

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on May 6, 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 H. Mallek, Mr. Dennis S. Rooker, Mr. David Slutzky and Ms. Sally H. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

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

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

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Agenda Item No. 4b. Recognition: Proclamation recognizing May 10 through May 20, 2009 as National Law Enforcement Officer's Week.

Mr. Slutzky read the following proclamation into the record:

**NATIONAL LAW ENFORCEMENT OFFICER'S WEEK**

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

**WHEREAS,** Albemarle County is faithfully served by a professional and committed Police Department whose men and women are dedicated to providing outstanding service to the community; and

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

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

**WHEREAS,** we will be recognizing Police Memorial Day in Albemarle County with a special ceremony to be held on May 15, 2009;

**NOW, THEREFORE,** I, David Slutzky, Chairman, on behalf of the Albemarle Board of County Supervisors, do hereby declare and set aside the week of

**May 10 through May 20, 2009, as  
NATIONAL LAW ENFORCEMENT OFFICER'S WEEK**

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

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Agenda Item No. 4a. Recognition: Proclamation recognizing May 9 through May 17, 2009, as National Tourism Week.

Mr. Slutzky read and presented the following proclamation to Mr. Kurt Burkhart, Director and CEO of the Charlottesville-Albemarle Convention and Visitors Bureau:

**NATIONAL TOURISM WEEK**

**WHEREAS,** the travel and tourism industry in Albemarle County is vital to our economic stability and growth; and it contributes significantly to our County's cultural and social climate; and

**WHEREAS,** the travel and tourism industry supports the vital interests of the Albemarle County community, contributing to our employment, economic prosperity, international travel and relations, peace, understanding and good will; and

**WHEREAS,** in 2007 the Virginia Tourism Corporation reported \$268.0 million in tourism revenues attributed to County businesses; and approximately 4,764 people work in fields in Albemarle County directly related to the hospitality industry, including lodging, food service, and attractions; and

**WHEREAS,** the Tourism Fund in Albemarle County provides significant monetary support to the County's Acquisition of Conservation Easements (ACE) program which preserves and protects critical rural resources; and

**WHEREAS,** every citizen in Albemarle County benefits from the tourism industry; and it is fitting that we recognize the importance of travel and tourism.

**NOW, THEREFORE, BE IT RESOLVED,** that I, David Slutzky, Chairman of the Albemarle County Board of Supervisors, do hereby proclaim the week of

**May 9 through May 17, 2009  
as  
NATIONAL TOURISM WEEK**

in Albemarle County, and I call upon all citizens to recognize the value of the tourism industry in our community and to observe this week with appropriate ceremonies and activities.

Mr. Kurt Burkhart, Director of the Charlottesville/Albemarle Convention and Visitors Bureau, thanked the Board on behalf of the thousands of individuals who give their service and contributions to the local economy. He said that every day in America, tourists spend \$2.0 billion. He mentioned that next week the Bureau would distribute red buttons to area businesses like the one he is wearing to help spotlight tourism and hospitality. He added that he has submitted an op-ed piece for Sunday's Daily Progress, and plans to make other media appearances as well.

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Agenda Item No. 4c. Recognition: Proclamation recognizing May 4 through May 10, 2009, as Public Service Recognition Week.

Mr. Slutzky read and presented the following proclamation to Mr. Tucker:

**PUBLIC SERVICE RECOGNITION WEEK 2009**

**WHEREAS,** Americans are served every single day by public servants at the federal, state, county, and city levels. These unsung heroes do the work that keeps our nation working; and

**WHEREAS,** public service is among the most demanding and noble of professions; and

**WHEREAS,** **Public Service Recognition Week** is observed annually to celebrate and recognize the valuable service that millions of public servants provide to the nation; and

**WHEREAS,** over 500 Albemarle County Local Government employees work tirelessly throughout the year to serve our residents, businesses, and visitors, providing them with the highest level of customer service and maintaining careful stewardship of the resources with which they have been entrusted; and

**WHEREAS,** without these public servants at every level, continuity would be impossible in a democracy that regularly changes its leaders and elected officials; and

**WHEREAS,** we appreciate the many accomplishments and contributions made daily by these public servants;

**NOW, THEREFORE, BE IT RESOLVED** that we, the Albemarle County Board of Supervisors, do proclaim

**May 4 through May 10, 2009  
as Public Service Recognition Week**

and call upon the citizens of Albemarle County to join their fellow citizens across the County to recognize crucial role of public employees.

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Agenda Item No. 4d. Recognition: Business Appreciation Week.

Mr. Slutzky stated that the next recognition would be for Business Appreciation Week.

Ms. Susan Stimart, Business Development Facilitator, recognized first NIITEK.

Mr. Chris Riley, Senior Director of Manufacturing for NIITEK, noted that the County has been very supportive of the business which has grown from seven employees in 2006 to 60 currently, with 90 to 100 employees total expected by the end of the summer.

Ms. Steimart next recognized Starr Hill Brewery.

Mr. Mark Thompson of Starr Hill said Thomas Jefferson wrote the Declaration of Independence with a few pints at hand and added that "if we ever got back to the culture of solving complex problems around a couple of pints of beer we'd all be a lot better off for it." He said the brewery owners have worked hard to make the ConAgra building in Crozet work for their facility, and thanked the Board for its support.

Ms. Steimart next recognized Music Today.

Mr. Del Wood, Chief Operating Officer of Music Today, thanked the Board and Ms. Steimart for all of their support. He said their offices are also located in the ConAgra building, adding that business has been very challenging but Music Today has enjoyed prosperity and the ability to innovate.

Ms. Steimart next recognized Booz Allen Hamilton, which is expanding locally to help meet the technology needs of Rivanna Station.

Mr. Frank DiGiacomo, Lead Principal for Booz Allen, stated that the company began in 2005 with six employees and now has about 70. He said the company has been entrusted with national security technology, adding that the arrival of BRAC/NGIC employees would change the Charlottesville area significantly.

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**Non-Agenda.** Proclamation recognizing May 9, 2009, as Letter Carrier Food Drive Day.

Mr. Slutzky read and presented the following proclamation to Ms. Brenda Farrell:

**LETTER CARRIER FOOD DRIVE DAY**

**WHEREAS,** in May, 2008, the National Association of Letter Carriers, assisted by the U. S. Postal Service, held its 17<sup>th</sup> Annual Food Drive for the Charlottesville-Albemarle area food banks; and

**WHEREAS,** this one-day project garnered more than 37,000 pounds of food which was channeled by the Thomas Jefferson Area Food Bank to more than 100 different agencies serving the County of Albemarle, the City of Charlottesville, and seven surrounding counties; and

**WHEREAS,** the National Association of Letter Carriers, in conjunction with Feeding America, the Thomas Jefferson Area Food Bank and the U. S. Postal Service will be collecting nonperishable food items on **Saturday, May 9, 2009**; and

**WHEREAS,** on **Saturday, May 9, 2009**, every postal customer can leave nonperishable food items in bags near their mailboxes. When the letter carrier comes by delivering mail on his or her route, the food will be collected, taken back to the Main Post Office and delivered to Feeding America – Thomas Jefferson Area Food Bank.

**NOW, THEREFORE,** I, David Slutzky, Chairman, on behalf of the Albemarle County Board of Supervisors, do hereby recognize

**Saturday, May 9, 2009 as  
LETTER CARRIER FOOD DRIVE DAY**

in Albemarle and call upon all citizens to recognize the significance of this event and to help make the event a success.

Mr. Slutzky said every postal customer can also leave food items in bags near mailboxes.

Ms. Brenda Ferrell thanked the Board for the proclamation, noting that the post office doesn't pay for the nuts and bolts of the operation, but does provide the carriers and their vehicles. She emphasized that the carriers volunteer their overtime to collect the food and get it back for distribution.

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

Ms. Thomas said it has been suggested that notices of vacancies on Boards and Commissions be placed in more creative places such as at JABA or MACAA, and Creciendo Juntos. She said that is extra work for staff, so as just one member of the Board she will not ask that they do this, but if all Board members think it would spread the word about these openings, it could be done. She said there is general shaking of heads.

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Ms. Thomas noted that there is a new Executive Director of the T.J. Planning District Commission.

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Ms. Thomas said the Rivanna River Basin Commission has now hired a part-time Executive Director; it is Ms. Leslie Middleton.

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Ms. Thomas said that StreamWatch is now fully certified, so DEQ does not have to second-guess what their reports are. They are the first volunteer group in the State to receive that kind of recognition; it is also a money-saving thing. The State will not have to send inspectors to see whether Albemarle's streams are as StreamWatch found them.

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Mr. Thomas reported that she spent almost a week dealing with the Chesapeake Bay, including attendance at a meeting where the secretaries of natural resources for all states gathered. There were two big messages that she will mention. The EPA is finally recognizing that they need to deal with local governments in order to clean up the Bay. That is not something they had recognized before. Also, there probably will be a "nutrient diet" put down on all tributaries; it will be difficult to meet the requirements as they may be proposed. Albemarle has less impact on the Chesapeake Bay than other tributaries, but will probably still be put on some kind of nutrient diet (TMDL). She said to keep that in mind as the Board discusses stormwater this afternoon.

Mr. Rooker said there was a long article in the *Washington Post* recently about lowering the goals for cleanup of the Bay based on new computer modeling.

Ms. Thomas said that was a strange article and has been the subject of many blogs. The analysis they decided not to do was essentially more studying and less action. It was decided to go stronger forward; the science being done is finding that they were too optimistic about the effects of best management practices. The effect that buffers have on the nutrients going downstream had also been overestimated, so does that mean that more will be encouraged or will they shift to focusing on different areas? They were uncertain.

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Mr. Boyd reminded everyone that on May 18 the Pantops Master Plan Advisory Council will hold an open house at the Broadus Memorial Baptist Church on Route 20 North from 4:30 p.m. to 6:30 p.m.

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Mr. Boyd said the Board's decision not to hold a public hearing on the proposed Fire/Rescue Ordinance leaves a lot of people wondering what will happen from this time forward. He suggested that the Board schedule a work session on this subject in June.

Mr. Slutzky agreed. He said the Board has to deal with this issue, but he thinks it was appropriate to pull it from the agenda - holding a work session makes sense.

Ms. Thomas said that was her suggestion in the first place. She has talked with Mr. Larry Claytor, the person who was planning to get the auditorium packed with people, and he has said he will do the same even if it is titled a work session. She thinks it would be best to send this matter back to the committee rather than opening it up to a big group discussion. She thinks the Board needs to give different guidance to the committee, but she does not think that having an auditorium packed full of people who will be suspicious and wondering what the Board "is up to now" is necessarily the best way to proceed. She is not adamantly opposed, but did want to mention it so the Board realizes it will be an auditorium packed full of people.

Mr. Slutzky said he would be happy to have a lot of attendees present on any issue the Board discusses. Although the Board does not traditionally take public comments during a work session, he will suggest that the Board schedule this for a work session in June, and ask a number of people to participate on behalf of the fire and rescue community – this might be a constructive and transparent dialogue and not overwhelm the process.

Ms. Mallek asked if at that meeting in June the Board would discuss changing the charge to the committee which seemed to hang up development of the ordinance. She said the committee was responding to the definitions originally given. If that is what the Board would be talking about in June and reorganizing strategic planning and having enough time to discuss all of that, that is fine. However, she thinks the public needs to be assured that the Board has reached a conclusion about the current wording. She said a lot of people spent a lot of time and effort in helping the Board understand their concerns about the current draft.

Mr. Boyd said the committee was established to carry out the unanimous directions of this Board. It appears that there is not unanimous support for that now. It was clearly decided by this Board that it wanted to move forward with a fire chief system approach, and that is what the committee undertook to do. If it is no longer the desire of the Board to have a fire chief or that no fire chief is needed for the system, there has to be a discussion of this before assigning anything back to the committee.

Mr. Slutzky said he does not envision having a discussion centered on the proposed ordinance. While he agrees with Mr. Boyd, it was clear to him that the proposed ordinance would meet with resistance from the people it pertained to for many reasons. He thinks the Board needs to discuss its commitment with respect to the governance issues of the fire and rescue system and the process steps necessary to get to closure on this issue so everyone involved is comfortable. The volunteers, who are so necessary to the County, need to be a part of the discussions.

Mr. Boyd said there is an ACFRAB meeting scheduled before June, so he and Ms. Mallek can take this proposal to them and ask that representatives of the various companies be allowed to participate at that meeting.

Ms. Thomas thanked Mr. Boyd and Ms. Mallek for working on this matter. She said Mr. Boyd was put in a hard spot by the Board when it said the starting point was this thing called "a strong fire chief form." She did not realize that would be a block and make this process almost impossible. When she heard that the whole group was unanimously opposed to this ordinance, there was no way for the Board to go forward. She thinks the Board "set up" Mr. Boyd and Ms. Mallek to do something that was not possible.

Ms. Mallek said it was not time wasted because there were good discussions which involved all the members. This will provide a good basis on which to go forward.

Mr. Rooker said there need to be open minds in both directions on this ordinance. In discussions he had with various members of fire and rescue, they had problems with particular words in the existing draft of the ordinance. They didn't express a desire to have the ordinance completely restructured. The ordinance is not long, and a lot of it is boilerplate. The sections of the ordinance which are operative, and the ones on which people have concerns, are only three or four paragraphs long and there is not a huge degree of complexity. He thinks this is a good time to get revenue recovery in place. It is a mistake to look at some of these things as if they are "joined at the hip" because they are not. He said the rescue people seem to be interested in moving forward with revenue recovery, but there are some structural issues they want dealt with. He thinks it would be a mistake not to move forward quickly.

Mr. Rooker said that between the two ordinances, one is more important to get in place. The structural ordinance is important, but the fact is that the system is not broken. The system is responding to calls; there has been no indication that the system operates at anything less than professional utilizing both paid and volunteer people. He recommends that the Board focus on getting revenue recovery in place - it just deals with rescue services. Then, the Board could come back to the structural ordinance. Considering them together just "bogs down" the process and creates complexity. There is a good opportunity now to get revenue recovery in place to offset some of the increased cost of emergency services. There are indications that the County might recover about \$1.5 million a year of the funds going to emergency services. The rescue squads understand this is necessary and that even the more rural counties are tapping into the funds which are available from Medicaid, Medicare and insurance companies. He strongly urges the Board to move forward on that component, even at the expense of setting aside the structural ordinance.

Mr. Boyd said he did not want to have that discussion today but he thinks the Board needs to discuss how to move forward.

Ms. Mallek said in the minds of many volunteers the two issues are linked because they need a sense of trust that the structural ordinance would be done to recognize them. Their discussion and willingness to go forward with revenue recovery was after the other discussion had taken place. She said the Board needs to recognize that and to proceed accordingly.

Mr. Rooker said that was not the impression he got from the same meeting Ms. Mallek attended. After that he had e-mail exchanges with several people that did not indicate that to him at all. He thinks the Board is making a mistake by joining these things. He thinks revenue recovery, if done in a way that meets the reasonable needs on both sides, is a "no-brainer." He does not think the two things are logically joined, and the Board needs to get going on revenue recovery. It is a significant drain on the taxpayers and he does not think it needs to be tied to another ordinance where there seemed to be a lot more opinions about how it should be done.

Ms. Mallek said she was not trying to tie the two ordinances together, but she just wants to make it clear that the Board is not planning to revive the identical ordinance that is being set aside now after revenue recovery is done.

Mr. Slutzky said to the extent that the proposed ordinance was unanimously rejected by the participants it isn't realistic to think it would go forward in that form. He agrees with Mr. Rooker's analysis that the Board needs to move forward with revenue recovery. He suggested that at the next meeting of the volunteers, Mr. Boyd and Ms. Mallek ask them to come to the Board's meeting in June for a work session to discuss both issues knowing the Board is not planning to move forward with the two ordinances interconnected. He still thinks the Board needs to address the issues of governance in a way that all participants can be satisfied. While he agrees that the system is not broken, there is a fair amount of anxiety on both sides that needs to be resolved.

Mr. Boyd said he would hope that the outcome from the work session would have this Board giving directions to both ACFRAB and the committee on either or both of those ordinances.

Mr. Slutzky said he agrees although would not be prepared to give any directions at that time. He thinks all Board members have had meetings with different participants, and that has been healthy, but each has picked up different perspectives and that shows him there is not a cohesive outcome available yet.

Mr. Dorrier commented that he is not convinced an ordinance is necessary on either one, as agreements with volunteers would likely suffice.

Mr. Slutzky said he thinks an ordinance is needed, just not the ordinance proposed. He said there are issues in that ordinance which are of concern to the volunteers, but there was not an overall rejection of the total framework. There were important elements of it that were contentious.

Mr. Dorrier said he thinks a contract with the volunteers may be what is needed.

Ms. Mallek said that would be something to discuss in June.

Mr. Boyd asked that staff collect information from similar counties about what they are doing, whether they have ordinances or agreements, etc.

Ms. Thomas said she put that challenge to some of the fire people that she talked to because this has been frustrating. The Board has received conflicting information about what is happening in other localities. She would like to see a good model if there is one available.

Ms. Mallek said she has requested updated information from supervisors in both Stafford and Prince William counties.

Mr. Slutzky said he would like to see Chief Dan Eggleston and the volunteers agree on which peer communities are actually relevant to this discussion.

Mr. Boyd said there has been difficulty in getting everyone to agree on what communities to contact. He suggested taking a neutral approach in collecting data for analysis as part of the staff report.

Ms. Mallek said the committee studied ordinances from about 20 different counties. Several were discounted immediately because they didn't meet the charge which is why she thinks there should be a discussion of the charge. That has been the logjam.

Mr. Tucker said when Mr. Boyd and Ms. Mallek meet with ACFRAB they need to discuss that point. However, the Board needs to decide what specific information should be collected. That needs to be agreed upon by both the volunteers and staff. Who should collect that information, ACFRAB or staff?

Mr. Boyd said he wants to go back to the basics – do they have an ordinance or not, do they have an agreement or not?

Mr. Tucker said if that is all the information the Board wants that question can be settled now. He said the Board's meetings in June are extremely heavy, so there may need to be a third meeting scheduled on June 17. That will not be definite until all of the Board members agree.

Mr. Rooker cautioned against getting these two issues tied together. He said fire services have nothing to do with revenue recovery. That is a rescue squad matter. The Board's representatives need to work with representatives from the rescue squads to see if they can reach a basic agreement as to how it can work. He said the County Attorney needs to be involved because there are legalities involved. He urged that the Board's members set up a small committee of rescue representatives and start working as quickly as possible. He said the two issues need not be confused since the people involved with fire services will have no interest in that subject.

Mr. Slutzky agreed that the issues are separate and probably should not be considered together. It is unclear to him as to who would participate in the discussions. He said before the Board's meeting in June, staff should get in touch with some of the leaders of the rescue squads and confirm that revenue recovery can move forward. He said they should also determine who in that group should represent them before the Board.

Mr. Tucker responded that there is already a group. Mr. Boyd, Ms. Mallek and others have met with them.

Mr. Slutzky said part of the problem has been that the Board makes assumptions that have not been confirmed. He thinks Mr. Rooker is correct about this matter.

Mr. Rooker said he attended a meeting with Ms. Mallek and representatives from each rescue squad. They all seemed to be in agreement that this is an important ordinance and something that could move forward, but they had certain concerns they wanted dealt with. He thinks the Board would be remiss in not dealing with that group on an issue that just pertains to them and the County.

Mr. Slutzky said if that is the case, the Board should anticipate that before that meeting there will be an active discussion with representation so there is a framework of understanding.

Mr. Tucker said that should go through the committee.

Mr. Rooker agreed. He said there is a structure in place to have those discussions and it should continue.

Mr. Slutzky said it is important that everyone in the public understand that this Board recognizes the value to the community of having a successful volunteer system. The ultimate goal is to preserve and protect the level of volunteerism that the County has benefited from in the past.

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Ms. Mallek said there is new software through NACo called "Canvas" that can be used to overlay images to get a unique view of what things look like from a distance. She said this was mentioned in a

NACo Newsletter and she hopes that all of the Board members had read that article. It is apparently free through their contacts.

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Ms. Mallek said there is an exhibit at City Space this entire month called "Urban Spaces Rural Places" which is a connection between urban areas and the rural countryside. She said some local, world-renowned artists and photographers have things on display there.

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Ms. Mallek mentioned that at a discussion with the Route 29 study group last week she learned that interaction with the Virginia Railway Express has been the cause of the change in times for the train which is planned to begin in October starting in Lynchburg. It was set for an early departure from Lynchburg, allow people to board in Charlottesville, and get into Washington, D.C. at about 9:00 a.m. She said the VRE has vetoed that so she is hoping the Board will consider making a request to the local Commonwealth Transportation Board members to address the issue.

Mr. Rooker said there is a Six-Year Plan meeting for commenting in early June. As part of the Board's statement, it should include thanks for it being funded, but point out that if it is going to be successful the timing of the trips need to be such that it can capture the most potential riders.

Ms. Mallek said this area loses its slot for the train that goes all the way to New York if they change the times around. It is very disappointing.

Mr. Slutzky said he will try to talk with the VRE folks because he thinks they recognize the impact it might have on their ability to manage their overwhelming new ridership which is a challenge. He will point out to them that it is not in their long-term best interest to have the local route fail due to lack of ridership.

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Ms. Mallek said she would like to have a clarification discussion about family subdivisions. There is confusion on the part of the public, and possibly among Board members, about how the "time years" are interpreted. Is the parent parcel also "locked down" for four years when one section is taken out for a child? She would like to have an official discussion of that put on the agenda.

Mr. Slutzky said that is a straightforward legal question. He asked the County Attorney how that works since there is an ordinance which says it is "x" number of years before and "x" number of years after a division. Does that pertain to the entire parcel, or the subdivided parcel?

Ms. Mallek said the wording is that it "encumbers the parent parcel."

Mr. Davis replied that it is a subdivision and it encumbers all the parcels. He said he will have to check to be sure that has been the consistent interpretation. He believes the ordinance was intended to apply to all lots created – which includes the parent parcel – without regard to size.

Mr. Rooker said if there were four acres divided into two parcels that would be understandable. However, if there are 75 acres and there is a family subdivision which breaks off only a small piece, it would not seem practical to encumber the 73 acres which remain.

Ms. Mallek said this creates a hardship for families with multiple children, so she would like to have this placed on an agenda for discussion.

Mr. Slutzky said the Board should ask Mr. Davis to provide it with a description of ordinance requirements and what options the Board might have to adjust those requirements – the Board may not have any discretion in this matter. He asked if enabling legislation allows the Board the liberty of burdening only one of the parcels.

Mr. Davis said the County has a lot of flexibility in the enabling legislation. It is how the Subdivision Ordinance is drafted. He was not aware this had been an issue previously – it had not been brought to his attention. He suggested that Community Department present a report as to how this regulation works and how it has been interpreted in the past. As far as amending the ordinance, there is a lot of flexibility – this ordinance has not been changed significantly in the past 25+ years. This aspect has not been changed, although the amendment made a year or more ago makes it more significant because of the change in the timeframes concerning family divisions.

Mr. Slutzky said he has heard that it is now an issue, whereas before it was changed from two years, it was not. Mr. Davis said before the last amendment, the division required owning the land two years before and after the division and now it is four years.

Mr. Slutzky said staff should present the Board with a staff report detailing how the family divisions are working now. There should also be some suggestions as to how to address the issue.

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Ms. Mallek said timbering and forestry applications have a long list of applicable best management practices and requirements – to her the most important is that the day the work begins a silt fence has to be erected. For developments, the County has been allowing timbering to go ahead and not require the silt fence to be erected until after the stumping is done. She said that could take a number of years. There has been land that sat open for a long time between when the trees were removed and the

actual work began. There has been significant erosion during that time. She would like to have this placed on an agenda for a discussion of raising the standard for development parcels to be sure proper E&S regulations are happening. This was brought to her attention by foresters who were appalled at how they see people using staggered timetables.

Mr. Slutzky suggested the Board discuss this issue later today when it discusses the stormwater issue.

Mr. Rooker asked when the discussion of red light cameras will be on the agenda. Mr. Davis responded that it has tentatively been scheduled for a July meeting.

Mr. Slutzky said he had a meeting with Fashion Square Mall representatives. At one of their properties in Roanoke, they have a kiosk for their public library and a place where people can come in and use a computer as they would in the library – they can also place a request for a book which will be put in a wall slot and a citizen can then come in at a time which suits them and pick up and drop off books. He shared this information with the County Executive and the Library Director and the idea will be explored for the regional library here.

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

Mr. Jim Morris complimented Mr. Tucker and Dr. Moran on their work during difficult budget times. He then read from an article regarding the County's plans to secure millions in Federal stimulus money. He said that none of the existing population will pay that money back. It will be repaid by future generations. He does not think the County needs this money. The County is working its way through this economic situation. He thinks all would be better off if all money was collected by the people he can stand in front of and address his comments to. Money could then be sent to Richmond and Washington instead of the people who have reckless regard collecting money with the people having no say - when the citizens elect someone to go to Washington that person stops representing their constituents and starts representing themselves. The same thing happens at the State level. The people need to understand what is going on close to them, and they need to be able to speak to people close to them.

Mr. Rooker said he agrees with a lot of what Mr. Morris said, except that the amount of stimulus money being raised from taxes federally isn't going to change based on whether Albemarle obtains a grant or not. If there are grants available the County can obtain for projects which are important to the community, projects that will employ local people, the Board would be remiss not to make applications for those grants. It will not change the size of the stimulus fund.

Mr. Slutzky said the intent of the County in trying to derive whatever stimulus funds may be available is a function of trying to get money that will go somewhere for this community so the property tax burden does not have to be increased further on County citizens. He said from a financial standpoint, these are the most difficult financial times for any jurisdiction.

Mr. Dave Philips said he a trustee for STAR swimming. He agrees that both the County Executive and the School Superintendent have done a good job of trying to balance priorities this year. He thinks there was some confusion throughout the CIP Oversight Committee process related to their particular issue. The issue concerning competitive swimming is on the agenda today and hopefully this will be the final time. He said the issue has gone through a different process than most other CIP requests and has veered in a couple of different ways. During the CIP process he learned that over the next five years school field lighting will cost \$555,000, gym floors and bleacher refurbishing and replacement will cost \$330,000, track refurbishing will cost \$715,000, and tennis court resurfacing will cost \$563,000. None of the schools have a swimming pool. He said although those projects are good projects, none of them have been through the same public scrutiny that the pool proposal has. None of those projects have two-thirds of their funding being provided by a private entity. He thinks there is a need to be sure the CIP process is really an oversight.

Mr. Jim Cudahy said he is the volunteer president of STAR Swimming. He appreciates the dialogue they have had with the Board during this process. He is present to make one more plea that the STAR swimming proposal be funded at \$500,000 over the next five years. He thinks there would be a direct payback to the County high schools over the next ten years. A benefit of having the new pool would include better practice times for the high schools. With County funding STAR would expect to be held accountable for programs including swim lessons, recreational swimming time, laps swimming, Special Olympics, water aerobics, all the programs they currently have, but which they could offer at a larger degree if they had the new facility. After canvassing County citizens to see what programs they want, they would deliver those programs. He was dismayed that the School Board did not give their proposal more serious consideration. He thinks they stumbled over process and never considered the situation involving the high school students. If that is part of the problem, he would ask the Board to make that consideration. Last week he had an e-mail exchange with a School Board member who said he could not justify supporting a proposal that would only benefit a few dozen swimmers – that was a fundamental misunderstanding. Right from the start there would be 120 swimmers – that is 40 swimmers on each of three teams. Over a five-year period, with the turnover in schools there would be 240. When he gave this School Board member that information, he said he could not justify the proposal because it covered less

than one percent of the student population. He said that they have been able to answer any question asked, but the conversation does not always take place where they have the opportunity to respond.

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Mr. Neil Williamson from the Free Enterprise Forum noted that the Board has on the Consent Agenda today the Proffer Report dealing with cash proffers. In looking at the details attached to the report, it shows that no funds have been spent from the Cash Proffer Fund and the County has generated roughly \$313,000 from that money. It is interesting that the County actually gets a benefit from not moving forward with projects on a timely basis, although the developments are required to provide those dollars upfront because of the need identified by those projects. He brought the Board's attention to a proffer for Glenmore where \$752,000 has been received, the anticipated revenue in total was supposed to be \$893,000, and \$129,000 has also been generated by those funds. He said the County will get more than was intended; is that something the County should look at in terms of the timing for releasing those proffers?

Mr. Slutzky responded that the County might derive some nominal economic benefit in the form of interest recovery from the funds it holds, but if those funds are expended by paying workers to perform services and in turn they spend that money in the community and pay taxes, the County clearly has an economic disadvantage from holding those funds. He said the County does not delay the approval of moving forward with projects in an effort to grab the nominal interest return on those funds. He said the observation about the general tendency for things to linger is a separate observation.

Mr. Rooker mentioned that in a number of cases proffer money is obtained to participate in a larger project; then there is a wait for the remainder of the funding for that larger project. By the time the money is obtained for the larger project it is more expensive than it was when the money was set aside and hopefully the interest recovery helps covers some of that increased expense.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Boyd, **seconded** by Ms. Mallek, to approve Items 7.1 (as read) through 7.10, pulling Item 7.6 for a separate vote, and to accept the remaining items as information. (Discussion on individual items is included with that agenda item.)

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

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

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Item 7.1. Approval of minutes: May 21, 2008, February 11, 2008, and February 25, 2009

Ms. Thomas had read the minutes of May 21(A), 2008, and found them to be in order with the exception of some typographical errors.

Mr. Dorrier had read the minutes of February 11, 2009, pages 1–17 (end at Item #10a), and found them to be in order as presented.

Mr. Boyd had read the minutes of February 11, 2009, pages 17 (beginning at Item #10a to the end), and found them to be in order as presented.

**(Discussion:** Ms. Thomas stated that her minutes were from May of 2008. It was a joint meeting with the Planning Commission and the ARB. Many issues were raised, and all agreed that they wanted to continue meeting quarterly. She asked if there is another meeting planned; one has not been held during this last year. Mr. Tucker responded that he doesn't know the status of that, but the Board did suggest it.

Ms. Thomas said it was a very good meeting, but there were no conclusions and many issues were left dangling.

Mr. Slutzky said if it has been over a year, he will suggest that a meeting be coordinated with the three bodies soon.

Ms. Thomas asked Mr. Cilimberg if the Planning Commission and the ARB have met during this year. Mr. Cilimberg said that since that meeting last May there was another joint meeting where staff brought back the ARB elements. Staff just gave a presentation of a number of different items. He said there will be a work session with the Commission next week on changes to Entrance Corridor regulations that staff hopes will be a response to the recommendations of the Development Review Team. Staff had focused on that item and had not scheduled another joint meeting with the three bodies. He said the Board recently passed a resolution of intent for that amendment.

Mr. Slutzky asked if it makes sense to schedule a meeting of the three bodies at some point.

Mr. Boyd said he thinks it does. He was going to bring this up when the Board talked about the Resource Utilization Study. A couple of items in that study deal with the Planning Commission and the Board.

Mr. Cilimberg said the Board requested a joint meeting with the Planning Commission in June to work on Rural Area strategies. The Commission will be present later today to discuss wind turbines. He

does not think all three bodies need to be together in all of these meetings depending on the subjects to be discussed.

Mr. Slutzky suggested that the Board plan for a joint meeting in the fall and then establish whether it needs to happen routinely. Ms. Mallek agreed. Mr. Rooker agreed to hold a meeting in the fall, but said it may not be necessary to meet quarterly. Mr. Dorrier agreed. Ms. Thomas agreed.)

**By the above-recorded vote, the minutes which had been read were approved as presented. The minutes which had not been read will be placed on the next agenda for approval.**

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Item 7.2. Set public hearing for June 3, 2009, for proposed lease agreement between the County and the Old Crozet School Arts to lease a portion of the former Old Crozet Elementary School.

The executive summary states 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 but has been vacant since September, 2007 when their 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. A public hearing is scheduled on May 6, 2009, to consider leasing a portion of the building and property to the Field School of Charlottesville. 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 proposals were deemed potentially suitable and advantageous to the County's goals: the Field School of Charlottesville and the Old Crozet School Arts (OCSA). Because neither entity proposes to use the entire facility, it is possible to lease to both, maximizing the use of the facility.

