

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 2, 2009, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

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

Agenda Item No. 1. The meeting was called to order at 9:03 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: VML Go Green Virginia Award.

Mr. Slutzky announced that Albemarle County tied for first place with Arlington County in its population category in the 2009 "Go Green Virginia Challenge," which is part of the Virginia Municipal League's larger "Go Green Virginia" environmental initiative that kicked off in late 2007. It is a friendly competition designed to encourage implementation of specific environmental policies and actions that reduce carbon emissions generated by both local government and the broader community. Cities, towns and counties can become a certified green government.

Mr. Slutzky noted that local governments earn green points by implementing or adopting up to 30 policies and actions divided into 11 categories ranging from energy efficiency and green buildings to land use and innovation. Albemarle County earned a total of 185 green points in areas such as energy efficiency, climate protection, water resources, smart growth, and renewable energy use. It is noteworthy that the scorecard used in awarding the green points encompassed a broad range of local government programs and Albemarle scored high across the board in categories including land use and transportation, as well as energy efficiency, and air and water quality.

Mr. Slutzky said 25 innovation points were included in the County's total score including the County's support of a Local Energy Alliance Program (LEAP), the implementation of a countywide environmental management system, working with the City and the University on a local climate action planning process, and engaging in various public education and outreach efforts and organizations such as the Rivanna Regional Stormwater Education Partnership and the Rivanna Environmental Management Systems Alliance. The total of 185 points earned the County a platinum certificate, certifying that Albemarle is a green government, along with a \$2,500 cash award that will be put back into environmental sustainability efforts such as energy efficiency and climate protection.

Mr. Slutzky drew the attention of the audience to the slides which had been scrolling across the screen as he spoke; they highlighted some of the initiatives that demonstrate the County's continuing commitment to environmental stewardship. He thanked the staff members present this morning who contributed their expertise and energy across a wide spectrum of disciplines to make the County such a strong finisher in the Go Green challenge; staff members stood and were applauded. He added his thanks to Ms. Sarah Temple and Ms. Ann Mallek who represented the County in receiving the award notification at the recent VML ceremony, and he asked them to speak.

Ms. Mallek commented that the County is lucky to have Ms. Temple on staff.

Ms. Temple thanked the Board members for their support of all the environmental sustainability initiatives over the past five years, and she also recognized the staff across all disciplines for their commitment as well.

Ms. Thomas commented that the County also received a similar award at the VACo meeting, noting that the architectural firm of Mosley decided to start this contest and they also deserve praise for getting many local governments competing in a worthwhile project.

Mr. Slutzky said the County is being recognized for its leadership in a broad range of environmental areas, and he is proud of that fact, and hopes that it continues.

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Agenda Item No. 4b. Proclamation in Support of Census 2010.

Mr. Slutzky read the following proclamation in support of Census 2010 into the record:

**PROCLAMATION  
IN SUPPORT OF CENSUS 2010**

**WHEREAS,** the decennial Census serves as the basis for the reapportionment of seats in the U.S. House of Representatives, and the redrawing of legislative district

boundaries in the Virginia General Assembly and is the foremost method of gathering information about our nation and our community; and

- WHEREAS,** census population totals are used to determine the annual distribution of billions of dollars in federal, state and local funds for major programs in areas such as transportation, education, community and health services, and housing; and
- WHEREAS,** the Census is also used to help determine where to locate roads, schools, day care centers, senior citizen centers, libraries and other facilities and is used to make decisions concerning business growth and jobs; and
- WHEREAS,** the Census reaches every population group from long time residents to the most recent immigrants, every age group from newborn to centenarian and every social class, racial and ethnic group; and
- WHEREAS,** the County of Albemarle has a significant interest in working with regional entities and community partners in ensuring a full and accurate count for the upcoming Census 2010;

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors, on behalf of all the residents of Albemarle County, does hereby endorse the formation of a regional Complete County Committee in partnership with the City of Charlottesville charged with working with community and business organizations, the faith community, and organizations serving our diverse ethnic, racial, and cultural population to encourage full participation in the 2010 Census.

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

Ms. Mallek said she circulated through e-mail a request for a letter of support for a grant between JABA and the Telemedicine Center at UVA to provide a connection to Mountainside in Crozet. She asked if there were any questions.

Mr. Rooker said he thinks it is a good idea and the Board should indicate its support.

Ms. Mallek said she will then sign and send the following letter:

“Dr. Carol Manning  
Associate Professor of Neurology and Nursing  
Department of Neurology  
University of Virginia  
PO Box 800394  
Charlottesville, VA 22908-0394

Dear Dr. Manning:

I have seen firsthand the wonder and effectiveness of the Telemedicine Center at UVA with patients around the world. I am pleased to offer my support to the University of Virginia’s and JABA’s innovative approach to further develop management of chronic disease in rural communities. The introduction of monitoring through telemedicine will be a tremendous advancement for healthcare and quality aging in place at Mountainside Senior Living, an assisted living facility in Albemarle County, managed by JABA, the local AAA. This initiative will continue the exciting opportunity for us to work collaboratively to help seniors retain more of their assets and remain safely and happily in their community.

As an elected official in rural Albemarle County, I know full well the importance of supporting seniors as they age in a community, where they prefer to live. By providing a telemedicine outlet at the facility, seniors will be able to have ready access to their healthcare providers, without having to leave home. Mountainside’s nurses are better able to attend to the health needs of seniors and communicate more effectively with their primary healthcare providers. Mountainside and JABA have an excellent reputation for providing services to seniors, allowing them to avoid or delay nursing home placement.”

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Ms. Mallek stated that Congress is considering legislation to increase the weights and lengths of trucks on roadways. She asked if any Board member had a chance to study the issue and think about it. She is very concerned about giving trucks another 15 feet and concerned about the extra weight and damage that it would do to the country roads. She had the “terror” of meeting a tandem trailer on Earlysville Road at its sharpest corner last year. One of the proposals in this legislation is to allow triple-tandem trucks. She said this is a chance for the Board to add its opposition to this bill.

Mr. Rooker said a resolution was passed at the MPO (a copy is in the Board’s packet), noting that the weight limit increase would go from 80,000 pounds to 97,000 pounds, a 20 percent increase, and it would allow triple trailer trucks. The idea is to make this law uniform throughout the United States. For those who travel on I-81 he cannot imagine getting behind two triple trucks trying to pass each other. Studies show that drivers have minimal control over the third trailer which can sway six to eight feet

without the driver even being aware of it. It would allow more compact trucks carrying substantially more weight, and by having all of that weight on the bridge at the same time over a minimal number of axels, there would be damage to roads and bridges. He handed to the Board members a picture showing the increase in the size of trucks in the last 50 years. Even the coalitions for truck drivers have weighed in against this as it puts them in unsafe conditions. Hopefully, the Board will agree to pass a resolution. The MPO sent a letter in opposition to this legislation to Congressman Tom Perriello, who is on the Transportation Committee, expressing its dismay at this proposed legislation.

Ms. Mallek then offered **motion** to adopt a Resolution of Support opposing increases in truck weights and lengths. Mr. Slutzky **seconded** the motion. Roll was called and the motion passed by the following recorded vote:

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

NAYS: None.

**RESOLUTION OF SUPPORT  
OPPOSING INCREASES IN TRUCK WEIGHTS AND LENGTHS**

**WHEREAS**, the Albemarle County Board of Supervisors is concerned for the health, welfare and safety of the residents of the County of Albemarle and the City of Charlottesville and the conditions of its infrastructure; and

**WHEREAS**, the Board of Supervisors is concerned that attempts are being made at the federal level to increase the size, weight and allowable number of trailers beyond the capacity of existing road infrastructure; and

**WHEREAS**, bigger and heavier trucks cause greater acceleration of the deterioration of our roads and bridges putting further pressure on local taxpayers to fund regional infrastructure; and

**WHEREAS**, the investments in our County, City, State and Federal road systems have not kept up with increased traffic levels; current funding for roads and bridges across all government levels in the state is inadequate; and investments by local governments have been curbed by cuts in local government aide, municipal state aide, county state aide and a shrinking state truck highway fund; and

**WHEREAS**, the Board of Supervisors strongly opposes all legislation that attempts to shift costs and liability of private businesses on to local governments and threatens the general safety of those who live in Albemarle County;

**NOW, THEREFORE BE IT RESOLVED**, that the Albemarle County Board of Supervisors endorses HR 1618 the Safe Highways and Infrastructure Preservation Act and opposes any legislation increasing truck and weight size beyond the capacity of our road systems and putting our roads and bridges at risk of increased damage or deterioration.

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Ms. Mallek said she was happy to participate in the riparian buffer planting effort with a combination of Airport and County staff and about 150 volunteers. They planted 1,400 trees to add to the stream buffers on the west side of the Airport.

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Ms. Mallek said she recently visited with third and fifth graders at Crozet Elementary School. These are very young children who designed and built robots and took them to a competition at James Madison University two Saturdays ago. Although half of their team was ill and others had to fill in for their "compatriots", they survived but did not win. They had a good time. It is an example of the educational opportunities Albemarle provides. There were four parents and 10 children who worked on this after school.

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Ms. Mallek said there is to be a meeting about the proposed ordinance changes re: wayside farm stands on December 10th from 3:00 p.m. to 5:00 p.m. in Room 241 of the County Office Building on McIntire Road.

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Ms. Mallek said she has a holiday gift giving idea which is the fundraising calendar for the local food hub. The hub just began operations July 1, 2009, in the Dettor, Edwards and Morris building in Ivy, and they are trying to raise another \$30,000 to add a freezer so they can deal with meat.

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Ms. Thomas stated that she, Ms. Mallek, and Mr. Dorrier attended VACo's Annual meeting and she encourages the other Board members to take advantage of this opportunity next year since there are always a number of interesting and informative topics discussed. She appreciates that the County paid for food and lodging costs. Among other topics discussed was that the sovereign immunity of counties throughout the State will be attacked in this Session of the General Assembly. The Board did not know about this in time to put it in the legislative packet, but it is a serious issue.

Mr. Davis said the issue was raised by the Boyd-Graves Conference, which is a group that gets together periodically and looks at policy issues. Basically, they proposed that the sovereign immunity of counties be taken away and replaced with the same immunity the state now has under the Torts Claims Act. This idea has been floated several times in the past with the General Assembly, but has never gotten out of committee because of its serious financial impact on localities. This year it looks like this will be addressed by the General Assembly. It is important that counties get together early and express their opposition to this proposal, especially in light of the current serious financial situation of localities.

Mr. Boyd asked if the financial impact would be in the way of insurance premiums. Mr. Davis said there would be greater insurance premiums and greater litigation costs. It would basically allow people to maintain "slip and fall" cases against counties, and other negligence law suits. Traditionally, those are not allowed under either common law or Virginia law at this time.

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Ms. Thomas said the High Growth Coalition, of which she is a member, met. Delegate Athey, who has led a subcommittee of the General Assembly dealing with growth issues and has been supportive of impact fees, spoke. It was interesting to follow his reasoning – he said the State did not realize it would have to take on a lot of subdivision and suburb roads when it acquired the highway system, so they want to get out of the expense of maintaining roads. The impact fee he sees would be a road impact fee that would help localities take over the expense to which the State had obligated itself. Although she had thought he was "one of the good guys" because he was interested in impact fees; that is his approach. She said the subcommittee and the General Assembly will have to realize that there are more impacts than those on roads. If that is all impact fees cover, that simply helps out the State and does not basically help out localities.

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Ms. Thomas said she and Ms. Mallek are members of the Planning District Commission and it had a good planning retreat. She said the County needs to keep the Planning District Commission in mind because it has increasingly talented staff and they may be of help to the County in these times when the County is cutting staff.

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Ms. Thomas said she is a member now of the Rivanna River Basin Commission so the Board will need to appoint a good person to serve along with Mr. Dorrier next year. Tomorrow she will be attending her last meeting of the Local Government Advisory Committee to the Chesapeake Bay. She wanted to notify the Board members that the EPA will be coming here on December 17 at 2:00 p.m. to discuss the TMDL proposals. She encourages all of the Board members to attend that meeting.

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Ms. Thomas said the Historic Preservation Committee is looking for a place to display the "Lost Albemarle" exhibit. The exhibit is about historic structures, and is a freestanding, three-sided display that was in the County Building Lobby at one time. They are eager to put it up in other places. She understands The Colonnades is taking it this month.

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Ms. Thomas reported that Land Use Revalidation forms are all due December 5, and she got a list of the people in her district who had applied, and it was good to see that most people had already filed their forms.

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Ms. Thomas said she represents the Board on the Rivanna Water and Sewer Authority Board of Directors. She attended the Dam Safety Committee meeting of the Department of Conservation and Recreation. They have put the RWSA under an edict saying it has to give them greater assurance as to who owns the dam – whether it's the City or the RWSA. It is clear that it is the RWSA, but they want better assurance of that. They also want in writing a list of greater safeguards being done for the Ragged Mountain Dam.

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Ms. Thomas said if Board members have not met with Mr. Chris Webster of Schnabel Engineering, she recommends it. They know more about the Ragged Mountain Dam than was known before. It is in an amazingly bad core shape. The third thing the Dam Safety Committee wanted was that the RWSA adhere to a schedule that gets the dam replaced by 2013. She said the City "sort of" adopted the resolution with the schedule "with their fingers crossed behind their backs."

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Ms. Thomas said the same day they went to the Dam Safety Committee meeting, the Meadow Creek sewer interceptor burst. It was the day of a tremendous rainstorm and there was water going into the sewer system from the creek and sewer going into the creek from the broken pipe. She said it is the most dramatic recent incident, but there is a crumbling infrastructure. She said RWSA is trying to repair and replace crumbling infrastructure, but its membership is composed of the City (which has every interest in keeping their own costs low) and the Albemarle County Service Authority (which has the same motivation to keep their costs low and to push more responsibility onto RWSA). In the long run that adds a greater burden on all of the ratepayers. It is a role that she has found interesting to play – to be the elected representative on the RWSA because she finds herself speaking up for RWSA.

Mr. Rooker said he thinks it is important that everybody take advantage of the Schnabel meeting with Mr. Chris Webster. He goes through the history of the dam and that history shows that as early as

1912 there were significant questions raised about the physical integrity of that dam; a similar dam had failed in the prior years. There is an engineering report done by an engineer at UVA, someone they think who went on to become president of UVA, that questions the physical integrity of the dam and strongly warns against ever raising that dam. Some years after the dam was built, a lot of earth was pushed behind the dam in the hope that the dam (whose physical integrity was not that good), would be shored up on its backside. When you hear people suggesting that the dam should just be repaired and perhaps its height extended, looking back almost 100 years ago at the questions raised about its physical integrity that does not seem to be a good choice.

Ms. Thomas said today it would be assumed that the spillway, which is 13 feet wide, would cover two percent of a massive storm. People in the community have said that all that is needed is to widen the spillway, but it would have to be widened to 650 feet. Also they found that the land on the downside of the dam is wet, so there is water getting through.

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Mr. Boyd said he would like to report on what is going on with the Rivanna Solid Waste Authority (RSWA). He said the RSWA Board decided at its most recent meeting to finalize an RFP to put out for the privatization of the Ivy Landfill. Although it needs some fine-tuning, the Board gave the Executive Director of the RSWA the authority to put that RFP out, maybe this month with responses due in February.

Ms. Thomas asked if Rivanna will be allowed to bid in that RFP.

Mr. Boyd said that was not discussed, but it certainly is an option that should be considered.

Ms. Thomas said they compared their recycling costs to the City's and they are much less expensive. She thinks "our own entity" should be allowed to bid, and it would give a good basis for comparison.

Mr. Boyd added that he is also very concerned about RSWA's employees, what will happen to them in this situation.

Ms. Mallek noted that constituents in the western part of the County are concerned about the extra distance they would have to travel should the Ivy transfer station be closed.

Mr. Boyd said that is part of the process the RSWA Board is going through; how it is impacted by recent developments in other MURF stations being setup to service the County, and whether it is a viable entity as a transfer station.

Mr. Rooker mentioned that most private pick-up companies are now offering single-stream recycling.

Mr. Boyd said he would like to see all of them doing that. At some point in time, given that there are facilities to accommodate it, the Board should look at an ordinance to require contractors to provide single-stream pickup.

Ms. Mallek asked if the number of County citizens who carry their own trash is known and if there is a contractor who can come to their house.

Mr. Boyd said the RSWA Board gets a report on that at each of its meetings; those numbers are available in their minutes.

Ms. Thomas said she served at one time on the "Illegal Dumping Committee" and she noted that costs do matter when taking one's trash and garbage to a facility. The higher the price of doing it legally, the more attractive it is to do it illegally. That "Illegal Dumping Committee" set in motion several things, such as the amnesty days for disposition of trash, etc. She does not think a private firm will be interested in doing those types of things, and the City also may not be interested because they don't care about the illegal dumping that takes places in the County.

Mr. Boyd said the RSWA will include in the RFP the option of bidding on the amnesty days program because they want to keep that program in place.

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Mr. Rooker said he was going to pass out a proposed resolution of intent to amend the definition of "family" in the existing Zoning Ordinance to make it consistent throughout the County. Going back to the 1970s there is a bifurcated definition of "family" for purposes of determining what is permitted in a single-family residence. In the more compact urban areas (R-1, R-2, R-4 districts) the definition of family is basically "two or more unrelated people" and in all other districts which includes Neighborhood Model, Rural Area, PUDs, etc., the definition of family is "six or more unrelated people." That definition basically permits boarding houses throughout the rural area - it permits more density in the rural area in single-family homes than is permitted in the R-1, R-2 and R-4 districts. His suggestion is to adopt a resolution of intent in order to bring this matter to the Planning Commission to see whether the definition should be made consistent throughout the County. At the time this definition was adopted, a number of the present day districts did not even exist. He thinks the definition of family should be consistent and it should be applied consistently. The County does not want to end up encouraging rural area subdivisions to be turned into student housing. If the other Board members are comfortable with moving this forward he

would move to approve the resolution of intent. He is not proposing that any particular definition be adopted, only that the Board "get the ball rolling."

Mr. Slutzky said he would be happy to entertain a motion.

Ms. Mallek said every college town she's ever lived in has had "four" as the definition, so she was surprised to read this.

Ms. Thomas said the Board has been told many times that the Planning staff "is stretched" just taking on the issues they have been given at this point. She asked Mr. Rooker if he had talked with them about where this might fit into their work plan.

Mr. Rooker said he thinks a simple change could be made by basically eliminating one sentence which would make the definition consistent throughout the County. It is not an issue that comes up a lot, but there are number of rural subdivisions throughout the County that could be picked off and turned into student housing if the Board allows this to continue.

Mr. Dorrier asked if this issue arose because of a problem.

Mr. Rooker said it was brought to his attention because of a particular problem in a particular area. He called Mr. Davis to talk about it, and Mr. Davis was surprised that the definition was more lenient in rural areas than in the more urban areas. He said this is a time when, due to the economy, when homes become vacant people might get an idea to turn them into student housing and that might not be good for any of the rural subdivisions. He then offered **motion** to adopt the following Resolution of Intent.

Ms. Mallek **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 resolution of intent, as adopted, is set out in full below.)

#### **RESOLUTION OF INTENT**

**WHEREAS**, the current definition of "family" in the Albemarle County Zoning Ordinance has two meanings depending on the zoning district to which it is applied, and these varied meanings allow a dwelling unit to be more intensely occupied within some zoning districts than in others; and

**WHEREAS**, the impacts resulting from a family's occupation of a dwelling unit are generally the same in all zoning districts; and

**WHEREAS**, it is desired to amend the Zoning Ordinance's definition of "family" to establish a single meaning applicable to all zoning districts.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Zoning Ordinance § 3.1 and any other sections of the Zoning Ordinance determined to be appropriate to achieve the purposes described herein; and

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

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Mr. Rooker said he had a couple of things to mention that came out of the MPO's last meeting. They get a report on CTS and JAUNT each meeting. The ridership of CTS in the current fiscal year is up 21 percent over the prior year, and in FY 2009 they had more than two million passenger boardings. There are significant increases on several JAUNT County routes.

Mr. Rooker said the MPO has been discussing how to go forward with the Regional Transit Authority. He said there was a joint meeting with City Council and all endorsed improving transit in the community and thought that one of the best ways to do that was to create a Regional Transit Authority. The lack of resources has made it difficult to move forward with this idea. The City and County tried to get legislation passed which would have improved local transportation funding - a significant portion of which would have been allocated to transit. Then there was a plan to retain a consultant at a cost of \$40,000 to finish up "a number of the loose ends" having to do with the steps necessary to create a regional transit authority.

Mr. Rooker said in light of the current funding circumstances, it was decided not to retain a consultant at this time and that the MPO, working with the director of the Planning District Commission, would work through the issues that need to be preliminarily decided before stepping into a regional transit authority. There are questions such as: how would a transit authority be staffed, what are the upfront costs of the staffing options, how would pension obligations for existing staff be handled, what

management and administration costs are currently covered in the City's budget through services provided to CTS by other City departments, how would the costs previously expended for capital facilities and fleet be treated, and, what is the existing indebtedness of CTS and how should that be treated. One issue is that the City has a capital investment in the CTS fleet - would they expect to be paid something by the County by way of equalization if they transferred that fleet to an RTA, and, would they agree to waive that. Those numbers need to be put on the table and everybody needs to understand what they are. Based on the answers to those questions, is the Board still comfortable moving forward with an RTA at this time. If not, there is no reason to spend additional time, effort and money now. Depending on the position the City takes, the County might have to come up with some money in order for the RTA to move forward. If anyone has additional thoughts about this, he would like to hear them.

Mr. Boyd said in looking at the dollars involved, there would be additional leveraging power as a consolidated unit. That was one of the ideas originally going into this – that might help with some of the capital investment for the City. He understands that most of those dollars come from Federal grants anyway.

Mr. Rooker said about 90 percent of capital is typically borne by State and Federal funds. By way of example, the CTS appears to be in place to receive, based on the recommendation of the Department of Rail and Public Transportation, \$2.351 million to purchase four, 30-foot hybrid buses. They are gradually converting their fleet to hybrid, which is a good thing for the environment. They also are finding that the hybrid busses seem to be cheaper to operate.

Ms. Thomas said she attended the Planning Commission's meeting last night, and the City gave a report in which they said they are planning to have that extra lane on the ramp going from Emmet Street up to the Route 250 Bypass completed by the year 2011. She asked if this is something the MPO has been aware of and been working on. She knows the ramp is a great idea and has been a number one priority, but she had no idea it would move ahead so fast.

Mr. Rooker responded that it has been a pet project of his. He talked to the Albemarle Place developers about moving proffer money that would have been spent on the north side to that side, so they are expecting that proffer money to come in the next year and a half. The City wants to use Revenue-Sharing money for part of that project. There is some money allocated in the Six-Year Plan for that, so there is a reasonable chance, unless something further happens that would financially impact the allocations for that project, the project could go forward. It is the single worst congested spot in the City and the County.

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

There were none.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Boyd, **seconded** by Ms. Thomas, to approve Items 7.1 (as read) through 7.13, to remove Item 7.5, and to accept the remaining items as information (Discussion of individual items is included with that agenda item.). 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: August 5, September 9, October 14 and October 16, 2009.

Mr. Dorrier had read the minutes of August 5, 2009, pages 1 – 35, and found them to be in order.

Ms. Mallek asked that her portion of the minutes of August 5, 2009, be pulled and moved to the next agenda.

Mr. Slutzky had read the minutes of September 9, 2009, and found them to be in order.

Ms. Thomas had read the minutes of October 14, 2009, and found them to be in order with the exception of some typographical errors.

Mr. Boyd had read the minutes of October 16, 2009, and found them to be in order.

**By the recorded vote set out above, the minutes which had been read were approved.**

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Item 7.2. Safe Routes to School Resolution of Support for Infrastructure Grant Application for Crozet Elementary School area.

The executive summary states that the Safe Routes to School (SRTS) Program is a federally funded program created under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The purpose of the SRTS program is to:

Enable and encourage children, including those with disabilities, to walk and bicycle to school; make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and, to facilitate the planning, development and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of schools.

The Virginia Department of Transportation (VDOT) is responsible for administering this program in Virginia. The Virginia SRTS Program is a phased program. Phase I begins with the local development of a SRTS School Travel Plan. A School Travel Plan is a written document that outlines a school community's intentions for making bicycling and walking to school sustainable and safe. The Alliance for Community Choice in Transportation (ACCT) is coordinating this phase for the County with assistance from staff. A School Travel Plan is being prepared for Crozet, Greer, Cale, Hollymead, Brownsville, Agnor-Hurt, Woodbrook, Stone Robinson and Baker-Butler elementary schools. The Travel Plan for Crozet Elementary School will be the first to be submitted (due to VDOT in early November). The School Travel Plan for the remainder of the schools will be submitted by the end of the year (December). Crozet's Plan is being submitted first since this school is furthest along in its efforts to actively support walk to school programs and educational efforts.

Phase II of the program is the infrastructure application step. Once a school and community has completed a School Travel Plan and received approval from VDOT, the plan can be used to apply for SRTS funding to implement identified strategies for improving walking and biking to school. Staff will be submitting an application for Crozet Elementary School (Crozet ES) for pedestrian safety improvements based on the School's Travel Plan.

The types of activities and projects that can be funded through this program include:

- Bicycle and pedestrian safety education
- Safe Routes to School workshops
- Activities such as a special "walk to school day" event
- Crossing guard training programs and equipment
- Evaluation of the impact of SRTS activities on student travel behavior
- Missing links in sidewalks
- Improved intersections and crossings
- Other bicycle/pedestrian facilities or safety improvements.

The proposed grant application focuses on the sidewalk, crosswalk and safety improvements noted in the School Travel Plan.

Staff is requesting that the Board of Supervisors support a resolution for infrastructure improvements at Crozet ES. Crozet ES was chosen as the first candidate for an infrastructure grant because the school has been active for many years in promoting walking to school, including efforts such as informal "walking school busses." Currently, walking school busses depart from the Crozet Baptist Church on walk to school days held on the third Friday of every month. Additionally, Crozet ES observes International Walk to School Day. International Walk to School Day events are accompanied by safety oriented promotions and literature, such as reflective backpack clips and stickers as well as safe pedestrian tips and handouts to be sent home with parents. The School's and parents' participation are vital to make these activities successful. These documented and ongoing initiatives reflect strong school (PTO, administration) and community support for walking to school and make this a strong application for this highly competitive grant.

The most important infrastructure improvements identified in the School Travel Plan are improving the visibility and safety of the crosswalk and upgrading and extending the existing sidewalk system along Crozet Avenue. The crosswalk in front of Crozet ES poses a serious danger to children as they walk to school because its location is not at an intersection and it is the first crosswalk that cars approach as they enter the town of Crozet from the north. Though the speed limit drops to 25 mph in front of the school and into the town, the speed limit is much higher along Crozet Avenue north of the school. The current crosswalk is only marked as a double line, does not have any specific warning beacons or signals, and is located at a signalized intersection.

The improvements requested for funding in this grant request are:

- Crosswalk improvements:
  - Repaint the crosswalk in a more visible zebra stripe pattern;
  - Install push-button operated warning lights to indicate when people are using the crosswalk (flashing lights either mounted on crosswalk signs or imbedded within the crosswalk.
  - Install additional crosswalk warning signs to indicate the north side of the school on White Hall Road where speed limit is higher to indicate to drivers that they are approaching a crosswalk.
- Construct a new sidewalk on the west side of Crozet Avenue from the southern intersection of Ballard Drive and Crozet Avenue to Crozet ES and connect to the existing sidewalk.
- Upgrade/rebuild the existing sidewalk on the west side of Crozet Avenue, from near Three Chopt'd Road to the Crozet ES/Old Crozet School site. The current sidewalk is very narrow, with an uneven, cracked or broken surface and lacks ramps at some intersections. The sidewalk does not meet ADA requirements.

The total cost for all proposed improvements, including the upgrade of the existing sidewalks and the extension of the sidewalk to the southernmost Ballard Drive intersection, is approximately \$500,000. The maximum grant award under this program is \$500,000. There is no match required from the participating locality or agency.

Staff anticipates applying for Safe Routes to School Infrastructure Grants over the next two years for improvements serving Greer, Cale and Hollymead elementary schools.

The County will be applying for a \$500,000 Safe Routes to School grant. No funding match is required as part of this grant program. This is a reimbursement grant and funding to cover project development prior to reimbursement will be covered from existing allocations in the CIP Sidewalk Program (Fund No. 9010- 41350). The improvements to the existing sidewalk from Three Notch'd Road to the Crozet ES site is already programmed in the County's CIP and funding has been accruing to this project. Preliminary design work has been undertaken by the Office of Facilities Development; however, limited funding remains available to construct the project.

Staff recommends that the Board of Supervisors adopt a resolution to apply for a Safe Routes to School Infrastructure Grant.

**(Discussion:** Mr. Boyd said that Items 7.2 and 7.10 both have to do with currently approved CIP projects. The Board had said it was going to revisit funds that had been appropriated, but have not been spent, because those funds "drop off the radar screen." He and Mr. Dorrier have been struggling with the CIP Oversight Committee this year to come up with something that fits within the funds available. He said the County is probably looking at taking another \$103.0+ million out of that budget. One thing they decided to do was to look at appropriated projects which have not been done yet; there are a number of such projects planned. These two items deal with some of those appropriated funds which have not been spent yet. One has to do with stormwater management that will be caused by the proposed Crozet Library building but that project is being put off indefinitely.

Ms. Mallek said the existing community of Crozet is the major reason for the project.

Mr. Boyd said he understands that, but it is also based on new development in the area. He is not necessarily opposed to the project, but just wonders if it and the acquisition of the land for it should be pulled until there is a discussion about the allocated, but unspent funds.

Ms. Thomas said the Safe Routes to School proposal doesn't require a local match.

Mr. Boyd said he did not understand the language of that report. He asked that it be explained because the report said the project is predicated on allocated dollars in the CIP. Mr. David Benish, Chief of Planning, said this is a reimbursement grant, so the County has to front end the cost.

Mr. Boyd asked if the money has already been spent. Mr. Benish said "no", some of the existing CIP moneys appropriated to other projects are being used to pay for this project first, and then the County will get full reimbursement. In essence, it is an addition of up to \$500,000 without any required match, but it requires the County to expend the money before it can draw down that amount. There is no net cost to the County, but it has to front end the construction work in order to get the \$500,000.

Mr. Slutzky said it is a \$500,000 gain to the County ultimately. Mr. Benish said that is true, and without needing matching funds.

Mr. Boyd said that is a different situation than acquisition of the property for stormwater management. He thinks the Board needs to look at that "pot of money" which is a large pot relative to the other projects being delayed or not being done. He asked Mr. Tucker when the CIP discussion will take place. Mr. Tucker responded that the Board will discuss the CIP briefly this afternoon. He said final adoption of the CIP does not occur until the Board approves the operating budget. During work sessions, there will be a review of the CIP itself.

Mr. Boyd said the CIP Technical Review Team (TRT) and the CIP Oversight Committee decided it was probably not in their purview to look at previously approved CIP projects, so they will come directly back to this Board to make a final list. Mr. Tucker said he does not think that delaying it would be a problem, but he would have to ask Mr. George Shadman.

Ms. Thomas said she has to speak up for the Rivanna River Basin Commission that has a grant of over \$100,000. It cannot just hang there – it has a time limit as to when it has to be spent.

Ms. Mallek said that about a month ago, purchase of the land and negotiations went forward based on the approval the Board gave in the recent timeframe as regards Item 7.10. Mr. Davis said the purchase contract provides that the County must close by December 15 or it will have to renegotiate to extend the contract.

Ms. Mallek said the landowners have made considerable concessions throughout the most recent negotiations for the stormwater management land.

Mr. Rooker said the Board often forgets about what was presented conceptually due to the time between the original presentations until the time all the pieces get in place. He said there was a thorough presentation as to how best to handle stormwater in the Crozet community. This Board concluded

unanimously that the best way to do it was with a centralized stormwater management facility both from a cost standpoint and from an environmental standpoint. Now, between the grant from the Rivanna River Basin Commission and the Gray Rock proffer that would be applied to this, the County basically has \$200,000. The money has been set aside to complete it for a number of reasons – the County intends to charge developers stormwater management contribution fees as properties are developed. It will save them money and also contribute toward the cost of this project. He thinks the Board would be ill-advised not to go forward with the project.

Mr. Boyd said he is not opposed to the project, and with that clarification he will agree with Mr. Rooker. Mr. Tucker said the timing is the issue. This was started at the end of FY '07. It has taken that length of time to move forward and get the properties lined up, go for some grant money, and now the economy is in a shambles. That is the problem, but there are deadlines which must be met.

Mr. Boyd said he has no problem with the project moving forward but would like to emphasize that the Board needs to discuss the CIP projects before getting into this situation again.

Mr. Rooker said he agrees. Everything should be “in the pot” in terms of making sure that moving forward and spending County money, given the amount of money available, makes sense.

Mr. Slutzky told Mr. Boyd he thinks he is “right on” with his intent. In the future staff should put anything that needs to move forward immediately on the Consent Agenda. If it can wait, it should wait until it goes through the CIP process. Mr. Tucker said staff would have done that, but because of the deadlines that must be met, staff felt this had to be on the agenda today.

Mr. Boyd said these are unusual times. Generally, when the Board commits to things they move forward. However, the CIP Oversight Committee is cutting back drastically on the projects which were either in the plan last year, or had been approved previously although the funds had not been allocated. Those projects should be weighed against other projects. Mr. Tom Foley, Assistant County Executive, said a full review of that is planned during budget work sessions. The Board will get a list of the balances that have not been spent on previously approved projects, if there are obligations against those funds, and whether there are grants or proffers to help fund those projects. )

**By the above-recorded vote, the Board adopted the following resolution to apply for a Safe Routes to School Infrastructure Grant:**

**RESOLUTION OF SUPPORT  
FOR THE SAFE ROUTES TO SCHOOL INFRASTRUCTURE GRANT APPLICATION**

**WHEREAS**, the County of Albemarle supports the goals of the Safe Routes To School to enable and encourage children, including those with disabilities, to walk and bicycle to school, to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age, and to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors supports the Safe Routes to School Infrastructure application for Crozet Elementary School in 2009; and

**BE IT FURTHER RESOLVED** that the Board of Supervisors acknowledges that this is a locally-administered reimbursement project; and

**BE IT FURTHER RESOLVED** that the County Executive is authorized to enter into a legal agreement with the Virginia Department of Transportation on behalf of the County of Albemarle once that agreement is approved as to form by the County Attorney's Office.

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Item No. 7.3. Adoption of Charlottesville-UVA-Albemarle Emergency Operations Plan.

The executive summary states that Albemarle County is vulnerable to a variety of hazards such as flash flooding, major river flooding, hurricanes, winter storms, tornadoes, hazardous materials incidents, resource shortages and terrorism. The Commonwealth of Virginia Emergency Services and Disaster Law of 2000 (Code of Virginia, §§ 44-146.13 et. seq.) requires that state and local governments develop and maintain a current Emergency Operations Plan (EOP) in order to be prepared for such events. In 2007, Virginia Code § 44-146.19 was amended to require each local and inter-jurisdictional agency to review and update its EOP every four years. The Virginia Department of Emergency Management (VDEM) requests that each locality's governing body formally adopt an updated EOP by resolution, and provide such resolution to the VDEM. The Charlottesville-UVA-Albemarle EOP was last adopted in 2002. The Albemarle County Director of Emergency Management is the County Executive. The day-to-day activities of the emergency preparedness program have been delegated to the Office of Emergency Management Coordinator.

The Charlottesville-UVA-Albemarle Emergency Operations Plan, dated November 2009, consists of four sections: a Basic Plan, Emergency Support Functions, Support Annexes and Incident Annexes:

- The Basic Plan establishes the legal and organizational basis for operations in Charlottesville and Albemarle County, including UVA, to effectively respond to and recover from all hazards, disasters and/or emergency situations. It assigns broad responsibilities to local government agencies and support organizations for disaster prevention, preparedness, response and recovery.
- The Emergency Support Functions provide for the planning, support, resources, program implementation and emergency services that are most likely to be needed during a disaster. They serve as the coordination mechanism to provide assistance.
- The Support Annexes describe the roles and responsibilities, when appropriate, of local departments and agencies, nongovernmental organizations and the private sector for those common activities that support the majority of incidents.
- The Incident Annexes address contingency or hazard situations requiring specialized application of the EOP.

The EOP has been reviewed by Tom Hanson and Marjorie Thomas and has been determined to be consistent with all requirements of the Commonwealth of Virginia Emergency Services and Disaster Law of 2000.

There is no direct budget impact. Staff recommends adoption of a Resolution, which adopts the updated Emergency Operations Plan.

**By the above-recorded vote, the Board adopted the following resolution which adopts the updated Emergency Operations Plan:**

**RESOLUTION TO APPROVE CHARLOTTESVILLE-UVA-ALBEMARLE  
EMERGENCY OPERATIONS PLAN**

**WHEREAS**, the Commonwealth of Virginia Emergency Services and Disaster Law of 2000 requires that local governments develop and maintain a current Emergency Operations Plan ("EOP"); and

**WHEREAS**, Virginia Code § 44-146.19(E), as amended effective July 1, 2007, requires that each EOP be reviewed and updated every four years; and

**WHEREAS**, the City of Charlottesville, the University of Virginia, and the County of Albemarle have jointly reviewed and updated their joint EOP; and

**WHEREAS**, the Charlottesville-UVA-Albemarle Emergency Operations Plan, attached hereto (on file in the Clerk's Office), is found to be current and consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby adopts the attached Charlottesville-UVA-Albemarle Emergency Operations Plan and certifies that it is current and consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000.

Item No. 7.4. Resolution - Acceptance of FY 2008-09 landowners' offers to sell conservation easements.

The executive summary states that on August 5, 2009, the Board approved the ACE Committee's recommendations to: 1) approve the appraisals of the top six ranked properties from the FY 2008-09 applicant pool; 2) approve the purchase of ACE easements on the top five ranked properties for Round 9, (McDaniel, E.N. Garnett, M. Hudson, Magerfield, and C. Hudson); and 3) authorize staff to invite these five applicants to make written offers to sell conservation easements to the County. All five applicants have submitted written offers to sell their respective easements to the County.

