

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on June 3, 2009, at 9:00 a.m., Lane Auditorium, County Office Building on McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

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

Agenda Item No. 1. The meeting was called to order at 9:05 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. 4a. Recognition: Bright Stars Program.

Mr. Slutzky presented a recognition award to the Bright Stars Program, following the viewing of a movie about the program.

Ms. Terri Higgins, Bright Stars Family Coordinator at Stone Robinson Elementary School, said they had the first Bright Stars class, and 10 of the original 16 students are graduating from Monticello High School; another student graduated from the Blue Ridge School and will attend James Madison University in the fall; one student is graduating from Richmond City Schools; and, the other four students could not be located. She said the families of those 10 students shared with her their appreciation of the Bright Stars Program. Of the 10 students who are graduating this year, seven will go on to PVCC - two of them plan to transfer to VCU in two years; one will attend Ferrum College to play football; one will help his father in a family landscaping business; and, one will continue working at Battlefield Ford to become a master mechanic. She said the students and families are in the audience today; she introduced Ms. Kathy Ralston.

Ms. Ralston recognized several members of the audience for their early work with the Bright Stars Program: Ms. Roxanne White, Ms. Denise Pilgrim, Mr. John Freeman, Ms. Elizabeth McKay, Ms. Laura McCullough, Ms. Charity Haines, and Ms. Ann Rooker. She thanked the Board for its support.

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Agenda Item No. 4b. Recognition: Proclamation recognizing May 29, 2009, as Charlottesville/Albemarle Senior Independence Day.

Mr. Slutzky read the following proclamation in honor of "Charlottesville/Albemarle Senior Independence Day" into the record:

***Charlottesville/Albemarle Senior Independence Day***

**WHEREAS,** we are ever mindful that our nation is built on the wisdom, talents, and hard work of those who were born before us;

**WHEREAS,** we acknowledge with gratitude their contributions to those great gifts of peace and prosperity which we now enjoy;

**WHEREAS,** as a society fortified by independence, our aim is to nurture those who are younger and follow the example of those whose years exceed ours; and

**WHEREAS,** our older citizens have worked long and hard to ensure that our lives are better, and our community acknowledges and supports their right to live independently and actively into their later years.

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

**May 29, 2009  
Charlottesville/Albemarle Senior Independence Day**

and call upon all of our citizens to serve one another and the common good by celebrating this day going forward.

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

Mr. Dorrier said that recently at a meeting Mr. R.A. Yancey said he was having trouble with his light industrial rezoning request. He asked if that will go back on the Board's agenda.

Mr. Slutzky said the issue was that Mr. Yancey wanted an expedited timeline for the request. He asked Mr. Tucker for the status of the request. Mr. Tucker said he is not sure how far along the Crozet

Master Plan Committee has gone with its work. Since no action was taken by the Board to expedite the request, it will move along with the master plan work.

Ms. Mallek explained that the citizens' kick off meeting to start the Crozet Master Plan review happened last week. There is an accelerated community process that will be going on throughout the summer. The biggest block of work will be between January and August, 2010, getting the report ready. She said the vision discussed so far is limited to the focus areas mentioned by the citizens; they are similar to those raised by CCAC (Crozet Community Advisory Committee) members and staff. Since it is a narrow focus it seemed to be doable in a short period of time.

Mr. Boyd asked if the Yancey project could be moved to the top of the list. Does the whole master plan have to be released at the same time?

Ms. Mallek said the time consuming part is the staff work needed to get the plan ready to be adopted. Mr. Tucker said it is hard to pull pieces from a master plan and take them separately.

Ms. Mallek said it all has to be discussed as one thing, it cannot be discussed separately.

Mr. Slutzky said the Board has taken things out of Places29 because they were projects that had a potentially significant impact. The question is – is there a practical way for the citizen engagement process to address that idea early on? If the feedback were positive it might make sense to have staff move forward with the applicant's request. Mr. Tucker said there is a difference with Places29 which was heavily vetted by the Planning Commission and others. Staff is just getting started with the Crozet Master Plan update. Once it is completed, staff could probably bring forward that request a little earlier.

Ms. Lee Catlin said the preliminary focus areas should be coming back to the Planning Commission and Board in September for review and guidance. That is a time when the focus areas – including the development area boundaries – could be discussed.

Mr. Boyd said he was not in favor of putting the Yancey project in the Crozet Master Plan because he thinks it is important to the whole County and not just the residents of Crozet. It is outside of that master plan area, so if it gets bogged down, he would like to discuss moving it out of that and into the normal Comprehensive Plan amendment process.

Ms. Thomas said the Board formally voted to do that.

Mr. Boyd said he knows, but would like to have it reconsidered if it is going to be 18 months before it comes before the Board. August is fine for a preliminary consideration.

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Ms. Mallek said there is a silver lining in having VDOT do less mowing – in the wide, open areas not near an intersection there is tall grass growing, which is great for the ecology. Also, milkweed is being left and milkweed is the only food that Monarch butterfly larvae eat, so this is the first time in many years that there has actually had a June visit from the Monarchs in this area.

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Ms. Mallek asked if there is a clarification on "the rest of the parcel" issue concerning family subdivisions which was mentioned last month. Mr. Davis said a memorandum is being prepared by his office in conjunction with Planning, and it will be distributed soon.

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Ms. Thomas said she is a new, additional representative on the Rivanna Water & Sewer Authority Board (RWSA). She thinks it is good that this Board meets regularly with both Mr. Gary Fern of the ACSA and Mr. Tom Frederick of the RWSA because the Board has noticed a difference in its level of understanding of these authorities; City Council does not do that. She has found that there is an overall sewer plan being worked on. The City and RWSA had their representatives working on it but the question is: where do you go to get a good, efficient sewer transmission system? Are leaky pipes fixed – there are inflow, rather than out flow leaks so when there are storms, there is a lot of rainwater coming into those pipes. To deal with that that situation there could be greater holding ponds located at the sewer treatment plant, or the pipes fixed. The Meadow Creek interceptor is an example of a pipe which is being made larger because the pipes upstream will not be fixed. It is important to have a system-wide plan showing where the responsibilities lie. She made sure the County would have someone in those discussions distinct from the RWSA because it is important for the County to know who is fixing which pipes and where the costs will fall. She said that is just one thing that happened at their first meeting.

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Mr. Boyd mentioned the right-of-way issues through McIntire Park for the Meadow Creek interceptor and asked if that had been resolved.

Ms. Thomas said it was reported that about nine-tenths of those issues have been resolved. Mr. Tucker confirmed that the vast majority of the issues have been taken care of.

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

Mr. James Dubovsky said he lives in the White Hall District and came to discuss the noise ordinance. He thanked the Board for including excessive dog barking in an ordinance, but it continues to

be a sizeable problem for him. As written, the ordinance empowers those with more than five acres to ignore their dogs' barking. He is opposed to thoughtless dog owners who choose to allow their dogs to bark from two to four hours or longer without making any effort to quiet them regardless of the time of day or night. His neighbor has 40 acres but has placed his six large dogs along the property line on three fenced acres, 1,000 feet from his house. The neighbor does not have to listen to, or be awakened by the dogs, and currently has the County's blessing.

Mr. Dubovsky said his family cannot enjoy the home they live in, either inside or out. They are awakened at all hours of the night - an uninterrupted night of sleep is rare. The ordinance does not address thoughtlessness and apathy of neighbors, so they ignore common courtesy and continue to allow the dogs to bark for hours. If dogs are to bark endlessly any time of the day or night on five acres or more, a reasonable setback should be provided from the property line. Surely someone with more than five acres can afford to place their dogs away from their neighbor's property line. If that is not possible, the Board should restrict barking to 30 minutes as was done for dogs on less than five acres. He suggested the Board design an ordinance that does not ignore some citizens based on their neighbor's landholdings.

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Ms. Charlotte Self said she serves on the Crozet Library Steering Committee – which represents various stakeholders in the community as it undertakes the charge given to it by the Board. The ongoing operating costs of such a facility have been a part of the Committee's consideration, as well as the cost of the building itself. Initially the committee identified guiding principles for the architects to use that reflect the community's wishes and interests. Library staff gave a program guide to help with the layout and planning of the interior, and the result has been a product of much discussion and many refinements. She noted that the ARB and Planning Commission have reviewed the conceptual plan and their feedback was invaluable. In February, the Committee held a public forum and the public viewed the conceptual plans and spoke directly with committee members, architects and members of the County's Facilities Development staff. She said this has been an exciting project for all of them since the facility will have a great impact on Crozet. As they struggled with the project, they were mindful of the old adage that "a camel is a horse that was designed by a committee." She said the variety of viewpoints and the willingness of the members to listen to each other resulted in a great design; they hope the facility will meet the needs of the community and enlivens the downtown area.

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Mr. Tim Tolson, a member of the Jefferson Madison Regional Library Board of Trustees, said he also served on the Crozet Library Steering Committee. He endorsed Ms. Self's remarks about how well the committee worked together. He feels the design is wonderful and will serve the County and its citizens for a long time to come, but it is important that the project move forward soon. The current library is woefully undersized, not only by the population it serves, but by its circulation and the patron visits that come through the door. The original planning of the Supervisors was that the library should have been built one year ago and be in use now. Because of the favorable construction climate at this time, their architects have said that moving the project to early 2010 could save a tremendous amount of construction money.

Mr. Tolson said that on a different subject, he also serves on the Crozet Community Advisory Council. In the original Crozet master planning process in 2004, the Old Trail subdivision approval got ahead of the master plan approval process and created no end of ill will and hard feelings between the citizens and this body. He urged the Board not to let that happen again by letting the Yancey Mills project get ahead of the master planning revision process.

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Mr. Bill Schrader said he also serves on the Crozet Community Advisory Committee and to pull out pieces of what the citizens have been told is part of the master planning retooling process – such as the Yancey project – would send an incorrect signal. He asked that the process which involves enlarging the boundaries of the master plan be kept in place.

Mr. Schrader said the first study done by the City and the County concerning the need for a library in Crozet was done in 1999. The need for the library actually had been discussed since 1997. The Train study was done in 2001. The master plan process was in 2004 and after the need for a streetscape project the library was determined to be the most essential piece needed to implement the master plan. He said the Committee found a way to meet staffing needs, topography and population size in the design of the building. It has been mentioned that construction costs have gone down recently; at their last meeting the architects said some libraries recently bid realized savings of \$100 per square foot. That would be a huge savings if the library project could be moved forward. He asked that when the Board reviews this project later today it give approval so the project can move forward quickly, meet the timeline, save money and rejuvenate downtown Crozet.

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Mr. Kip Newman said that on the website "YouTube" there is a video showing a huge crane taking away the Advance Mills Bridge last week. On behalf of the Advance Mills Homeowners' Association he thanked the Board for its support of that project. Also, he expressed gratitude to Mr. Allan Sumpter and VDOT staff for their work on this project. He said it is wonderful that a local contractor "Fielder's Choice" won the contract, so not only will their community be reunited with the rest of Albemarle County, but all the money will stay in Albemarle County, and the people working on the bridge will be local residents. He said it is a wonderful week for the AMHA.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Rooker to approve Items 1 (as noted) through 5 on the consent agenda, and to receive the remaining items as information. The motion was **seconded** by Ms. Thomas. Roll was called, and the motion carried by the following recorded vote:

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

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Item 7.1. Approval of Minutes: June 4 and December 3, 2008; March 5, March 9 and April 2, 2009.

Mr. Dorrier had read his portion of the minutes of June 4, 2008, pages 32 (beginning with Item #17) to the end, and found them to be in order as presented.

Mr. Slutzky had read his portion of the minutes of December 3, 2008, pages 1-23 (end at Item #9) and found them to be order as presented, with the exception of some typographical errors.

Ms. Thomas had read his portion of the minutes of December 3, 2008, pages 23 (begin with Item #9) to the end, and found them to be in order, with the exception of some typographical errors.

Mr. Boyd had read the minutes of March 5, 2009, and found them to be in order as presented.

Mr. Rooker had read the minutes of March 9, 2009, and found them to be in order as presented

(**Discussion:** Mr. Slutzky said in a set of minutes in 2006 in one place his name was listed as David Bowerman. He asked how to get that corrected. Mr. Tucker suggested that the set of minutes be placed back on the agenda for reapproval.)

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

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Item 7.2. 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 \$106,942.99. 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 No. 2009-061 totaling \$70,959.49 for various Education programs and projects; appropriation No. 2009-062 totaling \$20,983.50 recognizing the City's portion of the Court Facility Feasibility Study; appropriation No. 2009-063 to fund a study for the Northside library branch in the amount of \$15,000.00; and, appropriation No. 2009-064 providing \$56,050.95 from the Board's contingency to fund the June 9, 2009, Democratic primary, all as set out below:

Appropriation No. 2009-061, \$70,959.49. Revenue Source: Local Revenue \$7,020.00, State Revenue \$500.00, Federal Revenue \$63,439.49. At its meeting on May 14, 2009, the School Board approved the following appropriations:

Stone Robinson Elementary School has been awarded a grant in the amount of \$1,000.00 from the Virginia Organizing Project. These funds will be used to purchase pedometers that will be given to each student attending the school's Health Fair.

Stone Robinson Elementary School has been awarded a grant in the amount of \$1,020.00 from the Build-A-Bear Workshop Foundation. These funds will be used to support the school's Reading Festivals; which is a variety of activities and contests that are designed to increase student interest in reading and writing.

Murray Elementary School received a donation in the amount of \$2,000.00 from the Parent-Teacher Organization of V.L. Murray Elementary School. The donor has requested that this contribution be used to purchase items needed to support various programs at Murray Elementary.

Walton Middle School received a donation in the amount of \$2,000.00 from Robert Pallè. The donor has requested that the contribution help fund a field trip to the Chesapeake Bay for Walton Middle School students.

Jack Jouett Middle School has been awarded a grant in the amount of \$1,000.00 from the Wal-Mart Foundation. These funds will be used to support the school's various community service projects.

The Virginia Department of Conservation and Recreation has awarded Red Hill Elementary School with a Virginia Naturally Classroom Grant in the amount of \$500.00. These funds will be used to implement the project "Our Local Birds and Their Adaptations-Math and Science Take

Wing"; which will provide students the opportunity to learn about different bird species and their habitats.

The mission of the Migrant Grant is to locate all eligible migrant students residing within the regional district (Albemarle, Alleghany, Augusta, Charlottesville, Culpeper, Fluvanna, Greene, Hanover, Louisa, Madison, Nelson, Orange, Rockbridge, Staunton and Waynesboro), evaluate their individual educational needs, and offer necessary support services in support of the Divisions strategic plan. The migrant grant is responsible for the following major programs and/or services: after-school instruction, evening tutoring in migrant camps, and extended instruction in summer. There is a fund balance retained by the state in the amount of \$63,439.49 from FY '07-08 which may be reappropriated for FY '08-09. The funds will be used for salaries, benefits, educational materials, postage, printing, staff development and telephone expenses.

Appropriation No. 2009-062, \$20,983.50. Revenue Source: Local Revenue (City) \$20,983.50.

The City of Charlottesville and Albemarle County will be conducting a Court Facility Feasibility Study to update projections of space needs for the City and County General District Courts and their clerks to determine whether the existing Levy Building can accommodate those needs. The County intends to engage Moseley Architects, under term contract for this work. The County's share of this study, \$9,025.50, is already appropriated within the capital improvements program and requires no additional County funding. This request will recognize the City's share of the study, \$9,025.50, funded by revenue from the City. In addition, the scope of this study was expanded to include updated projections of space needs for the City of Charlottesville Circuit Court and its clerk, and Commonwealth's Attorney. The cost of this portion of the study, \$11,958.00, will be funded entirely by the City.

Appropriation No. 2009-063, \$15,000.00. Revenue Source: Local Revenue (Proffer) \$15,000.00.

The current Northside branch library located in Albemarle Square is approximately 15,570 square feet and is approximately 46 percent of current space standards for the service area population, or 40 percent of new State standards. Space in Albemarle Square formerly occupied by Circuit Court City would provide approximately 28,300 square feet (about 83 percent of current space standards for the service area population, or 73 percent of new State standards). Funding in the amount of \$15,000.00 is requested to conduct a study of the former Circuit City space to determine feasibility of the space for an enlarged Northside branch library and for central administration offices. The potential to provide the service area with a branch that is considerably closer to meeting the space standards without all-new construction costs is an opportunity of great interest to the Jefferson-Madison Regional Library. The CIP identifies a new Northside facility and use of this Circuit City building option could allow it to be deferred and also to be less expensive. The creation of central administration offices here would provide greater flexibility for timing of improvements at the Central branch.

Appropriation No. 2009-064, \$56,050.95. Revenue Source: Board Contingency \$56,050.95.

On June 9, 2009, a primary election will be held for the Democratic nominations for Governor, Lieutenant Governor and member of the House of Delegates, 25th District. The primary election for Governor and Lieutenant Governor will be held statewide, including all Albemarle County voting precincts. The primary election for member of the House of Delegates, 25th District, will include the following Albemarle County voting precincts: Crozet, Brownsville, Yellow Mountain and Central Absentee. The Department of Voter Registration and Elections anticipates incurring \$56,050.95 in expenses related to this primary election.

**(Discussion:** Ms. Mallek said that in discussion of the Northside Library it says "Circuit Court" instead of "Circuit City" so that needs to be changed for the official record.

Ms. Thomas said she is delighted the County is looking at that location, but the explanation of the request implies that the facility will be too small when it opens. Mr. Tucker said it is significantly larger than the current facility, but is slightly smaller than what was projected to be built as a new Northside Library, whenever that occurs in future years. He said staff is going to provide the Board some additional information about the preliminary findings.

Mr. Rooker commented that it's in a very good location as far as being central to the northern growth area. It is also important to the shopping center (Albemarle Square) where it's presently housed. Mr. Tucker explained that the issue for this library, as well as the Crozet library, is funding.

Mr. Boyd said these expenditures are coming from local revenues, and he wonders if they had been budgeted. Mr. Tucker said that one will be paid from either General Services' or Facilities Management budget.

Mr. Boyd said he is concerned about the \$56,000 for the Democratic Primary that is coming out of the Board's Contingency Reserve. Mr. Tucker said the Board has approved that appropriation.

Mr. Slutzky said the Board does not have much choice in this matter. (It is an unfunded mandate from Richmond.)

**By the above-recorded vote, the Board approved the budget amendment in the amount of \$106,942.99 and approved Appropriation No. 2009-061, 2009-062, 2009-063 and 2009-064 as set out below:**

| TYPE | FUND | DEPT  | OBJECT | ACCOUNT DESCRIPTION        | SUB LEDGER |            | GENERAL LEDGER |           |
|------|------|-------|--------|----------------------------|------------|------------|----------------|-----------|
|      |      |       |        |                            | CODE       | AMOUNT     | DEBIT          | CREDIT    |
| 2    | 2000 | 18100 | 181109 | Donation                   | J2         | 4,000.00   |                |           |
| 2    | 3103 | 33000 | 330102 | Migrant Grant              | J2         | 63,439.49  |                |           |
| 2    | 3104 | 18000 | 189900 | Revenue-Misc Grants        | J2         | 3,020.00   |                |           |
| 2    | 3104 | 24000 | 240900 | Revenue-Misc Grants        | J2         | 500.00     |                |           |
| 1    | 2215 | 61411 | 580000 | Miscellaneous Expenses     | J1         | 2,000.00   |                |           |
| 1    | 2254 | 61101 | 601300 | Ed & Rec Supplies          | J1         | 2,000.00   |                |           |
| 1    | 3103 | 61101 | 111400 | Salaries-Other Management  | J1         | 7,501.84   |                |           |
| 1    | 3103 | 61101 | 112100 | Salaries-Teacher           | J1         | 8,252.92   |                |           |
| 1    | 3103 | 61101 | 132100 | Pt/Wages - Teacher         | J1         | 30,257.73  |                |           |
| 1    | 3103 | 61101 | 210000 | FICA                       | J1         | 3,629.45   |                |           |
| 1    | 3103 | 61101 | 221000 | Virginia Retirement System | J1         | 2,345.86   |                |           |
| 1    | 3103 | 61101 | 231000 | Health Insurance           | J1         | 2,394.00   |                |           |
| 1    | 3103 | 61101 | 232000 | Dental Insurance           | J1         | 86.40      |                |           |
| 1    | 3103 | 61101 | 241000 | VRS Group Life Insurance   | J1         | 129.20     |                |           |
| 1    | 3103 | 61101 | 520100 | Postage                    | J1         | 10.93      |                |           |
| 1    | 3103 | 61101 | 550100 | Travel-Mileage             | J1         | 3,445.08   |                |           |
| 1    | 3103 | 61101 | 580500 | Staff Development          | J1         | 419.63     |                |           |
| 1    | 3103 | 61101 | 601300 | Ed & Rec Supplies          | J1         | 549.91     |                |           |
| 1    | 3103 | 61101 | 601700 | Copy Expense               | J1         | 1,228.89   |                |           |
| 1    | 3103 | 61311 | 115000 | Salaries-Office Clerical   | J1         | 2,173.65   |                |           |
| 1    | 3103 | 61311 | 210000 | FICA                       | J1         | 155.25     |                |           |
| 1    | 3103 | 61311 | 221000 | Virginia Retirement System | J1         | 323.70     |                |           |
| 1    | 3103 | 61311 | 231000 | Health Insurance           | J1         | 332.50     |                |           |
| 1    | 3103 | 61311 | 232000 | Dental Insurance           | J1         | 12.00      |                |           |
| 1    | 3103 | 61311 | 241000 | VRS Group Life Insurance   | J1         | 17.85      |                |           |
| 1    | 3103 | 62420 | 520302 | Telephone - Long Distance  | J1         | 172.70     |                |           |
| 1    | 3104 | 60207 | 601300 | Ed & Rec Supplies          | J1         | 500.00     |                |           |
| 1    | 3104 | 60210 | 601300 | Ed & Rec Supplies          | J1         | 2,020.00   |                |           |
| 1    | 3104 | 60253 | 601300 | Ed & Rec Supplies          | J1         | 1,000.00   |                |           |
|      | 2000 |       | 501    | Est. Revenue               |            |            | 4,000.00       |           |
|      |      |       | 701    | Appropriation              |            |            |                | 4,000.00  |
|      | 3103 |       | 501    | Est. Revenue               |            |            | 63,439.49      |           |
|      |      |       | 701    | Appropriation              |            |            |                | 63,439.49 |
|      | 3104 |       | 501    | Est. Revenue               |            |            | 3,520.00       |           |
|      |      |       | 701    | Appropriation              |            |            |                | 3,520.00  |
|      |      |       |        |                            | Total      | 141,918.98 | 70,959.49      | 70,959.49 |

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-062  
 DATE: 06/03/09  
 EXPLANATION: Court Facility Feasibility Study - City's Share

| TYPE | FUND | DEPT  | OBJECT | ACCOUNT DESCRIPTION            | SUB LEDGER |           | GENERAL LEDGER |           |
|------|------|-------|--------|--------------------------------|------------|-----------|----------------|-----------|
|      |      |       |        |                                | CODE       | AMOUNT    | DEBIT          | CREDIT    |
| 2    | 9010 | 19000 | 190249 | City Share - Court Feasibility | J2         | 20,983.50 |                |           |
| 1    | 9010 | 21000 | 950135 | Court Study                    | J1         | 20,983.50 |                |           |
|      |      |       | 501    | Est. Revenue                   |            |           | 20,983.50      |           |
|      |      |       | 701    | Appropriation                  |            |           |                | 20,983.50 |
|      |      |       |        |                                | TOTAL      | 41,967.00 | 20,983.50      | 20,983.50 |

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-063  
 DATE: 05/05/04  
 EXPLANATION: Jefferson Madison Regional Library - Facility Study -Northside Branch

| TYPE | FUND | DEPT  | OBJECT | ACCOUNT DESCRIPTION           | SUB LEDGER |           | GENERAL LEDGER |           |
|------|------|-------|--------|-------------------------------|------------|-----------|----------------|-----------|
|      |      |       |        |                               | CODE       | AMOUNT    | DEBIT          | CREDIT    |
| 2    | 9010 | 51000 | 512060 | Transfer - HTC Proffer        | J2         | 15,000.00 |                |           |
| 1    | 9010 | 73020 | 312348 | Northside Library - Study     | J1         | 15,000.00 |                |           |
|      |      |       | 501    | Est. Revenue                  |            |           | 15,000.00      |           |
|      |      |       | 701    | Appropriation                 |            |           |                | 15,000.00 |
| 2    | 8528 | 51000 | 510100 | HTC Proffer - Approp F/B      | J2         | 15,000.00 |                |           |
| 1    | 8528 | 93010 | 930010 | HTC Proffer - Transfer to CIP | J1         | 15,000.00 |                |           |
|      |      |       | 501    | Est. Revenue                  |            |           | 15,000.00      |           |
|      |      |       | 701    | Appropriation                 |            |           |                | 15,000.00 |
|      |      |       |        |                               | TOTAL      | 60,000.00 | 30,000.00      | 30,000.00 |

COUNTY OF ALBEMARLE  
 APPROPRIATION NO. 2009-064  
 DATE: 05/05/04  
 EXPLANATION: To provide funding for the June 9th Democratic primary election

| TYPE | FUND | DEPT  | OBJECT | ACCOUNT DESCRIPTION      | SUB LEDGER |            | GENERAL LEDGER |        |
|------|------|-------|--------|--------------------------|------------|------------|----------------|--------|
|      |      |       |        |                          | CODE       | AMOUNT     | DEBIT          | CREDIT |
| 1    | 1000 | 95000 | 999990 | Board Contingency        | J1         | -56,050.95 |                |        |
| 1    | 1000 | 13020 | 120000 | Salaries - Overtime      | J1         | 2,500.00   |                |        |
| 1    | 1000 | 13020 | 210000 | FICA                     | J1         | 2,811.37   |                |        |
| 1    | 1000 | 13020 | 312510 | Election Officials       | J1         | 34,250.00  |                |        |
| 1    | 1000 | 13020 | 331607 | R & M Voting Machines    | J1         | 14,000.00  |                |        |
| 1    | 1000 | 13020 | 360000 | Advertising              | J1         | 491.58     |                |        |
| 1    | 1000 | 13020 | 390000 | Other Purchased Services | J1         | 1,050.00   |                |        |
| 1    | 1000 | 13020 | 520100 | Postage                  | J1         | 103.00     |                |        |
| 1    | 1000 | 13020 | 520300 | Telecommunications       | J1         | 70.00      |                |        |
| 1    | 1000 | 13020 | 540200 | Lease/Rent Buildings     | J1         | 450.00     |                |        |
| 1    | 1000 | 13020 | 550100 | Mileage                  | J1         | 100.00     |                |        |
| 1    | 1000 | 13020 | 601700 | Copy Center              | J1         | 225.00     |                |        |
|      |      |       |        |                          | TOTAL      | -0-        | -0-            | -0-    |

Item 7.3. Resolution of Intent to Amend the Subdivision Ordinance regarding prerequisites to submitting final site plat.