After discussion with OCSA, staff drafted a lease agreement to lease 3,955 square feet of the building for an annual rent of \$15,068.55. 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 rate is higher than what was submitted in OCSA's original proposal, which was free use of the facility and payment for utilities. This negotiated rental rate is equivalent to the prior Charlottesville Waldorf School's lease rate increased by the rental adjustment formula in that lease. Staff decided to use this methodology to determine the rental rate for several reasons:

- Consistency with previous leasing practice for this facility
- the lack of features associated with a modern school building (e.g., central air conditioning, fire suppression system) that would command a higher rate
- the lack of comparable facilities.

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, 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.

The intended use of the facility will require an amendment to the existing special use permit which currently prohibits students from driving themselves to the school. The proposed amendment goes before the Planning Commission on May 5, 2009. Approval of the lease would be contingent upon obtaining the amendment to the special use permit. Consideration of the OCSA lease is not dependent on the proposed Field School of Charlottesville lease.

Approval and implementation of this lease would result in a gross increase in revenue of \$15,068.55. Coupled with the Field School of Charlottesville proposal, the County would realize gross increase in revenue of \$57,778.65. 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 authorize a public hearing on June 3, 2009, to receive public comment on the proposed lease.

**By the above-recorded vote, the Board authorized a public hearing on June 3, 2009, to receive public comment on the proposed lease.**

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Item 7.3. To set a public hearing for June 10, 2009, to consider a proposed ordinance to amend County Code Chapter 3, Sections 3-201, 3-205, 3-301 and 3-305 to change the references to the department of community development; **and**

Item 7.4. To set a public hearing for June 10, 2009, to consider a proposed ordinance to amend County Code Appendix A-1, Sections A.1-103 and A.1-104 to change the references to the director of community development.

The executive summary states that phased reorganization of the former Department of Planning and Community Development, Department of Zoning Services and Department of Engineering and Public Works into a single Department of Community Development began July 1, 2003. Since the reorganization, amendments to the County's Subdivision, Water Protection and Zoning Ordinances have updated references to the former departments and officers as substantive changes were made to those ordinances. The updates to the Subdivision and Water Protection Ordinances are completed. The updates to the Zoning Ordinance are ongoing as sections of that ordinance are substantively amended.

Staff has identified two other chapters of the Albemarle County Code whose references to the former development departments and officers require updating – Chapter 3, Agricultural and Forestal Districts, and Appendix A-1, Acquisition of Conservation Easements Program. The two proposed ordinances would amend Chapter 3 and Appendix A-1 of the Albemarle County Code to revise the references to County departments and officers so that they conform to current department names, officer titles and assignments. Staff recommends that the Board set public hearings on June 10, 2009, for the two ordinances.

**(Discussion:** Ms. Mallek said that Section 3, 7.4 of the proposed ordinance reads: "The powers and duties of the program administrator are to establish procedures and forms for administration of the ACE Program." She said this has been done by the committee in the past and she wants to be sure that will continue and the policies and rankings not be determined by the program administrator. Most of the changes relate to changing the name of County departments and officers, but her attention was brought to this one change. Mr. Davis said that particular provision has been in the ordinance all along, it is not being changed.)

**By the above-recorded vote, the Board ordered that public hearings be advertised for June 10, 2009, the two proposed ordinances.**

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Item 7.5. ACE - Acquisition of Dutnell Easement.

The executive summary states that pursuant to prior Board authorizations, the County has completed its purchases of the two highest-ranked easements from the Acquisition of Conservation Easement (ACE) FY '08 applicant class. The County completed its purchase of the highest-ranked Anderson easement (247.8 acres) on January 20, 2009, and of the second-ranked Garnett easement (71.5 acres) on December 29, 2008.

On November 5, 2008, the Board directed staff to invite offers to sell conservation easements from the remaining eligible applicants from the FY '08 class in priority order, continuing through the applicant pool until available funding was exhausted. Following the Board's direction, staff extended invitations to Michael Hudson and Leif Riddervold, who owned the next highest-ranked properties. However, given the relatively limited funds remaining after the initial two purchases, each of them declined to sell an easement. In response to staff's invitation to the owner of the next highest-ranked property, Peter Dutnell has offered to sell an easement over his 152.9-acre property (see Attachment "D" – attached to the Executive Summary).

The role of the Board in inviting and accepting offers to sell conservation easements is provided under *Albemarle County Code* section A.1-111(C)-(E). Specifically, under section A.1-111(C), the Board is to invite eligible owners to submit an offer to sell a conservation easement. Under section A.1-111(D), each owner who desires to sell and/or donate a conservation easement shall submit a written offer for consideration. Then, under section A.1-111(E), the Board is authorized to accept these offers to sell. The question presently before the Board is whether to accept the current offer of Peter Dutnell to sell a conservation easement over his property for the previously approved price of \$118,000.

The Board allocated \$1,627,000 in funds to the ACE Program for FY '08. Following acquisition of the two highest-ranked easements, approximately \$120,746 was left to fund any remaining, eligible easements. In addition to County budgeted funds, the County has received a \$49,900 grant from the Virginia Department of Agriculture and Consumer Services (VDACS) which can be applied to an

easement acquisition. Because the easement value for Hudson was \$582,800, the County could offer only a small fraction (21%) of its value. As a result, Hudson rejected the offer. Following Hudson in the ranking order was Riddervold, the fourth ranked applicant. Riddervold rejected the County's offer due to his objection to the easement valuation. This left Dutnell, the fifth ranked property in the FY '08 class. With the \$120,746 budgeted and the \$49,900 available from the VDACS grant, the County has adequate funds to purchase the \$118,000 Dutnell easement. Purchase of an easement on the Dutnell property is consistent with the ACE Committee's ranking/purchase recommendations and with the Board's action of November 5, 2008..

Acquisition of the Dutnell easement would protect 152.9 acres of farm and forestland, of which 107 acres is "prime" farm and forestland, protect 4,360 feet of common boundary with other protected lands, provide 1,200 feet of riparian buffer on two perennial streams, and eliminate 12 development lots. This acquisition would bring the totals for the FY '08 ACE easements to:

- Protection of 472 acres of farm and forestland
- Elimination of 32 development lots
- 7,578 feet of state road frontage
- 2,462 feet of riparian buffer on the Hardware River, 5824 feet on the South Fork of the Hardware River, and 1200 feet on two perennial streams
- Natural Heritage resources were found within one-quarter mile of two properties
- Anderson lies in the Southern Albemarle Rural Historic District
- 13,541 feet of common boundary with other protected lands
- 357 acres of "prime" farm and forestland, and
- Anderson has significant tourism value.

Funding for the purchase of these conservation easements comes from the CIP-Planning-Conservation budget line-item 9010-81010-580409 and the CIP-Tourism-Conservation budget line-item 9010-72030-580416, a budget previously approved by the Board to fund ACE properties with "tourism value." Staff recommends that the Board adopt a Resolution to accept Mr. Dutnell's offer to sell an ACE easement over his property for \$118,000.

**Attachment "A"**

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

<u>Applicant</u>	<u>Tax Map</u>	<u>Acres</u>	<u>Points</u>	<u>Tourism</u>	<u>Eligibility</u>
<b>Anderson, Margaret</b> (Carters Bridge)	TM 101, Parcel 60	247.800 acres	53.89 points	Yes	Eligible
<b>Garnett, Mercer</b> (Earlsville)	TM 44, Parcel 4J	21.500 acres	31.59 points	No	Eligible
	TM 44, Parcel 4K	50.000 acres			
	Total	71.500 acres			
<b>Hudson, Michael</b> (North Garden)	TM 100, Parcel 1	217.140 acres	31.41 points	Yes	Eligible
<b>Riddervold, Leif</b> (Covesville)	TM 118, Parcel 1	270.487 acres	30.09 points	Yes	Eligible
<b>Dutnell, Peter</b> (North Garden)	TM 99, Parcel 36C	89.883 acres	29.38 points	Yes	Eligible
	TM 99, Parcel 38	62.998 acres			
	Total	152.881 acres			
<b>Hudson, Fred</b> (Free Union)	TM 29, Parcel 61	83.022 acres	27.76 points	No	Eligible
<b>Thurman, Thelma</b> (Milton)	TM 94, Parcel 20A	108.400 acres	25.36 points	No	Eligible
<b>Rives, Barclay</b> (Cismont)	TM 65, Parcel 93A1	3.811 acres	24.58 points	Yes	Eligible
	TM 65, Parcel 94	3.000 acres			
	TM 65, Parcel 94 "A"	1.250 acres			
	TM 65, Parcel 94 "B"	15.950 acres			
	TM 65, Parcel 95	4.872 acres			
	TM 65, Parcel 95A	3.978 acres			
	TM 65, Parcel 121	38.840 acres			
Total	71.701 acres				
<b>Rushia, Ed &amp; Chris</b> (Crozet)	TM 39, Parcel 27	86.700 acres	22.43 points	Yes	Eligible
<b>Roberston, Anna Lee</b> (Milton)	TM 94, Parcel 20	106.400 acres	19.67 points	No	Ineligible
<b>Barksdale, John</b> (North Garden)	TM 100, Parcel 34	153.010 acres	18.89 points	No	Ineligible
<b>Fallon, Marcia</b> (Schuyler)	TM 119, Parcel 5	78.957 acres	17.30 points	Yes	Ineligible
	TM 119, Parcel 5A	5.992 acres			

	TM 119, Parcel 6A	15.500 acres			
	Total	100.449 acres			
<b>Ford, Barbara</b> (Brown's Cove)	TM 6, Parcel 21	40.000 acres	15.68 points	Yes	Ineligible
<b>Cornwell, Oden</b> (Howardsville)	TM 134, Parcel 7A	80.000 acres	12.72 points	No	Ineligible
	Number of New Applications:	10 Applications	1,230.279 acres		
	Number of Re-enrolled Applications:	4 Applications	498.171 acres		
	Number of Eligible Applications:	9 Applications	1,309.631 acres		

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

**By the above-recorded vote, the Board adopted the following Resolution to accept Mr. Dutnell's offer to sell an ACE easement over his property for \$118,000:**

**RESOLUTION ACCEPTING OFFER TO SELL  
 A CONSERVATION EASEMENT UNDER THE ACE PROGRAM**

**WHEREAS**, the County has received an offer to sell a conservation easement under the ACE Program from the owner(s) of the following properties:

<b>Dutnell Property</b>	TM 99, Parcel 36C	( 89.883 acres)
	TM 99, Parcel 38	( 62.998 acres)
	Total	(152.881 acres)

**WHEREAS**, the owner(s) offered to sell a conservation easement on the respective properties to the County for a fixed purchase price, subject to terms and conditions set forth in the proposed deed of easement enclosed with the County's invitation to offer to sell, subject to any further revisions deemed necessary by the County Attorney and agreed to by the owner; and

**NOW, THEREFORE BE IT RESOLVED** that the Board of Supervisors hereby accepts the offer to sell a conservation easement for each of the properties described above, and authorizes the County Executive to execute all documents necessary for completing the acquisitions.

**BE IT FURTHER RESOLVED** that the Board of Supervisors hereby directs the County Attorney to send copies of this resolution to the owner(s) of the properties identified herein, or their contact persons.

Item 7.6. FY 2009 Appropriations.

The executive summary states that the Code of Virginia §15.2-2507 stipulates that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget. However, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The total of this requested FY 2009 appropriation is \$637,756.57. A budget amendment public hearing is not required because the cumulative appropriations will not exceed one percent of the currently adopted budget.

This request involves the approval of four new FY 2009 appropriations as follows: Appropriation Nos. 2009-057 and No. 2009-059 totaling \$630,756.57 for various Education programs and projects; Appropriation No. 2009-058 allocating \$7,000.00 in proffer funds received from Westhall Proffer 1.2 to fund block master planning services for a portion of Downtown Crozet; and Appropriation No. 2009-060 providing \$75,000.00 from the Athletic Field Study and Development Fund for the Monticello turf field, all as set out below.

Staff recommends approval of the budget amendment in the amount of \$637,756.57 and the approval of Appropriations No. 2009-057, No. 2009-058, No. 2009-059 and No. 2009-060.

Appropriation No. 2009-057, \$42,536.00 - Revenue Source: Local Revenue \$1,600.00, Federal Revenue \$2,936.00, School Fund Balance \$38,000.00. At its meeting on March 26, 2009, the School Board approved the following appropriations:

- Jack Jouett Middle School received a donation in the amount of \$500.00 from the Jack Jouett PTO. The donor has requested that their contribution be used to help fund a presentation on bullying. John Harrigan will be presenting information on bullying, cyber bullying and youth depression.
- The mission of the Race to GED Grant is to allow Albemarle County's Adult Education Program to substantially increase the number of students seeking a General Equivalency Diploma (GED), student hours, and students passing the GED in support of the Division's strategic plan. Funding

for FY '08-09 was increased by \$2,936.00 from the original budget amount of \$29,876.00. The funds will be used to pay part-time teacher wages and benefits.

At its meeting on April 2, 2009, the School Board approved the following appropriations:

- The production expenses for the 2008-09 publications of the school calendar and School Talk were incurred in the prior fiscal year; however, the invoices were not received until after the close of the fiscal year. The use of fund balance, totaling \$38,000.00, is requested to cover these prior year expenses.
- Stone Robinson Elementary School received donations totaling \$1,100.00. Lawrence and Michelle McConnell donated \$20.00, Jane Barrell donated \$60.00 and Topeka's of Charlottesville donated \$1,020.00. The donors have requested that their contribution be used to help fund the summer camp scholarships at Stone Robinson Elementary School.

Appropriation No. 2009-058, \$ 7,000.00. Revenue Source: Proffer Fund Balance \$7,000.00. The Office of Facilities Development has requested \$7,000.00 in available funds from the Westhall Proffer 1.2 to provide block master planning services for a portion of Downtown Crozet, including the new Crozet Library, Tabor Presbyterian Church properties, and the Lawson property. These services will enable priority projects identified in the Master Plan for Crozet to be accomplished (Streetscapes and Library) while meeting other goals of the plan for Destination Downtown, including interconnectivity and creating blocks in Downtown as established by the Crozet Master Plan. Creation of blocks will also aid properties to redevelop more easily consistent with the Downtown Crozet District zoning regulations.

Appropriation No. 2009-059, \$588,220.57. Revenue Source: Local Revenue \$569,531.77; Federal Revenue \$15,000.00; School Fund Balance \$3,688.80.

Monticello High School has received a donation in the amount of \$27,116.00 from the Monticello Booster Club. This donation will be used to help fund the installation of a synthetic turf field at Monticello High School.

Albemarle County Public Schools (ACPS) received a grant in the amount of \$325,000.00 from The Community Foundation Serving Richmond and Central Virginia. The purpose of this grant is to match funds raised by Albemarle County and the Monticello High School Booster Club for the installation of the synthetic turf field at the high school's outdoor athletic stadium. The funds are subject to the following terms and conditions:

1. The funds are to be used exclusively for the installation costs of the synthetic field.
2. The grant is conditioned upon the requirement that the balance of funds be raised from other sources.
3. Funds will be available prior to the confirmed start date for the installation contract upon receipt of all required certifications and documents.
4. A final report is due within 30 days of final preparation and cleanup of the field for school and public use.
5. If ACPS has not committed to proceed with a firm installation contract by December 31, 2009, with installation to be completed no later than September 30, 2011, all grant funds must be refunded within 30 days of a final decision not to proceed with installation, but no later than October 30, 2011.

Monticello High School has received two donations totaling \$176,665.77 to help fund the synthetic turf field project. The Monticello Booster Club donated \$174,165.77 and Bea Ellis donated \$7,500.00 to be divided between each high school. From this donation, Monticello High School will receive \$2,500.00, Albemarle High School will receive \$2,500.00, and Western Albemarle High School will receive \$2,500.00.

The mission of the Families in Crisis Grant is to provide an effective structure to meet the needs of students whose families are in crisis, ensuring that they receive equitable access to Division services in support of the Division's strategic plan. The Families in Crisis Grant is responsible for the following major programs and/or services: tutoring of identified students, transportation to school of origin, counseling families, collaboration with schools, and, providing gift certificates. Funding for FY '08-09 was increased by \$15,000.00 from the original budget amount of \$25,000.00. A donation from an anonymous donor in the amount of \$750.00 was also received.

Western Albemarle High School received a donation in the amount of \$5,000.00 from an anonymous donor. The donor has requested that their contribution be used to help fund the construction of the boathouse for the WAHS Rowing Club.

The mission of the Technology Challenge Grant is to improve student academic achievement through the use of technology in schools in support of the Division's strategic plan. The Technology Challenge Grant is responsible for the following major programs and/or services: Teacher Training and Technology Curriculum Development. There is a local fund balance in the amount of \$3,688.80 from FY '07-08 which may be reappropriated for FY '08-09. The funds will be used for salaries and benefits.

The mission of the Community Charter School Grant is to provide an alternative and innovative learning environment, using the arts, to help children in grades six through eight learn in ways that match their learning styles; developing the whole child intellectually, emotionally, physically and

socially. Seeking to serve students who have not succeeded in school, the program will close their achievement gap by offering a balance of literacy tutorials and an arts-infused curriculum in support of the Division's strategic plan. The Community Charter School Grant is responsible for the following major programs and/or services: 6th and 7th Grade Instructional Program, Literacy and Arts Infused Education, Choice Theory School Development and Mastery Learning. Donations in the amount of \$30,000 from anonymous donors to be used for payroll and benefits were received.

Appropriation No. 2009-060, \$75,000.00. Revenue Source: Athletic Field Study/Development \$75,000.00.

On December 9, 2008 the Board of Supervisors approved funding in the amount of \$225,000 from the Parks and Recreation capital budget to be used toward the synthetic turf projects for all three County high schools contingent upon a Memorandum of Understanding (MOA) between the School Superintendent and the County Executive. That MOU has been executed and this \$75,000 is being released for the Monticello High School project now that adequate funding is in place for the Monticello project to proceed. The remaining \$150,000 will be released when Albemarle and Western Albemarle have accumulated adequate funding for their projects respectively.

**(Discussion:** Mr. Slutzky said he had asked that this item receive a separate vote because of his moral conviction. He knows it will be a 5:1 vote, but he is not comfortable with spending money on the turf fields because he is not comfortable with their safety aspects. He wanted to vote on this separately, so he will know that he voted the ways he personally felt. He asked if the appropriations should be separated into two different votes so the first two can be unanimously supported.

Mr. Rooker offered **motion** to approve.

Mr. Boyd said the motion needs to be clarified. He asked which appropriation is the one to which Mr. Slutzky objects.

Mr. Slutzky said it is No. 2009-060.

Mr. Rooker then **moved** to approve Appropriations 2009-057, 2009-058 and 2009-059. Ms. Mallek **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

Mr. Rooker **moved** to approve Appropriation 2009-060. Mr. Boyd **seconded** the motion, which passed by the following recorded vote:

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

**Motion** was then offered by Ms. Thomas, **seconded** by Mr. Rooker, to approve the budget amendment in the amount of \$637,756.57. Roll was called, and the motion carried by the following recorded vote:

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

**(Note:** The Resolutions of Appropriation are set out in full below.)

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-057  
 DATE: 05/06/09  
 EXPLANATION: Donations, Grants and Programs School Board Meetings, 03/26/2009 and 04/02/2009

TYPE	FUND	DEPT	OBJECT	ACCOUNT DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	2000	18100	181109	Donation	J2	500.00		
2	3309	33000	330001	Race to GED Grant	J2	2,936.00		
1	2253	61101	601300	Ed/Rec Supplies	J1	500.00		
1	3309	61101	132100	PT Wages - Teacher	J1	2,727.36		
1	3309	61101	210000	FICA	J1	208.64		
	2000		501	Est. Revenue			500.00	
			701	Appropriation				500.00
	3309		501	Est. Revenue			2,936.00	
			701	Appropriation				2,936.00
2	2000	18100	181109	Donation	J2	1,100.00		
2	2000	51000	510100	Appropriation - Fund Balance	J2	38,000.00		
1	2210	61101	601300	Ed/Rec Supplies	J1	1,100.00		
1	2411	61241	350000	Printing and Binding	J1	25,000.00		
	2411	61241	520100	Postal Services	J1	3,000.00		
	2411	62130	350000	Printing and Binding	J1	10,000.00		
	2000		501	Est. Revenue			39,100.00	
			701	Appropriation				39,100.00
TOTAL						85,072.00	42,536.00	42,536.00

APPROPRIATION NO. 2007-058  
 DATE: 05/06/09  
 EXPLANATION: Use of Westhall Proffer 1.2 funds for Crozet Block Master Planning

TYPE	FUND	DEPT	OBJECT	SUB LEDGER		AMOUNT	GENERAL LEDGER	
				DESCRIPTION	CODE		DEBIT	CREDIT
2	9010	51000	512059	Transfer from Westhall Proffer	J2	7,000.00		
1	9010	41023	312347	Crozet SS Ph 2- Block Master Planning	J1	7,000.00		
2	8542	51000	510100	Westhall: Appropriation - F/B	J2	7,000.00		
1	8542	93010	930010	Westhall: Trsnf to GG CIP	J1	7,000.00		
			501	Est. Revenue			7,000.00	
			701	Appropriation				7,000.00
	8542		501	Est. Revenue			7,000.00	
			701	Appropriation				7,000.00
TOTAL						28,000.00	14,000.00	14,000.00

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-059  
 DATE: 05/06/09  
 EXPLANATION: Education Donations, Grants, at School Board Meeting - 04/23/09

TYPE	FUND	DEPT	OBJECT	SUB LEDGER		AMOUNT	GENERAL LEDGER	
				DESCRIPTION	CODE		DEBIT	CREDIT
2	3131	51000	510100	Approp - Fund Balance	J2	3,688.80		
1	3131	61311	160200	Stipends - Non Instructional	J1	3,426.67		
1	3131	61311	210000	FICA	J1	262.13		
2	3161	18100	181207	Grant - Turf Field	J2	325,000.00		
1	3161	93010	930004	Transfer - School CIP Fund	J1	325,000.00		
2	3304	18000	189900	Misc. Revenue	J2	750.00		
2	3304	33000	330001	Families in Crisis Grant	J2	15,000.00		
1	3304	61101	111400	Salaries - Other Management	J1	5,500.00		
1	3304	61101	132100	PT/Wages - Teacher	J1	5,000.00		
1	3304	61101	210000	FICA	J1	804.00		
1	3304	61101	221000	Virginia Retirement System	J1	800.00		
1	3304	61101	231000	Health Insurance	J1	340.00		
1	3304	61101	232000	Dental Insurance	J1	13.00		
1	3304	61101	241000	VRS Group Life Insurance	J1	45.00		
1	3304	61101	579001	Housing Assist. Program	J1	2,000.00		
1	3304	61101	600200	Food	J1	670.00		
1	3304	61101	601300	Ed/Rec Supplies	J1	578.00		
2	3380	18100	181080	Donations	J2	30,000.00		
1	3380	61101	112100	Salaries - Teacher	J1	22,000.00		
1	3380	61101	210000	FICA	J1	1,689.00		
1	3380	61101	221000	Virginia Retirement System	J1	3,152.00		
1	3380	61101	231000	Health Insurance	J1	2,892.00		
1	3380	61101	232000	Dental Insurance	J1	108.00		
1	3380	61101	241000	VRS Group Life Insurance	J1	159.00		
2	9001	18100	181107	AHS Donations - Turf Field	J2	2,500.00		
1	9001	60301	950245	AHS Syn Turf Field	J1	2,500.00		
2	9002	18100	181107	WAHS Donations - Turf Field	J2	2,500.00		
1	9002	60302	950245	WAHS Syn Turf Field	J1	2,500.00		
2	9003	18100	181107	MCHS Donations - Turf Field	J2	27,116.00		
2	9003	18100	181107	MCHS Donations - Turf Field	J2	176,665.77		
2	9003	51000	512006	Tr. Fr. - Grants	J2	325,000.00		
1	9003	60304	950245	MCHS Syn Turf Field	J1	528,781.77		
2	9010	18110	181129	WAHS - Rowing Club	J2	5,000.00		
1	9010	71032	800605	Construction-Boathouse Dock	J1	5,000.00		
		3131	501	Est. Revenue			3,688.80	
			701	Appropriation				3,688.80
	3161		501	Est. Revenue			325,000.00	
			701	Appropriation				325,000.00
	3304		501	Est. Revenue			15,750.00	
			701	Appropriation				15,750.00
	3380		501	Est. Revenue			30,000.00	
			701	Appropriation				30,000.00
	9001		501	Est. Revenue			2,500.00	
			701	Appropriation				2,500.00
	9002		501	Est. Revenue			2,500.00	
			701	Appropriation				2,500.00
	9003		501	Est. Revenue			528,781.77	
			701	Appropriation				528,781.77
	9010		501	Est. Revenue			5,000.00	
			701	Appropriation				5,000.00
TOTAL						1,826,441.14	913,220.57	913,220.57

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-060  
 DATE: 05/06/09  
 EXPLANATION: Move funding from Athletic Field Study/Development to MCHS turf field

TYPE	FUND	DEPT	OBJECT	SUB LEDGER		AMOUNT	GENERAL LEDGER	
				DESCRIPTION	CODE		DEBIT	CREDIT
1	9010	71000	950044	Athletic Field Study/Dvlp	J1	(75,000.00)		
1	9010	93010	930214	Transfer	J1	75,000.00		
2	9003	51000	512031	Transfer from G/F CIP	J2	75,000.00		
1	9003	60304	950245	MCHS Syn Turf Field	J1	75,000.00		
			501	Est. Revenue			75,000.00	
			701	Appropriation				75,000.00
TOTAL						150,000.00	75,000.00	75,000.00

Item 7.7. Federal Low-Income Housing Tax Credit Applications for Treesdale Park and Piedmont Heights.

The executive summary states that Federal Low-Income Housing Tax Credits, administered by the Virginia Housing Development Authority (VHDA), can provide a significant amount of equity financing for affordable rental developments. The credits are allocated by VHDA through a competitive process which is based on a point system that includes project readiness, feasibility and local support. VHDA is required by the Internal Revenue Code to provide localities with an opportunity to comment on any developments under consideration for tax credits. A County letter of support (Attachment A – on file) provides 50 points to an applicant. A letter that does not provide support or opposition provides 25 points. A letter stating that the development is inconsistent with zoning or land use regulations provides no points.

One of the adopted strategies in the County's Affordable Housing Policy is to support applications for and the allocation of Federal Low-Income Housing Tax Credits. The County has been notified by VHDA that two applicants have submitted letters of intent to apply for tax credits for developments in Albemarle County. Provided below is a brief description of the two proposed developments that have notified VHDA of their intent to apply for 2009 Federal Low-Income Housing Tax Credits. All projects are required to restrict the occupancy to households with incomes at or below 60 percent of the area median income.

Piedmont Heights: Piedmont Heights is a 96-unit rental development proposed by Prestwick Piedmont Heights, LP from Atlanta, GA. The property is located on Old Lynchburg Road across from Azalea Park. The applicant has not contacted the Housing Office and has not provided any information regarding the project. No site plan has been submitted to the County for review. Staff lacks sufficient information to recommend a letter of support for this project at this time.

Treesdale Park: Treesdale Park is a four-building 88-unit development proposed by Treesdale, LP located on East Rio Road. The Board supported the submission of a tax credit application in 2008 by the Albemarle Housing Improvement Program (AHIP) for this project. AHIP did not receive the tax credits. Subsequently, AHIP has executed a joint venture agreement with Treesdale, LLC of Albemarle County owned by William and Richard Park to advance the project.

One means by which a County can provide financial support for a project is by providing a commitment of Housing Choice Vouchers. Last year, the Board approved a resolution to provide up to 21 project-based vouchers to Treesdale Park. Because of a reconfiguration of the buildings, Treesdale Park is now eligible for up to 22 project-based vouchers. Treesdale, LP is now requesting the County to provide a commitment for 22 project-based vouchers. A Resolution supporting Treesdale, LP's application for tax credits, authorizing the County Executive to sign the Treesdale Park Project Support Letter (Attachment A-on file), and supporting the commitment of up to 22 project-based vouchers that meet specific criteria is attached for the Board's consideration and adoption (Attachment B-on file).

Treesdale, LP has also requested that the site be certified by the County as a "revitalization area" as defined by VHDA. The site currently consists of two vacant deteriorating structures sitting on approximately six acres of land in one of the County's designated growth areas. This certification would qualify the project for additional points for purposes of the tax credit application. A Resolution certifying that the Treesdale Park site meets VHDA's definition of a revitalization area and authorizing the County Executive to sign the Revitalization Area Certification Letter (Attachment D-on file) is included as Attachment C for the Board's consideration and adoption.

In 2008, AHIP also received a financial commitment for the Treesdale Park Project in the amount of \$246,400 from the Crozet Crossings Housing Trust Fund. The Trustees recently approved extending that commitment to Treesdale, LP pending receipt of 2009 tax credits.

There is no budget impact in providing support for the allocation of Federal Low-Income Housing Tax credits. The resolution to commit up to 22 Housing Choice Vouchers to the proposed Treesdale Park development will not impact the County's General Fund budget as the vouchers are funded by the U.S. Department of Housing and Urban Development (HUD). All commitments of Housing Choice Vouchers to be used with specific projects are conditioned on continued funding from HUD.

Staff recommends that the Board adopt the attached Resolution (Attachment B) supporting Treesdale, LP's application for tax credits, authorizing the County Executive to sign the Treesdale Park Project Support Letter (Attachment A), and supporting the commitment of up to 22 project-based vouchers that meet specific criteria. Staff recommends that the Board adopt the attached Resolution (Attachment C) certifying that the Treesdale Park site meets VHDA's definition of a revitalization area and authorizing the County Executive to sign the Revitalization Area Certification Letter (Attachment D). Then, staff also recommends that the Board not support the application for tax credits for Piedmont Heights until additional information is received by staff to evaluate the merits of the project.

**By the above-recorded vote, the Board adopted the following resolution supporting Treesdale, LP's application for Federal tax credits, authorizes the County Executive to sign the Treesdale Park Project Support Letter (copy on file in Clerk's office), and supports the commitment of up to 22 project-based vouchers that meet specific criteria,**

#### **RESOLUTION**

**WHEREAS**, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents; and

**WHEREAS**, the County of Albemarle is committed to improving the livability of all neighborhoods and access to support services by residents; and

**WHEREAS**, the County of Albemarle is committed to preserving existing and promoting the development of new affordable housing stock; and

**WHEREAS**, Treesdale, LP is applying for Federal Housing Tax Credits to develop 88 units of rental housing located on East Rio Road and known as Treesdale Park; and

**WHEREAS**, all proposed units in the development will be restricted to households with incomes at or below 60% of the area median income; and

**WHEREAS**, the Albemarle County Office of Housing proposes the use of Housing Choice Vouchers to provide project-based assistance for up to 22 of the proposed housing units with household incomes limited to those families at or below 40% of the area median income;

**NOW, THEREFORE, BE IT RESOLVED** that the County of Albemarle supports Treesdale, LP's application for tax credits and authorizes the County Executive to sign the Local CEO Support Letter. The County of Albemarle also supports the commitment of up to 22 project-based vouchers to provide rental assistance for households with incomes at or below 40% AMI provided that the U.S. Department of Housing and Urban Development (HUD) continues to provide sufficient financing to meet the commitment.

\* \* \*

**By the above-recorded vote, the Board adopted the following Resolution certifying that the Treesdale Park site meets VHDA's definition of a revitalization area and authorizes the County Executive to sign the Revitalization Area Certification Letter (copy on file in Clerk's office).**

#### **RESOLUTION**

**WHEREAS**, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents; and

**WHEREAS**, the County of Albemarle is committed to improving the livability of all neighborhoods and access to support services by residents; and

**WHEREAS**, the County of Albemarle is committed to preserving existing and promoting the development of new affordable housing stock; and

**WHEREAS**, the access to and use of federal low-income housing tax credits (LIHTC) as source of equity financing for affordable housing is critical in ensuring financial feasibility; and

**WHEREAS**, the Virginia Housing Development Authority (VHDA) administers the LIHTC program on a competitive basis; and

**WHEREAS**, applicants may receive additional points in the competitive process if the proposed development is in a revitalization area as defined by VHDA and certified by the locality; and

**WHEREAS**, the Treesdale Park development of 88 affordable rental units is proposed on a site which meets VHDA's definition of "blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements, or other facilities in such area are subject to one or more of the following conditions – dilapidation, obsolescence, overcrowding, inadequate ventilation, light, or sanitation, excessive land coverage, deleterious land use, or faulty or otherwise inadequate design, quality or condition ... and, private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of the low and moderate income persons or families in such areas and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area" by virtue of the existence of two vacant, deteriorating structures sitting on approximately six acres of land in one of the County's designated growth areas.