*Albemarle County Code* § A.1-111(D) requires each landowner who desires to sell a conservation easement to submit a written offer to the County to sell the easement for a fixed price, determined by an appraisal and subject to an adjustment based on adjusted gross income. The easement is also subject to the terms and conditions contained in a proposed deed of easement negotiated by the parties. *Albemarle County Code* § A.1-111(E) further requires that, if the Board accepts the offer, it must do so in writing and only after an action by the Board authorizing acceptance. The Board is not required to accept an offer to sell a conservation easement and nothing in the ACE ordinance obligates the Board to purchase a conservation easement on any property that meets the minimum number of qualifying points. Under *Albemarle County Code* § A.1-109(E), the Albemarle County Public Recreational Facilities Authority ("PRFA") or the Virginia Outdoors Foundation ("VOF") may be co-holders of the easements.

For the FY 2008-09 applicant pool, a total of \$1,627,685 is available for acquiring easements (\$1,577,785 in combined CIP and Tourism funds and another \$49,900 from an Office of Farmland Preservation grant). This amount will cover the acquisition of the top five ranked properties - McDaniel, E.N. Garnett, M. Hudson, Magerfield, and C. Hudson - at a combined cost of \$1,518,860).

Owner	Total Acreage	Easement Value	ACE Payment	Co-holder
McDaniel, James	177.259 acres	\$ 445,000	\$ 178,000 (40 percent)	PRFA
Garnett, E.N.	113.000 acres	\$ 113,000	\$ 106,220 (94 percent)	PRFA
Hudson, Michael	217.140 acres	\$ 600,000	\$ 564,000 (94 percent)	PRFA

Sarah Magerfield	108.860 acres	\$ 381,000	\$ 358,140 (94 percent)	PRFA
Charles P. Hudson	124.987 acres	\$ 312,500	\$ 312,500 (100 percent)	PRFA
<b>Total</b>	<b>741.246 acres</b>	<b>\$1,851,500</b>	<b>\$1,518,860 (82 percent)</b>	

Acquisition of the top five ranked properties in the FY 2008-09 applicant pool would eliminate 59 development rights (DRs) and provide protection to the following resources:

- 741 acres of farm and forestland
- 6,085 feet of state road frontage
- 5,454 feet of riparian stream including 2,154 feet along the James River
- 140 acres of "mountaintop protection"
- 15,533 feet of common boundary with other protected lands and Walnut Creek Park
- 416 acres of "prime" farm and forestland
- 3 of the 5 properties are working family farms
- All five properties have "tourism value".

In addition, a summary of all the conservation values protected by the ACE Program after nine rounds of applications (including this pool) is found in Attachment D (on file).

Staff is pursuing the possibility of acquiring an additional easement (the Thurman easement valued at \$245,000) using the remaining balance of \$108,825 (after acquisition of the five properties noted above) and a new grant commitment from the USDA Farm and Ranch Lands Protection Program. Since ACE funding without the USDA Grant award is insufficient to purchase an easement on Thurman, an invitation to make a written offer to sell could not be extended unless she was agreeable to accepting the terms of the grant. This grant was first offered to Mr. Michael Hudson, who determined that under his particular circumstances, the terms of the grant would not be acceptable. The other four applicants with higher ranking did not meet the particular grant criteria. Mrs. Thurman is now considering whether the terms of the grant are acceptable to her. If not, the grant can be used on a qualifying property from the FY 2009-10 applicant pool provided the easement acquisition is closed by March, 2011. No action is being requested from the Board at this time regarding the Thurman property. Should Mrs. Thurman accept the conditions of the grant, the Board would need to approve the purchase of an ACE easement on the property and, subsequent to that action, accept an offer to sell from the property owner.

The combined cost of the five proposed easements is \$1,518,860. Funding for the purchase of conservation easements comes from the CIP-Planning-Conservation budget (Line item No. 9010-81010-580409) and the CIP-Tourism-Conservation budget (Line item No. 9010-72030-580416). All five properties contain "tourism value" and, therefore, qualify for the use of Tourism Funds for the easement acquisitions.

During the first eight years of the ACE program, the County acquired easements on 32 properties and protected 6,483 acres. The County's net cost of purchase (including closing costs) was \$9,034,745 from the County's budgeted funds of \$8,973,243 for this period. However, an assortment of grants and donations more than covered the difference in value. If the County acquires easements on the top five properties from FY 2008-09, it will have acquired easements on 37 properties and protected 7,224 acres at a cost of approximately \$10,556,605.00. Though the County's budgeted funds of \$10,587,243 are slightly more than net acquisition costs for this period, grants and donations (\$1,376,198) and adjustments of easement value from the income grid (\$1,671,511) have given the County an additional \$3,047,709 of leverage, thereby enabling the ACE program to acquire far more property than it could have otherwise.

Staff recommends that the Board adopt a Resolution accepting the offers of the approved FY 2008-09 applicants (McDaniel, E.N. Garnett, M. Hudson, Magerfield, and C. Hudson) to sell conservation easements to the County, for the prices specified and subject to the terms and conditions contained in the deeds of easement, and also authorize the County Executive to sign the final deed of easement in a form acceptable to the County Attorney for each property.

**(Discussion:** Ms. Thomas said she had a question about the offers to sell conservation easements. If the ACE program is being "slashed and burned," should the County go forward with this? She does not want to mislead landowners into thinking there is money to make these purchases when there is not the money available. Mr. Tucker said there is money available to fund this round. Mr. Foley said this money is available in the balances in the CIP.

Mr. Rooker said the future is certainly dim at this time. Mr. Tucker agreed.)

**By the above-recorded vote, the Board adopted the following resolution accepting the offers of the approved FY 2008-09 applicants (McDaniel, E.N. Garnett, M. Hudson, Magerfield, and C. Hudson) to sell conservation easements to the County, for the prices specified and subject to the terms and conditions contained in the deeds of easement, and also authorized the County Executive to sign the final deed of easement in a form acceptable to the County Attorney for each property:**

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

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

<b>McDaniel, James</b> (Scottsville)	TM 135, Parcel 15A	( 0.902 acres)
	TM 135, Parcel 18	( 24.371 acres)
	TM 135, Parcel 19 "A"	( 87.481 acres)
	TM 135, Parcel 19 "B"	( 24.785 acres)
	TM 135, Parcel 22	( 39.720 acres)
	<u>Total</u>	(177.259 acres)
<b>Garnett, E.N.</b> (North Garden)	TM 73, Parcel 25	(113.000 acres)
<b>Hudson, Michael</b> (North Garden)	TM 100, Parcel 1	(217.140 acres)
<b>Sarah Magerfield</b> (North Garden)	TM 73, Parcel 42	( 38.000 acres)
	TM 73, Parcel 42A	( 70.860 acres)
	<u>Total</u>	(108.860 acres)
<b>Charles P. Hudson</b> (Walnut Creek)	TM 100, Parcel 20B	( 55.997 acres)
	TM 100, Parcel 21	( 68.990 acres)
	<u>Total</u>	( 124.987 acres)

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

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

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

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Item No. 7.5. Resolution - Urban Development Area (UDA) Certification for Albemarle County Comprehensive Plan with Section 15.2-2223 of the Virginia Code. **(This item was removed from the agenda.)**

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Item No. 7.6. Resolution to accept the addition and discontinuance of a portion of Route 20 (Scottsville Road), VDOT Project #0020-002-126,C501,B-608.

**At the request of the Virginia Department of Transportation, by the above-recorded vote, the Board adopted the following resolution:**

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

**WHEREAS**, the Virginia Department of Transportation has provided the Board of County Supervisors of Albemarle County, Virginia, with Form AM-4.3 dated December 2, 2009, depicting the additions, discontinuances and abandonments required in the secondary system of state highways; and

**WHEREAS**, the portions of Route 20 (Scottsville Road) identified to be discontinued is deemed to no longer serve public convenience warranting maintenance at public expense; and

**WHEREAS**, the new road serves the same citizens as those portions of old road identified to be abandoned and those segments no longer serve a public need;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors abandons as part of the secondary system of state highways those portions of Route 20 (Scottsville Road), identified as from the intersection of Route 627 (Carters Mountain Road) to .06 of a mile south, for a length of 0.06 miles, and Route 627 (Carters Mountain Road), identified as from the intersection of Route 20 (Scottsville Road) to .01 of a mile north, for a length of 0.01 miles, pursuant to Section 33.1-150, of the Code of Virginia; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors hereby requests the Virginia Department of Transportation to add to the secondary system of state highways those portions of Route 20 (Scottsville Road) identified as from the intersection of Route 627 (Carters Mountain Road) to .09 of a mile south, for a length of 0.09 miles, as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County, in Deed Book 2200, pages 463, and Deed Book 2205, pages 98 and 207, with a 35-foot variable right-of-way width, for a length of 0.09 miles, pursuant to Section 33.1-229, of the Code of Virginia; and

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

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Item No. 7.7. Resolution - Free State Road.

After a lengthy discussion of this matter at its meeting on November 4, 2009, **by the above-recorded vote, the Board adopted the following resolution:**

**RESOLUTION  
FREE STATE ROAD**

- Whereas,** the Free State Road bridge (Route 651) over the Norfolk Southern Railroad provides an important vehicular, pedestrian and bicycle connection/linkage of neighborhoods to community facilities, including the Fairview Swim and Tennis Club, future SOCA soccer field complex, various churches in the area, and other future office/service areas that serve the immediate neighborhoods; and
- Whereas,** the Free State Road bridge provides a connection for the developing and existing neighborhoods to Rio Road and Route 29; and
- Whereas,** the interconnection reduces demands and impacts on the capacity/level of service and safety of Rio Road, which in 2008 carried 27,000 vehicle trips per day; and
- Whereas,** maintaining this connection is consistent with goals and recommendations of both the County's Comprehensive Plan and the UnJAM 2035 Regional Transportation Plan for the Charlottesville region, both of which recommend establishing an interconnected land use pattern and road network and a multimodal transportation network.

**Now, Therefore, Be It Resolved** that the Albemarle County Board of Supervisors does hereby request that the Virginia Department of Transportation maintain this section of Free State Road, including the bridge over the Norfolk Southern Railroad, as a public road and part of the State Secondary System.

**Further Resolved** that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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Item No. 7.8. Resolutions of Intent to amend the Subdivision and Zoning Ordinances to allow for the subdivision of existing parcels with multiple dwellings on them.

The executive summary states that on November 4, 2009, the Board held a work session on vehicular access issues that arose out of an appeal to the Board of staff's disapproval of a family subdivision. The parcel was already developed with two houses, as allowed under current zoning regulations, and was served by an access easement that was shared with several other parcels. The access easement had never been approved as a private street and in order to be approved as a public street, it had to be included as part of the family subdivision for which the consent of all of the owners of the parcels over which the access easement crossed was required. In addition, the existing entrance of the access easement did not meet VDOT sight distance standards and the applicant did not control the land necessary to provide adequate sight distance to meet VDOT requirements; the landowner having control was unwilling to grant the sight distance easement. The applicant requested that the Board defer action on his appeal to allow staff to identify possible solutions that would permit approval of the subdivision. Several solutions were presented to the Board at the November 4, 2009, work session, and the Board directed staff to return to the Board with resolutions of intent to: (1) amend the Zoning Ordinance so that only one dwelling unit per lot is permitted unless the lot has public street frontage (Option 2 in the November 4, 2009, Executive Summary); and, (2) amend the Subdivision and Zoning Ordinances so that parcels having multiple dwellings as of a set date may be divided so that each dwelling unit is on a separate parcel without the need for private street or VDOT approval (Option 4 in the November 4, 2009, Executive Summary).

Proposed resolution of intent to amend the Zoning Ordinance (Option 2 and Option 4) - This resolution of intent would initiate a zoning text amendment to allow only one dwelling unit per lot unless the lot has public street frontage upon and after a date to be established in the ordinance (Option 2) and to grandfather existing parcels with multiple dwelling units on them so that those parcels may be subdivided without public street frontage, a private street approval, or VDOT approval of the entrance of the access easement onto a state road.

Proposed resolution of intent to amend the Subdivision Ordinance (Option 4) - This resolution of intent would also initiate a subdivision text amendment similar to the zoning text amendment regarding the grandfathering of existing parcels with multiple dwelling units on them, as explained in the paragraph above.

Staff does not anticipate that these text amendments will result in changes to funding or staff needed for review of subdivisions. Staff recommends that the Board adopt the Resolutions of Intent

to amend the Subdivision and Zoning Ordinances attached as Attachments A and B (on file), respectively.

**By the above-recorded vote, the Board adopted the following resolutions of intent to amend the Subdivision and Zoning Ordinances:**

**RESOLUTION OF INTENT**

**WHEREAS**, the Zoning Ordinance allows multiple dwellings to be established on a single parcel in various circumstances; and

**WHEREAS**, the owner of such a parcel may need or desire to subdivide the parcel in the future and one of the current requirements in order to subdivide such a parcel is that the existing travelway exist as or be improved to a public or private street standard and the proposed lots must have public street frontage, be served by an approved private street, and/or the owner must obtain VDOT approval of the entrance of the street or travelway onto an existing state road; and

**WHEREAS**, the ownership or easement interests in a travelway that would have to be approved as a public or private street under the Subdivision Ordinance, or to obtain VDOT approval of the entrance onto an existing state road, may be beyond the subdivider's control; and

**WHEREAS**, in order to reconcile the Zoning Ordinance allowing multiple dwellings on a single parcel and the possibility that an owner may not be able subdivide such a parcel, it is desired to allow the subdivision of existing parcels on which there are multiple dwellings without requiring the proposed lots to have public street frontage, a private street approval, or VDOT approval of the entrance of the access easement onto a state road.

**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 §§ 14-316, 14-400, 14-403, 14-404 and any other sections of the Subdivision Ordinance deemed appropriate to achieve the purposes described herein; and

**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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**RESOLUTION OF INTENT**

**WHEREAS**, the Zoning Ordinance allows multiple dwellings to be established on a single parcel in various circumstances; and

**WHEREAS**, the owner of such a parcel may need or desire to subdivide the parcel in the future and one of the current requirements in order to subdivide such a parcel is that the existing travelway exist as or be improved to a public or private street standard and the proposed lots must have public street frontage, be served by an approved private street, and/or the owner must obtain VDOT approval of the entrance of the street or travelway onto an existing state road; and

**WHEREAS**, the ownership or easement interests in a travelway that would have to be approved as a public or private street under the Subdivision Ordinance, or to obtain VDOT approval of the entrance onto an existing state road, may be beyond the subdivider's control; and

**WHEREAS**, in order to reconcile the Zoning Ordinance allowing multiple dwellings on a single parcel and the possibility that an owner may not be able subdivide such a parcel, it is desired to allow the subdivision of existing parcels on which there are multiple dwellings without requiring the proposed lots to have public street frontage, a private street approval, or VDOT approval of the entrance of the access easement onto a state road; and

**WHEREAS**, in order to eliminate the future possibility of an owner establishing multiple dwellings on a parcel without the ability to subdivide the parcel for the reasons stated hereinabove, it also is desired to amend the Zoning Ordinance to allow only one dwelling per parcel unless the parcel has public street frontage upon and after a date to be established in the ordinance.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare and good zoning practices, the Board of Supervisors hereby adopts a resolution of intent to amend Albemarle County Code §§ 18-4.6.1, 18-4.6.6, 18-10.2.1, 18-10.3 and any other sections of the Zoning Ordinance deemed to be appropriate to achieve the purposes described herein; and

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

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Item No. 7.9. FY 2010 Appropriations.

It was noted in the Executive Summary that Virginia Code § 15.2-2507 provides 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; provided, 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 the new requested FY 2010 appropriations, itemized below, is \$41,081.00. 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 three FY 2010 appropriations. No. 2010-050 totaling \$2,500.00 for the Go Green Virginia Grant; No. 2010-051 totaling \$5,900.00 for various education programs; and No. 2010-052 totaling \$32,681.00 for the FY2009 State Criminal Alien Assistance Program. A description of this request is provided in Attachment "A" below. Staff recommends approval of the budget amendment in the amount of \$41,081.00 and the approval of Appropriations No. 2010-050, No. 2010-051 and No. 2010-052.

ATTACHMENT A

Appropriation No. 2010-050, \$2,500.00. Revenue Source: Local Revenue, \$2,500.00. Albemarle County tied for first place with Arlington County in the 2009 VML Go Green Virginia contest. Moseley Architects, a sponsor of the contest, awards winning localities a cash prize to support their continued efforts in the areas of sustainability, energy efficiency and climate protection. Albemarle was awarded \$2,500.00 on October 20, 2009, at the VML Conference banquet. Ms. Sarah Temple and Ms. Ann Mallek accepted the award from VML. These funds will be used to support additional pollution prevention-related initiatives, such as energy conservation, education and outreach, training, etc. They will also be used to support the County's involvement in and support of the annual Eco-Fair (Earth Day), Local Climate Action Week, and other environmental sustainability events.

Appropriation No. 2010-051, \$5,900.00. Revenue Sources: Local Revenue \$5,900.00. Albemarle High School received a donation from an anonymous donor in the amount of \$3,000.00. The donor has requested that the contribution be used for any needs in the Life Changing Events: Immigration Class held at Albemarle High School.

Albemarle High School received donations totaling \$2,900.00 from various donors. The following are the donors along with their contributions: Nargis Cross donated \$300.00, Kim Cross donated \$300.00, Mr. and Mrs. Stephen Record donated \$1,000.00, CMS Inc. donated \$1,000.00, and Suzanne M. Dennis donated \$300.00. The donors have requested that their contributions be used toward the installation of a synthetic turf field at Albemarle High School. The current balance for the FY 09-10 AHS Synthetic Turf Project is \$8,446.75 including these donations. The balance from FY 08-09 was \$4,366.66 for a grand total of \$12,813.41. The high schools need to raise \$325,000.00 in order to receive matching funds from an anonymous donor. The amount necessary to begin construction is \$650,000.00. Therefore, Albemarle High School is required to raise \$312,186.59 more to garner matching funds.

Appropriation No. 2010-052, \$32,681.00. Revenue Source: Federal Revenue \$32,681.00. The State Criminal Alien Assistance Program (SCAAP) reimburses localities for compensation expenses incurred by correctional officers supervising aliens in local and regional jail facilities. Reimbursement is given to localities even though the expenses are incurred by the correctional facility.

**By the above-recorded vote, the Board approved the budget amendment in the amount of \$41,081.00 and approved Resolutions of Appropriation Nos. 2010-050, 2010-051 and 2010-052.**

COUNTY OF ALBEMARLE	APP #	<u>2010-050</u>
APPROPRIATION	DATE	<u>12/2/2009</u>

EXPLANATION: Go Green Virginia Grant

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER	
					CODE	AMOUNT	DEBIT	CREDIT
2	1000	18120	181280	Go Green Virginia Grant	J 2	2,500.00		
1	1000	43007	510130	Energy Star	J 1	2,500.00		
	1000		0501	Est. Revenue			2,500.00	
			0701	Appropriation				2,500.00
TOTAL						5,000.00	2,500.00	2,500.00

COUNTY OF ALBEMARLE  
 APPROPRIATION

APP # 2010-051  
 DATE 12/2/2009

EXPLANATION: Education – Board Meeting – October 22, 2009

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	2000	18100	181109	Donations	J 2	3,000.00			
1	2301	61101	601300	Ed/Rec Supplies	J 1	3,000.00			
	2000		0501	Est. Revenue			3,000.00		
			0701	Appropriation				3,000.00	
2	9001	18100	181107	AHS Donations-Turf Project	J 2	2,900.00			
1	9001	60301	950245	AHS Synthetic Turf Field	J 1	2,900.00			
	9001		0501	Est. Revenue			2,900.00		
			0701	Appropriation				2,900.00	
TOTAL							11,800.00	5,900.00	5,900.00

COUNTY OF ALBEMARLE  
 APPROPRIATION

APP # 2010-052  
 DATE 12/2/2009

EXPLANATION: FY09 State Criminal Alien Asst. Program

TYPE	FUND	DEPT	OBJECT	DESCRIPTION	SUB LEDGER		GENERAL LEDGER		
					CODE	AMOUNT	DEBIT	CREDIT	
2	1000	33000	330085	Federal Revenue - SCAAP	J 2	32,681.00			
1	1000	33020	700002	Regional Jail	J 1	32,681.00			
	1000		0501	Est. Revenue			32,681.00		
			0701	Appropriation				32,681.00	
TOTAL							65,362.00	32,681.00	32,681.00

Item No. 7.10. Resolution authorizing County Executive's execution of contract to purchase property necessary for construction of the Downtown Crozet Stormwater Management project.

The executive summary states that at its November 7, 2007, meeting, the Board directed staff to begin planning a regional stormwater management system to serve a portion of downtown Crozet. Later, at its July 1, 2009, meeting, the Board authorized staff to proceed with easement and property acquisition for the project. Staff estimated that the cost for land and easement acquisition would not exceed \$300,000.

Staff has negotiated a sales contract for the acquisition of a 5.51-acre parcel (TMP 05600-00-00-01100) in Crozet owned by the Moyer Family Trust, subject to the Board's approval, for a proposed price of \$287,200 and closing costs not to exceed \$5,400. The current County assessed value for the parcel is \$287,200.

A regional stormwater facility is planned to be located on this property:

- to protect sensitive downstream water resources and the community's water supply by addressing stormwater impacts from much of the downtown's existing built areas, and
- to facilitate denser downtown development envisioned by the Crozet Development Area Master Plan by providing a regional stormwater management system for future growth.

Without this project, future development within the proposed stormwater service area – including the proposed Jarmans Gap roadway improvements and Crozet library – would have to provide stormwater quantity control onsite, discouraging the intended density of downtown development

Funding for the project is available from the following sources: a grant from the Rivanna River Basin Commission (\$113,000), available Gray Rock proffer funds (\$74,880), and money already allocated to the Stormwater Control Improvement Fund (\$851,176). Future in-lieu-of fees and possible savings related to library stormwater management will offset a portion of the project cost.

Staff recommends that the Board adopt a Resolution to approve the proposed Sales Contract dated September 30, 2009, between the Moyer Family Trust and the County and to authorize the County Executive to execute the proposed Sales Contract, deed, and any other documents, as approved by the County Attorney, necessary to purchase and accept the property on behalf of the County.

**By the above-recorded vote, the Board adopted the following Resolution to approve the proposed Sales Contract dated September 30, 2009, between the Moyer Family Trust and the County, and authorized the County Executive to execute the proposed Sales Contract, deed, and any other documents, as approved by the County Attorney, necessary to purchase and accept the property on behalf of the County:**

**RESOLUTION TO AUTHORIZE  
ACQUISITION OF PROPERTY**

**WHEREAS**, the County of Albemarle desires to acquire certain property within the County in the community of Crozet for the purpose of providing stormwater management facilities and other public improvements; and

**WHEREAS**, an agreement for the acquisition of such property owned by Richard W. Moyer, Catharine F. Moyer Williams, and Edward Ross Moyer, Trustees under the Joanne L.G. Moyer Family Trust, identified as Parcel ID 05600-00-00-01100 in Crozet, has been negotiated.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute the Sales Contract dated September 30, 2009, between the County and Richard W. Moyer, Catharine F. Moyer Williams, and Edward Ross Moyer, Trustees under the Joanne L.G. Moyer Family Trust, for the purchase of approximately 5.51 acres of property, identified as Albemarle County Parcel ID 05600-00-00-01100, and authorizes the County Executive to execute the deed and all other documents approved by the County Attorney necessary to purchase and accept the property on behalf of the County upon a determination that all the contingencies in the Sales Contract have been satisfied.

THIS SALES CONTRACT, made this 30th day of September 2009, by and between RICHARD W. MOYER, CATHARINE F. MOYER WILLIAMS, AND EDWARD ROSS MOYER, TRUSTEES UNDER THE JOANNE L.G. MOYER FAMILY TRUST, hereinafter collectively referred to as Seller, whose address is to Catherine Williams, 226 West Valley Rd, Strafford, PA 19087, and the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia, whose address is 401 McIntire Road, Charlottesville, Virginia 22902, hereinafter referred to as Buyer,

WITNESSETH:

WHEREAS, the Seller hereby agrees to sell and the Buyer hereby agrees to buy the hereinafter described real estate upon the terms and conditions set forth;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereby agree as follows:

1. **PROPERTY:** The Seller agrees to sell and the Buyer agrees to buy the following described real estate, with improvements thereon and appurtenances thereunto pertaining (the "Property"), to-wit:

All that certain tract or parcel of land situated in Albemarle County, Virginia, containing 5.51 acres, more or less, shown as TMP 56-11 Residue Computation, on a plat by Gloeckner Engineering\Surveying Inc., dated September 18, 1997, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1671, pages 603 and 604.
2. **PURCHASE PRICE:** The purchase price for the Property is TWO-HUNDRED EIGHTY-SEVEN THOUSAND TWO-HUNDRED DOLLARS (\$287,200), which will be payable to the Seller at Settlement.
3. **SETTLEMENT DATE, POSSESSION DATE AND PRORATIONS:**
  - a. Delivery of the deed and payment of the purchase price and the possession of the property ("Settlement") will take place at the Albemarle County Attorney's Office within thirty (30) days after the expiration of the Inspection Period (as hereinafter defined), provided, however, that the Settlement shall take place no later than the 15<sup>th</sup> day of December, 2009, even if such date is less than thirty (30) days after the expiration of the Inspection Period, and subject always to the provisions of paragraph 5 herein. Possession, free and clear of all leases and licenses, shall be given at Settlement, unless otherwise agreed in writing by the parties.
  - b. Real estate taxes, and all other assessments against the real estate shall be prorated between the Seller and the Buyer as of the Settlement date, subject always to the provisions of paragraph 19 herein.
4. **INSPECTION PERIOD AND RIGHT OF ENTRY:**
  - a. For a period of seventy (70) days (the "Inspection Period") following final execution of this Contract, the Buyer and Buyer's designated agents and employees shall be allowed full access to the Property, upon reasonable notice to the Seller, for the purpose of making engineering, topographical, and such additional studies as may be deemed necessary or appropriate by the Buyer for its purchase or future development of the Property.
  - b. During the Inspection Period, the Buyer shall also have the right to examine the title to the Property and report such exceptions as it may find objectionable to Seller. The Seller agrees to use its reasonable efforts to address and remedy

- such reported exceptions. If the reported exceptions cannot be cured prior to the Settlement Date with reasonable efforts by the Seller, the Buyer may (a) proceed to Settlement, at no reduction in the Purchase Price, taking such title as the Seller may deliver, or (b) terminate this Contract without penalty, whereupon neither party shall have any further liability to any other party to this Contract.
- c. In the execution of the right of entry granted hereunder, the Buyer covenants that it shall not commit waste nor otherwise damage the Property. The Buyer further hereby waives any and all claims, liens, damages, losses and causes of action which may be asserted by the Buyer's employees, agents or any third party who enters upon the Property or conducts tests related to the Property at the request of or on the behalf of the Buyer or its agents.
  - d. In the event that the Property is not suitable to the Buyer in its sole discretion, the Buyer may terminate this Contract by written notice to the Seller prior to the expiration of the Inspection Period without penalty, whereupon neither party shall have any further liability to any other party to this Contract.
  - e. Provided that the Buyer does not terminate this Contract prior to the expiration of the Inspection Period, Seller warrants that it will not cause any material change(s) to be made to the Property prior to Settlement. In the event that any material condition of the Property changes prior to Settlement such that the Property is no longer suitable to the Buyer in its sole discretion, the Buyer may terminate this Contract without penalty upon written notice to the Seller.
  - f. Should the Buyer terminate this Contract prior to the expiration of the Inspection Period, the Buyer shall provide to the Seller the results of any and all tests, audits, or surveys accomplished on the Property, at no cost to the Seller.

5. CONTINGENCIES:

- a. This Contract is contingent upon the following:
  - i. The Albemarle County Board of Supervisors' approval of this Contract and appropriation of sufficient funds for the purchase of the subject Property pursuant to *Virginia Code* § 15.12-1803. In the event the Board of Supervisors fails to approve this Contract and/or to appropriate sufficient funds to purchase the Property, this Contract shall be deemed canceled, with no penalty or liability to Buyer, and of no effect.
  - ii. Any and all tenants of Seller, if any, having vacated the Property and having surrendered any claim to continuing possession.
  - iii. No material change to the condition of the Property occurs prior to Settlement that causes the Property to no longer be suitable to the Buyer.
- b. Buyer may terminate this Contract upon written notice to the Seller if any one or more of the above contingencies and/or conditions set forth herein are not fulfilled to Buyer's satisfaction, and this Contract shall be deemed null and void and of no thither force or effect, and the parties shall have no further rights or obligations hereunder.

6. TERMINATION OF LEASES: On or before the Settlement Date, Seller shall terminate any existing leases concerning the Property, and shall remove any tenant(s) or other persons engaged in any business or use pursuant to such leases or other agreements from the Property. Seller covenants that Buyer is not purchasing the Property subject to any leasehold interest and that Buyer shall have no obligation to honor the terms of any lease or other agreement between Seller and any third-party that may be occupying or using the Property pursuant to a lease.

7. TITLE:

- a. At Settlement, Seller shall convey to Buyer good and marketable fee simple title to the Property by Special Warranty Deed, free of all liens, defects, tenancies, encumbrances and encroachments, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not affect the use of the Property for Buyer's intended use or render the title unmarketable. If a defect is found which can be remedied by legal action within a reasonable time, Seller shall, at Seller's expense, promptly take such action as is necessary to cure the defect. If Seller, acting in good faith, is unable to have such defect corrected within thirty (30) days after notice of such defect is given to Seller, then this Contract may be terminated by either Seller or Buyer at the expiration of such thirty (30) day period. Buyer may extend the date for Settlement to the extent necessary for Seller to comply with this paragraph.
- b. Buyer agrees to pay up to a combined sum of \$5,400 of (a) the reasonable costs of preparing the deed, certificates of non-foreign status and state residency, and the applicable IRS form 1099, (b) the recordation tax applicable to grantors, and (c) Seller's reasonable attorney fee or Settlement Agent's fee. Such costs, tax, and/or fees shall be payable upon presentation of satisfactory documentation to Buyer at closing. Seller agrees to pay any such costs, tax, and/or fees in excess of a combined sum of \$5,400.
- c. Prior to Settlement, Seller shall provide an owner's affidavit with respect to the Property sufficient to enable Buyer to obtain title insurance on the Property.
- d. Except as otherwise agreed herein, all other expenses incurred by Buyer in connection with this purchase, including, without limitation, surveys, title

examination, insurance premiums, and recording costs, loan document preparation costs, shall be borne by Buyer.

8. WARRANTIES:

- a. Seller warrants that Seller is the fee simple owner of the Property and has all necessary authority to sell the Property. There are no other contracts for sale or options involving the Property, and no other party has any right, title or interest in the Property.
- b. Seller warrants that there are no eminent domain or condemnation proceedings pending against the Property, and Seller has no knowledge of such proceedings or of any intentions or plans definite or tentative that such proceedings might be instituted.
- c. Seller warrants that there are no actions or suits in law or equity or proceedings by any governmental agency now pending or, to the knowledge of Seller, threatened against Seller in connection with the Property. In addition, Seller warrants that there is no outstanding order, writ, injunction or decree of any court or governmental agency affecting the Property.
- d. Seller warrants that there has not been made and will not be made, without Buyer's consent, any proffers or other commitments to any state, county, federal or local governmental or quasi-governmental authority, Property Owners' Association, utility or service company, or any public or private organization or individual relating to the Property, which would impose any obligation on Buyer, or its assigns, after Settlement, to make any contributions of money or dedications of land, or to construct, install or maintain any improvements of a public or private nature on or off the Property.
- e. Seller warrants that:
  - i. During the Seller's ownership of the property none of the Property has been excavated, and it is not aware of any excavation of the Property prior to its ownership. Notwithstanding the foregoing, Buyer acknowledges that during the Buyer's preliminary review and inspection of the Property prior to the date of this Contract, Buyer's agents, with written permission from the Seller to access the property, conducted activities that resulted in several small trees being cut down and small holes being bored into the soil, neither of which activities shall be considered "excavation" for purposes of this Contract;
  - ii. No hazardous materials, toxic chemicals or similar substances, as defined by 42 U.S.C. § 1251 et seq., or 42 U.S.C. § 9601 et seq., or 42 U.S.C. § 6901, or 33 U.S.C. § 1317(1), or 15 U.S.C. § 2606(f) or 49 U.S.C. § 1801 et seq., or regulations adopted pursuant thereto, or any similar provision of any applicable state, federal or local law, are or were stored or used on or under or otherwise were or are in existence or were in any way dealt with on or under the Property; and,
  - iii. Seller has not received any notice from any governmental or private agency with regard to Hazardous Materials, and has no knowledge of such Materials. This paragraph shall survive Settlement and shall not merge with the Deed.
- f. Seller warrants that Seller knows of no materially adverse fact affecting or threatening to affect the Property which has not been disclosed to Buyer in writing.
- g. The representations and warranties of Seller set forth in this Contract shall be true and correct on and as of the Settlement Date as though such representations and warranties were made on and as of that date. Notwithstanding that certain of Seller's representations and warranties may be limited to the extent of actual knowledge by Seller and/or Seller's agents of the facts stated therein, it shall be a condition precedent to Buyer's obligation to proceed with settlement that the facts stated in all such representations and warranties shall be correct as of the time of the Settlement.

9. PROPERTY CONDITION AND RISK OF LOSS:

- a. Buyer accepts the Property in its present condition, with the exception of the following:

Prior to Settlement, Seller hereby agrees to remove from the Property any trash and/or debris, any oil drums, any underground storage tanks and any other hazardous substances, including but not limited to, contaminated soil, on the Property, after first disclosing to Buyer the location of such items and affording the Buyer an opportunity to inspect the site and test the soil in the area before removing the items.
- b. All risk of loss shall remain on the Seller until Settlement.

10. REAL ESTATE COMMISSION: The Seller and Buyer hereby acknowledge that no real estate agent was involved in this sale and each agrees to defend against any claim for a commission by reason of any action on their part.

11. ACCEPTANCE OF THE DEED: The acceptance of the Special Warranty Deed by Buyer shall be deemed to be the full performance and discharge of every agreement and

obligation of Seller herein contained and expressed, unless it is specifically stated to survive settlement and not to merge with the Deed.

12. DEFAULT: In the event Seller breaches this Contract or any covenant of Seller herein, or in the event Seller's warranties and representations made in this Contract are untrue or misleading, then, and in any such event, Buyer shall have the right to enforce this Contract by suit for specific performance of Seller's obligations hereunder.
13. MISCELLANEOUS: The parties to this Contract agree that it shall be binding upon them and their respective personal representatives, successors, heirs, and assigns; that unless amended in writing by Seller and Buyer, this Contract contains the final agreement between the parties hereto, and that they shall not be bound by any terms, conditions, oral statements, warranties or representations not herein contained; and that it shall be construed under the laws of the Commonwealth of Virginia.
14. SEVERABILITY: If any provision of this Contract shall be held invalid, the other provisions hereof shall not be effected thereby and shall remain in full force and effect.
15. FURTHER ACTIONS: Each party hereto shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to convey the Property to the Buyer and to vest in each party all rights, interest and benefits intended to be confirmed by this Contract.
16. RECORDATION OF CONTRACT: This contract may be recorded in the Office of the Clerk of the Circuit Court of Albemarle County, Virginia in order to protect Buyer from the claims of subsequent purchasers or other persons obtaining an interest in this real estate, or from the claims of judgment creditors, if any, of the Seller.
17. NO ASSIGNMENT: This Contract may not be assigned by either Seller or Buyer without the written consent of the other.
18. NOTICES: All notices or other communications hereunder shall be in writing and deemed given when delivered personally or when telefaxed, or on the day said communications is deposited in the U.S. mail, by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:  
  
If to Seller: Catharine Moyer Williams, Trustee  
226 West Valley Road  
Strafford, PA 19087  
9/30/2009 1:49 PM 5  
With a copy to (which alone shall not constitute notice hereunder):  
Valerie W. Long, Esq.  
Williams Mullen  
321 East Main Street, Suite 400  
Charlottesville, VA 22902  
Fax: 434-817-0977  
  
If to Buyer: County of Albemarle, VA  
Attn: Andrew Herrick, Esq.  
County Attorney's Office  
401 McIntire Road  
Charlottesville, VA 22902  
Fax: 434-972-4068
19. LAND USE: The Property is taxed under land use assessment. Each party shall be liable for any rollback taxes resulting from any change in use to a nonqualifying use that occurred during its respective ownership of the Property. In the event that the Seller changes or has changed the use of the Property to a nonqualifying use during its ownership, the Seller shall pay any resulting "rollback taxes." The Buyer shall be responsible for any "rollback taxes" resulting from any change in use to a nonqualifying use that follows Settlement. This paragraph shall survive Settlement and shall not merge with the Deed.
20. AUTHORITY OF SIGNATORIES: Each party to this Contract warrants to the other that the respective signatories have the full right and authority to enter into and consummate this Contract and all related documents. Seller shall deliver to Buyer such resolutions, certificates of authority and certificates of good standing as the Buyer may reasonably request.
21. EXECUTION IN COUNTERPARTS: This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and together which shall constitute one and the same instrument.
22. ACCEPTANCE: This Contract when signed by Buyer shall be deemed an offer and shall remain in effect, unless withdrawn, until the 20th day of November, 2009, at 5:00 p.m. If

not accepted within that time by Seller by a delivery of a signed copy of this Contract to Buyer or Buyer's designated representative, this Contract shall become null and void.

Item No. 7.11. Resolution to accept road(s) in Bending Branch Subdivision into the Secondary System of State Highways.

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

RESOLUTION

WHEREAS, the street(s) in **Bending Branch Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Bending Branch**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\* \* \*

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

- 1) **Bending Branch (State Route 1357)** from the intersection of Route 1350 (Still Meadows Road) to cul-de-sac, as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 3327, page 386, with a 50-foot right-of-way width, for a length of 0.16 miles.

Total Mileage – 0.16

Item No. 7.12. Resolution to accept road(s) in Wayland's Grant Subdivision into the Secondary System of State Highways.