The executive summary states that as required by Virginia Code §15.2-2260, Albemarle County Code §14-228 provides that an approved preliminary subdivision plat is valid for a period of five years provided the subdivider submits a final plat within one year of the date of approval and, thereafter, diligently pursues approval of the final plat. Albemarle County Code §14-221(B) requires that a subdivider satisfy all conditions of approval of the preliminary plat and obtain all tentative approvals for the final plat prior to submitting the final plat. After three years, the Subdivision Agent may revoke the approved preliminary plat after providing notice to the subdivider if it is determined the subdivider has not diligently pursued approval of the final plat. If a final plat is not approved within the five-year period that the preliminary plat is valid, the preliminary plat expires and the subdivider must comply with the regulations in effect at the time a new preliminary plat is submitted.

As required by Virginia Code §15.2-2259, Albemarle County Code §14-229 provides that an approved final subdivision plat is generally valid for a period of one year, with longer periods for phased subdivisions and by agreement between the County and the subdivider under specific circumstances. The State requirements regarding the period of validity of preliminary and final subdivision plats apply to preliminary and final site plans as well.

Effective July 1, 2009, Virginia Code §15.2-2209.1 (See House Bill 2077, Attachment B – on file) will extend the period of validity of approved subdivision plats and site plans until July 1, 2014, if the subdivision plat or site plan was valid on January 1, 2009. The following scenarios illustrate the effect of Virginia Code §15.2-2209.1:

- Any preliminary or final plat approved between January 1, 2008, and January 1, 2009, will remain valid until July 1, 2014, because such a plat would have been valid on January 1, 2009. The extension applies even if the subdivider does not submit a final plat within one year after approval of the preliminary plat.
- Any preliminary or final plat approved before January 1, 2008, for which the County granted an extension to a date after January 1, 2009, will remain valid until July 1, 2014.
- A preliminary plat approved as early as January 1, 2004, for which a final plat was timely submitted within one year so as to preserve the preliminary plat's validity for five years (to January 1, 2009), will remain valid until July 1, 2014.
- Any preliminary or final plat approved on and after January 2, 2009, will be subject to the applicable validity requirements of Virginia Code §§15.2-2259 (Albemarle County Code §14-229) and 15.2-2260 (Albemarle County Code §14.2-221). For example, a preliminary plat approved on January 2, 2009, will expire on January 2, 2010, unless the subdivider files a final plat on or before January 2, 2010. By comparison, a preliminary plat approved two days earlier on December 31, 2008, would be valid until July 1, 2014, without the subdivider having to take any further action.
- Any preliminary plat approved before January 1, 2008, for which a final plat was not timely submitted expired before January 1, 2009, and is unaffected by Virginia Code §15.2-2209.1.

Virginia Code §15.2-2209.1 is self-executing and does not require an amendment to the Subdivision Ordinance. However, §15.2-2209.1 authorizes localities to extend the period of validity beyond July 1, 2014. Staff does not recommend at this time that this period be further extended.

However, while staff was reviewing the effects of Virginia Code §15.2-2209.1, it also re-evaluated the County's requirements for timely submitting a final plat in order to preserve the validity of an approved preliminary plat. Albemarle County Code §14-221(B) requires that a subdivider satisfy all conditions of approval of the preliminary plat and obtain all tentative approvals for the final plat prior to submitting the final plat. This has been a longstanding requirement of the Subdivision Ordinance and has been justified as a reasonable regulation pertaining to the administration of the Subdivision Ordinance. In light of several amendments to the State subdivision statutes over the past several years, the absence of a similar requirement in the Zoning Ordinance for site plans, the absence of a similar requirement in the subdivision regulations of other surveyed localities, and the difficulties experienced by subdividers to satisfy all conditions or obtain all approvals within the one-year period, Staff recommends that this requirement be eliminated. Instead, a final plat would be accepted if it contained the required information in Albemarle County Code §14-303, as already required by Albemarle County Code §14-221(C). Of course, all conditions of approval of the preliminary plat and all tentative approvals for the final plat would have to be satisfied before the final plat could be approved.

No impact on the Budget is expected. Staff recommends that the Board adopt a resolution of intent to amend Albemarle County Code §14-221 and other related sections. Staff does not recommend that the Board amend the Subdivision Ordinance to incorporate or extend the period of validity provided in Virginia Code §15.2-2209.1.

**By the above-recorded vote, the Board adopted the following Resolution of Intent to amend Albemarle County Code § 14-221 and other related sections:**

#### **RESOLUTION OF INTENT**

**WHEREAS**, subdivision regulations should assure the orderly subdivision and development of land and promote the public health, safety, convenience and welfare of citizens; and

**WHEREAS**, State law and the County's subdivision regulations require that a final subdivision plat be submitted within one year after approval of the preliminary subdivision plat; and

**WHEREAS**, Albemarle County Code § 14-221(B), which is part of the County's subdivision regulations, requires that a subdivider satisfy all conditions of approval of the preliminary plat and obtain all tentative approvals from county departments and other agencies prior to submitting the final subdivision plat; and

**WHEREAS**, because of several recent amendments to State law pertaining to the period of validity of preliminary subdivision plats and the submittal of final subdivision plats, the absence of a similar requirement in the County's zoning regulations for site plans without any identified adverse effect and in the subdivision regulations of other surveyed localities, and difficulties experienced by some subdividers in satisfying all conditions or obtaining all approvals within the one-year period, Albemarle County Code § 14-221(B)'s requirement that a subdivider satisfy all conditions of approval and obtain all tentative approvals prior to submitting the final subdivision plat is unnecessary could be repealed without threatening the public health, safety, convenience or welfare; and

**WHEREAS**, in the absence of Albemarle County Code § 14-221(B), the public interest would nonetheless be protected because Albemarle County Code § 14-221(C) establishes the required elements of a final subdivision plat in order for it to be accepted as complete, and because a subdivider would have to satisfy all such conditions and obtain all approvals prior to the approval of the final subdivision plat.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good land development practices, the Board of Supervisors hereby adopts a resolution of intent to amend Albemarle County Code § 14-221 and any other regulations of the Subdivision Ordinance deemed appropriate to achieve the purposes described herein.

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

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Item 7.4. Cancel August 12, 2009, Board of Supervisors' Meeting.

**By the above-recorded vote, the Board cancelled the August 12, 2009, Board of Supervisors' meeting.**

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Item 7.5. Traffic Light Signal Monitoring Systems ("Photo Red systems").

The executive summary states that in 2007 the General Assembly enacted Virginia Code §15.2-968.1 permitting localities to establish, by ordinance, traffic light signal monitoring systems ("Photo Red systems"). Localities may install a Photo Red system at one intersection per 10,000 residents upon completing traffic safety engineering studies and obtaining approval from the Virginia Department of Transportation ("VDOT"). Under this statute, the County may install up to nine Photo Red systems at approved traffic signal intersections.

Responding to Board member interest in Photo Red systems, the Police Department began researching Photo Red ordinances, vendors and agency administrative procedures in 2007. In the spring of 2009, the City of Virginia Beach became the first Virginia locality to begin implementing a photo-monitoring system pursuant to this new legislation. VDOT also finalized its administrative procedures and forms for intersection approval in 2008.

Photo Red Programs Throughout Virginia: According to VDOT's website, motorists driving through red lights caused over 5,000 accidents in Virginia in 2004, including 26 fatalities and over 3,600 injuries. Localities such as the cities of Newport News, Richmond, and Fairfax, and the counties of Fairfax, Arlington and James City have taken steps to implement Photo Red programs in an effort to reduce accidents caused by red light violators.

Photo Red systems permit law enforcement agencies to improve their deterrence and enforcement of red light violations without assigning more officers to on-site traffic enforcement. Traditional traffic enforcement at busy intersections often proves difficult due to the limited areas in which officers may position patrol vehicles to safely observe violations and quickly navigate heavy traffic to apprehend a violator.

Virginia Code Requirements for Photo Red Programs: Virginia appears to be unique in requiring that motorists be provided a 0.5 second grace period between the time the signal turns red and the time the first violation is recorded. According to one Photo Red vendor, the photo would be taken at 0.6 seconds after the light has turned red. Other states require grace periods of less than 0.5 seconds. Another important feature of the Virginia Photo Red statute is that only a sworn law-enforcement officer may certify that a motorist committed a red light violation for the purpose of issuing a summons.

In addition, the Photo Red statute requires that localities notify each red light violator: (1) that the recordings of the violation will be available for the motorist's inspection for at least 60 business days

before a court date; and (2) how to contest a summons by filing an affidavit. Once the motorist files an affidavit denying that he or she operated the vehicle, the law enforcement agency must prove in court that the motorist committed the violation. The statute does not give law enforcement agencies the authority to require the motorist to state who operated the vehicle at the time of the violation. Finally, the maximum penalty that may be imposed is a civil penalty of \$50. More detailed information concerning the enforcement process may be found in the statute attached as Attachment A (on file).

To implement a Photo Red System, a locality must complete the following for submission to VDOT for its approval:

1. A list of proposed intersections for inclusion in the Photo Red system.
2. An engineering study for each proposed intersection by a licensed professional engineer (can be the County Engineer).
3. A crash and traffic signal violations data report setting forth statistics for the previous three years, including the number of traffic signal violations, and how many crashes involved a traffic signal violation for each proposed intersection.
4. A current 48-hour study of traffic signal violations for each proposed intersection.

Should the Board decide to adopt a Photo Red ordinance, the County must implement a public awareness campaign regarding the proposed Photo Red program. Signs notifying motorists about Photo Red-controlled intersections must be placed within 500 feet of the intersection approach.

Police Department staff has:

1. Identified the following three intersections as top priority for inclusion in the system: Rio & Seminole Trail (Route 29); the County portion of Hydraulic Road & Seminole Trail (Route 29); and Richmond Road (Route 250) & Stony Point Road (Route 20).
2. worked with the County Attorney's Office to prepare a draft ordinance for the enforcement of traffic signal violations utilizing the Photo Red System;
3. developed plans to complete the required reports and studies;
4. attended a training seminar in the City of Virginia Beach; and
5. reviewed several Photo Red product presentations by potential vendors.

Staff will continue to seek regular updates from localities using Photo Red for the purpose of staying informed of any potential problems and concerns with the program.

In the spring of 2009, Virginia Beach began implementing a fully operational Photo Red system at several intersections. The entire process, including obtaining VDOT approval and camera installation, took approximately one year. Four other localities (the Cities of Newport News, Richmond and Fairfax and the County of Fairfax) have issued a Notice of Decision to award a vendor with a Photo Red contract and are in the process of having their Photo Red systems installed. Staff is reviewing an open contract that the City of Newport News awarded to a Photo Red vendor to determine whether Albemarle could contract with that vendor through cooperative procurement.

The Police Department recommends that the Board approve staff moving forward with this project and direct the preparation of a Photo Red ordinance for introduction in July and a public hearing in August. Upon adoption of an ordinance, staff will conclude its analysis of proposed intersections for the Photo Red program, contract with a Photo Red system vendor and obtain VDOT approvals to begin implementing the Photo Red program at selected intersections as soon as practical.

**(Discussion:** Mr. Boyd said from reading the Executive Summary it seemed this will be a very expensive project. However, there is no budget impact shown. This program has to be costly; it is not possible that it can have no budget impact. Mr. Tucker responded that staff does not have the full cost of the program worked out at this time. Staff will present that information later.

Mr. Slutzky said there are a number of issues related to this program. It is basically on the agenda today to bring it to the Board's attention.)

**By the above-recorded vote, the Board approved staff moving forward with the project and directed preparation of a Photo Red ordinance.**

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Item 7.6. Board-to-Board, June 2009, *Monthly Communications Report from School Board*, School Board Chairman, **was received for information.**

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Item 7.7. Copy of letter dated May 20, 2009, to Mr. Brian S. Ray, from Mr. Ronald L. Higgins, Chief of Zoning Administration, re: **OFFICIAL DETERMINATION OF PARCELS – Tax Map 70, Parcel 14 (property of Tiverton Farm II LLC) White Hall Magisterial District, was received for information.**

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Item 7.8. Copy of letter dated May 21, 2009, to Mr. J. Walker Richmond, III, from Mr. John Shepherd, Manager of Zoning Administration, re: **OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS – Tax Map 111, Parcel 41 (property of Tye River Limited Partnership & Mary D. Tilghman, Trustee of Mary D. Tilghman Revocable Trust) Samuel Miller Magisterial District, was received for information.**

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Item 7.9. Report on Audit for the Clerk of the Circuit Court for the County of Albemarle, for June 1, 2007, through December 31, 2008, as prepared by the Auditor of Public Accounts, Commonwealth of Virginia, **was received for information.**

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Item 7.10. Emergency Debris Waste Pile Permits **was received for information as follows:**

The executive summary states that the County is vulnerable to severe weather hazards such as tropical storms, hurricanes and tornadoes that have the potential for generating large quantities of debris which, in extreme cases, may overwhelm the capacity of local disposal facilities. This occurred in September, 2003 as a result of Hurricane Isabel. Immediately after that event the County, through the Department of Environmental Quality (DEQ), obtained temporary permits to establish emergency debris waste piles at four parks. To be better prepared to meet the challenges associated with such events in the future, staff is pursuing the pre-selection of those four sites for future use.

The Virginia Solid Waste Regulations provide for the permitting of temporary sites to be used for the storage and processing of solid waste in the aftermath of a disaster. Once activated, permits are valid for 90 days. A locality may select the site either before an emergency ("Pre-Selected" site) or immediately after an emergency ("Post Emergency" site).

Prior to an emergency, a locality may identify and apply for site pre-selection by completing and submitting the appropriate DEQ application. The application details points of contact, proposed site location and site characteristics. The application process requires the locality to hold a public meeting to answer questions and to receive comments from the general public. A record of the public meeting is submitted with the application. Once approved by DEQ, the permit may be activated upon a verbal request by the locality.

Alternatively, a locality may identify a site after a disaster. The locality must provide the same information to DEQ as it would for a Pre-Selected site permit, although the information may be submitted verbally, with the written application being submitted within five days. Within five days of the application a public notice must be published announcing the locality's intent to open a temporary facility. If the application receives DEQ approval, a permit will be issued.

The advantage to Pre-Selected sites is timing. Operations are typically hectic immediately following a disaster and having pre-approved sites can save valuable staff time and allow sites to be immediately available. Depending on the extent of a disaster, and DEQ's resulting workload, obtaining permit approval for a Post Emergency site could take several days.

Staff will be pursuing the Pre-Selection of four emergency debris waste pile sites to handle vegetative debris: Walnut Creek Park, Mint Springs Valley Park, Darden Towe Park and Chris Greene Lake Park. These sites were also used in 2003 following Hurricane Isabel. The cost of advertising for the requisite public meeting will be approximately \$200.00. There is also the indirect cost of staff time required to complete the applications and to prepare for and conduct the public meeting.

***This report was provided for the Board's information. No action was necessary.***

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Item 7.11. Albemarle County's Sheriff's Office 2008-09 Game Enforcement Summary, **was received for information, as follows:**

The executive summary states that in response to citizen concerns regarding illegal hunting, the Board began appropriating supplemental funding for the Albemarle County Sheriff's Department beginning in FY '99 to support enforcement efforts of the State game warden. During each deer-hunting season, the Sheriff's Office conducts game enforcement efforts to ensure compliance with State and County hunting laws. These activities include patrolling the County to verify that hunters are properly licensed, responding to E911 calls for service from concerned citizens, issuing warnings/summonses, conducting special operations and seizing property. The attached report provides the 2008-2009 hunting season statistics (on file).

During the 2008-09 hunting season, the Albemarle County Sheriff's Office checked a total of 123 hunters with 59 of these checks resulting from calls from concerned citizens. Of those 59 calls, 21 were complaints of trespassing, 21 were shots fired/heard by landowners, 12 were complaints of road hunting, and five were complaints of spot lighting. Twenty-seven summonses were issued for illegal hunting during this period by the Sheriff's Office and a 96.4 percent conviction rate was achieved in the prosecution of these violations. In addition to work performed by the Sheriff's Office, the State game warden's office received 41 calls for service during this period. The Sheriff's Office also engaged in special operations utilizing decoys, stakeouts and increased patrols in known trouble areas of the County. Collectively, enforcement activities included 56 shifts during a 14-day period and a total of 515 staff hours which aided in ensuring compliance with State and County hunting laws. The FY 2009 Operating Budget allocated approximately \$16,000 to the Sheriff's Office for game enforcement activities with the majority of these funds earmarked primarily for overtime expenses.

***This report was for information only.***

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Item 7.12. Animal Noise Ordinance Update.

The executive summary states that on June 11, 2008, the Board amended Chapter 4, Animals and Fowl, of the County Code by adding Article VI, Animal Noise. At that time, the Board requested that staff provide a 12-month report on the impact of the ordinance.

Between June 11, 2008, and April 30, 2009, 47 barking dog noise complaints were reported to the Police Department. Of these complaints, 16 were reported in 2008 while 31 have been submitted thus far in 2009. The number of barking dog complaints received in 2007 totaled 71 and 54 were filed in 2006.

Since adoption of this ordinance, four written Incident Based Reports have been completed. The majority of citizen complaints are resolved by Animal Control Officers (ACOs) providing information to citizens on the provisions of the animal noise ordinance. Most are handled by phone as an information call for service. Very few citizen complaints have required an on-site visit by an ACO or Police Officer. An updated brochure titled "Do You Have a Barking Dog Problem?" (Attachment A – on file) was prepared after the adoption of the animal noise ordinance. This brochure is regularly provided to citizens by ACOs.

Two cases have been adjudicated through the Albemarle County General District Court in the past 12 months. One of these cases was an officer-initiated arrest in which a summons was issued to a dog owner for a violation observed by the officer. This involved a dog that was barking excessively in a parked and unattended vehicle in an apartment community. The dog owner subsequently pleaded guilty and paid a \$30.00 fine plus \$71.00 in court costs. The second case involved a private citizen who obtained a summons from the magistrate. This case was successfully diverted to mediation by the General District Court.

According to the ACOs, most citizens are aware that there is an animal noise ordinance that addresses barking dogs; however, they are generally not familiar with the provisions of the ordinance. Some complainants are unwilling to go through the required steps and are also unwilling to obtain a summons, even with assistance from an ACO. There has also been some frustration expressed by complainants in regard to the five-acre exclusion for property zoned Rural Areas where barking dog owners are keeping their dogs on or near the property line of the complainant, but because the dog is located on more than five acres of property in the Rural Areas, the noise is exempt under the ordinance.

There has been no significant increase in the workload of the Animal Control Officers or Police Officers since adoption of the animal noise ordinance. Staff supports the continuation of an animal noise ordinance. However, staff recommends that the Board evaluate the five-acre Rural Areas exemption during the update of Chapter 4, Animals and Fowl.

***This report was received for information.***

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Agenda Item No. 8. Piedmont Virginia Community College Annual Presentation by Dr. Frank Friedman.

Dr. Frank Friedman, PVCC President, was present. He introduced PVCC Board members from Albemarle County, Mr. Stanley Cook, Ms. Debbie Goodman, Mr. Kip Newland and Ms. Donna Plaskett. He said this is the first year for three of the members, and they have been wonderful to work with.

Dr. Friedman reported that enrollment has seen a 10 percent increase between this year and last – about 400 students more each semester. He said they are in the first week of classes this summer and have 200 more students than last summer. First, when the economy goes down, community college enrollment all over the nation goes up. When people are either out of work or thinking they will be out of work they decide to re-skill and re-tool to prepare for their future. Second, admission is up due to the guaranteed admission agreements all over the State. The number of younger students right out of high school or out of high school only a year or two who are seeking a Bachelor's Degree is up. They see the community college as being inexpensive for their first two years. Third, enrollment is up due to the Dual Enrollment Program. That is where high school students take college courses while they are in high school – that program has grown tremendously. They now have 1,000 high school students a semester.

Mr. Slutzky asked the overall enrollment at PVCC. Dr. Friedman responded that during fall and spring, enrollment was just fewer than 5,000; this fall that benchmark will be broken for the first time ever; in the summer, enrollment is usually at about 2,000.

Mr. Slutzky asked if the 1,000 high school students are included in that number. Dr. Friedman said they are. Only those taking non-credit courses are not included in that number. There are about 3,000 people a year who take non-credit courses through the Work Force Program and continuing education. They are not counted in the official enrollment count.

Dr. Friedman reported that Albemarle County's share of PVCC's enrollment has grown tremendously – with about 40 percent of their 5,000 students being from Albemarle. He said that 186 graduates from the four County high schools came to PVCC last fall. In the spring, they usually enroll another 25+ students. In the Dual Enrollment category about 500 students per semester from Albemarle schools participate and there is no cost for that participation to either the student or the school system. If they had paid, the value of those college credits would have been \$327,000 last year (basically all of those credits will transfer), so at the tuition rate of those institutions it would be equivalent to \$1.0 million.

Dr. Friedman said PVCC's State appropriation for next year is down nine percent - \$700,000 less despite the fact that there are 400 more students. This will have to be made up through a tuition increase and by increased enrollment.

Mr. Rooker asked if State funding fluctuates based on student enrollment. Dr. Friedman responded that at one time Virginia had a real formula so that if enrollment went up funding went up in a proportionate manner. In 1991 the recession caused the General Assembly to throw it out and they never reinstated it. It is basically political funding at this time. When money comes to the community college system, their formula is strictly based on enrollment. That is where enrollment is important in generating their "slice of that pie" but the overall "pie" from the General Assembly is based on what they think they can afford. He said PVCC received about \$0.5 million from the Federal stimulus package. If they had not received that money their budget cut for next year would have been 14 percent.

Dr. Friedman said with all those students, there is a problem with space. As an open door institution, they do not turn people away. They cannot cap enrollment and just say they are out of space. They try to find creative ways to get all students in for an education. At this time the 35,000 square foot science building is under construction - the college will take possession of that building in March, 2010. They are now awaiting State approval to take possession of the Visitor's Center building. He has no explanation for why it's taking so long. He said the State just moves at a snail's pace on some things. This is not even a community college system issue - it has actually done everything possible to move this along.

Mr. Dorrier asked what is to be done with that building. Dr. Friedman said it will become their Workforce Development Center. With the present state of the economy, and the unemployment in the region doubling in the last six to nine months, they are focused on what they can do to help citizens get ready for jobs. Opening new programs is a key to that. The healthcare area in this region is the one area that is still hiring. PVCC is trying to counsel people who need to re-tool into some of those healthcare areas so they can qualify for jobs in the local community. Some of the programs, like the nursing program, are long-term programs, but several of them can be as short as six-plus weeks to a semester. Certified nurse assistant, patient admissions care coordinator, health information, homecare aide, pharmacy technician are all short-term programs that qualify people for jobs quickly, and that is why space is needed. They will move all of those programs into that building. He has mentioned before that the community has no licensed practical nursing program. PVCC will definitely open that program in January. They have raised the money and carved out the space, so will take the first class of 20 students in January. People in the community who are out of work have to be put back to work, and that is partially PVCC's job.

Mr. Friedman said that Ms. Mallek had asked him recently about the One-Stop Center (the Virginia Workforce Center at Charlottesville) on Hydraulic Road. He said PVCC has been running that operation through a contract with the Workforce Board since July 1, 2008; their application to continue into next year is presently being reviewed. In the 11 months so far, 5,000 people have come into the center seeking assistance with job search; they average three visits each so there have been 18,000 walk-in visits since last July - 30 percent of them were by Albemarle County residents. There was a huge spike in December/January/February, but now the numbers have been leveling off. Of all those folks, only a small percentage - 140 people - qualify for the Federal money that pays for their training and education. Because of the Federal stimulus money, that number will be doubled next year. The bottom line is that these people get jobs. He cannot report about the 5,000. If they are only in core services, they do not qualify for intensive services so there is no long-term tracking system to follow up on their progress. He said they ran a short program in April and May for personal care assistants - people who do home healthcare kinds of work. On their graduation day, they brought in potential employers, and seven were hired right there on the spot. There is positive movement in some areas of jobs. That is the counseling they are providing to these people in order to get them employed.

Ms. Mallek asked about the core service - the intensive training - and what that means. Dr. Friedman said in order to qualify for intensive training the person must be in one of three programs that the Workforce Investment Act runs. One is a youth program which is basically for out-of-school youth (for dropouts). A second program is for people who have been in long-term poverty. There are clear guidelines for making this determination. The third group, which is the largest group, is for dislocated workers. Each person must meet certain criteria in order to qualify for the program. Those are the three categories which lead to intensive counseling, career planning, and then payment for job training. If someone walked in just wanting to "test the water" for a new job, there is self-service available. They might get help in developing a resume. Those are considered the core services which are more of a drop-in process than an intensive process.

Mr. Boyd asked the difference in what the Virginia Employment Commission offers. Dr. Friedman said VEC is located at the One-Stop Center now. The idea of the one-stop ten years ago was to bring all of these agencies together. If you come in to file for unemployment, you immediately go to the other side to get help finding a job. It has worked better on paper and in theory than in practice, but there has been tremendous progress during the last three months.