**NOW, THEREFORE, BE IT RESOLVED** that the County of Albemarle certifies that the proposed Treesdale Park site meets VHDA's definition of a revitalization area recognizing that equity investments from the acquisition and sale of tax credits are necessary to make the development financially feasible and authorizes the County Executive to sign the Revitalization Area Certification.

\* \* \*

**By the above-recorded vote, the Board supported staff's recommendation to not support the application for tax credits for Piedmont Heights until additional information is received by staff to evaluate the merits of the project.**

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Item 7.8. County Executive's Authorization to apply for and Accept Grants.

The executive summary states that over the years, the County has pursued numerous grant opportunities to diversify revenues and obtain funding for important County initiatives. At times, funding sources have required the County Executive to have explicit authority from the Board of Supervisors to submit or accept grant applications or proposals.

To ensure the County is well-positioned to apply for and accept grants, it is important to have an efficient administrative process in place to meet the tight timetables associated with these funding opportunities. Because of potential delays caused by the timing of Board meetings, it is important that the County Executive, or his designee, retain explicit authority from the Board of Supervisors to prepare applications, submit grant proposals, and accept grants on behalf of the County. The Board of Supervisors will continue to make the final decision regarding the use of any grant funding by its appropriation of any funding received by the County, as well as the appropriation of any local matching funds.

Obtaining grant funding assists the County to diversify County revenues and fund important County initiatives. Staff recommends that the Board adopt a Resolution to authorize the County Executive, or his designee, to apply for and accept grant opportunities on behalf of the County.

**(Discussion:** Mr. Boyd said he is concerned about this request because there is a lot of time and energy on the part of staff members in applying for grants. If the County is going to "get into that in a heavy way", where are the personnel under these economic conditions going to come from to do that work?

Mr. Tucker responded that sometimes there is an opportunity to apply for a grant, but staff has to delay the application process until the Board meets in order to get the Board's approval first. Giving him the authority to sign these applications does not affect how the money will be used because an appropriation would still need to be approved by the Board.

Mr. Boyd said he understands that and is not fundamentally opposed to this request. He just wants a clear idea of why it is thought to be important. Mr. Tucker said it is really a "housekeeping" measure.

Ms. Mallek asked if Mr. Tucker would notify the Board members by e-mail that an application was being made. Mr. Tucker said this is an administrative thing, but the Board can be involved –but there are lots of small grants that come through the Police Department, etc.

Ms. Thomas said the Board does hear about them because it has to approve the appropriations. Mr. Tucker said that is correct. Also, he would never apply for something where there are no matching funds available in the budget.

Mr. Boyd said he was really just asking for a clarification. He was wondering if staff was anticipating spending a lot of time and effort applying for grants. Mr. Tucker said he does not see any increase in this activity.

Mr. Rooker said the grants the Board sees most often are those for the Police Department for equipment and training. He thinks it is good that the County takes advantage of those opportunities to upgrade police services. Mr. Tucker said that at one time Board members said staff was not being proactive in the way of applying for grants.

Mr. Slutzky said Mr. Tucker is just recognizing that there might be a situation where a grant opportunity could arise during a lull in the schedule and the County would be at a disadvantage by not having access to those funds due to a procedural challenge. He thinks this makes total sense.

Mr. Rooker agreed.)

**By the above-recorded vote, the Board adopted the following Resolution to authorize the County Executive, or his designee, to apply for and accept grant opportunities on behalf of the County:**

**RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO MAKE GRANT APPLICATIONS AND ACCEPT GRANTS ON BEHALF OF THE COUNTY**

**WHEREAS**, the County of Albemarle finds it appropriate that the County pursue grant opportunities that might provide enhanced funding for important County initiatives; and

**WHEREAS**, grant application processes generally require that a grant application or proposal, certifications, and other supporting or related contracts or documents be submitted to complete an application or to accept grant funding; and

**WHEREAS**, to ensure that the County is well-positioned to apply for and receive grants, it is important to have an efficient process in place to meet the tight timetables often associated with many requests for proposals for grant funding or the acceptance of such funding; and

**WHEREAS**, the efficiency of government is improved by delegating to the County Executive the authority to apply for and accept grant funding opportunities.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the County Executive, or his designee, to act on behalf of the County to execute grant applications or proposals along with any necessary certifications and supporting or related contracts or documents required to obtain or accept a grant, provided that such documents are approved as to form and content by the County Attorney.

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Item 7.9. Resolution to accept road(s) in Tanager Woods Subdivision into the State Secondary System of Highways.

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

**R E S O L U T I O N**

WHEREAS, the street(s) in **Tanager Woods Subdivision**, as described on the attached Additions Form AM-4.3 dated **May 6, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Tanager Woods**, as described on the attached Additions Form AM-4.3 dated **May 6, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\* \* \*

The road(s) described on Additions Form AM-4.3 is:

- 1) **Tanager Woods Drive (State Route 1664)** from the intersection of Route 664 (Frays Mountain Road) to the intersection of Route 1665 (Tanager Woods Court), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 2193, page 564, with a 50-foot right-of-way width, for a length of 0.11 miles.
- 2) **Tanager Woods Drive (State Route 1664)** from the intersection of Route 1665 (Tanager Woods Court) to the cul-de-sac, as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 2193, page 564, with a 50-foot right-of-way width, for a length of 0.19 miles.
- 3) **Tanager Woods Court (State Route 1665)** from the intersection of Route 1664 (Tanager Woods Drive) to the cul-de-sac, as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 2193, page 564, with a 50-foot right-of-way width, for a length of 0.22 miles

Total Mileage – 0.52

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Item 7.10. FY 2009-10 Appropriation Resolution.

The executive summary states that the County's FY 2009-10 Operating and Capital Budgets were adopted by the Board on April 8, 2009, for a total estimated amount of \$303,723,333. The Annual Resolution of Appropriations for the fiscal year ending on June 30, 2010, provides the authority from the Board of Supervisors for the County to spend those funds, effective July 1, 2009.

This Resolution is a comprehensive Resolution which appropriates the total County budget, including both operating and capital funds in a single resolution, and includes many of the initial Special Revenue Fund appropriations. Staff recommends approval of the Annual Resolution of Appropriation for FY 2009-10 that allocates a total of \$304,262,583 to various General Government and School Division operating, capital improvement, and debt service accounts for expenditure in FY 2009-10. This appropriation is made up of the following major funds:

General Fund	\$218,991,472
School Fund	148,978,488
School Self-Sustaining	16,948,585
Special Revenue	14,372,905

Capital Projects	17,564,000
Debt Service	18,242,915
<b>TOTAL \$435,098,365</b>	
Less Inter-fund Transfers	(\$130,835,782)
<b>GRAND TOTAL</b>	<b>\$304,262,583</b>

The FY 2009-10 total budget recommended for appropriation is \$539,250 greater than the budget formally adopted by the Board on April 8, 2009. This is due to an increase of \$444,632 in State funding to the School System as well as an additional \$94,618 in State funding for the Bright Stars program. The appropriated budget reflects the School Fund that was approved by the School Board at its April 23, 2009, meeting.

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

**(Discussion:** Ms. Mallek said that in Exhibit A, Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing, there is \$2.0 million for the Ivy Fire Station. She would like to know what that is for since she understood the Board was not making a major investment in that station until several years into the future. She had heard work was being done on that station, so she would like to know what is really happening.

Mr. Tom Foley, Assistant County Executive, explained that the money was originally set aside for land purchase for an Ivy fire station. The County has worked with UVA to avoid having to purchase property, but the money was previously appropriated and is not being used to renovate a facility for a future Ivy station.

Ms. Mallek asked if that money is being spent today. Mr. Foley said "yes." It will be spent based on an agreement with UVA.

Mr. Boyd said this came up during work of the CIP Oversight Committee. He said this money was allocated in prior years in the CIP, was never spent, but is sitting in a fund for that purpose.

Mr. Foley said there is money sitting in a fund for projects the Board had approved and appropriated money for. It has been agreed that there will be discussion in the future about previously appropriated capital project money. He said this particular project has been moving forward based on Closed Meeting discussions with the Board about negotiations with UVA.

Ms. Mallek asked if this \$2.0 million will be spent now even though it is years before there will be a station there. Mr. Foley said this is the appropriation for the next fiscal year when it is expected that the project will proceed.

Mr. Boyd said the money is not physically there – the resolution says that when it is spent, the money will be borrowed.

Ms. Mallek said she was confused by the term "reimbursement." She thought the money had already been borrowed. Mr. Foley said this resolution allows the County to reimburse itself for any money it spends that it later wants to borrow for reimbursement. Money is not borrowed in advance of doing the projects because interest would have to be paid. He thinks this project has saved the County millions of dollars by working with UVA on property for a future fire station. The opportunity came about now because of work UVA is doing on Ivy Road. By working with them, money has been saved on land purchase, and the Board will have to decide about staffing for the station at some point in the future.

Mr. Tucker pointed out that it is a joint renovation project with UVA. They were going ahead with their renovation and they wanted the County to renovate its portion at the same time.

Ms. Thomas said the Board has not actually approved their activity on that building. Mr. Tucker said it was for storage, it had overall approval – only the site plan has not been approved. Ms. Thomas said the Board understood it was for storage so the County needs to be sure it is not a greater traffic generator than thought.)

**By the above-recorded vote, the Board adopted the following Annual Resolution of Appropriations for FY2009-10 that allocates a total of \$304,262,583 to various General Government and School Division operating, capital improvement and debt service accounts for expenditure in FY2009-10 and adopted the following Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing:**

**ANNUAL RESOLUTION OF APPROPRIATIONS  
OF THE COUNTY OF ALBEMARLE  
FOR THE FISCAL YEAR ENDING JUNE 30, 2010**

**A RESOLUTION making appropriations of sums of money for all necessary expenditures of the COUNTY OF ALBEMARLE, VIRGINIA, for the fiscal year ending June 30, 2010; to prescribe the provisions with respect to the items of appropriation and their payment; and to repeal all previous appropriation ordinances or resolutions that are inconsistent with this resolution to the extent of such inconsistency.**

**BE IT RESOLVED by the Albemarle County Board of Supervisors:**

**SECTION I - GENERAL GOVERNMENT (Fund 1000)**

**That the following sums of money be and the same hereby are appropriated from the GENERAL FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2010:**

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

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

Board of Supervisors	\$587,011
County Attorney	\$897,522
County Executive	\$1,229,972
Department of Finance	\$3,997,875
Department of Human Resources	\$1,071,197
Department of Information Technology	\$2,556,948
Voter Registration/ Elections	<u>\$482,177</u>
	\$10,822,702

**Paragraph Three: JUDICIAL**

Circuit Court	\$104,063
Clerk of the Circuit Court	\$687,202
Commonwealth's Attorney	\$899,547
General District Court	\$22,700
Juvenile Court	\$133,359
Magistrate	\$4,800
Sheriff's Office	<u>\$1,964,669</u>
	\$3,816,340

**Paragraph Four: PUBLIC SAFETY**

Albemarle County Fire/Rescue Department	\$6,624,973
Building Codes and Inspections	\$1,120,365
Community Attention Home	\$60,149
Department of Police	\$12,578,068
Emergency Communications Center	\$1,975,393
Fire Department Contract (City of Charlottesville)	\$777,878
Fire/Rescue Credit	\$50,430
Forest Fire Extinguishment	\$22,656
Juvenile Detention Center	\$719,473
Offender Aid and Restoration (OAR)	\$155,382
Regional Jail Authority	\$3,227,959
SPCA Contract	\$198,106
Thomas Jefferson EMS Council	\$21,184
Volunteer Fire Departments	\$1,251,655
Volunteer Rescue Squads	<u>\$420,255</u>
	\$29,203,926

**Paragraph Five: GENERAL SERVICES / PUBLIC WORKS**

Facilities Development Department	\$658,002
General Services	\$350,000
Rivanna Solid Waste Authority	<u>\$3,585,253</u>
	\$4,593,255

**Paragraph Six: HUMAN SERVICES**

AIDS Support Group	\$4,861
Arc of the Piedmont Infant Development Program	\$8,970
Boys and Girls Club	\$13,887
Bright Stars Transfer	\$647,086
BRMC - Latino Lay Health Promoter	\$5,445
Charlottesville Free Clinic	\$114,636
Children, Youth and Family Services (CYFS)	\$97,614
Commission on Children & Families (CCF)	\$248,936
Comprehensive Services Act Transfer	\$2,710,747
Computers4Kids	\$15,617
Department of Social Services	\$11,257,067
Health Department	\$551,444
JAUNT	\$876,442
Jefferson Area Board on Aging (JABA)	\$280,478
Jefferson Area CHIP	\$317,144
Legal Aid Justice Center	\$38,494
Madison House	\$10,370
Music Resource Center	\$6,335
Northwestern Virginia Health Systems	\$4,723
Piedmont CASA	\$8,925

Piedmont Virginia Community College (PVCC)	\$23,475
Piedmont Workforce Network	\$13,805
Region Ten Community Services	\$569,531
Sexual Assault Resource Agency (SARA)	\$23,690
Shelter for Help in Emergency (SHE)	\$89,974
Tax Relief for Elderly/Disabled	\$1,000,000
United Way	\$119,507
Urban Vision	<u>\$24,463</u>
	\$19,083,666

**Paragraph Seven: PARKS, RECREATION AND CULTURE**

African American Festival	\$3,000
Ash-Lawn Highland	\$10,164
Darden Towe Park Transfer	\$155,862
Department of Parks & Recreation	\$2,251,277
Jefferson-Madison Regional Library	\$3,173,138
Literacy Volunteers	\$26,355
Municipal Band	\$18,190
Piedmont Council of the Arts	\$12,594
Virginia Discovery Museum	\$11,978
Virginia Festival of the Book	\$11,960
Virginia Film Festival	\$16,380
Visitors Bureau	\$707,044
WVPT Public Television	<u>\$5,463</u>
	\$6,403,405

**Paragraph Eight: COMMUNITY DEVELOPMENT**

Albemarle Housing Improvement Program (AHIP)	\$416,328
Alliance for Community Choice in Transportation	\$6,500
Central Virginia Small Business Development Center	\$7,800
Charlottesville Transit Service	\$666,634
Department of Community Development	\$4,962,988
Housing Office	\$756,158
Monticello Area Community Action Agency (MACAA)	\$150,083
Piedmont Housing Alliance (PHA)	\$113,396
Planning District Commission (TJPDC)	\$108,292
Soil and Water Conservation	\$96,239
Stream Watch	\$10,816
VPI Extension Service	<u>\$201,290</u>
	\$7,496,524

**Paragraph Nine: CAPITAL OUTLAYS**

Transfer to General Government Capital Improvements Fund - Recurring	\$681,958
Transfer to Schools Capital Improvements Fund	\$1,034,000
Transfer to Storm Water Fund	<u>\$250,000</u>
	\$1,965,958

**Paragraph Ten: REVENUE SHARING AGREEMENT**

Revenue Sharing Agreement	\$18,038,878
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**Paragraph Eleven: OTHER USES OF FUNDS**

Board Contingency Reserve	\$96,745
Salary Contingency - Reclassifications	\$100,000
VERIP One-Time Payout	\$140,000
Transfer to General Government Debt Service	\$2,784,935
Transfer to School Division Debt Service	\$14,956,864
Transfer to School Fund - Recurring	<u>\$100,150,577</u>
	\$118,229,121

**Paragraph Twelve: ANTICIPATED SAVINGS**

Anticipated Salary Savings - Frozen Positions	<u>(\$831,803)</u>
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**Total GENERAL FUND appropriations for the fiscal year ending June 30, 2010:** \$218,991,472

**To be provided as follows:**

Revenue from Local Sources	\$189,439,770
Revenue from Local Sources - Transfers	\$1,780,807
Revenue from the Commonwealth	\$23,486,237
Revenue from the Federal Government	\$4,138,383
Revenue from Fund Balance	<u>\$146,275</u>

**Total GENERAL FUND resources available for fiscal year ending June 30, 2010:** \$218,991,472

**SECTION II: REGULAR SCHOOL FUND (Fund 2000)**

That the following sums of money be and the same hereby are appropriated for SCHOOL purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

**Paragraph One: REGULAR SCHOOL FUND**

Administration, Attendance & Health	\$8,661,624
Facilities Construction/ Modification	\$107,600
Facilities Operation/ Maintenance	\$14,711,969
Instruction	\$109,256,919
Pupil Transportation Services	\$8,717,314
Technology	\$3,173,993
Other Uses of Funds	\$4,349,069
<b>Total REGULAR SCHOOL FUND appropriations for fiscal year ending June 30, 2010:</b>	<b><u>\$148,978,488</u></b>

**To be provided as follows:**

Revenue from Local Sources (General Fund Transfer)	\$100,150,577
Revenue from Other Local Sources	\$675,278
Revenue from School Fund Balance, Carry-Over, Transfers	\$2,224,000
Revenue from the Commonwealth	\$43,260,327
Revenue from the Federal Government	\$2,668,306
<b>Total REGULAR SCHOOL FUND resources available for fiscal year ending June 30, 2010:</b>	<b><u>\$148,978,488</u></b>

**SECTION III: OTHER SCHOOL FUNDS**

That the following sums of money be and the same hereby are appropriated for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

**Paragraph One: FOOD SERVICES (Fund 3000)**

Maintenance/ Operation of School Cafeterias	\$4,796,913
Summer Feeding	\$304,000
<b>Total FOOD SERVICES appropriations for fiscal year ending June 30, 2010:</b>	<b>\$5,100,913</b>

**To be provided as follows:**

Revenue from Local Sources	\$3,519,206
Revenue from the Commonwealth	\$60,784
Revenue from the Federal Government	<u>\$1,520,923</u>
<b>Total FOOD SERVICES resources available for fiscal year ending June 30, 2010:</b>	<b>\$5,100,913</b>

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

Special Ed Pre-School Program	<u>\$67,416</u>
<b>Total PRE-SCHOOL SPECIAL EDUCATION FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$67,416</b>

**To be provided as follows:**

Revenue from the Federal Government	<u>\$67,416</u>
<b>Total PRE-SCHOOL SPECIAL EDUCATION FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$67,416</b>

**Paragraph Three: McINTIRE TRUST FUND (Fund 3501)**

Payment to County Schools	<u>\$10,000</u>
<b>Total McINTIRE TRUST FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$10,000</b>

**To be provided as follows:**

Revenue from Investments Per Trust	<u>\$10,000</u>
<b>Total McINTIRE TRUST FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$10,000</b>

**Paragraph Four: PREP PROGRAM**

C. B. I. P. Severe (Fund 3201)	\$1,041,290
E. D. Program (Fund 3202)	<u>\$826,890</u>
<b>Total PREP PROGRAM appropriations for fiscal year ending June 30, 2010:</b>	<b>\$1,868,180</b>

**To be provided as follows:**

<b>Revenue from Tuition and Fees</b>	<b><u>\$1,868,180</u></b>
<b>Total PREP PROGRAM resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,868,180</b>
<b>Paragraph Five: FEDERAL PROGRAMS</b>	
Adult Education (Fund 3115)	\$126,500
Carl Perkins (Fund 3207)	\$147,231
Chapter I (Fund 3101)	\$1,235,950
Drug Free Schools (Fund 3107)	\$40,000
Migrant Education (Fund 3103)	\$147,050
Title II (Fund 3203)	\$494,970
English Literacy/Civics (Fund 3221)	\$166,500
Economically Dislocated Workers (Fund 3116)	\$55,000
Title III (Fund 3215)	\$120,000
21st Century Grant (Fund 3219)	\$163,177
Technology Challenge Grant (Fund 3131)	\$13,654
Race to GED (Fund 3309)	\$32,812
Families in Crisis (Fund 3304)	<u>\$50,000</u>
<b>Total FEDERAL PROGRAMS appropriations for fiscal year ending June 30, 2010:</b>	<b>\$2,792,844</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources	\$75,050
Revenue from Local Sources (Transfer from School Fund)	\$50,000
Revenue from the Federal Government	<u>\$2,667,794</u>
<b>Total FEDERAL PROGRAMS resources available for fiscal year June 30, 2010:</b>	<b>\$2,792,844</b>
<b>Paragraph Six: COMMUNITY EDUCATION FUND (Fund 3300)</b>	
Community Education	<u>\$1,699,433</u>
<b>Total COMMUNITY EDUCATION FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$1,699,433</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Tuition)	<u>\$1,699,433</u>
<b>Total COMMUNITY EDUCATION FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,699,433</b>
<b>Paragraph Seven: SUMMER SCHOOL (Fund 3310)</b>	
Summer School	<u>\$550,183</u>
<b>Total SUMMER SCHOOL appropriations for fiscal year ending June 30, 2010:</b>	<b>\$550,183</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from School Fund)	\$239,243
Revenue from Local Sources (Tuition)	\$171,440
Miscellaneous Revenues	\$2,000
Revenue from the Commonwealth	<u>\$137,500</u>
<b>Total SUMMER SCHOOL resources available for fiscal year ending June 30, 2010:</b>	<b>\$550,183</b>
<b>Paragraph Eight: SCHOOL BUS REPLACEMENT (Fund 3905)</b>	
School Bus Replacement	<u>\$500,000</u>
<b>Total SCHOOL BUS REPLACEMENT appropriations for fiscal year ending June 30, 2010:</b>	<b>\$500,000</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from School Fund)	<u>\$500,000</u>
<b>Total SCHOOL BUS REPLACEMENT resources available for fiscal year ending June 30, 2010:</b>	<b>\$500,000</b>
<b>Paragraph Nine: AIMR SUMMER RENTAL FUND (Fund 3145)</b>	
AIMR Summer Rental	<u>\$446,010</u>
<b>Total AIMR SUMMER RENTAL FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$446,010</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (rental)	<u>\$446,010</u>

<b>Total AIMR SUMMER RENTAL FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$446,010</b>
<b>Paragraph Ten: INTERNAL SERVICE - VEHICLE MAINTENANCE FUND (Fund 3910)</b>	
Vehicle Maintenance	\$799,536
<b>Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$799,536</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Charges)</b>	<b><u>\$799,536</u></b>
<b>Total INTERNAL SERVICE VEHICLE MAINTENANCE FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$799,536</b>
<b>Paragraph Eleven: GENERAL ADULT EDUCATION FUND (Fund 3133)</b>	
General Adult Education	<u>\$19,000</u>
<b>Total GENERAL ADULT EDUCATION FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$19,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources</b>	<b>\$9,000</b>
<b>Revenue from the Commonwealth</b>	<b><u>\$10,000</u></b>
<b>Total GENERAL ADULT EDUCATION FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$19,000</b>
<b>Paragraph Twelve: DRIVERS SAFETY FUND (Fund 3305)</b>	
Drivers Safety Fund	<u>\$401,500</u>
<b>Total DRIVERS SAFETY FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$401,500</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Tuition)</b>	<b>\$341,000</b>
<b>Revenue from the Commonwealth</b>	<b><u>\$60,500</u></b>
<b>Total DRIVERS SAFETY FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$401,500</b>
<b>Paragraph Thirteen: OPEN DOORS FUND (Fund 3306)</b>	
Open Doors Fund	<u>\$123,000</u>
<b>Total OPEN DOORS FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$123,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Tuition)</b>	<b>\$120,000</b>
<b>Revenue from Local Sources (Advertisements)</b>	<b><u>\$3,000</u></b>
<b>Total OPEN DOORS FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$123,000</b>
<b>Paragraph Fourteen: STATE PROGRAMS</b>	
Special Education Jail Program (Fund 3212)	\$140,408
Algebra Readiness (Fund 3152)	\$35,000
Individualized Student Alternative Education (Fund 3142)	\$23,576
Teacher Mentor Program (Fund 3151)	<u>\$9,586</u>
<b>Total STATE PROGRAMS appropriations for fiscal year ending June 30, 2010:</b>	<b>\$208,570</b>
<b>To be provided as follows:</b>	
<b>Revenue from the Commonwealth</b>	<b><u>\$208,570</u></b>
<b>Total STATE PROGRAMS resources available for fiscal year ending June 30, 2010:</b>	<b>\$208,570</b>
<b>Paragraph Fifteen: COMMUNITY CHARTER SCHOOL</b>	
Community Charter School	<u>\$330,000</u>
<b>Total COMMUNITY CHARTER SCHOOL appropriations for fiscal year ending June 30, 2010:</b>	<b>\$330,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources</b>	<b>\$130,000</b>

<b>Revenue from Federal Sources</b>	<b><u>\$200,000</u></b>
<b>Total TNE PARTNERSHIP GRANT resources available for fiscal year ending June 30, 2010:</b>	<b>\$330,000</b>
<b>Paragraph Sixteen: COMPUTER EQUIPMENT REPLACEMENT FUND (Fund 3907)</b>	
Computer Equipment Replacement Fund	<u>\$1,000,000</u>
<b>Total COMPUTER EQUIPMENT REPLACEMENT FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$1,000,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Transfer from School Fund)</b>	<b><u>\$1,000,000</u></b>
<b>Total COMPUTER EQUIPMENT REPLACEMENT FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,000,000</b>
<b>Paragraph Seventeen KLUGE-CLUB YANCEY (Fund 3157)</b>	
Kluge-Club Yancey	<u>\$20,000</u>
<b>Total KLUGE-CLUB YANCEY appropriations for fiscal year ending June 30, 2010:</b>	<b>\$20,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources</b>	<b><u>\$20,000</u></b>
<b>Total KLUGE-CLUB YANCEY resources available for fiscal year ending June 30, 2010:</b>	<b>\$20,000</b>
<b>Paragraph Eighteen: FOUNDATION FOR EXCELLENCE (Fund 3502)</b>	
Foundation for Excellence	<u>\$12,000</u>
<b>Total FOUNDATION FOR EXCELLENCE appropriations for fiscal year ending</b>	<b>\$12,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Miscellaneous)</b>	<b><u>\$12,000</u></b>
<b>Total FOUNDATION FOR EXCELLENCE resources available for fiscal year ending June 30, 2010:</b>	<b>\$12,000</b>
<b>Paragraph Nineteen: Textbook Replacement Fund</b>	
Textbook Replacement	<u>\$1,000,000</u>
<b>Total TEXTBOOK REPLACEMENT FUND appropriations for fiscal year ending</b>	<b>\$1,300,950</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Transfer)</b>	<b><u>\$1,000,000</u></b>
<b>Total TEXTBOOK REPLACEMENT FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,300,950</b>
<b>GRAND TOTAL - OTHER SCHOOL FUNDS</b>	<b><u>\$16,948,585</u></b>

**SECTION IV: OTHER SPECIAL REVENUE FUNDS**

That the following sums of money be and the same hereby are appropriated for OTHER PROGRAM purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

<b>Paragraph One: COMPREHENSIVE SERVICES ACT FUND (Fund 1551)</b>	
Comprehensive Services Act Program Expenditures	<u>\$7,250,000</u>
<b>Total COMPREHENSIVE SERVICES ACT appropriations for fiscal year ending June 30, 2010:</b>	<b>\$7,250,000</b>
<b>To be provided as follows:</b>	
<b>Revenue from Local Sources (Transfer from General Fund)</b>	<b>\$2,710,747</b>
<b>Revenue from Local Sources (Transfer from School Fund)</b>	<b>\$1,040,000</b>
<b>Revenue from the Commonwealth</b>	<b>\$3,458,840</b>
<b>Revenue from Fund Balance</b>	<b><u>\$40,413</u></b>
<b>Total COMPREHENSIVE SERVICES ACT resources available for fiscal year ending June 30, 2010:</b>	<b>\$7,250,000</b>
<b>Paragraph Two: BRIGHT STARS 4 YEAR OLD PROGRAM FUND (Fund 1553)</b>	

Bright Stars Program	<u>\$1,126,621</u>
<b>Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$1,126,621</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from General Fund)	\$647,086
Revenue from Local Sources (Transfer from School Fund)	\$95,535
Revenue from the Commonwealth	<u>\$384,000</u>
<b>Total BRIGHT STARS 4 YEAR OLD PROGRAM FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,126,621</b>
<b>Paragraph Three: TOWE MEMORIAL PARK FUND (Fund 4200)</b>	
Darden Towe Memorial Park	<u>\$242,805</u>
<b>Total TOWE MEMORIAL PARK FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$242,805</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from the General Fund)	\$155,862
Revenue from Other Local Sources	<u>\$86,943</u>
<b>Total TOWE MEMORIAL PARK FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$242,805</b>
<b>Paragraph Four: MJ HEALTH GRANT (Fund 1563)</b>	
MJ Health Grant	<u>\$5,000</u>
<b>TOTAL MJ HEALTH GRANT appropriations for fiscal year ending June 30, 2010:</b>	<b>\$5,000</b>
<b>To be provided as follows:</b>	
Revenue From Local Sources	<u>\$5,000</u>
<b>Total MJ HEALTH GRANT resources available for fiscal year ending June 30, 2010:</b>	<b>\$5,000</b>
<b>Paragraph Five: COURTHOUSE MAINTENANCE FUND (Fund 9150)</b>	
Transfer to General Government Capital Improvements Fund	<u>\$33,765</u>
<b>TOTAL COURTHOUSE MAINTENANCE FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$33,765</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources	<u>\$33,765</u>
<b>Total COURTHOUSE MAINTENANCE FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$33,765</b>
<b>Paragraph Six: TOURISM FUND (Fund 1810)</b>	
Tourism Enhancement (Transfer to General Fund)	\$849,149
Tourism Projects (Transfer to General Government Capital Improvements Fund)	<u>\$500,851</u>
<b>Total TOURISM FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$1,350,000</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources	<u>\$1,350,000</u>
<b>Total TOURISM FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$1,350,000</b>
<b>Paragraph Seven: CRIMINAL JUSTICE PROGRAMS FUND (Fund 1520)</b>	
Criminal Justice Grant Programs	<u>\$690,477</u>
<b>Total CRIMINAL JUSTICE PROGRAMS FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$690,477</b>
<b>To be provided as follows:</b>	
Revenue from the Commonwealth (Grant)	<u>\$690,477</u>
<b>Total CRIMINAL JUSTICE PROGRAMS FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$690,477</b>

<b>Paragraph Eight: VICTIM-WITNESS GRANT FUND (Fund 1225)</b>	
Victim-Witness Program	<u>\$108,272</u>
<b>Total VICTIM-WITNESS GRANT FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$108,272</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from General Fund)	\$32,052
Revenue from the Commonwealth (Grant)	<u>\$76,220</u>
<b>Total VICTIM-WITNESS GRANT FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$108,272</b>
<b>Paragraph Nine: METRO PLANNING GRANT FUND (Fund 1208)</b>	
Metropolitan Planning Organization Funding	<u>\$14,500</u>
<b>Total METRO PLANNING GRANT FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$14,500</b>
<b>To be provided as follows:</b>	
Revenue from the Federal Government (Grant)	\$11,600
Revenue from the Commonwealth (Grant)	\$1,450
Local Funds (Transfer from the General Fund)	<u>\$1,450</u>
<b>Total METRO PLANNING GRANT FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$14,500</b>
<b>Paragraph Ten: HOUSING ASSISTANCE FUND (Fund 1227)</b>	
Family Self-Sufficiency Program (Transfer to General Fund)	\$292,256
Section 8 Housing Assistance Payments	<u>\$2,642,424</u>
<b>Total HOUSING ASSISTANCE FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$2,934,680</b>
<b>To be provided as follows:</b>	
Revenue from the Federal Government	<u>\$2,934,680</u>
<b>Total HOUSING ASSISTANCE FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$2,934,680</b>
<b>Paragraph Eleven: VEHICLE REPLACEMENT FUND (Fund 9200)</b>	
Vehicle Replacement	<u>\$616,785</u>
<b>Total VEHICLE REPLACEMENT FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$616,785</b>
<b>To be provided as follows:</b>	
Revenue from Local Sources (Transfer from General Fund)	\$377,776
Revenue from Other Local Sources	\$12,000
Revenue from Fund Balance	<u>\$227,009</u>
<b>Total VEHICLE REPLACEMENT FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$616,785</b>
<b>GRAND TOTAL - SPECIAL REVENUE FUNDS</b>	<u><u>\$14,372,905</u></u>