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

RESOLUTION

WHEREAS, the street(s) in **Wayland's Grant Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Wayland's Grant**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\* \* \*

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

- 1) **Wayland's Grant Drive (State Route 1393)** from the intersection of Route 691 (Jarmans Gap Road) to the intersection of Route 1394 (Freedom Boulevard), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 60-foot right-of-way width, for a length of 0.05 miles.
- 2) **Freedom Boulevard (State Route 1394)** from the intersection of Route 1393 (Wayland's Grant Drive) to the intersection of Route 1394 (Edmond Drive), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 44-foot right-of-way width, for a length of 0.05 miles.
- 3) **Freedom Boulevard (State Route 1394)** from the intersection of Route 1393 (Wayland's Grant Drive) to the intersection of Route 1394 (Clay Drive), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 44-foot right-of-way width, for a length of 0.05 miles.
- 4) **Clay Drive (State Route 1394)** from the intersection of Route 1394 (Freedom Boulevard) to the intersection of Route 1383 (Laura Lane), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.04 miles.
- 5) **Clay Drive (State Route 1394)** from the intersection of Route 1383 (Laura Lane), to the intersection of Route 1394 (Edmond Drive), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.14 miles.
- 6) **Edmond Drive (State Route 1394)** from the intersection of Route 1394 (Clay Drive) to the intersection of Route 1383 (Laura Lane), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.06 miles.
- 7) **Edmond Drive (State Route 1394)** from the intersection of Route 1383 (Laura Lane), to the intersection of Route 1394 (Freedom Boulevard), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.04 miles.
- 8) **Laura Lane (State Route 1383)** from the intersection of Route 1394 (Edmond Drive) to the intersection of Route 1394 (Clay Drive), as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 40-foot right-of-way width, for a length of 0.09 miles.
- 9) **Laura Lane (State Route 1383)** from the intersection of Route 1394 (Edmond Drive) to the existing end of State maintenance as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 1877, page 673, with a 50-foot right-of-way width, for a length of 0.02 miles.

Total Mileage – 0.54

Item No. 7.13. Resolution to accept road(s) in Red Hill Meadows Subdivision into the Secondary System of State Highways.

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

R E S O L U T I O N

WHEREAS, the street(s) in **Red Hill Meadows Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Red Hill Meadows**, as described on the attached Additions Form AM-4.3 dated **December 2, 2009**, to the

secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

\* \* \*

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

- 1) **Via Creek Drive (State Route 1047)** from the intersection of Route 708 (Red Hill Road) to cul-de-sac, as shown on plat recorded in the office of the Clerk of the Circuit Court of Albemarle County in Deed Book 2249, pages 388-395, with a 50-foot right-of-way width, for a length of 0.17 miles.

Total Mileage – 0.17

Item No. 7.14. FY 2010 First Quarter Financial Report.

The executive summary states that this Financial Report provides information on the County's General Fund operations and the Fund Balance as of September 30, 2009. The financial report includes a bar chart that compares current fiscal year revenue and expenditure data with data from the previous fiscal year.

(\$ in Millions)

A. Attachment A: General Fund Financial Report:

a. Revenues:

Revenues, excluding Transfers and Fund Balance Appropriations, are estimated to total \$211.333 million; \$5.731 million (2.6 percent) less than revised appropriations (hereinafter "Budget"). Combined with the use of \$2.541 million in transfers from other funds and \$0.146 million in fund balance; Revenues, Transfers, and Use of Fund Balance will total \$214.020 million; \$5.802 million (2.7 percent) less than Budget.

Most national indicators suggest the recession is nearing an end, with some analysts suggesting the economy may have already hit bottom. However, once the recession ends, the recovery is expected to be very slow by historical standards, particularly in the labor market. Nationally, the October unemployment rate jumped to 10.2 percent, the highest since 1983. In Virginia, the unemployment rate for September was 6.6 percent. The bottom is near for output, not employment. Leading indicators, consumer confidence, and manufacturing benchmarks demonstrate improvement. Inflation and the federal funds target rate remain very low.

Following is a brief revenue analysis for FY 2010:

- Real Estate Tax revenues, without one-time estimated revalidation collections, are projected to be \$1.428 million (1.3 %) less than appropriations. The Budget was prepared based on an estimated negative reassessment rate of 2.0 percent. The 2010 reassessment rate is now estimated to be a negative 3.75 percent.
- Personal Property Tax revenues are estimated to be \$1.397 million (6.6 %) less than Budget. The decrease is due to a decline in values and consumer spending. The impact of the Cash for Clunkers program is thought to be minimal, merely accelerating the timing of purchases that would have happened naturally. NADA has indicated that January, 2010 values should approximate January, 2009 values. Business equipment spending appears to be starting a slow process of recovery.
- Delinquent Property Taxes & Fees are estimated to exceed Budget by \$0.138 million (6.3 %). Delinquent fees implemented in FY '08 and FY '09 have improved delinquent tax collections.
- Sales Tax revenues are estimated to be \$1.0 million (8.0 %) less than Budget. Taxpayers continue to minimize discretionary spending due to economic uncertainty. However, economic sources believe that discretionary spending will increase in 2010. It should be pointed out that increased business development in surrounding localities has shifted taxable sales from Albemarle to these other localities.
- Business License and BPOL, revenues are estimated to be \$0.591 million (5.9 %) less than Budget. BPOL revenues are dependent upon economic activity.

- Utility Tax revenues are estimated to be \$0.828 million (8.8 %) less than Budget. The decrease is primarily due to decreased industrial and commercial activity combined with moderate weather.
- Food and Beverage Tax revenues are estimated to be \$0.350 million (6.1 %) less than Budget. Consumers are continuing to eat more at home and visiting restaurants less frequently while minimizing discretionary spending.
- Other Local Tax revenues are estimated to be \$0.739 million (7.2 %) less than Budget. Public service tax, vehicle license fees, transient occupancy fees, and recordation fees continue at a pace less than Budget due to current economic conditions.
- Other Local Revenues are estimated to exceed Budget by \$0.664 million (15.9 %). The surplus is primarily due to increased development fees, agency leases, and other Clerk fees, offset by reduced interest earnings.
- State Revenues are estimated to be \$0.390 million (1.7 %) less than Budget. The Governor's reduction actions exceeded estimates anticipated during the Budget preparation process.
- Federal Revenues are estimated to exceed Budget by \$0.191 million (4.6 %) due to greater than anticipated public assistance reimbursements.
- Categories with variances of less than \$0.100 million have not been analyzed for this report.

b. Expenditures:

The Office of Management and Budget estimates that total fiscal year expenditures, including transfers, will be \$214.020 million; a \$5.802 million (2.7 %) savings from Budget. The savings include frozen positions, operational savings, and reduced transfers, including schools and capital.

- i. Departmental expenditures are expected to total \$80.724 million; a 1.1 percent savings of \$0.886 million from Budget:
  - Administration expenditures are expected to total \$10.610 million; a savings of \$0.213 million.
  - Judicial expenditures are expected to total \$3.800 million; a savings of \$0.019 million.
  - Public Safety expenditures are expected to total \$28.882 million; a savings of \$0.231 million.
  - Public Works expenditures are expected to total \$4.823 million, a savings of \$0.048 million.
  - Human Services expenditures are expected to total \$19.163 million; a \$0.079 million increase.
  - Parks, Recreation & Culture expenditures are expected to \$6.402 million; a savings of \$0.001 million.
  - Community Development expenditures are expected to total \$7.044 million; a savings of \$0.453 million.
- ii. Non-Department expenditures consisting of the Revenue-Sharing Payment, reserves, and refunds are expected to total \$18.365 million; a \$0.010 million, 0.1 percent increase from Budget.
- iii. Transfers are expected to total \$114.931 million; a 4.1 percent savings of \$4.927 million from Budget:
  - Transfers to the School Division are expected to total \$96.732 million, a 3.4 percent savings of \$3.418 million.
  - Transfers to the Capital and Debt Funds are expected to total \$18.199 million; a savings of \$1.509 million.

c. Revenues less Expenditures:

This report indicates expenditures will match revenues for the fiscal year.

B. Attachment B: General Fund Budget Comparison Report:

The chart report tracks changes in revenues and expenditures over time.

Revenues:

- Other Local Taxes, Other Local Revenues, and Transfers from Other Funds show positive growth over FY '09.
- Real Estate Tax, Personal Property Tax, Sales Tax, Business Licenses, Utility Taxes, State Revenues, and Use of Fund Balance show decreases from FY '09.
- Food and Beverage Tax and Federal Revenues are approximately equal to FY '09.

Expenditures:

- Administration, Judicial, Public Safety, Public Works, Human Services, Parks & Culture, Non-Departmental, and Education show anticipated increases over FY '09.
- Community Development and Non-School Transfers show anticipated decreases from FY '09.

C. Attachment C: Fund Balance Report:

The report indicates that the County:

- Had a Preliminary Audited FY '09 Fund Balance of \$19.854 million as of June 30, 2009,
- Appropriated \$0.146 million for Budgeted FY '10 Initiatives,
- Resulting in a remaining June 30, 2009, Fund Balance of \$19.707 million,
- Subsequently reappropriated \$0.968 million for uncompleted FY '09 projects, and
- Has Preliminary Projected Unobligated Funds of \$18.739 million as of December 2, 2009.

D. Budget Impact:

This Financial Report is based on preliminary (pre-audited) operations for FY '09 and three months of financial data for FY '10. The financial information contained in the second quarter FY '10 Financial Report to be presented to the Board in February, 2010 will include final audited figures for FY '09 plus six months of FY '10 financial data. Staff will utilize these figures as the basis for the FY '11 Budget.

**This report was received as information. No action was required.**

Item No. 7.15. Department of Social Services, Quarterly Report.

The executive summary states that in the Fall of 2008, the Board requested that the Department of Social Services (ACDSS) provide a periodic summary of workload indicators due to the continuing economic conditions and the resulting impact on the Department's programs. The Board specifically requested caseload information for Benefits programs as well as a multi-year trend of caseload growth and the impact of overtime resulting from this growth. ACDSS presented its first report to the Board on April 1, 2009. The data presented in this report are for the quarter ending September 30, 2009.

The following graphical information is provided (all attachments are on file):

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

The number of applications and active (open) cases in the Benefits programs continues to rise. Additionally, the number of ongoing Child Protective Services cases continues to grow. Employee workloads remain above state standards.

ACDSS has witnessed the following changes in workload from September, 2008 to September, 2009:

- Food Stamp Applications: increase of 41 percent
- Medicaid Applications: increase of 34 percent
- Food Stamp Active Cases: increase of 41 percent
- TANF Active Cases: increase of 36 percent
- Medicaid Active Clients: increase 14 percent
- On-going CPS Cases: increase of 6 percent
- Adult Services: decrease of 10 percent.

Since the last report to the Board in August, 2009 the following changes in workload have occurred from the close of FY '09 to the close of FY 2010 Quarter 1:

- Food Stamp Applications: increase of 18 percent
- TANF Applications: increase of 18 percent
- Medicaid Applications: increase of 46 percent
- Food Stamp Active Cases: increase of 10 percent
- TANF Active Cases: increase of 10 percent
- Medicaid Active Clients: increase of 4 percent
- Adult Services: increase of 1 percent.

**This report was presented as information. No action was necessary.**

(**Discussion:** Ms. Thomas said based on this report of their workload, it appears to be more and more impossible. What steps are being taken to try to meet the overload? Mr. Tucker responded that there will be a recommendation forthcoming next Wednesday concerning some additional staffing. There is some funding from the Federal Government for that.

Mr. Boyd asked about funding for the Food Stamp Program. Since the locality just administers that program for the Federal Government, do they fund it adequately? Mr. Tucker said that from the staffing standpoint, there is 50 percent funding from the Federal Government.

Mr. Slutzky reminded Board members that when it decided to flat line the Social Services budget, it discussed the probability of a dramatic uptick in demand for social services in the community and by flat lining that budget, there would not be enough money to fund staff to perform these functions. A decision was made to do that, and this is merely the consequences coming home "to roost." This shouldn't be a surprise to anyone because it was known this was going to happen. Mr. Tucker said some employees have been moved to more critical areas in the County; the recommendations next week will address that in terms of additional staffing for Social Services. The idea is to move people within County government to serve that need and obtain a net savings.

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Item No. 7.16. Copy of 2009 Third Quarter Certificate of Occupancy Report as prepared by the County of Albemarle Community Development Department, **was received for information.**

The report states that during the third quarter of 2009, 104 certificates of occupancy were issued for 198 dwelling units. There were three certificates of occupancy issued for mobile homes in existing parks, at an exchange rate of \$2,500 for a total of \$7,500. There were no certificates of occupancy issued for the conversion of an apartment to a condominium.

**(Discussion:** Ms. Thomas said the Board's goal has been to have 80 percent of dwelling units in the Development Areas. The Certificate of Occupancy report shows that the County has hit 85 percent. It is a quirky year, and it cannot be said that it has succeeded totally, but for one brief moment, it has.

Mr. Slutzky said as an extension of that observation, volume numbers in the Water Supply Plan were predicated on an assumption that 69 percent of future growth activity will take place in the growth areas. If this is indicative of the success of the Board's strategic efforts to channel more development into the growth areas, then the demand on the water supply system has been underestimated. He said people in the growth area are on the water supply system, and people in the rural area are drinking well water. He is just pointing out the obvious.

Ms. Thomas said that might be used in discussions with the City since some people in the City are convinced the whole water supply plan is being caused by growth in the County, and the City's failure to keep up their infrastructure has no part in the fact that it is 60 percent of the costs of the Water Supply Plan. She said the Board can reassure them that it is doing its part to fill up the waterlines and the ratepayers.)

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Item No. 7.17. Copy of 2009 Third Quarter Building Report as prepared by the County of Albemarle Community Development Department, **was received for information.**

The report states that during the third quarter of 2009, 79 building permits were issued for 80 dwelling units. There were three permits issued for mobile homes in existing parks, at an exchange rate of \$2,500 for a total of \$7,500. There were no permits issued for the conversion of an apartment to a condominium.

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Item No. 7.18. Copy of letter dated November 17, 2009, to Mr. Robert W. Tucker, Jr., County Executive, from Mr. John J. Davies, III, Commonwealth Transportation Board, re: Route 691 Widen and Improvement Alignment – Secondary Funds, Albemarle County, **was received for information as follows:**

"On Monday I had a work session with Jim Utterback reviewing the funds being cut from the Secondary and Urban Road projects in the Culpeper District. Presently the recommendation is to cut \$6,960,676.00 from the Route 691, Widen and Improvement Alignment - Secondary Funds in Albemarle County.

I disagree with this decision, but I was told that funds had to be cut from the Culpeper budget to balance the Six-Year Plan. Approximately \$18.0 million has been cut from the jurisdictions in the Culpeper District.

"Enclosed is a copy (on file in the Clerk's office) of the proposed cuts which will be considered at the Six-Year Plan hearing on December 1st.

"I urge you to consider the impact this project's reduction will have on the County's plans."

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Item No. 7.19. Access Albemarle Status Report, **was received for information.**

The executive summary states that Albemarle County entered into a multi-year partnership with Microsoft Corporation several years ago to develop an integrated Local Government/School business management system to improve many of the County's key business systems. These improvements were designed to help the County meet its strategic objective of efficiency and effectiveness in County

government operations. The partnership with Microsoft was developed to capitalize on the County's current use of Microsoft products and the County's existing enterprise agreement with Microsoft. The project's initial phases involved extensive analysis of existing business processes across Local Government and School Division departments, requiring significant research and assessment of numerous functions related to the County's financial and human resources activities.

When completed, *Access Albemarle* will provide the County with an integrated public sector solution that combines and streamlines operations that are currently provided through five distinct mainframe systems that are not integrated. This integrated system will allow the County's existing business functions, which include financial management, purchasing, human resources, payroll, budgeting, and tax collection, to work together and will allow County leadership to better identify and track County financial and human resource operations.

The County first started working toward this integrated application in 2006, knowing that although the end result would be beneficial, it would be a long and complex process to analyze and integrate numerous functions related to financial and human resources activities. It has proven to be challenging and has encountered some setbacks while working with Microsoft and several other vendors to develop this integrated business management system. In spite of these setbacks, staff has continued in this effort to protect the County's previous investment in the development of the system and has successfully negotiated a no additional cost agreement\* with Microsoft to move the project forward.

Thanks to the hard work and persistence of staff and the recent partnership with the new implementer, Anderson Tackman Company (ATCO), outstanding issues with the prior versions of the software product have been resolved, system requirements have been finalized and approved, and the first full phase of the project (Phase 1) was launched at the end of November. This phase included General Ledger/Financial Management System, Procurement and Accounts Payable Management, Grant Management and Miscellaneous Billings and Receivables Management and the integration of the Financial Management System (FMS) with Enterprise Reporting. The components of this first full phase are scheduled to be operational by July 1, 2010. An initial phase of the project to address urgent needs for auditing and budgeting purposes was completed over the past year while requirements for Phase 1 were being completed. As a result, the Fixed Assets, Budgeting and Reporting components of the new system have already been successfully implemented and are currently in use. Integration of these initial components will be an important task of Phase 1.

**System Benefits:** There were a number of critical organizational benefits that motivated the County to undertake this significant effort several years ago. These benefits are especially important now in providing opportunities for increased efficiencies and streamlined processes across the organization:

- Improves access to data - provides decision-makers with real time information and increases the County's ability to make data driven decisions
- Standardizes business operations in a server based environment - improving operational flexibility
- Provides integrated business systems and processes:
  - reducing paper flow
  - eliminating duplicate data entry
  - removing/reducing redundant systems and process steps
  - reducing time to process reports
- Improves data transparency and clarity of County operations
- Results in a more modern and user friendly system interface
- Supports the County's efforts in performance management
- Will create more customer focused government operations.

**How the Project Scope has evolved:** The project scope has evolved over time as County staff has worked with Microsoft and other vendors to focus specifically on meeting the County's core business needs and developing a reasonable and supportable approach to implementing the various phases of the system. The following are key adjustments that allowed *Access Albemarle* project to successfully launch its first full phase in November:

*Original Project in 2006*

- Software development effort - new product with considerable effort to develop
- Large, complex, all or nothing effort designed to be implemented all at one time
- Run by consultants from various companies with varying degrees of Local Government experience
- *Focused on development*

*Revised Project as of November, 2009*

- Utilizes maturing set of existing Microsoft products which are the core of the system
- Focused on meeting the County's basic business needs first, with the potential for future enhancements
- Phased approach to implementation
- Standardization - Part of larger potential Virginia local government client base
- Run by experienced government consultants
- Stronger County project management focus - measured approach with phases, milestones and strict adherence to budgeted hours
- *Focused on implementation.*

**Project Milestones:**

**Initial Phase:** Fixed Assets, Budgeting, Reporting - complete

**Phase 1:** Financial Management System, Procurement – scheduled to be operational by July 1, 2010

**Phase 2:** Human Resources and Payroll – planned to be operational by January 1, 2011

**Phase 3:** Revenue & Tax Collections – planned to be operational by July 1, 2011.

The County has expended approximately \$4.0 million to date for all software, hardware, consulting services, and process improvements enabled by the project. The County will incur no additional project costs\* within the current scope as described above.

\*County will only incur an additional \$88,000 cost to account for non-Microsoft software needed for implementation.

**(Discussion:** Mr. Boyd said he represents the Board on the Access Albemarle committee. He noticed that there is no timetable for implementation of the School System's program. Mr. Tucker said everything will be handled with both Local Government and the Schools except for the budget module and the Schools will be on by next year. Mr. Foley indicated that their part of the first phase is not broken out as clearly, but because School budgeting is so complicated, for the next budgeting process they will be on the new budgeting system.

Mr. Boyd asked if for the rest of the phases, the Schools portion will be implemented at the same time as that of Local Government. Mr. Foley said "yes." It is joint implementation. The rest of the financial system is for both; there are some unique design features that must be worked out due to some of the Schools' reporting requirements. The budgeting piece was more complicated – there are about 800 hours budgeted to work through the Schools budgeting piece so they have the information to report to the State.

Mr. Slutzky said the Board was given this information the last time there was a report made about the Access Albemarle program.)

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**NonAgenda.** Mr. Rooker asked if a letter to the CTB regarding the State's Revenue-Sharing Program has been mailed. Mr. David Benish said the due date for written comments is December 11. The letter is presently being drafted.

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Agenda Item No. 8. **Public Hearing:** An Ordinance Approving U.S. Route 29 and Hydraulic Road Official Map. Ordinance approving an official map under Virginia Code § 15.2-2233 et seq., depicting the respective locations, centerlines, existing right-of-way widths, and future right-of-way widths of the legally established segment of U.S. Route 29 abutting County Tax Map and Parcel Numbers 61W-3-19B, 61W-3-24 and 61W-3-25, and the legally established segment of Hydraulic Road abutting County Tax Map and Parcel Numbers 61W-3-23, 61W-3-24 and 61W-3-25. (*Advertised in the Daily Progress on November 16 and November 23, 2009.*)

Mr. David Benish said adoption of the official map (Attachments "A" and "B" to the Executive Summary) is needed to meet a requirement of one of the proffers approved with the Albemarle Place rezoning. That proffer requires that the owners of Albemarle Place reserve and ultimately dedicate the additional land needed for the Route 29 and Hydraulic Road improvements, including a possible grade-separated interchange. He said the proffer specifically calls for the property owner to reserve the right-of-way until an official map or transportation improvement plan is adopted for that area. The purpose of an official map is to show the location of any future proposed public street, alley or walkway either by providing for a centerline design, or metes and bounds for the right-of-way. He said the official map in the Board's packet provides for the metes and bounds of the area needed along the frontage of Albemarle Place for existing improvements, generally in the area of the 7-11 Store. Those metes and bounds are based on the most intensive potential design which was an interchange. He said a conceptual interchange plan was submitted and reviewed by County staff, City staff and VDOT.

Mr. Benish said the interchange design that was used for the basis of the right-of-way plan has not been reviewed or approved for construction or action at this time, and this process is not a step to approve an interchange. The interchange is used as a barometer for the most intensive impact in that area to insure the County gets sufficient right-of-way for the most intensive development. Any interchange design or any intersection improvements will be subject to their own separate location design and public hearing. He said staff recommends approval of the official maps and the ordinance.

Mr. Boyd asked what impact this will have on the condemnation processes underway now. Is this a step toward enabling VDOT to condemn property in the area of the 7-11? Mr. Davis said that property issue has been resolved and he understands there are no contemplated condemnation actions at this point.

Mr. Boyd said he thinks there may be such a possibility at the Comdial property. Mr. Davis said he thinks that is also close to being resolved.

Mr. Rooker said this map does not deal with the right-hand turn lane issue (that lane goes all the way from the Waffle House to Hydraulic Road) because that is already in the County's Comprehensive

Plan. He said the Board has already approved VDOT moving forward with condemnation should that become necessary with respect to any of the strips – they are all small strips of property – many are only two or three feet by the sidewalk in most cases. He thinks the total cost of that is about \$3.0 million which will be paid for entirely by the developer. It is a chance for the Board to get something that is in the Comprehensive Plan built at private expense. This is not a case of condemning property to go to a private developer because this property will be owned by VDOT for expansion of a U.S. highway. The Board is in a position where it can get a developer to pay for it and it would be fool-hearty not to get that done. It appears that they have now resolved, either formally or informally, all the right-of-way issues along there, so VDOT probably will not have to pay condemnation.

Mr. Boyd said this ordinance does not further any of that process. Mr. Benish said that is correct.

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

**Motion** was offered by Mr. Rooker, **seconded** by Ms. Mallek, to adopt Ordinance No. 09-A(1), An Ordinance To Approve An Official Map Pursuant to Virginia Code § 15.2-2233 Et Seq. for a Segment of U.S. Route 29 abutting County Tax Map and Parcel Numbers 61W-3-19b, 61W-3-24 and 61W-3-25, and a Segment of Hydraulic Road abutting County Tax Map and Parcel Numbers 61W-3-23, 61W-3-24 and 61W-3-25. 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.

#### **ORDINANCE NO. 09-A(1)**

AN ORDINANCE TO APPROVE AN OFFICIAL MAP PURSUANT TO VIRGINIA CODE § 15.2-2233 ET SEQ. FOR A SEGMENT OF U.S. ROUTE 29 ABUTTING COUNTY TAX MAP AND PARCEL NUMBERS 61W-3-19B, 61W-3-24 AND 61W-3-25, AND A SEGMENT OF HYDRAULIC ROAD ABUTTING COUNTY TAX MAP AND PARCEL NUMBERS 61W-3-23, 61W-3-24 AND 61W-3-25

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that, pursuant to the authority contained in Virginia Code § 15.2-2233 *et seq.*, the attached map [on file] entitled "Plat Showing Future Right of Way for a Single Point Urban Interchange Across TMP 61W-3-19B, 23, 24 and 25 and a Temporary 24' Easement for Ingress/Egress Across TMP 61W-3-19A and 19B as Shown Hereon, Rio Magisterial District, Albemarle Co., Virginia, March 2, 2009," prepared by Kirk Hughes & Associates, which depicts the respective locations, centerlines, existing right-of-way widths, and future rights-of-way widths of the legally established segment of U.S. Route 29 abutting County Tax Map and Parcel Numbers 61W-3-19B, 61W-3-24 and 61W-3-25, and the legally established segment of Hydraulic Road abutting County Tax Map and Parcel Numbers 61W-3-23, 61W-3-24 and 61W-3-25, is hereby approved as an official map.

**This ordinance shall be effective immediately.**

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Agenda Item No. 9. **Public Hearing:** Proposal to amend the Albemarle County Service Authority Jurisdictional Area to designate properties within the Piney Mountain Development Area for water and sewer service consistent with the Albemarle Comprehensive Plan. Properties to be included in the ACSA Jurisdictional Area are: Tax Map 32, Parcels 5C, 5C1, 5C2; Tax Map 33, Parcels 1A, 1D, 1D1, 1G and 14; for "Water and Sewer" service, and, Tax Map 33, Parcel 1, for "Water and Sewer service only for the portion of the property zoned PRD as of 12/2/09." (*Advertised in the Daily Progress on November 16 and November 23, 2009.*)

Mr. David Benish said this request was initiated by staff in order to designate the remaining portions of the existing Piney Mountain Development Area for water and sewer service consistent with Comprehensive Plan policies to provide public water and sewer service to development areas. All of the Piney Mountain area west of Route 29 is properly designated but most of the eastern side is undesignated.

Mr. Benish said the Albemarle County Service Authority (ACSA) is in the process of creating a special rate district to provide for an assessment in this area to help pay for improvements that serve the area and for the upgrade of the Camelot Sewer Treatment Plant. This is a process the County would necessarily want to do anyway, which is to designate the development areas for water and sewer service. He said the process typically is not to designate split parcels – those that run both within the designated development area and the rural area until there is a clearly identifiable way to determine where that boundary is, usually through a rezoning action, a subdivision, or a site plan.

Mr. Benish said there are four properties that fall into that category – one property (TMP 33-1) actually has zoning that is generally consistent with the development area boundaries, so staff would recommend that the action the Board takes on that property indicate that water and sewer service is to the zoned portion of the property; the other properties - TMP 33-10 and TMP 32-5(C)4 - are both split by the development area boundaries. Staff recommends that they be included at the time there is a site plan or a subdivision that reflects future development. The Board could also simply adopt and include them in

the jurisdictional area and indicate that the only area to be served is that area within the development area, but again, it's a generalized boundary so it is an option that staff does not recommend.

Mr. Benish said Mr. Barton on the ACSA Board called to his attention today that TMP 33-14, which is a triangular piece on the north side of the road where NGIC comes in, actually has a completely separate portion of the same property identified just outside of the boundary. For action on that parcel, staff recommends that for TMP 33-14, the area within the development area be served by water and sewer service only. He said that is a little confusing, but that is the only change from staff's recommended action in the Executive Summary.

Ms. Mallek asked if that property is right on the River. She said a lot of the topography there is very steep - why would that small triangle be included? Mr. Benish responded that it wouldn't be, but staff asked that the action indicate that this portion of TMP 33-14 be the only one included. It is an unusual parcel in that there are two non-contiguous pieces to it. Staff would like to include the larger piece that is within the development area. However, there is a small fragment that has the same tax map and parcel number that lies outside of the development area. He said it is clearly defined, so there is no need to wait for a next step.

Ms. Mallek asked about TMP 33-1 which is not in the growth area. Mr. Benish clarified that TMP 33-1 has existing zoning which mimics the development area boundary so it is staff's recommendation to include just the zoned portion of TMP 33-1 in the water and sewer service area. He said there is a fairly clear established boundary they can refer to for where that service needs to be provided or not provided. He said staff's recommended action stands (Staff recommends the ACSA Jurisdictional Area be amended to include Tax Map 32, Parcels 5C, 5C1, 5C2; Tax Map 33, Parcels 1A, 1D, 1D1, 1G, and 14 for "Water and Sewer" service, and Tax Map 33, Parcel 1 for "Water and Sewer service only for the portion of the property zoned PRD as of 12-2-09) except that for TMP 33-14 approval should be for water and sewer service only to that portion entirely contained within the development area.

Mr. Tucker asked Mr. Davis if the motion could reference the maps as well – that would be easier to understand. Mr. Benish said there is a text portion of the map that contains the description, which is useful. He said the maps are referred to by the action. Mr. Tucker said in the future he thinks people would probably understand the map better than any verbiage included.

Mr. Slutzky said the map shows TMP 33-14 both in and out of the development area. He thinks the language of the adopted motion should be "that portion of TMP 33-14 that is contained entirely within the development area." That language would be clearer than the map. Mr. Cilimberg said that after the Board takes action, staff updates the maps to reflect the Board's actions; there will then be new jurisdictional area maps on file.

Mr. Slutzky then opened the public hearing. Since no one came forward to speak, the public hearing was closed, and the matter before the Board.

Mr. Slutzky then offered **motion** to amend the ACSA Jurisdictional Area to include Tax Map 32, Parcels 5C, 5C1, 5C2; Tax Map 33, Parcels 1A, 1D, 1D1, 1G, and that separate western portion of Parcel 14 located within the Development Area for "Water and Sewer" service, and Tax Map 33, Parcel 1 for "Water and Sewer service only for the portion of the property zoned PRD as of 12/2/09." Mr. Rooker **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

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Agenda Item No. 10. **Public Hearing:** ZTA-2009-015, Nonconforming Lots. Amend Secs. 2.1.4, Reductions of lot areas below minimum prohibited, 3.1, Definitions, and 6.4, Nonconforming lots, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend and rename Sec. 2.1.4 to clarify the regulations pertaining to reducing the size, width and frontage of lots existing on December 10, 1980, below the minimum standards for those lots under the applicable district regulations; amend Sec. 3.1 to amend the definition of "nonconforming lot" to expressly add lot frontage, width and the presence of a building site as elements determining whether a lot is nonconforming, and to cross-reference the lot requirements of section 4; and amend Sec. 6.4 to change the regulations pertaining to subdivisions, lot combinations and boundary line adjustments involving nonconforming lots, and to reorganize the section. (*Advertised in the Daily Progress on November 16 and November 23, 2009.*)

Mr. Francis MacCall, Customer Service Planner, said this proposal is to amend the zoning regulations related to nonconforming lots that are combined or re-divided with a boundary line adjustment. For all boundary changes involving nonconforming lots, the Zoning Administrator must find that the resulting lot(s) would more substantially conform to general regulations of the Zoning Ordinance and the area and bulk regulations of the zoning district in which the lot is located. This requirement has precipitated repeated variance requests of Section 6.4 because the Zoning Administrator could not make the required findings. Virginia law provides that if requests for variances from the same section of the ordinance are recurring, then that section should be amended.

Mr. MacCall said the first proposed change is to modify the definition of nonconforming lot, the second is to update general provisions to be consistent with the new ordinance language, and the third is

to create four categories of boundary changes, each with its own standards. These standards currently exist but are worded and numbered in a different way. The change at the heart of these changes is in Section 6.4.E.

Mr. MacCall said staff was directed to revise the regulations using a “do no harm” approach. This means that an existing nonconformity in lot lines can be adjusted so the nonconformity does not get any worse. He said Section 6.4.E is the section that would alleviate the need for the Zoning Administrator to decide if a boundary line adjustment between two or more nonconforming lots needed to be “more substantially conforming” to the regulations. This is corrected by providing that the boundary line adjustment will not make the nonconforming lots more nonconforming. As an example, if there were two, three-acre lots in the rural area that did not have street frontage meeting the requirement for the district and the owners proposed moving the lines between the two lots and that adjustment did not affect the street frontage at all, that would do no harm to the lots, and the nonconformity would not become more nonconforming. Also in Sections 6.4.D and 6.4.E, language was added to address the RA Zoning District stating that any adjustment of lots zoned RA would not result in an increase in the number of lots or dwellings that could be established on each lot.

Mr. MacCall said the changes recommended to these regulations which would further the purpose of the Nonconforming section of the Zoning Ordinance are: there will be a reduction in the number of nonconforming lots; existing nonconforming lots will become less nonconforming; permitted uses are able to continue on nonconforming lots; and, those uses may better conform to minimum lot standards. Specific outcomes are outlined in the Executive Summary and in the letter of support provided by Mr. Roger Ray. Staff recommends that the amendment be adopted as recommended by the Planning Commission.

Ms. Mallek said she does not understand how a large nonconforming lot could be divided into two smaller lots that would somehow conform. Mr. Bill Fritz, Chief of Current Development, said it’s fairly common to have a large parcel in the rural areas that has no street frontage. If the owner wanted to subdivide that parcel he would have to get a private street approved. That would create the frontage necessary to allow the property to be divided, so it is the action of the subdivision process creating the private street.

Ms. Mallek asked if this would be an easement over another person’s property. Mr. Fritz said that is correct and they would be involved also. In the subdivision process that lot has been made conforming. It now has frontage on a private street, whereas before it had no frontage. That is a fairly common example.

Mr. Boyd asked the problem with the ordinance now. Mr. Fritz said at this time if there was a 100-acre parcel that had no street frontage which used a driveway to access it, and the owner wanted to sell a field to an adjoining property owner who was in the same situation, because both of those lots are nonconforming, there could not be a boundary line adjustment unless they were granted a variance. This proposed text amendment would allow that transfer to occur because neither lot is becoming more nonconforming.

Ms. Mallek said in that case a new lot that someone will live on is not being created. Mr. Fritz said that is correct.

Mr. Rooker said there is no increase in lots and no division rights are being created. This would save the applicants a lot of money because they would not need to get variances for circumstances where the County should be doing what they are proposing – it is a common sense change to the ordinance that will reduce staff time and applicant expense.

Mr. Boyd said there is no increase or decrease in lots. Ms. Amelia McCulley, Zoning Administrator, said she thinks the County inadvertently “raised the bar” during a comprehensive rewrite of regulations in 2000. Staff has found that the “current bar” is completely inconsistent with what other localities are doing. Staff held a work session with the Planning Commission and gave them a whole variety of options –they chose the “do no harm” recommendation not to increase the developability of property through boundary line adjustments.

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

Mr. Neil Williamson of the Free Enterprise Forum said they have been involved in this process for some time working with Mr. Roger Ray and others. They have often spoken about the cost of complexity, not only to applicants, but to the County. This is a small but important step to reduce that cost while retaining the County’s vision. They are proud to support this amendment.

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

Mr. Rooker **moved** to adopt ORDINANCE No. 09-18(10), An Ordinance to Amend Chapter 18, Zoning, Article I, General Provisions, And Article II, Basic Regulations, of the Code of the County of Albemarle, Virginia, by amending Sec. 3.1, Definitions and Sec. 6.4, Nonconforming lots, and by amending and renaming Sec. 2.1.4, Reduction of lots or areas below minimum prohibited.

Ms. Mallek **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 ordinance, as adopted, is set out in full below.)

**ORDINANCE NO. 09-18(10)**

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

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

**By Amending:**

Sec. 3.1 Definitions  
Sec. 6.4 Nonconforming lots

**By Amending and Renaming:**

Sec. 2.1.4 Reduction of lots or areas below minimum prohibited

**Chapter 18. Zoning**

**Article I. General Provisions**

**Sec. 2.1.4 Reduction of lots below minimum prohibited**

The size, frontage and width of any lot of record existing on the effective date of this chapter shall not be reduced below the minimum requirements of the zoning district in which the lot is located and section 4 of this chapter except as the result of the dedication of land to public use or the exercise of eminent domain by a public entity. Any lot created after the effective date of this chapter shall satisfy at least the minimum requirements of this chapter, except for lots created for use by a public entity to the extent that the public use may be justifiable under the powers of eminent domain. (Amended 9-9-92)

**Sec. 3.1 Definitions**

...

*Nonconforming lot:* The term "nonconforming lot" means a lawful lot of record existing on the effective date of the zoning regulations applicable to the district in which the lot is located, that does not comply with section 4 of this chapter and the minimum applicable size, frontage, width, building site or other lot requirements of that zoning district. (Added 6-14-00)

...

**Article II. Basic Regulations**

**Sec. 6.4 Nonconforming lots**

A nonconforming lot may continue, subject to the provisions, conditions and prohibitions set forth herein.

A. *Uses allowed on a nonconforming lot.* A nonconforming lot may be used as though it satisfies the zoning regulation that makes it nonconforming, provided that:

1. The use is either a nonconforming use or is a use that complies with the zoning regulations applicable to the district in which the lot is located; and
2. The zoning administrator determines that the lot may be occupied consistently with the public health, safety and general welfare.

B. *Subdivision that includes a nonconforming lot.* A nonconforming lot may be subdivided as part of a subdivision provided that all of the resulting lots comply with the requirements of the zoning district in which they are located and all other applicable requirements of the Albemarle County Code.

C. *Combination of a nonconforming lot with another lot.* A nonconforming lot may be combined with a conforming lot or a nonconforming lot provided the size, area or frontage of the resulting lot is increased to make it conforming or not more nonconforming.

D. *Boundary line adjustment between a nonconforming lot and a conforming lot.* One or more boundary lines between a nonconforming lot and a conforming lot may be adjusted provided:

1. The boundary line adjustment does not make the conforming lot nonconforming or the nonconforming lot more nonconforming; and

2. If the lots are in the rural areas zoning district, the boundary line adjustment does not result in an increase in the number of lots or dwelling units that could otherwise be established on each lot.

E. *Boundary line adjustment between nonconforming lots.* One or more boundary lines between two or more nonconforming lots may be adjusted provided:

1. The boundary line adjustment does not make either nonconforming lot more nonconforming; and

2. If the lots are in the rural areas zoning district, the boundary line adjustment does not result in an increase in the number of lots or dwelling units that could otherwise be established on each lot.

F. *Subdivision, combination, or adjustment of boundary line of nonconforming lot used by country store.* A nonconforming lot may be subdivided, combined with any other lot, or have one or more of its boundary lines adjusted provided: (i) the resulting lot or lots serve a country store, Class A or B; (ii) the subdivision, combination or boundary line adjustment is required to allow the country store use to meet the requirements of the Virginia Department of Health; (iii) the location of all structures on the resulting lot or lots will not become nonconforming or more nonconforming; (iv) the size of the resulting lot or lots will not become more nonconforming.

G. *Change to nonconforming lot resulting from public dedication or eminent domain.* The area of a nonconforming lot may be reduced by the dedication of land for public use or by the exercise of eminent domain.