Mr. Rooker asked if Albemarle is the largest participating jurisdiction in terms of clients. Dr. Friedman replied that Albemarle and Charlottesville are running "neck in neck," but they are the largest. Last year the City had 36 percent with the County having 30 percent. He thanked the Board for its support of PVCC, and specifically Ms. Thomas for her support. He then offered to answer questions.

Mr. Rooker thanked Mr. Friedman and PVCC, noting that they are both a tremendous asset to the community. Dr. Friedman said it is their duty to serve the community, so he needs to know if there are

things which need to be done better, or added to their present offerings. He welcomes ideas, suggestions, and criticism as that is the only way they can improve their services.

Mr. Rooker said Ms. Mary Jane King was looking for a way to fund an LPN program several months ago. He asked if that had happened. Dr. Friedman said she is always looking for ways to fund programs. The only thing keeping them from starting the LPN Program was sustainable funding. With cuts in State money, it could not be done. They had to raise the money privately, and eventually that has been achieved to their satisfaction that they can start the program and have the necessary money in the future.

Ms. Thomas asked if PVCC offers courses in Spanish and are there courses for English as a Second Language. Dr. Friedman said "yes." The Spanish courses range from conversational non-credit all the way through Spanish I, II, III and IV.

Ms. Thomas said those courses are good for people who do not know Spanish. What about the people for whom Spanish is their primary language? Dr. Friedman said PVCC offers ESL courses and works in conjunction with the Adult Basic Education offices of the City and County.

Mr. Slutzky thanked Dr. Friedman for his report and said his energy and enthusiasm is pleasant to behold.

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Agenda Item No. 9. Commission on Children and Families, Annual Report.

Ms. Gretchen Ellis, Director of the Commission, said she will highlight the parts of the report that relate to Albemarle County. The past year one of their charges was to administer the Comprehensive Services Act Program which is a large budget item for the County. They studied how that process works and a report was issued by their Process Improvement Team. It resulted in changes in both the local practice model and in the procedures used by CCF.

Ms. Ellis said they launched a local assessment and diagnostic program run by Region Ten in collaboration with other community partners. Until October, 2008 when the program started, when a child came into Foster Care, or was at a risk of being placed in Foster Care, that child was sent to Richmond, Chesterfield or Tidewater to be assessed, and often stayed there. They are now focusing on children being assessed locally, so they can stay in the community. That is better for the child, and is a cost savings for the community. So far there have been 18 children in that program – most of them would have gone out of the community to congregate care placements – but only one child has been placed outside of the community. She said CCF has been working to maximize use of alternative funds. Most of their savings were attributable to their ability to manipulate the Federal Early Periodic Screening Program which provides substantial Medicaid funding for children in long-term hospital settings.

Ms. Ellis reported that the 9th Edition of *Stepping Stones* was issued earlier this year, and information tracked over the last 10 years shows progress. She said there continues to be a tremendous partnership with the University of Virginia – over 3,000 hours of service from faculty and students at a value of over \$320,000 has come to the community.

Mr. Rooker asked if that is all donated time. Ms. Ellis said it is, but on occasion the University will provide scholarships for students who are working with CCF. That is at no cost to the County or to the Commission. The County has probably provided about \$20,000 in scholarships or stipends to graduate students and undergraduate students who worked with CCF in the past year. The University has stepped up to the plate in terms of being solid community partner in terms of research and service.

Ms. Ellis said a couple of months ago the Board saw the results of the work of the agency Budget Review Team. This year, agencies with long-term solid applications were able to submit progress reports rather than full applications in an effort to streamline the processes. She pointed out that the agencies which submitted progress reports this year will submit full applications next year.

Ms. Ellis said the community has adopted a new practice model related to systems of care – they are trying to create a system of services that is child-centered, family-driven, strengths-based, culturally competent and community-based. The community-based model is a change from how the community has done business in the past; it focuses on creating more resources locally so that children can be served in the community. She said the Assessment and Diagnostic Center is one of those as is Intensive Care Coordination which has been launched in the past six months. Effective January 1, 2010, the local match for children who are placed out of the community in congregate care will go up by 15 percent, while the local match for children served in the community will go down by 15 percent. There is a financial motive to continue with this practice model.

Mr. Boyd said he has mentioned several times in the past the need to do an environmental scan to see what is being done at the present time. He has been expecting to see a list of all the agencies and the services they perform. He asked if that will be a by-product of this plan. Ms. Ellis replied that it will. They have almost completed one for the CSA System, but there are two places which are lacking information in terms of having a comprehensive community-based range of services. One - although the number of foster homes has increased, there is not a sufficient number to serve all of the children in foster care in the community. Second - there is no alternative school for children with serious behavioral problems who cannot be served in the public school system. She said that CCF is presently discussing this situation with private vendors who are considering bringing such a business to the community – these are for-profit organizations.

Ms. Thomas said she thought that was the purpose of the Ivy Creek School. Ms. Ellis said Ivy Creek is for children with serious emotional problems, but they do not work with the kind of conduct disorder they see when trying to bring children home from congregate care.

Mr. Boyd said it would be helpful if he could see information about the services needed in the community, and a list of organizations which provide such services. Ms. Ellis said she would try to get that information to Mr. Boyd in a month or so.

Ms. Ellis said CCF continues to have a Youth Development Network where they encourage adolescents and school-aged children to be involved in productive activities outside of school; the network has 125 members – most of whom are people who provide after-school services. CCF had provided referral services to 140 children as of March, with an 83 percent satisfaction rating. That program, for the past year, has been run solely by volunteers who man a phone line, so it has been done at no cost to the County.

Ms. Ellis said the Partnership for Children has worked with United Way to develop the Smart Beginnings Program which is bringing foundation money into the community to support early childhood programs – particularly for Albemarle there is a home-visiting program for Latino pre-school children in the Greer Elementary School area.

Mr. Rooker asked if that could be done as an expansion of the Bright Stars Program. Ms. Ellis said this program is for children before the Bright Stars age - children ages 0 to 3.

Mr. Rooker asked if the program would have to be located in different locations than Bright Stars. Ms. Ellis said it is a home-visiting program where they go in to help prepare those Spanish-speaking children and their families for entry into Bright Stars when they reach age 4.

Mr. Rooker said he was thinking about the Smart Beginnings presentation he attended at the Darden School. The discussion there was about the creation of alternative schools for pre-K. Ms. Ellis said CCF is presently exploring that concept. She heard that speaker promise that he would get CCF Federal money if it had a plan. They hope to hold him to that promise. They are working on ways to have a broader pre-K program.

Mr. Boyd said that plan also called for a very big commitment from the private sector. Ms. Ellis said it does; she is seeing the private sector step forward in terms of being engaged in the process and working with the Smart Beginnings program.

Ms. Thomas asked about the home visits to newborns. Ms. Ellis said there are three home-visiting programs that are working with newborns: the CHIP program, the Healthy Families program out of CYFS, and the ARC of the Piedmont which provides home visits to children with developmental difficulties. She said they are probably serving about half of the children who would benefit from the service, in some part because it is a voluntary program and some families chose not to participate.

Ms. Thomas asked if the families who want that service are receiving it. Ms. Ellis said there is a waiting list now, but not a substantial one. There is a bigger waiting list for the publicly funded four-year old programs – Bright Stars and Head Start.

Ms. Ellis said their Summer Fun program is a small grassroots program for Albemarle County students. They got \$7,000 in grant funding as well as some scholarships. This is the second year that they are working with Albemarle Social Services and the schools offering Albemarle students the opportunity to participate in quality summer camp programs. This is being run voluntarily, but they got some money from a couple of generous foundations so are trying to level the opportunity gap for Albemarle students who might not otherwise be able to participate in summer programs.

Mr. Rooker referred to a slide on the screen and asked for an explanation of the \$6.0 million figure shown. Ms. Ellis said it is a \$6.0 million Federal "Safe Schools-Healthy Students" grant. It is a four-year grant which will provide an increase (\$1.5 million a year for four years) in mental health services, early childhood services, and in-school services. She said they have a solid proposal, so are hopeful they will receive the grant. There is no local match required. With most of the money they want to provide training and build capacity rather than bring in new positions that they have to figure out how to fund at the end of the four years. There are some new positions connected to it, but most of the funds would be used to change how they support children in the schools.

Mr. Rooker asked if it would be helpful for this Board to pass a resolution of support for the application. Ms. Ellis said it could not hurt.

Mr. Slutzky asked if the application has been submitted. Ms. Ellis said it has, and they do not accept any letters of recommendation. She is not sure who a resolution would be sent to.

Mr. Slutzky asked which agency makes the decision. Ms. Ellis said that it is collaboratively the Departments of Justice, Health and Human Services, and Education. They work collaboratively and use outside reviewers (experts from various communities) to review the applications.

Ms. Ellis said CCF has been able to provide 33 forums for training, almost all of them provided free of charge. They obtained grant funding for this fall to provide high quality training for 70+ County Schools and Social Services staff, as well as people from the City and outlying localities. In the coming year they will be completing the implementation of the Community Practice model that maintains children

in the community, completing CSA processing improvements, expanding their capacity to serve children locally, and implementing the Human Services Strategic action plans they created this year. She said that two years ago she gave a report to this Board on the two priority areas of early childhood education and youth development. They now have full action plans on those two items. She then offered to answer questions.

Ms. Thomas noted that the recent Resource Utilization Study completed for the County suggested that CSA be handled more closely with the Social Services Department. She is impressed by the report on the work CCF is doing in that area but wonders if it is being investigated thoroughly. Ms. Ellis said there are areas that can be improved in terms of customer service; that has been an issue and she does not know the status of those changes.

Mr. Bryan Elliott, Assistant County Executive, said the City also received a similar recommendation. Staff will be convening a group of both City and County representatives to look at those recommendations in total as well as the Process Improvement Team report completed by CCF about a year ago.

Ms. Thomas said having the City and the County deal with this separately in their Social Services departments does not seem like a good idea to her. Although having a joint organization address it seems unusual, and the Resource Utilization Study did not appreciate that things were done here in ways that are different from other localities, she appreciates the way it is being done now.

Mr. Elliott said the County's study was broader in terms of input – it looked at the system to determine if there were efficiencies that could be gained; the City's study stated emphatically that the possibility of moving CCF to the departments of Social Services should be considered, probably because most jurisdictions in Virginia do it that way. City Council endorsed their staff to move forward with that. They will be meeting as a group in the next several weeks to launch into that.

Mr. Slutzky thanked Ms. Ellis for the report.

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#### Agenda Item No. 10. Crozet Library Update.

Mr. Bill Letteri, Facilities Manager, gave a PowerPoint presentation. He said that joining him today are Ms. Melanie Hennigan and Mr. Todd Willoughby from the architectural firm of Grimm & Parker - that firm that has significant experience with library design. He then recognized the many Library Steering Committee members in attendance, some whom spoke to the Board earlier today. He said there was full attendance by Committee members at all of the meetings, with participation from all of the various participants. He also recognized staff members Mr. Ron Lilley and Mr. Trevor Henley who have been very helpful throughout the process.

Mr. Letteri said the purpose of this meeting today is to present the recommended conceptual design for the library for which there is strong support. They are seeking the Board's authorization to proceed with the formal part of the design, which is design development. Last year the Board established this committee recognizing the many stakeholders involved. This committee was to create a venue that could be heard to weigh and balance the various perspectives on a downtown project of this sort. He said it has worked just as planned. They are very satisfied with the good job which has been done, and no one is leaving with a sense of frustration that they were not heard.

Mr. Letteri said the committee and its guiding principles were established in August of 2008. There was a community work session where ideas and objectives were presented and they received important feedback. The early designs and site plans and some of the concepts were shared with the ARB. Community Development staff was engaged to be sure they were mindful of the Crozet Master Plan principles for the downtown area. They engaged the Planning Commission in their formal presentation and got their feedback. A second round of community discussions were held in February and a work-in-progress schematic was presented to this Board in March. Last month the Committee concluded the schematic process that will formally conclude with this Board's approval today. He added that as staff works its way through design development the Committee will be reconvened to be sure the design process is in keeping with the Committee's ideas. He then introduced Ms. Hennigan who will explain the designs.

Ms. Hennigan expressed the appreciation of Grimm & Parker's design team for being invited today to share with the Board the culmination of what has been a vigorous and exciting design process. They have been working with the Committee at least once a month for the last year and have received great input from the Library staff and Library Board, the public, Crozet citizens on the Steering Committee, and several Board members. The resulting design is specifically tailored to Crozet and its situation.

Ms. Hennigan showed on the screen the proposed site plan. The Library is to be located at the corner of what will be the new main street of Crozet and the existing Crozet Avenue. She pointed out lines on the site plan that show the topography of the site. There is a dramatic fall to the site, so there can be a main level and a lower level for the building. The main floor will be 16 to 18 feet above the existing Crozet Avenue and the higher elevation will take advantage of views that exist on the site. However, there is a challenge with the site because it is modestly sized. They worked to maximize the size of the facility as well as the number of parking spaces that can be put on the site. She pointed out the location of a vehicular entrance and a drop-off area for use by everything from school busses to vans to cars. They maximized parking spaces on the site and put spaces for the handicapped close to the front door, and included a service bay for deliveries.

Ms. Hennigan said that coming along Crozet Avenue from either direction this will be a prominent building. It does not really have a backside, but has three fronts – a front on Crozet Avenue, a front on the new Main Street and a front facing the parking lot. A major entrance facing Crozet Avenue brings one into the lower level. Coming up Main Street the grade moves up the hill so they created a series of bay elements that project out of the building to create a rhythm along the sidewalk, and a welcoming entry feature (a type of pergola) at Main Street. There is also a ramp as well as a stair because of the grade elevation change.

Ms. Hennigan said the main service desk has excellent sight lines of the front door. There is an air-lock vestibule at that door to save on heating and cooling costs. As one enters, immediately to the right is the children's area – by having it located here it will help with noise. There is a meeting room nearby that can serve as the children's story time room or program room – it also has a kitchenette. There is a moveable wall in that room so it can be used for more than one thing at a time. In the center of the library is space for teenagers and in another area there is the rest of the adult collection.

Ms. Hennigan said from the center spine of the library there is excellent sight lines so staff can see people sitting along the outside next to the windows. Close to the staff in the center of the library are the public-use computers, a relaxed area for reading periodicals, and a fireplace. Directly behind the service desk are staff areas and a connection to the service store for deliveries. Staff will be able to see people going into and out of the restrooms. There is an elevator down to the lower level and a fire stair for emergency exits. There is a knockout panel in the floor so a grand stair can be built if the library ever expands to the lower level.

Ms. Hennigan said the bidding climate is favorable now so they think that with an alternate it would be possible to get a slightly bigger lower level. They came up with two options – one is an area of about 4,700 square foot. There is another area where they might do an alternate on bid day to get some extra area and still be within budget. She showed where the elevator is located on that lower level and said there could be restrooms and public space, an emergency stair, the main lobby entrance off of Crozet Avenue, and an exit area which would require a small stair.

Ms. Hennigan showed a three dimensional representation of the facility. She said there are only two visible columns in the library. They try to get the space as column free as possible in order to allow flexibility for the librarians in placement of bookshelves, etc. She said the book stacks are angled so that staff can oversee what's happening in the stacks as well as beyond into the seating areas. Along the west wall of the library there are a lot of windows that take advantage of the great views - along the north side of the building there is the most glass which will bring in a lot of free day light that does not create glare or contribute to heat gain. She pointed out a study room for use by teenagers for group projects and by adults. She pointed out the children's area, the meeting room, the restrooms, the back of the house, and the staff work areas.

Mr. Boyd said this will be a two-story building from all angles. He asked if it is three stories in the back. Ms. Hennigan said "no", because of the fall of the site it is only a one-story building from the parking lot side. She pointed out the location of the parking lot and said the entrance from the parking lot is on one elevation. She pointed out the new Main Street and the elevation of the library on that street.

Mr. Boyd asked if the fall of the site is from side-to-side, not front to back. Ms. Hennigan said it depends on what you call front to back. There are three fronts to the building. The fall is between 16 and 18 feet, and is from the parking lot to Crozet Avenue.

Mr. Boyd asked if the parking lot entrance is at the same level. Ms. Hennigan said as a vehicle comes to the entrance it is all at the same level and is handicapped accessible. It is level so that when a van pulls up, it can drop people off, and there is a covered canopy as well.

Mr. Boyd asked if one has to use steps from that area. Ms. Hennigan said "no" it is an accessible entrance. The Crozet Avenue entrance, which is the major building entrance, is completely accessible – it is at grade. The front door facing the parking lot is at grade, and the parking lot is at grade.

Mr. Slutzky asked about the southern elevation and the experience people will have coming in from Route 250 – will the building look consistent with the rest of the buildings in the area? Ms. Hennigan said they will not "dumb down" the building, or change the materials of the backside. It will stay as brick and stone and will have the same character as the other side of the building. It even has the two tower elements – one goes up to the mechanical mezzanine and the other one will probably be a screening element for an air-conditioning unit. She said these features are needed on the other side of the building as much as on Main Street because they will be performing a job – they are not just decorative.

Mr. Rooker said he does not understand what is happening on the bottom floor. Is all of that space unfinished? Ms. Hennigan pointed out an area that is dirt – a crawl space. They are studying another area but they do not know exactly how this floor will be used. They also do not know what day they are going out to bid. If the project were going to be bid this fall or in early winter, they would recommend that the space be finished since bids are coming in at good prices now.

Mr. Boyd said there is another option – money could be saved on the cost of the building by not increasing its size.

Ms. Thomas said it is still a question of "penny-wise and pound-foolish." This is a designated growth area so what should the Board be planning for. There are a huge variety of ideas possible. Ms.

Hennigan said she was not suggesting that money be added to the project. However, if the project goes to bid at the right time there is the possibility the extra space could be included within the current budget.

Mr. Rooker pointed out a line on the drawing and asked how much square footage could be added by using that line. Ms. Hennigan said the area now is 4,700 square feet and another 1,200 square feet might be picked up by such a move.

Mr. Rooker asked if structurally it would be possible at some point in the future to excavate all the way out. Ms. Hennigan said that at this time footings will be built that step down the hill as that is the most economical way to build today. If the Board wanted to build a larger area, the foundation would have to be built deeper – a premium would have to be paid, and no one knows if that space would ever be dug out in the future. That is another option, but it has a cost.

Mr. Slutzky said during the Board's last budget work session it concluded that this project would be delayed, so it is not going to be bid this fall or this winter.

Mr. Boyd said that was the recommendation of the CIP Committee.

Mr. Slutzky commented that this is a beautiful building and the design efforts of the community and the architects have resulted in a terrific amenity to downtown Crozet. This will be a successful anchor to downtown.

Mr. Rooker agreed.

Ms. Thomas said it is going to be a LEED building, so all of that day lighting in the roofline that gave the design amateurs some concern will let in a lot of light and also offer great views. Ms. Hennigan said they will be using mechanical systems that exceed certain standards by about 30 percent, and there will be a green EnergyStar roof. She said her firm just delivered the first LEED silver library in the state; it was just got accredited last month.

Mr. Slutzky asked what action is needed by the Board today. Mr. Letteri said the primary action would be to allow staff to proceed with design development.

Ms. Mallek said money was previously set aside for this work. It is already in the budget. Mr. Letteri said there are about eight months of work ahead on the formal design component to get through to a point when the project could be put out for bid. The funding for the project will be available July, 2011, a year later than originally contemplated. He emphasized that the market is so good now that it might be possible to save almost \$100 per square foot, and that translates to a sizeable amount of funding.

Mr. Slutzky said the Board put no contingency into the 2010 budget; it has a reserve based on revenue sharing moneys that hopefully it will not need to access. The Board has delayed \$100.0 million worth of capital projects, including safety projects in addition to library projects. What the Board is looking at this coming year is a further erosion of revenues at the State and local levels. The Board will have to look at further "belt tightening", so it is unrealistic to spend too much time on ways to accelerate the Crozet Library project to take advantage of market conditions when the Board already had that discussion and made a decision not to proceed at this time.

Mr. Boyd said if there are eight month's worth of work to get to the place where the project could be bid, he said that will take the Board to another review of the CIP. Mr. Letteri said he is just saying staff would be remiss if it did not look clearly at what the potential savings could be and the effect on the five-year plan if enough could be saved to offset the additional costs.

Mr. Slutzky said he agrees, but the Board would be remiss if it let the people in Crozet think that because there are going to be savings the rational choice of the Board would be to accelerate the project when it had that discussion during the budget process and decided instead to delay this project, some fire stations and other things, and it also knows there is a great deal of uncertainty in the revenue picture. He does not want to create an expectation in the community that is unrealistic.

Ms. Mallek said she would still like to know the numbers. She thinks it would be a big mistake not to ask for those numbers. Mr. Letteri said there will be an opportunity in this cycle of the CIP to look at what the market is doing and how that is changing the mix of all of the projects, and whether there are opportunities to bring back to the Board for discussion. He suggested going forward with the design so the project can be ready whatever occurs.

Ms. Mallek asked if there is a way to get that work done faster than eight months in the event there are stimulus grants from the State library that might be received. It is the number one library project in the State according to the State Library Board.

Mr. Boyd reminded the Board that it had decided to look at the whole CIP process; there is to be a work session sometime this summer. He thinks there is some "wiggle room" in that CIP. He said the Board has to resolve the issue of what is spent on School requirements, and on Local Government requirements. There is no balance there now; the process has to be changed to get that balance.

Mr. Rooker said if staff finds that several projects would cost 20 percent less than currently included in the budget, room would have to be created to move some projects forward.

Mr. Slutzky said the Board has to keep in mind that if it erodes savings by increasing the projects themselves, there would not be the opportunity to relocate some and accelerate others.

Ms. Thomas said she appreciates staff bringing all of these things to the Board because the worst-case scenario would be that the economy begins to “bounce back” and the County decides to go out for bid at a time when there are jobs and the bid climate is the opposite of what it is today. She said the Board did make that decision when it was working on the budget and when it set the tax rate for this year.

Mr. Boyd said the University has already said it is going to expand some of its major building projects, so he wonders if companies would be reducing their prices and have plenty of work locally, or is there work nationally and regionally to do that.

Ms. Mallek said UVA is not hiring all local people because their projects are very large. Mr. Letteri said he believes that by the beginning of next year an erosion of this good bidding climate will be seen.

Mr. Slutzky asked if the Board should vote to move forward. Mr. Tucker said “yes.”

Ms. Mallek **moved** to approve the schematic design as presented and to direct staff to proceed to construction design. Mr. Rooker **seconded** the motion.

Mr. Boyd said he would like to see these come back as bid-ads for expanding the scope.

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

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

NAYS: None.

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Agenda Item No. 11. Ordinance Amendment – Chapter 4, Animals and Fowl.

Mr. Davis said this ordinance amendment is a housekeeping measure; the County’s Animal Ordinance has not been amended for a number of years so it has become out of synch with language in the State Code; last year the section of the Code that controls animal laws was re-codified so all section numbers were changed. He said Ms. Jennifer Lyttle in the County Attorney’s Office, in conjunction with the Animal Control Office, has worked on a comprehensive reorganization and update of the County’s animal ordinances. The State Code mandates a number of animal laws that localities are required to enforce using local animal control officers. In the past sections of the State Code that are the primary enforcement areas of animal control have been pulled and put into the local ordinance so the animal control officers know what laws they are required to administer. Under State law these laws must be administered at least to the minimum levels set out in the State Code, or the locality can have more stringent requirements with a few exceptions (exceptions are noted in the Executive Summary on file).

Mr. Davis said staff needs the Board to make decisions on two or three points before holding a public hearing on these amendments in July. In June of 2008 staff had told the Board the Animal Noise Ordinance would be revisited. Section 4-106 of that ordinance deals with the noise of barking dogs and animals in general. On today’s agenda, Consent Agenda Item 7.12 was a report from the Police Department on complaints received under the Animal Noise Ordinance since June of 2008 when the ordinance was adopted; only two summons have been issued during that time – one by a police officer, which ended up with a conviction; and a citizen’s summons that ended up in mediation and was resolved. The ordinance appears to have had some success, but there are instances where it continues to be controversial – such as in the rural areas. When the ordinance was adopted an exception for the rural areas was suggested so as not to create conflict with the rural area policy, but that exception can be removed if the Board desires to do so.

Mr. Davis said the other change in the Animal Noise Ordinance results from a Virginia Supreme Court decision handed down in April. Virginia is now in a minority on a ruling that the “reasonable person standard” is unconstitutionally vague. As a result, jurisdictions across Virginia are in the process of amending their noise ordinances because that is the primary standard that many jurisdictions use in determining whether a noise violation is actionable under a criminal prosecution. The County’s Barking Dog Ordinance contains a combination of factors; “excessive” is defined by a standard that the barking has to be 30 minutes or more of continuous barking. The second part is that it has to “disturb the sensitivities of a reasonable person.” It is his opinion that it would be difficult to defend that in light of the Supreme Court’s decision. Staff is suggesting that an audible standard at the complainant’s property line would be a constitutional way to address the issue. Staff does not think it would have a substantial impact on how cases would be brought forward or prosecuted. They suggest that this standard would work in this context.

Mr. Davis said another substantive change which is at the discretion of the Board is the running-at-large provisions. Running-at-large areas have been added to the ordinance on a case-by-case basis over the last 40-plus years (40 to 50 areas) and that has generated spot enforcement of the law throughout the County. Comments to the effect that this is a problem were made at the public hearing last June from Animal Control officers. He feels it would be more appropriate to enforce the running-at-large provisions in all areas except the rural area of the County; that would make the ordinance simpler to enforce. Areas already designated as no running-at-large areas in the rural areas would be kept in the ordinance. This amendment would not change the policy the Board has followed for a number of years concerning how rural area neighborhoods could become a part of the ordinance. He said the *status quo*

would be maintained for all rural areas where running-at-large is prohibited now as well as uniformly applying the ordinance to all growth areas.