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

That the following sums of money be and the same hereby are appropriated from the GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2010:

**Paragraph One: COURTS**

Court Square Maintenance/Replacement Projects	\$100,000
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**Paragraph Two: PUBLIC SAFETY**

VFD Fire & EMS Apparatus Replacement	\$2,737,000
Police Patrol Video Cameras	<u>\$125,000</u>
	\$2,862,000

**Paragraph Three: PUBLIC WORKS**

County Facilities - Maintenance/Replacement	\$610,000
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Ivy Landfill Remediation	\$1,100,000
Keene Landfill Closure	\$50,000
Moores Creek Septage Receiving	\$171,000
Storage Facility Lease (Transfer to General Fund)	<u>\$54,000</u>
	\$1,985,000

**Paragraph Four: COMMUNITY/NEIGHBORHOOD DEVELOPMENT**

Neighborhood Implementation Plan Program	\$850,000
Sidewalk Construction Program	\$263,000
Transportation Improvement Program - Regional	<u>\$100,000</u>
	\$1,213,000

**Paragraph Five: HUMAN DEVELOPMENT**

JAUNT (Transfer to General Fund)	\$150,950
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**Paragraph Six: PARKS, RECREATION & CULTURE**

County Athletic Field Development	\$44,000
Greenway Program	\$50,000
Paramount Theater	\$33,000
Park Enhancements	\$100,000
Parks - Maintenance/Replacement	\$190,000
River and Lake Access Improvements	<u>\$35,000</u>
	\$452,000

**Paragraph Seven: LIBRARIES**

Central Library Maintenance/Replacement	\$55,000
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**Paragraph Eight: TECHNOLOGY AND GIS**

County Server/Infrastructure Upgrade	\$375,000
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**Paragraph Nine: ACQUISITION OF CONSERVATION EASEMENTS**

Acquisition of Conservation Easements (ACE) Program	\$950,000
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**Paragraph Ten: CONTINGENCY FUNDS**

Contingency Funds	\$1,349,050
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<b>Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$9,492,000</b>
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**To be provided as follows:**

Revenue from Local Sources (Tourism Fund Transfer)	\$500,851
Revenue from Local Sources (General Fund Transfer)	\$681,958
Other Local Sources (including Proffers)	\$673,449
Loan Proceeds	\$3,112,000
Use of Fund Balance	<u>\$4,523,742</u>

<b>Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$9,492,000</b>
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**SECTION VI: SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND (Fund 9000)**

That the following sums of money be and the same hereby are appropriated from the SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

**Paragraph One: EDUCATION (SCHOOL DIVISION)**

Administrative Technology	\$175,000
Crozet Elementary Addition/Renovation	\$395,000
Greer Elementary School Addition/Renovation	\$80,000
Gymnasium HVAC and Lighting Replacement	\$1,794,000
Henley Auxiliary PE/Meeting Space	\$200,000
Instructional Technology	\$550,000
Maintenance/Replacement	\$3,789,000
Storage Facility Lease	\$139,000
Technology Grant	\$700,000

<b>Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$7,822,000</b>
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**To be provided as follows:**

Revenue from Local Sources (General Fund Transfer)	\$1,034,000
Proffers	\$50,000

Interest Earned	\$100,000
State Technology Grant	\$700,000
VPSA Bonds	\$5,738,000
Fund Balance	\$200,000

<b>Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$7,822,000</b>
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**SECTION VII: STORMWATER CAPITAL IMPROVEMENTS FUND (Fund 9100)**

That the following sums of money be and the same hereby are appropriated from the STORMWATER CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

**Paragraph One: STORMWATER PROJECTS**

Stormwater Control Program	\$250,000
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<b>Total STORMWATER CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$250,000</b>
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To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$250,000
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<b>Total STORMWATER CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$250,000</b>
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**SECTION VIII: DEBT SERVICE**

That the following sums of money be and the same hereby are appropriated for the function of DEBT SERVICE to be apportioned as follows from the GENERAL GOVERNMENT DEBT SERVICE FUND and the SCHOOL DIVISION DEBT SERVICE FUND for the fiscal year ending June 30, 2010:

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

Debt Service Payments - School Division	\$14,956,864
Debt Service Payments - PREP	<u>\$217,938</u>

<b>Total SCHOOL DIVISION DEBT SERVICE appropriations for fiscal year ending June 30, 2010:</b>	<b>\$15,174,802</b>
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To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$14,956,864
Revenue from Local Sources (PREP Fees)	<u>\$217,938</u>

<b>Total SCHOOL DIVISION DEBT SERVICE resources available for fiscal year ending June 30, 2010:</b>	<b>\$15,174,802</b>
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**Paragraph Two: GENERAL GOVERNMENT DEBT SERVICE FUND (Fund 9910)**

Emergency Services Radio System Lease/Debt Service Payment	\$826,556
Debt Service Payments - General Government	\$2,231,557
Bond Issuance Cost	<u>\$10,000</u>

<b>Total GENERAL GOVERNMENT DEBT SERVICE appropriations for fiscal year ending June 30, 2010:</b>	<b>\$3,068,113</b>
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To be provided as follows:

Revenue from Local Sources	\$283,178
Revenue from Local Sources (Transfer from General Fund)	<u>\$2,784,935</u>

<b>Total GENERAL GOVERNMENT DEBT SERVICE resources available for fiscal year ending June 30, 2010:</b>	<b>\$3,068,113</b>
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<b>GRAND TOTAL – DEBT SERVICE FUNDS</b>	<b>\$18,242,915</b>
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**TOTAL APPROPRIATIONS MENTIONED IN  
 SECTIONS I - VIII OF THIS RESOLUTION  
 FOR THE FISCAL YEAR ENDING June 30, 2010**

**RECAPITULATION:**

**Appropriations:**

Section I	General Fund	\$218,991,472
Section II	School Fund	\$148,978,488
Section III	Other School Funds	\$16,948,585

Section IV	Other Special Revenue Funds	\$14,372,905
Section V	General Government Capital Improvements Fund	\$9,492,000
Section VI	School Division Capital Improvements Fund	\$7,822,000
Section VII	Stormwater Capital Improvements Fund	\$250,000
Section VIII	Debt Service	<u>\$18,242,915</u>
		\$435,098,365

**Less Inter-Fund Transfers**

General Fund to School Fund	(\$100,577,992)
General Fund to Special Revenue Funds	(\$3,919,993)
General Fund to Capital Improvements Funds	(\$1,965,958)
General Fund to Debt Service Funds	(\$17,741,799)
Special Revenue Funds to General Fund	(\$1,141,405)
Special Revenue Funds to Capital Improvements Funds	(\$534,616)
School Fund to Self-Sustaining Funds	(\$2,791,939)
School Fund to Special Revenue Funds	(\$1,135,535)
School Fund to General Fund	(\$421,595)
Self-Sustaining Funds to School Fund	(\$400,000)
Capital Improvements Funds to General Fund	<u>(\$204,950)</u>
	(\$130,835,782)

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<b>GRAND TOTAL - ALBEMARLE COUNTY APPROPRIATIONS</b>	<b>\$304,262,583</b>
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**SECTION IX: EMERGENCY COMMUNICATIONS CENTER**

That the following sums of money be and the same hereby are appropriated from the **EMERGENCY COMMUNICATIONS CENTER FUND** for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2010:

**Paragraph One: EMERGENCY COMMUNICATIONS CENTER FUND**

Emergency Communications Center	<u>\$5,059,909</u>
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<b>Total EMERGENCY COMMUNICATIONS CENTER FUND appropriations for fiscal year ending June 30, 2010:</b>	<b>\$5,059,909</b>
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**To be provided as follows:**

<b>Albemarle County</b>	<b>\$1,975,393</b>
<b>City of Charlottesville</b>	<b>\$1,705,008</b>
<b>University of Virginia</b>	<b>\$527,468</b>
<b>Revenue from Other Local Sources</b>	<b>\$243,572</b>
<b>Revenue from the Commonwealth</b>	<b>\$605,822</b>
<b>Revenue from the Federal Government</b>	<b><u>\$2,646</u></b>

<b>Total EMERGENCY COMMUNICATIONS CENTER FUND resources available for fiscal year ending June 30, 2010:</b>	<b>\$5,059,909</b>
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**BE IT FURTHER RESOLVED THAT** the Director of Finance is hereby authorized to transfer monies from one fund to another, from time to time as monies become available, sums equal to, but not in excess of, the appropriations made to these funds for the period covered by this appropriation resolution.

**SECTION IX**

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

**Paragraph One**

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

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

**Paragraph Two**

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

**Paragraph Three**

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

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

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

**Paragraph Four**

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

**Paragraph Five**

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

**Paragraph Six**

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

**Paragraph Seven**

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

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

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

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

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

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, to pay the costs of the Project in an amount not currently expected to exceed \$30,193,839.

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

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

4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to

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

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

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

\* \* \* \* \*

**Exhibit A**

**CAPITAL IMPROVEMENT PROGRAM  
BONDED PROJECTS  
FY 2009/10**

<b>Schools</b>	<b>Amount</b>
1. School Maintenance Projects	\$3,269,000
2. Gymnasium HVAC & Lighting Replacement	\$1,794,000
4. Greer Elementary School Addition/Renovations	\$80,000
5. Crozet Elementary School Improvements	\$395,000
6. <u>Henley Auxiliary PE/Meeting Space</u>	<u>\$200,000</u>
Schools Subtotal	\$5,738,000
<b>General Fund</b>	<b>Amount</b>
1. Fire Rescue Apparatus	\$2,737,000
2. <u>County IT Infrastructure/Server Upgrade</u>	<u>\$375,000</u>
General Fund Subtotal	\$3,112,000
<b>TOTAL DEBT ISSUE – FY 2009/10 PROJECTS</b>	<b>\$8,850,000</b>

**PREVIOUSLY APPROPRIATED PROJECTS TO BE BONDED**

<b>General Fund</b>	<b>Amount</b>
1. Juvenile & Domestic Relations Court Renovations	\$4,000,000
2. Pantops Fire Station	\$2,735,000
4. Ivy Fire Station	\$2,201,000
5. Fire Rescue Apparatus	\$1,431,000
6. Crozet Ladder Truck	\$1,138,000
7. Public Safety Training Center*	\$1,988,000
8. Crozet Streetscapes Phase II*	\$1,890,839
9. County Office Building Phase II*	\$1,800,000
7. Crozet Library*	\$3,800,000
8. <u>County IT Infrastructure/Server Upgrade</u>	<u>\$360,000</u>
General Fund Subtotal	\$21,343,839
<b>TOTAL DEBT ISSUE – ALL PROJECTS</b>	<b>\$30,193,839</b>

\*Project previously anticipated to be funded or partially funded with cash.

Item 7.11. Board-to-Board, *May 2009, Monthly Communications Report from School Board*, School Board Chairman, **was received for information**.

Item 7.12. Comparative Report of Local Government Revenues and Expenditures for Year Ended June 30, 2008, **was received for information**.

Item No. 7.13. Proffer Management FY '09 Third Quarter Cash Proffer Report.

The executive summary states that the information provided herein represents all cash proffer activity for the months of January through March of 2009. When staff presented the Second Quarter Cash Proffer Report to the Board on February 4, 2009, the Board asked staff to expand the report to include non-cash proffers. Non-cash proffers can take many forms, such as land dedications, specific road improvements, and project development design improvements. Staff continues to improve tracking of both cash and non-cash proffers through the use of a proffer database and the implementation of standard operating procedures. Staff is in the process of assessing the best way to report this information and will try to provide an expanded report to the Board with the next quarter proffer report. Staff is

currently working with the various stakeholder groups to update the status of all prior proffers, and will include that information in the expanded report.

**A. Proffered:** No rezonings were approved during this quarter.

**B. Total Obligated Cash Proffers:** Since no new rezonings were approved between January and March, the total anticipated proffer revenue is \$56,758,832, the same as it was for the prior two quarters.

**C. Revenue:** During this quarter, the County received a total of \$114,225 in cash proffers. The contributions include \$109,000 from Hollymead Town Center Area A-1 (ZMA-2005-15) which is allocated as follows: \$59,000 for the Route 29 Traffic Study and \$50,000 for a future greenway connection and pedestrian access at Hollymead and Route 29. Wickham Pond (ZMA-2004-17) contributed \$3,225.81 for general CIP funds in the Crozet area. Martha Jefferson Hospital (ZMA-2001-15) contributed \$2,000 for transportation improvements in addition to their prior contribution. The additional MJH funds were due to a miscalculation in the amount of their prior contribution.

**D. Total Interest Earnings:** The total interest earned from cash proffer revenues is \$312,867.

**E. Expenditure:** Although no funds were expended this quarter, staff anticipates several requests to appropriate proffered funds for upcoming CIP projects will be presented to the Board in the next quarter. County staff is focusing on utilizing proffered funds where needed and permitted within the context of the proffer.

It is important to note that the County continues to receive cash proffer revenues. This is largely due to previously approved rezonings for which cash proffers were tied to plan approval rather than to building permits. These funds are designated for specific projects, which offsets the need for County funds.

Proffer management reports are received by the Board on a quarterly basis for information only. Staff welcomes any comments or questions.

**This report was received for information.**

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Item 7.14. 2008 Annual Report of the Citizens Advisory Committee for the Charlottesville-Albemarle Public Defender's Office, **was received for information.**

**(Discussion:** Ms. Thomas said this report raises some good points and issues. For example, bondsmen charge 55 percent of the amount to post a bond if someone is Hispanic. She does not have anything to offer, but hates to have the Board presented with a bunch of problems and have no suggestions as to how they might be resolved. She said this committee has no power to do anything about them, but they have done a good job of bringing them to the Board's attention.

Mr. Slutzky said since the committee has brought these things to the Board's attention, he would suggest that the Board ask Mr. David Blount to review this report and see if there are specific items that might be appropriate to include in the Board's next Legislative Package for the General Assembly. He asked if other Board members agreed.

Mr. Rooker said he thinks that is the right approach.)

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Agenda Item No. 8. Competitive Pool Update.

Mr. Bill Letteri, Director, Office of Facilities Development, said during its work session on April 8, 2009, the Board passed a motion directing staff to reconvene the CIP Oversight Committee to reconsider the inclusion of one or more competitive pool proposals in the current Capital Improvements Program. Specifically, the Board directed the Oversight Committee to: a) determine whether the merits and nature of the pool proposals satisfy the CIP policy for inclusion during an amendment year; and b) if the Committee finds that they should be included, to make a recommendation on the timing and funding options for the best proposal. The Oversight Committee met on Thursday, April 29, 2009. After considerable discussion, the Committee reached the conclusion, by a vote of 3:2, that the competitive pool proposals do not meet the criteria for inclusion in the CIP during an amendment year cycle. It recommended that staff resubmit the preferred pool proposal for consideration during next year's normal CIP cycle. Accordingly, no further action or consideration of the individual pool proposals was taken.

Mr. Slutzky said he feels it is unfortunate that the issue remains unsolved. Several Board members felt it might make sense to move forward this year, but there is a process and it has played itself out.

Mr. Boyd said the Board still has the option of overruling the CIP Technical Committee. The Board's representatives on the Committee were both in favor of moving forward with a project. He disagrees with the School System feeling this is not a critical need and it is a wonderful opportunity for the County. It represents .4 percent of the CIP budget over the five-year period. He then offered **motion** to direct staff to bring back an adjustment to the CIP for the current year which includes the proposal from STAR Swimming.

Mr. Dorrier **seconded** the motion, noting that the vote from the Oversight Committee was very close. He thinks the Committee feels a little at odds about how to deal with these issues because it does not recognize that as part of its charge. Because the Board can always overrule that Committee, it feels even less secure. Warm water swimming is a broader issue than just use by the schools for competitive swimming. He thinks it is proper for the Board to look at the "big picture" and take advantage of actual economic funding.

Mr. Boyd said these things are done collaboratively with the School System. That is why there are 13-acre sites for elementary schools and why the County participates in gym renovation costs, etc. The Board just contributed \$75,000 toward a turf field, and the School System contributed no funds. The Board felt it was important based on community recreational needs. This falls right into that same category.

Ms. Mallek said if that swimming pool were going to contribute to those needs, she thinks it would be different. To drop this project into the middle of the process in this particular year when the Board had decided it would not even allow regular amendments this year is a big mistake.

Mr. Boyd said this was an amendment to the \$1.25 million proposal which has been in the CIP for two years.

Ms. Mallek said that would provide public access to recreational swimming, but this proposal will not provide that access.

Mr. Boyd said you would need to be a member of the YMCA.

Ms. Mallek said you could pay an entrance fee on the day you wished to swim.

Mr. Slutzky said he had hoped the Board could move through these already resolved issues fairly quickly. He asked if Mr. Rooker wished to speak before voting.

Mr. Rooker said he thinks the proposal has merit but he will wait for the day when the CIP Committee can consider the merits of the proposal in light of public needs and school needs. The Board has discussed ways to create better indoor athletic facilities and talked about the County doing it, but that was extremely expensive. The Board decided that a public/private partnership was needed - that is how it got involved with the YMCA project. That was a way to provide better community facilities. At the same time it could be done at a reasonable cost for the taxpayers. He thinks this proposal falls into that category.

Mr. Rooker continued by saying that when STAR made its proposal (they also talked to the Board members individually), the public purpose to be served was improved lane times for the high school swim teams; the other potential public benefits of the proposal were considered only as minor to the proposal. The Board had the Parks & Recreation Department check the survey to determine how high a public indoor swimming facility rated on that list of public recreation facilities. He said the primary purpose of this pool is for the schools and they have not yet endorsed the project. There are School representatives on the CIP Committee and apparently they voted not to go forward with this proposal at this time.

Mr. Rooker said this Board imposed standards on amendments to the CIP this year - only amendments for emergencies would be considered. In that regard, the Schools followed that process. This project is good, but it does not rise to the level of an emergency. He looks to the CIP Committee to do its job and make relative rankings of projects and especially looks to the Schools to make relative rankings of projects where the public purpose is also a school purpose. He said the Schools have not endorsed this project. They voted against it at the Committee level; he believes that was done for the procedural reasons he just outlined.

Mr. Rooker said when people mention things like field lights, gym floors, track refurbishing and tennis courts, those projects have been approved by the Schools and were approved unanimously by the CIP Committee, and all are taking place on public property. If the Board is going to set out a process for amending the CIP, in a year were \$100.0 million was deleted, and the School Board follows that process, it is remiss for the Board to come in and not follow its own lead. Where the proposal has good merits for the public, he thinks the County should help the swim teams find a way to handle their needs in the community.

Mr. Slutzky pointed out that during the course of this year the Board chose to spend \$225,000 reallocated from the CIP on a project that the School Board did not take through this same process and which it did not support. This Board was told by the volunteer fundraisers that if it did not invest the \$225,000 they would still get enough money from donors to be able to proceed, and yet this Board chose by a vote of 4:2 today to go ahead and allocate that money having decided earlier to go forward with the projects (turf fields). He said the Board occasionally pulls an item out because it has some unique characteristics and the Board can decide if it is an emergency and if it is an appropriate allocation of money. He does not think the Board feels that way about this project. The Board has not indicated the project is not worthy. But, the question before the Board today is whether to pull it out of the queue and accelerate it, does it rise to the level of emergency, etc. He thinks the Board should probably move forward with that vote even though all Board members know what the outcome of that vote will be.

Mr. Rooker said there is a difference between the turf fields and this request. The Board had already allocated in the adopted CIP a certain amount of money to light fields.

Mr. Slutzky said the Board had also allocated money for a competitive pool with the YMCA in the out years in a similar fashion.

Mr. Rooker said in the current funding plan more money would have been spent lighting fields than it ended up spending on the turf fields. The Parks & Recreation Department made a recommendation that the Board fund the turf fields because it would provide more lighted field playing time for the expenditure made than the plan they previously had in place. He said the Board was not funding primarily a school need – they were funding a public need that it had already decided to fund. He added that Parks & Recreation determined that it was the most economical way to fund that need.

Mr. Slutzky said the Board still made a change to the CIP without the support of the Schools - it was a change in the allocation of those funds from purchasing lighting to purchasing fields which had a lighting implication.

Mr. Rooker said the Board discussed the fields and supported the turf fields. It is a CIP project, and the money was already in the CIP. The Schools dealt with all the health issues, etc. and they supported going forward with the turf fields.

Mr. Boyd said he would like to give a different example. He wants to make the point that the Board does tweak the CIP and exercise its discretion as the elected officials responsible for accounting in the County. The Board did that with the \$2.230 million for the YMCA. That came from the Oversight Committee in the out years. They decided to move transportation dollars over to that project so it could be done.

Mr. Rooker said that was done in an amendment year and it was not a year where the Board took \$100.0 million out of the CIP and when it said the only changes that would be made would be emergencies.

Mr. Slutzky said everyone feels strongly about this issue. What the Board is doing today is making a policy decision about process.

Ms. Thomas said the Board balanced the budget this year on the back of the CIP. This is an attempt to make that not hurt. She said that balanced budget is hurting a lot of County programs and she cannot support rising to the defense of this one program when those kinds of cuts have been made to the CIP.

Mr. Dorrier commented that a separate committee was set up to review this project and Mr. Mullaney of Parks and Recreation, and the other people on the committee, approved it and recommended that the Board pass it.

Ms. Mallek said Mr. Mullaney was not prioritizing this project to put it in this year. At the discussion last month, he said that this was not the highest priority for the Parks & Recreation Department. She said the Committee work cannot be used to say the Board should vote for this money today.

Mr. Slutzky said he was going to ask that the roll be called, if no one objected. (**Note:** The motion was to direct staff to bring back an appropriation for the additional \$500,000 for the STAR Program to be paid out over a five-year period of time.)

Roll was called, and the **motion failed** by the recorded vote which follows:

AYES: Mr. Slutzky, Mr. Boyd and Mr. Dorrier.

NAYS: Ms. Thomas, Ms. Mallek and Mr. Rooker.

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Agenda Item No. 9. SEEA (Southeastern Energy Efficiency Alliance) Grant Proposal - Update.

Mr. Tucker said this is a request to apply for a grant from the Southeastern Energy Efficiency Alliance in conjunction with the City of Charlottesville - City Council adopted their resolution last Monday. Because of the Dillon Rule, some of the things this grant asks for make this proposal somewhat unique. Staff feels it is important to go ahead and apply for the grant of \$0.5 million which would help in the effort to reduce greenhouse gas emissions by 80 percent by 2050. He said staff will need to work on several areas which have been identified with regard to this request. He said S.B. 1212 was approved to be effective July 1, 2009, and it will play into this proposal as well. The County should know by May 30 whether it has been selected as a finalist – there are 11 southeastern states which are eligible to apply for this grant. There will need to be some tweaking of this proposal as it moves forward. Staff is recommending that the Board adopt a resolution to support the SEEA Grant Application (Attachment C to the Executive Summary).

Mr. Slutzky said that there is specific language in the RFP that directs the County to adopt a particular resolution. It was out of deference to that fact that a committee of County, City and UVA staff and representatives decided the County needed to go ahead even though there may be challenges in the enabling legislation. The wording of the resolution is hedged in a way that acknowledges that fact, but the Board can still move forward with the resolution. The City has already adopted their version of it.

Mr. Rooker said that among the Federal stimulus funds being made available he thought there was a dedicated source the County was using to weatherize homes for moderate to low-income housing,

and it would employ people and train them for that purpose. He wants to make certain that the money the City/County gets is used for practical purposes where something is actually accomplished so that after the money is spent somebody in the community is better off - there's actually a lower carbon footprint as a result of some physical changes. Rather than having money obtained and used for additional administrative things, he would like to see it used for on-the-ground things that will have a lasting impact on the environment.

Mr. Slutzky said he represents the Board on the group working on climate change issues. This grant would fund going forward with the administrative elements of implementing a program that has the potential to get 30 to 50 percent of residential units retrofitted with energy efficiency improvements. One of the reasons the community has a good chance of getting this grant is because it is one of the most likely communities in the southeast to actually have that scale of implementation. The money is needed to set up a complex program that involves doing energy audits of residential units which in turn would make recommendations as to what building elements could be improved to achieve energy efficiency, such as higher SEER-rated HVAC systems, energy efficient windows, insulation and a litany of other improvements. All of those things will cost money, and although the typical homeowner might want to implement them they may not have the money to do it. This program would make loan money available to cover the upfront costs of implementing those improvements, then that money would be paid back with interest out of the money saved from lower energy bills. It is an effective way to get a lot of people employed doing audits and putting in these energy efficiency solutions. It would create a benefit to the community in terms of reducing its carbon footprint. Hopefully the grant will be awarded and used to set up a program that has the kind of impact Mr. Rooker hopes it will have.

Mr. Rooker asked what Federal reporting requirements would be required on an ongoing basis for a loan program since the money would not be spent outright.

Mr. Slutzky said that is a critical issue. The group has looked at the melding of this grant effort with the separate, but not unrelated, Federal stimulus money that could be used for implementing some of the energy efficiency elements. So far, they have determined that if the stimulus money is used for the loan program, it may change the effectiveness of the loan program so they are not conflating those two efforts.

Mr. Tucker added that staff is still working on that question. He said Federal money might be supplanted with local money so the locality is not tied to the Federal requirements.

Mr. Rooker said he does not want to set up a program that will cost more to administer than what is actually put into on-the-ground useful things.

At this time, Ms. Thomas **moved** for adoption of a Resolution to Support the SEEA Grant Application, as set out below. Ms. Mallek **seconded** the motion.

Mr. Boyd said he will not support this request. He is increasingly concerned that the Board, as a government, is growing the government tremendously. It is starting to take on at the local level the same things being done at the Federal level making government responsible for doing everything. He thinks the outcomes expected from the grant are laudable but he does not think the government should be involved. He sees this as building a huge bureaucracy and sees it increasing staff and time and effort to administer the loan program, etc.

Mr. Slutzky said it would be helpful to local efforts to obtain this \$0.5 million for the benefit of the community if there was unanimity of support, but he respects Mr. Boyd's concerns. He would like to address those concerns so Mr. Boyd would actually fully understand what the group is seeking to do. Hopefully, there will be \$0.5 million available to develop a program that will likely have, if enabling legislation is granted, an independent organization to implement this program and not be a burden on staff or impact the budget directly, unless for independent reasons the County decided it wanted to invest in the program. It is hoped that ultimately this will be a private sector funded mechanism where the County, with the City, is a facilitator for all of this activity.

Mr. Slutzky said the Board has discussed how in these times it is not easy to find extra money for a good project. Already on the books is a commitment to explore opportunities for reducing the County's carbon footprint – this was valued as an opportunity to do that with a private sector loan program. The loan money would not come from the County, but from the private sector. The energy audits would not be performed by County staff but by private sector parties. Implementation of the retrofits would be done by private sector parties. All of this would be job stimulated by government activity, but yet the implications for staffing and the internal budget would be nominal. It was hoped that by getting this \$0.5 million seed money, it would make it unnecessary for the Board to invest taxpayer money in trying to get such a program going. In fact, they are looking to the grantors to fund the local portion of getting this thing up and running. Considered through that lens, hopefully Mr. Boyd is willing to be supportive of at least moving forward with this next step.

Mr. Boyd responded that he appreciates that viewpoint, and he understands what Mr. Slutzky is saying. He thinks the outcome expected from this is laudable, but he disagrees that it won't become a huge local bureaucracy. He said the Board is presently trying to figure out how the cost of government has grown so much over the last ten years. It is because it keeps taking on additional projects. He does not see this as being a local government initiative. Why doesn't a private foundation set it up and apply for the grant?

Mr. Slutzky responded that the grant does not accept applications from private organizations. They want the grant requests to come from municipalities that are collaborating. That is why the County, the City and the University have agreed to do this. The funding of the development of the proposal was invested by the State of Virginia – they gave the money to pay for the staff time to develop the proposal so it is not a local economic burden. He said Mr. Boyd is assuming that this will somehow lead to a local bureaucracy but this is designed not be a county-implemented program. The County would have governance and lend its credibility to the program. If a homeowner wants to have an audit done and then have a contractor put in the retrofits, one of their apprehensions may be in trusting the private parties. By letting the local governments have some kind of approval process, it lends credibility to the process and stimulates job development and the worthy ecological outcomes. He understands and is sympathetic to Mr. Boyd's concern about growing government, but this is a unique opportunity. They are trying not to do that and are trying to use the investor's money to set up the program in a way that avoids it being a taxpayer burden. He wanted to be sure Mr. Boyd understood that.

Mr. Boyd said he understands that and appreciates Mr. Slutzky's point-of-view, but he does not see it that way. When he sees clauses reading "Whereas the County plans to demonstrate financial support in the near term by pursuit of energy grants and will continue to contribute staff time" that is not an indication that a bureaucracy is not being created and putting additional requirements on staff.

Mr. Slutzky asked if Mr. Boyd is withdrawing his support for the staff moving forward when the Board unanimously voted to adopt the Cool Counties Initiative, and to make appropriate efforts to reduce the County's dependence upon foreign energy sources. When energy savings were implemented in the County Office Building the result was that a lot of money was saved on the fuel bill. He asked if Mr. Boyd was withdrawing his support of that.

Mr. Boyd said the County actually spent a lot of dollars to save that money – the County has spent more than it has saved so far.

Ms. Mallek said that after a number of years that \$55,000 per year less will put the County on the positive side.

Mr. Slutzky said this needs to be put to a vote. He is disappointed because he views this as a job formation opportunity and it is a real benefit to the community to have access to money to set this up. He suspects that if this application is not successful as a result of Mr. Boyd's recalcitrance, the County will end up having to fund this effort on its own. He has confidence that there is a majority of this Board that will support the kind of enterprise contemplated using this outside money to initiate it.

Mr. Rooker said the County is looking for ways to reduce its carbon footprint. The Board adopted a resolution of intent to do that over a period of years. If this works, actually utilizing other dollars, it is one way the County might accomplish a significant part of that. If it is properly done and put into place it will have a stimulus effect on the local economy, which is needed

Ms. Mallek said it would also provide savings to homeowners who need that help in their energy costs as well.

Mr. Slutzky requested that the Clerk call the roll.

Roll was called on the motion passed by the following recorded vote:

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

NAYS: Mr. Boyd.

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

#### **RESOLUTION TO SUPPORT THE SEEA GRANT APPLICATION**

**WHEREAS**, on January 14, 2009, the County of Albemarle passed a resolution to support the County, City and University working collaboratively to address energy efficiency and climate change; and

**WHEREAS**, on January 14, 2009, the County of Albemarle passed a resolution requesting enabling legislation to implement a clean energy financing program, which has been realized in the passing of the State of Virginia's Senate Bill 1212; and

**WHEREAS**, a clean energy financing program is a key component of an effective local energy alliance, as described in the SEEA grant RFP; and

**WHEREAS**, the establishment of a local energy alliance or "operating company" as described in the SEEA grant RFP by localities is dependent upon enabling legislation and can only be developed if permitted by the Commonwealth of Virginia; and

**WHEREAS**, with the acknowledgement of Virginia local governments' current limitations, the County is pleased to support a SEEA grant proposal; and

**WHEREAS**, the creation and implementation of a local energy alliance or operating company would assist the community in achieving important goals and underscores our commitment to energy efficiency, affordable housing, renewable technologies, and greenhouse gas emissions reduction; and

**WHEREAS**, the County may request that SEEA or the State of Virginia act as a temporary operating company for the purposes of the grant, until enabling legislation can be obtained; and

**WHEREAS**, the County would collaborate with the operating company to develop the capabilities, programs, and services our community needs with respect to its energy use – education, conservation, energy efficiency, and renewable generation; and

**WHEREAS**, the County intends to work closely with the local energy alliance, if established, and operating company to promote a variety of energy efficiency campaigns and programs (e.g., for owner-occupied residences, the business/commercial sector, rental properties, neighborhood campaigns, etc.), and to incorporate workforce and economic development into these campaigns, as well as into the overall regional effort, through both systemic and episodic strategies; and

**WHEREAS**, the County will continue to implement an aggressive internal energy conservation program towards our goal of 30% energy reduction from County buildings by 2012, which includes a goal of increased use of renewable energy such as solar panels, and the continuation of maintaining our community demonstration green roof and rain garden projects; and

**WHEREAS**, the County intends to consider using a portion of the Energy Efficiency and Conservation Block Grant (EECBG) funds in support of applicable energy efficiency-related programs in the residential and commercial sectors; and

**WHEREAS**, the County plans to demonstrate financial support in the near term by pursuit of competitive energy-related grants, and will continue to contribute staff time, information and resources towards this overall effort; and

**WHEREAS**, the County will continue to evaluate opportunities for future financial support of this effort on a regular basis; and

**WHEREAS**, the County looks forward to working with our partners on the continued development and implementation of this effort, and are hopeful for the successful award of the SEEA grant.