H. *Setbacks applicable to a nonconforming lot.* The current front, rear and side yard minimum setbacks applicable to the district in which the lot is located shall apply to a nonconforming lot; provided, that, if any such setback is thereafter reduced as a result of an amendment to the setbacks applicable to the district in which the lot is located, and is in effect when an existing structure is extended or enlarged, then that reduced setback shall apply.

I. *Effect of change of ownership.* A change of the ownership or occupancy of a nonconforming lot shall not affect the status of the nonconforming lot.  
(§§ 20-6.1.1, 6.1.2, 6.5.1, 6.5.2, 6.5.4, 12-10-80, 4-15-81, 9-21-88, 6-14-89, 9-9-92; § 18-6.4, Ord. 98-A(1), 8-5-98; Ord. 00-18(4), 6-14-00; Ord. 08-18(7), 11-12-08; Ord. 09-18(10), 12-2-09)

**State law reference** – Va. Code § 15.2-2307.

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Agenda Item No. 11. Public Hearing: 09-03(4) – Agricultural and Forestal Districts - Ordinance to amend Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to continue and establish certain districts, and to add lands to or remove lands from certain districts, as specified below:

- a) AFD-2009-3; 09-55; 09-59; 09-60. Sugar Hollow AFD – District review and additions. The proposed ordinance would amend Section 3-226, Sugar Hollow Agricultural and Forestal District, to continue the district for all parcels identified in the ordinance, and set the next district review deadline date for December 2, 2019. It would also add TMPs 27-24A, 27-25 and 39-13C3 to the district, and would remove any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the continuation of the district and the above referenced additions.
- b) AFD-2009-4; 09-62; 09-67. Chalk Mountain AFD – District review and additions. The proposed ordinance would amend Section 3-211, Chalk Mountain Agricultural and Forestal District, to continue the district for all parcels identified in the ordinance, and set the next district review deadline date for December 2, 2019. It would also add TMPs 97-2 and 97-27 to the district, identify TMPs 97-21A1, 97-21B1, 97-21C, 97-21D, 97-22A, 97-22B, 97-22C and 98-1G (part) as being in the district (these parcels were created from parcels already in the district), would remove TMPs 97-21, 97-21A, 97-21B, 97-21C, 97-21D and 97-22C from the district, and would remove any other parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the continuation of the district and the above referenced additions.
- c) AFD-2009-5; 9-18; 09-44; 09-47. Jacob's Run AFD – District review and additions. The proposed ordinance would amend Section 3-218, Jacob's Run Agricultural and Forestal District, to continue the district for all parcels identified in the ordinance, and set the next district review deadline date for December 2, 2019. It would also add TMPs 20-6J, 30-32B and 31-1B to the district, identify TMPs 31-8E and 31-23K as being in the district (these parcels were created from parcels already in the district), would remove TMPs 31-23, 31-23D and 31-23K from the district, and would remove any other parcels for which a

request for withdrawal is received before the Board acts on the proposed ordinance. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the continuation of the district and the above referenced additions.

- d) AFD-2009-34; 09-48. Batesville AFD – District additions. The proposed ordinance would amend Sec. 3-207, Batesville Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 71-29C, 71-29D, 71-29E, 71-29G, 71-29H, 71- 29I and 84-69 to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- e) AFD-2009-27; 09-45; 09-65. Blue Run AFD – District additions. The proposed ordinance would amend Sec. 3-208, Blue Run Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 35-41A, 35-41E and 49-4A1 to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- f) AFD-2009-25; 09-57. Buck Mountain AFD – District additions. The proposed ordinance would amend Sec. 3-209, Buck Mountain Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 8-37, 8-43A, 8-44 and 17-2D6 to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- g) AFD-2009-20; 09-29; 09-40; 09-53; 09-66; 09-71; 09-73. Buck’s Elbow Mountain AFD – Creation of district. The proposed ordinance would add Section 3-209.5, Buck’s Elbow Mountain Agricultural and Forestal District, to Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to establish the Buck’s Elbow Mountain Agricultural and Forestal District, which will be composed of TMPs 25-1, 38-4, 38-7, 38-8, 38-10, 38-20, 39-1, 39-1F, 39-1F1, 39-1G, 39-2B, 39-8, 39-10A and 39-21Q. Notice also is hereby given that the Albemarle County Planning Commission will hold a public hearing on this application on December 1, 2009, and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the creation of the above referenced district.
- h) AFD-2009-11; 09-12; 09-37; 09-46; 09-50; 09-51; 09-52; 09-64. Carter’s Bridge AFD – District additions. The proposed ordinance would amend Sec. 3-210, Carter’s Bridge Agricultural and Forestal Districts, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 102-17C, 112-1, 114-2, 114-57, 114-57C, 114-57D, 122-12D, 122-12E, 123-13B and 130-19B to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- i) AFD-2009-36; 09-69; 09-70. Eastham AFD – District additions. The proposed ordinance would amend Sec. 3-212, Eastham Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 46-91B, 46-91C and 46-91E to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- j) AFD-2009-43. Fox Mountain AFD – Creation of district. The proposed ordinance would add Section 3-212.5, Fox Mountain Agricultural and Forestal District, to Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to establish the Fox Mountain Agricultural and Forestal District, which will be composed of TMP 15-10A. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the creation of the above referenced district.
- k) AFD-2009-23; 09-26; 09-38; 09-41. Free Union AFD – District additions. The proposed ordinance would amend Sec. 3-213, Free Union Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 7-33, 16-15C, 16-37, 29-1D and 29-31A to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- l) AFD-2009-39. Hardware AFD – District additions. The proposed ordinance would amend Sec. 3-214, Hardware Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMP 74-6N to the district. Notice also is hereby given that the Albemarle County Planning Commission and the

Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced addition.

- m) AFD-2009-56. High Mowing AFD – District additions. The proposed ordinance would amend Sec. 3-216, High Mowing Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMP 84-69A to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced addition.
- n) AFD-2009-63. Ivy Creek AFD – District additions. The proposed ordinance would amend Sec. 3-217, Ivy Creek Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 44-19, 44-19A, 44-19B, 44-21A1 and 44-21A2 to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- o) AFD-2009-28; 09-49. Keswick AFD – District additions. The proposed ordinance would amend Sec. 3-219, Keswick Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 48-30, 48-30A, 48-30B, 48-30C, 48-30D and 48-30E to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- p) AFD-2009-16; 09-17; 09-54. Kinloch AFD – District additions. The proposed ordinance would amend Sec. 3-220, Kinloch Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 49-5C, 49-6A1 and 50-13 to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions. **(Defer public hearing on AFD-2009-16; 09-17; 09-54 to December 9, 2009.)**
- q) AFD-2009-22; 09-24; 09-42; 09-58. Lanark AFD – District additions. The proposed ordinance would amend Sec. 3-221, Lanark Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 92-64C, 103-2B, 103-43D, 103-43F and 103-43J to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- r) AFD-2009-08; 09-09; 09-10; 09-35; 09-61; 09-68; 09-74. Moorman's River AFD – District additions. The proposed ordinance would amend Sec. 3-222, Moorman's River Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 29-45, 29-45H1, 29-45H2, 29-78A1, 30-23, 43-1F, 43-2A1, 44-31H and 60E3-1 to the district. Notice also is hereby given that the Albemarle County Planning Commission will hold a public hearing on this application on December 1, 2009, and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- s) AFD-2009-13; 09-14; 09-15; 09-30. South Garden AFD – District additions. The proposed ordinance would amend Sec. 3-210, South Garden Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 99-35, 109-70, 110-8 and 110-18E to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.
- t) AFD-2009-06; 09-07; 09-21; 09-72. Yellow Mountain AFD – District additions. The proposed ordinance would amend Sec. 3-228, Yellow Mountain Agricultural and Forestal District, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add TMPs 54-41, 54-43, 54-43A, 54-43D, 70-15G and 71-22K to the district. Notice also is hereby given that the Albemarle County Planning Commission and the Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of the above referenced additions.

*(Advertised in the Daily Progress on November 16 and November 23, 2009.)*

Mr. Slutzky asked if the Board is required to have separate hearings on these items, or can it all be in one hearing. Mr. Davis said the public hearing can be combined on all of the applications. There is a slight amendment to the advertised ordinance which he will pass out at this time which requires only one action if the Board wants to approve all of the AFD's as recommended.

Mr. Rooker asked if what Mr. Davis passed out replaces in its entirety the ordinance the Board had received in its packet. Mr. Davis said "yes." The Board would adopt the ordinance language he just handed out.

Mr. Cilimberg said this review started with 20 districts that were either up for renewal, additions or were new districts. The Kinloch District will need to be deferred until next week because it had a change which was the subject of a Board meeting recently.

Mr. Cilimberg said Chalk Mountain Ag/Forestral District is up for renewal and also has some additions, but the renewal aspect also includes the withdrawal of six properties. This district was originally created in 1989. He then showed a map noting location of parcels to be withdrawn. The withdrawing landowners are citing "consideration of conservation easements" as the purpose of their withdrawal.

Mr. Cilimberg said the Jacob's Run Ag/Forestral District was created in 1988. He showed a map noting the original core of the district and additions to it over the years. There was previously a withdrawal and in this renewal there are three parcels proposed for withdrawal.

Mr. Boyd asked when parcels are withdrawn for consideration of conservation easements, is there is a lag in terms of their qualification for land use taxation. Mr. Davis explained that in most cases, whether or not they are in an ag/forestral district doesn't affect whether they are in land use taxation if the land is in an agriculture or forestry use. They simply withdraw from the ag/forestral district to assist the appraisal of the property in order to get a proper valuation for dedicating a permanent conservation easement.

Mr. Boyd asked if with the added attention to land use, these people are getting caught in the middle of something.

Mr. Rooker said there is a little bit of a "Catch 22" situation involved. If the owner is trying to get a conservation easement put on their property which is in an ag/forestral district, the valuation is "knocked down" for the limitation on development that results from it being in that district. Often, people who are going to put their land in conversation easements take the land out of the ag/forestral district.

Mr. Cilimberg said for the Sugar Hollow District which was originated in 1989, parcels have been added over time but some parcels are proposed for withdrawal in this renewal of the district - two smaller parcels in two separate locations. He understands that for one of those parcels the owner is expected to put the land into a conservation easement.

Mr. Rooker asked the total acreage of the additions. Mr. Cilimberg said he did not have that figure. He then referred to some maps posted on the wall, and said that there were 92 parcels totaling less than 6,400 acres that are either in the additions to existing districts, or proposed to compose the two new districts. That would be in addition to the approximately 82,000 acres already in ag/forestral districts. It is about a ten percent addition to the number of parcels. The total acreage will be close to 90,000 acres.

Mr. Cilimberg said a new district is the Fox Mountain Ag/Forestral District which totals 283 acres and is just in one parcel. The Bucks Elbow Mountain Ag/Forestral District totals 3,157 acres. He said the Ag/Forestral District Advisory Committee and the Planning Commission have taken action to recommend approval on all of the renewals, additions and new districts. Staff recommends adoption of the ordinance reflecting the additions, new districts, and renewals, as Mr. Davis provided to the Board today.

Mr. Rooker said over 15 percent of the total land in the County is in ag/forestral districts. Including County conservation easements and parkland, the total is closer to 20 percent. A lot of this land is in addition to the land that is in conservation easements and in parkland.

Mr. Dorrier asked the advantage of putting land into an ag/forestral district rather than in a conservation easement. Mr. Cilimberg said these additions have been made to be sure the properties would have an opportunity to qualify for use value taxation. That was the impetus for the surge of applications received for additions and new districts. In a sense, it becomes kind of a contract with the neighbors for a period of time; these are ten-year districts. Some of the additions are to districts that would be up for renewal before ten years. Joining with neighbors to recognize that your land is valuable for rural agriculture, open space, and in some cases forestal purposes, is somewhat of an informal contract about your intentions for your land. That is a side, but good benefit.

Mr. Dorrier asked if the value of the land goes up or down. Mr. Cilimberg said he cannot comment on value. He knows that people withdrawing their land from districts and thinking about going into easements, feel it gives them a better opportunity to get the maximum valuation in the appraisal of their land before donating the easement. The end result is the tax benefit they get from the donation.

Mr. Rooker said it has to do with the divisibility aspect, and the restraint on the divisibility that occurs when it is in the ag/forestral district. It can impact the value for that purpose.

Ms. Thomas said on the other hand, if your view is your neighbor's land and you know that your neighbor will not now be putting houses on that land, that should improve the value of your land. It all depends on your viewshed. She said that the County is usually so appreciative of people putting their land in the ag/forestral districts that a letter of thanks is sent. She said this will be 92 letters. No matter how much they may be doing it for their own purposes, it does have a public value also by giving some assurance that the rural road will not be impacted by "50" new houses for the next ten years. That is a public value as well.

Ms. Mallek asked if the Board members send those letters to the people in their districts. Mr. Tucker said that generally the chairman signs those letters.

Mr. Dorrier asked if once the land goes in it can't be taken out for eight years. Mr. Davis said there are certain conditions by which land can be withdrawn, but they are very limited. For the period of ten years the land has to remain in the ag/forestal district, which primarily as Mr. Rooker pointed out, prohibits subdivision of property within the district unless it is a 21-acre lot or a family subdivision.

Mr. Cilimberg said he had a question last night from an owner who does not plan to subdivide, but might want to build a house. This does not restrict someone from building a house on their parcel. It just restricts two-acre lots. Mr. Davis said the primary benefit of an ag/forestal district for land use taxation purposes is that a "district of statewide significance" is one of the prerequisites for qualifying for open space taxation.

Mr. Boyd asked if that is what prompted a lot of this activity. Mr. Cilimberg said that is correct. This was largely in response to the revalidation process.

Mr. Slutzky asked if that means the 61 applications represent parcels that presumably were not entitled to land use tax historically and in order to become eligible going forward now that the process is being scrutinized more closely they are going in the ag/forestal district. Mr. Cilimberg said he cannot say it is entirely indicative of that, but it probably is indicative of people not being sure, so they wanted to make sure at least for the future. This doesn't affect the revalidation process in terms of qualifying or not qualifying parcels up to this point, it will ensure them the opportunity to be considered for qualification in the future.

Ms. Thomas said the Assessor frightened some people with forested land, who were not interested in having commercially active forests, into thinking that if they were not willing to cut down trees they could not continue to get the forestry part of land use taxation. She said open space does not require that the owner actively cut down trees. She thinks that is the thought process that led to some of this. These are very good properties and perfectly meet the requirements of being in the land taxation program. The owners were more comfortable with the open space, than with the forestry designation.

Mr. Rooker said those landowners don't have to worry about that, they are not required to have a forestry management plan to qualify under the open space provisions.

With no further discussion by the Board, 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.

**Motion** was then offered by Mr. Rooker, **seconded** by Ms. Thomas, to adopt Ordinance No. 09-03(4), with language contained in the handout by the County Attorney today, An Ordinance to Amend and Reordain Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the County Code to the County of Albemarle, Virginia, to establish the next review periods and to revise the parcels within those districts under review, to revise the parcels within those districts for which additions were requested, and to establish the new districts. The ordinance will continue the Chalk Mountain, Jacob's Run and Sugar Hollow Agricultural and Forestal Districts for additional 10-year periods, authorize the addition of parcels to the Batesville, Blue Run, Buck Mountain, Carter's Bridge, Eastham, Free Union, Hardware, High Mowing, Ivy Creek, Keswick, Lanark, Moorman's River, South Garden, and Yellow Mountain Agricultural and Forestal Districts, and establish the Buck's Elbow Mountain and Fox Mountain Agricultural and Forestal Districts.

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 ordinance, as adopted, is set out in full below.)

#### **ORDINANCE NO. 09-03(4)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

#### **By Amending:**

3-207	Batesville Agricultural and Forestal District
3-208	Blue Run Agricultural and Forestal District
3-209	Buck Mountain Agricultural and Forestal District
3-210	Carter's Bridge Agricultural and Forestal District
3-211	Chalk Mountain Agricultural and Forestal District
3-212	Eastham Agricultural and Forestal District
3-213	Free Union Agricultural and Forestal District

3-214	Hardware Agricultural and Forestal District
3-216	High Mowing Agricultural and Forestal District
3-217	Ivy Creek Agricultural and Forestal District
3-218	Jacobs Run Agricultural and Forestal District
3-219	Keswick Agricultural and Forestal District
3-221	Lanark Agricultural and Forestal District
3-222	Moorman's River Agricultural and Forestal District
3-225.5	South Garden Agricultural and Forestal District
3-226	Sugar Hollow Agricultural and Forestal District
3-228	Yellow Mountain Agricultural and Forestal District

**By Adding:**

3-209.5	Buck's Elbow Mountain Agricultural and Forestal District
3-212.5	Fox Mountain Agricultural and Forestal District

**Chapter 3. Agricultural and Forestal Districts**

**Article II. Districts of Statewide Significance**

**Division 2. Districts**

**Sec. 3-207 Batesville Agricultural and Forestal District.**

The district known as the "Batesville Agricultural and Forestal District" consists of the following described properties: Tax map 70, parcels 40, 40A; tax map 71, parcels 23A, 23C, 24B, 24C, 24C1, 26, 26A, 26B, 26B1, 26B2, 26C, 27A, 29C, 29D, 29E, 29G, 29H, 29I; tax map 84, parcels 35A, 69; tax map 85, parcels 3, 3A (part), 4J, 17, 17B, 21, 22B, 22C, 30D, 31; tax map 85A, parcel 1. This district, created on May 2, 1990 for not more than 10 years and last reviewed on April 19, 2000, shall next be reviewed prior to May 2, 2010.  
(Code 1988, § 2.1-4(s); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 00-3(3), 9-13-00; Ord. 01-3(2), 7-11-01; Ord. 04-3(1), 3-17-04; Ord. 09-3(4), 12-2-09)

**Sec. 3-208 Blue Run Agricultural and Forestal District.**

The district known as the "Blue Run Agricultural and Forestal District" consists of the following described properties: Tax map 35, parcels 22, 23, 24A, 26, 26B, 26C, 26D, 28A, 29, 31, 32A, 41A, 41E, 43; tax map 36, parcels 6A, 9, 20; tax map 49, parcels 4A1, 4A5, 24; tax map 50, parcels 5, 5B, 32A, 45B, 47, 47A, 47B; tax map 51, parcel 13. This district, created on June 18, 1986 for not more than 8 years, since amended at its last review on July 10, 2002 to continue for not more than 10 years, shall next be reviewed prior to July 10, 2012.  
(5-11-94; 7-13-94; 4-12-95; Code 1988, § 2.1-4(d); Ord. 98-A(1), 8-5-98; Ord. 01-3(3), 8-8-01; Ord. 02-3(3), 7-10-02; Ord. 09-3(4), 12-2-09)

**Sec. 3-209 Buck Mountain Agricultural and Forestal District.**

The district known as the "Buck Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 8, parcels 16A, 16C, 17E, 17F, 37, 43A, 44; tax map 17, parcels 2D6, 26B, 26C, 26C1, 26C2, 26C3, 31 (part), 32. This district, created on January 4, 1989 for not more than 10 years and last reviewed on September 2, 2009, shall next be reviewed prior to September 2, 2019.  
(4-12-95; Code 1988, § 2.1-4(o); Ord. 98-A(1), 8-5-98; Ord. 99-3(1), 1-13-99; Ord. 99-3(5), 10-6-99; Ord. 09-3(2), 9-2-09; Ord. 09-3(4), 12-2-09)

**Sec. 3-209.5 Buck's Elbow Mountain Agricultural and Forestal District.**

The district known as the "Buck's Elbow Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 25, parcel 1; tax map 38, parcels 4, 7, 8, 10, 20; tax map 39, parcels 1, 1F, 1F1, 1G, 2B, 8, 10A, 21Q. This district, created on December 2, 2009 for not more than 10 years, shall next be reviewed prior to December 2, 2019.  
(Ord. 09-3(4), 12-2-09)

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

The district known as the "Carter's Bridge Agricultural and Forestal District" consists of the following described properties: Tax map 101, parcels 55A, 60; tax map 102, parcels 17A, 17B, 17B1, 17C, 17D, 18, 19, 19A, 19C, 20B; tax map 111, parcel 48; tax map 112, parcels 1, 3, 15, 15A, 16E, 16E1, 16E2, 16F2, 18H, 19E, 19F, 20, 21, 33A, 37D; tax map 113, parcels 1, 1A, 6A, 11A, 11F, 11F1, 11F2, 11F3, 11G, 11G1, 11G2, 11H, 11I, 11J, 11K; tax map 114, parcels 2, 25A, 30, 31B, 31C, 31D, 51, 55, 56, 57, 57C, 57D, 67C, 67D, 67E, 67F, 67G, 67H, 68, 69, 70; tax map 115, parcel 10; tax map 122, parcels 4, 4A, 6, 7, 8, 9, 10, 12, 12D, 12E, 12N, 33, 33A, 36; tax map 123, parcel 13B; tax map 124, parcel 11; tax map 130, parcel 19B. This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.  
(Code 1988, § 2.1-4(j); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(4), 5-12-99; Ord. 08-3(1), 7-9-08; Ord. 09-3(4), 12-2-09)

**Sec. 3-211 Chalk Mountain Agricultural and Forestal District.**

The district known as the "Chalk Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 97, parcels 2, 21A1, 21B1, 22, 22A, 22B, 27; tax map 98, parcels 1G (part), 11, 12, 13, 14; tax map 99, parcel 30. This district, created on September 6, 1989 for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.  
(Code 1988, § 2.1-4(r); Ord. 98-A(1), 8-5-98; Ord. 99-3(5), 10-6-99; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09)

**Sec. 3-212 Eastham Agricultural and Forestal District.**

The district known as the "Eastham Agricultural and Forestal District" consists of the following described properties: Tax map 46, parcels 91B, 91C, 91E; tax map 63, parcels 1, 1A, 1A1, 2, 4, 14G, 14H, 14I, 26, 26A, 27, 28, 28A, 30F, 30G, 41A, 41A1, 41A2. This district, created on October 2, 1985 for not more than 10 years and last reviewed on April 14, 2004, shall next be reviewed prior to April 14, 2014.  
(12-8-93; 5-11-94; Code 1988, § 2.1-4(c); Ord. 98-A(1), 8-5-98; Ord. 04-3(2), 4-14-04; Ord. 09-3(4), 12-2-09)

**Sec. 3-212.5 Fox Mountain Agricultural and Forestal District.**

The district known as the "Fox Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 15, parcel 10A. This district, created on December 2, 2009 for not more than 10 years, shall next be reviewed prior to December 2, 2019.  
(Ord. 09-3(4), 12-2-09)

**Sec. 3-213 Free Union Agricultural and Forestal District.**

The district known as the "Free Union Agricultural and Forestal District" consists of the following described properties: Tax map 7, parcels 6, 7, 8A, 9, 9A, 9B, 9B1, 9C, 33; Tax map 16, parcels 4B, 4C, 13A, 13D, 15A, 15A3, 15C, 15E, 15G, 16B, 17, 26, 30B, 36, 37, 52B1, 52B2, 54; Tax Map 17, parcels 8B, 8C, 17C, 18H, 20A2, 22, tax map 29, parcels 1D, 1H (part), 31A. This district, created on September 21, 1988 for not more than 10 years and last reviewed on October 8, 2008, shall be next reviewed prior to October 8, 2018.  
(Code 1988, § 2.1-4(m); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 08-3(3), 10-8-08; Ord. 09-3(4), 12-2-09)

**Sec. 3-214 Hardware Agricultural and Forestal District.**

The district known as the "Hardware Agricultural and Forestal District" consists of the following described properties: Tax map 73, parcels 38, 39C, 41A, 41B1, 41B2, 42, 42A, 43, 44; tax map 74, parcels 6N, 26, 28; tax map 86, parcels 14, 16A, 16C, 16D, 16E, 16F, 27; tax map 87, parcels 10, 13A, 13E (part consisting of 89.186 acres); tax map 88, parcels 2A, 3V, 6A, 20A, 20B, 20C, 20D, 20F, 23, 23E, 23F, 24, 24A, 26B, 29, 40, 42; tax map 99, parcels 29, 52. This district, created on November 4, 1987 for not more than 10 years and last reviewed on September 12, 2007, shall next be reviewed prior to September 12, 2017.  
(Code 1988, § 2.1-4(h); Ord. No. 98-A(1), 8-5-98; Ord. 00-3(2), 7-12-00; Ord. 07-3(2), 9-12-07; Ord. 09-3(4), 12-2-09)

**Sec. 3-216 High Mowing Agricultural and Forestal District.**

The district known as the "High Mowing Agricultural and Forestal District" consists of the following described properties: Tax map 84, parcel 69A; tax map 85, parcels 33B, 39, 39A1, 39H, 41A, 41A1. This district, created on January 16, 1991 for not more than 10 years and last reviewed on June 20, 2001, shall next be reviewed prior to January 16, 2011.  
(Code 1988, § 2.1-4(t); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 09-3(4), 12-2-09)

**Sec. 3-217 Ivy Creek Agricultural and Forestal District.**

The district known as the "Ivy Creek Agricultural and Forestal District" consists of the following described properties: Tax map 44, parcels 19, 19A, 19B, 20, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 21A1, 21A2, 21D, 35, 35A; tax map 45, parcels 5F, 5F4, 7A. This district, created on November 2, 1988 for not more than 7 years, since amended at its last review on July 9, 2003 to continue for not more than 10 years, shall next be reviewed prior to July 9, 2013.  
(4-14-93; 2-14-96; Code 1988, § 2.1-4(n); Ord. 98-A(1), 8-5-98; Ord. 03-3(1), 7-9-03; Ord. 09-3(4), 12-2-09)

**Sec. 3-218 Jacobs Run Agricultural and Forestal District.**

The district known as the "Jacobs Run Agricultural and Forestal District" consists of the following described properties: Tax map 19, parcels 25, 25A; tax map 20, parcel 6J; tax map 30, parcel 32B; tax map 31, parcels 1B, 8, 8E, 16, 16B, 44C, 45, 45B, 45C. This district, created on January 6, 1988 for not more than 6 years, since amended to continue for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(3-2-94; Code 1988, § 2.1-4(i); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09)

**Sec. 3-219 Keswick Agricultural and Forestal District.**

The district known as the “Keswick Agricultural and Forestal District” consists of the following described properties: Tax map 48, parcels 30, 30A, 30B, 30C, 30D, 30E; tax map 63, parcels 39, 39A, 39B, 40, 42A; tax map 64, parcels 5, 7, 7A, 8, 8A, 9, 10 10A, 10B, 10C, 10D, 11 12, 13, 13A, 14; tax map 65, parcel 13; tax map 79, parcel 46; tax map 80, parcels 1, 2, 2A, 3A, 3A1, 3G, 3H, 3I, 4, 61D, 88, 114A, 115, 164, 169, 169A, 169C, 169C1, 174, 176, 176A, 182, 182A, 183, 183A, 190, 192, 194; tax map 81, parcels 1, 8A, 15A6, 15B, 63. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 3, 2004, shall next be reviewed prior to November 3, 2014.

(10-12-94; 4-12-95; 8-13-97; Code 1988, § 2.1-4(e); Ord. 98-A(1), 8-5-98; Ord. 04-3(3), 11-3-04; Ord. 09-3(4), 12-2-09)

**Sec. 3-221 Lanark Agricultural and Forestal District.**

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

(Code 1988, § 2.1-4(k); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(5), 10-6-99; Ord. 08-3(1), 7-9-08; Ord. 09-3(4), 12-2-09)

**Sec. 3-222 Moorman’s River Agricultural and Forestal District.**

The district known as the “Moorman’s River Agricultural and Forestal District” consists of the following described properties: Tax map 27, parcels 32, 34, 34A, 40, 40A, 40A1, 42, 42A; tax map 28, parcels 2, 2A, 3, 4, 5, 6, 6A, 6B, 7, 7A, 7A1, 7B, 8, 12, 12A, 12B, 13, 17A, 17C, 18, 23B, 23B1, 30, 30A, 30B 32B, 32D, 34B, 35, 35B, 37, 37A, 37B, 37C, 38; tax map 29, parcels 2C, 4E, 8, 8B, 8E, 8E1, 8H, 8J, 8K, 9, 10, 15C, 40B, 40C, 40D, 45, 45H1, 45H2, 49C, 50, 54A, 61, 62, 63, 63A, 63D, 67C, 69D, 69F, 70A, 70B, 70C, 70F, 70F1, 70G, 70H1, 70K, 70L, 70M, 71, 71A, 73B, 74A, 76, 78, 78A1, 79C, 80, 84, 85; tax map 30, parcels 10, 10A, 12, 12C, 12D, 17A, 18E, 23; tax map 41, parcels 8, 8B, 8C, 8D, 9E, 15, 15A, 17C, 18, 41C, 41H, 44, 50, 67, 67B, 68, 70, 72, 72B, 72C, 72D, 89; tax map 42, parcels 5, 6, 6B, 7, 8, 8A, 8C, 10, 10A, 10D, 37F, 37J, 38, 40, 40C, 40D, 40D1, 40G, 40H2, 41, 42B, 43, 43A, 44; tax map 43, parcels 1, 1F, 2A1, 3, 3A, 3C, 3D, 4C, 4D, 5, 5A, 9, 10, 16B2, 16B3, 18E4, 18G, 18J, 19I, 19N, 19P, 20A, 20B, 20C, 2I, 21A, 24, 25A, 25B, 30, 30A, 30B, 30D, 30G, 30H, 30M, 30N, 32H, 33, 33E, 34D1, 41, 42, 43, 43A1, 44, 45, 45C, 45D; tax map 44, parcels 1, 2, 24, 26, 26A, 26C, 27B, 27C, 28, 29, 29A, 29D, 30, 30A, 30B, 31, 31A, 31A1, 31D, 31F, 31G, 31H; tax map 57, parcel 69; tax map 59, parcels 32, 32A, 34, 35, 82A; tax map 60E3, parcel 1. This district, created on December 17, 1986 for not more than 10 years and last reviewed on December 1, 2004, shall be next reviewed prior to December 1, 2014.

(4-14-93; 12-21-94; 4-12-95; 8-9-95; Code 1988, § 2.1-4(g); Ord. 98-A(1), 8-5-98; Ord. 99-3(4), 5-12-99; Ord. 00-3(1), 4-19-00; Ord. 04-3(4), 12-1-04; Ord. 05-3(2), 7-6-05; Ord. 08-3(2), 8-6-08; Ord. 09-3(4), 12-2-09)

**Sec. 3-225.5 South Garden Agricultural and Forestal District.**

The district known as the “South Garden Agricultural and Forestal District” consists of the following described properties: Tax map 99, parcel 35; tax map 109, parcel 70; tax map 110, parcels 8, 18, 18E, 27. This district, created on October 6, 1999 for not more than 7 years, since amended at its last review on October 4, 2006 to continue for not more than 10 years, shall next be reviewed prior to October 4, 2016.

(Ord. 99-3(5), 10-6-99; Ord. 06-3(1), 10-4-06; Ord. 09-3(4), 12-2-09)

**Sec. 3-226 Sugar Hollow Agricultural and Forestal District.**

The district known as the “Sugar Hollow Agricultural and Forestal District” consists of the following described properties: Tax map 25, parcels 11C, 12, 13, 14, 14A, 14B, 14C, 18, 18A, 18B, 21, 21A, 24, 25, 26, 27, 28; tax map 26, parcels 5A, 10, 10B, 10D, 10F, 11C, 11D, 12A, 13, 19, 40B, 40C, 41A, 52, 52D; tax map 27, parcels 8, 8E (part), 24A, 25, 26; tax map 39, parcels 2, 2A, 3, 4, 13C3, 14, 15, 25, 25A; tax map 40, parcels 1, 9, 9C, 10, 10A, 10B, 10C, 12B1, 22, 22A, 27A, 46C1, 49. This district, created on September 6, 1989 for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(11-17-93; Code 1988, § 2.1-4(q); Ord. 98-A(1), 8-5-98; Ord. 99-3(5), 10-6-99; Ord. 02-3(1), 1-9-02; Ord. 02-3(2), 4-3-02; Ord. 09-3(4), 12-2-09)

**Sec. 3-228 Yellow Mountain Agricultural and Forestal District.**

The district known as the “Yellow Mountain Agricultural and Forestal District” consists of the following described properties: Tax map 54, parcels 41, 43, 43A, 43D, 71B; tax map 55, parcel 15; tax map 70, parcels 15, 15A, 15D, 15E, 15G, 29, 37B, 37B1 (part), 37D (part), 37K, 37L; tax map 71, parcels 2B, 22, 22A, 22B, 22K, 64, 64A. This district, created on March 8, 1989

for not more than 10 years and last reviewed on September 2, 2009, shall next be reviewed prior to September 2, 2019.

(Code 1988, § 2.1-4(p); Ord. 98-A(1), 8-5-98; Ord. 99-3(1), 1-13-99, Ord. 99-3(4), 5-12-99; Ord. 09-3(3), 9-2-09; Ord. 09-3(4), 12-2-09)

**(Note:** At 10:38 a.m., the Board took a recess, and reconvened at 10:57 a.m.)

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Agenda Item No. 12. Establish Emergency Medical Services (EMS) Cost Recovery Billing Rates.

Chief Dan Eggleston, Director of the Fire/Rescue Department, addressed the Board. He explained that in September, 2009 the Board adopted an ordinance authorizing fire and rescue and any participating and permitted volunteer rescue squad to charge for fees for EMS vehicle transports. The ordinance provides that no person shall be denied service based on their inability to pay, and the County Executive shall establish a compassionate billing policy through the normal administrative process. Part of the overall EMS recovery process involves the Board adopting vehicle transport fees by resolution, which fees are primarily paid by Medicare, Medicaid, and private insurance companies.

Chief Eggleston said fees are based on three levels of care as defined by the Healthcare Financing Administration, a BLS level, and two ALS levels. In addition, companies allow for payment to providers for loaded transport miles. The proposed fees for Albemarle County are set out in the Executive Summary (on file in the Clerk's Office). The fees are established by usual and customary costs allowed by private insurance companies, and are set roughly 20 percent higher than what is allowed by Medicare – which intentionally pays a lower rate as compared to other billing entities.

Chief Eggleston said the proposed rates are similar to the rates of surrounding localities and like size communities. Staff is also recommending that the fees be revisited on a regular basis to ensure they are in line with market rates. If the resolution is adopted today and the February 1, 2010, implementation date is maintained, staff estimates that the program will help offset volunteer and career EMS expenses by generating about \$75,000 of revenue for this fiscal year and about \$450,000 of revenue for next fiscal year. The revenue projections are based on the two County-owned and operated ambulances and the Scottsville Volunteer Rescue Squad; staff understands that the Charlottesville-Albemarle Rescue Squad (CARS) and Western Albemarle Rescue Squad have decided not to participate at this time, but discussions with the two squads continue. He then offered to answer questions.

Mr. Boyd asked why CARS and Western are not participating at this time. What will the ongoing discussion be about? He had read in the newspaper that they had not received enough details about the program.

Mr. Rooker said he and Ms. Mallek have been meeting with the squads. They have said they would probably participate but "it may be later in time." They want to work through how the billing works with respect to how they want to operate. In their case, they want to individually bill and have the money come directly to them rather than coming through the County; Scottsville was fine with having single billing and have the County reallocate money back to them. There are some details related to the required paperwork by EMS service providers when they deliver someone to the hospital, and who will provide that paperwork. They want to have that question solved, and know what it would mean to their EMS providers. He is cautiously optimistic that they will both "come on line", but it's not going to be February 2.

Mr. Dorrier asked if Albemarle would be reimbursed if the Scottsville squad goes into Buckingham or Nelson counties.

Chief Eggleston explained that the County is required to send a bill to anyone transported under emergency conditions, regardless of their residence address.

Mr. Slutzky asked how it is handled at this time when some squad goes into a surrounding community, such as when Nelson County responds in Albemarle. Chief Eggleston said when Nelson County or the Waynesboro City First-Aid crews respond in Albemarle, they bill the patient.

Mr. Rooker noted that 85 percent of the people in the U.S. live in areas that have programs like this in place, including 80 percent of Virginians. Albemarle is not an early adapter to this. Other areas have recognized for a long time that they need assistance in providing what has become the increasing cost of EMS care. Federal and state requirements for how that care is delivered has increased dramatically over the years. The kind of equipment that people expect EMS providers to have and bring to the scene is much more sophisticated and expensive today than it was 20 years ago.

Ms. Thomas said she has said before that she does not believe people understand that they already pay for all the medication that they are given, so the ambulance ride is already part of your emergency room bill, but a lot of people don't realize that at this point.

Mr. Boyd said the Board has been talking about this program for over two years now. It is not something the Board has rushed into; it has been studied extensively. Mr. Tucker said the Board does not rush into anything and move quickly.

Ms. Thomas said she has before her something the Board got in July, 2008 about revenue recovery. The Board has been actively working on this for a long time.

Mr. Rooker said he would offer **motion** to adopt a Resolution to Establish a Schedule of Fees for Emergency Medical Services Vehicle Transport Services. Mr. Mallek gave **second** to 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 resolution, as adopted, is set out in full below.)

**RESOLUTION TO ESTABLISH A SCHEDULE OF FEES FOR  
EMERGENCY MEDICAL SERVICES VEHICLE TRANSPORT SERVICES**

**WHEREAS**, on September 9, 2009, the Board enacted Chapter 6, Article V of the Albemarle County Code, which authorizes the Albemarle County Department of Fire and Rescue and any volunteer rescue squad that obtains a permit from the County to charge fees for emergency medical services (EMS) vehicle transports; and

**WHEREAS**, County Code § 6-503 provides that the Board shall establish a schedule of fees for EMS vehicle transport services; and

**WHEREAS**, the Board has determined that the following proposed fees are reasonable and has charged the County Executive to develop policies and procedures to implement the County's EMS revenue recovery program, including payment standards for persons demonstrating economic hardship.

**NOW, THEREFORE, BE IT RESOLVED** that the following EMS vehicle transport service fees are hereby established for all EMS vehicle transport services provided in accordance with Chapter 6, Article V of the County Code:

1. For Basic Life Support (BLS) transport services: \$350. BLS is defined as the emergency response and transport of a patient that requires assessment and treatment by a BLS Technician and no Advanced Life Support procedures.
2. For Advanced Life Support Level 1 (ALS1): \$450. ALS1 is defined as the emergency response and transport of a patient that requires assessment and treatment by an ALS Technician and one or more Advanced Life Support procedures.
3. For Advanced Life Support Level 2 (ALS2): \$550. ALS2 is defined as the transport of a patient that requires defibrillation, pacing, intubation, or the administration of 3 or more Schedule IV medications.
4. For Ground Transport Miles (GTM): \$8.50/mile. GTM is defined as the charge per patient transport mile.