Ms. Mallek asked if it would have to be a neighborhood such as Earlysville Forest, or could it be a bigger area of Earlysville such as an area located between two roads. Mr. Davis said it could be any defined area.

Mr. Slutzky said a certain percentage of the residents would still have to sign a petition. Mr. Davis said the policy of the Board – which isn't codified – is to define an area and then have a majority of people living in that area petition the Board to be added to the ordinance. The Board would then hold a public hearing and determine whether it was appropriate to add that area.

Mr. Boyd said the Board wrestled with that whole issue a few years ago when a small group of people living on just two streets in an area wanted to be included in the ordinance.

Ms. Mallek said that is the trouble with the rural area. There are houses that are not officially a neighborhood. But, they do have rights and quality of life issues that are not being addressed at this time.

Ms. Thomas said she has always felt that the way the Board dealt with the running-at-large issue was one of the most democratic things the Board does as the County. The process has worked in the past. The neighborhood she lives closest to has dealt with the problem by every neighbor having an electric fence; they did not go through the process of having their area designated for a no running-at-large law. She would need for there to be a strong argument before giving up on the way it has been done in the past. She can understand it is a "patchwork quilt" and is not easy to enforce, but she thinks there are things to balance, and the principal of the highly democratic process that has been followed is important.

Mr. Slutzky asked if Ms. Thomas was including the growth area. Does she want each neighborhood to be required to go through the procedure that has been used in the past? There might be dogs running-at-large in the growth areas without restraint.

Ms. Thomas said that is the way it is done now.

Mr. Slutzky said he thinks that in the growth area that is problematic.

Mr. Rooker said there are dogs running-at-large up and down Hydraulic Road; where is the neighborhood there?

Ms. Thomas said she does not see a lot of dogs running wild. Is it a problem in the growth area?

Ms. Mallek said it is a problem in the rural area. She thinks the Board is condoning neglect because it seems to be okay from the government's point of view that in the countryside people can let their dogs run loose and not care for them. She has big dogs running through her calf pasture all the time. As a landowner and farmer it is her responsibility to chase them down and catch them or get the Animal Control officer to come or to be there before they do damage. She said "it's a hassle." It always seems to be the recipient's responsibility rather than establishing a higher level of care for the owner.

Mr. Slutzky said this issue is complex; he suggested that this amendment start with the growth areas and the Board tackle the rural areas at another time.

Mr. Dorrier said he has a problem separating the growth and rural areas because dogs don't know the difference.

Mr. Slutzky said it is an enforcement issue. The growth and rural areas have been separated on almost every issue in the County. At this time the problem is that the Animal Control officers are struggling inside the growth area with which street is a part of the ordinance, and which is not.

Mr. Rooker suggested that the Board hear from the enforcement officers.

Sgt. Pete Mainzer reported that about 60 percent of the calls answered by Animal Control address animals at large – specifically dogs. It is a huge problem in the County. They see this ordinance amendment as a proactive step toward responsible pet ownership.

Mr. Slutzky asked if most of those calls come from residents of the growth area. Sgt. Mainzer said that is difficult to say, but considering the population of the growth area the majority of complaints with regard to at-large animals and barking dogs come from the growth area.

Mr. Boyd said when the Board adopted the Barking Dog Ordinance last year there were several stakeholders who did not feel they had had an opportunity to make suggestions. He asked if those stakeholders should get together and have a roundtable discussion before this is finalized.

Ms. Mallek said they spoke vehemently at the public hearing. They had the same notice concerning the ordinance as everybody else.

Mr. Rooker said the Board is not making a decision on the ordinance today.

Mr. Boyd said he is suggesting that before the public hearing staff convene some of the stakeholders and have a discussion.

Mr. Slutzky suggested that the Board proceed to public hearing with the most restrictive ordinance. Then, it could be scaled back based on public input at the hearing. Mr. Davis said this is largely a *status quo* proposition. The vast majority of the growth area is already included under the no running-at-large provision. He said the Hollymead growth area is included, but staff has a hard time figuring out what that encompasses because it has evolved over time and there have been additions to the area.

Ms. Mallek asked Mr. Davis if he just said that parts of the growth area are already covered by the no running-at-large ordinance. Someone just told her that was not the case.

Mr. Rooker said the amendment would include the entire growth area, because, for example, commercial property is not a neighborhood so technically there could be dogs running-at-large around the shopping malls, but in a nearby neighborhood they could be picked up. To him, the distinctions at this time are ridiculous. Mr. Davis said the system in place now makes it a difficult task for Animal Control. In the draft ordinance, it shows 17 defined areas in the rural areas that would remain controlled as not running-at-large areas. In staff's review of ordinances around the State there are many localities that ban running-at-large countywide; that is not an unusual restriction. Running-at-large does not prohibit the owner from allowing the dog to run-at-large on his own property; the ordinance only pertains to running off the property or out of the control of the dog's owner.

Mr. Dorrier said the Board received a letter from Ms. Melissa Riley who points out that mediation needs to be pursued as an alternative. He asked if Mr. Slutzky agreed with that suggestion.

Mr. Rooker said that letter pertains to the Barking Dog Ordinance which is not the ordinance before the Board now. Mr. Davis said for clarification, the proposal is that any area not zoned Rural Areas would be restricted, and then the areas specifically identified in the ordinance that are zoned rural areas would continue to be restricted and additional rural areas could be added. He said that areas like Peacock Hills would continue to be restricted because it is zoned Planned Residential. No restriction presently a part of the ordinance has been removed; areas have been added so it is consistently applied in the growth area; that is at the recommendation of the Animal Control officers.

Ms. Mallek said she thinks that as a first step, that is good, and she supports the recommendation. She asked Mr. Davis if he had finished his comments. Mr. Davis said staff has kept an errata list since the staff report was mailed to the Board. There was a memorandum dated June 3 put on the table before the members today which shows six additional minor changes on which staff received comments from the SPCA or other internal reviews. Staff suggests that these be added to the ordinance amendment since they are not substantive.

Mr. Davis said as staff was going through these amendments, they found a couple of non-mandatory provisions that would be worth considering. One is the regulation of wild, exotic, poisonous and venomous animals. He said that many jurisdictions regulate those. In Northern Virginia, there have been several instances where it was a real problem. Albemarle has no regulations on the books to control those animals. It is a complicated area, so staff would have to bring back more information, but they would like to know if the Board has any interest in exploring it in future amendments.

Ms. Mallek said she had distributed to the Board a copy of Educators of Virginia Wildlife laws from the Department of Game and Inland Fisheries. On Page 3 it says in very large letters "know this law" – "The most important regulation to be aware of is short and sweet under authority of the Code, it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale, etc. any wild animal unless otherwise specifically permitted by law or regulation." It is against the law in the Commonwealth of Virginia to have a wild animal as a pet. That is the existing law and she would fight very strenuously against anything done locally to change that. Mr. Davis said Albemarle could only make that provision more stringent.

Ms. Mallek said she thinks that doing the "ban" suggestion would be a way to cut it off right now, and then there would be no problem with people having an ocelot in their laundry room, or somewhere on their property.

Mr. Rooker said he looked at the law Ms. Mallek just referred to, and it prohibits exporting, importing, buying, selling, offering for sale.

Ms. Mallek said possessing is the same as owning.

Mr. Rooker asked what the Board would be doing if it makes this amendment. Mr. Davis said there is a permitting process under State law that enables someone to get a permit to possess certain wild animals, and it does not necessarily prohibit them or restrict them in ways which some localities have done. He said staff can provide additional information on this subject if the Board is interested.

Mr. Slutzky said he is confused.

Ms. Thomas said she thinks the State law is adequate. Mr. Davis said there was a case in Prince William where someone kept hundreds of rattlesnakes in their house. That became a problem.

Mr. Rooker asked why that did not violate existing State law. Mr. Davis said staff will look into that case.

Mr. Dorrier asked if circuses are an exception.

Ms. Mallek said people move here from Pennsylvania and they let their mountain lions go because they are not allowed to own them in Virginia.

Mr. Slutzky suggested that staff look at what might be done to restrict those animals if the Board chose to do so, put that information on the Consent Agenda in the future and if any Board member decided there should be some proactive step needed, the Board could chose to do so then. In that way, the public would also have access to that information.

Mr. Davis said staff will do an analysis before bringing anything back to the Board. He said staff is making no recommendation about this, but Animal Control has been concerned for some time about regulation of nuisance animals – those that chase bicycles or destroy property for example – but it's a complicated area the Board may wish to address at some point in the future.

Mr. Rooker asked if there have been complaints about property destruction. Sgt. Mainzer said there have been a number of complaints classified or categorized as nuisances. For example, currently they investigate dangerous dog cases, but in order for the dog to be declared dangerous some attack or injury must occur first. There have been times when bicyclists were chased by dogs. From an enforcement standpoint there is nothing that can be done until there is actual physical contact between the dog and that person.

Ms. Mallek asked if the running-at-large ordinance would help, if the dog is running down the road biting someone on the ankles it seems like that would be an easy way to prosecute. She said that everyone in her neighborhood who runs has trouble with a neighbor's dog.

Mr. Slutzky said if the Board has the will to impose the at-large limitation in the rural areas as well then that solves the problem being discussed. If the Board chooses not to do that the next question is whether a nuisance option needs to be included in the ordinance so there is an enforcement opportunity when deemed appropriate. He asked if the Board members wish to see the dog provisions generalized throughout the County.

Ms. Thomas replied that she does not.

Mr. Slutzky said he is not inclined to do so.

Mr. Dorrier said he is in favor of doing so.

Mr. Rooker said he has not decided yet. He would want to take that up as a separate issue and let people weigh in on it. He would first like to understand the scope of the problem. He said neighborhoods in the rural areas can petition to be included in the running-at-large ordinance as well as other sections in the rural areas that may not be defined as neighborhoods. He thinks the current approach is workable and the Board should decide if it wants to move forward with amending the ordinance as it is before the Board today.

Mr. Slutzky asked Mr. Boyd to comment.

Mr. Boyd said he is not interested in pursuing it.

Mr. Slutzky said there is no interest in doing that at this time, which gives rise to the next question, does the Board want staff to bring the nuisance piece up with this ordinance when it is scheduled for public comment. Mr. Davis said staff is not recommending that it be done with this ordinance; if there is any interest it will be explored for a future amendment.

Sgt. Mainzer said it's a very complicated issue that needs a lot of research and discussion, and the suggestion would be to bring in groups like the SPCA and the kennel club to get their input.

Mr. Slutzky asked if the recommendation is to go to public hearing with the ordinance exactly as recommended.

Ms. Thomas said she has one more issue to discuss, and that is the noise issue. Just because a person can hear a sound does not mean that anyone is allowing their animal to abuse that person's right to enjoy their property. She does not think the word "audible" is sufficient even though the ordinance does say "makes other excessive, continuous or untimely sounds which are audible on the property of the complainant." Mr. Davis said he would agree if there were nothing more to it, but the key is that it has to be 30 continuous minutes of audible sounds, which is the objective standard to what would cause someone to be disturbed. He mentioned that Virginia Beach, as a result of the Virginia Supreme Court case, adopted a general ordinance (they do not address animal noises specifically) and has gone to a decibel reading of 55 decibels at the property line of the complainant. That would not work in Albemarle because the police officers and the general public do not have decibel readers.

Mr. Rooker said people would have to have decibel readers and bring testimony to court about decibel levels in order to enforce the ordinance.

Mr. Dorrier said they would also have to identify the animal that was barking. There could be several dogs in the area that were barking.

Mr. Rooker said they have to do that now.

Ms. Thomas said there are prize-winning packs of hounds in some areas that bark when they are being fed, and although it might not add up to 30 minutes, it is noise, but is an important part of the rural areas.

Mr. Slutzky said because it does not add up to 30 minutes, it will probably persist. The Board heard from the public last year at the public hearing and people from the SPCA suggested that if a dog barks continuously for 30 minutes, the dog is not being adequately cared for. That is different from the kind of animals Ms. Thomas just described.

Mr. Boyd asked if the ordinance could require that mediation take place. Mr. Davis replied that it cannot be required, but it is strongly encouraged and civil remedies are explained to people. It is a remedy of last resort, and that was the intent of the Board when the ordinance was adopted.

Mr. Rooker said the court recommended mediation in one of the cases mentioned. He said judges are attuned to referring the matter to mediation.

Ms. Thomas said because that one case went to mediation, it will be easier to recommend that the next case go directly to mediation rather than going to court first.

Mr. Slutzky said since that was created as a last resort option, the Board should leave it and continue to encourage remediation. Mr. Davis said the last issue is whether the Board wants to remove the rural area exemption. Currently the ordinance provides a couple of exemptions that apply to the rural area. One is for rural area property of five or greater acres and two is that it excludes animal noise from livestock and fowl. If the rural area exemption based on acreage were removed the same rule would apply countywide for dogs. There would have to be 30 continuous minutes of barking audible to the complainant's property and then they could have this remedy of last resort. It would be simple to remove that rural area exemption.

Mr. Boyd said he is not in favor of eliminating the exemption. He asked if a setback requirement could be put into the ordinance. Mr. Davis said a setback requirement would have to go in the Zoning Ordinance, rather than in the Animal Ordinance.

Mr. Rooker said the running at-large rule is not being forced on rural property, so he thinks it would be difficult to determine where on a property an animal was located when it was barking.

Ms. Mallek said confinement is the issue. Some people have their dog pens located one-half of a mile from their house, but right on the property line of their neighbors.

Mr. Rooker said he has talked with several people where that is not the case. There are cases where dogs are not penned in. There is no requirement in the rural areas that dogs be penned, so they are allowed to run at-large on the owner's property.

Mr. Slutzky asked if anyone other than Ms. Mallek wants to extend the Barking Dog ordinance to be applicable to all of the rural areas.

Ms. Thomas said she was the swing vote on adoption of the current Barking Dog ordinance. She did it only on the promise that it would be opened to a public hearing again in a year. She wants to hear from people about how the ordinance has been working this past year.

Mr. Slutzky said particular attention will need to be paid to how the advertisement of this ordinance is worded. Again he asked if any Board member wanted to see the Barking Dog Ordinance generalized and extended to the rural areas.

Mr. Rooker said he thinks the standard that the barking must be audible on the property of the complainant and there must be 30 minutes of continuous barking is appropriate. Several people said last year that a dog which barks for 30 continuous minutes is being mistreated – that applies to people in the rural areas as well as the growth areas. People have come before the Board and said their quality of life has been virtually ruined by dogs that bark incessantly into the night. He said few people raise a complaint unless they are being bothered continuously. He noted that the City has had their ordinance in place since the 1950s and have received only a few complaints during that entire time. The County had two complaints made under the ordinance this last year, and both were worked through reasonably well. He thinks there should be a requirement that pets be taken care of so they are not sitting out barking at all hours of the night and day in the rural areas as well as other areas of the County.

Mr. Slutzky asked who was "in the camp" of generalizing the ordinance.

Mr. Boyd said he is not.

Ms. Thomas said she is not.

Mr. Dorrier said he is not.

Mr. Slutzky said he is “on the fence” – although he is sympathetic to the arguments of both Mr. Rooker and Ms. Mallek, there is something about the rural area lifestyle he is being differential to.

Ms. Mallek said as a lifetime rural area resident she cannot understand why people in the country would have fewer rights of peace and quiet and quality of life than people in the city. She said the care issue is very clear. She thinks the Board is spending a great deal of time talking about this because people cannot be decent to each other, and to their own animals. She is disappointed that the Board cannot go forward with this to public hearing.

Mr. Slutzky asked Ms. Thomas if she could be supportive of taking it to public hearing and listening to the feedback from the public on this issue.

Ms. Thomas said she wants to hear how the present ordinance is working. If it requires that the ordinance be extended to the rural areas in order to get that feedback then she would be willing to do it.

Mr. Slutzky asked Mr. Davis if it is to be included it has to be noted as part of the advertisement. Mr. Davis said notice of that inclusion would need to be provided.

Mr. Rooker said he would not want to take something to public hearing when there are three people on the Board who are saying it does not matter what the people say.

Nearly all Board members spoke at the same time saying that is not what they said.

Mr. Rooker said he took what Ms. Thomas said about getting feedback on the existing ordinance to mean that the only way to do it was to propose an increase in the ordinance, but she would not support it.

Ms. Thomas said that is not what she said. She is sincerely interested in what people have to say about the ordinance. That is the only reason she voted for the ordinance last year, otherwise it would have been a 3:3 vote at that time. She voted for it so it could have a year’s trial before asking people how they felt about the ordinance.

Mr. Rooker said Ms. Thomas had said that with respect to the existing ordinance. He asked if there are three people on the Board who would vote to extend the ordinance provisions into the entire rural area after hearing from the public.

Mr. Slutzky said he definitely could be persuaded to do so. Mr. Davis said that can be put into a comprehensive advertisement by saying “to extend the existing noise regulations throughout the rural areas.”

Ms. Mallek said in the running-at-large ordinance, there were some disclaimers about hunting packs, etc. She said there is an illusion that in the country everybody has a pack of dogs in their backyard, and that is the reason there cannot be the barking dog thing. There are four packs that she knows of, but they only make noise when being fed – normally they create no problem. However, including that provision would give people rights in the few cases when things go badly. The Board heard about health issues at the hearing last year, so she hopes this “gets some traction.”

Mr. Slutzky asked Mr. Davis if he had a clear sense of what to advertise. Mr. Davis said what he has heard is to go forward with the draft ordinance as presented, along with the errata added this morning – the one change would be to propose an extension of the Barking Dog Ordinance to the rural areas.

Ms. Mallek referenced a letter from a Ms. Riley and asked for Mr. Davis’ opinion. Mr. Davis said staff reviewed with the Board last year the Prince William concept which is heavily dependent on use of animal control officers. They require that two complaints have to be received by animal control and they have to provide a written notice; if there is an additional complaint then animal control has to initiate and take out the summons. The Board chose not to consider that for a number of reasons, and it has not played out to be a necessary step.

Mr. Slutzky said there will be subsequent discussion by staff about the issue of nuisance not in the context of this advertised amendment. Mr. Davis said that will be considered in the future. He said a motion to go to public hearing on July 8 with the draft ordinance as amended today is necessary.

Mr. Slutzky offered **motion** to set the public hearing for July 8, 2009, on the proposed ordinance, as modified by the amendments agreed to be included at the work session. Mr. Rooker **seconded** the motion which passed by the following recorded vote:

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

NAYS: None.

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Agenda Item No. 12. **Public Hearing:** Buck’s Elbow Mountain Tower Lease. Pursuant to *Virginia Code* §15.2-1800(B), the Albemarle County Board of Supervisors will hold a public hearing to consider leasing space on its telecommunications tower and its property, located on an approximately .23 acre parcel fronting Buck’s Elbow Mountain Road on Buck’s Elbow Mountain (TMP 39-1B1), to U.S. Cellular Corporation. (*Advertised in the Daily Progress on May 25, 2009.*)

Mr. Tucker said the County owns a 120-foot telecommunications tower and tower site on Buck's Elbow Mountain. This tower hosts equipment used by the Charlottesville-UVA-Albemarle County Emergency Communications Center (ECC) as part of the regional 800 MHz. public safety radio system. From 1996 to 2001, the County leased excess space on the tower and ground space for an equipment shelter to Charlottesville Cellular Partnership, the local licensing entity for U.S. Cellular Corporation. In July 2001, the County renewed the lease for an additional five-year term that ended in July, 2006. Since the expiration of the lease, U.S. Cellular has remained on-site and continued to make payments according to the lease terms. After obtaining a fair market value study from RCC Consulting, a firm that the ECC has contracted for various telecommunications matters, staff began negotiating a new lease in the spring of 2008. The resulting lease has been accepted by U.S. Cellular. Virginia Code §15.2-1800 requires the Board to hold a public hearing prior to approving a lease of this County property. After holding the public hearing, if the Board agrees to this lease, staff recommends its approval.

Ms. Thomas asked if the antennas are flush-mounted. Mr. Tucker said he is not sure.

Ms. Thomas said the Board has required that of everyone else. She does not know of any reason it is not required on a County-owned tower. Mr. Davis said he believes the existing one is, but it has been in place for a long time. Any new antenna, under present ordinance requirements, would have to be flush-mounted.

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. Boyd immediately **moved** to approve a Tower and Ground Space Lease (as set out in full below) between the County of Albemarle and Charlottesville Cellular Partnership, and to authorize the County Executive to execute same.

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

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

NAYS: None.

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

#### **TOWER AND GROUND SPACE LEASE**

This lease is made and entered into the \_\_\_\_\_ day of 2009, by and between the COUNTY OF ALBEMARLE, a political subdivision of the Commonwealth of Virginia, whose principal address is 401 McIntire Road, Charlottesville, Virginia, 22902-4596, hereinafter referred to as "Lessor," and Charlottesville Cellular Partnership, a Washington, D.C. general partnership with its principal place of business at 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois, 60631, hereinafter referred to as "Lessee."

#### **WITNESS:**

**WHEREAS**, the Lessor and Lessee were parties to a Tower and Ground Space Lease from July 1, 1996 to July 1, 2001 (the "Original Lease") and an Addendum to the Original Lease for the term of July 1, 2001 to July 1, 2006 (the "Addendum"), and desire to enter into a new tower and ground space lease.

**WHEREAS**, the Lessor is the owner of certain real property in the Buck's Elbow area of Albemarle County which has an existing communications tower erected on it and existing communications equipment owned by Lessee; and

**WHEREAS**, the Lessee desires to lease a portion of the property, including some space on the tower.

**NOW THEREFORE**, in consideration of the mutual promises, conditions and other good and valuable consideration of the parties hereto, it is covenanted and agreed as follows:

**1. Property.** The Lessor is the owner of certain property, hereinafter referred to as the "Property," located in the County of Albemarle, State of Virginia, identified as the "Tower Site" on Exhibit A, which is attached hereto and incorporated herein by reference. Lessor also is the owner of a 120 foot telecommunications tower, hereinafter referred to as the "Tower," which is located on the Property. The portion of the Property that has been used by Lessee for its telecommunications facility, hereinafter referred to as the "Site," is depicted on Exhibit A, which is attached hereto and incorporated herein by reference. The demised premises referred to in Section 2 are located within the Site.

**2. Demise of Premises.** Lessor hereby lets and demises unto Lessee, and Lessee hereby receives and accepts from Lessor, the following described Premises:

"Tower Space": Attachment locations on the Tower located on the Site for the placement and affixing of: two (2) approximately 6' panel antennas, 1 Rad Center approximately 90' above ground level, two (2) approximately 4' panel antennas, 1 Rad Center approximately 100' above ground level and lines (1-5/8" coaxial cable), and attachment locations for the

placement and affixing of up to two (2) ten foot microwave dishes, 1 Rad Center approximately 70' above ground level and lines (1-5/8" coaxial cable), and additional attachment locations on the Tower as authorized by the Lessor in writing.

"Ground Space": 240 square feet of ground space at the Site, adjacent to the base of the Tower for the placement of a radio station concrete equipment shelter ("Lessee's Building") approximately 20' X 12', one generator, one fuel tank and a line bridge structure.

"Access Easement": A nonexclusive easement over the Site, measuring approximately 99 feet in width and 98 feet in length for ingress and egress extending across the Property, which easement shall be for the purposes described herein.

"Utility Easement": An easement for utility lines and related appurtenances extending between the Site and suitable utility company service points.

The Tower Space, Ground Space, Access Easement and Utility Easement are collectively referred to hereinafter as the "Premises," and each shall be located on the Site as shown on Exhibit A.

**3. Use of the Premises.** Lessee shall be entitled, at Lessee's sole expense, to use and occupy the Premises for the commercial purpose of affixing, installing, operating and/or maintaining four cellular antennas and two microwave antennas on the Tower Space, an access road on the Access Easement, an equipment building on the Ground Space, and a security fence around the perimeter of the Premises, together with all necessary lines, anchors, connections, conduits, devices, and equipment for the transmission, reception, encryption, and translation of voice and data signals by means of radio frequency energy and landline carriage, as shown on Exhibit A.

**4. Term.** The term of this Lease shall be five (5) years, commencing on July 1, 2008, and expiring on June 30, 2013 (the "Original Term").

**5. Extensions of Term.** The parties acknowledge that it is their intent to extend the lease for two (2) additional, five (5) year terms upon the following conditions:

- (a) The conditions and provisions contained in this lease will be the basis for any lease amendment executed for a renewal term, except for the rental terms in Section 7.
- (b) The annual rent and annual percentage increase in rent for each renewal term will be determined by the parties prior to the renewal term to reflect then existing market conditions (fair market value). Fair market value will be determined by a third-party appraiser to be mutually agreed upon by the parties.
- (c) Written notice of intent to renew must be provided by Lessee to Lessor no later than ninety (90) days prior to the expiration of the current term.
- (d) Notwithstanding the provisions of this section, neither party is bound to accept a renewal term.
- (e) Neither the original nor any renewal term of this Lease shall be established without the express written consent of the Lessor.

All references in this Lease to the "term" of this Lease shall be deemed to include the original term hereof and any and all extensions thereof pursuant to this Section.

**6. Option to Terminate.** Lessee shall have the unilateral right to terminate this Lease at any time by giving written notice to Lessor of Lessee's exercise of this option and paying Lessor the amount of Twenty-Four Thousand, One Hundred and Eighty-Nine Dollars and (\$24,189.00) as liquidated damages. These liquidated damages are for Lessor's damages resulting from the termination of the Lease only, and by Lessor's acceptance thereof, Lessor does not waive any right or remedy it may have against Lessee arising from any default by Lessee as described in Section 16 of the Lease, from any damage caused by Lessee to the Property or any improvements thereon, or from Lessee's failure to remove its property and/or restore the property if requested to do so by Lessor, as provided in Section 24.