**NOW THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors hereby supports the County, jointly with the City of Charlottesville, applying for SEEA grant funds and will provide support, in all of the ways described above, helping establish a model community energy efficiency program so that other localities in the Commonwealth of Virginia, as well as throughout the southeastern U.S., will be able to replicate this effort.

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Agenda Item No. 10. Resource Management Review Update.

Mr. Tom Foley, Assistant County Executive, said the Resource Management Review included 148 recommendations for Local Government departments and selected community agencies that have been categorized by staff as follows: 24 recommendations affirmed existing County processes and practices that will be continued; five recommendations have been implemented or resolved; 60 recommendations are in the process of being implemented; 18 recommendations will require additional resources, so will be reviewed in the context of the County's annual Five-Year Financial Plan and budget processes; and, 41 recommendations will require further evaluation by staff before they can be considered for implementation. Staff will proceed with these evaluations as soon as possible recognizing that existing staffing levels in some departments and the scope of organizational change required by certain recommendations will determine their timing for implementation.

Mr. Foley said staff has broken down the entire list of recommendations into 19 areas – with 11 being policy-oriented that require direction from the Board, with eight considered as priorities that could proceed administratively. Staff will come back on a quarterly basis beginning in July and report on all 148 of the recommendations which were originally presented to the Board in February, 2009. He said staff's main purpose today is to say it will follow the process and make a report every quarter starting in July. He asked for the Board's comments on the items listed in Attachment "A" to the Executive Summary (on file) which are considered by staff to be the priority issues.

Mr. Boyd said he had trouble going through this report because there are also some recommendations on Attachment "B" so he is not sure what staff is requesting. Mr. Foley said items on Attachment "B" are just the representation of how staff categorized all of the recommendations. On the Executive Summary it shows that many of them fall into different places. Five of the recommendations on the list have already been implemented. Attachment "B" represents all 148, but staff has pulled up the 19 which they feel should be focused on initially and with the most priority at this time.

Mr. Tucker said if there are any recommendations on Attachment "B" that the Board feels should go to Attachment "A", staff would like to know that today. Is there anything on "B" that staff did not identify as priority items, that the Board feels should be priority items?

Mr. Boyd said there was one he would like to mention. Earlier today there was discussion of having a meeting with the Planning Commission and he does not know where that is on the list. It basically says, under Community Development that site plans and subdivisions should be approved by

staff instead of the Planning Commission. That goes back to the issue of how many things go before the Commission and he thinks that is worth more discussion with them.

Mr. Slutzky asked if that should be a priority which is moved to "A".

Mr. Boyd said he believes it should be moved.

Mr. Slutzky said he would not argue with that point. It was a recommendation of the Task Force.

Ms. Mallek said that is one of the things they are still working on.

Mr. Foley pointed out that the second item on Attachment A indicates there is an issue regarding streamlining of the planning process. Staff needs some direction from the Board. Does the Board think that is still a priority issue since it went through the Development Review Task Force? He said Mr. Mark Graham is trying to get together with Ms. Mallek and Mr. Boyd to be sure there is not more that should be done. Otherwise, staff recommends proceeding with this one item. If Mr. Boyd thinks it should be a priority and needs to be worked on, it will be left on the list if the other Board members agree.

Ms. Thomas said during discussion of the fee schedules, it was noted that the Albemarle Planning Commission spends time on more items than other localities. It also showed that every time something goes to the Commission, it is more expensive. She defends that practice as being the Board's means of ensuring that plans and developments are given a full review by the community. She is, in fact, rather proud of that effort. For an outside group to say the County could be more cost-effective if fewer things went to the Commission is a policy decision of this Board. She would not want the Board to change that policy just because outside consultants said the process could be streamlined if the Board did it the way they do in other localities. She appreciates the work of the committee that has worked on streamlining the process, but to just make a change because of this blanket statement would overturn a lot of decisions the Board has made through the years.

Mr. Slutzky said he appreciates Ms. Thomas' acknowledgement of having a rigorous review process with the Planning Commission, but a significant number of ministerial issues are brought before the Commission which is a time burden on them and an economic burden on the applicant. Also, the Commission does not have a lot of discretion over many of these issues, so there has been an effort to move ministerial issues back to staff level. For him, he thinks that issue bears review by this Board. He thinks there has been reluctance by some Commission members to give up what feels like purview when maybe it is not. He asked Mr. Davis if there are a number of issues which currently go the Commission when that is not required. Mr. Davis explained that there are a number of ministerial approvals the Commission can consider through an appeal or waiver process.

Mr. Foley said there are 148 such issues in the report. He understands the Board wants to make that particular issue a priority. If that is not correct, staff would mark this item "resolved" on the management report.

Mr. Rooker said he is having a problem. In some instances, there seems to be an overlap between various items. Mr. Foley said some things need to be grouped together. This item probably has 10 associated items that should be reviewed together.

Mr. Rooker said as to the question of moving items from Attachment "B" to Attachment "A", the first part of Attachment "B" says "recommendations that affirm existing County processes are practices that will be continued." He noted the second item on Attachment "B" which reads: "Explore all adjustments to reduce the number of Planning Commission meetings from weekly to no more than twice a month; pilot this change to gauge effectiveness." He understands Mr. Foley to be saying that is already underway. Mr. Foley said when staff makes a quarterly report in July it will give the full status of this item. Mr. Tucker said if the Board is generally in agreement with this information today, that July meeting would be a better time to discuss items specifically rather than debating all of them now. The intent today is for the Board to approve the process so staff can move forward.

Ms. Thomas said she was impressed that the Comprehensive Services Act (CSA) is the subject of many of these points. That is something she does not know a lot about. However, she does know the Board was frustrated because the State would not allow some sort of competitive bidding, and other things the State would not allow. She does not want staff to spend a lot of time on things which are not even possible. Mr. Tucker said staff was just trying to identify things which need work.

Ms. Thomas said there could be a lot of staff work spent on some of these items, and she is not sure there would be a payback. Mr. Foley said the initial assessment will help staff too identify such things.

Ms. Thomas said she was disappointed in the whole report in many ways. She was left asking herself if it was a way of doing business the consultants were more acquainted with that led them to say it should be done another way. She is not "jumping on the bandwagon" and saying the County should change – in fact, she thinks the County is doing a lot of things very well. Mr. Foley said staff agrees with that comment.

Mr. Rooker noted there were few recommendations in the consultants' report that he felt could be implemented immediately and yield significant savings in Local Government. There were specific recommendations for the Schools that had clear dollar savings attached to them, and which could be

implemented within a short period of time. It speaks well of County staff that after a thorough review, there are not many of those things noted.

Mr. Slutzky said one of those recommendations was that the minutes for the Planning Commission be truncated in some way, but that had already been looked at, and for good reasons decided against it. But, the completion of the review is that the item has to be looked at, and the Board has done so and reached a conclusion it can support. He thinks there will be a number of items like that in this process. He asked if staff needs more from the Board today.

Mr. Boyd said he had noted some things on Attachment "B" that he would like to have discussed. One item is to "include outcome measurements for AHIP and PHA" is something he thought was already being done. Mr. Foley suggested that staff make a list of these items and clarify them when it makes the next report. He said it has been done with some agencies, but that has not been implemented across-the-board.

Mr. Boyd said there were a couple of things concerning Parks & Recreation. There have been comments about the hierarchy of that department. Mr. Foley said staff will give some particulars about that because he thinks there has been a misunderstanding.

Mr. Boyd said another item is to "implement value engineering" with all County projects. He thought that had already been done. Mr. Foley said it has been incorporated to a large degree but the consultants are suggesting it be more formalized. Staff is saying it has been done in standard SOPs.

Ms. Thomas said there was one item that appeared several times, and it is the question of what the County would be asking of the agencies it funds outside of the County government. She wants to be sure there is some cost-benefit analysis of that. It is cheap and easy to request a quarterly report, but that may be burdensome on some non-profits who find it hard enough to do the annual application. She thinks a good job is done forcing them to think through their operation when doing that report.

Ms. Mallek said just showing the number served is superficial and gives the Board nothing of value. She said Region 10 wants to provide a number served report, but it is the quality of the care people get that is important to her and the success rates achieved.

Mr. Boyd said he agrees with Ms. Thomas that requiring a lot of reports from the small agencies might be a burden, but for the agencies that have a staff some objectives could be established for them and it would be a good practice. That information would need to be measured at least on an annual basis. Mr. Foley said that is done with a lot of agencies, but is not done across-the-board.

Mr. Rooker said in looking at the list of recommendations that require further evaluation, a number of them involved spending more money; not all of the recommendations involved savings.

Mr. Slutzky said the report also indicated that the County's tax rate might be low relative to its peer communities.

Mr. Boyd said there is something in the report regarding high-lighting and promoting economic development. It referenced the fact that some steps had been taken with the recent amendment to the Comprehensive Plan. Should that be made a part of the County's Strategic Plan? He thinks that is a good idea. Mr. Foley responded that staff has identified that as one of the policy areas where the Board will need to provide feedback on. If there is agreement that it should be added to the Strategic Plan, that item can be put on the Board's agenda for its fall retreat.

Mr. Boyd said he thinks it should be done.

Mr. Slutzky said it is a big enough issue that it might be added to the strategic planning discussion in the fall.

Mr. Rooker said he also thinks that would be the time to have the discussion.

**(Note: At 11:29 a.m. the Board took a recess and reconvened at 11:36 a.m.)**

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#### Agenda Item No. 11. Albemarle County Debt Financing - 2009.

Mr. Richard Wiggins, Director of Finance, said the adopted Capital Improvements Program (CIP) for FY 2010–14 assumes the borrowing of approximately \$7.0 million to reimburse the County for expenses related to the design, construction and equipping of the Hollymead Fire Station and the replacement of certain fire and EMS vehicles. He then introduced Mr. Courtney Rogers from the County's financial advisors, Davenport & Company, who is present to explain the proposal and answer questions.

**(Note – the following is excerpted from the Staff's Report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors.**

#### (Lease Financing Summary

1. The County has determined to finance the costs of (a) the Hollymead fire station and related equipment and (b) the replacement of certain fire and EMS apparatus, through a lease financing with the Albemarle County Economic Development Authority (EDA). The

EDA is authorized under provisions of the Industrial Development Authority and Revenue Bond Act to assist the County in financing local government facilities and equipment.

2. The fact that the financing of the Project costs is really in the form of a reimbursement to the County of previously expended funds is permissible. The IRS regulations applicable to tax-exempt financings contemplate that a locality may decide to commence construction of a project (and perhaps complete the project) utilizing other funds, with the expectation that at a later date the locality will reimburse itself with proceeds of a tax-exempt financing. The only prerequisite is to have adopted a reimbursement resolution, which the Board has done. This sequence of project expenditures and then reimbursement through a subsequent tax-exempt financing is utilized frequently by Virginia localities.
3. The financing structure contemplates that the EDA will issue a lease revenue Note to the Bank and give the proceeds to the County (which will use the Note proceeds to reimburse itself for previously expended Project costs). The Note will be secured by the lease structure described below.
4. Under the lease structure, the County will initially lease the Monticello Fire Station to the EDA pursuant to the terms of a ground lease. As such, the County will never give up fee simple title to the property. The term of the ground lease will end upon payment in full of the Note. The ground lease will provide for a release of the Monticello Fire Station property and a substitution of the Hollymead Fire Station property once the County obtains fee simple title from the UVA Foundation.
5. The EDA will lease the property back to the County for its use pursuant to the terms of the Note Purchase and Lease Agreement. The County will then make lease payments to the EDA in amounts and at times sufficient to enable the EDA to pay debt service on the Note. The County's payment obligations under the Note Purchase and Lease Agreement will be subject to appropriation from time to time by the Board of Supervisors of sufficient monies for such purpose. In the unlikely event of non-appropriation, the Noteholder (through the EDA) will be allowed to evict the County from the property and re-lease to other parties, but only for the term of the ground lease.)

Mr. Rogers said this financing structure is similar to that used for the lease/financing of the County Office Building on Fifth Street in 2003. This type of financing is typical in Virginia, especially for facilities such as fire/rescue and fire stations. He said the one thing that is atypical here is that the fire station in Hollymead is currently leased to the County by UVA. The banks want something that is owned free and clear – so temporarily, they will substitute the Monticello Fire Station, which the County owns free and clear, and when UVA actually gives the County a fee simple title, there will be a substitution back.

Mr. Rooker said this awaits the extension of sewer service to the property. He asked the timing of that. Mr. Davis responded that it depends on UVA's development schedule for that part of their industrial park. They anticipated that it would have been done sooner, but it has been delayed by other factors. He does not think there is an exact timetable for it to happen. Mr. Foley said the County went ahead with this project in this location and got the proffer for it because it continues the parallel road system in the Comprehensive Plan. That was the benefit and the reason the County took the lease. Even though it may take time for the line to get there, ultimately it fits into the parallel road system for Route 29.

Mr. Rooker asked if staff is suggesting that extension of the sewer line is something that is in the control of the University Real Estate Foundation and not the County. Mr. Foley said "yes" as to the timing of that extension.

Mr. Rooker asked why it would be a condition of conveying the property back to the County if it's a condition within UREF's control and not the County's. Mr. Davis said the original proffer was for up to a five-acre parcel necessary for a fire station. Their anticipation was for a much smaller parcel because there wouldn't be a drainfield needed, so it would be reduced to a parcel of a couple of acres in size. When the County asked UREF for the fire station site, UREF said they did not want to give five acres for a fire station and a drainfield, so if the County would agree to amend the proffer to allow them to lease the property to the County until the sewer could be extended, they would then divide the smaller parcel for the fire station and dedicate it to the County in fee. They amended their proffer and the County is now leasing that property from them at no cost until the sewer line is extended at which time a smaller parcel will be identified and dedicated to the County.

Mr. Rogers said they solicited from about a dozen regional and local banks proposals for the financing. Part of this is a seven-year piece for the equipment with 20 years for the longer piece. Typically the County would expect to get three to four bids (they solicited banks from throughout the State). The \$7.0 million figure may be too large for the portfolio of some banks, and with the present economic situation they only have two bids – both are very competitive. One rate is for the full 20-year term requested and the other rate is fixed for 10 years and would then be reset for the final 10 years. The 10-year rate is pre-payable at any time with no penalty, but the 20-year loan has a one percent prepayment penalty. Both the fees are similar, in the \$7,000 to \$8,000 range. The 20-year proposal had some additional fees as well as requesting appraisals on both pieces of property. They know that will take time and money to accomplish. The 10-year rate from SunTrust is 4.70 percent and the 20-year rate from BB&T is at 4.98 percent, both of the rates fall within the budget set by the County. He said it is Davenport's recommendation to go with the 10-year rate. The County would have the ability to refinance

at a later time. They know the County has some projects scheduled in the future and if rates are better, this loan could be refinanced.

Mr. Boyd asked if he read correctly that the property is actually turned over to the Authority. Mr. Rogers said that is correct, and the Authority gives its interest to the bank.

Mr. Boyd asked if the Authority actually borrows the money. Mr. Rogers said that is correct; that is the way the statutes are set up under the State Constitution – there has to be a conduit authority to do this.

Mr. Boyd said the agreement says that once the loan is paid off, the property comes back to the County. Mr. Rogers said that is correct.

Mr. Rooker said the property is actually leased by the Authority to the County and the note is paid with the lease proceeds. Mr. Davis said the County remains the fee simple owner of the property. It simply leases it to the Authority, who in turn leases it back to the County for the amount of the debt service the authority is obligated to pay.

Mr. Rooker pointed out an error in the resolution – in the third whereas, the second to the last line, it says the Authority would lease such property back to the Authority, and it should say “back to the County.” Mr. Davis agreed.

Mr. Boyd asked if it is two separate loans, one for ten years and one for seven years. Mr. Rogers said it is actually one loan. They are amortizing the principal over seven years for the equipment portion so the loan will not be paid out for a longer period of time than the average life of the equipment.

Mr. Rooker asked if the Board is making a decision today on which of the financings to select. Mr. Rogers said the resolution allows the County Executive or the Chairman to make that decision. The resolution the Board is being asked to adopt has parameters in place and it says the interest rate shall not exceed five percent.

Mr. Rooker asked if the Board is voting on which of the two financings should be implemented.

Mr. Boyd said the Board would not vote on that since it would be Mr. Slutzky's decision as Chairman of the Board.

Mr. Slutzky said it is an action item for the Board to approve a resolution.

Mr. Rooker **moved** to adopt the following Resolution Approving a Plan of Lease Financing with the Economic Development Authority of Albemarle County, Virginia, for the Acquisition, Construction and equipping of a Fire Station and the Replacement of Fire and EMS Apparatus, as corrected (set out in full below). 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.

**A RESOLUTION APPROVING A PLAN OF LEASE FINANCING WITH  
THE ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA,  
FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A FIRE STATION AND THE  
REPLACEMENT OF FIRE AND EMS APPARATUS**

**WHEREAS**, the Board of Supervisors (the “Board”) of Albemarle County, Virginia (the “County”), desires to finance and refinance the costs of (a) acquiring, constructing and equipping a fire station to be known as the Hollymead Fire Station and (b) replacing certain fire and EMS apparatus (collectively, the “Project”);

**WHEREAS**, the Economic Development Authority of Albemarle County (the “Authority”) is authorized under the Industrial Development and Revenue Bond Act (the “Act”) to exercise all the powers set forth in the Act, which include, among other things, the power (i) to make loans to, among others, a county in furtherance of the Act, (ii) to finance or refinance and lease facilities for use by, among others, a county, (iii) to issue its revenue bonds, notes and other obligations from time to time for such purposes and (iv) to pledge all or any part of its revenues and receipts derived from payments received by the Authority in connection with its loans or from the leasing by the Authority of such facilities or from any source, as security for the payment of principal of and interest on any such obligations;

**WHEREAS**, the Board desires to undertake the financing and refinancing of the Project through a lease structure with the Authority, pursuant to which the County would lease certain property to the Authority pursuant to the terms of a Ground Lease (as hereinafter defined) and the Authority would lease such property back to the County pursuant to the terms of a Lease Agreement (as hereinafter defined);

**WHEREAS**, until the County acquires fee simple title to the Hollymead Fire Station and can substitute such property as leased collateral, the Board desires to secure the financing through a lease of its Monticello Fire Station located on land in the County (with such land, together with all improvements now or hereafter located thereon being, collectively, the “Property”);

**WHEREAS**, the Board desires that the Authority (a) issue a tax-exempt bank qualified revenue note in an aggregate principal amount not to exceed \$7,000,000 (the "Note") pursuant to the terms of the Lease Agreement between the Authority, the County and the Noteholder (as hereinafter defined) and (b) lease the Property to the County at a rent sufficient to pay when due the principal of and interest on the Note;

**WHEREAS**, the County Executive has requested Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), to solicit bids from banking institutions for the purchase of the Note;

**WHEREAS**, there have been presented to this meeting drafts of the following documents (collectively, the "Documents") that the County proposes to execute to carry out the transactions described above, copies of which shall be filed with the records of the County:

- (a) Ground Lease to be dated the date of its delivery (the "Ground Lease"), between the Authority and the County pursuant to which the County will lease the Property to the Authority;
- (b) Note Purchase Agreement and Lease Agreement to be dated the date of its delivery (the "Lease Agreement"), between the Authority, the County and the banking institution selected by the Authority and the County (the "Noteholder") pursuant to which the Authority will (1) issue and sell the Note, (2) use the proceeds of the Note to finance the Project, and (3) lease the Property to the County.

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

1. The following plan for financing the Project is approved. The Authority is hereby requested to issue the Note in a maximum principal amount not to exceed \$7,000,000 and use the proceeds to finance the Project. The County will lease the Property to the Authority pursuant to the terms of the Ground Lease. Thereafter, the Authority will lease the Property to the County pursuant to the terms of the Lease Agreement. The County will undertake to make payments to the Authority of basic rent ("Basic Rent") and additional rent ("Additional Rent") under the terms of the Lease Agreement in amounts sufficient to amortize the Note and to pay the fees and expenses of the Authority. The obligation of the Authority to pay principal of and premium, if any, and interest on the Note will be limited to payments of Basic Rent and Additional Rent received from the County. The undertaking by the County to make payments of Basic Rent and Additional Rent will be subject to appropriations from time to time by the Board of sufficient amounts for such purposes. If the County exercises its right not to appropriate money for such payments, the Authority shall have the right to exercise any remedies provided in the Lease Agreement upon an event of non-appropriation, including the right to terminate the Lease Agreement and exclude the County from possession of the Property. The Note will be secured by an assignment to the Noteholder of the Authority's rights to receive payments of Basic Rent. The plan of financing for the Project shall contain such additional requirements and provisions as the County Executive may approve and determine to be in the best interest of the County.
2. Subject to the pricing parameters of the Note described below, the Board hereby authorizes the County Executive, in consultation with the Financial Advisor and the Authority, to review the bids from the banking institutions and to select the bid that the County Executive determines to be in the best interests of the County. The banking institution submitting such winning bid shall be selected as the Noteholder.
3. The County Executive is authorized and directed to execute the Documents, which shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the County Executive, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes. In making completions to the Lease Agreement, the County Executive shall provide for payments of Basic Rent on terms equivalent to a Note that (a) matures in installments ending no later than December 31, 2029; (b) has an aggregate principal amount not exceeding \$7,000,000; (c) has a "true" or "Canadian" interest cost not exceeding 5.0% per year; (d) is subject to optional redemption, if at all, at a premium not exceeding 1.0% of the principal amount thereof; and (e) is sold to the Noteholder at a price not less than 99.0% of the aggregate principal amount thereof. Following the sale of the Note, the County Executive shall file a certificate with the records of the Board of Supervisors setting forth the final terms of the Note and the Lease Agreement. The actions of the County Executive in approving the terms of the Note and the Lease Agreement shall be conclusive, and no further action shall be necessary on the part of the County. As set forth in the Lease Agreement, the

County undertakes to pay from legally available funds such "late charges" and other charges as described therein.

4. The officers of the County are authorized and directed to execute and deliver all certificates and instruments and to take all actions necessary or desirable in connection with the execution and delivery of the Documents and the completion of the financing.
5. The undertaking by the County to pay any amounts under the Lease Agreement shall be limited obligations payable solely from funds to be appropriated by the Board for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County beyond any fiscal year for which the Board has lawfully appropriated from time to time. Nothing herein or in the Lease Agreement shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.
6. The Board believes that funds sufficient to make payment of all amounts payable under the Lease Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Lease Agreement. The Board directs the County Executive or Director of Finance, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the budget request for each fiscal year during the term of the Lease Agreement an amount sufficient to make the payment of all amounts payable under the Lease Agreement. Within 10 days after adoption of the County's annual budget and related appropriation resolution, but not later than 10 days after the beginning of each fiscal year, the County Executive is authorized and directed to deliver to the Authority and the Noteholder a certificate stating whether an amount equal to or credited to the payment of Basic Rent and Additional Rent which will be due during such fiscal year has been budgeted and appropriated by the Board. So long as the Note is outstanding, if at any time during any fiscal year of the County, the amount appropriated in the County's annual budget in such fiscal year is insufficient to pay when due the amounts payable under the Lease Agreement, the Board directs the County Executive or Director of Finance, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to submit to the Board at its next scheduled meeting, or as promptly as practicable (but in any event within 45 days), a request for a supplemental appropriation sufficient to cover the deficit.
7.
  - (a) The County covenants that it will not take or omit to take any action the taking or omission of which will cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause the interest due on the Note to be includable in the gross income of the holder thereof under existing statutes. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the funds received under the Lease Agreement, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Note from being includable in the gross income for federal income tax purposes of the holder thereof under existing law.
  - (b) The County covenants that during the term of the Lease Agreement it shall not permit the Project or the proceeds of the Note to be used in any manner that would result in (a) 10% or more of such proceeds or the facilities financed with such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of the Project, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Note from being includable in the gross income for Federal income tax purposes of the holder thereof under existing law, the County need not comply with such covenants.
8. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Note, and any elections such officers deem desirable

regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County.

9. All costs and expenses in connection with the undertaking of the Project and the issuance of the Note, including the Authority's fees and expenses and expenses of bond counsel, counsel for the Authority, shall be paid from the proceeds of the Note or other legally available funds of the County. If for any reason the Note is not issued, it is understood that all such expenses shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.
10. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.
11. All other actions of the officers of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of this financing and the undertaking of the Project are approved and ratified.
12. The Board requests the Authority to designate the Note as a "qualified tax-exempt obligation" under Section 265(b)(3)(B) of the Code, and, to the extent required by law, concurs with such designation. The Board acknowledges that, for purposes of such designation, the County will not issue, nor approve the issuance of, any tax-exempt obligations which, taking into account the Note, will result in more than \$30,000,000 in tax-exempt obligations being issued in calendar year 2009, unless the County obtains an opinion of bond counsel to the effect that such issuance will not adversely affect the status of the Note as a "qualified tax-exempt obligation."
13. This Resolution shall take effect immediately.

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Mr. Rooker said there is obviously some advantage to being able to prepay without a penalty. He said a one percent penalty on twenty years is not a bad prepayment deal. Given what's going on in the public market, the amount of debt that will be out there to finance in the future, the likelihood of future inflation and future rate increases is significant. He said that might argue in favor of doing the 20-year financing instead of the 10 years.

Mr. Boyd agreed. He asked Mr. Rogers if he would like to address this since Davenport's recommendation is the opposite. Mr. Rogers indicated that 10 years from now the yield curve is shorter, and the County could refinance for a shorter period of time. He said that Davenport, on the County's behalf, monitors the market. It might be possible that in eight years the rates are so good they would recommend that the County go ahead and lock in a better rate.

Mr. Slutzky said he understands the logic, but looking at the degree to which the Federal government is going into debt, and other factors, he agrees with the comments made and would be strongly inclined to go with the 20-years even at the slightly higher rate and run the risk that the County might lose a modest opportunity to refinance. Mr. Rogers said Mr. Davis may know better what appraisals would cost for the two parcels. Mr. Davis indicated that it might be between \$2,000 and \$4,000 per parcel.

Ms. Mallek asked if that is only required for the 20-year loan. Mr. Rogers said that is correct.

Ms. Mallek said Mr. Rogers had said the administrative fees for that loan are higher. Mr. Rogers said they are basically the same. He said the requirement for appraisals is something that is relatively new. He thinks it is due to the present state of the economy.

Mr. Davis said the appraisals could be problematic given the specialty nature of the restrictions on this property. That is a question mark in the process.

Mr. Rooker said if the property is being appraised for fair market value on a resale, he doesn't know what that would be based on. Mr. Davis said for purposes of the value of it, it is a question mark as to how an appraiser would approach it.

Mr. Slutzky said factors other than fair market value are taken into account in an appraisal of property; there is also replacement cost, etc. Mr. Davis said that is not what the bank would be interested in.

Mr. Rogers said for the Board's information, it is about a \$200,000 differential over the life of both loans assuming the 4.70 percent stayed in place for the 20 years versus the 4.98 percent. It is approximately \$10,000 to \$12,000 per year of debt service differential.

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Agenda Item No. 12. Third Quarter Financial Report.

Mr. Richard Wiggins, Director of Finance, said this financial report for the Third Quarter of FY '09 is on the agenda today for information only. He said staff is projecting total revenues for the fiscal year at approximately \$218.4 million - \$7.6 million less than budgeted and a decrease of about \$2.1 million from what was projected in the second quarter. The decrease has occurred across-the-board – personal property tax, sales tax, business licenses, utility tax, food and beverage tax, etc. He said for expenditures staff is projecting them to be \$217.3 million, a savings of \$8.7 million from what was budgeted and a \$3.1 million expenditure savings from what was projected in the second quarter. This would result in an end-of-year surplus of about \$1.1 million. Because of the reduction in revenues there is a corresponding reduction in the School Transfer; there have also been significant savings generated by General Government departments in all areas.

Mr. Slutzky asked if the reductions in expenditures in the various departments are attributable to compromises in service. Mr. Wiggins said the savings are primarily attributable to additional vacant positions, to savings in supplies and cutbacks in travel and training, but he would not characterize them as impacting service.

Ms. Thomas noted that programs such as the Groundwater Program have been virtually eliminated, but that is a program no one will notice until there is a drought. She thinks the changes will be subtle but there are decreases that will be realized over the years. Mr. Tucker emphasized that where there are positions which have not been replaced, those services may be impacted. In reorganizing staff now, it is hoped that by moving some positions to other departments, these situations might be addressed. He said staff is focusing on items that are mandates.

Mr. Slutzky commented that staff is doing an excellent job of adapting to the economic reality. He said they should be applauded for trying to reallocate staff positions to minimize the impediment to the provision of services.

Mr. Boyd asked if for every dollar in revenue lost, 60 cents is gained because it does not have to be allocated to the School System. Mr. Wiggins said some revenues stay on the Local Government side, but the majority is split between Local Government and the Schools. If there is a dollar decrease then there is a 60-cent decrease in the transfer.

Mr. Boyd noted Section "B" in the report on Expenditures, and asked if the amounts shown are appropriated savings or revised savings. Mr. Wiggins said they are appropriated savings.

Mr. Boyd asked about Attachment "C" where it shows projected unobligated funds for FY '08 of \$18.623 million as of May 6, 2009. He said earlier today the Board talked about moneys like that which have been allocated for the Ivy or Pantops Fire Stations. He asked if any of those unspent allocated funds are in this total. Mr. Wiggins said these are just General Fund dollars. The fire station dollars would be on the Capital Fund side, so that is a separate pot of money.

Mr. Boyd asked the amount of money in that fund. Mr. Wiggins said he did not have that figure with him. However there is probably between \$20.0 and \$25.0 million in the Capital Fund.

Mr. Boyd said some of those projects may never happen. These are sources of funds in difficult times. Mr. Tucker said the money stays in the CIP Fund Balance; the money doesn't go anywhere, it can be reallocated.

Mr. Boyd mentioned that there is a \$3.0 million allocation to the Schools to purchase an elementary school site in year five of the CIP. He assumes that in that year, the money will be shifted to allocated moneys.

Mr. Slutzky said this is reminiscent of the discussion that led to the Board "gutting" the CIP by \$100.0 million this year because it was a "cookie jar" that could be "raided."

Mr. Boyd said he was not looking for money "to put on the table", he only wanted to know how that money is accounted for on a regular basis. Mr. Foley said that each year, staff checks on those projects. If it is actually cash and the project is no longer needed, the money goes back to the Fund Balance. If the money had been appropriated based on a financial scenario, there is no real money involved.

Mr. Boyd said he was just asking if that is incorporated into staff's reporting process. Mr. Foley said "yes." As the Board goes through the CIP process this year, it will see a clearer picture of that.

Mr. Boyd asked if it is in the financial report as well. Mr. Foley said that in the financial report, more information will be given on the capital balances. At the end of the year when the Board is requested to make re-appropriations, they see every project and the totals involved. In the future, staff will indicate whether a project was to be financed or to be done on a cash basis.

Mr. Rooker said the \$18.623 million unobligated fund balance is actually the amount of money maintained for cash flow purposes for operating the County. He thinks that is within the range of reasonableness recommended by the financial advisors. Mr. Tucker said it is really a little low. Mr. Wiggins said the recommendation is for eight percent, and this amount is a little below that number.