**BE IT FURTHER RESOLVED THAT** no person shall be denied transport services due to his or her inability to pay.

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Ms. Mallek asked Mr. Tucker if he will keep the Board apprised of other things concerning this program, such as the billing policy. Mr. Tucker said as soon as everything is drafted, he will send a copy to the Board members.

Mr. Rooker said he told people that the Board will adopt one of the most liberal, compassionate billing policies allowed by law. The Board has already expressed an interest in doing that. There has to be billing in order for Medicare, Medicaid and insurance companies to make payments.

Mr. Slutzky said the County is compelled to send a second bill, but they do not have to take any steps more proactive than sending that second notice. Mr. Davis said typically three billings would be sent unless someone has indicated their inability to pay, and then no further bills would be sent.

Mr. Rooker said the patient can sign a simple confidential certification of inability to pay and that's it.

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Agenda Item No. 13. **Work Session:** Five-Year Financial Plan.

Mr. Tucker said staff is asking the Board today to adopt a balanced Five-Year Financial Plan. Staff was able to balance the Plan because of the major changes made in the Capital Improvement Program (CIP). Some projects in the CIP had a significant impact on the County's operating budget. Staff will ask the Board to adopt the Plan today so it can focus on preparation of the next annual budget. There are still lots of uncertainties with regard to State funding and possibly even the County's own revenue depending on how projections "pan out." The Board will see in the presentation today that in years three and five there may be some flexibility, but he will suggest that the Board move forward with the Plan as it is because of those uncertainties. Further reductions are anticipated from the State. After

the next operating budget has been adopted, there will be another strategic planning retreat held and the Financial Plan will be discussed again at that time.

Mr. Boyd said the Board will be discussing the CIP with the School Board later today, and he wonders how much of that is reflected in this Plan. Mr. Richard Wiggins, Director of Finance, said the recommendations of the CIP Oversight Committee are reflected in the Five-Year Plan, particularly the delay in construction of the fire stations and the Crozet Library.

Mr. Boyd said there was a lot of discussion by the Oversight Committee about the tax rate. Mr. Wiggins said that at this time the Plan is based on a 77.2¢ real estate tax rate continuing for all five years, as discussed with the Board previously.

Mr. Wiggins said he will make a brief presentation of the Five-Year Financial Plan. He will begin with a brief review of the changes that have occurred since the last work session on November 4. He will first explain Plan assumptions, both revenues and expenditures. The Board will then have time for discussion of the Plan.

Mr. Wiggins then made a PowerPoint presentation of the Plan (copies of the slides are on file with the permanent records of the Board of Supervisors). A couple of changes have been made since that November work session, particularly on the expenditure side. There have been no changes on the revenue side, but on the expenditure side staff has reduced the operating impacts of the Capital budget to reflect the recommendations of the CIP Oversight Committee – primarily the delay of construction of the Pantops and Ivy fire stations and the Crozet Library. Staff had also adjusted the funding for the Fire Contract with the City in years four and five based on those stations not being built.

Mr. Rooker said the land for both fire stations is being donated, so is the donation of land for either fire station dependent on action being taken in any particular time period. Mr. Bryan Elliott, Assistant County Executive, said he is not aware of any time limit, but staff continues to work with both entities to move forward the land transfer process.

Mr. Wiggins said there are no changes in revenues since the November work session. As a reminder, staff is projecting a slight decrease in revenue in FY 2011, with a slow recovery expected in the out years. Bottom-line revenues are based on the continuing decline of reassessments in FY 2010 and FY 2011, followed by a modest recovery in the out years. Staff has also assumed the equalized real estate tax rate in calendar years 2010 and 2011, and then on through the remaining five years of the plan. With the projected increase in reassessments in the out years and keeping the tax rate flat, this would mean a slight increase in the effective tax rate. Regarding other revenue sources, there would be reduced personal property and sales tax revenue in year one with gradual increases thereafter. The EMS Cost Recovery Program will be instituted in February, 2010 with its full impact being seen in FY 2011. In FY 2011 revenues are basically flat, with slight increases in the out years.

Mr. Rooker said everything he hears indicates it is unlikely that State revenues in the out years will increase. Mr. Wiggins said staff is assuming they will be flat, but there could be further declines.

Mr. Boyd said he understands the 25 percent increase in Other Local Revenues is because of the EMS Recovery Program and people coming out of the Land Use Taxation Program. Mr. Wiggins said staff is assuming that anything from the Land Use Tax Program is a one-time revenue which will go straight into the General Fund Balance.

Mr. Boyd asked if that is why the Transfer and Fund Balance are increasing. Mr. Wiggins said that is because of the revenue being transferred with the payment from Capital for the project managers in Facilities Development. That was not previously budgeted in FY '10 but now is a part of FY '10.

Mr. Boyd said it is confusing to present it this way, although he understands why it is being done. When staff gives the Board percentages it is difficult because 25 percent looks like a big number but 25 percent of \$1.0 million is not the same as one percent of \$100.0 million. He suggested that Mr. Wiggins give dollar figures instead. Mr. Wiggins said he does not have that as part of the presentation today, but he can furnish the Board with the actual dollar figures later.

Ms. Mallek said she would also like to have the real dollar figures, since she does not have a clue as to the value of those percentages.

Mr. Wiggins said the next slide will show some of the detailed revenue assumptions. The first has to do with the real estate tax rate. That tax rate is being kept flat in the five years of the plan. In FY 2011, the 77.2¢ rate represents a three-cent tax increase above the current tax rate of 74.2¢. That is based on the projected 3.75 percent decline in the reassessment rate – that is the revenue neutral tax rate.

Mr. Slutzky asked what percentage of reassessments the Assessor's Office has completed. How accurate is their current read of it. Mr. Robert Walters, Division Manager of Business Taxation, said they are about two-thirds done at this point and it is at about 3.5 percent now.

Mr. Slutzky asked if the remainder of the process will be completed in the next month. Mr. Walters said a lot of the work has been completed, but has not been entered into the system. It is going through final validation and checking now.

Mr. Slutzky asked if any trends have been noted that make it suspicious that the numbers will not hold. Mr. Walters said that overall the reassessment is seeing about 3.5 percent, so there is a quarter of a percent margin right there, which is a good safety net.

Ms. Mallek said commercial is not included yet. Mr. Wiggins said there could also be further declines in the assessment of commercial property.

Mr. Wiggins continued by saying staff is projecting a slight decline in reassessments of 0.5 percent in FY '12 keeping the tax rate at 77.2¢. In the three following years (FY '13, FY '14 and FY '15) staff is projecting a 1.5 percent increase, a 2.25 percent increase, and a 3.0 percent increase in the reassessment rate. What that equates to in terms of a tax increase is - in FY '13 the 1.5 percent increase in the reassessment rate equates to a 1.2¢ increase in the tax rate. In FY '14, the 2.25 percent increase in the reassessment rate equates to a 1.7¢ increase and in FY '15, the 3.0 percent reassessment rate increase is equivalent to a 2.2¢ increase.

Mr. Slutzky asked if operating costs are assumed from a base line of the CPI. Mr. Wiggins said staff has assumed a zero percent increase for operating expenditures in FY '11 and then a two percent increase in each of the out years.

Mr. Boyd asked if the sales tax projections for the out years are based on what staff thinks the turnaround in the economy will be or is it based on some of the retail projects that are "log-jammed now" coming onboard or a combination of both. Mr. Wiggins said it is a combination of both. Also, as discussed in the First Quarter Financial Report, staff has a concern about significant retail activity going on outside of Albemarle County, and the bleeding of sales to other areas. All of that will have an impact.

Mr. Boyd asked, to take a specific example such as the Avon Park project, what kind of revenues are projected for it should it be online by 2013. Mr. Wiggins said it is difficult to make projections for a new retail development. There will be new sales at that location, but they may come from existing establishments.

Mr. Boyd said one of the Board's established goals is to promote economic activity. He thinks this Board should take an aggressive stance to make some of the developments that have already been approved happen. Is there an action the Board should take and move forward with?

Mr. Slutzky asked what Mr. Boyd had in mind.

Ms. Mallek said if Mr. Boyd had an "in" with a banker she would like to see him "get to it."

Mr. Rooker said at the end of the day, these developments are by private property owners. He meets with representatives of Albemarle Place at least once a month, and that project would be the biggest single investment ever made in the Route 29 corridor and it's in a form that this Board felt good about. Their issue has nothing to do with anything the County is doing.

Mr. Boyd said he does not know about Albemarle Place, but he disagrees with Mr. Rooker's statement overall.

Mr. Rooker said their issue has to do with obtaining tenants in a down market for retail. He talked to Mr. Hunter Craig recently about Avon Park. They have the same issue with obtaining tenants in a market where retailers are cautious about expansion plans. When talking about going after businesses aggressively, the most profitable businesses for the County are retail because sales taxes are collected from them. There is not a lot of revenue from a factory other than having new people move into the community.

Mr. Boyd said there are property taxes and machinery taxes which are collected. He is fearful about the way staff is putting together these projections, and what the Board might do to influence some of those future projections.

Mr. Rooker said that about 3.0 million square feet of retail space has been approved, but not yet built. Generally, those places are trying to line up tenants. The only help the County might provide that he is aware of - and he has talked to these folks fairly regularly - is if there were a way to go out and get the kind of name brand tenants they want to come into their shopping areas. In most cases they have extremely sophisticated staffs - the owners of Albemarle Place have numerous shopping areas all around the East Coast - they have several facilities similar to Albemarle Place. They have preexisting relationships with tenants. He does not know that they want Albemarle County meddling in their business. They're certainly much more adept at it than he would be.

Mr. Boyd said he is not familiar with national firms outside of the area, but he thinks there are some local firms that would love to sit down and talk about how the Board might help them promote some activities they want to have. He said the County is losing retail markets now because the Board did not do this a couple of years ago. At that time, the County said "you can come in" but it will take three to five years to get anything through the process.

Mr. Rooker said he hears that all the time and he would like to see specifics on that. He generally finds that it's simply not true. He said people have talked for years about a chip factory that was going to locate here, but located elsewhere. The fact is that they never made an ovation to locate in Albemarle. He said Harmon Corp., which he and Mr. Boyd met with and rolled out the red carpet in terms

of being friendly, greeting them, and telling them all about Albemarle County, and ultimately working with PVCC to produce a program to train their employees, went elsewhere because that location gave them \$30.0 million in tax benefits. That company has now been bought and now is cutting back a lot of production everywhere. They have been rolled into another company. When talking about being friendly to business, often that takes the form of massive tax benefits – no property taxes for 10 or 20 years – and so on. He said most books he has read about the subject show it is not profitable for the community.

Mr. Boyd said he has never proposed anything like that. What he has proposed is that the Board looks at its schedule and the process it takes to get something done in the County relative to what it takes in Greene or in Fluvanna or Louisa or Staunton, and other areas. People can go in those locations and be up and running with a viable entity in two years.

Mr. Rooker said WalMart planned a super store here and said it would take them only four months. He said Mr. Boyd had the idea to create the Development Review Committee three or four years ago. That was done, and the committee was chaired by someone from the Darden School. It made recommendations – many of which were adopted.

Mr. Boyd said they were not adopted.

Mr. Rooker said the primary recommendations that came to the Board about things that would significantly impact the flow of work were adopted. The County also had an efficiency study (Resource Utilization Review Study) done and those recommendations are in the process of being adopted. He does not think this Board has ever failed to consider any streamlining options brought before it. He would rather people talk in specifics rather than in generalities.

Mr. Boyd said “we will start talking in specifics soon.”

Mr. Slutzky suggested that Mr. Tucker include in the Consent Agenda soon the recommendations of the Development Review Task Force and note which have been implemented and which have not been implemented. Mr. Tucker said the Board adopted the recommendations, but it will take some kind of process to go through and actually implement them.

Mr. Dorrier said he thinks it would be useful to get a list of companies who have tried to locate in Albemarle County over the last four years.

Mr. Slutzky asked how staff would know which companies they are if they are private businesses. Mr. Tucker said staff knows about some of them, but not all.

Mr. Rooker said in his discussions with people who own land, he is not aware of any.

Mr. Boyd said the various Board members talk to different people, and he is aware of some. Sometimes these are confidential discussions that can't be brought out in a public meeting.

Mr. Rooker said these are generalities again.

Mr. Boyd said “no”, he will point out that the Board has been holding up one of these projects for about three years as the County has been working through the Places29 master plan. The Board had said it would not deal with Berkmar Drive Extended until Places29 was completed, and it has been three years. It is time to get that off of ground zero.

Mr. Rooker said that there are 3.0 million square feet of approved retail in the County. Wal-Mart, which has been held out as what would go in that location, is going to do a superstore in its current location. There has never been anything “put on the table” by that particular developer as a concrete proposal for contributing toward the cost of that bridge. The Board has had general statements with no specifics, and there is no traffic study that shows if the County got the money, built the bridge and made the land-use change that the developer is asking for, that the traffic generated by that site would actually relieve traffic on Route 29 or not based upon the existence of the bridge.

Mr. Boyd said this is not the time for that discussion.

Mr. Rooker said that as the steward of public money, he believes the Board should look at those things.

Mr. Boyd said “we will start bringing some specifics back to this Board.” He said the Board has to be willing to let them move forward and go through the process, and not say “come back in a year, we don't have time to fool with this right now.”

Mr. Rooker said he understands that any particular owner of property that is zoned rural would like to have his proposal leapfrogged over somebody else so he can attract retail to his spot that might go into an area that has already been approved. The fact is that there are 3.0 million square feet of retail already approved and not built on. Creating additional zoned retail property because it happens to belong to one developer who would like to enhance the value of his property does not necessarily mean that somebody who would come in to the other 3.0 million square feet is different.

Mr. Boyd said he is just saying to move forward with those projects that are ready to build, not just positioning themselves for a ten-year plan or a 20-year plan.

Mr. Slutzky asked what Mr. Boyd meant by “move forward.”

Mr. Boyd said allow them to come before the Board; not just sit here and say we have 3.0 million square feet of commercial.

Mr. Slutzky said that in the matter of Berkmar Drive he has been an advocate of it, but the owner has not brought a request to the County so anything can move forward. He has encouraged him to bring it forward.

Mr. Boyd said he thinks it was brought forward a couple of years ago. There was an application made for a rezoning. It has been languishing since then.

Mr. Rooker said that no information was provided other than it was an application to change rural area property to growth area property. He said that Mr. Chuck Rotgin’s company had property on Route 250 West approved for a shopping center at one time. The Planning Commission renewed that site plan repeatedly because the applicant didn’t go forward with it. He talked with someone who was integral to that project, and found that the applicant did not want to go forward with it until it was 95 percent preleased. The fact is that retail “went over the mountain” to Waynesboro and there was a shopping area approved on Route 250 West, but the owner wanted to be extremely conservative, which is his choice. He did not want to break ground on that project and start incurring costs until it was 95 percent preleased.

Mr. Boyd said this is not the setting for this discussion, but he thinks “we will have it.”

Ms. Mallek pointed out that during the lengthy discussions by the DRTF, one very, very large project sailed through in eight months and another took five years. The facilitator for the DRTF commented that he didn’t know any of the players or any of the individuals, but if the rules are the same and the staff is the same, it didn’t sound like the rules and the staff caused the difference. She said the Board has a lot to do and a lot to talk about, but she does not think the County’s process and staff are the major players in why there are so many things that are unfilled right now. She said so many things were approved in a short period of time that there wasn’t enough market to fill up the first one approved before all the others came on. What happens when things are happening so fast is unfortunate.

Mr. Rooker said there is a lot of approved un-built retail, and business, and office and residential, (Albemarle Place and North Pointe are examples). The issue with Albemarle Place is getting the tenants to create the nexus for the development to go forward. They have worked for a long time to get to that point. If the County keeps approving new areas, there will be a lot of areas that may have one store and nothing else. There is a little bit of that going on in Hollymead Town Center. Albemarle Place will come on line and Hollymead Town Center will still be 60 percent un-built. North Pointe across the street will be trying to attract the retailer that might have gone to Hollymead. If another place is now approved for that kind of development there will be four or five partially built eyesores that never get filled up.

Mr. Slutzky said he would “like to throw an additional thought on the table” for Mr. Boyd. If he is really committed to attracting the development activity that he recognized would bolster the County’s overall economic vitality, he should keep in mind that when the County chooses to fund infrastructure to support that business through proffers instead of through taxes, what happens is that the proffer burden becomes the tipping point and that project ends up becoming “a state park.” “You don’t end up getting the promise that’s out there.” Until the County is serious about investing in infrastructure directly instead of putting that entirely on the backs of the development community, it will find that developers will have a hard time populating all of that potential zoning activity, and businesses will be lost to surrounding counties where the cost of development is lower. It is a balancing act, and that balance needs to be kept in mind moving forward. He thinks there will be evidence of that problem rearing its head in the not too distant future. With that said, he thinks the Board has covered all of the bases with this digression.

Ms. Thomas said she had a slightly different topic – something she has mentioned from time-to-time. She does not know how much revenue would come from an admissions tax but she knows that it is a four or five-year plan to get such a tax implemented. The Board would need General Assembly approval, and University of Virginia agreement and probably an agreement with the City of Charlottesville. It is one way of dealing with the impact when huge crowds arrive in town. It also would have to apply to high school plays. It is something the University in previous years has said they could consider. However, they would have to know about it many years ahead of time. They make contracts with visiting basketball teams and those contracts let them know how much they would get, and they would have to factor in the amount of the tax. It is something that could be investigated to the extent of figuring out whether it is seriously worth considering. Mr. Tucker said staff can review that idea with the Board at some point.

Mr. Rooker said that while discussing this, he will hand out a list of the University of Virginia’s Pipeline of Current Capital Projects which was distributed at a recent PAAC meeting. It is informative and shows the significant investments being made in capital projects at the University – those projects provide substantial input into the County’s economy in a variety of ways. There is also an expressed interest in doubling the size of the Fontaine Research Park. He said the growth of business which is an outgrowth of the University is the most natural affiliated growth that the community can have; they normally generate high-tech or medical jobs that pay well.

Mr. Slutzky asked Mr. Wiggins to continue his presentation.

Mr. Wiggins said with respect to the expenditure summary, staff is projecting a slight decrease in FY '11 with moderate increases in the out years. He will talk about the major issues as he explains some of the assumptions. For FY '11, there is a continued reduction in staffing levels for Local Government, there is creation of a revenue shortfall Reserve, and there will be decreased transfers to the Schools and Capital. The next slide details some assumptions behind the expenditures. First, for merit and market increases for employees, in FY '11 no increase is projected, followed by a 2.7 percent increase in FY '12 and a 3.7 percent for merit and market in FY '13 through FY '15; the number of frozen positions will be kept at approximately 65. Currently, there are 60 that have been eliminated or frozen, or are funded through other revenue sources. He said the current VRS rate is 13.54 percent of salaries, and the same rate is being assumed through the five years. The County will be receiving information soon about the FY '11 rate. Staff is concerned that the percentage will increase by one or one and one-half percentage points which will obviously have an effect on the expenditure side.

Mr. Rooker said he thinks that at some point it's got to increase because of portfolio losses. It will take a long time to make that up without an increase in rates. They need to increase the rates to have a realistic funding of the program. The County has no control over the rate.

Mr. Wiggins said the joint Boards will be discussing health and dental insurance during the joint meeting this afternoon. As a hint of what is to come, staff is projecting an eight percent increase in health insurance for each of the five years, and a five percent increase in dental for each of the five years. Concerning department operations, staff is projecting no increase in operating costs due to inflation, etc. during FY '11 and then a two-percent increase in the out years. He said funding has been reduced to the Housing Trust Fund by \$190,000 each year. For the Jail, staff is projecting a fairly significant increase in FY '11 and even higher increases in FY '12 through FY '15. The SPCA contribution, based on what the contract the Board just adopted, is increased. Staff is projecting increases for the outside agencies that the County funds along the same lines as the merit and market increases.

Mr. Rooker said he noticed that the Regional Library is projecting pay increases for the upcoming year, but he thinks it is unlikely that Albemarle will increase its contribution to any of the agencies. He asked if there had been any discussions with any of the agencies about that. Mr. Tucker said he has asked that same question for all of the agencies in terms of salary increases for employees. Most have not had an increase, and he does not think the Library had one last year. The City did not give an increase last year either. They may be projecting one, but if the County does not provide a salary increase, he does not think the Library will, especially if the City does not. If the City provides an increase, they may consider something, but that won't sit well with County staff.

Mr. Rooker said the County would have gone three years without increasing individual salaries of County employees if it did what is projected.

Mr. Boyd said it is two years. Mr. Wiggins said that is correct, it would be FY '10 and FY '11.

Mr. Dorrier said this is a projection; it does not mean it is a reality.

Mr. Rooker agreed.

Mr. Slutzky said no employees have lost a position. Mr. Tucker said the number of positions have been reduced through attrition, primarily.

Mr. Wiggins said the next slide continues with expenditure assumptions. He said the School and Capital transfers are established by policy. There is a significant increase in the Capital transfer which occurred because of the Board's decision to suspend the VDOT Revenue-Sharing Program and reduce funding for ACE to tourism dollars only. He noted a line on the screen showing the dollars built in for future years based on the impact of capital projects on operating costs. Those operating impacts are minimal - \$6,000 in FY '12 increasing up to \$27,000 in FY '15. This reflects the recommendation of the CIP Oversight Committee to fund maintenance projects only, and it pushes the fire stations and the Crozet Library out beyond the five years. A Revenue Contingency is established in FY '11 at \$1.5 million. He said the contribution to the Fund Balance from the one-time revenues from the revalidation program is estimated at \$1.6 million in FY '11 and FY '12. Mr. Tucker said the Fund Balance Mr. Wiggins mentioned is the operating Fund Balance which is used for cash flow.

Ms. Mallek said it is likely that if the County does not provide a match, the tourism money for ACE will not come. It was very difficult to get the tourism money attributed to ACE to begin with; she wants everyone to know this as quickly as she found out. That \$300,000 from the tourism money cannot be counted on if the Board is not willing to say it is important to the County. Mr. Tucker said staff is looking at other areas where that money can legally be used.

Mr. Rooker said he thought the Board controlled that. This is money that is collected on meals tax. Mr. Tom Foley said as a clarification, the tourism money being referenced in the Five Year Plan is the money the County generates and decides how to use. There are other grant opportunities that have been pulled down in the past by using some matching local money whether it is the tourism money or General Fund money. If the ACE Program is not funded at all there won't be moneys to match any opportunities that come up.

Mr. Rooker said the tourism money is generated locally, so the County has the right to use that money for tourism related items. Mr. Tucker said that is the hotel/motel tax, not the meals tax. Mr. Foley

said if there were no ACE Program and some tourism money could be shifted to cover operating expenses, then there would be no money to match grants.

Ms. Thomas said she agrees that the tourism industry was concerned about that money going into ACE, but she and others have met with them and explained it. As long as they realize that it is not going to every piece of ACE property, they were comfortable with that and saw the value of it. It is a communication line that has to be kept open.

Mr. Wiggins said the next slide details the actual dollar amount for the School Transfer and the Capital Debt Transfer beginning with the FY '10 budget and continuing through FY '15. There is a slight reduction in the Y '11 School Transfer and then slight increases in the out years. On the Capital side there is a more significant reduction in the first year resulting from the decision about the ACE program and the VDOT Revenue-Sharing Program, and then slight increases in the out years on the Capital Debt transfer.

Mr. Wiggins said the next slide shows in one chart the bottom-line revenues over expenditures for the five years – based on all of the revenues and expenditure assumptions. The first year is basically balanced; however, in FY '12 and FY '13 staff is projecting surpluses of approximately \$600,000 increasing to about \$800,000 in FY '14, and up to almost \$1.6 million in FY '15.

Mr. Slutzky cautioned against using the word “surplus” to describe what might be available to fill in some of the many holes that have been created by this “draconian” approach to budgeting. The word surplus creates a perception in the public’s mind that is totally invalid in this case.

Ms. Thomas said it will almost get up to what the Board had been putting into the ACE Program every year.

Mr. Slutzky said the Board is also zeroing out and flat lining the Social Services budget and having attrition result in the loss of staff. There is a long list of consequences of this current Five-Year Financial Plan, so he would caution the staff about use of a term that would be clearly inaccurate in the impression it would create in the minds of the public. There is no surplus in the budget.

Mr. Dorrier said there is also a tax rate increase to 77.2¢. Mr. Wiggins said it does assume that tax rate increase.

Mr. Rooker said what staff is proposing is that basically the Board not have a Capital Improvement Program other than maintenance projects, and that nothing be built in the County for the next four or five years. At some point, some of these things will have to be done.

Mr. Slutzky said that currently the budget shows no Crozet Library and no new fire stations.

Mr. Dorrier said he has been made aware of a consultant’s request for funding. He asked how many consultants there are on building projects. He thinks money could be saved on consultant fees for those projects that have been put on hold for five years. Mr. Tucker replied that Mr. Bill Letteri will be present and be able to address that question this afternoon.

Ms. Mallek asked when the Board will get an update about the investigation of misdirected sales tax revenue. That was something that was going to be looked at in the past six or so months – someone in the Finance Department was going to do that. Mr. Wiggins said that at this time that is a frozen position.

Mr. Rooker said that is a position the Board voted unanimously to do. An efficiency study (RUS) was done of the County and one recommendation was that a person be hired to investigate whether the County was losing sales tax revenue due to misallocation to the City and perhaps other jurisdictions, but the position has not been filled yet. Mr. Foley said the study could have been clearer about that issue. Filling this vacant position would also help to collect uncollected taxes. The issue being talked about specifically across jurisdictions is a complicated issue that Henrico, Chesterfield, and other localities have spent years working on. They have changed post offices and established new zip codes, so there is a lot behind it. He said the County needs to pursue it, but a plan is needed and that needs to be done along with the efforts to implement the study. There’s a big difference between filling that vacant position and getting at this issue. He said staff can present to the Board the steps to be taken to pursue that issue. It is not as simple as filling that position and having sales tax moneys turnaround.

Ms. Mallek asked if there is anything individual businesses can do to help in this situation. She said County business owners have an obligation to see that their information is correct. Maybe that would help without spending any money. Mr. Foley said the Finance Department is already informing businesses that they are paying their sales tax to the wrong jurisdiction. Mr. Tucker said the example mentioned is the perfect example. The 22901 zip code covers more addresses in the County than it does in the City. Mr. Foley said staff will send the Board additional information on the progress of that effort.

Ms. Thomas said in looking at this Five-Year Financial Plan, the Board is assuming that VDOT will continue in existence, and the County will not be handed its roads. If that should happen, all of this is “just a joke.” Mr. Tucker said the County could not provide maintenance of any projects if it had to take over the roads.

Mr. Rooker said the Board had discussed the sales tax misallocation issue before. There was a question as to whether a private company could be engaged to do this type of work. He said there are companies who deal with unclaimed property and they have expertise in different areas. The County cannot let someone work with the individual sales tax records of individual businesses because they are confidential. He wonders if there are software programs that would help. This has to be a huge issue all around the country.

Mr. Slutzky asked if that is a true statement. He said his firm does work for the Federal Government, and they are given records that are proprietary formulas, etc. The government addresses that with rigorous standards for confidentially agreements and the enforcement thereof. He asked if the County has that option as a locality. Mr. Davis said that under State law those records are confidential and only available to County agencies.

Mr. Rooker said his question is whether there are companies that just do the technical side of it, and provide a program to ensure that the County receives the revenues to which it is entitled. Mr. Foley said staff will present information about what has been done so far and what approaches might be needed.

At this time, Mr. Rooker **moved** for adoption of the Five-Year Financial Plan as presented today. Mr. Slutzky **seconded** the motion.

Mr. Boyd said he has a comment to make. He will not vote in favor of the Plan because he cannot support the tax increase in the third year, but he appreciates the work staff has done. Mr. Tucker said the out years of this plan will be revisited later.

Mr. Slutzky asked Mr. Boyd how he proposes that the budget be balanced.

Mr. Boyd replied that the Board needs to look at additional reductions in costs.

Mr. Slutzky asked "like what?"

Mr. Boyd said he was not prepared to tell him that now.

Mr. Slutzky said "it's easy to just sit there and take the grandstand position of I'm going to vote against it cause I'm going to keep the taxes flat", but when you have absolutely nothing to offer to staff for them to go back and bring to the table it's not really very helpful.

Mr. Boyd said that maybe during the budget process, "we" will develop some things to offer.

Mr. Slutzky asked if Mr. Boyd was going to develop some things specifically.

Mr. Boyd said "yes."

Mr. Dorrier said he has a problem with the projected revenues showing a surplus. How would the Board reconcile that with the tax rate going up 3.2 percent? Mr. Tucker said the Board is not officially adopting any rate at this time. These are projections only and the Plan shows that. His earlier comments were: "Because of the uncertainty of State revenues, and local revenues, and things the Board has brought up today, you're not locking yourself into anything. We're going to be looking at this again, and it changes just about every year."

Mr. Rooker commented that it would be foolish to adopt a plan that did not show some surplus unless it was fine-tuned to a level degree five years out.

Mr. Dorrier said there is spike-up in the fifth year.

Mr. Rooker said Mr. Dorrier had voted in favor of building the Crozet Library and that is not a part of this Plan. If a library is ever to be built, or any of the fire stations, or if the State cuts more than they have shown so far, or if there is an increase in the VRS rate, there will be additional costs.

Mr. Dorrier said by the same token it shows an increase of three or four cents in the tax rate, so to be fair to the public it needs to show at the present tax rate what the revenues over expenditures would be.

Mr. Slutzky asked if Mr. Dorrier wanted the Board to propose a budget for the next five years that is not in balance because there are not enough revenues coming in.

Mr. Rooker said he thinks a VRS increase of one percent should be included, and some of the Capital projects that everybody voted to do be put back in.

Mr. Slutzky said the 60 frozen positions were all approved by the Board at some point in the past.

Mr. Rooker said the surplus is meaningless in light of the fact that basically the Capital Improvements Program has been eliminated.

Mr. Dorrier said he agrees with Mr. Tucker that a vote for this Plan does not lock the Board into a tax rate. He thinks that is important, so he will vote for it realizing the Board will not be locked into a tax rate.

Mr. Rooker said the tax rate will be set each year in the same way it has always been done. This is just a projection.

Ms. Thomas said she will not be here next year, let alone in five years, so on what basis could she vote one way or the other on this, or should she abstain. She has thought about that and she will vote for it. All 16 years that she has been a member of the Board she has been a proponent of the County's Capital Improvements Program and putting money into it. In tight years it is difficult to keep with that policy of putting a certain amount of money in the CIP. If the Board does not, there will eventually be failing infrastructure in the County. This budget in front of the Board is a maintenance only budget - it is only taking care of mandates and obligations that are given to the County by the State, or by the Board's policies, or by its debt service obligations. She thinks it is a very slim five-year projection and she will be consistent with all the actions she has taken in the past and vote for this Plan.

Mr. Slutzky asked that the roll be called at this time. The motion carried by the following recorded vote:

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

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Agenda Item No. 14. Closed Meeting.

At 12:07 p.m., **motion** was offered by Ms. Thomas, **seconded** by Mr. Rooker, 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 (7) to consider specific legal matters requiring legal advice regarding a contract for services provided by the City of Charlottesville; and, under Subsection (7) to consider a matter of probable litigation regarding a claim arising from an accident at a County recreational facility. 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. 15. Certify Closed Meeting.

At 2:00 p.m., the Board reconvened into open meeting. **Motion** was immediately 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 Ms. Mallek. 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. 16. Boards and Commissions: Vacancies/Appointments.

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

Appoint Mr. Don Franco to the Fiscal Impact Advisory Committee, as the Planning Commission representative, with said term to expire December 31, 2009.

Appoint Mr. Bill Kehoe as the City/County appointee to the Joint Airport Commission and the Airport Authority Board, with said term to expire December 1, 2012.

Appoint Mr. Christopher Dumler to the Natural Heritage Committee, with said term to expire September 30, 2013.

Appoint Mr. Randall Switz to the Route 250 West Task Force, with term to expire September 5, 2012.

Reappoint Mr. Joseph Samuels and Mr. Ross Stevens to the ACE Appraisal Review Committee, with said terms to expire December 31, 2010.

Reappoint Mr. Paul Beyer, Mr. Drew Holzwarth and Ms. Ida Simmons to the Housing Committee, with said terms to expire December 31, 2012.

Reappoint Mr. David Emmitt and Mr. Hamilton Moses to the Public Recreational Facilities Authority, with said terms to expire December 13, 2012.

Reappoint Mr. Jeffery Greer as the joint City/County appointee to the Rivanna Solid Waste Authority Citizens Advisory Committee, with said term to expire on December 31, 2010.

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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**Non-Agenda. Motion** was offered by Ms. Mallek, **seconded** by Mr. Slutzky, to adopt the following resolution denying a claim asserted by Ms. Violet Seabolt. 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.

**RESOLUTION TO DENY CLAIM  
ASSERTED BY VIOLET SEABOLT**

**WHEREAS**, Violet Seabolt, by counsel, has asserted a \$400,000 claim against the County of Albemarle arising from alleged wrongful actions of the Albemarle County Department of Parks & Recreation; and

**WHEREAS**, the Board of Supervisors finds that the claim is not supported by the facts or by law.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia denies the claim of Violet Seabolt for alleged damages in the amount of \$400,000.

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**Motion** was then offered by Ms. Mallek, **seconded** by Mr. Slutzky, to adopt the following resolution approving an amendment of the Fire Services agreement between the City of Charlottesville and Albemarle County. 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.

**A RESOLUTION APPROVING AN AMENDMENT OF THE  
FIRE SERVICES AGREEMENT BETWEEN  
THE CITY OF CHARLOTTESVILLE  
AND ALBEMARLE COUNTY**

**WHEREAS**, on May 3, 2000, the City of Charlottesville (the "City") and the County of Albemarle (the "County") entered into an agreement governing the provision of fire services for both localities (the "Fire Services Agreement"), which remains in full force and effect; and

**WHEREAS**, Section 6 of the Fire Services Agreement provides that the Agreement shall expire on June 30, 2010, but that the parties may, by mutual written agreement executed prior to June 30, 2007, extend the Agreement for a second term lasting three (3) additional years, through June 30, 2013; and

**WHEREAS**, the City and County by written mutual agreement executed the Amendment of Fire Services Agreement Between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement dated August 6, 2008, to extend the Fire Services Agreement through June 30, 2013; and

**WHEREAS**, the Fire Services Agreement has been mutually beneficial to both the City and the County, and the parties may desire to extend the Agreement for five additional years, beginning July 1, 2013, and ending June 30, 2018; and

**WHEREAS**, the City is agreeable to an extension of the Agreement, notwithstanding the termination date provided in Section 6.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of Albemarle County, Virginia that it hereby approves the Second Amendment of Fire Services Agreement Between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement to allow for the Agreement to be extended for five additional years beginning July 1, 2013, and ending June 30, 2018.

**BE IT FURTHER RESOLVED** that its Chairman is hereby authorized to execute the Second Amendment of Fire Services Agreement between the City of Charlottesville and Albemarle County to Authorize Extended Terms of Agreement.

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Mr. Slutzky said he has long been a student of the Equal Rights Amendment. He is of the mind that it is a deplorable state of affairs that the country failed to achieve ratification by a sufficient number of states back in the 1970s to guarantee women the same equalities that the Constitution currently guarantees based on race, religion and national origin. He has spoken with some of his constituents and they have embraced the idea that he would bring this forward today. He thinks this Board needs to ask the General Assembly to do so. He then read into the record the following resolution and asked the Board to vote on it.

#### RESOLUTION

**WHEREAS**, the Equal Rights Amendment (ERA) ensures that women will have equal rights under the United States Constitution; and

**WHEREAS**, the County of Albemarle supports the advancement of women's rights; and

**WHEREAS**, the United States Constitution fails to guarantee equal rights and equal justice for women to their continuing detriment; and

**WHEREAS**, the Equal Rights Amendment would provide the only incontestable remedy for gender discrimination for both women and men by providing a Constitutional guarantee of equal rights; and

**WHEREAS**, the 14<sup>th</sup> Amendment to the United States Constitution and the various state constitutional statements of gender equality generally do not provide the strict scrutiny of equal protection for the matters of gender as is now accorded race, religion, and national origin; and

**WHEREAS**, the only permanent right women explicitly have in the U.S. Constitution is the right to vote and rights not supported by the Constitution can be undermined in legislatures and courts; and

**WHEREAS**, in past years, laws and policies in the Commonwealth of Virginia have unjustly discriminated against girls and women in general, and against particular classes of women, such as in matters of reproductive rights, sexual assault, marital property, and sexual harassment, and although some such laws and policies have become somewhat less discriminatory, such improvements can be, have been, and are being reversed; and

**WHEREAS**, the ERA, introduced in 1972, requires ratification by three more states; and

**WHEREAS**, some institutional policies, whether overtly discriminatory or "facially neutral," in public, voluntary, and private institutions, still have inequitable effects on women; policies such as those dealing with insurance, pension, family medical leave from employment, job promotions, occupational choice, recreational opportunities, and access to medical care, and stereotypes still exist which limit women's roles and activities; and

**WHEREAS**, most of the care of the young and the elderly is still given primarily by women, many of whom through economic necessity must also work in the job market and/or at home; and

**WHEREAS**, in many other ways the tasks of providing equal opportunities to women and men, and the tasks of removing burdens which fall unjustly on women as compared with men remain uncompleted;

**NOW, THEREFORE BE IT RESOLVED** that the Board of Supervisors of the County of Albemarle, Virginia, does hereby indicate its support for the principle that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." and

**AND, BE IT FURTHER RESOLVED**, that the Board of Supervisors of the County of Albemarle, Virginia hereby urges the General Assembly of the Commonwealth of Virginia to ratify the ERA during the 2010 session.

Mr. Slutzky said the language from "Therefore Be It Resolved" is actually the language from the Equal Rights Amendment. He then offered **motion** that the Board adopt the resolution he just read. Ms. Thomas gave **second** to the motion.

Mr. Rooker said the ERA was introduced in 1972. Is there a time limit on when states can approve it?

Mr. Slutzky said there would appear to be, but there is some uncertainty about that, so there is a parallel effort currently through the National Organization of Women (NOW) to initiate a reintroduction of the ERA, and have the existing states ratify it again. There is a parallel track trying to get three more states to ratify. The Madison case suggests there is no time limit on it, so if three states were to ratify it, it would become a part of the Constitution.

Mr. Dorrier asked how many states had ratified it so far.

Mr. Slutzky said all but three that are needed to have the passage, which is three short of two-thirds. He finds it bizarre that this country could not do it in the 70s. He would be proud to initiate an effort to bring Virginia into the fold and that is why he is asking the Board members to collaborate with him in making such a request of the General Assembly.