## **7. Rent.**

7.1. Original Term Rent. Rent for Year One of the Original Term, beginning July 1, 2008 and ending June 30, 2009, shall be Twenty-Four Thousand, One Hundred and Eighty-Nine Dollars (\$24,189.00). In Years Two, Three, Four and Five, rent shall increase annually by three (3) percent, as shown below:

Year 2: \$24,915  
Year 3: \$25,662  
Year 4: \$26,432  
Year 5: \$27,225

7.2. Retroactive Rent. Rent for the period of July 1, 2006 to June 30, 2008 shall be as follows: \$22,800 for the term July 1, 2006 to June 30, 2007, and \$23,484 for the term July 1, 2007 to June 30, 2008. The parties agree that Lessee shall remit to Lessor Twenty-Nine Thousand, Nine Hundred and Thirty-Five Dollars and Seventy-One Cents (\$29,935.71) within ten (10) days of executing this Lease, which is the difference between the rent paid by Lessee for the 2006-07 and 2007-08 lease years (\$16,348.29) and the rent established by this Section.

7.3. Submission of Rent. Rent for Year One in the amount of \$24,189 shall be due within ten (10) days of executing this Lease. Rent for Years Two through Five shall be due annually on the first day of each Lease year (July 1). Payment shall be made to the County of Albemarle, Department of Finance, 401 McIntire Road, Charlottesville, Virginia 22902-4596, and the payment shall identify that it is for the Buck's Elbow Tower and Ground Space Lease, and state the date of this Lease.

7.4. Rent for Additional Microwave Dish. In the event that Lessee adds an additional ten-foot microwave dish to the Tower for a total of two (2) ten-foot microwave dishes on the Tower, the following rent will be charged as additional rent to be paid the Lessor beyond the rent payments described in Section 7.1. Such additional rent for the additional microwave dish shall be calculated and paid as follows:

7.4.1. Rent for the additional microwave dish shall be calculated by taking the amount of \$700 per month, which is the rental value that would have been charged for the period of July 1, 2006 to June 30, 2007, and applying an annual three (3) percent increase for each contract year since June 30, 2007. The annual rent due for the additional dish shall be paid as follows, minus any proration based on the number of months remaining in the contract year at the time of antenna installation:

Year 1: \$8652  
Year 2: \$8912  
Year 3: \$9179  
Year 4: \$9454  
Year 5: \$9738

## **8. Maintenance.**

8.1. Maintenance of the Tower. Lessor shall, at Lessor's expense, keep the Tower in good condition and repair, and include the Tower in a regular regime of inspection and maintenance. In the event that the condition of the Tower is such that Lessee is unable to transmit, receive, encrypt and translate voice and data signals by means or radio frequency energy and landline carriage from the Site, and such condition is the result of Lessor's failure to keep the Tower in good condition and repair, Lessor shall, upon receipt of notice from Lessee of such inability, promptly make necessary repairs to restore Lessee's ability to provide such services. In the alternative, Lessor may authorize Lessee to make such necessary repairs by written agreement which shall, among other things, specify the work to be performed and the cost therefor. Notwithstanding the foregoing, Lessee may effectuate emergency repairs to the Tower with the prior authorization of Lessor, who shall reimburse Lessee for the reasonable cost for such repairs. Lessor shall not unreasonably withhold such prior authorization.

8.2. Maintenance and Replacement of Equipment. Lessee shall keep all of its antennas, lines, anchors, connections, conduits, devices, and other equipment located on the Tower in good condition and repair. All trash and unwanted debris shall be properly disposed of and removed from the premises. Lessee may maintain and repair any lines, anchors, connections, devices or equipment without prior consent of the Lessor.

Lessee shall not add any antennas to the Tower, or relocate its antennas, without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. Lessee shall not add or relocate any antennas, lines, anchors, connections, devices or equipment without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. In addition, prior to replacing any currently existing equipment or antennas with new or modified equipment, Lessee shall conduct a structural analysis of the tower, at its sole expense, to ensure that any newly placed equipment will not impair the structural integrity of the tower and provide a copy of the structural analysis report to Lessor. Lessee shall submit to Lessor the names and proposals of three (3) contractors qualified to perform that work for selection by Lessor.

9. Aviation Hazard Marking. Lessor shall, at Lessor's sole cost and expense, comply at all times with the Tower marking, lighting, recording and notification requirements of the Federal Communications Commission and the Federal Aviation Administration.

10. Utilities. Lessor shall cooperate with Lessee in any efforts made by Lessee to obtain utility services at the Site for Lessee's intended use. Lessee shall be responsible for the separate metering, billing, and payment of its utility consumption by its operation.

**11. Taxes.** Lessee shall pay all personal property taxes levied against Lessee's Building and Lessee's base station equipment. Lessor shall claim any exemption from real and personal property taxes to which Lessor is entitled.

**12. Compliance with Laws.** Lessee, shall, at Lessee's cost and expense, comply with all federal, state, county or local laws, rules, regulations and ordinances now or hereafter enacted by any governmental authority or administrative agencies having jurisdiction over the Premises and Lessee's operations thereupon.

**13. Indemnification.** Lessee shall indemnify and hold Lessor harmless from and against any loss, damage, or injury caused by, or on behalf of, or through the fault of Lessee, its officers, employees and agents. Nothing in this Section shall require Lessee to indemnify and hold Lessor harmless from and against any loss, damage, or injury caused by, or on behalf of, or through the fault of Lessor its officers, employees and agents.

**14. Insurance.** Lessee shall continuously maintain in full force and effect a policy of commercial general liability insurance with limits of not less than One Million Dollars covering Lessee's work and operations upon the Property. Lessee shall name the "County of Albemarle, its officers, agents, employees and volunteers" as additional insureds and, within five days of the execution of this Lease, shall provide to Lessor a certificate of insurance so stating.

**15. Interference.** Lessee's base station shall be installed and operated in a manner which does not cause interference to the operations of any Protected Users. "Protected User" shall mean any user of the Site and the Tower whose claimed protected operations chronologically predate Lessee's accused offending operations. Lessee agrees to immediately cure any such interference or, if such interference cannot immediately be cured, to temporarily reduce power or cease the offending operations, if so demanded by Lessor on the ground of interference, until a cure at full power is achieved. Lessor covenants to use Lessor's best efforts to protect Lessee from interference caused or potentially caused by subsequent users of changes in use.

**16. Default.** If Lessor or Lessee fails to comply with any provisions of this Lease which the other party claims to be a default hereof, the party making such claim shall serve written notice of such default upon the defaulting party, whereupon a grace period of thirty (30) days shall commence to run during which the defaulting party shall undertake and diligently pursue a cure of default. The grace period shall automatically be extended for an additional thirty (30) days, provided the defaulting party makes a good faith showing that efforts toward a cure are continuing.

**17. Quiet Enjoyment.** Lessor hereby covenants that Lessee shall have quiet and peaceful enjoyment of the Premises throughout the lease term as long as Lessee is not in default hereunder.

**18. Title, Access and Authority.** Lessor covenants and warrants to Lessee that Lessor presently owns the fee simple interest in and to the Property; that Lessor is duly authorized and empowered to enter into this Lease; and that the person executing this lease on behalf of the Lessor warrants himself to be duly authorized to bind the Lessor hereto.

**19. Assignment of Lessee's Interest.** Lessee's interest under this Lease may be freely assigned in connection with the transfer of the Federal Communications Commission authorization to operate a cellular common carrier mobile radio telephone communications system, so that the name and identity of the holder of Lessee's interest hereunder can be consistent with the name and identity of the holder of said Federal Communications Commission authorization. Any other assignment of this Lease by Lessee shall require Lessor's prior written consent, which consent shall not be unreasonably withheld.

**20. Environmental Warranty.** Lessor hereby represents and warrants to Lessee that Lessor has never generated, sorted, handled, or disposed of any hazardous waste or hazardous substances upon the Premises, and that Lessor has no knowledge of such uses historically having been made of the Premises or such substances historically having been introduced thereupon.

**21. Subordination.** Lessee agrees to subordinate this Lease to any mortgage or trust deed which may hereafter be placed on the Premises, provided such mortgagee or trustee thereunder shall inure to Lessee the right to possession of the Premises and other rights granted to Lessee herein so long as Lessee is not in default beyond any applicable grace or cure period, such assurance to be in a form reasonably satisfactory to Lessee.

**22. Notices.** Any notice, demand or communication which Lessor or Lessee shall desire or be required to give pursuant to the provisions of this Lease, shall be sent by registered or certified mail; and the giving of such notices shall be deemed complete upon mailing in a United States Post Office with postage charges prepaid, addressed as indicated below, or to such other address as such party may heretofore have designated.

If to Lessor:

Tom Hanson, Director  
Charlottesville-U.Va.-Albemarle County Emergency Communications Center  
2306 Ivy Road  
Charlottesville, VA 22903

If to Lessee:

Charlottesville Cellular Partnership  
Attn: Real Estate  
8410 West Bryn Mawr Ave., Suite 700  
Chicago, Illinois 60631

**23. Lessee's Personal Property.** All personal property placed upon the Premises by Lessee shall remain the sole and exclusive property of the Lessee, and may be removed by Lessee at any time, including upon the expiration or other termination of this lease or any extension hereof.

**24. Upon Expiration of this Lease.** Prior to the expiration or other termination of this Lease, Lessee may remove Lessee's building, antennas and lines. Upon thirty days' written notice prior to the expiration or other termination of this Lease, at Lessor's request, Lessee shall (i) remove any or all other personal property placed upon the Premises by Lessee, (ii) request that overhead utility lines and related appurtenances be removed from the utility easement and (iii) restore the Premises to its condition as of the original date of this Lease. In no event shall Lessee remove any improvements made to the Tower. Upon the expiration or other termination of this Lease, all improvements made by the Lessee on the Site shall revert to Lessor and shall be free from any encumbrance at the time of such reversion.

**25. Limitation of Lessor's Liability.** Lessor shall not be liable to Lessee for any damages whatsoever for any damage to Lessee's property located on the Premises, including but not limited to any equipment of Lessee installed on the Tower, or for any interference with, or any damage, injury, or loss to its operations, caused by fire, flood, wind, rain, snow, hail, ice, lightning, earthquake, or any other force of natural cause, or any accident not caused by and not within the control of the Lessor.

**26. Binding Effect.** All of the covenants, conditions and provisions of this Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**27. Entire Agreement.** This Lease constitutes the entire agreement between the parties and supersedes any prior understandings or oral or written agreements between the parties respecting the within subject matter.

**28. Modifications.** This Lease cannot be modified except by a written agreement executed by both parties expressly stating that it seeks to modify this Lease.

COUNTY OF ALBEMARLE, VIRGINIA

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

Approved as to form:

\_\_\_\_\_  
County Attorney

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Agenda Item No. 13. **Public Hearing:** SP-2009-0004 - Old Crozet School Arts.

Proposed: Request to amend SP-1991-10 to allow for the existing Old Crozet School building and grounds to be used for both a private school for arts instruction and also the Field School, a private middle school for boys.

Zoning Category/General Usage: R-1 Residential - 1 unit/acre.

Section: 18.10.2.2.5 Private Schools.

Comprehensive Plan Land Use/Density: Designated CT-1 Development Area Preserve for Parks and Greenways in the Crozet Master Plan and limited residential at densities of 1 dwelling unit per 20 acres.

Entrance Corridor: No.

Location: 1408 Crozet Avenue.

Tax Map/Parcel: 56, Parcels 61 and 62.

Magisterial District: White Hall.

*(Advertised in the Daily Progress on May 18 and May 25, 2009.)*

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office with the permanent records of the Board of Supervisors. He said this special use permit will provide an opportunity for two private schools to lease this property from the County – the Old Crozet School of Arts, and the Field School which is currently located in Crozet Park. He said the Old Crozet School is in the zoned area for R-1 Residential, in the CT-1 edge development area preserve of the Crozet Master Plan – this is the designation given to all the public school properties and other park properties in the Crozet Master Plan.

Mr. Cilimberg said a reuse study was done last year and it identified a number of possibilities for use of the facility. The proposal before the Board today is consistent with some of the uses identified for the building. He said there is an existing special use permit that limits enrollment to 271 students for a

private school, with no students driving. The Crozet School of Arts will have people driving to the facility – in order to change that condition a new special use permit is required.

Mr. Cilimberg said this use is consistent with the uses identified in the reuse study. Leasing would produce revenue for the County and help to offset the cost of maintaining the building. No unfavorable factors to the request were identified by staff. The only site limitation relates to parking if more than 185 students drive to the site and are onsite at any one time; however, adequate parking for the uses can be addressed at the time of zoning clearance or if a site plan review is required. Because of that, staff is suggesting a condition different from what was discussed with the Planning Commission. It would simply say: "The maximum number of students onsite at any one time attending private school uses shall not exceed 271 students." That 271 figure was used in the prior special use permit.

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

Ms. Sharon Tolchick, Artistic Director for the Old Crozet School of Arts, spoke first. She said her colleague, Ms. Molly Washburn, is the School Administrator. She thanked Mr. George Shadman, Mr. Michael Fritas and Ms. Rebecca Ragsdale (County staff members) for their help with a process that has been going on for almost a year. She said the goal of Old Crozet School Arts is to create a vibrant center for affordable and professional arts instruction that will reach out to all age groups in the community from preschool to senior citizens. They are currently in the process of planning the program and have secured four advisors for each of their major arts disciplines. She said that Mr. John Hancock is covering the visual arts curriculum, Ms. Boomie Peterson is covering the performing arts curriculum, Ms. Elizabeth Roberts is covering the music curriculum, and Ms. Tolchick is covering the dance and movement curriculum.

Mr. Bill Schrader said he served on the reuse committee. He wanted to reinforce that the concept being presented today is exactly what came out of that study and is exactly what Crozet citizens asked for. He asked that the Board approve the request.

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

Ms. Mallek **moved** for approval of SP-2009-004 with the condition presented by Mr. Cilimberg today. Mr. Boyd **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

(**Note:** The condition of approval is set out in full below.)

1. Maximum number of students on-site at any one time attending private school use(s) shall not exceed two hundred, seventy-one (271) students.

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Agenda Item No. 14. **Public Hearing:** The Old Crozet School Arts Lease of the Old Crozet Elementary School. Proposed lease agreement between the County and the Old Crozet School Arts to lease a portion of the former Old Crozet Elementary School. (*Advertised in the Daily Progress on May 25, 2009.*)

Mr. Tucker said that last month the Board approved a lease for part of the building by the Field School. Before the Board today is consideration of a lease agreement for a part of the building by the Old Crozet Schools Arts. It is for a little over 3,900 square feet with the annual rent at just a little over \$15,000, which is the same rate that was used for the Waldorf School as well as the Field School of Charlottesville. The intended use was explained under the previous agenda item. After holding the public hearing, staff recommends that the Board approve the lease, and also authorize the County Executive to sign the lease on behalf of the County.

With no 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** that the Board approve the lease between the County of Albemarle, Virginia, and the Old Crozet School Arts, and also authorize the County Executive to sign it on the County's behalf. Ms. Thomas **seconded** the motion, which passed by the following recorded vote:

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

NAYS: None.

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

#### AGREEMENT OF LEASE

THIS LEASE AGREEMENT is made as of March 23, 2009, by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and the OLD CROZET SCHOOL ARTS, a Virginia non-stock corporation, 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 and made a part hereof together with any and all improvements thereon (the "Leased Premises"). The Leased Premises shall be occupied by the Old Crozet School Arts.

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 August 2009 (the "Date of Commencement") and shall expire 31 July 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 \$15,068.55, 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 Old Crozet School Arts.

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, 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 private 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 \$11,034.45.

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). 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  
Old Crozet School Arts  
260 Deer Crest Heights  
Charlottesville, VA 22903  
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**

**OLD CROZET SCHOOL ARTS, a Virginia non-stock corporation**

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

\_\_\_\_\_  
**(Note:** Due to time constraints, discussion on Agenda Item Nos. 15 and 16 was moved to the afternoon session.)

\_\_\_\_\_  
Agenda Item No. 17. Closed Meeting. At 11:59 a.m., **motion** was offered by Ms. Thomas 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; under subsection (1) to conduct an administrative evaluation; under subsection (7) to discuss with legal counsel and staff specific matters requiring legal advice relating to the negotiation of a contract for services provided by the SPCA; and, under subsection (7) to discuss with legal counsel and staff specific matters requiring legal advice relating to the negotiation of an agreement related to the provision of public safety services.

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

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

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Agenda Item No. 18. Certify Closed Meeting. At 2:17 p.m. the Board reconvened into open meeting. **Motion** was offered by Ms. Thomas to certify by a recorded vote that to the best of each Board member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed or considered in the closed meeting. The motion was **seconded** by Mr. Boyd.

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

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

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Agenda Item No. 19a. Boards and Commissions: Vacancies/Appointments.

**Motion** was offered by Ms. Mallek to make the following appointments/reappointments:

**appoint** Ms. Melissa Celii, Ms. Emilie Johnson and Mr. K. Edward Lay to the Historic Preservation Committee, with said terms to expire June 4, 2012;

**appoint** Mr. Kurt Keesecker as the AHIP representative to the Housing Committee, with said term to expire December 31, 2011;

**appoint** Ms. Jean Wyant to the Jefferson Area Board on Aging, with said term to expire March 31, 2011; and

**reappoint** Mr. William Harvey to the Advisory Council on Aging, with said term to expire May 31, 2011.

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

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

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Agenda Item No. 20a. Transportation Matters: VDoT Monthly Report.

Mr. Allan Sumpter, Residency Administrator, was present to answer questions from the Board.

Mr. Slutzky said that in the morning session, members of the public came forward and expressed their appreciation to VDOT for getting the Advanced Mills Bridge project started. He said there is apparently a U-Tube video of the old bridge being taken down. The neighbors are excited and appreciative of the work.

Mr. Sumpter said Dr. Burns video-taped that occurrence and sent it to him early Saturday morning.

Mr. Sumpter reported that VDOT is working on applying the tar and gravel surface on Walnut Level Road - there have been some delays with that project due to rainy weather.

Mr. Sumpter said that Old Green Mountain Road would be the next rural rustic project to get the tar and gravel treatment.

Mr. Sumpter said VDOT has received authorization to begin right-of-way acquisition on Jarmans Gap Road.

Mr. Sumpter said VDOT has been getting calls about mowing. They have been mowing the primary routes – Route 29 and Route 250 are complete – now Route 22 and Route 231 will be mowed, as well as some secondary roads and intersections with sight distance problems. Weather has been a problem with mowing.

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Agenda Item No. 20b. Transportation Matters not listed on the Agenda.

Mr. Boyd asked for an update on the Meadow Creek Parkway project. Mr. Sumpter responded that weather has caused some delays, but there is a lot of bridge and slope work underway – such as

bringing in the bar excavation and box culverts. What is being seen now is a lot of underlying structural work that needs to be done before the roadbed can be installed. At this point, the project is on schedule.

Ms. Thomas asked about the utility line. She was told that the line runs down the route for the Meadow Creek Parkway. Mr. Sumpter said there had been some issues with timing of installation, but that has been worked out.

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Ms. Thomas commented that on Route 250 West early in the morning, traffic backs up all the way to Bloomfield Road. She said it was said that when private schools are no longer in session that will not be the case. Mr. Sumpter explained that this morning there was an accident on Route 29 South at Exit 118 which caused traffic congestion issues throughout the area.

Ms. Thomas said that yesterday and the day before there was the same backup problem. Mr. Sumpter said he would check into it. He pointed out that the signal at the entrance to Farmington will be upgraded. He mentions it because there was a safety issue with that signal. Also, their Traffic Engineer has said there will be signal coordination work done during the same time.

Ms Thomas said that might have been the problem the last three days, but this community went in "with its eyes wide open" and said that road should not be widened. Everybody saw the videos showing what would happen, but the community said it liked the road so much that it would put up with the road in its existing condition.

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Mr. Rooker asked the schedule for getting the design public hearing package for Georgetown Road back from VDOT's Central Office. Mr. Sumpter replied that VDOT is putting together all the comments from a district level; it was submitted to them about a week ago. He said that many people read through the comments before the package gets to the Chief Engineer, and the turnaround time is usually 30 to 60 days depending on the workload.

Mr. Rooker asked if it is close to the schedule that had been set. Mr. Sumpter said it is actually a little ahead of schedule.

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Mr. Rooker said there are several potholes on Georgetown Road that are getting worse and with the amount of traffic using that road, it creates a difficult situation. Mr. Sumpter said that VDOT is scheduled to do more pothole repair work after July 1.

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Agenda Item No. 20c. Transportation Matters: Hatton Ferry Funding.

Mr. Tucker said information was sent to the Board about this issue. The latest information staff received is that the Commonwealth Transportation Board (CTB) may be reconsidering this funding; if so, it is his suggestion that a letter be sent from the Supervisors supporting continued maintenance and operation of the ferry.

Mr. Sumpter said he checked with Mr. Jim Utterback to confirm that there is no reconsideration scheduled by the CTB on this matter. The plan that will go before the CTB this month will be to discontinue operation of the ferry as of June 30, 2009.

Mr. Dorrier commented that operation of the Hatton Ferry has a bearing on tourism in the area, as well as being an historic landmark. For that reason he thinks the southern part of the County needs operation of the ferry to be continued; also, it is a unique entity for the whole country.

Ms. Mallek asked the cost to operate the ferry. Mr. Sumpter replied that the actual operating costs the last few years have been between \$7,000 and \$8,000. That is the cost of its operation when it runs on the weekends. There are also other administrative costs as well as recent rehabilitation costs this past spring of about \$40,000. An inspection of the facility has identified a need to rehabilitate the cabling system and support towers at an estimated cost of between \$30,000 and \$40,000.

Mr. Slutzky asked how urgent those cable repairs are. Mr. Sumpter said it has not been established that the repairs are urgent. The inspection report just noted that the ferry is safe to operate, and they would have to "keep an eye" on it through routine inspections. That would be part of the cost to VDOT since an inspection would be needed every six or so months in order to ascertain its condition.

Ms. Thomas said VDOT just spent money rehabilitating the boat itself so that would essentially be money lost if the boat is not used.

Mr. Rooker said he noticed that this work was handled by the Staunton office, and he wondered why. Mr. Sumpter said through reshuffling of work in the department a Northwest Regional Operations Center was created; it covers both the Staunton and Culpeper Districts in their entirety. Statewide, ferries and tunnels are covered under the operations part. The focus now is on maintenance, construction and operations, so they are administering it. The Residency, to a certain extent is the owner of it, but they are operating it.

Ms. Thomas said it is suggested in a memorandum the Board received that \$20,000 will be paid to the Hatton Ferry operator for service; how does that compare to the \$7,000 plus overhead that he just mentioned. Mr. Sumpter responded that the \$20,000 is the value of the contract for the operator, which includes any routine maintenance that is part of his contract. He said VDOT has been affected by weather conditions – the ferry has not operated every weekend, particularly last year with the low water levels. Theoretically, if it were to operate every weekend the cost would probably be \$20,000. Mr. Davis said the cost is \$290 for each day the ferry operates.

Mr. Slutzky asked if the ferry only operated one-third of the time last year. Mr. Sumpter said its operating time was significantly reduced last year because of the weather.

Mr. Boyd asked if the amount quoted covers the cost of insurance. Mr. Sumpter said the insurance for the ferry is about \$3,500 out of that \$20,000 contract.

Mr. Boyd asked if the operator only takes care of minor repairs. Mr. Sumpter said he takes care of greasing the pulley cables and similar items.

Mr. Slutzky asked if \$20,000 would buy the County a year's worth of service or more. Mr. Sumpter said the \$20,000 would be needed for the operating costs. He said a further assessment is needed as to how soon the other rehabilitative repairs will be needed.

Mr. Slutzky asked if VDOT would not make that determination since VDOT has decided to terminate this historic relic. Mr. Sumpter said there is the latest inspection report. With their plan to discontinue operation, there is no plan to do any further analyses. He said the data is available to make a further assessment about the urgency of the repairs.

Ms. Thomas asked if VDOT will basically save \$20,000 by dropping the ferry plus the cost of a major rehab of the cable that might be needed in the next year or two. She asked if at least \$7,000 could be used to keep the ferry running for one more year if the Board said the ferry should only run on one weekend day. She thinks this is VDOT's responsibility so does not want the County to pick up the expenses at all. However, if the County did pick up the expense, what would that total be?

Mr. Rooker asked if the cost is \$290 a day. Mr. Sumpter said that would be the cost of operating only on Saturday and Sunday times two. If the operator came in during the week and greased the cables, etc. then he would be paid that cost for that day also.

Mr. Slutzky said that for a total of \$7,000 for last year, divided by \$290 a day, it did not operate very often. Mr. Sumpter said it only operates during the spring and summer months. Its operation is controlled by the levels of the water.

Mr. Dorrier said it has been operating over 200 years and has made it through 200 years of floods and high water, rain, water, storms, and yet VDOT is going to cut it out.

Mr. Slutzky said he thinks the General Assembly might have more of a role in this than VDOT.

Ms. Mallek said she attended a VDOT meeting in Culpeper where they discussed these operational cuts. All the other cuts on the list were way up in the millions of dollars, and then it showed \$6,893 for the Hatton Ferry. Mr. Sumpter said it is due to the economic times and every single dollar is precious. VDOT is trying to protect its assets from the centerline out. This is affecting them in service items such as the aesthetic value of cutting grass, etc. These decisions have to be made based on priorities.

Ms. Thomas said for every year as long as she can remember this item has been on the top of VDOT's maintenance list for this district. She said that means Albemarle has had that much money less than another district its size had. Albemarle has essentially taken a cut for many years in order to keep the ferry operating. It seems that Albemarle has done its part. Mr. Sumpter acknowledged that there has been an annual allocation for the ferry in the Six-Year Plan, which meant that \$20,000 each year was not going to another project on the County's list. Although it is a small amount, added up over ten years, it would be enough to cover the cost of one rural rustic road improvement.

Mr. Tucker asked when the CTB will consider this matter. Mr. Sumpter said the CTB will consider the entire blueprint package with the level of services and reductions at its meeting next Wednesday.

Mr. Rooker suggested the Board send a letter to support the Hatton Ferry's operation.