Mr. Dorrier asked what triggered the \$1.614 million "lockbox" release. Mr. Wiggins explained that when staff came to the Board at the end of the first quarter, it had projected a shortfall in revenue at that time and recommended release of the "lockbox" the Board appropriated for FY '09 of one-cent.

Mr. Rooker pointed out that the Board voted unanimously on release of that money.

Mr. Slutzky noted that there was a \$5.9 million hole in the budget that had occurred during the first five months of the fiscal year.

Mr. Dorrier asked if there is money left in the "lockbox."

Mr. Slutzky said there is no more "lockbox." The Board did not create a "rainy day" fund so when that same scenario occurs this year, the Board will have to raid services.

Mr. Rooker said there was a proposal during the budget work sessions to set aside additional funds for a "rainy day" fund, and the Board did not support doing that. Mr. Foley said to clarify; the Board has created something different from that "lockbox" the year before through the Capital fund. \$1.3 million has been designated in a "lockbox" within the CIP and it was generated by not allocating it toward the State Revenue-Sharing Program for transportation improvements.

Mr. Boyd said he knows the process has been to move any surpluses into Capital, but the Board can move that into a "lockbox" also. Mr. Foley said the Board said to designate that money, and staff has described it as a contingency, but it is in the CIP.

Mr. Slutzky said the Board recognized that absent a "rainy day" fund, there would be a need for reserves and this was a reserve identified during budget discussions. All made a decision to forego raising the tax burden to address the uncertainty in the markets. All will "keep their fingers crossed" that the economy will turn around swiftly. If not, the Board will deal with it accordingly.

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Agenda Item No. 13. **Public Hearing:** FY '09 Annual Plan for the Administration of the Housing Choice Voucher Program. (*Advertised in the Daily Progress on April 20 and April 27, 2009.*)

Mr. Ron White, Housing Director, said he is requesting that the Board hold a public hearing and get comments on the Housing Choice Voucher Annual Plan and then to authorize the County Executive to sign the certifications that go along with the plan.

Mr. Rooker said when vouchers are set aside for specific projects – such as the request to set aside vouchers for Treesdale and Crozet Meadows – how long are they held open. Mr. White said his office will enter into an agreement committing vouchers to a project. That agreement will have an expectation of when those units will come online, so his office must make sure vouchers are available when the units come online. It is possible that they would hold the vouchers for six months before those units are available. It depends on the turnover at the time.

Mr. Rooker said he assumes that Housing would commit the units it has for next year because these projects are not online now. Mr. White said the agreement states that the vouchers will be made available as long as there are funds available to fund them, and they may not always be immediately available. He confirmed that the unit cost would remain the same with restricted rents, it's just a matter of whether the vouchers are actually available – they are always issued for one year.

Mr. Slutzky said that 17.7 percent of the total units are committed between Crozet Meadows and Treesdale. He asked if the remaining 2.3 percent is the number of vouchers being looked at to supplement the single room occupancy (SRO) possibility? Mr. White said if no one else requests project-based vouchers between now and the time the SRO is built, Albemarle could possibly commit eight to ten vouchers to them.

Mr. Slutzky said the City has shown some interest in promoting and building a SRO, but in the spirit of the Affordable Housing Committee, they wanted to know the County was willing to commit economically to the projects. He said if Albemarle could commit eight or more vouchers to that project that is not an unsubstantial financial commitment to the benefit of funding the SRO. It would not change Albemarle's budget circumstances at all. He wants to be sure that option remains available.

Ms. Thomas said there was a suggestion in the Resource Management Study that the County deal with its housing vouchers jointly with the City. She asked if that is possible. Is it something the Housing Committee would consider? Mr. White responded that he has researched that possibility. He said that Albemarle is considered only a small, Section 8 administrator under good standing with HUD. Last year it was a high performing housing agency under HUD's rules. If Albemarle gets involved in a situation where the contract exceeds 550 vouchers, it would go into an exponential increase in reporting, administrative requirements, etc. The County is currently at 429 with just its program. He said people perceive that money can be saved by combining programs, but the County supports part of the administration for the County program. The Charlottesville Housing Authority supports part of the operation for the program in the City because there is not enough fee money coming from HUD to support the full administration. He said there is not a money saver by combining the two because there is still the same amount of work. There might be some minimal administrative functions that overlap, but as far as the inspectors, housing specialist, and caseloads this wouldn't really create a cost-savings.

Mr. Rooker said moving to a different reporting tier might actually increase operational costs.

Ms. Mallek asked if someone is looking for space in the City, they might come to the County and *vice versa*. Mr. White said that throughout Planning District 10 there is an agreement with all the agencies that administer the program that vouchers can be used in other localities. He noted a situation where Albemarle was expending more than its monthly drawdown from HUD. They were afraid of ending the year over budget, and Fluvanna County had some openings, so eight clients who were already living in Fluvanna were transferred to the Fluvanna program.

With no further questions for staff, Mr. Slutzky opened the public hearing. With no one from the public rising to speak, the hearing was closed and the matter placed before the Board.

Mr. Rooker **moved** to adopt the FY '09 Annual Plan for the Administration of the Housing Choice Voucher Program identified in the Board packet as Attachment A, and to authorize the County Executive to execute the Civil Rights and PHA certifications of compliance. Mr. Dorrier **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

PHA 5-Year and Annual Plan		U.S. Department of Housing and Urban Development Office of Public and Indian Housing			OMB No. 2577-0226 Expires 4/30/2011	
1.0	<b>PHA Information</b> PHA Name: _____ County of Albemarle _____ PHA Code: VA036 PHA Type: <input type="checkbox"/> Small <input type="checkbox"/> High Performing <input checked="" type="checkbox"/> Standard X HCV (Section 8) PHA Fiscal Year Beginning: (MM/YYYY): _07/2009_____					
2.0	<b>Inventory</b> (based on ACC units at time of FY beginning in 1.0 above) Number of PH units: _____ Number of HCV units: _429_____					
3.0	<b>Submission Type</b> <input type="checkbox"/> 5-Year and Annual Plan <input checked="" type="checkbox"/> Annual Plan Only <input type="checkbox"/> 5-Year Plan Only					
4.0	<b>PHA Consortia</b> <input type="checkbox"/> PHA Consortia: (Check box if submitting a joint Plan and complete table below.)					
	Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
	PHA 1:				PH	HCV
	PHA 2:					
	PHA 3:					
5.0	<b>5-Year Plan.</b> Complete items 5.1 and 5.2 only at 5-Year Plan update.					
5.1	<b>Mission.</b> State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:  <i>To promote opportunities for all county citizens to secure and maintain safe, decent, accessible, and affordable housing with emphasis given to those least able to obtain it.</i>					
5.2	<b>Goals and Objectives.</b> Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. Maintaining 98% utilization of budgeting funding serving approximately 92% of allocated vouchers Maximize use of project-based vouchers to promote projects providing new affordable units including those for the elderly and the homeless					
6.0	<b>PHA Plan Update</b>  (a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: NONE (b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions. Albemarle County Office of Housing 1600 5 <sup>th</sup> Street Charlottesville, VA 22902					
7.0	<b>Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.</b> Include statements related to these programs as applicable.					
8.0	<b>Capital Improvements.</b> Please complete Parts 8.1 through 8.3, as applicable.					
8.1	<b>Capital Fund Program Annual Statement/Performance and Evaluation Report.</b> As part of the PHA 5-Year and Annual Plan, annually complete and submit the <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> , form HUD-50075.1, for each current and open CFP grant and CFFP financing.					
8.2	<b>Capital Fund Program Five-Year Action Plan.</b> As part of the submission of the Annual Plan, PHAs must complete and submit the <i>Capital Fund Program Five-Year Action Plan</i> , form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan.					
8.3	<b>Capital Fund Financing Program (CFFP).</b>  <input type="checkbox"/> Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.					
9.0	<b>Housing Needs.</b> Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. Not required – high performing					

9.1	<b>Strategy for Addressing Housing Needs.</b> Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. <b>Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.</b> Not required – high performing
10.0	<b>Additional Information.</b> Describe the following, as well as any additional information HUD has requested. Not required – high performing (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification"
11.0	<b>Required Submission for HUD Field Office Review.</b> In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. <b>Note:</b> Faxed copies of these documents will not be accepted by the Field Office.  (a) Form HUD-50077, <i>PHA Certifications of Compliance with the PHA Plans and Related Regulations</i> (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, <i>Certification for a Drug-Free Workplace</i> (PHAs receiving CFP grants only) (c) Form HUD-50071, <i>Certification of Payments to Influence Federal Transactions</i> (PHAs receiving CFP grants only) (d) Form SF-LLL, <i>Disclosure of Lobbying Activities</i> (PHAs receiving CFP grants only) (e) Form SF-LLL-A, <i>Disclosure of Lobbying Activities Continuation Sheet</i> (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> (PHAs receiving CFP grants only) (i) Form HUD-50075.2, <i>Capital Fund Program Five-Year Action Plan</i> (PHAs receiving CFP grants only)

Agenda Item No. 14. **Public Hearing:** The Field School of Charlottesville Lease of the Old Crozet Elementary School. Pursuant to *Virginia Code* § 15.2-1800(B) to consider leasing a portion of the old Crozet Elementary School, property located at 1408 Crozet Avenue, Crozet, Virginia 22932 (Parcels 05600-00-00-06100 and 05600-00-00-06200), to the Field School of Charlottesville. (*Advertised in the Daily Progress on April 20 and April 27, 2009.*)

Mr. Tucker said a public hearing is required whenever the County leases a property it owns. He said proposals were sought for use of the old school and five were received; two were considered to meet the Board's criteria. Other than the Field School proposal there is also one from the Old Crozet School of Arts which will come to the Board on June 3. He said the Field School would lease about 11,210 square feet of building space and also use the lower athletic field for an annual rent of \$42,710.10. He said staff recommends approval of the lease and authorization for him to sign the lease on behalf of the County.

Mr. Slutzky asked if the \$1.02 per square foot for the utility share will adjust as that costs increases. Mr. George Shadman, Director of General Services, said the cost will be adjusted annually when the lease is renewed.

Ms. Thomas said the Board has been getting e-mails about the School of Arts proposal. She asked if it was delayed because it is just not ready yet. Mr. Tucker said they required a special use permit which was just heard by the Planning Commission last night. It will come before the Board on the same date, June 3.

With no further questions for staff, Mr. Slutzky opened the public hearing. With no one from the public rising to speak, the hearing was closed, and the matter was placed before the Board.

Ms. Mallek **moved** for approval of a Lease Agreement between the County of Albemarle, Virginia, and the Field School of Charlottesville, and to authorize the County Executive to sign the lease on behalf of the County. Ms. Thomas **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

(**Note:** The lease is set out in full below.)

**AGREEMENT OF LEASE**

THIS LEASE AGREEMENT is made as of February 25, 2009, by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and the Field School of Charlottesville, Tenant.

**ARTICLE I. PREMISES AND IMPROVEMENTS**

In consideration of the rents and covenants herein set forth, Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, the premises described on Exhibit A attached hereto (on file) and made a part hereof, including that area marked as the Lower Athletic Field, together with any and all improvements thereon (the "Leased Premises"). The Leased Premises shall be occupied by the Field School of Charlottesville.

ARTICLE II. TITLE: QUIET ENJOYMENT

So long as Tenant is not in default hereunder, Tenant shall have peaceful and quiet enjoyment, use and possession of the Leased Premises without hindrance on the part of the Landlord or anyone claiming by, through, or under Landlord.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease shall commence on 1 June 2009 (the "Date of Commencement") and shall expire 31 May 2010. All references to the "term" of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. This Lease may be renewed for an additional period as may be mutually agreed by the Landlord and Tenant. If renewal is not agreed upon by the Landlord and Tenant, this Lease shall expire upon expiration of the initial term.

ARTICLE IV. RENT

Section 4.1. Annual Rent. Commencing upon the Date of Commencement, during the first year of this Lease, Tenant agrees to pay to Landlord annual rent of \$42,710.10, payable in equal monthly installments, in advance, on the first day of each month during the term hereof. Gross square feet shall be calculated within the perimeter of the area to be used solely by the Field School of Charlottesville.

After the first year of this Lease, the rent for subsequent years of the term of the Lease shall be indexed for inflation and shall be calculated by first establishing a fraction, the numerator of which shall be the level of the CPI Index (as defined herein) as of the first day of that month which is two months before the month in which the Date of Commencement occurs in the subsequent years, and the denominator of which shall be the level of the CPI Index as of the first day of that month which is two months before the initial Date of Commencement. The resulting fraction shall be multiplied by the rent agreed upon or established for the first year of the term of the Lease to determine the annual rent due for the year. The rental figure shall be revised each year based upon this formula. The CPI Index shall be the U.S. Bureau of Labor Statistics Consumer Price Index (all items, all urban consumers, 1982-1984 = 100). If the CPI Index shall be discontinued, Landlord shall designate an appropriate substitute index or formula having the same general acceptance as to use and reliability as the CPI Index and such substitute shall be used as if originally designated herein. Notwithstanding the foregoing, in no event shall the rent due for any lease year decrease below the rent payable for the first year.

Section 4.2. Address for Rent Payment. All payments of rent due Landlord pursuant to Section 4.1 shall be made to Landlord at the address specified in Section 18.3, or to such other party or at such other address as hereinafter may be designated by Landlord by written notice delivered to Tenant at least ten (10) days prior to the next ensuing monthly rental payment date.

ARTICLE V. UTILITIES AND SERVICES

Landlord shall provide water, sewer, electricity, and heating services as part of Tenant's rent. Tenant shall exercise reasonable and responsible care to conserve these utilities. The Tenant agrees that the monthly rent stipulated above may be adjusted to reflect any change in the cost to the Landlord of providing those utility services above. The Landlord shall provide the Tenant with prompt notice of any such change, and shall make available evidence of its actual utility costs. Tenant shall provide telephone, janitorial, garbage disposal, grass cutting, snow removal and all other services.

ARTICLE VI. USE OF PROPERTY

Section 6.1. Permitted Use. Tenant shall have use of the Leased Premises as a school. No other use of the Leased Premises is permitted without the prior consent of the Landlord.

Section 6.2. Parking. Tenant shall be entitled to the use of parking spaces in the parking lot and an access easement to the Leased Premises. Landlord reserves the nonexclusive right to use the parking lot after 5 p.m. in conjunction with the community use of the Upper Athletic Field.

ARTICLE VII. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS

Section 7.1. Installation by Tenant.

(a) Tenant may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Leased Premises, provided that Landlord's consent shall have first been obtained in writing, and provided that Tenant shall obtain all required governmental permits for such alterations, additions or improvements. Except as provided in Section 7.1. (c), all such alterations, additions or improvements shall be at the sole expense of the Tenant.

(b) Tenant may, from time to time, make interior structural alterations, additions or improvements, only with Landlord's prior written consent to plans and specifications therefor,

which consent shall not be unreasonably withheld. Except as provided in Section 7.1. (c), all such alterations, additions or improvements shall be at the sole expense of the Tenant. Upon the expiration or sooner termination of this Lease, Landlord shall have the option (exercisable upon sixty (60) days notice to Tenant except in the case of a termination of this Lease due to a default by Tenant, in which case no such notice shall be required) to require Tenant to remove at Tenant's sole cost and expense any and all improvements made by Tenant to the Leased Premises or to elect to keep such improvement as Landlord's property. In the event Tenant is required to remove any improvements, (i) Tenant shall be responsible for the repair of all damage caused by the installation or removal thereof, and (ii) if Tenant fails to properly remove such improvements or provide for the repair of the Leased Premises, Landlord may perform the same at Tenant's cost and expense.

(c) During the first term of the lease, certain costs associated with alterations, additions, or improvements made pursuant to Section 7.1 (a) and Section 7.1 (b) may be deducted from the rent due during that term. With prior approval from the Landlord, documented paid costs for labor or material (excluding costs of donated labor or material) may be deducted. Documentation will consist of the original invoice from a business duly licensed to provide such material or services. The total deductions authorized under the provisions of this section shall not exceed \$31,275.90.

Section 7.2. Signs. Tenant shall have the right to place signs on the interior or exterior of the Leased Premises with the prior written approval of Landlord.

#### ARTICLE VIII MAINTENANCE OF LEASED PREMISES

Section 8.1. Maintenance. Tenant shall keep the Property clean, neat, orderly, presentable and in good repair at all times. Landlord shall deliver the Property to Tenant at the beginning of the term in its present condition. Landlord shall be responsible for all repairs and maintenance for the Leased Premises, except as provided below, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, including, but not limited to, plumbing, heating, electrical, plate glass and windows. Tenant shall be responsible for routine repairs and maintenance (excluding repairs and maintenance of the building and structural components identified above), except that the Tenant's obligation for such routine repairs and maintenance shall not exceed \$2,500.00 in any one year of the initial or subsequent term(s). Tenant shall be responsible for normal grounds/turf maintenance for that portion of the grounds detailed in Exhibit A. Tenant shall be responsible for mowing and trimming vegetation during the growing season (typically April through November). Notwithstanding the foregoing, Tenant shall be responsible for all maintenance and repairs necessitated by the negligence of Tenant, its employees and invitees.

Section 8.2. Right of Entry. Landlord reserves the right for itself, its agents and employees to enter upon the Leased premises at any reasonable time to make repairs, alterations or improvements; provided, however, that such repairs, alterations, or improvements shall not unreasonably interfere with Tenant's operations. Such right to enter shall also include the right to enter upon the leased premises for the purposes of inspection.

Section 8.3. Surrender of Leased Premises. At the expiration of the tenancy hereby created, Tenant shall surrender the Leased Premises and all keys for the Leased Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, which Landlord has granted permission to have left in the Leased Premises. At such time, the Leased Premises shall be broom clean and in good condition and repair, commensurate with its age. If Tenant leaves any of Tenant's personal property in the Leased Premises, Landlord, at its option, may remove and store any or all of such property at Tenant's expense or may deem the same abandoned and, in such event, the property deemed abandoned shall become the property of Landlord.

#### ARTICLE IX. INSURANCE

Section 9.1. Liability Insurance of Tenant. Tenant covenants and agrees that it will, at all times during the term of this Lease, keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises and the business operated by Tenant and any sub-tenants of Tenant on the Leased Premises in which the limits of public liability for bodily injury and property damage shall not be less than One Million Dollars (\$1,000,000) per accident, combined single limit. The policy shall name Landlord as additional insured. The policy shall provide that the insurance thereunder shall not be cancelled until thirty (30) days after written notice thereof to all named insured.

Section 9.2. Fire and Extended Coverage. Landlord agrees that it will, during the initial and any renewal term of this Lease, insure and keep insured, for the benefit of Landlord and its respective successors in interest, the Leased Premises, or any portion thereof then in being. Such policy shall contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time. Landlord agrees to name Tenant as an additional insured on such policy, as its interest may appear.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by Tenant and Landlord pursuant to Sections

9.1 and 9.2 shall be delivered by Landlord or Tenant, as the case may be, to the other upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. Tenant hereby releases the Landlord from any and all liability or responsibility to Tenant or anyone claiming through or under it, by way of subrogation or otherwise, from any loss or damage to property caused by any peril insured under Tenant's policies of insurance covering such property (but only to the extent of the insurance proceeds payable under such policies), even if such loss or damage is attributable to the fault or negligence of Landlord, or anyone for whom the Landlord may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as any such release shall not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

#### ARTICLE X. WASTE, NUISANCE, COMPLIANCE WITH GOVERNMENTAL REGULATIONS

Section 10.1. Waste or Nuisance. Tenant shall not commit or suffer to be committed any waste or any nuisance upon the Leased Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, Tenant shall, at Tenant's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's use and occupancy thereof.

#### ARTICLE XI. FIRE OR OTHER CASUALTY

If the Leased Premises shall be damaged so as to render two-thirds (2/3) or more of the Leased Premises untenable by fire or other casualty insured against under the insurance required to be carried by Landlord pursuant to Section 9.2, Landlord may elect to either terminate this Lease as of the date of damage or repair the Leased Premises. Unless Landlord elects to terminate this Lease, such damage or destruction shall in no way annul or void this Lease except that Tenant shall be entitled to a proportionate reduction of the rent payable under Article IV while such repairs are being made, such proportionate reduction to be based upon the proportion of the Leased Premises rendered untenable as a result of such damage. Notwithstanding the foregoing, if any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, Tenant may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to Landlord.

#### ARTICLE XII CONDEMNATION

If the whole or any part of the Leased Premises shall be taken under the power of eminent domain, then this Lease shall terminate as to the part so taken on the day when Tenant is required to yield possession thereof, the Landlord shall make such repairs and alterations as may be necessary in order to restore the part not taken to useful condition; and the rent payable under Article IV shall be reduced proportionately as to the portion of the Leased Premises so taken. If the amount of the Leased Premises so taken is such as to impair substantially the usefulness of the Leased Premises for the purposes for which the same are hereby leased, then either party shall have the option to terminate this Lease as of the date when Tenant is required to yield possession.

#### ARTICLE XIII DEFAULT OF TENANT

Section 13.1. Default. The occurrence of any of the following shall be deemed a "default" under this Lease:

- (a) Tenant fails to pay when due any amount of rent, additional rent or other monies due under this Lease, including Articles IV and V, and such payment is not received by Landlord within ten (10) days after written notice of such failure is received by Tenant; or
- (b) a default in any of the other provisions of this Lease, and such default continues uncured for a period of thirty (30) days after written notice thereof from Landlord.

Section 13.2. Remedies. In the event of any default or breach hereof by Tenant, Landlord shall have the right (in addition to all other rights and remedies provided by law) to terminate this Lease or to re-enter and take possession of the Leased Premises, peaceably or by force, and to remove any property therein without liability for damage to and without obligation to store such property, but may store the same at Tenant's expense, and to collect from Tenant all rent then due and which would accrue for the unexpired portion of the term hereof, together with reasonable attorney's fees. In addition, in the event of a failure to pay rent, additional rent or other money within five (5) days of its due date, Tenant shall pay to Landlord the greater of Twenty-Five and no/100 Dollars (\$25.00) or one half (1/2) of one percent (1%) of such sum for each day after the fifth day such rent or other money is late.

ARTICLE XIV. HOLDING OVER, SIGNS, SUCCESSORS

Section 14.1. Holding Over. Any holding over after the expiration of the term hereof, with the consent of Landlord, shall be construed to be a tenancy from month-to-month at the same rent herein specified (prorated on a monthly basis) and shall otherwise be on the terms and conditions herein specified as far as applicable.

Section 14.2. Showing the Leased Premises. During the last ninety (90) days of the term hereof, Tenant shall allow Landlord, or its agents, to show the Leased Premises to prospective tenants or purchasers at such times as Landlord may reasonably desire.

Section 14.3. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, shall extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. All covenants, representations and agreements of Landlord shall be deemed the covenants, representations and agreements of the fee owner from time to time of the Leased Premises and Landlord shall be automatically released of all liability under this Lease from and after the date of any sale by Landlord of the Leased Premises. All covenants, representations and agreements of Tenant shall be deemed the covenants, representations, and agreements of the occupant or occupants of the Leased Premises.

ARTICLE XV. BROKER'S FEES

Tenant and Landlord hereby warrant that there are no brokerage commissions due in connection with this Lease.

ARTICLE XVI. NO ASSIGNMENT

Tenant shall not assign this Lease or sublet all or any portion of the Leased Premises, either directly or indirectly, without the prior written consent of Landlord. No assignment, sublease or transfer of this Lease by Tenant shall (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing Tenant's obligations under this Lease, or (ii) relieve Tenant of its obligations hereunder, and Tenant shall thereafter remain liable for the obligations of the Tenant under this Lease whether arising before or after such assignment, sublease or transfer.

ARTICLE XVII. SUBORDINATION OF LEASE

This Lease and all rights of Tenant hereunder are and shall be subject and subordinate in all respects to (1) any mortgages, deeds of trust and building loan agreements affecting the Leased Premises, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, Tenant shall promptly upon the request of Landlord execute and deliver an instrument in recordable form satisfactory to Landlord evidencing such subordination; and if Tenant fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of Tenant. Tenant further agrees that in the event any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, Tenant shall not withhold or delay its consent thereto.

ARTICLE XVIII. MISCELLANEOUS

Section 18.1. Waiver. The waiver by landlord or Tenant of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition contained herein. The subsequent acceptance or payment of rent hereunder by Landlord or Tenant, respectively, shall not be deemed to be a waiver of any breach by Tenant or Landlord, respectively, of any term, covenant or condition of this Lease regardless of knowledge of such breach at the time of acceptance or payment of such rent. No covenant, term, or condition of this Lease shall be deemed to have been waived by Tenant or Landlord unless the waiver be in writing signed by the party to be charged thereby.

Section 18.2. Entire Agreement. This Lease, and the Exhibits attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Leased Premises; and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced in writing and signed by them.

Section 18.3. Notices. Any notice, demand, request or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

- (a) if to Landlord, at  
County of Albemarle  
County Executive's Office

401 McIntire Road  
Charlottesville, Virginia 22902  
or at such other address as Landlord may designate by written notice;

(b) if to Tenant, at  
Field School of Charlottesville  
P. O. Box 4234  
Charlottesville, VA 22905  
or at such other address as Tenant shall designate by written notice.

Section 18.4. Captions and Section Numbers. The captions and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 18.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 18.6. Recording. Upon request of either party, a memorandum of lease will be executed and recorded. Such memorandum shall contain any provisions of this Lease which either party requests except for the provisions of Article IV, which shall not be included. The cost of recording such memorandum of lease or a short form hereof shall be borne by the party requesting such recordation.

Section 18.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 18.8. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument as of the day and year first above written.

**TENANT**  
**FIELD SCHOOL OF CHARLOTTESVILLE**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANDLORD:** this Lease is executed on behalf of the County of Albemarle by Robert W. Tucker, Jr., County Executive, following a duly-held public hearing, and pursuant to a Resolution of the Albemarle County Board of Supervisors.

**COUNTY OF ALBEMARLE, VIRGINIA**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form:  
\_\_\_\_\_  
Albemarle County Attorney

Agenda Item No. 15. Closed Meeting.

At 12:16 p.m., Ms. Thomas offered **motion** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees, and commissions; and under subsection (1) to conduct an administrative evaluation; and under subsection (7) to discuss with legal counsel and staff specific matters requiring legal advice relating to the Meadow Creek Parkway.

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.

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Agenda Item No. 16. Certified Closed Meeting. At 2:12 p.m., the Board reconvened into open meeting. **Motion** was 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. Rooker. 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.

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

**Motion** was offered by Ms. Mallek to:

**Appoint** Ms. Sally Thomas to the Rivanna Water and Sewer Authority as the Board of Supervisors' representative.

**Appoint** Mr. Ken Boyd to the Rivanna Solid Waste Authority as the Board of Supervisors' representative.

**Appoint** Mr. James Byrom to the Natural Heritage Committee, to fill an unexpired term that will expire on September 30, 2012.

**Reappoint** Ms. Waltine Eubanks to the Advisory Council on Aging, with said term to expire May 31, 2011.

**Reappoint** Mr. David van Roijen to the Agricultural and Forestal District Advisory Committee, with said term to expire April 17, 2013.

**Reappoint** Ms. Christine Devine to the Historic Preservation Committee, with said term to expire June 4, 2012.

**Reappoint** Dr. Donna Plasket to the Piedmont Virginia Community College Board, with said term to expire June 30, 2013.

**Reappoint** Ms. Julia Monteith to the Albemarle County Planning Commission, as the University of Virginia's representative, with said term to expire December 31, 2010.

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

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

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Agenda Item No. 18a. Transportation Matters: VDOT Monthly Report.

Mr. Rooker asked if there had been any further discussions about the railroad bridge on Broomley Road. Mr. Allan Sumpter, Residency Administrator, replied that the railroad is moving along with the plan. It had been hoped that the entire deck surface could be removed, but he does not think that will happen now. It will be milled out and spot repairs made. It will then be patched and a skin surface treatment put over its top. He said that with VDOT helping with the project, it cannot happen prior to July.

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Ms. Thomas stated that the railroad crossing at West Leigh Drive is nice and smooth now, but it creates a two-foot drop on one side. It is a strange configuration, but she doubts anything can be done at this time.

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Ms. Thomas said that Lanetown Road is also scheduled for improvement. She suggested keeping a sharp eye on how Buckingham Branch Railroad makes their repairs.

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Mr. Rooker said he will again raise the issue of using green paint for pedestrian crossings when VDOT proceeds with the Georgetown Road project. He stated that there is a real problem with inconsistency of pedestrian crossings in this whole area. Because of the inconsistency in treatment, a driver does not know he is coming up on a crossing. He said there is no question when you approach one that is painted green and also has a green sign posted, that it is a crosswalk. He said the white crossings in the City are being ignored because people don't know if it a crossing if it is not lighted or painted green. He strongly encouraged Mr. Sumpter to reconsider the issue.

Mr. Sumpter explained that the green paint issue came down to VDOT from the Federal Highway Administration. He checked on it again after recent discussions with the Board and was told VDOT cannot use the green paint – those crosswalks that were done in other places were done as a pilot

program. There was a question recently about those in the City, but they are not on VDOT-maintained roads. He said for the Georgetown Road project they will have flashing signals installed that are pedestrian-actuated.

Ms. Thomas suggested that on Georgetown Road the bus stops and crosswalks not be installed in the identical locations so a bus doesn't stop on top of a crosswalk. If they are in the same location, the person trying to catch the bus is left without a crosswalk to cross the road.

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Mr. Boyd asked if VDOT has any plans to make the Route 250/Rolkin Road intersection pedestrian-friendly. Mr. Sumpter said there is nothing in VDOT's plans for that.

Mr. David Benish, Chief of Planning, said County staff has been working with Facilities Development to get that on their Work Program during the next fiscal year.

Mr. Boyd said a connection to Fontana and all the development on that side of Route 250 will be opened there soon, so there will be more need for pedestrian improvements. Mr. Benish said the first step is a design study to determine what type of improvement would be necessary. Hopefully, that study and the one for the intersection at Route 20 would be done at the same time. After a design has been approved, it will go to the build stage.

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Mr. Sumpter mentioned that work is progressing on the four-way stop installation at Woodland and Rea's Ford Roads. Work has been done as far as marking sign locations, etc. When that is complete, they will be putting up message boards for a certain amount of time, and there will also be media coverage. VDOT's traffic engineering department is anticipating installation sometime in May.

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Mr. Sumpter said VDOT will soon be starting its paving schedules for this year. He said there would be some asphalt paving overlays on a section of Route 20 north of Scottsville, on Route 29/Rio Road and Polo Grounds Road (Route 643), Route 810 in Crozet area and Route 601 in the Free Union area. VDOT basically does these types of treatments – the asphalt overlay, the surface treatment, the tar and gravel, and also the slurry seal. There are 62 sections of roadway in 18 subdivisions that will receive surface treatment. Also, slurry seal will be placed on roads in Forest Lakes, Branchlands, Briarwood, Georgetown Green, Highlands at Mechum, Hollymead, Rio Heights, River Run and Willoughby. He said that the slurry seal is not as clean going down as asphalt and it tracks at times and can get on cars. People call and they are upset. He said to put that into perspective, the present financial situation dictates that the life of pavement be preserved as much as possible. At this time, a typical mile of asphalt on a two-lane roadway costs about \$150,000 per mile; slurry seal costs about \$25,000 per mile. He explained that the life of the slurry seal depends on the condition of the pavement under it, but it usually yields five to eight more years of asphalt life. He said VDOT is in a defensive posture trying to use its resources as best it can.

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Mr. Sumpter reported that his Residency will be challenged quite a bit this coming year for maintenance dollars. The budget he has had in this residency for Albemarle and Greene has had about \$13.0 million, but this coming year will be about \$7.0 million for the maintenance budget. The Commonwealth Transportation Board is getting ready to consider level of service changes in May and June. The new mowing policy will be in effect; they anticipate mowing later in the month and it will be a "one-pass rule" on all of the primary roads and certain secondary roads, with lower volume secondary roads being mowed for sight distance only. Regardless of what the level of services turn out to be, he will have to prioritize their work carefully. He mentions this again because there are telephone calls from people who are used to having VDOT put down gravel on their road after it rains, responding immediately to trim a tree, etc. He said those types of things will be changing. They will have to prioritize work and handle things as efficiently as possible.