Mr. Rooker asked if anyone knows if the General Assembly will take this up.

Mr. Slutzky said "no." He needs to have someone bring a bill forward and ask that they do it. Perhaps with this resolution passed, and maybe with a few other localities weighing in, there might be some incentive for someone to bring a bill forward.

Mr. Boyd said this is a time when he would wish that this Board had followed some of the procedures that other boards do and have first and second readings on things. He appreciates what is said in this resolution. The part that bothers him, and the reason he will abstain from the vote, is that he has not looked at the ERA – the Board would be asking that legislation be approved and he is not familiar with the details.

Mr. Slutzky said the language of the legislation is actually in the resolution. It is the last "Therefore Be It Resolved" paragraph. It is the words "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." That is the entirety of the equal rights amendment. He is not sure why Mr. Boyd needs to study that further.

Mr. Boyd said there are always unintended consequences with issues like this. If it was that clear cut, he does not know why there are not already votes from two-thirds of the states. He does not know why Virginia hasn't voted for it either. But, he just has not had time to study it. He appreciates what Mr. Slutzky is trying to do and is very much in favor of equal rights for all people. He will have to do more research on it before he can support it.

Ms. Thomas said "it is clearly a very dangerous move to have equal rights for women."

Mr. Boyd said he does not think that is a dangerous move, but he just does not have enough information.

Mr. Slutzky said he does not know how much more Mr. Boyd would want to know. However, if he can't support it, he just can't support it.

Mr. Boyd said he will not vote against it.

Ms. Thomas said a lot of women know things have gotten much better in the last 50 years. She went to a college where she was not allowed in the men's library. Her children can't believe women put up with such a thing. That is how things have changed and it is good. Virginia has a bad reputation, particularly on sexual orientation and gender issues of that sort, currently. She thinks approving the ERA would help its reputation. There are businesses that won't come to Virginia at this point, and she thinks it would be a positive move for job creation, which seems to be an important feature for many people. She thinks it is a good action for the Board to take, and she appreciates Mr. Slutzky wording it as gently as he did.

Mr. Dorrier said it has been shown that women's pay is about 70 percent of men's pay.

Mr. Slutzky said that would not be if the ERA was passed.

Mr. Rooker said there is an Equal Pay Act on the books. He does not know that the ERA would change the pay situation because of that Act which is already on the books.

Mr. Slutzky asked that the roll be called at this time, and the motion carried by the following recorded vote:

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

NAYS: None.

ABSTAIN: Mr. Boyd.

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Mr. Rooker said to follow up on Ms. Thomas' comment, there are a number of businesses – high growth businesses in the country today who agree with what Ms. Thomas just said – Microsoft, Google, AMD are very sensitive to this kind of thing. It's for that reason that a number of them have refused to locate in South Carolina which still flies the Confederate flag. He thinks that if this were to take place it would actually help the business climate in Virginia.

Mr. Boyd said to clarify his point – if he had had an opportunity to listen to why this has not been ratified in the State of Virginia then he would not have felt like he did.

Mr. Slutzky said there is an argument that a woman's place is in the home.

Mr. Boyd said that is not his argument.

Mr. Slutzky said the leader of Mr. Boyd's party in the Commonwealth has been out there covering that issue recently.

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Agenda Item No. 17a. Transportation Matters: VDOT Monthly Report.

Mr. Allan Sumpter, Residency Administrator, said he saw a resolution on the Consent Agenda today about the bridge on Free State Road. VDOT had a meeting in early November with representatives of the Railroad Company and Mr. David Benish was also present. Based on the discussion at last month's Board meeting, they clearly expressed the Board's desire to keep that bridge open to vehicular traffic. He said VDOT will be talking with the railroad about what types of repairs and upgrades might be done in order to restore that structure. They looked at the possibility that this bridge might be transferred into State maintenance at some point, but that process will take several months. There are issues with railroad bridges statewide, and VDOT's bridge engineer is involved in those discussions.

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Mr. Sumpter said there has been a concerted effort by VDOT to make motorists more aware of safety issues on the Monacan Trail part of Route 29, and their traffic engineering staff is looking at other places in the area to do other safety work as well. It will be another month before there is a full report since they are doing a thorough review of that corridor from I-64 down to the Nelson County line.

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Mr. Sumpter said he has met separately with Ms. Mallek and Mr. Rooker regarding Jarmans Gap Road. Due to revenue shortfalls it is proposed that \$6.9 million in Federal funds be taken out of that project. He said they were only about \$1.0 million short of funding that project. This is the only project in the Six-Year Plan that has been receiving Federal funds. He has been making reports to the Board each month concerning the amount of funds being cut. He has tried to allocate all of the funds they have to the Jarmans Gap project instead of putting the funds on any other project that might be impacted by the cuts.

Mr. Sumpter said if the \$6.9 million had come to the project, there would have been funds in excess of the estimated cost of the project. At this time, with the Revenue-Sharing moneys that were approved by the CTB last fall, the difference was \$3.4 million with \$2.5 million coming back from Revenue-Sharing leaving about \$0.9 million needed to take the project to construction. VDOT is continuing to get right-of-way. He said the moneys that would have been impacted were out-year funding from 2011 to 2015 – so all previous moneys are currently intact; the \$0.9 million will need to be addressed before the construction phase.

Mr. Rooker asked if there is any potential for eliminating some of the expense. He knows there was a lot of cost in right-of-way acquisition, but perhaps changes could be made that would bridge the gap on the \$0.9 million. Mr. Sumpter said VDOT cut the costs of the project somewhat by eliminating turn lanes and other things. He has talked with VDOT's right-of-way people and they will look at anything that can be done with easements to eliminate some costs. This project was much costlier in the beginning and has been narrowed down to obtain savings, so they believe there is little opportunity left for additional cutting.

Mr. Rooker said he hopes that gap will not keep the project from moving forward fairly soon. Is it possible to put a project out to bid giving a maximum on the bid? Mr. Sumpter said VDOT has to show the project would be fully funded by the time it is completed.

Mr. Rooker said the bidding climate at this time is very good. He read an article yesterday about the fact that road construction companies have now come to the end of the stimulus contracts, so are laying off huge numbers of employees. In that climate a bid might be obtained that could be \$0.9 million less than the estimate. He hates for the opportunity to be lost because there is this small percentage deficit on the project. Mr. Sumpter said the VDOT estimates on projects are updated every 90 days. Between now and the scheduled advertising date of February, 2011 there will be further updates to the estimates.

Mr. Rooker asked if the estimates are project specific or do they include just an inflation factor. Mr. Sumpter said there are certain percentage costs about contingencies and engineering. However, line items included in the estimate are drawn off of historical data of bids.

Mr. Rooker said that approach often does not capture the specifics of a marketplace and the ability to obtain a better offer or response to an RFP because it is done on general data rather than local specific data. He wants to make certain this project does not get delayed by one or more years and the opportunity to get it done at a smaller cost today is lost. Mr. Sumpter said he discussed this with the District Office, and they will look to see if that is possible. By buying right-of-way, etc., VDOT already has a large investment in the project so they will do their best to find a way to keep it moving forward.

Mr. Boyd said getting back to Mr. Rooker's point, could VDOT put it out for bids knowing there is not enough money based on the current estimate. Mr. Sumpter said the current policy requires VDOT to show that the project will be fully funded at the year of completion. Mr. Tucker said VDOT has some internal limitations that prevent them from doing that.

Mr. Rooker said he thinks the Board should send some kind of communication to Mr. Butch Davies on the CTB. In the current climate that approach is ridiculous. He thinks there are plenty of firms

that would respond to an RFP with a maximum price. If they did not, that would be fine, but he hates to miss the opportunity to take advantage of a good time in the market because an estimate is too high.

Ms. Thomas said companies have come into the community to do projects at the University and they already have an investment here. They might be interested in staying here with their employees and might give a favorable bid. Mr. Sumpter said there are procurement laws and different VDOT policies that determine how the State bids its projects. He said VDOT will do what it can to keep the project moving forward.

Ms. Mallek asked the timeframe for the right-of-way phase. Will it take six more months? Mr. Sumpter said it was estimated to take 13 to 15 months. It started last April so it will probably be early summer next year before that process is expected to be over.

Ms. Mallek asked if it will be summer before an RFP could be put out. Mr. Sumpter said there will be clearance phases to sign off on from the end of that phase. Typically it takes about six months to get everything to advertisement after everything has been cleared to go.

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Mr. Sumpter said the bridge on Route 795 (Blenheim Road) over the Hardware River has been reduced from five tons to three tons because of structural problems identified recently. Repairs will be made to the structure; however, beyond those repairs VDOT believes the bridge is reaching an age where it is not likely the weight limit can be raised back up.

Mr. Dorrier said it has always struck him that the one-lane bridge is in character with the neighborhood but is "out of kilter" with the times.

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Agenda Item No. 17c. Transportation Matters not listed on the Agenda.

Ms. Mallek asked for an update on placement of rumble strips on Earlysville Road. Mr. Sumpter said VDOT is not going to put rumble strips there at this time, but have put the "rumble affect" on the road before the stop-ahead sign. They want to change the sizes of different signs, so the Police Department has agreed to do more enforcement there.

Ms. Mallek said during some recent trips on Route 29 she noticed four or more places between Charlottesville and Warrenton where there are rumble strips. Mr. Sumpter said those strips can be heard a long distance away, and there are some residential areas in that part of Earlysville.

Ms. Mallek said she will check with people in Village Woods to see if they can hear the one that is next to them.

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Ms. Mallek said there are problems with the traffic signal on Route 250 West at Western Albemarle High School. The problems seem to occur at eight o'clock in the morning when the school busses are coming in. The traffic backs up for miles in both directions because only two or three cars can get through the intersection at one time. Mr. Sumpter said he had talked with the Police Department about that. He understands that sometimes they put a policeman there to clear the queue, but while trying to clear the traffic that sends the traffic signal into disarray which makes traffic move differently.

Mr. Rooker said there is a policeman at Albemarle High School in the mornings and evenings who takes control of the traffic for a period of time. Is that happening at Western?

Ms. Mallek said there has been a policeman in addition to the light. After that light went in, the policeman was not to be there any longer. She said people are confused about that, but the light was just malfunctioning and the Route 250 traffic was not getting through so hopefully VDOT can look at it.

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Mr. Slutzky mentioned that as you're heading east on Rio Road, first there is the light at Old Brook Road, and then there is the light at Hillsdale Drive/Northfields Road. The timing sequence of those lights is still problematic. There is a left-turn lane at Northfields Road that most of the time is difficult to take advantage of because of the short space between the lights. Because most people have been stopped at Old Brook Road, by the time they get to Northfield Road, the left-turn arrow is gone. Since the light on the westbound side is longer than that on the eastbound side, the drivers waiting to turn left onto Northfield have to wait until the cars heading west stop before they realize it is now safe to turn left in front of them but they don't have a turn arrow. It is a bizarre sequencing. Mr. Sumpter said the two lights are tied together. This has been discussed before and VDOT has looked at it several times.

Mr. Slutzky said he would like to sit out there with someone from VDOT in the afternoons when it is happening. To the extent that a controlled crosswalk is to be installed at that intersection, he assumes the timing sequence will be adjusted for both of those signals. Mr. Sumpter said that is what would usually be done.

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Ms. Thomas asked about the safety speed analysis for Owensville Road. Mr. Sumpter replied that VDOT has been looking at that location, but they have not found anything obvious that can be changed, certainly no geometric change.

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Ms. Thomas said that last Sunday there was a sign on I-64 saying there was a lane closure about nine miles ahead. She was coming from Richmond, and found it to be very useful. She said the sign looked like it would be there semi-permanently because no one could have made that kind of announcement that far in advance. Is there a message sign just as one comes into Albemarle County on I-64?

Ms. Mallek said it probably was announcing the backup at the Shadwell exit that occurs regularly.

Ms. Thomas said it was a good thing, but just wondered if it was permanent because there have been so many blockages. Mr. Sumpter said it is a portable board that has access controls by VDOT's Regional Operations Center. He said there is also one on Route 29 South just north of Ashwood; there is one on Route 250 near the VDOT office. He explained that the systems communicate back to the office so the message can be changed. They had hoped to install more permanent boards throughout Route 29 and I-64 that would be larger but serve the same purpose.

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Mr. Boyd said he had asked months ago about a hybrid road in his district - Stony Point Pass where the residents asked for speed signs. Some portions of that road are paved and some are not. Mr. Sumpter said he asked the VDOT Sign Foreman to put up the signs on the graveled portion; he will check to be sure it has been done.

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Mr. Dorrier said about five miles along Route 6 off of Route 20, the speed limit was 55 mph and he wonders if it can be reduced to 45 mph. Residents who live along that road have trouble getting out of their driveways. Mr. Sumpter said that request came through before and VDOT looked at that section. He recalls that it considered that section recently and determined it didn't meet the criteria to justify reducing the speed limit, but he would check again and get Mr. Dorrier an answer.

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Agenda Item No. 17b. Hatton Ferry - Acceptance of donation from VDOT and transfer to nonprofit entity.

Mr. Tucker said disposition of the Hatton Ferry was discussed at the Board's meeting on November 4. Concern was expressed over acceptance of the ferry by Albemarle County due to current financial constraints including recent staffing reductions, and expanding the workload demands of the Parks and Recreation Department – as well as the logistics of providing oversight of the ferry in the James River. He explained that Mr. Stephen Meeks, President of the Charlottesville-Albemarle Historical Society, was present during that discussion and expressed interest in the Society's acceptance of ownership of the ferry. A letter from Mr. Meeks was sent to the Board members by e-mail indicating the Society's willingness to assume responsibility for the Hatton Ferry - they will be moving forward with establishing a subsidiary nonprofit corporation to carry out the mission of owning and operating the ferry.

Mr. Tucker said staff is recommending at this time that the Board authorize the County Executive to take whatever action is necessary to accept and transfer ownership of the Hatton Ferry if the following conditions are met: the Charlottesville- Albemarle Historical Society or another qualifying not-for-profit entity agrees to accept immediate ownership of the ferry upon transfer of the ferry to the County from VDOT; and, the appropriate documents allowing the County's acceptance of the ferry and guaranteeing the immediate transfer of ownership from the County and acceptance by the nonprofit entity are prepared and are acceptable to the County Attorney. Otherwise, staff does not recommend acceptance of ownership of the ferry.

Ms. Thomas asked about the other things Mr. Tucker had said would need to be done before the County could accept the ferry. Mr. Tucker said the County is set to accept the ferry if the Society moves forward with this, and it has until the end of this month to do so. Mr. Meeks is working to create a nonprofit organization so hopefully that will happen before the end of the month, and then the Board can move forward with this transfer.

Mr. Rooker then **moved** to accept the recommendations of staff (set out below) and to authorize the County Executive to execute whatever documents are necessary to implement this proposal. Mr. Slutzky **seconded** the motion.

1. The Albemarle Charlottesville Historical Society or another qualifying not-for-profit entity agrees to accept immediate ownership of the Ferry upon transfer of the Ferry to the County from VDOT.
2. The appropriate documents allowing for the County's acceptance of the Ferry and guaranteeing the immediate transfer of ownership from the County and acceptance by the not-for-profit entity are prepared and are acceptable to the County Attorney.

Mr. Dorrier asked Mr. Tucker if he envisions Albemarle County taking a "hands-off" position on the ferry. Mr. Tucker replied that Mr. Meeks, in his letter, asked for some help in assisting them in mowing, and those kinds of things the Parks and Recreation Department has done in the past. He has

talked with Mr. Pat Mullaney who indicated that they can continue to do that unless the County's ability to do so is further limited. He said the County will help them out wherever possible.

Mr. Davis said VDOT indicated in their letter that they will discontinue maintenance of that right-of-way so in addition to operation of the ferry itself whatever nonprofit takes over ownership of the ferry will have to maintain that right-of-way. That is something VDOT will likely require under their permit for use of that right-of-way.

Mr. Rooker said at this point, VDOT will basically abandon the ferry at the end of the year unless an action is taken. This is the action this Board discussed and was comfortable with. The Historical Society has indicated it is comfortable with this approach. It seems to him that the Board should approve today the mechanism for getting this done.

Mr. Slutzky asked that the roll be called. The motion carried by the following recorded vote:

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

Mr. Slutzky expressed on behalf of the Board appreciation for the Historical Society "stepping into the breach" for the County. It is a shame to lose an historic relic, and this sounds like a good outcome.

Agenda Item No. 18. **Public Hearing:** ZTA-2009-017, Fees. Amend and renumber Sec. 35.0 (to 35.1) , Fees; amend, renumber and rename Sec. 35.1 (to 35.2), Fee reduction: and, add Sec. 35.3, Fee refunds, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend and reorganize the Zoning Ordinance's fee regulations and increase existing fees, impose new fees and change, but not necessarily increase other fees for listed applications, permits, reviews, approvals, inspections and other services provided by the County in the administration of Chapter 18.

Sec. 35.0 would be renumbered Sec. 35.1, Fees, and would be amended as follows:

Application – Current Fee	Application – Proposed Fee Not to Exceed
<b>Zoning text amendments:</b> \$840	<b>Zoning text amendments:</b> \$1000
<b>Zoning map amendments</b> 1. For planned developments - under 50 acres - \$1020 2. For planned developments - 50 or more acres - \$1570 3. For all other zoning map amendments - under 50 acres - \$1020 4. For all other zoning map amendments - 50 or more acres - \$1570 5. Minor amendment to a zoning map amendment - \$220 6. Deferral of action to a specific date - \$35 7. Deferral of action indefinitely - \$75	<b>Zoning map amendments</b> 1. Less than 50 acres; application and first resubmission: \$2500 2. Less than 50 acres; each additional resubmission: \$1250 3. 50 acres or greater; application and first resubmission: \$3500 4. 50 acres or greater; each additional resubmission: \$1750 5. Deferral of scheduled public hearing at applicant's request: \$180
<b>Special use permits:</b> 1. Rural area division for the purpose of "family division" where all original 1980 development rights have been exhausted under "family division" - \$220 2. Rural area divisions - \$1240 3. Commercial use - \$980 4. Industrial use - \$1020 5. Private club/recreational facility - \$1020 6. Mobile home park or subdivision - \$980 7. Public utilities - \$1020 8. Grade/fill in the flood plain - \$870 9. Minor amendment to valid special use permit or a special use permit to allow minor expansion of a non-conforming use - \$110 10. Extending special use permits - \$70 11. Home Occupation-Class A - \$13 Home Occupation-Class B - \$440 12. For day care centers - six (6) to nine (9) children - \$490 13. For day care centers - ten (10) or more children - \$980 14. All other uses except signs - \$980 15. Deferral of action to a specific date - \$35 16. Deferral of action indefinitely - \$75	<b>Special use permits:</b> 1. Additional lots under section 10.5.2, public utilities, day care center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; application and first resubmission: \$1000 2. Additional lots under section 10.5.2, public utilities, day care center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; each additional resubmission: \$500 3. All other special use permits; application and first resubmission: \$2000 4. All other special use permits; each additional resubmission: \$1000 5. Deferral of scheduled public hearing at applicant's request: \$180 6. Signs reviewed by the board of zoning appeals: See subsection 35.1(f)
<b>Site plans</b> Preliminary site development plan: 1. Residential - \$1,190, plus \$13.00/unit. 2. Non-residential - \$1,580, plus \$13.00/1000 square feet. Final site development plan: 1. Approved administratively - \$410 2. If reviewed by the commission before approval of preliminary site development plan - \$1,130 3. If reviewed by the commission after approval of the preliminary site development plan - \$790 4. For site development plan waiver - \$270 5. For site development plan amendment: a) Minor - alterations to parking, circulation, building size, location - \$95 b) Major - commission review - \$270 6. Review of site development plan by the architectural review board - \$200 7. Appeal of site development plan to the board of super visors - \$240 8. Rehearing of site development plan by commission or board of supervisors - \$190 9. Rejection by agent of incomplete site development plan: a) Rejected within ten days - \$200 b) Suspended after site plan review - site plan fee shall not be refunded. \$65 fee shall be required to reinstate project. Other 1. Extension of approval of site plan - \$45 2. Deferral of action to a specific date - \$35 3. Deferral of action indefinitely - \$75 4. Bond inspection for site plan, each inspection after the first bond estimate - \$60	<b>Site plans</b> 1. Preliminary site plans; administrative review: \$1200 plus \$15 per dwelling unit and \$0.015 per square foot of nonresidential structure 2. Preliminary site plans; planning commission review: \$1800 plus \$15 per dwelling unit and \$0.015 per square foot of nonresidential structure 3. Final site plans; administrative review: \$1500 4. Final site plans; planning commission review: \$2000 5. Waiver of drawing of site plan under section 32.2: \$1500 6. Site plan amendments under section 32.3.8 ¶2 (minor): \$500 7. All other site plan amendments (major): \$1500 8. Appeals to the board of supervisors under section 32.4.2.7: \$240 9. Reinstatement of review under section 32.4.2.1: \$240 10. Reinstatement of review under section 32.4.2.4: \$80 11. Extension of period of validity: \$475 12. Inspections pertaining to secured site plan improvements; per inspection: \$280 13. Deferral of scheduled public meeting at applicant's request: \$180
<b>Matters considered by the Board of Zoning Appeals</b> 1. Variances: \$120 2. Appeals: \$120	<b>Matters considered by the Board of Zoning Appeals</b> 1. Variances: \$500 2. Appeals: \$240

3. Special use permits for signs under section 4.15.5: \$120	3. Special use permits for signs under section 4.15.5: \$500
<b>Matters considered by the Architectural Review Board</b> None	<b>Matters considered by the Architectural Review Board</b> 1. For a site plan; per review by the ARB: \$1000 (new) 2. For a building permit; per review by the ARB: \$590 (new) 3. Amendment to approved certificate of appropriateness: \$225 (new)
<b>Matters considered by the zoning administrator or others</b> 1. Official determinations regarding compliance - \$75 2. Official determinations regarding development rights - \$40 3. All other official determinations - \$75 4. Zoning clearance for tourist lodging - \$35 5. Zoning clearance for home occupation, class A: none 6. All other zoning clearances - \$35 7. Sign permits; no ARB review required - \$35 8. Sign permits; ARB review required - \$75	<b>Matters considered by the zoning administrator or others</b> 1. Official determinations regarding compliance: \$185 2. Official determinations regarding development rights: \$100 3. All other official determinations: \$100 4. Zoning clearance for tourist lodging: \$100 5. Zoning clearance for home occupation, class A: \$25 (new) 6. Zoning clearance for temporary fundraising activities: No fee 6. All other zoning clearances: \$50 7. Sign permits under section 4.15.4; no ARB review required: \$25 8. Sign permits under section 4.15.4; ARB review required: \$120
<b>Groundwater assessments</b> 1. Tier 1 assessment under section 17-401 - \$50 2. Tier 3 assessment under section 17-403 - \$400 plus \$25 per lot 3. Tier 4 assessment under section 17-404 - \$1000	<b>Groundwater assessments</b> 1. Tier 1 assessment under section 17-401: \$50 2. Tier 3 assessment under section 17-403: \$510 3. Tier 4 assessment under section 17-404: \$1100
<b>Miscellaneous</b> 1. Change in name of development - \$25 2. Change in name of road - \$20 3. Relief from condition of approval from commission or landscape waiver by agent - \$180 4. Tier II personal wireless service facilities - \$790	<b>Miscellaneous</b> 1. Change in name of development or change in name of street: \$80 2. Relief from conditions of approval; modification or waiver of requirements: \$425 3. Tier II personal wireless service facilities: \$1820
<b>Notice</b> The actual costs of any notice, to the extent that the cost exceeds the applicable fee	<b>Notice</b> 1. Preparing and mailing or delivering up to fifty (50) notices: \$200 plus the actual cost of first class postage (new) 2. Preparing and mailing or delivering, per notice more than fifty (50): \$1 plus the actual cost of first class postage (new) 3. Published notice: actual cost (new)

Sec. 35.1 would be renumbered Sec. 35.2 and its heading would be changed from "Fee reduction" to "Calculation of fees in special circumstances" and current regulations for calculating fees where applications for multiple related approvals are required for a project would be restated and clarified.

Sec. 35.3 would be added to include what is currently in Sec. 35.1(c) to provide that an application fee shall be refunded if, after the fee is received, it is determined that the application for which the fee was received is not required.

The proposed fees and fee increases are authorized by Virginia Code §§ 15.2-2241(9) and 15.2-2286(A)(6).

*(Advertised in the Daily Progress on November 16 and November 23, 2009)*

Mr. Mark Graham, Director of Community Development, made the presentation. He said a fee study was done by Community Development in 2007. The Board reviewed that study in December, 2007 and three objectives were set for fees: 1) the fees should be comparable to those in other localities, 2) the fees should attempt to recover a significant portion of the cost of services, and, 3) a policy should be established to regularly update the fees. With respect to Zoning Ordinance fees, in August, 2009 the Board had a work session and directed staff to bring the proposed fees before the Planning Commission for consideration. In November, 2009 the Commission held a public hearing and recommended zoning fees as presented by staff with three changes: 1) include the Class B-Home Occupation permit in the lower special use permit fee category; 2) no fee should be charged for temporary fundraising events; and, 3) the effective date of the fee change should be delayed until July 1, 2010.

Mr. Graham said in the way of a summary about the zoning fees, staff looked at reducing the fee categories for special use permits and zoning map amendments into two categories. They set the fee to recover the costs associated with the numerous resubmissions of those applications so as not to punish those applicants who quickly resolve their issues; to recover the cost of required notification and legal notices - similar to what was done with the notices related to the Subdivision Ordinance; it was recognized that appeals need a different perspective on the recovery of costs and that there was a due process issue involved so and there should not be the same perspective on the recovery of costs for appeals; the fees recommended in the Fee Study were used when they were comparable to other localities or the fee change was relatively small; consideration of future ordinance amendments should include a cost of service so fees are current with whatever service changes made; and, the ordinance should provide for a biennial review of fees.

Mr. Graham said he would explain the Planning Commission's recommendations. The first had to do with Home Occupations. There are two classes of these permits. The first is a Class A - it is an administrative permit. The overwhelming number of applications in 2008 was for this permit - there 258 such applications. The current fee is \$13 and the proposed fee is \$25 which would provide for full cost recovery. It is a totally administrative permit - most can be issued "on the spot."

Mr. Graham said the Home Occupation-Class B is a use by special use permit so it requires a public hearing before the Planning Commission and the Board. The current fee was \$444 and the fee study recommendation came back at \$5,300. Initially, the staff's recommendation was \$2,000 with \$1,000 for resubmissions. That was in the higher of the two zoning fee classifications for special use permits. The Commission revised that to \$1,000 for the initial submission and \$500 for each resubmission.

Mr. Graham noted that temporary fundraising events are now in the ordinance under Sec. G, No. 5, Zoning Clearances for Temporary Fundraising Activity. There is no fee associated with them; staff had no concern with that change. The final change by the Planning Commission was the effective date. They recommended July 1, 2010, as the effective date of the ordinance. Staff needs a minimum of 45 days from adoption to modify forms, notify the public, and make sure the process goes smoothly. The earliest

date staff could recommend would be February 1, 2010. He said staff supports the Commission's delayed implementation believing it is a reasonable accommodation. However, it needs to be understood that the estimated revenue difference for the February to July timeframe would be \$75,000.

Mr. Graham said he would like to focus on efficiency for a moment. There have been some recent editorials saying staff should focus on efficiency first. He said that has been done through two processes – first was the Development Review Task Force which was charged in March, 2006 making its priority recommendations in May, 2007. Staff reviewed those recommendations with the Board in February, 2008 as part of its annual work program. At that time it was noted that nine of the 12 priorities had been implemented, two were partially completed and one had not started (looking at expanding the notice area, which would actually increase costs).

Mr. Graham said the County completed a Resource Utilization Study; it started in July, 2008 with recommendations presented to the Board in February, 2009. In the November, 2009 Quarterly Report of the Community Development Department, it is indicated that seven of the nine recommendations related to the Community Development Department have been completed. One is ongoing and the other is in process – that has to do with the project management for Crozet Master Plan update and keeping timesheets. That will be reported to the Board as that master plan review is completed. He thinks the Department has done what the Board expected it to do to insure that an efficient operation is maintained.

Mr. Graham said he recommends that the Board adopt ZTA-2009-017 as recommended by the Planning Commission with its effective date being July 1, 2010, and that the Zoning Ordinance be subject to a biennial review using the County's merit increase as a basis for adjustment – which is the same as what was done previously with fees in other ordinances. He then offered to answer questions.

Mr. Boyd asked if as part of the review process, they looked at ways of reducing the cost of processing applications. He knows the idea was to recover 50 percent of the cost, but why is the cost to process so high? Mr. Graham said they looked at it in terms of having gone through the DRTF and the Resource Utilization Study. It is his opinion that if costs are to be lowered the requirements in the applications need to be revised too. It is not about efficiency anymore – it is about what the County is looking for with a completed application.

Mr. Boyd said the DRTF didn't really look at cost, only the review process. He thinks that is pertinent now given the current economic situation.

Mr. Rooker said the development review process was to focus on increased public participation. That was the charge brought forward and recommended by Mr. Boyd. There are few ways public participation can be increased without increasing cost also. Having an additional hearing to allow more people to weigh in on a topic will increase the cost of the staff time, etc. associated with preparation for that meeting, with the notices, and with public advertisements where it's appropriate. These were things the DRTF made recommendations on that would not lower costs, but would increase costs.

Mr. Boyd said that is the way it turned out, but that was not the charge to the group. The makeup of the committee and its discussion changed, that is the way it turned out. That was not his intent, but because of the public participation in the process it led the DRTF in a different direction.

Mr. Rooker encouraged Mr. Boyd to re-read the minutes on this, because the whole idea of doing it was his. He thought it was a good idea, but he can assure Mr. Boyd that in the initial minutes when he brought this up, he brought up improved public participation as a part of it. That was in the initial discussion that Mr. Boyd brought forward to the Board. He had two things: one, making the process more efficient; and second, improving and increasing public participation – and a part of that came about as a result of all the things that were going on at Glenmore at the time. He thinks what the committee recommended is good, and staff took charges and made a recommendation about the fees and the Board supported going forward with their recommendations.

Mr. Boyd said the committee recommendations were changed by the Planning Commission in its review. He would like to "dust off" that report and bring back the original thoughts – he also needs to look at the minutes. He suggested not voting on this until the Board had looked at two things – the cost of doing business and readdressing some of those issues. He was surprised to read that seven of the nine recommendations had already been implemented. He knows that other things were discussed that never made it forward as a recommendation.

Ms. Mallek said there were a lot of things in the matrix the Board saw which did not make it to the top tier, they were left at the committee level rather than bringing 39 things forward which would not have had as much acceptance from the Board at that time. She thinks a thorough study was made of the fees and the recommendations are far lower in a recovery percentage than many citizens in her district want. They're really tired of paying all the costs for somebody else to do development. She said staff had been "pitching this" more at the 50 percent level. She asked if that was correct. Mr. Tucker responded that the Board has historically approved 50 percent being borne by the applicant and the other 50 percent by the citizens because of Comprehensive Plan amendments and other planning work by staff.

Ms. Mallek said there is a public benefit from getting a good product rather than "just sitting back" and letting everybody do what they want.

Mr. Dorrier said the complaint he has heard most is that the process is extremely slow. If the fees charged are going to be increased, the process must be efficient. Mr. Tucker agreed, but emphasized

that staff is moving through the process as fast as they can given existing ordinances and regulations. They can't just bypass regulations that this Board has adopted. If the Board wants to make the process more efficient, those ordinances and regulations must be looked at and perhaps some of them eliminated. That would be a Board decision. Staff is not "dragging their feet" – there are a lot of regulations and checklists they must go through.

Mr. Dorrier said it takes about nine months to get a special use permit through the process.

Ms. Mallek said she maintains that some of that time is when the work is in the hands of the applicant. There are very rigid timeframes that staff has to adhere to when they have an application in hand. When it goes back to the applicant for the next round, the applicant can "sit on it" for years if he so desires. Mr. Tucker suggested the Board members take time to come in and sit down with a staff member and go through a site plan review using the checklist staff has to adhere to – this checklist is taken directly from sections of the Subdivision and Zoning ordinances. Then the Board members might be able to identify why particular things are being done.

Ms. Thomas said when staff went through the cost comparison against other communities and it showed that Albemarle's costs might be a little higher because of public participation. She thinks this fee issue is fascinating for someone sitting and watching the governmental process – it gets at basic questions of how much is a public responsibility and how much is a private responsibility. This is a legitimate look at where public and private interests lay. The other issue is the amount of public participation wanted in the process. The Board has erred on the side of having a lot of public participation opportunities. She thinks that if the amount of public participation were reduced it would be at the peril of the County. This is a community that cares about how things get developed, cares about that Class B-Home Occupation's impact on the neighborhood and would want to have the ability to comment on that request. The process says they have that ability, therefore it costs more. She said a dictatorship is always cheaper, but she does not think that's the direction this community wants to go in.

Mr. Boyd said the Board has not gone through a case-by-case review to say that \$5,000 is the appropriate cost to get a Class B-Home Occupation special use permit approved. Should the cost be split 50/50 or should it be 80/20? He does not understand what staff would do for \$5,000 to approve a Class B-Home Occupation (unless there are a lot of notices to be mailed, a lot of meetings with neighborhoods, a lot of Planning Commission meetings). It certainly shouldn't take a planner that long to look at the impacts - that's the process the Board has not been through. The DRTF did not do that.

Mr. Slutzky said Mr. Boyd had just identified the litany of public goods that are built into the process to protect the community. Planning Commission meetings require a lot of staff preparation time, and there are advertising and notice elements, which Mr. Boyd has supported, is required to engage the community so that when the Board approves a permit for a home office in a rural area or a neighborhood that would be impacted, the public knows about it. That is good public purpose. The time the planner takes to review that application is just a small portion of staff time.

Mr. Slutzky said the Board has been looking at this cost analysis for over two years, and that information has been presented to it. He knows Mr. Boyd is currently engaged in other good purposes, so it might be harder for him to spend the time needed to dig into the Board packet than it has been in the past. He said the Board has had the opportunity numerous times for the staff to articulate the process steps and the approximate allocation of the costs. He thinks there is a general understanding about that, and he does not believe Mr. Boyd doubts that is what it costs.

Mr. Slutzky said the bigger question is how the Board wants to allocate that cost burden. Does it want to a) reduce the level of community participations; b) reduce the stringency of requirements which may have the undesirable outcome of having "lousy" developments occur; or, c) keep the standards tough and decide to allocate that cost burden one of two ways? Does the Board want to a) put it on the applicant in which case there will be a chilling effect on people doing home occupations, or b) allocate those costs on the taxpayers and acknowledge that it is a public good that drives the more stringent standards the County has chosen to adopt? In that case there is the public benefit, so the public should pay for it, in which case Community Development staff would be funded through taxpayer dollars instead of burdening the home applicant. Those are the kinds of trade-offs the Board must decide.

Mr. Slutzky said Mr. Boyd, over the past couple of years, has been exposed to the approximate allocations. He is not sure that studying that more would change the deliberation the Board has had which is how to allocate this public good. Does the Board want to have a chilling effect or raise taxes to do it, or raise fees to do it? That is what is in front of the Board today.

Mr. Boyd said he has looked at the material in the packet, and he recalls the discussions the Board has had over the past two years. It has come to his attention recently that the Board never looked at the cost side. He thinks it was assumed that it cost \$5,000 so is 50 percent charged to the general public and 50 percent to the developer, or does the developer pay 100 percent? What do other people charge? He does not believe the cost has ever been looked at.

Mr. Slutzky said Mr. Graham presented the results of the analysis that gave rise to the recommendations to the Board. He asked if that was correct.

Ms. Mallek said there was an outside report. Mr. Graham said an outside consultant presented the fee study. They looked at the cost of every application processed. Using the home occupation as an example, there are definitions for both a Class "A" and a Class "B". A request for a Class A permit is an

administrative procedure – it is a simple checklist and staff can review that application for \$25 and get full cost recovery and process the permit. For a Class B application, which is a special use permit, request, the public notification is dramatically increased and that impacts the planner's time. It is easy to review a plan to see if it meets certain criteria, but it is balancing issues with the public that takes the time.

Mr. Boyd asked if the Board had discussed whether there is still a need for all those extra steps for a Class B permit just because there would be two employees instead of one. Mr. Graham said that going back to the Department's 2009 work program, one of the items in that program was to look at the Class B-Home Occupation permit to see if some of those permits should actually be changed to a Class A-Home Occupation subject to supplemental regulations so they could be handled administratively; that work was pushed "to the back burner" along with work on wayside stand provisions and other things. It is still on the work plan as an item to be worked on when possible.

Mr. Rooker noted that the information shown on the screen shows that in 2008 there were 258 applications under Class A at a cost of \$13; under Class B there were three applications. He said that "what we've got here is a mountain and a molehill situation."

Mr. Boyd said he thinks a lot of those 258 were actually Class B requests which were brought in under a different mechanism.

Mr. Rooker said that 90 percent of the applications have been Class A applications where the fee was \$13. Proposed for the Class B permit is a fee of \$1,000 and that is not full recovery. He said comparisons were made with other localities; Albemarle's fees are comparable with those being charged by others. ATTA came before the Board during budget sessions and urged that the County get recovery levels from development activity so the burden would not be placed on taxpayers. It can't be both ways. At one point, the Resource Utilization Study recommended that higher recovery levels be implemented for development activities. That recommendation is not being done with this proposed ordinance change. Implementation of that recommendation would help to maintain a lower tax base in the County. He thinks this is absolutely a minimal step to implement some kind of fair allocation of the costs of development between the community – which falls on taxes – and the developer.

Ms. Thomas said Mr. Boyd raised one legitimate question. Why does it cost so much to do certain things? She noted a chart (Attachment B to an earlier report, a copy of which is with the Board's materials for this meeting) which notes what it costs to do certain activities. For anything that appeared to be too expensive (such as Home Occupation-Class B), the Board had actually asked staff to determine if there were a different way of doing it. That process has not been finished, partly because the department is low on staff. She thinks that is a legitimate thing for the Board to look at and say "if it costs \$3,700 to do a certain thing, is there something that should be changed in the County's regulations?" She does not think today is the day to say "we are not going to do this fee recovery." Those are the sorts of things staff can be asked to look at if anything seems to be unreasonable. She thinks it is reasonable to question why certain activities are so expensive.

Mr. Boyd said he appreciates Ms. Thomas pointing this out, but it does not tell him why a particular thing costs the fee that is recommended. At one time the Board discussed whether the County would accept an engineer's certification of a plan as opposed to doing quality assurance and using the County Engineer and the process the County goes through.