Mr. Tucker asked if the Board wants to maintain the ferry running at some level, would it be able to contract with VDOT to do that. Mr. Sumpter said his office has been checking into that possibility, and it may be an option for discussion. Agreements would be needed to make sure all of the costs were covered. However, there could be no repurposing out of Six-Year money as has been done in the past.

Mr. Tucker asked if there is a possibility from a contractual standpoint for VDOT to continue operating the ferry rather than the County taking over the operation and it becoming the County's responsibility. Mr. Sumpter said that is something that can be discussed.

Mr. Slutzky said if everybody agrees, he will suggest that a letter be sent to the VDOT asking that they spare the ferry for the \$7,000 or so that it might cost. If that does not work, then the Board might

have to find someone generous in the community who is willing to invest in it; or direct County funds to its operation; or to just let it close.

Mr. Dorrier said once it is closed, it would be unlikely to reopen. He proposed setting up a committee to come up with a solution.

Mr. Slutzky asked Mr. Dorrier if he would be willing to dip into the Board's Reserve to fund this item.

Mr. Dorrier said it would depend on how much it would cost.

Ms. Thomas suggested the town of Scottsville provide funding.

Mr. Rooker said he thinks that the Board would have to put up at least \$20,000 in order to assure its operation for more than a year.

Mr. Davis asked if that amount would cover the semi-annual inspections and administrative costs. Mr. Sumpter said that is just the cost for the contract with the operator.

Mr. Rooker said the Board is going to send a letter so he would suggest that it be directed to Albemarle's representative on the CTB and in that letter address the historic significance of the ferry, the impact on tourism in the Scottsville area and note that this is only one of the two ferries in the country.

Ms. Thomas asked if there is a charge for the ferry trips. Mr. Sumpter said "no." Ms. Thomas asked if there could be a charge. Mr. Sumpter said that has been discussed locally, but more research would be needed on that question. He thinks it would be considered tolling, and tolling is generally specified in the Code of Virginia for different roadways.

Mr. Davis noted that the Surry Ferry has a toll on it.

Ms. Thomas noted that in May of 2008 there were about 200 pedestrians in vehicles who used the ferry. No count was kept for June and July. Mr. Sumpter said there have been conversations with the operator about the sketchy information he kept.

Mr. Utterback said if the Board is interested in keeping that operation it should write a letter to VDOT encouraging its ongoing support, and go over the possibilities the County could take on the operation. He has spoken with both the VDOT Commissioner and the CTB member about this. The cuts being made in the department are significant, so it's been hard to get a lot of attention for this specific item. He said this was announced on March 19 and VDOT did not get any correspondence on it until last week. The CTB member is open to another entity bringing some funding "to the table" but he does not want VDOT dollars used. He said they can get an estimate of what it costs, outside of the contract, to operate the ferry. If the County is interested in taking it on, he could take that back to the Commissioner and let him decide if the plan should be modified accordingly.

Mr. Rooker asked if the funds could come out of Six-Year Secondary Road funds. Mr. Utterback confirmed that it would not qualify.

Ms. Mallek asked if VDOT would surrender ownership of the ferry to a foundation, or is it required by law to keep ownership. Mr. Utterback said they would have to figure out such a process.

Ms. Mallek said a year's grace would be needed in order to organize something for the following year. Mr. Utterback said he would recommend that the Board take a position and communicate it to the Commissioner or the CTB.

Mr. Slutzky suggested asking VDOT for a meaningful estimate of what it would cost to operate the ferry, and whether they are willing to be the conduit through which that money could flow. The Board might chose to talk to the Lewis and Clark Foundation, or other folks in the community who have some interest in preserving the ferry if the County knew how much to ask for.

Mr. Dorrier said he thinks there should be a resolution adopted by the Board that it wants to preserve the Hatton Ferry.

Mr. Slutzky asked if Mr. Dorrier was prepared to spend the money.

Mr. Dorrier said he is prepared to do what is necessary to preserve the Hatton Ferry. He is not suggesting the Board spend the money; the Board needs to try and get the money.

Mr. Rooker said he supports Mr. Slutzky's suggestion. He stated that he would like a letter to go to Mr. Butch Davies expressing the County's dismay in having the ferry closed, and reiterate its significant tourism attributes, and the minimal costs incurred.

Mr. Slutzky suggested copying the County's representatives in the General Assembly who are responsible for the gutting of the budget with respect to transportation.

Mr. Rooker asked Mr. Sumpter if he will provide the Board with a better estimate of the cost of operating the ferry.

Mr. Slutzky said he would like to know the degree to which VDOT is able and willing to at least operate the ferry and be the conduit for its operation if it did not cost them anything. Mr. Utterback said that is probably the key message to get in place now. He noted that the CTB would be voting on this next week.

Ms. Thomas asked the best scenario the County can get out of this. Mr. Utterback said he does not have an answer to that today. He knows the Commission is talking with people all across the state with regard to these service levels. He has talked about getting private funds to pay for these, but is not sure yet how it would be handled. The Commissioner is open to another source of funding to do it. They can go through what it would take to get an agreement.

Ms. Thomas said if the Board says it would like to pick up the cost of this operation, she is concerned that it will just be dumped on the County. She thinks the Board would like to strongly protest this being done, but on the other hand it does not want the reaction to that protest to have the ferry "shipped off to Pennsylvania" which would pay for this old boat, or something to that effect. Mr. Utterback said that is the position of the department at this time; it is slated to close.

Mr. Davis asked VDOT's plan for the boat. Would VDOT dispose of it in July and take down the structure, or would it be left in place until this can be resolved? Mr. Utterback said that plan has to be worked out - none of the details have been worked out yet. In looking at how to prioritize services, this was ranked lower than a lot of essential services and the Commissioner made a decision that VDOT is going to get out of the Hatton Ferry business. If someone else wants to take it on, VDOT will work with that transition.

Mr. Dorrier **moved** to adopt a resolution in support of preserving the Hatton Ferry and that the Board take all necessary steps to assist the Commonwealth of Virginia in obtaining additional sources of income for use of the ferry's operation.

Mr. Rooker said he is in favor of sending the letter the Board discussed earlier. Then, he would like to have the information Mr. Utterback has mentioned so the Board can make an intelligent decision about the Board's role in the future.

Mr. Tucker told Mr. Dorrier that the CTB meets on Wednesday; a letter can be sent more quickly than composing a resolution and having it brought back to the Board next Wednesday for adoption.

Mr. Slutzky said that "all necessary steps" would include County funding, and he is not willing to "spend a nickel on it" and neither is VDOT.

Mr. Rooker said if the Board decided to enter into an agreement to take over operation of the ferry he would want to know the full ramifications of doing that. The Board would need to look at it in the context of reserve funds, and he is not convinced that this is a top priority.

Ms. Thomas asked when the County was first made aware of the ferry closing.

Mr. Slutzky said that in March when the Board received information from VDOT about their contemplated cuts, this was folded into that entire report.

Ms. Mallek pointed out that it was described as cutting service from three days to two days, not a complete closing of the service.

Mr. Slutzky thanked Mr. Sumpter and Mr. Utterback for understanding the Board's frustrations.

**(Note:** The motion died for lack of a second.) No action was taken.

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**(Note:** At 3:01 p.m. the Board recessed and reconvened at 3:09 p.m.)

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Agenda Item No. 21. Joint Meeting with Planning Commission: Rural Area Strategies Chapter of the Comprehensive Plan - Work Session.

Planning Commission Members Present: Mr. Bill Edgerton, Mr. Don Franco, Mr. Tom Loach and Ms. Linda Porterfield,

Planning Commission Members Absent Ms. Marcia Joseph, Ms. Julia Monteith (non-voting member), Mr. Calvin Morris and Mr. Eric Strucko.

Mr. Loach called the Planning Commission meeting to order.

Mr. David Benish, Chief of Planning, said the Board requested a status on Priority Implementation Measures of the Rural Areas. Staff will provide that update and some of the other rural area initiatives that have been addressed over the past few years. He said that Ms. Lee Catlin will also provide a report on the conservation easement program. Staff has some suggested steps in order to continue implementing the rural area section of the Comprehensive Plan.

Mr. Benish said the Rural Areas section of the Comprehensive Plan was adopted in March of 2005. That section included 93 different strategies, although a number of those are redundant because

they address multiple issues. Five priority strategies were reviewed and endorsed by the Board in conjunction with adoption of the Rural Area Plan in 2005. The order of the priority strategies was based on the intent of first addressing unmanaged aspects of rural area growth. That included the timing of growth and the form of development in the rural areas. Once those initiatives were addressed, it was proposed that the Board move on to areas that focused on the types of uses and the location of uses permitted in the rural areas plus continuing to address other resource protection measures.

Mr. Benish showed on the screen a list of the five priority areas that were endorsed by the Board and Planning Commission. He said they addressed a strategy to introduce a phasing approach for development in order to set a time-released approach to control the rate of growth in the rural areas. At the same time a mandatory clustering provision that was felt to be more efficient in protecting resources was reviewed.

Ms. Thomas asked if the rate of use of the RPD option has increased at all. Mr. Benish said he does not believe there has been any change in its use, but there has recently been a decreased amount of development in the rural areas.

Mr. Benish said the Mountain Overlay District was not a priority at the time, but was an initiative the Board directed staff to undertake. It was a high priority item at the time. The MOD Committee finished their work at about the same time as the Rural Areas section of the plan was completed, so there was some overlap in recommendations. He said that some of the recommendations of the MOD committee were applied to the entire rural area instead of just having an overlay district. The changes that were applied focused on protection of critical slopes, safe and convenient access, and protection of stream buffers. As part of that process, ownership of family divisions was also extended.

Mr. Benish said a second priority was conservation programs, and related to that effort the strategic plan goals established an aggressive goal of achieving 30,000 additional acres by the end of 2010; the Board in FY '07-08 and FY '08-09 increased funding to the Acquisition of Conservation Easements Program (ACE) to help with the effort of achieving that goal. Based on budget constraints recently, that funding has had to be reduced.

Mr. Slutzky asked how much acreage put into conservation easements over the last 10 years was attributable to the ACE Program and how much came from other programs. Mr. Benish said the vast majority of the contribution to the conservation easements is other than ACE.

Ms. Mallek said about 5,500 acres out of the 30,000 came about through the ACE Program. Mr. Benish said the VOF is the significant generator of easements, although ACE meets a particular need and is focused more on protecting "family" properties. It has a unique and important niche in addressing the goal.

Mr. Rooker said that up until now ACE has put the County in a position to get matching State funds for strategic purposes in the rural areas, but that matching program is "pretty much dried up" due to budget concerns at the State level. Mr. Benish said staff has submitted a proposal for another round this year but has no idea how much it might get – the County received about \$49,000+ last year. Last year's award was much lower based on the current conditions. He said the third priority was for a Rural Areas support program person – that was to be a position to encourage and foster efforts in initiatives that would further enhance and protect the rural resources in agricultural and forestal activities. That position was established by the Board but was not funded because of the budget situation.

Mr. Benish said the fourth priority is "Crossroad Communities and Alternative Uses in the Rural Areas." The intent was to look at uses in the rural area and then provide appropriate uses consistent with the goals and objectives of the rural areas plan; provide certain alternative uses that might encourage preservation of land as opposed to the subdivision of land; study crossroad communities as an approach to restoring the historic communities that provide essential services to an area; and, find a location for those appropriate uses the County permits in the rural areas. One aspect of that was addressed by the country store provisions that were amended – it actually was begun as a separate initiative before adoption of the rural areas plan. That aspect of uses has been addressed, but given the limited staff resources, further work on these initiatives and uses has not been done to date.

Ms. Mallek asked Mr. Benish to clarify the notation "additional considerations deferred" in the staff report. Mr. Benish there was to be a reevaluation of uses to determine what might be appropriate in the rural areas. Two are being recommended to the Board – churches and home occupations. The idea was to look at other uses which are not currently permitted; some might be consistent with the vision for the rural areas and provide incentives to protect land – alternative income opportunities, etc. They would also look at uses which do not appear to be consistent with the intent of the rural areas that cause some complexities and impacts to rural resources. Staff has not provided any detailed assessment of them yet.

Ms. Thomas said there was the case of a blacksmith shop that could not get in the rural area so it had to go into downtown Charlottesville.

Ms. Mallek said there was a person who wanted to have a sandwich shop in White Hall that would serve his homegrown beef, but was not allowed.

Mr. Benish said there was the case of the landscaper who could not locate in the rural areas; it was suggested that staff look at that request to see if it was an appropriate consideration for the rural areas. He said staff has no particular recommendation on those cases yet.

Mr. Benish said the fifth priority is "Fiscal and Tax Tools." He noted that the Land Use Tax assessment validation is now underway. That work will not be done through Community Development, although he understands they have offered inspection staff to help with the fieldwork. Those are the priorities the Board established back in 2005 that staff has been working on. He noted that there is a recommendation in Transportation to implement rural rustic roads, which is a pavement type for the rural areas – it has gone through a cycle of issues, and has been endorsed as the preferred method of paving in the rural areas. However, in the Six-Year Secondary Road Plan it was established that unpaved road funding should be focused in the development area first. Now, it is known that there is no unpaved road money available for at least the next six years.

Mr. Benish said transfer of development rights is an initiative that has been worked on outside of County efforts by a community effort. He said staff has no formal recommendations yet, although he knows a lot of work has gone into researching TDRs

Mr. Slutzky said he and Mr. Rooker have been actively participating in those dialogues but the dialogues have halted at the moment. He said when they were left, interest was expressed in continuing the dialogues and there was some interest expressed by the City of potentially having an inter-jurisdictional transfer program. He thinks there might be forward progress on that at a snail's pace.

Mr. Rooker said there is a website available where one can read the committee reports. He offered to send a copy to the Board members.

Mr. Benish said that in "Ag/Forestal Districts" the County had reintroduced a small promotional program which was to create a brochure and newsletter – but that effort has been put on hold due to limited staff resources.

Ms. Thomas said now that the Land Use Program revalidation forms have been mailed and people have become aware of the role of agricultural/forestal participation in their estate planning, have there been any new requests in the last week for use of the program. Mr. Benish said there have not been a lot of requests from citizens, but it is relatively early in the process. It is possible the Department of Finance has been receiving those calls.

Mr. Benish said the Mountain Overlay District and family subdivisions have been mentioned. There was also a Farm Worker Housing zoning text amendment - that enabled farmers to provide housing for their farm workers. He has already mentioned the country stores, and the Monticello Historic District was adopted to address the unique characteristics of Monticello as a tourist center. That also has applicability to other historic properties in the County, but at this time, Monticello and Mount Alto are the only places where it is applied.

Mr. Rooker asked if there have been requests to use the farm worker housing provisions. Mr. Benish said only the one that generated the ZTA.

Ms. Lee Catlin, Community Relations Director, said that in 2007 the Board provided funding with directions to County staff to work with other conservation easement-holding partners in the community to support easement donations, the efforts of ACE, and other programs. She said staff has been meeting regularly with its easement partnerships (she showed a slide which listed the names of those partners). In consultation with those groups, a marketing program was created that had two main objectives: 1) to continue to build the client and potential donor pool, and 2) to build public support, visibility and additional resources to help advance the program. She said that over the past two years since the program was put into place, staff launched the following programs - "Forever Albemarle," "Celebrating ACE 5,000/70,000 Program," and, the "Urban Places/Rural Spaces" exhibit in the Charlottesville Design Center. They also had a "Tend Albemarle" campaign – which included an outreach program to encourage interest both in easement donations and in general resource production possibilities. A main philosophy of the partnership was to give a broad spectrum of possibilities so any County resident could feel he had a role to play. They continue to issue news releases about ACE-related deadlines, closings, conservation easement totals, etc. A work session with the Board on alternative financing strategies was held; PEC helped with that work session. Also, an article about ACE was published in the *Virginia Review* magazine.

Ms. Catlin presented a chart containing information on the total amount of acreage involved and its percentage of the rural areas. She said the Board's strategic objective combining easements and parkland totals 94,000+ acres, which is 21.4 percent of the rural area, and a little over 20 percent of the whole County. From the year 2000 through spring of 2009, the ACE Program has acquired easements on 27 properties, 20 of which are working family farms; ACE brought in some lands that would not have been received through other easement organizations. The County has spent slightly more than \$7.0 million to acquire those easements, and has leveraged another \$1.3 million through grants.

Ms. Catlin said the goal mentioned earlier was to increase the total acreage by 30,000 acres – or 50 percent - using public and private means, by June 30, 2010. The total through 2008 (the first three years of that plan) is 16,580 acres; an additional 13,420 acres are needed by the end of 2010 to achieve that goal, and it will be "a stretch" to do it. The partnership has been talking about things that reflect on the ability to achieve the goal. She said care needs to be taken in aggressively marketing the ACE Program at this time when funding is decreased and there is already a waiting list of applicants. It's important to keep the program visible, but not ramp it up to a point that the County creates frustration for people who are not able to get off the waiting list and into the program.

Ms. Catlin said the group feels it's important to continue with the broad-based outreach efforts to keep the public aware and supportive of conservation easements in general and land conservation possibilities across the spectrum, not just ACE, but all the easement agencies and partnerships. Until the economic situation stabilizes and properties regain some value, there may be a reluctance to make a major decision about putting a property in a conservation easement. People are reluctant to make major financial decisions and choices at this moment in time. That mindset has contributed to lower numbers this year.

Ms. Catlin said there are future activities the group felt were important to focus on. In light of some of the resource limitations, a portion of the Community Engagement Specialist position in her office has been dedicated to supporting some of the ACE work. That employee has experience in conservation easements from a former job. She has been spending time working on a new brochure for the County's Public Recreational Facilities Authority (PRFA), making changes to websites and helping with other publications. She will contact twice a year landowners who have property of over 75 acres to continue promoting the benefits of easements in general. This will keep these landowners aware of the ACE Program should that be a choice they want to pursue in the future.

Mr. Rooker mentioned Attachment "C" which was in the Board's packet – a PEC brochure on tax benefits of conservation easement donations. He wonders if this brochure has been sent to those landowners who own 75 or more acres. Ms. Catlin responded that staff will be working with PEC to distribute that brochure more broadly. At its last strategic planning workshop the Board discussed how much the County should get in the business of tax credit advising. She said staff does not feel comfortable doing that, but can use materials put together by PEC and also advise people to talk with their own tax advisors.

Ms. Thomas asked what additional value the County is adding to what is already being done in the community. PEC has been working at this for a very long time. Ms. Catlin said there is no intent to duplicate the efforts of others, but to make sure that any of the materials, events and activities put on by the County piggyback the spectrum of possibilities. The County can be the "open door" through which a lot of the inquiries come and then refer them to the place that best meets their situation. In a sense, it would act like a clearinghouse or a general promoter of conservation easements and resource protection. They would help people understand that ACE may not fit them, but one of the other programs might fit their situation better.

Mr. Rooker pointed out that during TDR discussions it became apparent that there are a lot of people in the rural area that do not understand the tax benefits of conservation easements. That is when the Board asked staff to get out in a broader form the information on tax benefits, which can be better than selling development rights. He feels that information is important since almost nobody understands the estate tax benefits.

Ms. Mallek mentioned that the Farm Bureau dinner in August would be another place to have a table displaying all this information.

Ms. Catlin said staff will continue meeting with the partnership, and continue to do those things that are possible within the budget. She said there was a discussion at the Strategic Planning Workshop about whether to put more money into the marketing effort, but the reaction received from the partner agencies was that it is important to keep working at the current level. Probably the most valuable use of County dollars is to keep as much as possible in the ACE Program where it actually purchases property rights as opposed to diluting it with other kinds of efforts.

Mr. Benish said he will present staff's recommendations for continuing efforts in RA implementation. Short-term initiatives relate to working on RA uses consistent with Priority No. 4 "Crossroads Communities and Alternative Uses." They recommend focusing on two high-volume uses which are churches and home occupations. Staff believes the level of review required under the current ordinance for special use permits should be looked at closely. A change here could free up staff resources to undertake other initiatives since they feel there is limited value to the level of analysis that goes into a number of this type of requests. He is not going to cover these in great detail and he referred the members to the staff's report. However, staff does recommend that efforts be focused on a ZTA to cover those two uses in order to streamline the process.

Mr. Rooker asked if the idea is to create a set of uniform conditions such as what is now done for cell towers so there could be an administrative level of approval. Mr. Benish said that would be part of it. There is not a priority set of conditions in hand at this time, but experience shows that a number of these uses are approved with standard conditions. Those types of conditions could become supplementary regulations such as those applied in a by-right development. There is a standard expectation for a scale and level of development that does not require the legislative process of public hearings through the Planning Commission and the Board. Those expectations could be established in the Zoning Ordinance.

Ms. Thomas asked if it would be possible to have a square footage standard of some sort. If a small church wants to add a pavilion so they can have a reunion twice a year, she does not think they should have to go through yards of red tape. On the other hand, sometimes a church wants something three times as big as what they have at the present time. She finds that to be totally inappropriate in the rural areas. There needs to be some sort of threshold above which they would have to go through the whole process. Mr. Benish said staff agrees. It will be difficult to establish that measurement. He said staff knows care must be taken with the scale of development approved in the rural areas, particularly for churches and their health or safety impacts on the community. The current "loophole" creates some complications with what can be done with churches – but things like traffic, fire and police protection are

important considerations for permitting uses. How to deal with scale and intensity of activity will be a part of this discussion.

Mr. Rooker said there's a point at which the size and number of attendees necessitates special use permit conditions that are specifically tailored for the contemplated use.

Mr. Slutzky said Mr. Benish referred to a "loophole", but it doesn't say the Board must approve anything a church wants to do, just that it cannot treat a church any differently than it would treat any other use. He said the Board turned down a 39,000 square foot building for SOCA when there was public support for approval; that facility was not consistent with the County's plan for the rural area. That must be kept in mind when determining which churches would be required to go through the special use permit process. He winces when it is said that because of that statute the Board has to keep hands-off of church applications, because that is not true. Mr. Benish said he didn't intend to imply that. On the other hand, care must be taken with historic properties and their design aspects, etc. He said staff will focus on health and safety issues regardless of the use and how it impacts capacity of infrastructure and goals and objectives of the plan.

Mr. Benish said the same justification holds true with home occupations. A number of them have to go through the same rigors and it is really not necessary. There are some uses that can come under a home occupation permit – anything that can meet supplementary regulations can theoretically be evaluated as a home occupation. Occasionally, staff has had trouble when they are a different type of use. When looking at home occupations, staff will be focusing on the by-right scale treated as a Home Occupation-Class A.

Ms. Mallek asked if the application for a home occupation requires a list of chemicals that may be used since they would be going into the septic field. Mr. Benish said he does not think that information is directly on the application, but normal application review would look for that potential. One of the supplementary requirements is that the use look, appear and behave like a residential use. The regulations limit size and activity such that it should have a level of invisibility.

Mr. Rooker said there is no separate ordinance that deals with chemicals. People have to follow State law and are subject to the regulations of the DEQ, etc.

Ms. Mallek said she thinks Orange County has something in its home occupation ordinance that says nothing can be used that is not considered a normal household thing. Mr. Benish said he senses that is information the Board would want and expect; staff can be sure it is addressed if it is not already.

Mr. Benish said staff's second recommendation is to continue to encourage, promote and monitor conservation easements. Staff has already summarized where efforts are at this time; this will acknowledge that from a staff resource standpoint it is a high priority. There is a need to continue with the necessary educational steps. Also, there is a need to continue with implementation of monitoring efforts as easements are established. Some monitoring mechanisms are in place, but to get on site and evaluate whether properties are meeting the requirements of easement conditions is important to undertake. The County will have to begin dedicating some level of manpower to that effort.

Mr. Rooker asked if Mr. Benish was referring to properties where the County is the easement holder. Mr. Benish said it would be the PRFA easements.

Mr. Slutzky asked if it is possible for the County to hold a lot of easements and not spend any money on them other than on monitoring. He has spoken with a number of people in the County who have small acreages with a few development rights; they would "love" to extinguish those development rights by putting their land under an easement if it would make them eligible for the tax benefits, even without receiving money from the County for the easement. In the effort to get as many acres as possible under easements does the County have the ability to make that happen? He asked if that idea has ever been explored by staff. Mr. Benish said there is a second mechanism available to the County - the Public Recreational Facilities Authority. In some ways it is the easement holder of last resort. If a property owner is not eligible for the VOF, and may not find the ACE process desirable, he can go to the PRFA and they will hold easements for which they do not pay. Their criteria are such that they are less open to the smaller examples mentioned, but it is not inconceivable that the PRFA could be a holder of those easements.

Mr. Slutzky asked if the County itself could be the holder of those easements. Mr. Benish said the County can hold them. Recently there have been a couple of requests for a fairly unique type of easement, one in the development area. Mr. Davis said that technically the Board can hold an easement, and it has considered that from time to time.

Mr. Slutzky asked what type of easement the Board could hold that would make the property owner eligible for tax credits. Mr. Davis said there are a couple of considerations. One is that the enabling authority for the County to hold an easement is the same enabling authority that the PRFA has, which is under the Open Space Land Act. There are certain criteria. Before the governmental entity could accept that easement it would have to secure the unique characteristics of the property consistent with preservation of the land, as well as be consistent with the County's Comprehensive Plan.

Mr. Slutzky said the Comprehensive Plan part is easy. Mr. Davis said there is one issue - under the County's Land Use Policy the minimum acreage appropriate for open space use is 20 acres – so that would have to be reconciled with whether or not accepting parcels of less than 20 acres was consistent with the Comprehensive Plan and the County's goals and objectives.

Mr. Slutzky asked if the State enabling legislation allows the Board to establish a two-acre parcel as sufficient. Mr. Davis said the State minimum is five acres, but by ordinance the County has elected to have a minimum of 20 acres. The short answer is that the County can hold an easement if it is consistent with the Open Space Land Act and the County could choose to have a minimum acreage of as little as five acres. He is not sure the County could accept less than that.

Mr. Rooker asked if the County would have to concurrently lower the limit for land use purposes. Mr. Davis said the Board would have to address that in the Comprehensive Plan in some fashion so it was clear that consistency with the Comprehensive Plan for open space easement parcels as low as five acres could be accepted, whereas the Land Use Plan now seems to be the guide that 20 acres is the appropriate acreage.