Ms. Thomas asked about VDOT activities such as site plan reviews, etc. Will that function be moved to Culpeper? Mr. Sumpter said those types of things have not been decided yet. He just wants the Board to know that regardless of whatever organizational changes occur, his budget for this residency will be about \$7.0 million. His budget was reduced earlier in the year to about \$9.0 million in maintenance dollars, so it has dropped again.

Mr. Boyd said he knows he will get calls about safety issues. Particularly, about some of the gravel roads which are on steep slopes. He knows there will be calls about Doctors Crossing. Mr. Sumpter said when the Board members get those calls the caller should be referred to VDOT, but remind them that there are level of service changes being made because of the financial situation. If there are safety issues, they will be addressed as they fall within the parameters of their level of service categories.

Mr. Boyd asked who would be making the determination of whether something is or is not a safety issue. Mr. Sumpter said if there is a condition where a school bus cannot get through, his office will be dealing that issue.

Mr. Boyd asked if Mr. Sumpter was saying there is pre-established criteria; it is not an arbitrary decision. Mr. Sumpter said that is correct.

Ms. Mallek asked if the Board members could have a copy of those criteria. Mr. Sumpter said they are contained in a huge, thick book, and he is not sure they are understandable to the layman.

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Ms. Thomas said that in the monthly report for the Meadow Creek Parkway, there is something titled "Project Risks" and it indicates that there was failure on the part of the Rivanna Water and Sewer Authority to execute a permit with the Norfolk Southern Railroad. She asked the meaning of that statement. Mr. Sumpter replied that there is something going on internally that could potentially delay some of the work, but it isn't affecting the overall project. He said VDOT has been talking directly to Mr. Tom Frederick and his staff.

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Ms. Mallek asked if striping of Garth Road is still on VDOT's list of priorities. Mr. Sumpter said it is on the striping schedule for this summer.

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Ms. Mallek said she noticed that many roads in the County have counting cords across them. She asked if VDOT is just reestablishing traffic counts for maintenance purposes. Mr. Sumpter said VDOT does a periodic count; doing some every year. This is just a higher volume year for roads to be recounted.

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Agenda Item No. 18b. Transportation Matters not Listed on the Agenda.

Mr. Slutzky asked about the terminal delay in the Hillsdale Drive safety project. He understands bids were solicited, a contractor chosen, and then VDOT's Office of Civil Rights rejected the bid because a sufficient number of disadvantaged subcontractors did not reply. He asked if it is required that a certain amount of work must be given to minority contractors. Mr. Sumpter replied that since Federal dollars are involved in the project, this is a Federal requirement that must be complied with.

Mr. Slutzky asked how the project could have gotten this far, and then staff be surprised by this requirement. He has a lot of elderly constituents who live along Hillsdale Drive, and many have felt landlocked for years by their inability to cross that road. Staff was helpful in getting this grant so the project could move forward, but he is mystified as to how it ended up being basically shut down.

Mr. Bill Letteri, Director of Facilities Management, said the bid requirements for such projects include a specification that the low bidder will meet or attempt to meet the DBE requirement (six percent in this case). They must show a reasonable attempt to meet that figure. This community is disadvantaged because there are not many DBE contractors available to participate in this type of bid. The specifications were made clear to the bidders who are required to make reasonable efforts to conform. In this case, the bid was reviewed by VDOT's Culpeper Office, and they found that there was not enough of an effort to comply.

Mr. Slutzky said the good faith effort document is telling – it says forms weren't submitted, and solicitation of bidders went out one day with the bid opening the next day. There are a litany of issues that gave rise to the failure by the Civil Rights Division of VDOT of that contract. It seems that somewhere along the line, the County should have done its own evaluation, and made a decision to give the contract to the next highest bidder if they were compliant. He understands that they are a minority-owned company. He is mystified as to how this project got in this spot because he wonders what happens now. He has many constituents who are wondering why he has not been able to get them safety improvements on Rio Road, and he shares their frustration.

Mr. Letteri said it is difficult for staff to step into the place of the bidders and try to coach them as to how to do these things. Staff tries to be sure the specifications are clear, and the requirements are clear. In the future it may be helpful to team with some local contractors and hold a work session on the DBE requirements and what will be expected from VDOT to make sure they are conforming.

Mr. Rooker asked who put the contract out for bid. Mr. Letteri said VDOT specifications were used as they relate to the DBE requirements. The County put out the contract, received the bids and in this case the low bidder did not meet the DBE requirements so as a matter of policy it had to go to the Culpeper Office to determine the extent to which a reasonable effort was made.

Mr. Slutzky said when that determination was made, why did not the process go to the next lowest bidder and get the contract let. Mr. Letteri said staff is proceeding in that direction now.

Mr. Slutzky asked when Mr. Letteri estimates the project will move forward. Mr. Letteri said it is hoped that within a week it will be determined whether the second lowest bidder meets the qualifications. If there is uncertainty about that, the project would need to be re-bid.

Mr. Slutzky said he agrees with the suggestion by Mr. Letteri to hold a work session with local contractors in the future, and he will help him in any way he can.

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Agenda Item No. 18c. Transportation Matters: Draft United Jefferson Area Mobility (UnJam) Plan 2035.

Ms. Melissa Barlow, Director of Transportation Programs, with the Thomas Jefferson Planning District Commission, said she is present today to discuss the United Jefferson Area Mobility Plan. She reported that they have been working on the UNJAM plan for about 18 months. In the Spring of 2008 they launched the website [UnJam.org](http://UnJam.org) as well as an online survey to collect citizen input and feedback. They also had a regional transportation summit with keynote speaker Mr. Reed Ewing the co-author of *Growing Cooler*. She said he spoke to the effects of the built environment on the transportation sector. They also asked the public to give their key concerns and goals for the long-range transportation plan.

Ms. Barlow said a draft document was presented in March, 2009 at an open house with a presentation by CTB member Mr. Butch Davies. In April, TJPDC staff took a short version of the plan to regional housing authority groups to get some of them involved in the plan. It was presented to both the City and the County Planning Commissions. They got an endorsement from the County Planning Commissioners. They expect to have the plan adopted by the MPO later this month.

Ms. Barlow said the document consists of two parts – the urban area, which is the MPO planning area (the City of Charlottesville and the urbanized area of Albemarle). There are Federal requirements for the urban section of the plan. Long-range transportation plans are required for any area over 50,000 in population and it must be updated every five years. She said some Board members were involved in the '04 development of the original UNJAM Plan. The plan must forecast transportation investments over 20 years, must be fiscally constrained, and must address all eight Federal planning factors as well as every mode.

Ms. Barlow said that in 2004 the TJPDC brought the rural sections into the UNJAM document, and will do so again. This involves the rural sections of Albemarle, Fluvanna, Greene, Nelson and Louisa counties. She said that since '04 the State requires all rural areas to develop a regional rural long-range transportation plan. That is “loping along” at a slower pace. It is hoped that piece of this plan can be completed by December, 2009. She noted that there are State requirements which are similar to the Federal requirements – the plan is required for all rural areas, must be updated every five years, and it must forecast the transportation investments over 20 years, but it doesn't have to be fiscally constrained.

Ms. Barlow said in terms of fiscal constraints, she will point out that there are a couple of key concepts. VDOT provided the TJPDC with a forecasted revenue number over the 20-year life of the plan – that number was \$391.0 million which was expected to be reasonably available over that timeframe. She stated that it was difficult to project cost estimates into the year of expenditure. It was difficult to “carve” down and reach that total number.

Mr. Rooker said the \$391.0 million figure was arrived at before the cuts which have taken place recently. In five years when the 20-year plan is updated, if things don't change, that number is going to be a whole lot lower and a lot of projects currently in the plan will need to be eliminated. He said the MPO has to work with the number given to it by VDOT which is cleared by FHWA, but there is no question that the number is unrealistic given today's funding climate.

Mr. Rooker said a project cannot be in the TIPP unless it is in the long-range plan. The real significance to the five-year plan is that it is a bundle of projects that could be pulled out and put into the Six-Year Plan because they had been approved in the long-range plan. The question is, how fiscally constrained is the plan given today's reality. Ms. Barlow said the Federal government instructed them to continue to use the \$391.0 million number even though it may spread projects out well past the 20-year benchmark.

Ms. Barlow said to relate the long-range plan to other required transportation documents, she will point out that in order for a project in the MPO area to receive Federal funding, the project must first appear in the long-range transportation plan and then it would also appear in the shorter-term transportation improvement program and then in the State Six-Year Improvement Plan. She said they spent the end of 2008 working through a draft document and with the committees and a new regional vision and preamble was established.

Ms. Barlow said the era of cheap oil is over, so coupled with the adverse effects on the climate caused by the consumption of fossil fuels, the need and demand for alternatives to the automobile will increase. The TJ Planning District's transportation system “will provide sustainable, efficient, and attractive multi-modal choices, support the movement of people, goods and services, and protect the environment, our community's quality of life while addressing regional and statewide transportation needs.” This vision was adopted by the MPO as well as being endorsed by the TJPDC.

Ms. Barlow said that in the document sent to the Board, all of the urban area transportation projects are shown on a map. All of the projects on the list have been coded with a letter and number. The bicycle and pedestrian projects are listed separately. In conclusion, she said that UNJAM 2035 represents a regional vision for a future transportation system, and suggests implementation strategies to attain that vision. In order to remain compliant and be eligible for any stimulus funding, the MPO portion must be adopted by its meeting in May. She said they hope the rural sections will be completed by the end of 2009 so it can still be called a 2009 UNJAM plan. She asked that the Supervisors recommend endorsement of the plan.

Mr. Slutzky said he represents the Board on the MPO. A lot of effort was put into this plan, particularly by Ms. Barlow and her staff. It is a well thought-out and realistic document.

Ms. Barlow said there were several edits that came through the MPO for the document the Board has in its hands. The most recent update is on [mpo.org](http://mpo.org), but she will take any edits or comments the Board may have today.

Ms. Thomas said she is no longer a member of the MPO, and she appreciates all of the work done by it. She said she was actually a member of a group some 30 years earlier that worked on what would have been the long-range plan for the year 2000. She is a firm believer in the value of long-range plans. That plan kept Valley Road Extended from being built through the City, so long-range plans do have an impact if you think about what that did to the traffic patterns in the City. She was delighted to see the non-automobile aspects of this plan.

At this time, Mr. Rooker **moved** approval of the Resolution Endorsing the UNJAM 2035 Plan, as set out below. Ms. Mallek **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

### **RESOLUTION ENDORSING THE UNJAM 2035 PLAN**

**WHEREAS**, the U. S. Department of Transportation (DOT) requires that each urbanized area over 50,000 population update its long range plan every five years; and

**WHEREAS**, the Charlottesville-Albemarle Metropolitan Planning Organization (MPO) last adopted its long range plan, UnJAM 2025 in May, 2004; and

**WHEREAS**, the urban and rural area transportation plans are again combined in UnJAM 2035 to stress the effects transportation networks have on the entire region and to develop effective regional solutions; and

**WHEREAS**, the major goal of the UnJAM 2035 Plan is to create and advance a balanced, regional multi-modal transportation network; and

**WHEREAS**, the Thomas Jefferson Planning District Commission (TJPDC) and the Charlottesville-Albemarle MPO have led the efforts to complete UnJAM 2035 with an extensive public outreach campaign conducted to solicit input from the community; and

**WHEREAS**, the UnJAM 2035 addresses future planned transportation projects in the City of Charlottesville and the urbanized portion of Albemarle County over the next 20 years; and

**WHEREAS**, the MPO Policy Board seeks to approve the urban portion of the plan in May 2009; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the Albemarle County Board of Supervisors endorses the UnJAM 2035 Plan and supports MPO adoption.

(Note: The Board recessed at 2:54 p.m. and did not reconvene until 3:11 p.m. because of a failure of the PowerPoint equipment to operate.)

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Agenda Item No. 19. Joint Meeting with Planning Commission - Work Session - Wind Turbines.

Planning Commission members present: Mr. Bill Edgerton, Mr. Don Franco, Ms. Marcia Joseph, Mr. Tom Loach, Ms. Julia Monteith (UVA non-voting member), Mr. Calvin Morris and Ms. Linda Porterfield,

Absent: Mr. Eric Strucko.

Mr. Mark Graham, Director of Community Development, said the purpose of this meeting is to establish the rationale for investigating the use of wind turbines, to educate the members on wind energy opportunities and challenges in the County, and to determine if the current proposal meets the Board's expectations. He said when the Board adopted the Cool Counties Climate Stabilization Declaration in 2007, a goal of that was to reduce greenhouse gas emissions by 80 percent by the year 2050. The only way that can be accomplished is to look at alternative forms of energy that don't emit greenhouse gasses. Also, in the Sustainability Section of the Comprehensive Plan there is a goal for providing a sustainable community without compromising the ability of future generations to meet their needs. Also, a 2007 strategy specifically mentions alternative energy as something that should be considered. Also, the Board asked staff to investigate the use of wind turbines.

Mr. Graham said there are small, large and utility turbines. He will focus on the small ones today. He will give a brief perspective on the large utility ones, but the Planning Commission and staff basically focused on the small ones. The issue with the large utility type is the size; they are huge. He checked to determine the size of the biggest one and found that it has a span for the turbine blades of 413 feet. He showed on the screen an illustration of the largest one that is not lit; lighting has always been a concern of the Board. A commercial-sized turbine for an industrial plant is about 198 feet tall. That is about as big as it can be without lighting. All others require significant lighting due to FAA restrictions. He pointed out several pictures on the screen of how they would appear in a mountain ridge landscape.

Mr. Graham said the next question concerns wind opportunities in the County. Realistically, most of Albemarle County is considered fairly poor for wind energy. Mountain ridges provide the best opportunities for wind power. There are some opportunities in areas with "micro-climates" - these are very small areas that due to their topography channel wind and provide opportunities in lower elevations. Also, the turbines need to be outside of interference areas - this is a requirement of the Department of Energy which says they should be sited at about 30 feet above the nearest tree within about 300 feet of the turbine. Looking at that in terms of what it means in the County, the cost-effectiveness is proportional to the prevailing wind. If there is not sufficient wind, it takes longer to break even on cost, and if the life span of the wind turbine is lowered, there never would be a break-even point. That's one of the challenges in Albemarle County. He said there is an interest in reducing greenhouse gas emissions and there are limited wind resources, but there are some places where they would work. The best opportunities are on the mountain ridges, but the visual impacts are the highest there. As to the economics, it must be recognized that the County's review process can be a significant part of the cost, and that cost might be the tipping point.

Mr. Graham said staff and the Planning Commission are suggesting a tiered approach. Tier One would create the lowest visual impact and would be treated as a by-right use. Tier Two, with a slightly higher visual impact, would require a waiver by the Commission and it would be done through supplemental regulations in the Zoning Ordinance. Tier Three would have the highest visual impact and would require a special use permit.

Mr. Graham explained that a Tier One turbine would be limited to the rural areas, and would be restricted to no more than the height of buildings allowed in that zoning district; for the rural area that is 35 feet. Turbines would not be allowed in the Mountain Overlay or Entrance Corridor areas, and setback from the property line would be determined by a formula (height of the structure plus 20 feet) in order to address the issue of a falling turbine or times when ice forms on the blades so when it turns that ice is thrown off. No lighting of any kind would be permitted on a wind turbine, and no co-location of personal wireless antennae on the facility.

Mr. Graham then showed on the screen an example of what could be placed on an RA property at this time. There could be a 35-foot tall wind turbine, and it would have to be a minimum of 55 feet from the property line. The visual impact of that turbine from the adjoining property line would be less than accessory buildings on that same property. He presented several examples of wind turbines, noting variables that impact their effectiveness such as wind coming off of water. He said the Planning Commission could grant a waiver for Tier Two turbines in the other zoning districts, including the Mountain Overlay and Entrance Corridor areas, and could also consider co-location of personal wireless facilities on it, as well as lighting and setbacks. He said there was a great deal of discussion about setbacks. He showed a couple of examples of turbines in an Entrance Corridor where it takes advantage of the winds created off of the edge of the buildings because buildings can actually funnel winds.

Mr. Graham said the visual impact of the Tier Three turbines would be the greatest. A special use permit would be required because of that visual impact. Concurrent with that consideration, the Board could grant any of the waivers for the Tier Two turbines. He noted that they could get clearance above the nearby trees so a turbine would be more effective, but also more expensive to build. He said they discussed co- location for wireless facilities, but that is still emerging technology; nobody seems to be doing this yet. He showed a rendering of what such a facility would look like for a 128-foot tower with a 10 kilowatt turbine on top of it; included on the rendering are typical arrays of antennas.

Mr. Graham said another consideration of wind turbines is noise. They did not propose that Zoning Ordinance requirements be modified; those requirements would have to be met. Basically, the noise limit is 55 decibels at nighttime.

Mr. Rooker said there is a difference. If the wind is blowing, the noise is continuous. He is concerned about creating a situation where continuous noise is imposed on neighbors, particularly in situations where the facility is placed closer to the neighbor than to the home of the person constructing the facility.

Mr. Slutzky said according to the website of the Department of Energy an office environment has a higher decibel level than the sound level produced by a wind turbine. A home environment has a slightly higher decibel level than the noise produced by the wind turbine. The question is whether a sound level is something that has to be endured by the neighbors or is it a sound that is relatively speaking benign. Keep in mind that the number 55 decibels means nothing except in context.

Mr. Rooker said that is a good point. He would not want to create a situation where turbines were allowed and it created a problem visually as well as from a noise standpoint. Mr. Graham added that air conditioners are exempted from the County's Noise Ordinance, and they have been noted at 65 and 70 decibels and could be noisier than wind turbines.

Mr. Slutzky pointed out that 60 is ten times what 50 is. Mr. Graham agreed, noting that decibels are measured on a logarithmic scale. He said all wind turbines would not work in all locations. Staff would have to help the property owner look at that issue because there are some very noisy wind turbines on the market mostly due to older technology which has been phased out. He emphasized that Noise Ordinance requirements would have to be met with these facilities.

Mr. Rooker referred to the statements about air conditioners and said that they run at 55 decibels at the source, and not at the property line. Mr. Graham said there are heat pump units running at 70+ decibels measured at 10 feet from the unit. If the property line is only 20 feet away, it does not meet Noise

Ordinance requirements. They are specifically exempted from the Noise Ordinance because they cannot meet the requirement in an urban situation.

Mr. Slutzky said that is an issue that needs to be attended to – for context itself the 55 decibels is common.

Mr. Bill Edgerton said that Mr. Jeremy Hayes is going to give a brief presentation. In the presentation he gave to the Planning Commission he indicated that a lot of the noise is caused by the wind itself, not the turbine. Even if there were no turbine, the Noise Ordinance requirements might be exceeded by the wind, and there is no control over the wind. If the amount of noise produced by the turbine can be pulled out of the formula, that would probably be the best way to measure it. From what was presented to the Commission, he is fairly confident that the majority of the noise will be from the wind itself which will occur whether there is a turbine or not.

Mr. Rooker said all kinds of information is available about the amount of noise produced by these wind turbines, even turbines of the same size. If the County decides to move forward with approving this, he does not know why the County could not require use of better technologies in noise reduction. Mr. Graham agreed.

Mr. Graham said his next point concerns ice throws. The reason for the setback requirements is to make sure that ice throws are not an issue. He said issues with wildlife have been in the press but he has found that the problems with wildlife deal with the utility sized turbines in places such as mountain passes where no one had considered migratory bird patterns. He looked for information about smaller turbines and that problem, and no one has identified that as an issue with that size turbine. He said that Mr. Jeremy Hayes, a private consultant, is present to make a presentation.

Ms. Thomas said she had read the Planning Commission's minutes and they were very complete and helpful. She had never heard of a helix wind turbine, so asked that he explain exactly what its advantages are, since they appear to be substantial. She wonders if that would be part of how to define a by-right turbine.

Mr. Hayes said he is President of Skyline Turbine, a supplier of small turbines, and a renewable energy supplier for residential and small business customers. It is their mission to research, implement, and install wind power appliances to meet the specific needs of each customer. He said that they envision a day when all aspects of wind, solar and energy efficiencies will be brought together to make their structures self-supporting and contributing to the community. He said Skyline Turbine is committed to supporting local governments and its citizens by fostering communication and utilizing all available means to successfully accomplish each installation.

Mr. Hayes gave a PowerPoint presentation. He showed an image of a large wind farm with turbines in excess of 200 feet tall. He said it is the primary vision people have when talking about wind power projects. He showed a picture of one of their installations in a rural setting. It is an 80-foot lattice tower with a Skystream 3.7 mounted on the top and is an example of a tower with a 50 decibel rating. Reasons to install small wind power include the 30 percent rebate offered by the Federal Government, and connection to a grid which offers the possibility of getting some of the installation money back while providing some or all of the owner's electricity needs. He then showed a representation of a helix wind turbine in an urban setting. He said in this case the helix turbines are special; they meet many or all of the requirements discussed, are not susceptible to ice throws, and have only a five-decibel maximum output as well as being bird and bat-friendly.

Mr. Rooker asked how the helix wind turbine compares in terms of power production. Mr. Hayes said the smaller unit is a match for the Skystream 3.7 and the larger unit provides double what that unit provides. He said a 2.5 kilowatt generating machine, depending on the wind resource and the consumption of each person, can produce between 40 and 90 percent of most people's electricity needs. He said that in some cases a five kilowatt turbine is necessary to cover the overall electricity needs of some persons and/or entirely cover their home and produce some excess. There have been many questions about producing excess electricity and the possibility of making money by installing one of these turbines. He generally suggests that is not a good idea. In Virginia the interconnection agreement provides that if energy is taken from the grid it can be replaced at a 1:1 cost, and anything produced in excess is paid back at a wholesale rate – only 44 percent of what it actually costs from an electricity provider.

Mr. Rooker asked Mr. Hayes how long he had been in this business. Mr. Hayes said it has been two and one-half years.

Mr. Rooker asked if he had installed units in various places in Virginia. Mr. Hayes said "yes."

Mr. Rooker asked if he could provide the names and contact numbers for people who might provide information about how their turbines have worked. Mr. Hayes said "yes." He cannot provide any helix information from this area because none of them are installed yet. He said Skystream 3.7 information is available. In the information he provided to the Board, there are pictures from two of his customers. One is close to Vesuvius, Virginia, where the turbine is located atop the Blue Ridge Mountains. That turbine was cleared by the National Parks Service for its viewshed from the Skyline Drive.

Mr. Rooker asked if there are any turbines installed in areas that resemble Albemarle's condition - normal pastureland types of terrain. Mr. Hayes said he does not have any installed close by or in that exact setting.

Mr. Rooker indicated interested in the amount of power a turbine would generate. In this area, if someone were interested in generating some of their own power or selling power back to the grid, how would that compare with solar if the turbine were not on a hilltop? Also, why would anyone go in this direction compared to solar? Mr. Hayes said his company offers a wind study in two different ways. One is by reading the tree life around the property, which establishes the direction and wind speed in the area, and they also install anemometers over a two- to three-month period and take that data and extrapolate it over the course of the year. He emphasized that they will not install a wind turbine unless a minimum 12 mile per hour resource across the year can be established; his company also provides customers with analyses of their current electric bills and their anticipated savings. They are provided with options to reduce their electricity consumption bills through efficiencies. He said that if turbines were installed and did not perform well, it would hurt the overall installation of wind turbines. Currently, there are "wind schools" across the nation (James Madison University and Appalachian State University in Boone, N.C. are close) that train people to properly site and install turbines to be effective for individual customers.

Mr. Rooker asked if Mr. Hayes also installs solar facilities. Mr. Hayes said his company does install solar, and in some situations a combination of both solar and wind is necessary to make it effective for consumers.

Mr. Hayes next showed a photo of an installation just off Skyline Drive in Rockbridge County. It is a 60-foot tall monopole installation with a Skystream 3.7 mounted on top. The base of the turbine is provided by a 6'x6'x3' deep concrete cube. This turbine is located near The Homestead, and it is difficult to see. In this particular case, it is also 20 feet above the treetops.

Mr. Rooker said there is a wind turbine on a house off of Rio Road; he asked what type of turbine it is. Mr. Hayes said he is not familiar with that installation. There are many types of small turbines which typically produce between 200 and 400 watts on a monthly average. Overall, that would not overcome a person's full electricity needs, unless they installed quite a few of them.

Mr. Boyd referred to the installation in Rockbridge County and asked the total cost of it. Mr. Hayes said that particular installation was \$22,500.

Mr. Boyd asked if it will provide 100 percent of the home's electrical needs. Mr. Hayes said it would provide just over 50 percent - in the first 26 days which was the first bill they could monitor it on, the turbine provided 700 kilowatts of power.

Mr. Dorrier asked if it has storage capacity. Mr. Hayes said for most of the turbines they install, they recommend that the customer connect it to the grid. That allows the grid to be used as "a monetary battery" instead of having hazmat batteries in the home and needing to replace them every five years, and being forced to have some sort of maintenance cycle. It is possible to merely run that through the meter backwards and put it back on the grid and cause a reduction of the overall electricity bill. Generally, in between five and 10 years the cost of a turbine can be paid off in its entirety and provide a percentage of free electricity for the owner.

Mr. Rooker asked if that depends on the amount of wind. Mr. Hayes said it depends entirely on the amount of wind, and most importantly, the siting.

Mr. Boyd asked if the \$22,500 includes putting electricity back into the grid. He looked at installing a generator at one time, and it was very expensive to put in a connection so it did not back feed. Mr. Hayes said it can be viewed as expensive, but he is of the opinion that it is largely reduced by the 30 percent rebate by the Federal government. On top of that, a home generator is not capable of putting that energy back onto the grid and reducing the overall electricity bill and the cost of the overall unit. He said that over the 30-year average mortgage for the average four person family, \$54,000 is spent during that time. Installing a turbine at a 60 percent value of full electricity would reduce the overall cost of that electricity in a 30-year term by \$12,000 to \$20,000.

Mr. Hayes next presented information on other turbine options with different features, such as having blades lying flat until the wind speed picks up. He then addressed the issue of noise generated from wind turbines which only make noise when the wind is blowing. Also, it is generally masked by whatever the tree life is around it; as the wind speeds increase, the noise coming through the trees increases as well. He said that the Skystream 3.7 model is one of the best performers in this regard, as it is possible to have a conversation while standing near one. He then offered to answer questions.

Mr. Loach asked if there is a separate course for the evaluation. He asked the cost of the taller installation such as the one depicted in the Park. Mr. Hayes responded that there was a \$450 charge to get the man-lift to the site, and they were told they will not have to repeat that test. They are looking forward to using that data for other installations which are close by. They have two different evaluations - there is a \$450 charge to do a site assessment based on tree life, and an \$800 assessment to place an anemometer for two months and take that data. When they get to the property, it is analyzed to determine what type of wind turbine might cover all of the costs, and then the wind estimate is performed in two different fashions. The cost for that is included in the installation should they do one. They assess a charge if it is not.

Mr. Boyd said Mr. Graham had posted some charts earlier showing the wind circumstances in this area. Based on that information, does Mr. Hayes think it is conducive to this type of facility. Mr. Hayes said it would be much harder to make the larger wind turbines function. Most of the cut-in speeds for the smaller turbines are at 12 mph. That is the bare minimum available in Albemarle County. Some of those turbines are capable of producing more if a microclimate can be found – there are many microclimates available, in the mountains for instance. Also, any of the valleys that run up into the mountains create a “chimney” of wind. People close to rivers or streams frequently have a resource caused by the stream itself.

Mr. Dorrier asked what states are good wind producers. Mr. Hayes said there is a band from Michigan all the way down to Texas. In Virginia, and all the way up the Appalachian chain, there are some of the highest wind values available anywhere. They are 5.5 or 6.0 wind class, but they are on top of the ridges. A concern is that wind turbines do not interfere with any viewshed. Overall, small turbines hold the possibility of being outside of those viewsheds specifically something like the helix because it excels at collecting turbulent wind and does not necessarily need to be installed at 20 feet above treetops. Generally, they are installed at no higher than 32 feet off the ground from the base to the top of the unit.

Mr. Rooker said in an area like Albemarle, people have commented to him that solar is much more economical and feasible than a wind turbine. Mr. Hayes said the technology for both increases every day. Small wind turbines are typically slated now to work in wind zones of 2.0 and higher. A lot of work has been done to cause them to work better in lower wind environments. He said solar technologies are also increasing, and there are many types that excel in collecting light from many different directions to avoid things like a large solar array that needs to turn those panels 90 degrees for the sun to be effective.

Mr. Slutzky said it appears that staff and the Planning Commission have done a very thoughtful job of balancing competing interests. There is clearly some desire in the County to pursue the opportunity for wind power generation, and there is clearly some concerns about it also. If the Board is being asked today to provide feedback he has his own bias on the subject matter. He is strongly of the mind that alternative energy technologies should be pursued with appropriate haste. He is probably less concerned about placement on the ridges than the rest of the Board members. He believes accessing wind power is a priority. What staff and the Planning Commission have provided is a good framework that would allow citizens in the community to experiment with this emerging technology in a way that is well-managed. In general, his feedback would be to move forward with the way this has been proposed.

Mr. Rooker said based on the information the Board has now, he would be disposed to support Tier One by itself without either Tier Two or Tier Three. He said the Board spent a huge amount of time and effort to create the Cell Tower Ordinance which has been written up around the State as a model to be followed by other communities. What is being talked about is approving something that would bring large, tall structures of the kind that would not be approved in the form of a cell tower and allow them to be put up by-right throughout the County. He thinks the Board has an obligation to allow alternative forms of energy use to go forward, but he questions whether allowing these turbines in an area with little wind would be practical when compared to solar alternatives. He wonders if the Board would be encouraging people to invest in something that is marginal as opposed to something that is more likely to produce a positive return. These things work on mountaintops and they work in Texas – they are economical in offshore Virginia where 16 miles out there is no visual impairment. There is an area out there where it appears that high scale production could take place from wind farms. He suggests the Board be careful when creating a policy that would allow tall structures that may have noise issues to be installed throughout the County.

Ms. Marcia Joseph said that she, Mr. Graham, and Mr. Edgerton worked on this question together. The Planning Commission talked about exactly what Mr. Rooker just said. One of things was the microclimate. A lot of properties have wind bursts in one or more areas on their property. She has lost the roof on her barn a couple of times. In the rural areas there are areas that experience that sort of thing so it might be worth while to install a turbine. They also talked about the height of these structures in relation to cell towers. Since cell towers are installed among the trees, they discussed ways to juxtapose these things so they cannot be skylighted, etc. They concluded that supplemental regulations could be imposed just like the different tiers for cell towers. They looked at the existing cell tower ordinance because they do not want to undermine what is already on the books.

Mr. Rooker said cell towers are required to be sited in groves of trees and they cannot be skylighted. Wind turbines would need to be sited in open places not in trees, and if they were near trees they would need to be in a significant clear area above those trees. He asked how that visibility issue might be addressed. Ms. Joseph said some localities consider the size of the parcel itself and also the zoning district. If it were in a rural area district and it was a five-acre parcel a turbine could be located and not be visible.

Mr. Rooker said he thinks that is a great idea, but is not embodied at all in the tiered recommendations. Ms. Joseph said that is because they have not gotten to the details of the tiers. She said Mr. Graham told the Commission the Board wanted a joint meeting so all could discuss whether or not to go forward with this idea, or just step back.

Mr. Rooker said he has a different view of a turbine(s) in the middle of a farm where it was not significantly visible to surrounding properties and where it could not be heard by anyone, and creating a situation where someone on a two-acre tract of land put up a turbine that might be closer to his neighbor's house than his own house, and was the tallest thing in an area where the Board would clearly not approve a cell tower. He is not concerned about wind turbines, but is troubled by establishing a policy that would

allow "coming out of the box." He knows that the cell towers which were erected before adoption of the Cell Tower Ordinance are generally acknowledged by anyone driving by as a mistake.

Mr. Slutzky said Mr. Rooker is raising a number of interesting and relevant points. He asked if, under this approach, the owner of land in a designated growth area would be prevented from installation of a 32-foot turbine. Mr. Graham said that would be a Tier Two and it would require a waiver from the Planning Commission. He said they have not yet fleshed out guidelines that would accompany the ordinance. The Commission would need to decide whether the facility would impact the neighbors and then decide if they could justify granting a waiver.

