to use the STAR facility, they were just making space available for free if they wanted to use it.

Ms. Mallek said if the County makes an investment that is a *de facto* obligation she wants clarified. She said the Crozet community is separated from the rest of the urban core; there are already 6,000 residents in the area, with more to come. There is certainly a public need to have recreational facilities close by. The Board has been working hard in other ways in the downtown area of Crozet with the new zoning, the library project, etc. to create a true walkable community. She was glad to hear tonight about the public access for the STAR pool through the rest of the year; she hadn't heard that before. She said the STAR pool was supposed to be strictly for students and that is a huge comparison to a pool that is available to the public all of the time. She thinks that once the Crozet Pool application became public, others adjusted what they were going to offer. She appreciates the effort of all the citizens and staff throughout the whole process. The Board has gotten ideas and constructive criticism from people on all of these issues. She thinks it has been a more productive process this year. She is afraid that some of the things the General Assembly has done to future budgets will not be felt this year, but in years later. She said there are State cuts affecting localities that will be nasty in a couple of years.

Mr. Rooker said part of the cuts at the State level have been held harmless for a couple of years by the Federal Stimulus Act, which will expire. When that happens, the cuts at the State level will hit education and other areas in a big way. He said the Board is being required to pick up more and more obligations that used to be the State's responsibility – such as funding for JAUNT. In the way of transportation, the County will only get 15 percent of the funds it got six years ago and that is before adjusting for inflation. He said the rural paving program is gone. In the next five years there will be no paving projects. The Board's job is becoming more difficult by what happens in Richmond. A lot of the public hearing comments at the first public hearing were incorporated into this budget, but it's impossible to satisfy all people at all times. It is the Board's job to try and reach a reasonable balance between taxation and providing needed services, and to have the kind of quality community that he thinks all enjoy and want to continue. The quality of education being provided in the County has been exemplified by the quality of young speakers that came before the Board during these hearings. He said they were articulate, well-spoken young people who are a credit to the community, and he thinks they give everybody confidence in the future. He thanks the public education system in Albemarle for doing a terrific job. Finally, some of the dangling issues like the swimming pools will be looked at and the Board will deal with them in the best manner available.

Mr. Dorrier congratulated Mr. Keith Drake for his leadership in bringing this forward. He has put a lot of work into this and deserves credit for it. He said the citizens who spoke persuaded him that the Board needs to listen and act. He said when all six Supervisors agreed to the 74.2-cent tax rate, his phone stopped ringing. He thinks each Board member arrived at that figure for a different reason. He thinks it's going to work for the County; but, the process needs to be built on next year.

Mr. Rooker said he would like to thank staff for the terrific job they did during this budget process.

Ms. Thomas said it was very hard to get that 74.2-cent tax rate, but it did happen.

Mr. Slutzky said the advantage of being the Board's chairman is that he gets to hold the gavel, but the disadvantage is that he gets to go last and everyone else has said the things he had in mind to say. That just reflects the fact that most of the time the Board is of a common mind. He thanked everyone who came out on a rainy, cold night to share their views on matters of public policy. He said the Board appreciates the time and effort of the citizens, and it does listen to them. He reiterated Mr. Rooker's comments about the extraordinary job staff did this year in building a very good budget at a very difficult time.

Agenda Item No. 23. From the Board: Matters not listed on the Agenda.

Mr. Slutzky said he understands there are three Board members who would like to participate in the Route 29 Study Leadership meeting tomorrow afternoon.

Ms. Mallek said it is part of the long distance study going on and runs from two o'clock until 5:30 p.m. at the COB on Fifth Street.

Mr. Rooker said it pertains to the Route 29 Corridor Study and he has already responded that he will attend.

Ms. Thomas said she also will attend.

Mr. Slutzky said he will also attend.

Ms. Thomas asked if it is an Open House type of meeting.

Ms. Mallek said it is a roundtable study session.

Mr. Slutzky said in order to be empowered to discuss matters that relate to County business, which may happen, he thinks it would be best to convene a meeting at that time, and then the meeting can be adjourned to the next meeting on April 8. Mr. Davis said that would be necessary if the Board intends to meet earlier than its regular meeting time on the 8th.

Mr. Boyd said he cannot attend tomorrow.

Mr. Rooker said this is a meeting called by the State which is doing a study of the Route 29 Corridor. He said there have been a good number of meetings like this in the past where transportation items were discussed and members of the Board attended without calling it a meeting of the Board. Mr. Davis said if the purpose of the meeting is to meet and discuss, then it would be a meeting. If the Board members were only going to attend and not participate, there would be no need for a meeting. It sounds like this is a participatory meeting and it would constitute a meeting of the Board if there are three or more members in attendance.

Agenda Item No. 24. Adjourn to April 8, 2009, at 4:00 p.m.

At 8:22 p.m., with no further business to come before the Board, **motion** was offered by Mr. Slutzky to adjourn this meeting to the County Office Building on Fifth Street, Room A, at 2:00 p.m. on April 2, 2009. Ms. Mallek **seconded** the motion, which passed by the following recorded vote.

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

NAYS: None.

Chairman

Approved by the Board of County Supervisors

Date: 09/02/2009

Initials: EWJ