Mr. Slutzky said if it could be separated from land use eligibility, it could say the land was only eligible for land use open space if it were in an easement. Mr. Davis said that mixes issues.

Mr. Slutzky asked if there would be no open space for land use purposes but would be allowed for easement purposes. Mr. Davis said that is correct.

Mr. Rooker said that at this time there are not any land use applications for open space. Mr. Davis said the last time this was checked, there were less than 200 acres in the land use program categorized as open space easements. The 90,000 acres that have been accepted under open space conservation easements are taxed at land use values, but they are technically not in the land use program. Property under an open space easement is assessed at land use values if it would otherwise qualify for open space taxation. If there were a parcel of 19 acres that was accepted as part of a larger donation of a conservation easement, that 19 acres would have to qualify under agriculture or forestry because it would not qualify as open space. If it otherwise qualified as one of the three or four uses that qualify for open space, it would get land use taxation value.

Mr. Slutzky said if he had a piece of land as small as five acres with no residence on it but that piece of land had one use right but no division right, could the right to use the land for a house be extinguished and a commitment made to maintain it as open space and make it eligible for an easement? Mr. Davis said technically open space land use has nothing to do with development rights. It is the preservation of the nature of the property itself for open space purposes. Development rights are part of that and when the PFRA and the other easement holders take open space easements, there are still a number of development rights that are often preserved on those properties.

Mr. Slutzky said that is on a larger tract which is not the issue here. If there were a small tract and the owner wanted to extinguish that one opportunity to build and wanted that easement so the property could be in land use taxation and permanently protected from development, if the property had some characteristic such as being wooded and in a forestry management plan, would it be eligible for easement status. Mr. Davis said eliminating a development potential, agreeing to preserve the forest land, or agreeing to maintain it as agriculture, agreeing to do best management practices, all of the typical things seen in an easement, it would still have to apply to that five-acre parcel.

Mr. Slutzky asked if it would be possible to retain the right to use that five-acre parcel for farming purposes even if it were not currently being used for farming. Would the easement opportunity be lost by doing that? Mr. Davis said if it is consistent with the Comprehensive Plan, farming is an appropriate use for an open space parcel under the Virginia concept.

Mr. Rooker said the development right extinguishment goes to the lost value for tax purposes. Mr. Davis said that is correct.

Ms. Mallek said that is where the credit would come from.

Ms. Thomas said if there were some endangered plant on that five acres that might raise the value, but it would be hard for five acres to have enough conservation value for either the IRS or VOF.

Mr. Slutzky said if he could build on that five acres last week and now cannot, that is an arguable loss of value.

Ms. Mallek said it would be the price of a building lot.

Mr. Rooker said the before and after value of the appraisal could be taken.

Ms. Mallek asked if the County would have to be in charge of that appraisal, or could the landowner be responsible for hiring the appraiser. Mr. Davis said the County would have nothing to do with that; under IRS regulations the property owner would have to get a qualified appraisal, and the donation of the easement would have to meet all of the IRS guidelines for being a qualifying easement by a qualified holder which could be the County or the PFRA, or VOF. The difference in value would be established by the owner and he would file his tax returns with the IRS, so that would be between him and the IRS.

Mr. Slutzky said for purposes of public policy, the Board would be accepting the easement because of the perpetual preservation of that value that is consistent with the Comprehensive Plan.

Ms. Thomas said it would include the County's willingness to monitor it.

Mr. Slutzky said monitoring consists of not issuing a building permit for that land and that is not expensive. Mr. Davis said for the County to maintain its status as a qualified holder with IRS, it has to maintain the program and have integrity in the easement holding process.

Mr. Slutzky said his point is that the cost for extinguishment of each development right under the ACE Program is more than it would cost for the County to fulfill its obligations as the easement holder in those smaller parcels. He thinks it is an issue worth having staff look into.

Ms. Mallek asked if this would require adoption of an ordinance. Mr. Davis said the Comprehensive Plan would need to be consistent with what was trying to be accomplished, especially on lot size and acreage. There would not be an ordinance required for the County to accept it. It was done for the ACE Program so there could be a transparent process so the Board could chose to have an ordinance, but it would not be required.

Mr. Slutzky said that a generic document might be used for consistency of monitoring into the future. Mr. Davis said that would typically be used.

Mr. Edgerton asked for clarification on the current 20-acre minimum acreage. Mr. Davis said the minimum applies under open space land use taxation, for open space value it is 20 acres.

Mr. Edgerton asked if that could be reduced by an action of the Board. Mr. Davis said "yes."

Mr. Edgerton said a number of years ago he was involved in a Rural Preservation Development where the 20 lots were clustered and a lot of land was put under easement with the County. At that time they were told the minimum was 40 acres. Mr. Davis said under the Rural Preservation Development Ordinance it is a 40-acre minimum for the preservation tract.

Mr. Edgerton asked if the County currently holds many easements on 20-acre parcels. Mr. Davis said he does not believe so. Mr. Benish replied that there are currently some small parcels held by the PRFA.

Mr. Rooker said he understands that if the County wanted to hold easements on smaller tracts of property, the size of any tracts accepted for land use purposes only would not have to change. Where now there is a 20-acre minimum for land use purposes, that could be retained, but through an appropriate change to the Comprehensive Plan, easements could be taken on smaller parcels.

Mr. Slutzky said alternatively if there were only 200 acres eligible for land use taxation in Albemarle County because of the open space criteria, the County could eliminate the open space eligibility requirement for land use tax but those parcels could achieve that same taxation rate by putting their land in a not very restrictive easement. Mr. Davis said if that tract of less than 20 acres goes into a conservation easement in order for it to qualify for land use taxation value, it would have to otherwise qualify for open space taxation. It could not qualify for open space unless it was 20 acres of open space; so in that instance it would have to qualify as either agricultural or forestry property.

Mr. Slutzky asked if Mr. Davis was saying the Board could not change its standard for eligibility for open space land use taxation to five acres. Mr. Davis said "no", the Board could do that.

Mr. Slutzky asked if that could be the standard in the Comprehensive Plan for eligibility for land use tax, but the County would not allow open space as an eligibility requirement – could the Board do both – drop the standard down to five acres and say the property could not be in land use through open space, it had to be in an easement.

Mr. Rooker said the open space category could be eliminated. Mr. Davis said there are three ways for property to get open space land use taxation. It must otherwise qualify with 20-acres, etc., and have the physical characteristics of open space, and would also have to be either in an agricultural/forestral district under a permanent conservation easement held by a public body, or be subject to a long-term open space agreement with the County which is very restrictive. In order to accomplish what Mr. Slutzky is suggesting, the Board would have to do away with ag/forestral districts, because otherwise that would allow them to qualify. The Board would have to decide not to enter into open space agreements. If that were done, the only option to qualify for open space taxation would be to put the land into a permanent conservation easement. To do that, the Board would have to eliminate the other two possibilities which the Board can't do by statute, but can do by policy.

Mr. Slutzky asked if that is with respect to the five to 20-acre piece of this puzzle. On the 20-acres and above piece (for people who own 23 acres and would like to extinguish their one development right and get permanent land use tax and protect their land in perpetuity) they can't put that small parcel into an easement now unless it has special attributes that made it a priority in the ACE Program because VOF will not take it. Mr. Davis said he was told that the PRFA has looked at some of the smaller parcels and determined they are consistent with the Comprehensive Plan and have accepted them.

Mr. Slutzky said he understands that they generally look at tracts of 50 to 75 acres. He said the point is on the table for further examination. It sounds like there might be some interest in doing so.

Mr. Benish said to wrap up that conversation and segue into the next recommendation he will recap by saying that staff's ability to take on that assessment will be more appropriate when the 2010 Comprehensive Plan update begins; that type of assessment may require additions or changes to the

Plan. Given staff capabilities now, while some beginning work might start soon, it can't really be undertaken within the next year.

Mr. Slutzky said he would like to ask staff to answer some of the questions posed today, as opposed to actually moving forward with the process. Mr. Benish agreed to provide answers to some of the questions and said staff will look at what PRFA is doing in terms of the updates they are now making to their criteria.

Ms. Mallek said a citizen told her this morning that she had just received a revalidation notice on her 17.5 acres and was told that the land was being dropped from the ag/forestal district. She went to the Assessor and was told here it is the issue of the open space classification.

Ms. Thomas asked the meaning of "alternative land use tax program" which is mentioned on the last page of the chart in the Board's packet. It says there is "An alternative use value land use taxation program underway." Is that just revalidation? Mr. Benish said that was a broader recommendation to take a closer look at the fiscal tax implications.

Ms. Thomas said that is a valuable reconsideration which she does not think is being done just by having revalidation.

Mr. Slutzky said that is what "he was dancing around" by suggesting that land use tax eligibilities be reexamined. Mr. Benish said work on use value taxation is underway. What comes out of that process will need to be taken seriously. It is not on the work program at this time. The work is being done by another department, but they understand that the results of that process might require them to have the Board approve adjusted priorities. He said that will conclude his presentation. Next year staff will begin a comprehensive update of the Comprehensive Plan looking at the Rural Areas Section and it will be able to entertain recommendations from the TDR, the use value issues, and other initiatives under conservation easements.

Mr. Slutzky asked when the work will begin. Mr. Benish said it is scheduled for FY 2010-11 starting at about this same time of the year.

Ms. Thomas said since she will not be a member of this Board at that time, she would like to say something. When the Comprehensive Plan is reviewed, it needs to be recognized that present rural area management has been largely based on faith that geography wouldn't change. She said geography is about to change in the sense that the County will no longer be able to tell people they can't have a septic tank. The County has counted on areas that did not percolate as being areas that could not be developed. The State has said that can be done no longer, an alternative system must be allowed. It has also been assumed that there must be a well; that is actually a part of the ordinance. More and more people are interested in rain harvesting; it is possible in this community to live on what falls on your roof. That opens up whole new areas of the County that were not thought to be developable. Also, a person might want a wind turbine. She said it has not been stated, but it has been an underlying factor to the whole rural area management theory – geography could be counted on in certain areas so the County did not have to worry about those areas being developed.

Ms. Thomas said she did not notice in earlier years that most of the rural area is in forest, and there is not much emphasis on forestry in thoughts about the rural area or in the Comprehensive Plan. She has been attending meetings of the Piedmont Sustainable Woods group that is interested in helping people maintain their woods more effectively in order to make more money off of them. When talking about getting conservation easements on property, in Maryland many counties learned that conservation easements can't do the job alone. There has to be very strict rural zoning because people aren't willing to give up their property if they think a millionaire down the road is going to buy their land and turn it into a subdivision. She said the County cannot count on conservation easements retaining the whole rural area for it.

Ms. Thomas said she went through and picked out things that other organizations or agencies in the community are doing to help carry out part of the Comprehensive Plan. She was impressed with how many of them there are: the Planning District Commission is doing a green infrastructure mapping process, the Historic Preservation Committee comprised of citizens is working on the historic ordinance, Scenic Virginia is doing a viewshed designation project that will be of help in the scenic aspects to the rural comprehensive plan, Piedmont Sustainable Woods has an interesting approach to rural area preservation which she thinks the County should be part of, the Rivanna River Basin Commission has some land use mapping going on with funding from the Nature Conservancy, there is a transportation organization like the MPO but it is only for rural transportation so when talking about park and ride lots that is not something the County has to do on its own because there is a group looking at it. She encouraged the Board to do a lot of collaboration when thinking about how to make these things happen without much County staff.

Mr. Slutzky said although Ms. Thomas will not be here in January, he hopes she will come back and share her wisdom and experience when the Board tackles some of these issues.

Mr. Rooker said the list Ms. Thomas just went over is helpful. He said some of those committees were created by this Board and the County participates in all but one of these committees, and in some cases provides funding, so a lot of staff assets are leveraged in that way.

Ms. Porterfield said she would like to mention something that has not been brought up today. Considering the economy and the need for the County to encourage business and commercial entities to

either stay in the County or establish themselves in the County, she would suggest that the Board look at the Interstate Interchange Development section of the Comprehensive Plan while looking at the Rural Areas section. In that section it is clear as to the types of businesses or commercial entities that could be located at the seven intersections in the County. To her the problem is that it is clear that three of those interchanges are designated to be only rural, so there is no thought that business or commercial could be located there. Of the other four, two of them are allowed to have commercial, but only on one side of the interchange. She has only been a Planning Commissioner for a short time, but part of the problem with some requests presented during that time is that they have not been looked at as to whether they are good or bad for the County, essentially they were looked at as not meeting the Comprehensive Plan. She said this might be the time to take a look at the interchanges. On top of everything else, they are accessible areas. A business or a commercial enterprise needs accessibility. Accessibility is available there where new roads are not required.

Mr. Slutzky said he is sympathetic to the underlying objective to stimulate a resurgence of the economic vitality, but Comprehensive Plan culture is deeply embedded in the process of decision-making for good reasons. He said when the Pantops Master planning process unfolded due consideration was given to expanding the growth area to encompass the interchange at I-64 and Route 250 East. The community looked squarely at that idea and decided not to expand the growth area. There are a lot of reasons for resisting the expansion of the growth areas just because there is a road interchange there. He understands the goal, but thinks the Comprehensive Plan's objective of preserving the 95 percent of the County that has been set aside as a rural area is a value highly adhered to. He thinks the Board should always be reconsidering every decision it makes through fresh eyes, but he for one would not be interested in expanding the growth area to accommodate a number of interchanges just because they might attract some new commercial opportunities to the business section.

Mr. Boyd said he would like to make a comment about what Mr. Slutzky said about Pantops. He said those areas were never included in that master planning process; they were never taken to the public. He attended all of those meetings.

Mr. Slutzky said when the Board adopted the Pantops Master Plan a few months ago, that exact topic was discussed, and he was left with the impression that a decision was made to not go along that commercialized stretch of Route 250 and that was why the Board did not respond to some people who asked that it be done because due consideration had been given to the idea but was not embraced by the community. He asked if Mr. Boyd was saying that was not a topic of discussion.

Mr. Benish said staff anticipated that the Interstate Interchange Policy would be looked at beginning in 2010 with the comprehensive review of the Comprehensive Plan because it's part of the Land Use Plan. Working with the Commission and the Board it is an item that should be identified to be reevaluated. For the Pantops plan, the review process for that plan occurred in two parts: one part began in 2003 with local processes with small groups, and when the issue of uses along the Route 250 corridor, including the -64 interchange and past that interchange, were discussed, it was not an idea that received a lot of support, so when the areas to focus on were assessed, the interchanges were not included. In drafting the plan at the end of the process, there were no particular alternatives suggested. From that earlier public input and discussion process it was determined not to be an area of focus. He said it was not subject to an elaborate or an alternative type of scenario analysis, but early on it was determined not to be a feature based on public comment. There was not much interest in it.

Mr. Rooker said he agrees with Mr. Benish's general comments. He said that where there is commercial zoning at interchanges off of I-64, the County has not attracted the highest value commercial in the community. There is a hotel at the I-64 Shadwell exit, and a shopping center was approved off of the Fifth Street exit but was never built, there was a Light Industrial parcel on the opposite side of that Fifth Street exit that was never built on because it never could attract a user. He said there are about 3.0 million square feet of commercial space approved but not yet built out, so there is adequate commercial to accommodate potential businesses in the community.

Mr. Dorrier said he thinks it could be looked at again; it is not written in stone. Next year would be a chance to review it. He thinks that Ms. Porterfield has made a good observation as a newcomer.

Mr. Slutzky said he thinks that next year would be the appropriate time in which to do it, but he wanted to frame the historic resistance to it.

Ms. Porterfield said she is not asking that the development areas be expanded. When this is looked at she would like to see some type of wording that would allow the County to look at a good plan if one were received. After looking at it, a decision could be made as to whether it was good enough to expand the development area. Right now, because a plan would not meet Comprehensive Plan requirements, it can go no further. It does not get to the point where the Board could look at a recommendation from the Planning Commission based on the merits of the project.

Mr. Rooker said changes to the Comprehensive Plan are general, not specific. A change in the Comprehensive Plan, just like a rezoning, does not insure that any particular retailer is coming in. Just because someone would like to have the Comprehensive Plan changed to include a certain area in the growth area because he has a great idea, does not mean that plan would ever be executed.

Ms. Porterfield said she understands that. She just thinks it would be nice to look at it from a planning perspective and not just have items negated because they do not meet the current Comprehensive Plan requirements.

Mr. Slutzky said he would like to present an alternative point-of-view. The objective of any applicant's consideration is to evaluate the particular merits of the request. While the Comprehensive Plan might today have a chilling effect on the likelihood of that type of proposal coming through, there is language in that plan today with respect to promoting economic vitality that could be the basis upon which a special use permit or a rezoning could be allowed in a rural area. That typically does not happen because it is the will of the Planning Commission and the Board to be more in alignment with the broader objective. Comprehensive plans are designed to capture the overarching standards throughout the community, and not be site specific. He thinks Ms. Porterfield is in the right realm to think that if someone had a really good idea they should bring it to the County. In fact, there is language in the Plan now that would have a chilling effect and it is for a good reason, but it does not preclude the Planning Commission and the Board from finding enough value to supersede the overarching objectives of the Plan. The Comprehensive Plan needs to be immune to those idiosyncratic particulars of a single proposal, and one that maintains the integrity of the comprehensive vision for how the County should develop. He thinks the Comprehensive Plan does that, and the good news is that there is a periodic process for reviewing it and considering it through new lenses. He thinks Ms. Porterfield was wise to bring this up as a topic for review next time.

Mr. Benish said he would like to clarify that staff is recognizing that for the Conservation Easement Goal of 30,000 acres by 2010, based on the current economic condition, that goal may fall short by about 7,000 acres. Staff suggests that it wait to see what happens in 2009, and then talk with the Board about the possibility of updating that strategic goal.

Mr. Rooker said that generally he would not be in favor of changing the target. If a goal is set and then not met, it is just not met. He does not think the bar should be lowered just because economic conditions intervene.

Mr. Slutzky asked the County's new Real Estate Assessor, Mr. Willingham, send each Board member an E-mail with a spread sheet showing the approximate 60 percent of County acreage that is in the Land Use Tax Program and some information about the program. He asked that Mr. Willingham confirm by E-mail that his inventory of parcels in Land Use Tax does, or does not, include the nearly 20 percent of the County acreage that is in easements, so maybe not technically in the Land Use Tax Program. He thinks they are co-mingled and the Board should make sure of the data. Mr. Tucker said he will confirm that information for the Board.

The work session ended at 4:28 p.m. Mr. Loach adjourned the Planning Commission meeting and the Commissioners left the room.)

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Agenda Item No. 15. Grass Ordinance, Work Session (Skipped during the morning session).

Mr. Rob Heide, Manager of Zoning Enforcement, said he broke this presentation down into benefits and challenges. He said the benefits are: 1) Staff and Board members have received an increasing number of citizen complaints about tall grass and this would allow a response to those complaints; 2) a more orderly and kempt appearance creates a positive perception of the County's development areas and of the County in general; and, 3) a grass ordinance would help enhance and protect property values. As to challenges, 1) because it is somewhat peripherally related to public health and safety, a grass ordinance may not be considered a core function; and 2) complaints about tall grass would not typically be considered a high priority on the Zoning Division's priority list unless public health or safety issues were also present. Staffing shortages have resulted in having 30 percent less zoning enforcement staff – including positions already lost and those which will be lost by the end of the month.

Mr. Heide said tall grass complaints constitute less than eight percent of all zoning complaints. In the past two-plus years, only two percent of the complaints (11 of 581 complaints) related to tall grass. From January 1 through today, there have been 121 total zoning violations and of those, nine were grass-oriented; of that nine approximately half were on properties the ordinance could address.

Mr. Slutzky said there is a stretch on Rio Road from basically where it leaves the City out to CATEC and there are a series of properties pending future development, there are abandoned structures which are boarded up and the grass is overgrown and out-of-control. He has had meetings with neighborhood associations and constant phone and E-mail dialogues with large numbers of people. He knows that one person called the Zoning Office and was told they could not help. When quoting statistics, he wants to consider in context that it does not address the fact that there is a lot of that type of blighted experience that is ruffling a lot of feathers, and it is not being addressed under the County's current ordinances. Mr. Heide said those complaints have come in again and again for building appearance and the unsafe and openness of the structure itself. The complaints received since the first of the year had to do more with properties that are on the market for sale, not necessarily about those that are boarded up.

Mr. Rooker said if only 10 of the complaints received are viable under the proposed ordinance, staff is not spending a lot of time dealing with it. He said that ameliorates a lot of concern about staff time. He just dealt with Albemarle Place - the whole property along Hydraulic Road and Route 29 looked awful so he called the owner and told him he had to do something about it. Eventually they mowed the lot, but they could also have done nothing about it. He said there are also places where houses are being held for sale. He knows of neighborhoods where houses have been abandoned and the grass grew, and the vermin came in, so it is a problem for people.

Ms. Mallek said that is an issue in the growth area. She knows of one on Jarmans Gap Road which is in exactly the same condition.

Mr. Heide said he wanted to make the point that under the proposed ordinance enforcement is limited to vacant properties. That could be problematic when dealing with properties that are side-by-side and one is occupied and the other is not. Based on enabling legislation, the County could only get at the unoccupied dwelling. Mr. Davis said if there are two individual lots next to each other, and one has a person living on it who does not mow the grass, and the other lot has a vacant dwelling, the enabling legislation only applies to vacant developed or undeveloped property. The County could deal with the person who has the vacant house, but could not deal with the person who lives in the occupied dwelling.

Mr. Heide said another scenario that would need to be vetted is where there is one parcel that may have two development phases on it, and Phase 1 is developed, but Phase 2 is vacant and overgrowing. It is possible the ordinance could say that is occupied property because it does not delineate the phasing of the property. That is another problem that is created with the vacancy standard.

Mr. Slutzky said it does not sound like there is a different standard that would be more effective. If that is the limitation, it does not mean the County should not adopt the ordinance. In the instances where it worked it would be worth having the ordinance. Mr. Davis said property is defined by legal lots so if the property were subdivided and the lot was not developed, the ordinance would apply to the vacant part, so if Phase 1 was occupied and subdivided it wouldn't apply to Phase 1 but it would apply to Phase 2.

Mr. Slutzky said the proffer policy might include wording to the effect that if the property was to be developed in phases, each of the phases would need to be isolated into parcels. Mr. Davis said that is typically what happens; before someone develops, it is unusual for them not to subdivide the property first.

Mr. Rooker said that in the staff report there is a discussion about requiring cutting some distance from lot lines and road frontages. That makes sense. Usually, it is the part of the property that people can see that they are concerned about. They are not concerned about an open field, but about what is growing right along the road or near their property lines.

Ms. Mallek asked about a small lot.

Mr. Slutzky said if the setback were 50 feet it would capture that lot. He said that speaks to the interesting observation of the Natural Heritage Committee, which is the committee believes that a grass ordinance could be detrimental to biodiversity, erosion control and water quality protection.

Mr. Heide said staff benchmarked some ordinances where they just included roads and adjacent property lines. He said that several matters would need to be addressed in an ordinance. 1) "Should the grass ordinance apply to platted subdivisions in the Rural Areas?" Prior Board discussions indicated it should apply to the development area.

Mr. Slutzky asked if anybody wanted to change their thinking and apply the ordinance to platted subdivisions in the rural areas.

Mr. Rooker said he would like to try it in the growth area and see how it works.

Ms. Thomas did not want it to apply in the rural areas.

Mr. Slutzky said that the No. 1 question is answered "no."

Mr. Heide said question No. 2) is: "Should the grass ordinance apply to undeveloped property? If yes, staff recommends limiting it to the perimeters adjacent to roads and other properties.

Mr. Slutzky said his vote is "yes." The other Board members agreed.

Mr. Heide said question No. 3) is: "Should exemptions for natural landscaping be created by the ordinance?" He said staff recommends "yes" and will consult with others to find out what those parameters should be.

Mr. Slutzky said it is a "slippery slope" issue when talking about roads like Rio Road or Route 29.

Ms. Thomas said if there is a vacant piece of property would the grass be mowed down to a one-inch height every week, or would something else be done. For the sake of soil erosion and other aspects, she thinks that if it could be put into some kind of wheat or something that could be mowed only once a year, or something that is part of a natural landscaping aspect, then the owner should be encouraged and allowed to do that.

Mr. Rooker said this is about the development area only.

Ms. Thomas said Mr. Slutzky was talking about the area along Rio Road.

Mr. Slutzky said Ms. Thomas raised a relevant point. His organic garden in his back yard happens to be within 30 feet of Old Brook Road. Technically speaking, his crops are more than 12 inches tall. The Board has to be careful that it does not put urban gardeners out of business.

Mr. Rooker said the ordinance speaks to grass and weeds.

Ms. Thomas said "weeds are in the eye of the beholder." A lot of pretty wildflowers could be counted as weeds.

Ms. Amelia McCulley, Zoning Administrator, said with the undeveloped properties there is natural habitat that should not be disturbed. Having limits for just the perimeters would allow for preservation of some habitat.

Mr. Slutzky asked if there is a practical way to have an appeals process if somebody says their property is not a lawn, but a natural habitat, etc. Ms. McCulley said she thinks there is the possibility of an appeals process.

Ms. Thomas said she is not in favor of this idea, so will have to be talked into voting for it, or assume her vote is not needed. She realizes it is because her district is not urbanizing and she has never had a complaint in all of these years. She can imagine that in the development area this is a live issue and the County should "weight in with heavy feet", but she is not yet convinced.

Mr. Rooker said he has received a number of calls from citizens who are "amazed" that the County has no way to prevent from happening what has happened in a number of the circumstances mentioned. He said the Albemarle Place situation is a good example.

Ms. Thomas said that is also an example showing that it did not take governmental action to get the right response from the landowner. She asked if all the situations being talked about will require governmental action in order to get someone to take care of their property.