Mr. Slutzky said he would like for the Planning Commission to move forward with all three tiers, and then take public comments. He said if the details are fleshed out, and a public hearing held, it might show that a lot of people are interested. He lives in the growth area, and would be very frustrated if he could not experiment with this technology particularly to take advantage of some of the current subsidies available through the Federal government. It is not entirely about economic viability, it is also about a moral commitment to try and reduce dependence on foreign oil, etc. There are other variables that come into the calculus of decision-making about installation of a turbine. He thinks the County should move forward and at least flesh out the rules for Tiers One and Two and hopefully Three, and then go through the public input process. At that point, a decision might be made not to go forward with any of it, but it would be a more informed decision than to just outright reject this option for growth area residents.

Mr. Rooker said nothing would prevent the County from having a Tier One and seeing how it worked before allowing wind turbines to be located on much smaller parcels in closer proximity to other areas.

Mr. Slutzky said the people who live in the growth area would not be able to do it if they have to wait.

Mr. Rooker commented that they would have to wait to see how things work.

Mr. Edgerton said he has a strong prejudice in favor of approval. What's being proposed as the next step is to develop an ordinance that would allow for the Tier One on an administrative by-right basis in the rural areas where parcels are large and limiting that to what is already allowed in the rural areas for an accessory structure. The big question is whether it would be more of a visual impact to erect a 35-foot tall turbine on their farm or a 35-foot tall barn or shed, which would be classified as an accessory structure which according to the ordinance can be as close as six-feet to the property line. The drawing shown by Mr. Graham earlier showed that what is being proposed is even more conservative than that because the setback from the property line would have to be 55 feet for a turbine to accommodate a fall zone.

Mr. Edgerton said he thinks this is a cautious approach, far more cautious than he would like to see, but at the same time he thinks a lot of people may have a different opinion. He said there was a wind ordinance writing workshop held by the Shenandoah Valley Planning District Commission a couple of weeks ago. He went and it was fascinating. There was excitement about some of the larger commercial facilities. There are four different counties in Virginia that have written language into their ordinances allowing for the smaller private turbines and they did it in a tiered way. Being concerned about the impact of these turbines, they required special use permits or special exemptions for all applications. There have been few applications. Every county represented at the meeting who had done this said they wished they had not worried about the rural areas at all – that was a non-issue. And then, Mr. Hayes said he would not install a turbine unless it would actually produce some viable help.

Mr. Rooker said the Board cannot adopt an ordinance based on the responsibility of one provider.

Mr. Edgerton said even the cost of the small turbine is a big investment, and there are microclimate situations in the rural areas that would be evaluated on a case-by-case basis. They would not make sense in certain areas unless someone just wanted a "lawn ornament". He thinks that is the case of the one on Rio Road.

Ms. Thomas said she visited that property yesterday and the owner wants the turbine to produce power like the solar panel he has on the other side of his lawn. He asked her if the question the Board is debating is whether to allow the Planning Commission to proceed with a three-tier approach or whether to stop at one tier. She thinks the Board should go forward with the three tier approach. The community's standards should be stated clearly in anything put together, and that includes considering impacts – visual, mountain, skyline, noise, light, and neighborhoods – in the forefront. She said the cell panels that are flush-mounted were first brought to the attention of the Board by a manufacturer after hearing the Board's standards. She said cell towers are different because they are revenue producing poles and these would not be. If the Board's standards were shared around the State, she thinks they would get some creative designs that fit the lower wind levels of the eastern United States. She would like for the County to be ready for that when it comes.

Mr. Rooker said he has no problem with taking this question forward and having public hearings to see what the public is interested in. He has a problem with allowing any kind of lighting at all. Due to the cost of these turbines, someone could pursue one as a way of co-location on a cell facility immediately or right after it is constructed. He can see a lot of support for that from cell operators, so the County needs to think carefully about allowing co-location of wireless facilities.

Mr. Slutzky said as an advocate of moving toward an ordinance, he agrees with Mr. Rooker about the lighting and co-location issues. He would prefer to have both of those options removed from what the

Planning Commission considers. He has one point to share with the Commission. There is a lot of talk about economic viability, but for a lot of people generation of power through wind turbines and other alternative energy technologies is not about today's economic yield on investment, but about a personal commitment to not be dependent on foreign oil. He suggested that the Commission not overwhelm its discussion with their own interpretation of aesthetics. When he looks out on the horizon and sees a cell tower, he sees a corporation making money; he sees economic self-interest so he does not see quite the same aesthetic experience as when he sees a wind turbine. To him, that turbine is a graceful depiction of somebody trying to solve an ecological problem. He thinks the aesthetics issue should be addressed, but he does not want it to be assumed by definition that any physical structure not placed there naturally is by definition unacceptable aesthetically. For some, it is actually a positive aesthetic experience.

Mr. Boyd said he has a different perspective. He is torn over this whole idea. He strongly supports personal property rights and allowing people to do with their property what they wish to do. However, on the other side he is scared that a neighbor will put one at their house so he would have to watch and listen to it everyday. He is not opposed to moving forward with this idea and taking public comments, but it is not something that is a high priority on his list. He knows the Community Development Department is understaffed so wonders where this item would be put in its Work Program.

Mr. Slutzky asked if there is room in the work plan for this item. Mr. Graham said staff actually started work on this idea last year. It already has a placeholder in the work plan, but there are many other things in that work plan that staff is not getting to at this time.

Mr. Boyd said he would not want this to hold up other work items.

Ms. Mallek asked if these turbines can be dropped in by helicopter, or do they require a road and heavy equipment to get the materials to the site. One of the biggest problems at The Highlands is the complete destruction of the environment to get towers in, although those towers are bigger than what is being discussed. Mr. Hayes responded that the large turbines require a road and massive amounts of concrete, but many of the smaller turbines have very small foundations. Nothing is used larger than a typical concrete truck can haul. The Synergy model can be installed in environments which do not require heavy lift cranes or helicopters.

Mr. Slutzky said he assumes that for installation of a non-commercial scale turbine in a location requiring a big truck, the cost factor of installation would be higher, so there would be a disincentive to locate them in places where that type of disturbance would need to take place. Mr. Hayes said that is true. Also, everything involved in that size turbine is entirely inside of what is being called Tier Three. There would be an opportunity for comments to be taken before that could happen. Mr. Graham said these turbines are typically placed close to the building they would serve so there is not a lot of energy loss. Trucks would be required to get the materials to that building site, and wires are typically run underground between the building and the turbine.

Mr. Slutzky said there seems to be a consensus of support that the Planning Commission and staff work on this proposal with the understanding that the Board will get more specificity to the process steps. He asked if any Board member objected to moving forward.

Mr. Rooker said public input should be taken so the Board can decide what to do from that point. In line with some of the other comments about lack of staff and cost, if the Board adopted a one-tier ordinance, it would require less ongoing work than a three-tier ordinance.

Ms. Joseph said she and Mr. Edgerton have been working on this with Mr. Graham because they felt it was important, and they did not want to put an additional burden on staff. They would be happy to continue working with him. They have done a lot of research and a lot of ordinances. From what they have heard today, language could be inserted into an ordinance they have been "toying" with.

Mr. Edgerton said he would be delighted to continue with this work. He said they contacted all of the counties that have implemented some language in their zoning ordinances to allow this use. He said Rockingham County is probably the more mature in this instance. They did not bring that to the Board at this time, wanting to get a read on the Board's enthusiasm for the idea. He is sure they can come up with some draft language for discussion.

Mr. Rooker said he wants everyone to be mindful of the fact that if a tiered system is created there might be more ongoing administrative expense associated with it.

Mr. Boyd said he agrees with Mr. Rooker. He is also interested in getting public input.

Mr. Slutzky said he is uncomfortable denying the public the opportunity to participate in this. A lot of people in the community share his views that this is a priority of importance and will become more so in the near future. He is of a mind to go forward exploring the three tiers as proposed, take it to public hearing and then make decisions about how much further to go rather than cutting off two-thirds of the process now.

Mr. Rooker said he has no problem with the three-tiered approach for getting public comments. He is suggesting that there are reasons why it might end up with a single tier. He would have difficulty supporting a tier that allowed lighting or co-location of wireless facilities.

Ms. Thomas asked that lighting be "taken off the table" right now.

Ms. Slutzky asked if co-location should also be removed.

Ms. Thomas said the consultant that worked on the cell panel ordinance said that as cell panels become even more ubiquitous, each panel can only take a certain number of calls so it would end up with panels being on every building. She does not know how that fits in the rural area. Panels will also become smaller. She said Tier Three allows questions about whether that is reasonable or not and she would not take it off of the table the same way she would take lighting off of the table.

Mr. Dorrier asked how much electricity would be replaced and what would be the total effect of the turbines on the overall energy problem. He thinks the Board should explore that issue.

Mr. Slutzky asked if staff and the Planning Commission get the feeling there is consensus to move forward with the next step. Mr. Graham said he understands lighting is "off the table" and there should be no consideration of co-location for wireless facilities.

Ms. Thomas said she is not willing to take co-location "off the table." She asked the thinking of the other Board members.

Mr. Rooker said it simplifies the matter. The ordinance could always be amended at a later time – he does not want to see wind turbines installed in order to have co-location.

Mr. Boyd said cell towers are allowed to go on existing structures now, so he asked if that would be stopped by this ordinance not addressing that issue.

Mr. Slutzky said there is consensus on the Board for removing lighting, but for the moment staff and the Planning Commission need to know the co-location issue needs to be addressed and the Board can make a decision about it later.

Mr. Edgerton said at that seminar he attended he asked several people about co-location. Most indicated that vibration would be an issue, and the cell antenna would have to be located below the turbine rotors. There was also some argument about whether that was an accurate statement. He said cell companies have not been jumping at the opportunity to co-locate.

Mr. Rooker said if it were taken "off the table" it would not really affect anything.

Mr. Edgerton said he thinks that is correct for the foreseeable future.

Mr. Slutzky asked Ms. Thomas if she would be okay pulling it off for now, and saying it will be attended to later, if at all.

Ms. Thomas said "yes."

Mr. Slutzky thanked the Planning Commissioners, especially Ms. Joseph and Mr. Edgerton, for sorting this out and bringing this issue to the Board's attention. He volunteered to help them in this effort.

Mr. Rooker said it might be wise to not just require that setbacks be met, but that a facility be located closer to the residence on which it was built than to the residence of a neighbor. Perhaps the requirement could be waived in the case wind was optimal in another spot and there were no objections from the neighbors. He said there is a setback requirement now for cell towers, but if there is an agreement from the neighbor that can be waived. He said there are a lot of neighborhoods in the rural areas with two-plus acre lots. He thinks people would be upset by having someone push one of these turbines close to their residence and more distant from the house being served.

Mr. Boyd said he does not think many understood his analogy earlier. He and Mr. Calvin Morris live in that type of situation just a couple of doors from each other on three-acre lots.

Ms. Linda Porterfield added that there was discussion by the Planning Commission that Tier One should not totally be by-right, i.e., there should be specific requirements for it to be by-right. Otherwise, it would be heard by the Commission, and at that time given the waivers necessary. Also, they want the application process for Tier One to be as simple as possible to help people interested in the technology get moving and keep the cost down as much as possible.

Mr. Slutzky asked if someone can install a turbine of 35 feet or below at this time, or is it treated as an accessory they have to get permission. Mr. Graham responded that currently the County would not grant a permit for a turbine.

Mr. Slutzky asked if the ones that exist in the growth area now are technically non-compliant. Mr. Graham said all that exist in the County now are non-compliant.

**(Note.** The Board recessed at 4:30 p.m. and reconvened at 4:36 p.m.

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Agenda Item No. 20. **Work Session:** Stormwater Regulator Considerations.

Mr. Mark Graham, Director of Community Development, said that on August 6, 2008, the Board received a report on ways to reduce the impacts from polluted stormwater runoff. The report is entitled *Before the Storm: Reducing the Damage from Polluted Stormwater Runoff* and was prepared by the Southern Environmental Law Center, Rivanna Conservation Society, and the University of Virginia Law and Conservation Clinic. Staff has been working with the report's authors to develop a set of recommendations for the Board's consideration. The purpose of today's work session is to review those recommendations and determine if staff should prepare ordinance amendments for any of them. He then introduced Ms. Robbi Savage from the Rivanna Conservation Society to make the presentation.

Ms. Savage said she is Director of the Rivanna Conservation Society. She also introduced Mr. Morgan Butler, Senior Attorney from the Southern Environmental Law Center, and Mr. Leon Szeptycki, Director of the UVA Environmental and Conservation Law Clinic. Several years ago these groups began working together on evaluating the codes and ordinances within the four jurisdictions in the Rivanna watershed – the City of Charlottesville, and Albemarle, Greene and Fluvanna counties. They presented their initial recommendations in August, 2008.

Ms. Savage said that since August they have narrowed their recommendations from 20 down to five which they feel are the highest priorities. She gave a PowerPoint presentation of renderings that illustrate the opportunities impervious surfaces provide for increased runoff. She showed a visual of the area at the end of Meadow Creek where there is a huge box culvert which carries the stormwater that provides not only pollution into the stream, but also carries a high volume of water which causes channelization of the stream. She showed a picture of an area where best management practices have been installed, but even those practices are not able to keep sedimentation and siltation from flowing into the stream. She said they would talk about their recommendations with Mr. Szeptycki talking about number one.

Mr. Szeptycki said everyone knows about the impaired waters in the County, and the extent to which stormwater pollution is contributing to them, including the 11 mile stretch of the Rivanna River where the primary source of pollution is bank erosion caused by stormwater pollution. He said there are other affects in addition to impairment to the River including higher treatment costs for water and while mitigating stormwater, the potential to use untreated water for a variety of uses. In this report, they focus on the increase in impervious surfaces which depletes groundwater supplies and causes abnormal stream flows that can affect water supplies. He said the whole point of their report was to focus on the way local ordinances affect stormwater pollution in general, but in particular, all of the decisions that go into the amount of impervious surface that the community ends up putting on the ground when it builds out.

Mr. Szeptycki said there are hundreds of decisions involved with each development, each street, each driveway, and each parking lot - each adds up to form the total amount of impervious surface that a community creates. The report looked at lots of decisions and the point to remember is how all of those decisions add up. He said that for stormwater pollution it is a question of how the land is used. They looked at the extent to which ordinances create too much impervious surfaces, provide barriers to low-impact development, and ways the community can go beyond State requirements to "plug significant gaps" in those requirements. Along those lines, they have narrowed their recommendations down to five priority items. They have worked to come up with how these recommendations can be implemented in the context of the County's codes.

Mr. Szeptycki said their first recommendation is very straightforward. It is: "Reduce the minimum parking space requirement for professional office space." It reduces the mandatory minimum size of parking lots for office buildings. The developer would have the option of building a smaller lot; the minimum would be reduced to three spaces per thousand square feet of gross floor area.

Mr. Szeptycki said the second recommendation is: "Require stronger on-site stormwater protections when surface parking lots will exceed the County's maximum limit on parking spaces." It requires stronger stormwater protections when a developer exceeds parking maximums. There are two issues. What is the minimum size parking lot a developer is required to build, and "how many hoops do they jump through" if they want to build a smaller parking lot. Second, what is the maximum, and Albemarle's maximum is 20 percent more than the minimum. Also, what do you do if the developer wants to build a parking lot that is greater than the maximum. Under the current ordinance, it is not that hard to build a parking lot larger than the maximum; their recommendation was for the bare bones requiring a special use permit. In discussion with County staff they recognized that was not the most effective administrative solution. They have derived a recommendation that will create barriers to building extra large parking lots. When people want to do that, they need to provide opportunities for creative solutions to the additional parking spaces.

Mr. Slutzky asked if over-sizing a parking lot is a common practice in Albemarle? Mr. Szeptycki said he would defer to Mr. Graham to answer that question. They understood that for some detailed development it occurs.

Ms. Mallek said she guesses the nine acres of parking at Hollymead Towncenter is probably over built. Mr. Graham said staff thinks it is over built, but it is built to code. There are developers who specifically ask to over build parking – classic examples are call centers run out of an office setting.

Mr. Szeptycki said the group was concerned about the minimums and wanted to lower the barriers to building smaller parking lots. Staff told them that the instances of people asking to build smaller lots were less frequent than people wanting to build parking lots that exceed the maximum. If

someone wants to go over the 20 percent maximum, there are two options. One is to locate 33 percent of the overall spaces in a garage or underground parking. That is only a viable option if it is economically feasible for that site. Second is for someone who is exceeding the maximum to capture the equivalent of a one-inch rainstorm on the extra spaces, and on the whole parking lot use enhanced stormwater management practices, which is a term defined in the County's technical manual. They hope that will create disincentives to building extra large parking lots. If developers are required to employ more creative stormwater management techniques to capture the one-inch of rain and also use the enhanced stormwater techniques, that will increase the frequency with which these technologies are used and increase their acceptance in the community. That will push people to more creative solutions if they want to build a very large parking lot. That is the idea behind those recommendations.

Mr. Morgan Butler said the third priority is "Increase the percentage of parking lot area that must be landscaped with vegetation, while granting developers the flexibility to use on-site stormwater facilities to: (1) meet the landscaping requirement, and, (2) satisfy a Code provision that allows developers to reduce the length of individual parking spaces [and thereby reduce the size of the overall parking lot]." He said that currently the County Code provides that an area equal to five percent of the paved parking and vehicular circulation area must be landscaped with trees and shrubs. Traditional rationales for these landscape areas have often been to provide shade and pedestrian havens, but they have evolved into being raised islands. They wanted to tap into more of the stormwater treatment potential that those landscaped islands have and create an incentive for incorporating stormwater best management practices into those areas. The group proposes that the landscaping requirement be increased to ten percent – matching the percentage that many other localities have adopted. Additional landscaping has benefits in and of itself. It even has a stormwater benefit when it is raised in that it provides shade to the parking lot and shade keeps the lot from heating up as much.

Mr. Butler said they have not talked much about heat pollution. Increasing the percentage of landscaping by ten percent, would provide an incentive so developers would incorporate stormwater best management practices into those landscaped area. Under the current County Code developers can decrease the minimum length of parking spaces by two feet if the car overhangs a median or landscaped area. They want the Code to make it clear that if one of the stormwater best management practices is used on the landscaped area, any parking space in which a vehicle overhangs, that area could also be granted the two-foot reduction.

Ms. Mallek asked if that is different from the percentage for compact cars. Mr. Butler said it is a different recommendation.

Ms. Mallek said she hopes that requirement is also available so if there is a new lot a certain percentage would be designated for compact cars to reduce the space needed. Mr. Butler said the group discussed that with staff, but it did not become a part of the top five recommendations. Staff tried a similar approach in the past and there was significant opposition. Staff had questions about what the County could do if someone parked an oversized car in a compact spot. It has been suggested to him that the County consider such a provision, at least for public buildings.

Mr. Butler said the fourth recommendation is "Create a firmer time limit on how long large areas of earth on construction sites may be left denuded and destabilized." He said the other recommendations focus on the volume problem with stormwater. That increased volume of stormwater when it hits the stream causes channelization, the added water carves out the stream banks, and the added sediment is deposited in the stream. Another source of sediment to streams is from large denuded areas of soil, so rainwater collects that soil and moves it offsite. Even when stormwater best management practices are in place, it is estimated that 40 percent of the sediment from that area gets washed into the nearest stream. Focusing on construction sites, the two best ways to limit unnecessary erosion from construction sites is: 1) to limit the time that the area is left denuded and de-vegetated, and 2) limit the size of the area that is denuded at any one time. He said Virginia has tried to get at this through its minimum standards with the erosion and sediment control program. Most localities adopt those minimum standards or incorporate them verbatim into their local E&S ordinances.

Mr. Butler said this is one area where the Dillon Rule does not apply – there is a provision in the State Code which specifically states that localities can go beyond the minimum standard. The State Code provision reads "Temporary soil stabilization must be applied to denuded areas that will remain dormant for longer than 30 days from destabilization to areas that will be left dormant for more than one year." This presents two problems. A developer could sidestep that requirement by saying the area would not be dormant for more than 30 days, or more than a year. Once the time limit approaches, he could have bulldozers move dirt around on the site and when the County inspector comes out, they haggle over whether the grading activity was legitimate. The County does not have the resources to take all of those debates to their logical conclusion. There have been recent encounters with this issue, and the County, working with developers, came up with a reasonable way to address it, that is a proffer that has a time limit on how long a construction site may be left denuded. This proffer was first accepted by the Biscuit Run Development, but subsequently both the A-1 and A-2 phases of the Hollymead Towncenter accepted the proffer as did the Fifth Street Avon Center.

Mr. Butler said this proffer adopts a nine-month time limit on installing permanent vegetation on denuded areas. Therefore, there is an erosion and sediment control permit for the grading area and then they have nine months to do the earthmoving on the site. At the end of that nine months, the County comes in to determine where active construction will be occurring and the areas of the site that are speculative for development further in the future. Any areas where there is active construction under a building permit are not included in this requirement, but any other areas not actively under construction at the time are required to be re-vegetated. He added that there is a three-month extension available. Staff

may grant that extension in some situations such as bad weather. The group thinks that is a reasonable approach and it does not affect areas where there is active construction at the end of the nine months. It just requires that a vegetative cover be put in place to stem erosion on those areas where development will not take place. There is no acreage limit. Other states have put in limits on the amount of acreage that can be disturbed for grading work at any one time.

Mr. Butler said developers are not fond of that idea. If a developer is proposing so much earthmoving work on a site that they do not know how they can get the resources to the site to get it all done within the nine months, this provision is designed to tell them that they should be thinking about the site in a different manner. In the first situation, the time the site can be left denuded is limited. In a fallback situation the amount of area that can be denuded at any one time is limited. He said this approach was agreed to by the developers of Biscuit Run, but because it is in a proffer, at this time it is voluntary and is only being applied to large rezoning projects. Their recommendation is that in fairness and environmental stewardship this requirement be applied to all projects.

Mr. Butler said a concern has been raised that the County is trying to encourage Neighborhood Model development, and there are certain situations where the nine-month or 12-month time limit might not be enough time. He is dubious of that claim so he thinks the time limit proposed is long enough that it should not be a problem for most projects. He said there may be an instance where due to weather or some other unforeseeable circumstance it would make sense to allow additional time. Therefore, the group proposes that there would be a nine-month time limit and staff could grant a three-month extension. Beyond that the Board would be the only body with the discretion to grant any further extension. Another idea was to extend the time limits, but the group feels they are reasonable as proposed. The Board might grant an extension on one part of the site, and differentiate as to what parts of the site can be left denuded.

Mr. Butler said the fifth recommendation is "Provide more detail about the protective measures developers and landowners must take when they opt to enter into an erosion control agreement with the County instead of submitting a formal erosion and sediment control plan." He said this is primarily an administrative change. Under the current statute, when building a single-family residence that is not part of a larger subdivision they can enter into an "agreement in lieu of a plan" instead of submitting a formal erosion and sediment control plan. The County has a form contract for this agreement in lieu of a plan that includes only two or more of the minimum standards he referred to that are required on all sites regardless of whether there is a full plan. They are suggesting that for the sake of the property owners developing these single-family residences and operating on a agreement in lieu of a plan, more of the minimum standards be put into the form contract so they are clear. His second point, which relates back to the prior recommendation, is that in addition to those minimum standards required by State Code, the County make sure that if land for a family residence was going to be denuded for an excessive amount of time that it be subject to the same requirement talked about earlier.

Mr. Butler said these recommendations are not just about protecting local streams and rivers, there is the reduced water treatment costs, there would be less sediment going into the drinking water reservoirs, groundwater supplies would be replenished, and by reducing more impervious surfaces, more water is able to get back into the ground which has the added benefit of protecting and restoring stream flows. While rainwater is being washed directly into rivers during rainstorms and not going back into the ground, when it rains there are very high stream flows and during drought periods there is no water trickling into the streams. This helps to regulate a more natural stream and river flow regime.

Mr. Butler said this is an ideal time to get these protections in place because there will likely be more building in the near future if the economy continues to rebound. He then offered to answer questions, and thanked County staff members, Mark Graham, Glenn Brooks and Greg Harper for their work on these recommendations.

Mr. Slutzky said the Board has been asked to identify any recommendations it would consider adopting if there is interest in proceeding to ordinance amendments.

Ms. Thomas said that thanks should go to the amazing group of people who worked on this matter. You could not buy the consulting time that has been voluntarily put onto this project from UVA, the Rivanna Conservation Society and the Southern Environmental Law Center. She said they are willing to continue with this work.

Mr. Rooker said this was a terrific resource brought to bear on a problem the County has been trying to deal with; he supports all of the recommendations and thinks some of them are quite easy. The one that has raised the most discussion is No. 4 to do with the length of time a site can remain denuded. Larger developments have voluntarily proffered this in the last couple of years. He noted that there have been some "horror stories" because this kind of regulation is not in place, and hopefully those will not be repeated. He does not think there should be a problem meeting a nine-month closure, or replanting denuded areas with the three-month extension that could be granted by staff, plus a further extension that could be granted by the Board. To him, that is something that should be done in order to avoid what happened at Hollymead. It is in response to that situation that the County looked to get these proffers with the larger developments. The same kind of restrictions should be imposed on developments as a matter of right, which are usually smaller areas. There is no reason they should remain open and denuded for any lengthy period of time.

Ms. Mallek agreed and said she heartily endorses all of the recommendations. She has been "ranting" about these issues for almost 15 years, so she is thrilled that codifying of some of these things is being done. As someone who has often seeded 50 acres with a pack on her back, she knows these

things are possible and you do not have to hire a contractor to do it. She personally thinks nine months is too long of a time. She knows the recommendation has to do with permanent vegetation, but she hopes the Board will also think about some of the things done with extension of the Airport runway because it was written into the contract and the person was able easily and on budget to quickly reseed in annual rye, even if they were going back to that same place in a couple of months. During the same time when monstrous amounts of dirt ran off of the Hollymead Towncenter site, there was no erosion "right next door." There were no traps full of mud at the Airport. It was a tremendous success. When she complained to someone about the problem at Hollymead she was told that they kept moving the bulldozers to show they had done some work. She said that somehow the standards have to be raised to avoid that issue from being a continual excuse.

Mr. Boyd said he supports the recommendations. He has heard from many people in Forest Lakes about the situation at Hollymead. These recommendations won't change that situation because it is already done, but there are later phases to that project. He is cognizant of the staff time needed to put these ordinances together, and all know stormwater management practices are coming from the State in the future. He asked if there is anything in the recommendations that would have to be undone based on the State's proposal. Mr. Graham said he does not think this would create anything that would have to be undone in a year. Staff will get those State regulations sometime between July 1, 2010, and December 31, 2011, assuming they actually go forward. They are proving to be quite controversial.

Ms. Thomas said she is enthusiastic about No. 2 and No. 3 because they are kind of a "carrot and stick" approach. This says that if someone insists on a gigantic parking lot, they will have to put in a lot of rain garden sort of things. She would like the language to be even stronger because she is impressed with how rainwater is being wasted. It could be caught and used for landscape watering in dry periods and other things but is just being allowed to drain off. She is impressed that the University of Virginia at the J.P. Jones Arena has managed to capture all of the runoff from their parking lot. She encourages the County to go as far as current science and technology provides in terms of recommending a thorough use of water that otherwise runs off of parking lots.

Mr. Dorrier said he supports all five recommendations. He asked if there are recommendations for dealing with existing parking lots and built areas. Mr. Butler said that is a valid point, but their efforts on this project were limited to reducing runoff from new development. He said that in order to make the type of progress they want on this issue, they will have to look at retrofitting existing parking lot areas. There is not more progress in that regard because it is difficult to do. It would require a stronger voluntary incentive approach. It is an issue they will be working on in the future, but as to today's recommendations, they do not affect existing development.

Mr. Rooker said the Board does not have the authority to go back and require someone to change an existing parking lot. If someone came in for some sort of additional construction on their property, there might be certain things that could be looked at then. He asked Mr. Davis for his opinion. Mr. Davis said if the property were being redeveloped, or they were changing the use on the property, the County might be able to require what a new site plan would require. If they were not changing the use, or redeveloping, there would be little possibility under existing law that would require them to make any change.

Ms. Mallek asked if it is possible to chop holes in all of the concrete berms that surround all of the "nasty garden places" in the parking lots so rainwater could get in. If it worked, and if it were physically possible, the County might have the option for tax credits for some kind of retrofit to get the work done if people chose to step up and do it. Mr. Butler said it is his understanding that these have to be specifically designed. There is overflow, so if there is heavier rain there must be a drainage system so excess rainwater does not just flood them.

Ms. Mallek said that now the rainwater is just sheeting across the parking lot. Putting in little grills that the rainwater went down every so many feet would seem like a way to slow down the speed.

Mr. Slutzky said there seems to be unanimity for moving forward with these recommendations. He also embraces them, but has some apprehensions about what DCR is doing, but clearly that is a separate exercise. He said when the Board reaches the point of enacting requirements, he thinks they should be proactively shared with the surrounding communities in the hope they would recognize there is an ecological benefit from having the "playing field even."

Mr. Rooker said he gives this is a higher priority than he does wind turbines.

Mr. Graham said that No. 5, the agreement in lieu of a plan, can be done administratively so staff will implement that immediately. No. 4 is in the Water Protection Ordinance so staff can "short cut" the process and get it back to the Board quickly, probably in July. The remaining priority recommendations need to go back to the Planning Commission first.

Mr. Slutzky asked what will happen with the remaining 15 recommendations. He does not want to leave them "on the table" permanently. Mr. Graham responded that it's been a great experience for staff to work in partnership with some outside people; they will continue in that regard.

Mr. Slutzky asked if the impacted community actively participated in the dialogue so the Board understands the implications on that community. Mr. Graham said roundtables are hard because people are invited, and you never know when you will get the input. Sometimes it is at the roundtable, and sometimes after three roundtables and two work sessions with the Planning Commission, people don't speak until the public hearing before the Board.

Ms. Thomas said she attended a portion of the roundtable with the developers, and she thinks a lot of their arguments were undercut by the fact that Biscuit Run and others had proffered No. 4. It reminded her of how the Board was so successful with the Affordable Housing proffer. In that case, one developer went ahead and made a proffer and showed that it could work. She said the Board has the other developers to thank for helping it out on that one.

Mr. Slutzky said there will be a public hearing before implementing any ordinance changes. Mr. Graham said there will be on Nos. 1 through 4, but not on No. 5.

Mr. Slutzky said to the extent that some constituents have not had a sufficient airing of their views and their opinions, that will be the opportunity for them to be heard. Mr. Tucker added that although the County cannot go back and require the private sector to make improvements, it might be advantageous for it to start looking at some designs and to start putting money in the CIP for retrofitting of the County's existing buildings on McIntire Road and Fifth Street, and also on school properties, to reduce stormwater runoff.

Ms. Thomas said this is also being talked about by the Crozet Library Committee.

Ms. Mallek said that is a way to use this momentary lull – then when things are ready to go forward, the County can do a better job.

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Agenda Item No. 21. From the Board: Matters Not Listed on the Agenda.

Ms. Thomas reported that the Rivanna River Regatta and boat race will be held this coming Saturday. It starts at 10:00 a.m. where Route 29 North crosses the river; it ends at Darden Towe Park. She encourages everyone to go to the finish line and watch the boats come in because the River is not used much. This just shows how much fun the Rivanna River can be.

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Mr. Slutzky then read a press release announcing that he is running for reelection as a member of the Board of Supervisors this November representing the Rio Magisterial District. He said that he struggled with whether he wanted to do this for another four years. It takes a tremendous amount of time and energy and focus as all the Board members know. He is convinced that he would be miserable if he were not doing this – he loves doing this. He enjoys public service. He enjoys the back and forth, and is looking forward, hopefully, to four more years of trying to serve the beliefs he has which are hopefully in alignment with the voters he represents. He appreciates being able to make this announcement before the other Board members; he thinks this is the best way to go after political office.

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Agenda Item No. 22. Adjourn to May 13, 2009, 4:00 p.m.

At 5:22 p.m., with no further business to come before the Board, **motion** was offered by Mr. Boyd to adjourn this meeting until 4:00 p.m. on May 13. Ms. Mallek **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

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Chairman

Approved by the Board of County Supervisors
Date: 09/02/2009
Initials: EWJ