Ms. Thomas said that is a good example because the County tried that. Mr. Graham said it was tried and it failed.

Mr. Boyd asked if the problem was that nobody wanted to submit plans that way. Mr. Graham said there is a very detailed checklist which must be adhered to, but staff found that a couple of developers started using it, but then stopped and tried submitting their plans without completing all of the items on the checklist. That idea had to be abandoned.

Mr. Rooker said a lot of time is spent by County staff going back and forth with applicants who don't properly complete an application. The Board had talked about those applicants basically using County Engineering staff to complete their application for them. That is going on now.

Mr. Boyd said he realizes that, and that is the type of stuff he would like to see stopped. The application should simply be turned back to the applicant until it is done right. The County has taken on doing that quality assurance for them –the expense was not reduced because staff let them dictate that it was something the County had to do. He would support not assuming that cost.

Ms. Mallek asked if Mr. Boyd was saying to not accept the application until it was right.

Mr. Rooker said the reality is that the County has the ultimate responsibility for making certain an application is properly filed, the site plan is properly filed, and that requirements are met. Staff has to obtain the assurance of a certified professional that it is done right because if it fails, it ultimately comes back on the County. In cases where they have to keep going back and forth, no staff time is saved because they keep having to check the work that is sometimes not properly done and return it and receive it again and check it again.

Mr. Boyd said he does not know how to simply say that certain things have to be done and certified before submitting the application; if there is not a certification that all things have been done the County will not accept the application.

Mr. Slutzky said the County cannot just reject an application; it has to say where it is defective. At this time, staff time is used to determine the defect and to articulate what it was, so it is back to putting a bind on staff time. The challenge is that Albemarle County has chosen to have a fairly tough standard for approving development activities. It is largely driven by a desire to have quality urban development versus haphazard urban development.

Mr. Boyd said Mr. Slutzky can't use haphazard urban development as what he is talking about.

Mr. Slutzky said he is not suggesting that is what Mr. Boyd is advocating. His point is that the Board, including Mr. Boyd, chose to have quality standards for development activity in the County. For that intention to be expressed and processed, it requires a longer checklist with more particularity. There is a cost associated with carrying out the County's good public purpose. The issue before the Board now should be, and is, how should that cost be allocated? Does the Board want to recognize that some percent of that cost is a benefit to the public and should be paid for by taxpayers? How much of that cost does it want to allocate to the public because they get some benefit from it also?

Mr. Slutzky said he will say that because the County has a tougher standard, it is more tilted toward the public good than it is toward the developer community. He is comfortable with having the taxpayer pick up some of the cost of good quality development. There are a lot "of us" who don't seem to want to have sufficient tax revenues to fund the staffing needed to fulfill that mission. One of the solutions the Board came up with was to push some of that burden back on the applicant community, but it can't be both ways. The Board, as a body, has to decide how to allocate the cost burden of its decision to have quality development.

Mr. Slutzky said it could be argued that a Board member might not "be on board" with having this quality development and would rather look for opportunities to soften the standards of development. That is a separate issue and may be something the Board would chose to do in the future. Right now, the Board has agreed on these standards and what is in front of it today is how to allocate those costs. Staff's recommendation is to split the difference. It is arbitrary in some ways, but seems to staff and several Board members to be a reasonable choice, and he thinks that is what the Board should consider.

Mr. Rooker said the advertised fees are lower than what was recommended by the experts who came in and looked at this question. They recommended that more of the costs be allocated to the activities that generate those costs. He said Hollymead Town Center is a good example. What was the cost of the County having implemented more stringent stormwater requirements elsewhere in the County as a result of the mistakes that were made there? What kinds of certifications, or inspections, are needed to assure that does not occur again? He will suggest that most of the time when there are complaints by large numbers of people, it has to do with standards that are not high enough or standards put in place but not enforced.

Mr. Slutzky said Mr. Boyd has advocated wisely on behalf of active participation by the public in some of these issues. He thinks he is right to make that case, but there is a cost, so the Board still has to decide how to allocate that cost.

Mr. Boyd said Mr. Slutzky keeps bringing the conversation back to the "allocation of costs" thing, so Mr. Slutzky is missing the point he has been trying to talk about for the last six months or so. He is interested in reducing the cost of everything the government does. That is all he is looking at. He is not sure the Board has taken a hard look at that. He said Mr. Slutzky is saying that services will have to be given up in order to reduce costs. That has been the mantra of the majority of the Board members all along – if the Board reduces the tax rate or does not raise the tax, it has to give up some services, and he is not convinced of that yet.

Mr. Slutzky said Mr. Boyd suggests he would like to reduce the costs and there are ways to do that. The standards can be loosened up – there can be less scrutiny, less vigilance and/or less public participation in the process of development. As far as he can tell those are the only ways to reduce the costs.

Mr. Boyd said he is not convinced those are the only ways to reduce costs.

Mr. Slutzky asked for other suggestions.

Mr. Boyd said the Board needs to take time to analyze these individual numbers – why does it cost \$5,000 to do a Class B thing? If \$4,000 of that is in notices that must be sent to the public, then he might say that is an expense the Board wants to do because there is no way around that.

Mr. Rooker said the DRTF had a broad charge, and there was nothing that prevented it from looking into specific line items they thought cost too much internally and should be changed somehow. There's nothing that prevents the DRTF from going there now if it wants to go there. There's nothing that prevents any individual Board member from sitting down with Mr. Graham and saying "I'd like to understand better exactly what needs to be done for a site plan, what the steps are, and why it costs \$2,800, or whatever the cost is, to process a site plan." He said Mr. Boyd is not stopped from doing that.

Mr. Boyd said he thinks that is a waste of his time if he's the only one person doing it. It wastes staff time and his time.

Ms. Mallek responded that somebody has to take the lead and dig around.

Mr. Rooker reiterated that the DRTF made specific recommendations and Mr. Boyd saw the status of those recommendations. If Mr. Boyd thinks the cost of processing a site plan is too high, he has no problem with Mr. Boyd meeting with staff and reporting back to the Board. He sat down with staff at one time and where there were 16 steps involved in a process and he thought three of those steps could be eliminated, he told staff what he thought the result would be. He said Mr. Boyd can make that inquiry, and report back to the Board. He said the DRTF had a broad charge and could look into specific line items if it wanted to. There was also the Resource Utilization Study which every member of this Board supported. He has always been in favor of having third parties come in and look at what the County is doing to see whether or not there are ways to do things more efficiently and more cost effective. He thinks the County should continue to do that.

Mr. Rooker said one reason to compare Albemarle County to other localities is that it highlights whether it is out-of-line in some areas. He said that has been done, and it did not show that Albemarle was out-of-line with other counties. The DRTF made recommendations which were adopted, the Resource Utilization Study said more costs should be allocated to applicants, and this matter has been ongoing for two years. In that interim period substantial revenues have been lost through fees which have not been increased for 20 years. His suggestion is that the Board goes forward with these amended fees.

Mr. Boyd said that is going to happen anyway.

Mr. Slutzky said whether it should happen is a separate question. If it is Mr. Boyd's opinion that it should not happen because he has not had the time to study it and identify any suggested improvements. It is not like in the last two years he has not had that opportunity. It is not fair for Mr. Boyd to suggest that there is "fat" in the County's operation that he can be cut out of reduce the cost of, but he does not have any particular items to present for Board consideration.

Mr. Boyd said there were a lot of ideas in the DRTF work sessions that were killed by that Task Force which could have cut costs.

Mr. Rooker said it was Mr. Boyd's Task Force.

Mr. Boyd said he did not have the only vote.

Mr. Rooker said there were people from the Darden School on that Task Force.

Mr. Boyd said that person was the facilitator.

Ms. Mallek said there planners as members.

Mr. Rooker said there were also builders on the Task Force.

Mr. Tucker said the recommendation of the Planning Commission is not to make this effective until July 1, 2010, so there would be an additional opportunity to take some of these areas and study them further before the ordinance went into effect. He said the Board might also extend the time period before the effective date. That would give those Board members who think a couple of these areas should be focused on to determine if they are unreasonable.

Mr. Boyd asked Mr. Davis if the Board could bring back some of these issues for discussion if the Board votes on this ordinance today. Mr. Davis said it would require that a resolution of intent be adopted sending it back to the Planning Commission and then back to the Board for a public hearing for those things that might be changed.

Mr. Boyd asked if there were a timeframe on that. Mr. Davis said "no." If this ordinance is adopted today and then in January the Board wanted to reexamine certain fees, the Board could adopt a resolution of intent at that time. That would sent it to the Planning Commission for a public hearing and then to the Board for a public hearing. At that time, the Board could amend anything that had been amended by this ordinance.

Mr. Tucker asked Mr. Boyd if he was asking about just extending the effective date.

Mr. Boyd said he was not asking about extending the effective date. He would not propose that.

Mr. Rooker asked if the Board was going to hold the public hearing on this ordinance amendment. He said the meeting is running far behind schedule; the Board is supposed to be meeting with the School Board in just ten minutes.

Mr. Slutzky said he will open the public hearing at this time.

Mr. Jay Willard of the Blue Ridge Homebuilders' Association addressed the Board. He thinks this has been a fascinating discussion of all the issues involved in this amendment. He said the fees the Board is about to decide on reflect only 50 percent of what is considered as the cost. They appreciate the 50:50 split in how the fees are allocated, but when you see something that says a particular task costs \$3,500 in this ordinance that really means it costs \$7,000. A lot of the cost is driven by the staff time required to go through all of the reviews.

Mr. Willard said he will give two examples of how to think about a different metric in terms of the actual number of staff hours required. One item listed at \$3,500 is review of 50 acres or greater for a Zoning Map Amendment, which means the assumption is that it costs \$7,000. He does not know the fully burdened FTE cost of a County staff person, but if it were (\$70,000 a year), that cost suggests that one-tenth of a whole year's worth of work gets allocated to this task. It is not one tenth of one person's time, but one-tenth of an FTE is 160 to 200 hours of time. He asked if that sounds like a reasonable amount of collective, scattered around staff time to do this review. If that seems reasonable, then the Board would approve this as a reasonable fee. If it raises questions as to why it takes 200 hours of somebody's time to review a zoning map amendment, that might suggest there are changes needed in the ordinance or changes in procedures that could streamline the process.

Mr. Willard said there is another example; waiver of the drawing of a site plan is \$1,500. That is \$3,000 of costs and is the equivalent of 75 hours of staff time. Is that a reasonable responsibility? He does not think those things suggest lowering the public protection in the process or lowering the standards, it simply asked if there are ways to look at the ordinances, the procedures, and how these things are done to make the best use of staff time and then to deliver the best product to the community.

Mr. Jack Marshall said he was present to speak on behalf of ASAP (Advocates for a Sustainable Albemarle Population). He said they urge the Board to adopt a fee schedule that in most cases provides for closer to 100 percent, not 50 percent, of cost recovery paid by those who stand to profit from the applications. They suggest two exceptions – 50 percent or less of cost recovery for applications for family subdivisions and the same for applications for affordable housing units. Like other localities, Albemarle has traditionally allowed developers and builders to avoid paying for many of the real costs of new residential units. This has been done by hoisting some of the actual expenses onto taxpayers, or dismissing the costs altogether as in the case of the ecological impacts of growth.

Mr. Marshall said the most obvious instance of dodging the real costs of development is the necessity to expand the community's infrastructure to meet the needs of people who will fill these new houses built for private profit. Modest proffers don't go far to construct new schools, or to expand police or firefighting services. When ordinary taxpayers subsidize this growth, the delusion can be maintained that growth pays for itself, but this simply is not true, and countless studies around the country have demonstrated this fact. The issue of zoning fees is another instance where developers and builders are passing onto other the real costs of their business. Over the years, the community has evolved thoughtful standards for proposing the construction of new housing. A competent staff has been established to insure that the application process is followed and the regulations enforced, but "this isn't a free lunch."

Mr. Marshall said if applicants are not required to pick up virtually all the costs of the application process, either or both of two things occur – ordinary taxpayers will get "stuck with some of the tab." Those who live here now will be taxed to subsidize these application fees, effectively padding the profits of those who seek the applications in the first place. It would be unconscionable if today's scarce tax revenues were used to subsidize developers, even as schools are put on short rations and other essential County services curtailed. The risk of not requiring all or nearly all of 100 percent cost recovery from those who benefit from the application process is that there may be pressure to reduce the cost of zoning fees by simplifying the application process and even trimming staff in Planning and Development. This decline in oversight would result in a *de facto* deregulation leading to the lowering of quality assurance standards. It's fair and reasonable to ask those entrepreneurs who stand to profit from zoning applications to pay nearly full costs of the staff services they request. Don't ask the taxpayers to subsidize them.

Mr. Rodney Thomas requested that the Board defer this item until the new Board is in office in the next year so they can take "a better look at it." He would like to have the opportunity to sit with staff to see if the 106 steps in the process review can be reduced. He thinks doing that could help a lot. When he was a member of the Planning Commission, some items were sent back to staff to be approved administratively. He would like to see some smaller items be approved administratively. He asked that the Board defer adoption of this ordinance until after the first of the year.

Mr. Neil Williamson of the Free Enterprise Forum said the Forum supports the 50:50 split. He does not believe this Board has ever taken an action that is not congruent in rezoning with the Comprehensive Plan that supports the community. The idea that anything is solely for profit when a developer is moving forward with the community's vision is "difficult to swallow." He said it is interesting that the resolution of intent adopted by the Board regarding the EMS Recovery Program included a provision for regular review of its fees. He said there are volunteers involved in that program and not merit pay increases to tack onto it. He said the ordinance before the Board today has an automatic escalator for these fees – nowhere in the ordinance does it suggest that there will ever be a review for a potential reduction of fees. Best management practices suggest that most fees would likely go up, but there should be some streamlining somewhere that will cause fees to go down. He was concerned by the timeline Mr. Graham showed on the screen with regard to implementation of the DRTF recommendations and the efficiency study (Resource Utilization Study) and the impact of those changes. He said that timeline predates the fee study done which suggested that the fees aren't reflective of the efficiencies already implemented or of future efficiencies. He is concerned with the rate study. The data Mr. Willard presented is most interesting. He would suggest that it be considered as the Board deliberates this, and in addition, he appreciates the idea that a deferred implementation of the ordinance until July 1 makes a lot of sense. It provides for some predictability for those people who are working through the process.

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

Ms. Thomas said she will point out that for the item Mr. Willard picked, zoning map amendment for planned developments of less than 50 acres, the proposed fee would cover eight percent of that cost. Reducing that cost by a lot would not be in the interest of anyone in the applicant pool, and if they had to pay a higher percentage of that cost, they might have an interest in reducing the cost of the review. She is saying that "with tongue in cheek." Also, the biennial review is not an administrative review, so any questions raised would be brought up every two years by this proposal.

Mr. Dorrier said the two items mentioned by Mr. Willard raised questions in his mind and he thinks that Mr. Rodney Thomas made a good point. He does not see any pressing need to adopt this ordinance today. He thinks the Board could work on those issues and have the ordinance brought back in January or February.

Mr. Rooker said he will take the example that was brought up - \$3,500 for a zoning map amendment of 50 acres or greater. He asked the cost of the North Pointe application in staff time.

Ms. Mallek said it was basically five years of Elaine Echols' time.

Mr. Rooker said that petition went on for years and years. There were charrettes held on that property before the rezoning request was filed. There were community meetings discussing what activities should go on that property. What was the cost of the Biscuit Run zoning map amendment to the County? What was the cost of the Hollymead Town Center to the County? This \$3,500 is what the new fee would be, not what it has been. It is such a miniscule recovery of the total cost of a rezoning like that, that it's almost ridiculous. He said about 99 percent of those costs were picked up by the taxpayer, which is exactly what the Resource Utilization Study recommended that the County look at and try to reverse. During budget hearings last year, ATTA said it should be dealt with - they did not want to see the cost of development that should be borne by developers pushed over to the taxpayers.

Mr. Rooker said this discussion started at one time with a 75 percent cost recovery proposal. This Board, listening to Mr. Willard and others, reduced the recommendation down to 50 percent which they thanked the Board for. Now that "that bite of the apple has been taken" there is another one coming. He said this has been going on for two years; the current board has an obligation to put into place something that changes fees that have been static for almost 20 years. In the current economic circumstances the Board would be derelict in its duty not to act on this after it has been before the Board for two years.

Ms. Mallek said the process exists with a high standard to get a product that fits the community, which maintains the value of the community for the current homeowners and on which continues to attract other people and businesses to come here. She has lived in other places, and when she asked friends who had international or small companies how they decided to locate, the answer always was "where I want my children to grow up." She thinks everybody wants to protect the community and what is valuable about it. A process has been undergone to make sure the County does not put in fees that are not responsible - but this question has not been looked at by outside people who look at management time, and who can make a better evaluation of the process than she can - she is not a planner or an engineer and needs help figuring out "those sheets she gets every month." Staff is relied on to "be the canary in the coal mine" to help the public understand the impacts of a proposed development.

Ms. Mallek said there were folks on the DRTF who in the beginning of the process were not in favor of citizen involvement. She was able to share some stories with them about different experiences some local developers had over the years in Earlysville. She said Mr. Steve Runkle was ahead of his time in understanding the value of getting the citizens involved even before he came to the County with a proposal. One such proposal had to do with the Walnut Hill development which he said would make a drastic change in the neighborhood. A meeting of citizens in Earlysville brought forth wonderful suggestions. A citizen who lived directly across the street from that proposed development came to the meeting because he was concerned about headlights shining into his living room. Mr. Runkle was able to make small changes in his plan before it got to the expensive stage to help with that situation.

Ms. Mallek said the DRTF talked about the value of public interaction. Some people were reluctant to begin it, but realized that it is advantageous in the end. She said citizens will find out eventually about a proposal, and will be angrier because they did not find out early in the process. She said this amendment may not be perfect, but she does not think the Board should "throw out the baby with the bath water" and just not do anything with it today.

Mr. Boyd said he has talked enough so he will just make two comments. He is not opposed to the allocation of costs. He thinks that is appropriate. He is not interested in taking away meaningful input from the public and all the processes that are done. He cannot support this ordinance amendment because it is a matter of timing. He thinks the County's internal costs need to be considered first; not the cost of providing adequate information to the public.

Ms. Thomas said she has the same thoughts she had before about whether she should even vote on this, but it is something the Board has worked on for several years, and she thinks it would be irresponsible of the Board not to take this step today and put it off. She would welcome anybody looking at any of these categories and their costs and delving into why it costs so much. That is a legitimate role for a citizen or an elected official to take and could be useful.

Mr. Slutzky said he is going to explain why he will vote against adopting this ordinance today. It is not out of deference to the future board, but because he has thought a lot about this subject and

struggled with it. People have talked about the cost of development being borne by the developer. The cost of development is the paver, the brick, but the idea of imposing standards of quality and good design on a project are not a cost of development but the cost of having a high quality of life in the community. They are the benefit that inures predominantly to the community as opposed to the development itself.

Mr. Slutzky said he trembles when folks come to the Board's budget hearings and suggest that taxpayers should not have to pay for all of those people who have all those kids who need an education. He hears the arguments about how the County should make the developers pay for development and it sounds about the same to him. The Board is talking about charging fees for the services provided by the County for the benefit of the community as a whole to ensure there is a quality of development in the community that all can be comfortable living with and enjoying. To him, that means the cost burden should be sitting squarely on the shoulders of the taxpayers as a group and not be funneled into a project as a means of escaping the political reality of having to pay for it.

Mr. Slutzky said he was inclined to support these amended fees when it was coming "through the pipeline", because he kept thinking somehow had to be found to cut costs, and yet maintain staff's review of these projects to a high standard, so the only way to get at that is to charge fees. The real way to fund the public good associated with the kind of development standards imposed in Albemarle County is by funding it through taxes. It is for that reason that he will vote against adopting this change of fees now. He said when the next board takes this issue up, which it will probably have an opportunity to do now, he hopes it does not fall in the trap of softening up the quality standards for development in the community. That is not the way to solve this problem. One of the true benefits of living in Albemarle County is having tough standards that new developments are held to. If efficiencies can be obtained, it is appropriate to look and find ways to do so, but he is skeptical that many will be found. Staff is probably doing its job exactly as the Board would like them to do it. He thinks it is a matter that "we need to pay for."

Mr. Rooker said the Board has spent a lot of time in this process and he has never heard Mr. Slutzky say this before. He said the fees being looked at haven't been increased in 20 years. If a normal cost-of-living increase were made to those fees he would suggest they would be higher than those looked at today. He said Mr. Slutzky's suggestion would mean that fees, much as the gas tax problem, should remain the same forever; it should never have any kind of adjustment. When talking about staff time, he would suggest that there is probably \$50,000 of staff time involved in getting this ordinance to where it is today because internal studies were done on the cost of each of the scores of activities "listed on these sheets." The County went through a long process of internally studying each application to determine its internal cost and that was checked against other communities. Many questions were asked about individual items throughout the process, and a huge amount of time, effort and money were spent to get to today. It represents a proposed fee schedule that is less than the one originally recommended, substantially less because somewhere in the process the Board went from 75 percent recovery down to 50 percent.

Ms. Thomas said she does not think Mr. Rooker objected to that change in recovery.

Mr. Rooker said he thinks what Mr. Slutzky is doing is a significant disservice to the County, to the people of the County, and to the people who will ultimately have to bear the costs.

Mr. Slutzky said the fact that it has taken two years and a lot of staff time to get to this point isn't a reason to vote for it. It has taken that long for him to come to appreciate that this isn't about revenue recovery; it's about allocating burdens in the community. As he learned more about the process of review of development, he became increasingly skeptical that the bigger burden should be shouldered by the applicant community; his understanding of that has evolved through this process. That is why as a deliberate body, the Board does not have a suggestion of this complexity brought before it very often and just act on it. That is why the Board takes the time to study, to peel it apart, to examine its parts and to think about it.

Mr. Slutzky said this process has enlightened him and made him realize this development process is all about a social good. It is a social good that he values highly, and he thinks the taxpayers should be paying for it. He would be sad to see the next Board soften the standards of development review. As to how that cost burden is allocated, he has evolved in his thinking and that is where it is now. The comment about the gas tax is not the same because in that case he does not get a lot of benefit from somebody else driving more vehicle miles. In this case he gets a benefit as a citizen by a development being subjected to a high level of scrutiny. He does not consider those to be at all parallel issues. He understands Mr. Rooker's disappointment, but that is where he is on it at this time.

Mr. Rooker asked if Mr. Slutzky feels it is inappropriate that the developer of North Pointe should have paid a \$3,500 fee for that application to be processed over the number of years it was processed, or Biscuit Run. Does he think that is an unfair burden to put on the applicant? They were paying \$1,700 before and would now have to pay \$3,500 to file an application of that magnitude.

Mr. Slutzky said he thinks the benefit inures to him and not to the developer *per se* that the County has the level of scrutiny those projects are subjected to. He thinks the public as a whole should fund that expense.

Ms. Thomas disagreed. She said the Board has talked for years about having an attractive development area. That attractive development area involves a lot of actions being taken by the Board and staff; that attractive development area means the developer will get more for each acre of land because of that than he would have received from a haphazard, straggled type of development. A benefit

does accrue to the applicant and if it did not, the County should not have been doing this all along. She said the County wants that attractive development area, but it is the developers within it that receive the immediate benefit of it being an attractive area.

Mr. Slutzky said if the property becomes worth more to the developer, it means the County collects more in taxes.

Ms. Thomas said the anger in her voice is because staff didn't present this to the Board "out of the blue." Staff presented it step-by-step and the Board made decisions that staff should be able to depend on. For Mr. Slutzky to change his mind now, after going through that process and leading staff onward, is really irresponsible.

Mr. Slutzky said he takes issue with Ms. Thomas' characterization of him being irresponsible. It is exactly his job to go through the process for as long as it takes, and get it right in the end. He did not commit at the beginning of this exercise any more than Ms. Thomas or Mr. Boyd or Mr. Dorrier did to vote in favor of this outcome. The Board asked staff to bring forth the information necessary for it to make an informed decision. He has assessed that information and made what he considers to be an informed decision. He is sorry that Ms. Thomas feels that is irresponsible of him. He thought that is what his job was.

Ms. Mallek said she would like to raise a different issue. On Attachment "D" (in the staffs' report) she found it compelling that the proposed fee of \$3,500 for a 270-acre development would cost someone in Fluvanna \$7,200, in Greene \$29,000, in James City County \$15,000, and in Stafford County \$19,000. It seems like Albemarle is getting a lot accomplished for that fee. The same thing applies to the 830-acre development which would cost \$3,500 plus each time there was an extra review there would be an extra fee - Greene County's fees for that is \$84,800. She does not know what they do in Greene County that costs that much more considering that they have few staff members. Maybe they hire a consultant to deal with a development like that. She thinks the developer in Albemarle is getting a good deal in comparison if these comparable communities are being used to any effect.

Mr. Dorrier said the Board thinks this just affects the development community, but he thinks it affects the whole County and everybody in it. His mother put a garage onto her house and although he does not know how much the fee was, it took nine months to get approval. He said the fees end up being passed on to everyone in the County. He does not think it is just a development issue, but it is an issue dealing with the entire County and appropriate costs. Taking an extra month or two to study the matter is responsible, not irresponsible.

Mr. Slutzky said if there were no further discussion at this time, he would invite a motion.

Mr. Rooker **moved** to defer action on ZTA-2009-017 until the Board's first meeting in February since there are not sufficient votes to deal with the issue today. He said Albemarle could spend another two years and maybe get close to the fees of Fluvanna, Greene, or Orange counties, or any other counties that seem to be willing to deal with the issue.

Ms. Mallek said the big businesses which have located in Greene County are paying what she considers to be astronomical fees to do that, so she just doesn't understand the problem.

Mr. Boyd **seconded** the motion.

Ms. Mallek asked if this has to go back to the Planning Commission. Mr. Davis said it does not have to be reconsidered by them. This is just a deferral of the ordinance.

Mr. Rooker said if anybody has any ideas about how any of these particular things can be done more efficiently "Let's get at 'em." He thinks Board member want staff to operate as efficiently as possible, and it does not want to adopt regulations that do not accomplish anything.

Mr. Slutzky said he agrees, and is not of the mind that staff is either inefficient or unduly burdensome. He would like to see the level of burden continued, but he would like to see a different allocation than that proposed in this ordinance. He asked that the roll be called.

Roll was called at this time, and the motion to defer 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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Mr. Rooker said the County's financial projections will need to be revised accordingly based on the fact that the revenue included in those projections will no longer be available.

Mr. Graham said just to be clear, are there any expectation of staff in deferring this to February. Mr. Tucker asked if the Board is looking for any staff work between now and February.

Mr. Rooker said he thinks the Board has all the information before it now. There are two new members of the Board coming on in January. At this time, there is a 3:3 difference for different reasons. This deferral will provide the new members adequate time to familiarize themselves with the issues and decide how they think it should be done.

Mr. Dorrier said staff should look at the two points Mr. Willard made. Also, they should look at the cost of the North Pointe development. How much was paid in fees by North Pointe?

Ms. Mallek said it was \$1,250 for five years worth of work. Mr. Graham said he had done that analysis before and although staff does not keep time sheets he estimates that staff time spent on that development was almost \$150,000.

Ms. Mallek said one of the most important things to her is that this ordinance will change a fee for one submission and the first review, and then an extra fee for each time the applicant comes back before responding appropriately to the requirements. It is the intransigency of people who do not try to live up to the standards the County has for everybody that creates the problem. One thing that makes citizens angry is when there seems to be rules for some that are different from rules for others. That is why having the ordinance laid out so clearly and having the requirements spelled out clearly gives everybody a sense that they all have the same set of rules. It also allows staff to function without being forced to make up the rules as they go along which is another thing that makes everybody upset, including staff.

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Agenda Item No. 19. **Public Hearing:** Ordinance 09-07(3) - Health and Safety. Amend Secs. 7-100 Purpose and intent, 7-101 Administration and enforcement, 7-102 Applicability, 7-103 Definitions, 7-104 Prohibited noise, 7-105 Prohibited acts enumerated, 7-106 Exempt sounds, 7-107 Complaints of noise, and, 7-108 Violation and penalty, of Article I, Noise, of Chapter 7, Health and Safety, of the Albemarle County Code. This ordinance would amend:

Sec. 7-100 to establish a new statement of purpose and intent for regulating excessive or unwanted sound;

Sec. 7-101 to revise references to county departments and officers authorized to enforce Article I;

Sec. 7-102 to revise a cross-reference to chapter 18;

Sec. 7-103 to amend, delete and add definitions pertaining to the regulation of noise;

Sec. 7-104 to delete the general noise prohibition based on subjective standards and impacts and add a standard based upon a 15 decibel (dBA) increase in sound above ambient sound levels;

Sec. 7-105 to establish new sound levels generated by specific acts; current regulations establish violations if the sounds are at a level that annoys or disturbs the quiet, comfort or repose of a person (or terms to similar effect); the proposed regulations would establish a violation if the specifically prohibited sound is audible by a person from specified distances, within specified buildings, for a specified duration, and/or depending on the time of day; the specifically prohibited sounds include the following: (1) sound produced from specific operations of a motor vehicle or motorcycle; (2) sound produced by the operation of a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device; (3) sound produced by specific operations of off-road vehicles; (4) sound produced on any street adjacent to any school, hospital, nursing home or court; and, (5) sound produced by construction, demolition and/or maintenance activities, by certain silvicultural activities, resulting from the collection of solid waste, and from routine yard maintenance activities, all between specified nighttime hours;

Sec. 7-106 to amend the activities and sounds that are exempt from the noise regulations;

Sec. 7-107 to clarify a reference to an officer; and

Sec. 7-108 to delete an obsolete reference.

*(Advertised in the Daily Progress on November 16 and November 23, 2009.)*

Mr. Greg Kamptner, Deputy County Attorney, said this ordinance first came before the Board in July, 2009 as a follow-up to the Virginia Supreme Court's decision. In April it overturned the Virginia Beach Noise Ordinance; a lot of Virginia localities had similar standards. At that time, the Board had two primary concerns with the proposed ordinance. First, the general prohibition prohibited any sound audible from a specified distance for a minimum duration. Board members expressed concerns about such things as the conversation of people at social gatherings and the sound of children playing.

Mr. Kamptner said the ordinance has been revised to eliminate that standard in the general prohibition; the standard in the ordinance currently has been maintained. That standard establishes a general prohibition against an increase in sound levels of 15 decibels or more above ambient sound levels. That is an objective standard and the sound level would be measured using a sound meter. An express exemption was added to the exemption section creating an exemption for the sounds of person's voices provided they're not enhanced by sound devices.

Mr. Kamptner said the second issue was whether the standard in the ordinance for audibility from a distance of 100 feet or more was reasonable. The theory is that it is not the distance of 100 feet that makes the sound unreasonable, but that it is some lesser distance. The 100 feet was selected as a reasonable distance in which to determine whether or not a violation exists.

Mr. Kamptner said when this ordinance was brought to the Board in July there were few localities that had responded to the Virginia Beach case. Staff knew there was a committee of the Local Government Attorney's Association (LGA) surveying existing noise regulations and they also knew some localities had revised ordinances "in the pipeline." Since then, the LGA issued a report which contains a survey of existing regulations. That report includes minimum distances for audibility - they range in various localities from 25 feet to 100 yards, depending on the nature of the sound. Some localities merely require audibility across the property line; many do not require that the sound be audible off of the sound source's parcel. It is actually an issue that has come up in litigation around the country. The courts have said someone could be in violation of creating noise and if the sound is not audible off of their property, the regulation is over-broad.

Mr. Kamptner said staff tailored this ordinance to establish a standard that is measured 100 feet from the property line. He said they surveyed recently adopted noise regulations (Blacksburg, Chesterfield, Virginia Beach, and Williamsburg) and they have predominantly established a 50-foot distance for measuring audibility of sound. He said in a number of those regulations the 50 feet is measured from the sound source and not from the property line. He said the 100-foot standard is less restrictive than the regulations in those localities.

Mr. Kamptner said because the City of Charlottesville is the County's neighbor, he felt the Board should be aware of their regulations. Primarily they measure sound using sound meters. They have one standard based upon audibility from a certain distance, and they use the 100-foot distance for that distance. To summarize, the general prohibition in Section 7-104 is now based on the existing standard of 15 decibels above ambient sound levels measured with sound meters. It is not expected that it will typically be the enforcement mechanism in the field. If there is a problem which is not covered by one of the specific prohibitions in Section 7-105, the ordinance would probably be amended to add a specific prohibited act.

Mr. Kamptner then noted the eight specific acts that are prohibited – some of which are existing prohibited acts – several have been added which were at one time exemptions, but they have been the types of activities for which complaints are received. Namely, off-road vehicles when they are not an authorized use under the Zoning Ordinance, and solid waste collection during nighttime hours. He said there are a total of 18 exempted activities listed in Section 7-106. He then offered to answer questions.

Ms. Mallek said for the neighborhoods in Crozet where the lots are not even 100 feet wide, they are not being provided any recourse at all. Mr. Kamptner said if there is a party and music is playing, the other standard is that if the noise is audible from within a dwelling unit or a hotel room, it is also a violation. The intention was to capture not only the small lots, but also the multi-use districts, and the multi-family dwellings where it may be a noise problem between walls.

Mr. Rooker said if the noise is audible from 100 feet away a person does not have to be 100 feet away to make the complaint.

Mr. Davis said that after consulting with the police and looking at this question, staff feels they have captured the major nuisance noises and sounds with these specific acts. If for some reason in the future, it is found that there are other nuisances that should be regulated, the ordinance can be revisited. Staff is confident this ordinance will capture the vast majority of the complaints. There is always the catchall prohibition of the 15 decibels in those situations where these specific acts don't cover that complaint. He recommended highly that the Board act on this ordinance so there can be an effective enforcement mechanism going forward. He said the existing ordinance is difficult to enforce today.

Mr. Slutzky asked if Section 7-105.B.1 applies to the obnoxious sub-woofers in cars. Mr. Kamptner said that is covered by the provision that regulates sound devices. Mr. Davis said that could have been covered by the existing ordinance as well, but the Supreme Court did not like the standard.

Mr. Rooker said he actually likes the old standards better. No matter how you try to do an objective standard you end up picking things that should not be picked, but the Supreme Court leaves no choice other than to adopt an objective standard if there is going to be a noise ordinance at all. This seems to be a good effort to arrive at something that is workable.

Mr. Dorrier asked about dogs and lawn movers. Mr. Davis said dogs are covered by the Animal Ordinance which is not changed by this action. Mr. Kamptner said there is a provision that prohibits yard maintenance activities during nighttime hours, but these activities are exempt during daytime hours.

At this time, Mr. Slutzky opened the public hearing. With no one coming forward to speak, the public hearing was closed and the matter placed before the Board.

Mr. Rooker immediately **moved** to adopt ORDINANCE NO. 09-07(3), An Ordinance to Amend Chapter 7, Health and Safety, Article I, Noise, and Article II, Naming of Roads and Numbering of Properties, of the Code of the County of Albemarle, Virginia, by amending: Sec. 7-100 Purpose and intent; Sec. 7-101 Administration and enforcement; Sec. 7-102 Applicability; Sec. 7-103 Definitions; Sec. 7-105 Prohibited acts enumerated; Sec. 7-106 Exempt sounds; Sec. 7-107 Complaints of noise; Sec. 7-108 Violation and penalty; and, by amending and renaming Sec. 7-104 Prohibited noise to general prohibition.

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

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

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

#### **ORDINANCE NO. 09-07(3)**

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, ARTICLE I, NOISE, AND ARTICLE II, NAMING OF ROADS AND NUMBERING OF PROPERTIES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 7, Health and Safety, Article I, Noise, and Article II, Naming of Roads and Numbering of Properties, are hereby amended and reordained as follows:

**By Amending:**

Sec. 7-100	Purpose and intent
Sec. 7-101	Administration and enforcement
Sec. 7-102	Applicability
Sec. 7-103	Definitions
Sec. 7-105	Prohibited acts enumerated
Sec. 7-106	Exempt sounds
Sec. 7-107	Complaints of noise
Sec. 7-108	Violation and penalty

**By Amending and Renaming:**

Sec. 7-104	Prohibited noise to General prohibition
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**Chapter 7. Health and Safety**

**Article I. Noise**

**Sec. 7-100 Purpose and intent.**

The purpose and intent of this article is to establish reasonable time, place and manner regulations pertaining to excessive or unwanted sound. Through content-neutral regulations, this article strikes an appropriate balance between the rights of individuals to engage in activities that create or disseminate sounds at reasonable levels, and the right of the public to a peaceful and healthful environment. It is not the purpose and intent of this article to interfere unduly with the rights of free speech or the exercise of religion and, further, it is not the purpose and intent of this article to implement these regulations in a manner that is based on the content of the sound. In establishing these regulations, the board of supervisors hereby finds the following:

A. *Threat to the public health, safety and welfare posed by excessive or unwanted sound.* Inadequately controlled sound presents a growing danger to the public health, safety and welfare. Studies have found that these dangers include hearing impairment, interference with spoken communication, sleep disturbances, cardiovascular disturbances, disturbances in mental health, impaired task performance, and unwanted emotional responses. These effects can lead to, among other things, a wide range of physical problems such as hearing disabilities, increased blood pressure, increased heart rates, abnormal heart rhythms and fatigue, mental health problems such as depression, anxiety, nervousness, stress, and emotional instability, an increased risk of accidents and errors in task performance, and negative effects on learning, reading attention, work performance, school performance, and interpersonal relationships.

B. *Persons particularly vulnerable to excessive or unwanted sound.* Studies have found that the elderly, medical patients, infants and children are particularly vulnerable to excessive or unwanted sound.

C. *Public safety danger posed by excessive or unwanted sound created by or emanating from motor vehicles.* Excessive or unwanted sound created by, or emanating from, motor vehicles interferes with the safe operation of other motor vehicles.

D. *Effects of increases in sound pressure levels.* Studies have characterized the human reaction to increases in sound pressure levels over ambient levels, as measured in decibels (dB), as "intrusive" for increases of five (5) to ten (10) decibels, "very noticeable" for increases of ten (10) to fifteen (15) decibels, "objectionable" for increases of fifteen (15) to twenty (20) decibels, and "very objectionable to intolerable" for increases of twenty (20) or more decibels.

E. *Right of public to be free from an environment of excessive or unwanted sound.* The public has a right to and should be free from an environment of excessive or unwanted sound, and the board has a significant governmental interest in providing an environment free of excessive or unwanted sound.