Ms. Mallek said the property she mentioned has been foreclosed upon, so getting the bank or whoever is holding the property now (which is right in the middle of Crozet) to take care of it has been difficult.

Mr. Slutzky said the Board members, including Ms. Thomas, have gone to great lengths to have government action to protect rural area experiences – for those vistas there should not be cell towers or alternative energy wind towers because they disturb the aesthetic experience of the rural area. For him it is largely a question of protecting rural land values because that is the primary attribute for a lot of people. He and Mr. Rooker are discussing their urban constituencies and preserving land values. When looking at the abandoned homes along Rio Road with out of control grass pending some later day reuse of the property, a blight condition is created that has an absolute negative impact on property values in that entire neighborhood. It is not dissimilar to the issue of when it is appropriate for the government to intervene on behalf of protecting the values of its constituents. In the rural area that is what the cell tower rules are about. In this instance, cutting the grass near the road in the growth areas is comparably appropriate.

Mr. Rooker said it is what distinguishes the development areas from the rural areas – if the development areas are to be made a choice for people to live in a more dense circumstance, the County needs the tools to create the experience that people expect to have. In Canterbury Hills someone abandoned a house and left it for over six years; the lawn grew to massive heights, and there was nothing that could be done about that situation. People tried to buy the house and the owner would not even respond to letters. There have been similar situations along Commonwealth Drive where the owners did not respond to Mr. Rooker or to the neighbors. There was one in Old Forge – it just goes on and on. These situations will not arise weekly, maybe only ten times a year. When one does, he thinks there should be an appropriate response for the government to make.

Ms. Thomas said that is a good argument.

Mr. Heide said staff's approach would always be to call and speak to the person first and give them the opportunity to deal with it themselves. He said the most egregious complaint the department got was with two homes in Crozet that were seized by the Federal Government related to drug activity. Those houses sat as they were left when the people were removed and as the weather warmed everything blossomed and grew around everything left behind. It took him several phone calls to the U.S. Marshal's Service to contract a landscaper to come and take care of the situation. This ordinance would be "a tool in the tool bag approach." Staff would not use it as a first step to get someone to cut the grass. It would only be used after getting no response from staff's initial attempts.

Mr. Heide said the fourth matter to address is the setting of the actual height. In checking with other jurisdictions, 12 inches seems to be the median height limit. In making a recommendation, staff generally supports adoption of this type of ordinance, but until frozen positions are restored they recommend deferral. He understands Mr. Rooker's comment that the small number of complaints would not equate to that much time, but it's not really clear how this will pan out mechanically. It may impact departments other than Community Development. At this time, it is not clear which department would take on these duties.

Mr. Slutzky said if the County is going to do this, he would like to have the ordinance adopted. The staff that would be responsible for enforcement is a separate matter. Having the ordinance on the books would allow him to call an owner and say he would be served a zoning violation if the problem was not taken care of. He can't do that now.

Mr. Dorrier asked if homeowners' associations in the developed areas are responsible for keeping the grass cut. He thinks they have some power. Mr. Heide said staff has referred some of the people complaining to their homeowners' association. In a handful of those, there either was no association or not an active association, so they had no recourse.

Mr. Rooker said a lot of the subdivisions created years ago do not have declarations and covenants that bind the property. They may have an informal association, but they have no power. Mr. Heide said Canterbury Hill is one of those.

Mr. Rooker said that is a good example. The ones he mentioned earlier all fall under that category and that does not affect commercial properties that might be along the Entrance Corridors where a lot of time, effort and money are spent to protect their aesthetics.

Mr. Dorrier said he can see the problem with vacant lots, but he thinks the embarrassment of one neighbor who cuts his grass against the neighbor who doesn't is more of a factor.

Mr. Slutzky said the ordinance is talking about where the property is vacant.

Mr. Rooker said the ordinance would only apply to vacant property.

Mr. Dorrier asked if it could be commercial property.

Mr. Rooker said it would apply to residential or commercial, vacant property in the development area.

Mr. Slutzky told Mr. Dorrier to image driving out Rio Road from the City to Route 29 North. There have been several rezonings in that area in the last few years but because of market conditions nothing has happened. There are a series of properties which are abandoned and boarded up and the grass and weeds have grown.

Mr. Dorrier asked if they are absentee landowners.

Mr. Slutzky said they are not absentee landowners. They are simply holding the property awaiting the opportunity for reuse of the property. There is "no teeth" to the argument that they need to cut the weeds. Fortunately, some of the property owners in the area that he has talked with are actually going to burn a couple of those houses and raze the ones that are not being burnt. This is a bad economic time but they are going to do it, but the grass is still tall on some of those lots. If he were able to call them and say they were in violation of the Zoning Ordinance, the grass might be cut the next day. He can't say that; he just has to appeal to their generosity. This ordinance would give that leverage tool in the discourse.

Mr. Rooker and Ms. Mallek agreed.

Mr. Heide said staff's reaction to complaints would be reactive. Also they would use the prioritization schedule included in the Board's packet today. As an example, there is a difference between an overgrown lot adjacent to a school playground or a daycare playground, something that would be an aesthetic issue, a rodent issue, or a crime prevention issue. One of the fundamentals of CPTED (Crime Prevention through Environmental Design) is to clear areas where people could hide. That would be an obvious high priority.

Mr. Rooker suggested adding properties that border the Entrance Corridors to that priority list.

Mr. Slutzky agreed.

Mr. Dorrier asked if the City of Charlottesville has a weed ordinance.

Ms. Mallek said "yes."

Mr. Rooker said they are very active in enforcing their ordinance.

Mr. Davis said the prioritization issue is also an issue. There are large areas like North Pointe, Hollymead sections, and others that have been rezoned that would be subject to this ordinance. He said there are large parcels of vacant property there. He does not think the County would receive complaints about those areas or that staff would go out and proactively look at areas that appear to be rolling, undeveloped land and apply this ordinance.

Mr. Slutzky said that is true, but in the instance where it actually was an aesthetic affront, if the first 50 or 100 feet were mowed periodically that is not a bad thing for the entrance corridor. The vast interior expanse should be a natural habitat as it was before the rezoning.

Mr. Rooker said if there are no complaints, then there is no reason to enforce the ordinance.

Mr. Slutzky asked if staff has a recommendation as to what the setback number should be. Ms. McCulley said the City of Charlottesville uses 150 feet and Henrico County uses 250 feet as a perimeter and adjacency to other properties and roads. Staff can study that and see what makes sense. She said there are some developers who might want to weigh in on it too.

Ms. Mallek asked if you would have to mow back 250 feet from the property line. Ms. McCulley said "yes." She said a smaller number can be put into this proposed ordinance.

Ms. Thomas asked that staff think about using 50 feet.

Mr. Slutzky said he thinks 50 or 100 feet is right for the County's purposes. Mr. Davis said VDOT is currently using three feet.

Ms. McCulley said she would summarize the conversation. She understands the ordinance will apply everywhere but in the rural areas; there will be a perimeter established for undeveloped properties – probably 50 to 100 feet with adjacency to roads and other properties; staff will look for a provision for exemption for natural landscaping; and, the ordinance will be a responsive rather than a proactive enforcement. She said this ordinance does not have to go before the Planning Commission so working with the County Attorney's Office it should be ready for public hearing in August or September.

Mr. Slutzky said Ms. Thomas had some reluctance about this ordinance.

Ms. Thomas said the other Board members have persuaded her of its need.

Mr. Slutzky asked Mr. Boyd to comment.

Mr. Boyd said he has a real problem getting into the grass cutting business, but he has been convinced, with some limits to it.

Mr. Dorrier said he has never had a complaint about grass from his constituents in the Scottsville District, but if other Board members need help, he is willing to consider it.

Mr. Boyd said he has never had a complaint either.

Ms. Thomas said it is an urban/rural split somewhat.

(Note: At 4:55 p.m. the Board recessed and reconvened at 5:06 p.m.)

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Agenda Item No. 16. STA-2008-01, Private Streets and Single Point of Access - Work Session.

Mr. Bill Fritz, Chief of Current Development, gave a PowerPoint presentation. He said that on November 12, 2008, the Board held a public hearing on this proposed Subdivision Ordinance text amendment to amend County Code §14-404 to reduce the number of entrances allowed onto public roads, amend County Code §14-412 to change the road standards for private roads serving two-lot and three- to five-lot subdivisions, and amend the applicable requirements for Rural Subdivisions by making the requirements of §14-404 applicable to them. At that time the Board took no action, but instead directed staff to hold a roundtable with interested members of the public; that was done in February, 2009.

Mr. Fritz said the last recommendation the Board saw for the street standards was to retain the existing two-lot standard but amend it to establish maximum grade and minimum clear zone, and to retain the existing three- to five-lot standard but amend it to have maximum grade and minimum clear zone. In other words, to apply the driveway standards to both the two-lot and three- to five-lot subdivisions. The most recent proposal the Board saw would have restricted access to all existing lots in the Rural Areas to a single point of access for all future development unless a waiver was granted by the Planning Commission.

Mr. Fritz said the roundtable resulted in four major recommendations: 1) Apply single point of access requirements only to certain roads; 2) Apply single point of access requirements only to lots having less than a specified minimum frontage; 3) Apply single point of access requirements only to lots under a certain size; and, 4) Retain existing regulations for access but prohibit additional subdivision for a specified period of time (i.e., phasing).

Mr. Fritz said he would explain each recommendation. As to applying a single point of access only to certain roads, staff contacted VDOT to determine which roads would be involved. They indicated that 1,400 vehicle trips per day (vtpd) is the delineation between a road designed for mobility and a road that serves as access. He said staff used that information and developed a map which he then showed on the screen. Staff believes the map shows all roads with 1,400 vtpd in the rural areas only. He does not think that all of Route 6 actually has 1,400 vtpd - it is 1,200 to 1,300 - but staff included it because it is a primary road.

Mr. Rooker said they could be called "primary roads" in the rural area. Mr. Fritz said staff has referred to them as "major rural streets." He said an option would be to apply a single point of access requirement only to minimum lots. The frontage would be increased to 500 feet to qualify as a rural division; if there were less than 500 feet the property could still be divided but it would be subject to the single point of access requirements like other subdivisions. Rural divisions are five acres or greater with 250 feet of frontage and are exempt at this time from single point of access requirements. This would essentially double the requirement. The Board may want to consider a staggered approach to adopting minimum frontage requirements. It could be done everywhere in the County, or it could be done just on major streets.

Mr. Fritz said that as to applying single point of access requirements only to lots under a certain size it is not recommended by staff because they see no relationship between frontage, lot size, access, or other issues. They think it might be appropriate to include lot size as a consideration in any waivers. He said one option would be to retain existing regulations but prohibit additional divisions. In other words, you could go ahead with 250 feet of frontage with five acres – that is a rural division, but you could not further divide that property for a period of time. It would essentially prevent that rural division option from

being used as a development tool. It would slow the rate of development. This approach would require an amendment of the Zoning Ordinance, not the Subdivision Ordinance.

Mr. Fritz said staff recommends that single point of access regulations apply only on the major rural streets; the reduction of entrances improves functional capacity of the streets and promotes safe access. They point out that if frontage is increased it would have a similar impact but not as great because there would be fewer parcels that could take advantage of the exemption. Staff also recommends that waiver options be developed to allow for administrative waiver of access requirements. This was a significant topic of discussion at the roundtable – there should be waivers and they should be administrative.

Mr. Fritz said as to private road standards, staff recommends that the two-lot standard and three-to five-lot standard be retained and amended to incorporate the driveway standards and also recommend, based on the roundtable discussion, that the measurement of grade be over a distance of 50 feet so there would not be spot elevations. Also, the waiver provisions should be adopted and be the same as what currently exist for the driveway standards.

Mr. Slutzky asked about the recommendation for 50 feet. Mr. Fritz said that number was part of the roundtable discussion. It is not a huge distance, but that average grade is being maintained over a distance.

Ms. Mallek asked if there were a driveway with one steep place and then it flattened out, would the 50 feet take away the impact of that short stretch. Mr. Fritz said that over any 50-foot distance it could not exceed 16 percent. Within the 50-foot run there could be a place that was 18 percent and then dropped back to 14 percent so the distance is less than 16 percent over that length.

Mr. Fritz said to summarize staff's recommendations for single point of access, they are recommending that they be applied to major rural roads and that waiver options be developed to allow for administrative waivers.

Mr. Rooker said that at some point it doesn't make sense to require that a single owner build internal roads when there is a significant amount of frontage. Mr. Fritz said that is the kind of thing staff would like to include in any waiver options developed. Consideration would be given to frontage, terrain, existing development, streams, stream buffers, critical slopes, historic patterns of development, and other physical restraints. After considering all of those things, single point of access should not apply to the property given the circumstances of the property.

Mr. Boyd asked if those would be administrative waivers. Mr. Fritz said "yes." As the ordinance is used, staff may find that another number is better so the ordinance would be amended and it would not be a waiver. At this time, staff is not sure what that number should be. They want to develop a list of waivers and criteria for granting those waivers, so someone applying would know the likelihood of getting that waiver even before they applied. Staff would also have clear directions for granting a waiver, so it would not be an arbitrary decision. If staff denied a waiver, the applicant could appeal to the Planning Commission.

Mr. Slutzky asked if it would be reasonable to anticipate requiring 500 feet. Mr. Fritz said if the Board thinks 500 feet is the right number, beyond 500 feet the Board might want to apply anything less than 500 feet to all rural roads or just to the major rural roads.

Mr. Rooker said he thinks the recommendation should apply only to roads that have a certain level of traffic.

Ms. Thomas said she was thinking about different roads and how this standard would apply, in particular to Old Ballard Road. Owensville Road is listed as a major road, and Old Ballard Road is not but it is a road impacted by the present driveways – she would hate for there to be more. It also has so much residential development that people think it is a subdivision road, and they complain that the telephone poles are too close to the road. When she explains that it is a rural road and they are unlikely to get the power company to move the poles, one person was incensed because he said it is not safe. He was not thinking about a rural road, but rather living in a very expensive house in a suburban subdivision. She asked if the Board agreed to the limit on only major roads, would there be a way to pick out specific roads where this law would be applied. Mr. Davis replied that in the Subdivision Ordinance the roads would have to be identified and there would need to be some reasonable standards by which to measure them. All of the roads this would apply to could also be listed in the ordinance. Mr. Fritz said staff could try to identify roads that have less than 1,400 vtpd, but because of unique geometrics or the level of development, it would be appropriate for the standard to apply to that road, or just a stretch of the road.

Mr. Slutzky said it could be done that way, and then a few other roads could be added in the future.

Mr. Rooker said Old Ballard Road is a good example; it is curvy and uphill and downhill. It also has substandard bridges. Mr. Davis said someone would have to anticipate which roads would end up being like Old Ballard Road. Once they were developed with entrances, there would be no way to make a change.

Ms. Thomas asked if it is too late for Old Ballard Road to be saved. There are a couple of very large properties that could have developments and entrances right on the curviest part of the road.

Mr. Boyd said the developer would still have to use VDOT standards for sight distance, etc. Mr. Davis said VDOT requires an entrance permit.

Mr. Rooker said if the County allows an unlimited number of entrances on the road, single driveways do not require a VDOT permit.

Ms. Thomas said she knows of someone with an inadequate driveway who is thinking about doing a family subdivision. That is when VDOT becomes involved. Mr. Fritz said for an existing lot, VDOT will give an entrance permit, but if the property is being divided, the County requires VDOT approval for both new entrances before granting approval.

Mr. Slutzky said the Board might compromise the legitimacy of the ordinance if it picks off discreet streets because of peculiar preferences. For example, if Old Ballard was included, and the regulations would only apply to two property owners, it would appear that individual properties were being singled out. It might be better to be uniform unless there is an egregious example that is clear, and it could be added in later.

Mr. Rooker said he agrees. He just wonders if 1,400 vtpd is the standard the Board wants to use. He said Old Ballard has a lot of traffic, so it would be interesting to know how close the traffic count is to that number.

Ms. Thomas said it has even more traffic when Route 250 is clogged with traffic. People cut through that way.

Mr. Fritz said staff can look at that. Staff tried to pick what a major rural road would be, but it could be significant rural roads, or whatever name the Board wanted to give them. He said staff recommends that single point of access be developed for those major rural roads, and that waiver options be developed, at least 500 feet.

Mr. Slutzky said 500 feet is not necessarily a waiver option. That number would be automatic with the waiver options being beyond 500 feet. Mr. Fritz said that is correct.

Mr. Rooker said there would be 500 feet of frontage. Mr. Fritz clarified that there would be 500 feet of frontage for each lot being created. On the road standards staff recommends that the Board direct it to simply prepare the ordinance language as outlined in the staff's report which is to bump up the two- and three-lot subdivisions to the private road standards, measuring it over 50 feet, and establishing waiver provisions that are the same as what currently exist in the Zoning Ordinance for driveways.

Ms. Mallek said Mr. Fritz did not mention the delay between splitting off a lot. Is that something that would not be done if the Board adopts the other recommendations? She is confused as to whether these are options the applicant could choose between, or if the Board is adopting the four recommendations. Mr. Fritz said it is a list of options that came out of the roundtable discussion. Staff is recommending only one of the four options – a single point of access applying to major rural roads. Staff does not recommend that the phasing option be used because it would not ultimately affect the number of entrances that would be created; it would only delay the time it would take to create those. Staff did not think that would address the concern the Board had identified.

Mr. Boyd asked who participated in the roundtable discussions. He asked if there was a representative from the development community and if citizens were involved. Mr. Fritz said it included the development community and landowners, etc.

Ms. Mallek said Mr. Morris Foster participated and gave a history lesson about the original single lot division. It was done to help the person who wanted a child to build a house on their property. He said it was not meant to be a subdivision tool, but rather adding one lot and keeping the residue. Mr. Fritz said from that a phasing option was developed to get back to the original intent which was to allow it to occur, but to put on a limit so it was not a development tool.

Mr. Boyd asked how the participants felt about what is being proposed. He suggested that the Board hear from a couple of the participants.

Mr. Slutzky said if the Board agreed, he thinks it is feedback opportunity the Board should take.

Mr. Roger Ray said he participated in the roundtable discussions. He mentioned that Fluvanna County has different frontages for different roads – with the primary roads and some major secondary roads having a frontage requirement of 500 feet. He said 500 feet probably makes sense because it would ultimately cut down on the number of entranceways in the congested areas of the County. He could support that and make it by-right if a landowner had 500 feet for each lot with a waiver provision for exceptional circumstances such as terrain. Then, just leave the other roads as they are. He thinks this should be started slowly and revisited it in a year or two, and if it is not working at that time make a different ruling.

Mr. Jay Willar with the Blue Ridge Homebuilders' Association addressed the Board. He said Mr. Fritz did a good job of notifying the community and giving them time and support. He asked that Mr. Fritz put up on the screen the previous information which says: "Instead of something being applied to the entire County it singles out where the problems are and what can be done to solve that problem without spreading it somewhere else." Also, "If there are going to be waivers, be specific and clear so an applicant

knows up front what can be done and the process he has to go through.” He would like to see those two bullets on all staff presentations. It’s important to target actions and be as clear as possible.

Ms. Thomas said she thinks the roundtable was a good process for listening to the landowners. The concern was that rural roads are being allowed to become more dangerous with every house that is built. Is there anyway to have it become slightly less dangerous while allowing the same number of houses to be built eventually? That is what the County is aiming for. Is staff comfortable with not having the regulations apply to the less traveled roads? Where does staff think the problems are? The speed limit has been lowered throughout the County. That should help. She wants more feedback on that issue.

Mr. Fritz said in trying to come up with a number he called VDOT. People in the area are more likely to be aware of where entrances are, and the problem entrances, so he feels comfortable with it based on his conversations with VDOT.

Mr. Rooker said he supports the staff’s recommendation, adding the exception for lots with 500 feet of road frontage.

Mr. Slutzky asked if there was a consensus to move forward accordingly.

Mr. Dorrier said he supports the staff’s recommendation.

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Agenda Item No. 22. Matters from Board Members Not Listed on the Agenda.

Ms. Thomas asked if the Board members received an invitation to the Sacagawea event in Charlottesville. She said the Charlottesville statute of Lewis & Clarke shows Sacagawea crouching behind the two main figures, and that has been an insult to her personally as a woman ever since coming to town. Charlottesville had to address it because there were people protesting and picketing the statute. They turned it over to their Historic Resources Committee which has come up with a creative thing and will have a marker placed there. They have invited Sacagawea’s great-great-great niece to come and speak. She said it is on Friday, June 19 at 1:00 p.m. at the Lewis & Clarke statute followed by a reception and panel discussion at 2:00 p.m. at the Community Design Center on the opposite end of the mall. They will be dedicating the sign and having things like a traditional Shoshone sign prayer sung by Marcia Joseph, and a few other things.

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Ms. Thomas said a number of the Board members have been involved in Monticello High School community service events. She was involved in a water plan forum they put on, and Mr. Slutzky brought to the Board a meeting on transportation. She would like to find some way to extend appreciation to the Monticello teachers who organized these projects for their senior students this year.

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Ms. Thomas said that Scenic Virginia is seeking nominations for outstanding awards for viewshed preservation, water corridor preservation, creative scenic enhancement and scenic tourism awards, and anti-litter awards. Suggestions for these awards should be given to Ms. Thomas. She said this region has not received any of these awards since Monticello purchased Mt. Alto.

Mr. Slutzky asked if the awards are for projects or people.

Ms. Thomas said they are for both. When Fredericksburg put a conservation easement on a stretch of their river, they received an award. VDOT divisions that do a good job of tree cutting get an award.

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Mr. Boyd said he has been visiting some of the fire stations, and last night he received some information that was rather startling. He said the 800 MHz system – which is now working in 97 percent of the County – still doesn’t cover three percent of the County. It was explained to him that someone in that three percent inside of a burning building cannot talk to the people outside about what is going on inside of that building. That is a serious issue. It was mentioned that the system does not work inside of the Hilton Garden Inn, so if they were inside fighting a fire they could not communicate with anyone outside.

Mr. Tucker said he believes that three percent is in the Heards Mountain area near Nelson County. There are also some areas near Scottsville but a repeater is being installed there to help improve service. He emphasized that most of the uncovered region is in the very remote areas and there are no multi-storied buildings in those areas.

Mr. Boyd said Martha Jefferson Hospital is setting up a repeater system in their new building. Apparently, there are a number of buildings that are like that. Is there anyway to identify those buildings? Mr. Tucker said some of that is being done using grant money – they are doing the John Paul Jones Arena and some of the high schools as well. More money will be needed to do the rest of the buildings.

Mr. Rooker asked if this has more to do with the size of the building. Mr. Tucker said it is the size and number of occupants - public buildings, hospitals.

Mr. Boyd said it would help to identify those buildings if that is possible. Mr. Tucker said he thinks they have been identified, but all of the buildings could not be funded at one time so they were prioritized.

Mr. Boyd asked if the owners have been requested to do it for their own safety. Mr. Tucker said

they were contacted to make them aware of what is being created for their occupants. Some of them are doing it. He talked with people at the Martha Jefferson Hospital when they first started putting their plans together and they are doing it. He has asked Planning staff, as site plans come in for large buildings, to urge the applicants to put this system in. It is not required by law at this time.

Mr. Slutzky asked if the County could require it. Mr. Tucker said it is not in the Building Code.

Mr. Slutzky asked if it is something the County is enabled to do. Mr. Davis said staff looked into this issue a few years ago. There was one locality attempting to do it by regulation, but the general consensus was there is no enabling legislation in place to affect that. There was an attempt to get some enabling legislation, but it was not successful. Mr. Tucker said the State Building Code Official was going to look into possibly adding that into the BOCA Code.

Mr. Slutzky said a building owner would not be as concerned about protecting his property as the County is about protecting the volunteer firemen.

Ms. Mallek said she talked with Chief Bob Brown about this last week. Most of the three percent is in the Scottsville area because of the mountains. People in that area are concerned, and had made note of their concern even before the contract was let for the 800 MHz system. She asked Chief Brown if the repeater machines are available and he said it would cost more. She asked staff to find out the costs so everyone is protected. Mr. Tucker replied that there are estimates for all of that area.

Ms. Mallek said that apparently it was not included in the contract. Mr. Tucker said it was not.

Mr. Boyd said the Board talked about this before; he thought it was dealt with a couple of years ago. Mr. Tucker said the contract did not call for 100 percent, the contract only called for 95 percent and they exceeded that number. They did not want to hold the contract up and delay it even further. He said they are now trying to meet the other alternative needs.

Mr. Slutzky said he thinks Mr. Boyd is saying that a couple of years ago the Board added money to pay for some repeaters, but that was still not to get to 100 percent, only to get to a couple of the critical ones. Mr. Tucker said that was for mainly the Scottsville area near the town. There is an area in the town itself where service just drops off, it is a "dead spot", especially if one would be on the upper floor of a building.

Mr. Slutzky asked Mr. Tucker to send the Board members an E-mail update on this situation. Mr. Tucker agreed to get cost estimates for some of those things.

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Ms. Thomas mentioned that the Coalition for High Growth Communities meeting to be held June 29 starting at 9:00 a.m. in Culpeper will include discussion of the alternative septic tank systems, the new stormwater management requirements, and VDOT's new secondary street acceptance requirements.

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Mr. Tucker said there is only one item scheduled for the Board's regular meeting for July 8 – Animal/Fowl Ordinance amendments. He suggested the Board cancel that meeting and add the ordinance to the July 1 meeting.

Mr. Slutzky said unless some Board member is going to be out of town on those dates, he would rather have two light meetings rather than one very long meeting.

No action was taken at this time. A decision will be made later.

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Agenda Item No. 22. Adjourn to June 10, 2009, 5:00 p.m.

At 5:46 p.m., **motion** was offered by Mr. Rooker, **seconded** by Mr. Boyd, to adjourn this meeting until June 10, 2009, at 5:00 p.m. Roll was called, and the motion carried by the following recorded vote:

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

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Chairman

Approved by the  
Board of County  
Supervisors

Date: 09/02/2009

Initials: EWJ