(§ 12.1-1, 9-10-80, § 1; Code 1988, § 12.1-1; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

**Sec. 7-101 Administration and enforcement.**

The chief of police is hereby designated the agent of the board of supervisors in the administration and enforcement of this article. The chief of police may be assisted in the enforcement of this article by employees of the department of community development, the department of general services, and other officers and employees of the county.  
(§ 12.1-3, 9-10-80, § 3; 11-14-84; Code 1988, § 12.1-3; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

**Sec. 7-102 Applicability.**

This article shall apply to sound generated within the county, regardless of whether the complainant or the receiving property is within or without the county. This article shall be in addition to any sound or noise regulations set forth in chapter 18 of the Code.  
(Ord. 98-A(1), 8-5-98)

~~State law reference--~~Va. Code § 15.2-1200.

**Sec. 7-103 Definitions.**

The following definitions shall apply to this article:

(1) *Audible*. The term "audible" means a sound that can be detected by a person using his or her unaided hearing faculties, provided that a sound shall be determined to be audible even if specific words or phrases cannot be discerned. Sound is audible within a building under section 7-105 if it is audible at least four (4) feet from the wall nearest the sound source, with the doors and windows of the dwelling unit or applicable room of the complainant's building closed and, where audibility is determined from a dwelling unit or hotel room, the dwelling unit or hotel room is located on a different parcel than the parcel on which the sound source is located.

(2) *Dwelling unit*. The term "dwelling unit" means a single unit designed to provide complete and independent living facilities for one (1) or more persons and having permanent provisions for sleeping and sanitation.

(3) *Emergency operation*. The term "emergency operation" means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

(4) *Hospital*. The term "hospital" means any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is the provision of diagnosis, treatment, and medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known under various names such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

(5) *Hotel*. The term "hotel" means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including but not limited to facilities known under various names such as hotels, motels, travel lodges, tourist homes, or hostels.

(6) *Hotel room*. The term "hotel room" means a room within a hotel designed for sleeping.

(7) *Mixed-use site*. The term "mixed-use site" means a single unified development on one or more units or pieces of real property on which both commercial and residential uses exist.

(8) *Motorcycle*. The term "motorcycle" means every motor vehicle that is designed to travel on not more than three (3) wheels in contact with the ground and is capable of traveling at speeds in excess of thirty-five (35) miles per hour.

(9) *Motor vehicle*. The term "motor vehicle" means every vehicle that is self-propelled or designed for self-propulsion and includes, but is not limited to, any device defined in Virginia Code § 46.2-100 as an "electric personal assistive mobility device," "electric power-assisted bicycle," "golf cart," "moped," "motorized skateboard or scooter" or "utility vehicle," but does not include a device moved by human power or used exclusively on stationary rails or tracks that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle.

(10) *Multi-family dwelling unit*. The term "multi-family dwelling unit" means a structure composed of two (2) or more dwelling units including, but not limited to, apartments, condominiums, townhouses, and duplexes.

(11) *Nursing home*. The term "nursing home" means any facility or any identifiable component of any facility licensed pursuant to Virginia Code § 32.1-123 *et seq.* in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known under various names such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

(12) *Off-road vehicle*. The term "off-road vehicle" means every vehicle that is: (i) an all-terrain vehicle, which is a three-wheeled or four-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, and which is intended for off-road use by

an individual rider on various types of unpaved terrain; (ii) a go-cart, which is a four-wheeled vehicle that has a low center of gravity and is typically used in racing or riding on relatively level services; (iii) an off-road motorcycle, which is a motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground; and (iv) a motorcycle-like device commonly known as a trail-bike or mini-bike. The term "off-road vehicle" does not include: (i) a farm utility vehicle, which is a motor vehicle that is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle; or (ii) a utility vehicle, which is a motor vehicle that is designed and used as a general maintenance, security or other similar service vehicle.

(13) *Parcel*. The term "parcel" means, as appropriate when the term is applied in conjunction with a reference to a property line, either: (i) a separate unit or piece of real property; (ii) any area within a multi-family dwelling unit that is beyond the vertical and horizontal boundaries of the dwelling unit of the complainant; or (iii) any area within a mixed-use site that is beyond the interface between the portion of the site owned or occupied by the complainant.

(14) *Person*. The term "person" means any natural person, association, partnership, corporation or other legal entity.

(15) *Place of public entertainment*. The term "place of public entertainment" means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall or other place of entertainment open to the public, regardless of whether the payment of money or other consideration is required for admission.

(16) *Produce*. The term "produce," or any derivation of the word, means to produce or reproduce, to allow to produce or reproduce, to create or allow to be created, or to operate or allow to be operated.

(17) *Property line*. The term "property line" means either: (i) an imaginary line along the ground surface, and its vertical extension, that separates one unit or piece of real property from another, where the unit or piece is under different ownership; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-family dwelling unit building; or (iii) on a mixed-use site, the interface between the portions of the parcel on which different categories of activity are being performed.

(18) *Public property*. The term "public property" means real property owned by a governmental entity including, but not limited to, any public street as defined in section 7-103(23)(i).

(19) *School*. The term "school" means a public school subject to title 22.1 of the Virginia Code, a private school serving children in one or more grades between kindergarten and grade twelve (12), a school for students with disabilities as that term is defined in Virginia Code § 22.1-319, a child day center as that term is defined in Virginia Code § 63.2-100, the University of Virginia and Piedmont Virginia Community College.

(20) *Sound*. The term "sound" means the sensation perceived by the sense of hearing.

(21) *Sound source*. The term "sound source" means any act or device that emits sound.

(22) *Sport shooting range*. The term "sport shooting range" means an area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

(23) *Street*. The term "street" means: (i) a public right-of-way which is part of the primary or secondary system of state highways, or is classified as a highway in the interstate system; or (ii) a privately owned and maintained travelway for motor vehicles serving two (2) or more single family detached dwelling units that are located on two (2) or more separate units or pieces of land, one or more multi-family dwelling units, a mixed-use site, or a site used for commercial or industrial purposes.

The meaning of any sound-related term not defined herein shall be obtained from the most recent version of the American Standard Acoustical Terminology, if the term is defined therein.

(§ 12.1-2, 9-10-80, § 2; 6-10-81; Code 1988, § 12.1-2; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-1200.

#### **Sec. 7-104 General prohibition**

It shall be unlawful for any person to produce sound that causes at least a fifteen (15) dBA increase in the sound level above the ambient sound level, as determined pursuant to section 18-4.18 of the Code. Any person who commits a specific prohibited act delineated in section 7-105 may, in lieu of being charged with a violation of section 7-105, be charged with a violation of this section 7-104 if the sound produced is a violation of this section.  
(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-1200.

**Sec. 7-105 Specific acts prohibited.**

It shall be unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

A. *Motor vehicle or motorcycle operation.* The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and:

1. *On a street or on public property.* The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle or motorcycle.

2. *On private property.* The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.

B. *Radios, tape players, televisions receivers, musical instruments, electronic sound amplification equipment, and other sound producing or reproducing devices.* The sound is produced by a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device intended primarily for the production or reproduction of sound (hereinafter, collectively and singularly a "device") and:

1. *Device within or on a motor vehicle on a street or on public property.* The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle.

2. *Device within or on a motor vehicle on private property.* The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room.

3. *Device within a place of public entertainment.* The device is located within a place of public entertainment, and the sound is audible for a duration of five (5) continuous minutes or more, without an interruption of the sound for thirty (30) or more consecutive seconds during the five (5) minute period, within any one (1) hour period: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room.

5. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, or a dwelling unit, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.

C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under chapter 18 of the Code, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home or court (hereinafter, collectively referred to as "institutions"), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home or court and:

1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session.

2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.

E. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities between the hours of 10:00 p.m. and 7:00 a.m., and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. and 6:00 a.m. or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. and 6:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 5:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.

H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing between the hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 6:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

(Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-1200.

#### **Sec. 7-106 Exempt sounds.**

The following sounds are not prohibited by this article:

A. *Agricultural activities.* Sound produced during lawfully permitted bona fide agricultural activities.

B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which are subject to the animal noise regulations in chapter 4 of the Code.

C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.

D. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities, except as provided in section 7-105(E).

E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger.

F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a sport shooting range.

G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers and dishwashers, provided that the appliances are in good repair.

H. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks or other similar events which are officially sanctioned, if required. This exemption shall not apply to private fireworks displays.

I. *Person's voice.* Sound produced by a person's voice, except as provided in section 7-105(B).

J. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression; provided that the sound is not prohibited by section 7-105.

K. *Public facilities.* Sound produced by the operation of a public facility or public use.

L. *School athletic contests or practices, and other school activities.* Sound produced by school athletic contests or practices, and other school activities, but only if

conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.

M. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities, except as provided in section 7-105(F).

N. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in section 7-105(G).

O. *Telephones.* Normal sound produced by landline and wireless telephones.

P. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit, and sound produced by motor vehicles and motorcycles, except as provided in section 7-105(A).

Q. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

R. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as provided in section 7-105(H).  
(§ 12.1-7, 9-10-80, § 7; Code 1988, § 12.1-7; Ord. 98-A(1), 8-5-98)

**State law reference--**Va. Code § 15.2-1200.

#### **Sec. 7-107 Complaints.**

No person shall be charged with a violation of the provisions of sections 7-104 or 7-105 unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of a police officer, the police officer shall have the authority to initiate all necessary proceedings.  
(Ord. 98-A(1), 8-5-98)

**State law reference--**Va. Code § 15.2-1200.

#### **Sec. 7-108 Violation and penalty.**

Any person who violates any provision of this article shall be deemed to be guilty of a class 1 misdemeanor. The person operating or controlling a sound source shall be guilty of any violation caused by that source. If the sound source cannot be determined but its presence on a parcel can be determined, any owner, tenant or resident physically present on the parcel where the sound is being produced is guilty of the violation.  
(§ 12.1-8, 9-10-80, § 8; Code 1988, § 12.1-8; Ord. 98-A(1), 8-5-98)

**State law reference--**Va. Code § 15.2-1200.

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Agenda Item No. 20. From the Board: Matters Not Listed on the Agenda.

There were none.

**(Note:** At 4:06 p.m., the Board recessed and then reconvened in Room 241 at 4:11 p.m.)

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Agenda Item No. 21. Call to Order. **Joint Meeting with School Board.**

SCHOOL BOARD MEMBERS PRESENT: Mr. Stephen Koleszar, Ms. Diantha McKeel, Ms. Barbara Massie Mouly, Mr. Ron Price, Mr. Jon Stokes and Mr. Brian Wheeler.

SCHOOL BOARD MEMBER ABSENT: Ms. Pamela Moynihan.

SCHOOL BOARD STAFF PRESENT: Dr. Pam Moran, Superintendent, Dr. Bruce Benson, Assistant Superintendent for Planning and Operations, Mr. Billy Haun, Assistant Superintendent for Student Learning, Mr. Jackson Zimmerman, Executive Director of Fiscal Services, Mr. Luvelle Brown, Chief Information Officer, and Ms. Jennifer Johnston, School Board Clerk.

OTHER STAFF MEMBERS PRESENT: Mr. Tom Foley, Assistant County Executive, Mr. Bill Letteri, Director of Facilities Management, Mr. Richard Wiggans, Director of Finance, Ms. Kimberly Suyes, Director of Human Resources, and Ms. Lorna Gerome, Assistant Director of Human Resources.

Mr. Slutzky called the Board's meeting back to order at 4:11 p.m.

Mr. Brian Wheeler, Chairman, called the School Board's meeting back to order at the same time

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Agenda Item No. 22. Capital Improvements Program (CIP) Oversight Committee  
Recommendations.

Mr. Tom Foley, Assistant County Executive, said staff will make a PowerPoint presentation of the recommendations of the CIP Oversight Committee. This information will be used by the County Executive in preparation of the next budget. The Board will be looking at the Five-Year CIP and making recommendations on it during budget work sessions. He then introduced Mr. Bill Letteri, Director of Facilities Management.

Mr. Letteri said it has been challenging to develop a CIP that is adequate and responsive to the needs of the County. It has been a difficult revenue cycle, and not unlike last year, the adjustments needed to the requests made will be about \$100.0 million more. This year there were about 92 requests for funding; a lot of those were for projects deferred last year. This is a maintenance only plan. It does not involve any new construction or new projects. It addresses the core maintenance needs of the County and the Schools.

Mr. Letteri said first he will explain changes in revenues from the adopted program and also mention items that were requested that are not part of this recommendation. He noted that the Committee operated under the assumption of a 77.2¢ tax rate. The Committee also considered what additional adjustments might be necessary over and above what is proposed if the tax rate were kept at the current rate of 74.0¢.

Mr. Letteri said last year it was assumed that over the five-year period the Transfer to the CIP Fund would be approximately \$112.0 million; that was based on the adopted formula and projected revenues. Of that amount, it was anticipated that \$103.0 million would be used for Debt Service payments leaving a net transfer for things such as cash projects or to incur additional debt. There are rollover funds into the CIP Fund each year and there are current revenues which include things like interest income, the Fund Balance, surpluses from prior years, proffers and grants. All of these categories have experienced significant decreases. The other major portion of the CIP Fund is from loan proceeds. Based on the adopted plan which was balanced and approved last year a loan program of about \$115.0 million was assumed and that amount was affordable.

Mr. Letteri said the adopted plan totaled \$166.0 million. He said this plan actually includes the sixth year of the plan; a lot of the projects that were postponed last year went into that sixth year. The plan this year had to make up about \$14.0 million to get to a balanced place. Based on recent revenue estimates staff is projecting about a 15 percent (\$16.0 million) decrease in the transfers to Capital. Because of that, the amount of debt to be issued had to be cut in order to afford that debt service amount; even so, about 94 percent of the transfer will be used for debt service. The net transfer has decreased by about 28 percent.

Mr. Letteri said some previously approved projects were liquidated – the fire stations are an example. They had actually been approved and appropriated in prior years. When they are liquidated they add to the Fund Balance and that is why that number has increased. Current revenue figures are down about 56 percent in every category. In the adopted plan, \$7.0 million in surplus funds was anticipated. Now, it appears there will be no surpluses the next five years. The borrowing program will have to be reduced dramatically in order to maintain the \$89.0 million debt service number.

Mr. Letteri said available funds for the program are \$66.0 million or about 43 percent less than what was in the adopted plan. The proposed program is about \$64.0 million over the five years. Principally, the plan is down to just maintenance type projects. It is balanced to the objective of keeping at least \$2.0 million in the final balance of the program at the end of five years.

Mr. Letteri said the CIP Oversight Committee used the 77.2¢ tax rate in its assumptions. The Committee basically supported the recommendations of the TRT (CIP Technical Review Team). He said the County got a refund from VPSA on some of its financings – about \$1.2 million. That refund was applied in the plan against future debt service. The TRT also delayed the 800 MHz system by one year and leveled out that funding. It reduced both the County and volunteer apparatus replacement program by ten percent. Lastly, the plan includes no funding for the southern feeder school projects - there were three. In order to make that happen, they had to “gross up” the maintenance numbers to make Yancey Elementary occupiable and safe. The plan funds critical maintenance items for all government, parks, courts, libraries and schools. It does not improve them, but will keep these buildings occupiable and essentially safe. The plan funds critical mandates including the Ivy and Keene Landfill obligations, existing lease contracts, and voting machines. It includes the use of Tourism dollars – about \$350,000.

Mr. Letteri then presented a slide showing what the recommended plan looks like. In the Public Safety category there is in excess of \$10.0 million for apparatus replacement, things like radios and computers and technologies that need to be kept up-to-date. For the Public Works category, about 60 percent of the cost is to maintain public buildings - just routine things such as HVAC replacements and general maintenance on roofs, and painting, etc.

Mr. Letteri said that in the category of Community and Neighborhood Development, the proposal is for zero funding. This includes all transportation, sidewalks, street improvements, and all master planning items. In Parks and Recreation it is limited to strictly maintenance on existing facilities and obligations – a lot of the obligations have to do with tourism improvements. All library projects are gone except for maintenance and much of that money is in support of the City's dollars that come in to support the joint libraries. For Technology and GIS, it is just funds to keep technology infrastructure current and

operational. The ACE Program is at the reduced level of \$350,000. Stormwater projects have been reduced to about \$250,000 a year, which they believe is adequate to do the projects necessary for drainage issues. In the School category, the vast majority is for maintenance on the ten campuses that have to be maintained. For both Schools and Public Works, he will point out that industry standards have been checked and about \$1.40 per square foot for maintenance is by any standard reasonable. A little less than that is being averaged in these cases. Part of the Schools program is for technology improvements largely funded by grants or outside sources.

Ms. Mallek asked if the Stormwater projects are new, or is it just a reallocation of the two big projects currently going on. Mr. Letteri said they are new projects.

Ms. Thomas said she knows that the EPA is making new demands on stormwater that will probably put strains on those figures. Mr. Letteri said that is contemplated, and he does not know to what extent it is adequate to cover all of those things.

Mr. Rooker said it is not clear how much of the cost of those imposed requirements will be borne by developers and by localities.

Ms. Thomas said the last time the EPA put out any sort of guidance, they assumed that counties are like cities and own their stormwater system in a way that the County does not, so no one knows what that figure might be at this point.

Mr. Rooker said the application fees the Board discussed earlier today will pale in comparison with the cost of stormwater that will be imposed over time on new development.

Mr. Letteri said to summarize, this is essentially a maintenance only program. Not recommended for funding in the area of Courts was the Levy Building renovation project (that building is owned jointly with the City and currently vacant), but the committee considered it a notable project. The City's plans for that building are not known at this time; he does not think action by them is imminent.

Mr. Rooker asked if there has been a use study of that building for leasing purposes. Mr. Letteri said there has not been.

Mr. Rooker said if it is not going to be converted for some use by the courts for the next five years, is it feasible to look for a lease party that might incur some expense to move in. Mr. Letteri said staff just finished an abbreviated study to answer the question of whether there can be a joint District Court operation with the City. The indications are that it would not likely serve well for that purpose.

Mr. Dorrier said he thinks a committee should be put together to look at that question. Mr. Letteri said staff is mindful of the fact that if the County should occupy that building, it would have to maintain it, etc. He thinks there needs to be a study.

Mr. Rooker said he sees an asset there that is generating no return in a time when the County needs funds to operate. As part of that study he would like to be sure it looks at the revenue-producing potential of that facility if it is not going to be used for its planned use anytime soon.

Mr. Boyd said the CIP Oversight Committee talked about it and decided that was not an appropriate task for that group. They discussed the possibility of taking an inventory of all assets owned and giving some thought to selling some of them.

Mr. Koleszar said he does not think the Board would want to sell at the bottom of the market. He had suggested selling some properties a couple of years ago, and that would have been the time to do it.

Mr. Rooker said leasing would be better if the building is not going to be used soon.

Mr. Letteri said the category of Public Safety was impacted heavily. There was over \$37.0 million in reductions or deferrals of the requests received.

Mr. Rooker asked if the apparatus for fire and rescue could be looked at for grant opportunities. Mr. Letteri said a member of the Fire Department staff is looking at that question.

Ms. Thomas said that in a couple of years the City is going to move their station in the Ivy area to the Fontaine Research Park. That will have an immediate impact on the people in the Ivy area.

Mr. Boyd asked if Mr. Letteri will present information about items on the list that were not just shifted to future years, but have actually been dropped from the list. Mr. Letteri said nothing that had been deferred or removed was programmed back in at any time in the future. The committee felt that with the nature of the projections and the uncertainty about the future that it did not make sense to program them back in.

Mr. Boyd said the Crozet Library is no longer in the CIP.

Mr. Rooker asked about the two fire stations.

Mr. Boyd said they are no longer in the CIP. Mr. Foley said they are outside of the five-year plan. Mr. Letteri said when he mentioned "deferred" or "removed" it is the same thing, they are out of the ten-year period.

Ms. Mallek suggested calling it "eliminated" and just get over it.

Mr. Foley said revenues are not projected out beyond the five-year period. The CIP is a five-year document, but staff does a ten-year assessment. He said those things cannot be funded within the five years, but the plan will be reassessed each year and if revenues turn around, some things might be done.

Mr. Rooker said projects that are important to the County and the Schools have always been carried beyond the five years. He asked if everything that was in the five- to ten-year period was eliminated, or were just certain projects dropped because funding them on this side of ten appears to be dismal. Mr. Foley said they are just placeholder projects from year six through ten. They are just not in a balanced plan.

Mr. Rooker said in years one through five there was a certain amount of revenue available, and then in years five through ten there were projects that could not be funded in that five-year period, but they were recognized as things that need to be done in the out years. He asked if that whole category has been eliminated. Mr. Foley said in the past there might have been a project listed as being needed in year eight, so it was included in year eight, but that part of the plan was not balanced to revenues. Mr. Letteri said there was so much focus on just getting the five years balanced that the committee did not have time to go into the out years in detail. He said a new ranking criterion was developed and used this year; he got good feedback about that criterion from the committee members. Staff might take that criteria and try to lay out those projects over the next five years, but the plan would not balance in terms of the numbers being shown.

Mr. Letteri said the recycling centers and windows have all been removed. This was an attractive project that was developed involving a public-private partnership and outside resources, but it was deferred. The Crozet Library was well into the design phase. (**Note:** At this point, a fire alarm sounded and stopped the meeting for a minute or two.)

Mr. Wheeler asked if the Crozet Library is a placeholder in years six through ten or is it no longer a part of the plan. Mr. Letteri said it is no longer on the list.

Mr. Boyd said he knows people will be asking what happened to that project.

Ms. Mallek said people in Crozet have already found out about this plan, and are asking questions. Mr. Letteri said before the CIP comes back to the Board, staff can work on some kind of a plan to lay these projects in over the next five years. Mr. Foley said they went as far as having Ms. Lee Catlin look at ways to inform the public about this decision. Staff crafted a statement that the CIP Oversight Committee looked at.

Ms. Mallek said to just tell the truth and just get over with it.

Mr. Rooker said if the Crozet Library has been completely removed and is no longer a part of the plan, he thinks the public needs to know that. Mr. Foley said it has clearly been removed from the Five-Year CIP.

Mr. Letteri said the equalized tax rate was used for this plan; it balances the plan at the \$2.0 million level. If the current tax rate were used, the \$1.2 million lost plus another \$2.0 million would need to be made up somehow. If that were required, the committee identified some areas to think about based on the criteria that the TRT put together. That would include critical obligations such as the Keene Landfill, a lot of ECC projects that are essential for operations, and stormwater management reductions beyond that – all of these will have to be discussed further.

Mr. Letteri said no action is required today. These recommendations of the CIP Oversight Committee will go to the Executive Office and then eventually back to the Board in the spring for action. There will likely be work sessions before that time.

Mr. Rooker said this is a prime example of zero-based budgeting. There are zero dollars, so how will they be allocated? Mr. Letteri said this is not put forward as an adequate program; it is what has to be done to make it balance.

Mr. Rooker said in reference to the southern feeder pattern schools, there were expansions planned so as not to build one large school and those are now out of the plan. What is the current student growth factor in that area and what is the projected student growth factor? Can it be dealt with in the existing facilities? He assumes that was discussed by the committee before recommending that they be taken out of the plan.

Mr. Boyd said the Board approved a rating criterion to be used in this process and the TRT used it. He thinks most of the committee was happy with the way it worked. He assumes enrollment was taken into account in the criteria.

Mr. Koleszar said those facilities need major upgrades to be consistent with other facilities throughout the County. Those projects are important. Trailers may have to be placed at some of those schools.

Ms. McKeel said that special classes are currently being held in the hallways at Greer Elementary. Phase 2 of the Greer project that was to go forward this year has been cut.

Mr. Dorrier said that additional land is needed for any project at Yancey.

Ms. McKeel said there is no money to buy land.

Ms. Thomas said that is the sad part of this because the architect for the Crozet Library said that 20 percent of the cost could be saved if the bid could be put out this year. When the County has the money everybody else will be doing projects also, and that benefit will have been lost.

Mr. Slutzky asked that the boards move to the next agenda item.

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Agenda Item No. 23. Proposed Voluntary Early Retirement Incentive Plan (VERIP) Amendments.

Ms. Lorna Gerome said she will summarize the information that was presented to the boards on October 7, 2009, concerning the Voluntary Early Retirement Incentive Program (VERIP). There are two parts to the program. One is an amount equivalent to the board contribution to the medical benefit, and the other is a stipend calculated around the VRS amount. To be eligible for this program, the employee must be at least 50 years of age and have worked for the County for ten years. Preliminary data last year indicated that this benefit was rich and above market.

Ms. Gerome said a cross-departmental team consisting of staff representation from Local Government, the Schools, and the Albemarle Education Association (AEA) looked at current market data which indicated that the level of stipend benefit offered by VERIP exceeded the majority of other localities, as few localities offer supplemental retirement stipend benefits. The market data also indicated that the benefit was rich in terms of allowing retirees to remain on group medical and dental plans. The current service requirement for non-VERIP retirees to remain on the group medical and dental insurance is four years; these retirees pay the entire plan cost. The workgroup recommends changing this policy to require meeting VRS eligibility for retirement (reduced retirement is age 50 with 10 years of service, or age 55 with five years of service).

Ms. Gerome said in order to honor the County's commitments to employees nearing retirement, while moving toward a market competitive program, a phase-out of the VERIP stipend program is recommended. For the next two years the benefit would stay at 100 percent and then it would be a gradual decline. Starting in July, 2011 it would go to 80 percent, and then 60 percent, 40 percent and then 20 percent. The employee would get the stipend if they are eligible for five years or until age 65.

Ms. Gerome said staff is requesting that the boards act on the amended VERIP policies – for Local Government it is P-63 and for the School Board it is P-GCPC which phases out the VERIP Stipend benefit, not changing the medical contribution at this time and then revising the service requirement for employees to stay on the plan.

**Motion** was then offered by Mr. Rooker, **seconded** by Ms. Mallek, to adopt the following Resolution to amend Personnel Policy P-63, Retirement, to phase out the VERIP stipend and to revise the service requirements for retirees on group medical and dental plans. 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.

## RESOLUTION

**WHEREAS**, the County of Albemarle Personnel Policy Manual has been adopted by the Board of Supervisors; and

**WHEREAS**, the Board finds that an amendment to Personnel Policy P-63 is necessary to clarify the County's retirement benefits, to revise requirements for retirees to remain on the County's insurance plans and to phase out the VERIP stipend benefit between July 1, 2012, and July 1, 2016.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors of Albemarle County, Virginia, hereby amends the following section of the County of Albemarle Personnel Policy Manual:

**By Amending:**  
**Section P-63 RETIREMENT**

**§P-63**

**RETIREMENT**

I. REGULAR RETIREMENT

A. General

Retirement shall be at the discretion of the employee. Full-time regular employees of Albemarle County who qualify are eligible for the benefits of the Virginia Retirement System ("VRS"). Additional information describing VRS benefits is available on-line at [varetire.org](http://varetire.org).

B. Continuing Participation in the County's Medical and Dental Insurance Plans

1. All employees retiring under VRS and/or the County's VERIP policy are eligible for continuous participation in the group medical and dental insurance plans until they are eligible for Medicare coverage if they participated in the County's group medical and dental insurance plans on the day prior to separation from the County. The age and service criteria for VRS are as follows: 50 years of age with 10 or more years of continuous regular employment by a VRS-participating employer; or 55 years of age with 5 or more years of continuous regular employment by a VRS-participating employer.
2. Individuals eligible to participate in the County's group medical and dental insurance plan shall pay the full cost of health insurance coverage, including any applicable administrative expenses.
3. Any retirees or Board members who participated in the County's group medical and/or dental insurance plans as of December 1, 2009 shall continue to be eligible to participate, at their own cost, until they are eligible for Medicare coverage.

II. LONGEVITY INCENTIVE PROGRAM

The County values the service of all of its employees, both full-time and part-time. Since part-time employees are not covered by VRS, the County has elected to establish a Longevity Incentive Program (the "Program") and thereby provide eligible part-time employees with certain benefits as more fully explained in this section.

A. Scope of Program

All regular, part-time employees of the County will be covered by the Program provided that they work the minimum number of hours necessary to establish eligibility for County benefits. Salaried Board Members are not eligible for participation in this program.

B. Benefits

The following benefits will be provided to eligible part-time employees under the Program:

1. Life Insurance: A term life insurance policy will be provided equal to twice the employee's annual salary with double indemnity for accidental death and dismemberment payments for the accidental loss of one or more limbs or of eyesight.
2. Annuity Program: Based on length of service in the County, part-time employees will be provided with an annuity program. The Board will contribute an annual amount according to the following formula:
  - a. 5 - 9 years of County service - five percent of annual salary.
  - b. 10 - 14 years of County service - seven percent of annual salary
  - c. 15 - 19 years of County service - nine percent of annual salary.
  - d. 20+ years of County service - eleven percent of annual salary.

III. Retirement Pay/Payment upon Death

In recognition of employee service to Albemarle County, regular full-time and part-time employees who meet the age and service criteria for retirement under VRS and have been employed a minimum of five (5) years with Albemarle County shall be paid upon their retirement or death in service \$200 per year for each year of service to the County as a regular employee up to a maximum payment for 25 years of service, less any years previously paid for under this policy. Years of service do not have to be continuous.

IV. Voluntary Early Retirement Incentive Plan (VERIP)

A. Eligibility

1. Participants in the Albemarle County VERIP must be regular full-time or regular part-time employees eligible for benefits as defined in P-02,

Definition of Employee Status and meet the following additional requirements:

- a. Full-time employees must be eligible for early or full retirement under the provisions of VRS. Part-time employees must meet the same age and service criteria as if they were full-time employees covered under VRS.
  - b. Have been employed by the County government and/or school division for 10 of the last 13 years prior to retirement.
2. Employees retiring under the disability provisions of VRS and/or Social Security shall not be eligible for the VERIP.
  3. VERIP benefits will cease if the retiree returns to work in a regular full-time or regular part-time position with the County government and/or school division.
  4. VERIP benefits will continue if the retiree returns to work in a temporary part-time or temporary full-time position with the County government and/or school division.

**B. Benefits**

1. VERIP benefits shall be paid monthly for a period of five years after retirement or until age 65, whichever comes first. The VERIP benefits consist of a stipend calculated in accordance with Section B.2 ("stipend") and an annual monetary contribution in the amount of the Board's current contribution to Board employees for health insurance ("medical contribution").
2. Stipends under VERIP will be calculated as follows:
  - a. Compute the annual VRS benefit. This computation shall include any reductions for early VRS retirement if appropriate.
  - b. Recompute the annual VRS benefit with the addition of five more years of service or the number of additional years needed to reach age 65, whichever is lesser.
  - c. The difference between these two calculations is the annual VERIP stipend ("Stipend Value") to be paid on a monthly basis.
  - d. Stipends for part-time employees who are eligible to participate in VERIP shall be determined as if the part-time employees are eligible for an annual VRS benefit and the amount shall be calculated in the same manner as benefits for VRS-eligible employees under subsections (a) – (c) above.
3. The County Executive will recommend to the Board an annual adjustment to the VERIP stipend after having been apprised of the VRS adjustment for retirees.
4. The Board will pay to the employee an amount equal to the Board's annual contribution toward an employee's health insurance as long as the employee remains eligible to receive VERIP benefits.
5. Effective December 2, 2009, the VERIP stipend shall continue to be calculated in the manner provided in Section B.2, but the stipend amount shall be modified in accordance with the following schedule:
  - a. Retirements effective on or after July 1, 2012 but before July 1, 2013: 80 percent of the Stipend Value.
  - b. Retirements effective on or after July 1, 2013 but before July 1, 2014: 60 percent of the Stipend Value.
  - c. Retirements effective on or after July 1, 2014 but before July 1, 2015: 40 percent of the Stipend Value.
  - d. Retirements effective on or after July 1, 2015 but before July 1, 2016: 20 percent of the Stipend Value.
  - e. Retirements effective on or after July 1, 2016: No VERIP Stipend.

C. Application

Applications for VERIP must be made to the Human Resources Department prior to December 1<sup>st</sup> of the year preceding the fiscal year the employee's participation in VERIP takes effect. Applications after December 1 may be approved based on the needs of the County.

D. Approval

All VERIP applications are subject to approval by the County Executive or designee.

E. Duration

The Board of Supervisors reserves the right to modify this policy in its discretion, and all benefits described in this policy shall be subject to future modifications and annual appropriations by the Board of Supervisors.

F. Additional Benefits

1. Current employees who apply for VERIP by February 27, 2009 and who meet the eligibility standards identified below shall be entitled to receive, at their election, **one** of the following:
  - a. Two additional years of Board contributions toward health insurance beyond the duration established by Section IV.B, paid on a monthly basis. Employees who retire at 65 years of age or older shall receive two years of contributions toward health insurance.
  - b. The cash equivalent of two additional years of Board contributions toward health insurance calculated at the FY 2009-10 annual rate and paid in one or more installments.
2. To be eligible for the additional benefits in this section, employees must:
  - a. Submit VERIP applications by February 27, 2009;
  - b. Submit a letter by April 1, 2009 establishing a retirement date no later than June 30, 2009; **and**
  - c. Retire after the effective adoption date of this subsection (F) but no later than June 30, 2009.

(Amended: August 4, 1993; April 19, 1995; June 2, 2004; January 7, 2009)

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**Motion** as then offered by Ms. McKeel, **seconded** by Mr. Koleszar, to approve the School Board's policy GCPC to phase out the VERIP stipend and to revise the service requirements for retirees to remain on the medical and dental plan. On a voice call vote, the motion passed six to zero.

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Agenda Item No. 24. FY 2010-11 Budget Issues:

Item No. 24a. Financial Forecast.

Mr. Foley said staff will provide some background information on budget changes that have occurred since the budget was adopted in 2008. He will give perspective on the changes that have occurred over the last three years including completion of the current fiscal year and then mention the changes made in the current fiscal year and then present the outlook for FY '11. General Fund revenues are down about \$6.1 million driven primarily by the drop in real property values which are down about 6.3 percent from the reassessment in January, 2008. The other big drivers are sales tax and personal property tax.

Mr. Foley said State revenues are down about \$600,000 in the General Fund and Federal revenues have decreased about \$1.1 million in that three-year period. During that period revenues would be down further, but the Board approved an equalized tax rate in the current fiscal year that offset some of the loss.

Mr. Foley said that for expenditures - on the General Fund side Local Government is down about 60 positions or nine percent of its workforce either from being eliminated, frozen or offset with other revenue sources. That number will be increased to 65 positions in order to deal with the current financial crisis. That is about \$3.6 million which has been reduced. Departmental operating expenditures are down about 11 percent or \$1.5 million. While experiencing losses and cutbacks, there are obligations which have increased expenditures - the biggest is the Revenue-Sharing Agreement with the City of Charlottesville.

Mr. Foley said the Tax Relief for the Elderly Program increased and Debt Service increased by about \$3.6 million on projects previously approved. The Transfer to the School System to support their operations from general taxes over that period is down \$1.7 million or 1.73 percent. The Capital Transfer is down significantly at \$7.6 million or 30 percent. From the time the budget was adopted in the spring of 2007 for the 2008 year through the current fiscal year, this is the impact and the reasons changes had to be made.

Mr. Slutzky asked about the \$3.6 million Debt Service costs. Mr. Foley said that is the debt service on the renovations to Albemarle High school, Greer Elementary and a number of projects done during that period of time.

Mr. Foley said in the current fiscal year there has been a \$5.7 million downturn. The School Transfer is down \$3.4 million; Capital and Debt Service are down \$1.51 million. On the Local Government side several things have been done to address this shortfall. Forty percent of the Revenue Shortfall Contingency line item will be used this year, about \$540,000. Some smaller contingencies which were set aside in the operating budget to address specific items will be used. The biggest is in Salary Savings – another 10 positions were added to the 55 positions already frozen or eliminated. Those 10 positions will come in at different times during the years, so the total savings will eventually be about \$600,000. Most of the funds for the Housing Downpayment Assistance Program were eliminated. The ACE Program has been reduced, and there are additional savings on the operating side. He said Dr. Bruce Benson will talk about what the Schools have done to reduce expenditures.

Dr. Benson said they have used the School Fund Balance to address issues. They had about a \$6.4 million unaudited Fund Balance on June 30, 2009. That is about four percent of their overall operating budget, not including their Self-Sustaining Funds. They included \$1.8 million of that in the budget for the current fiscal year, and reappropriated approximately \$212,000 of that to purchase the GPS systems put on the school busses. They expect to see a return on that investment in the current year that will cover the cost of that initial purchase and save significant money by helping to reduce deadhead miles – miles with no pupils on the bus.

Dr. Benson said some of their Fund Balance will be used to cover the projected local revenue shortfall for the current fiscal year at about \$3.0 million. They do not know what to expect in State shortfalls, so they have set aside about \$1.5 million for that. They have implemented a ten percent holdback in operational costs that nets about \$900,000. Because of the uncertainty at the State level, they recently added another five percent holdback. They have a “hiring chill” instead of a “hiring freeze” – at the moment there are 22 positions which they are not filling that should save about \$500,000. Potential savings from employees who took advantage of the early retirement option was projected to be about \$1.1 million. They have been able to delay some Capital purchases because of access to State Stimulus money – about \$500,000. They set aside about \$1.8 million to use as part of the Superintendent’s funding request for the FY 2010-11 budget which leaves about \$1.1 million for a contingency in that year.

Mr. Boyd asked if the Fund Balance is cumulative. Dr. Benson said “yes.”

Mr. Boyd asked if they budgeted for reserves. Dr. Benson said an amount was generated by savings in terms of personnel costs and moneys that were not spent in the operational budget. In the budget for the current fiscal year, they had budgeted \$1.8 million of that Fund Balance.

Mr. Boyd asked if last year they budgeted to have \$6.4 million in reserves. Dr. Benson said at that time it was not known what the total of the Fund Balance would be, but there were sufficient funds in the Fund to budget \$1.8 million in the current fiscal year. Mr. Foley said the \$6.4 million is not a budgeted number. It is just an end-of-year amount above and beyond expenditures and revenues.

Mr. Rooker said it is the result of a number of years of operation in which they created an accumulated fund balance. Dr. Benson said it is a result of people being frugal in their expenditures, and savings in terms of personnel costs. It is a result of what they feel is being good stewards of those resources to provide a cushion for the Division.

Mr. Boyd said it is actually a surplus which was created through efficient operations. Dr. Benson said that is correct.

Mr. Boyd said there is a difference between a surplus and a fund balance.

Dr. Benson said Mr. Foley had mentioned some obligations Local Government has, and the Schools are having some of the same challenges. Looking at the amount of revenue over the last three years, and then at the increase in student population, more students are being taught with fewer dollars. There has been a 296-student increase over the last three years, and in each of those years there have been fewer revenues to do that.

Mr. Rooker asked if the bottom number is the projected fund balance that would exist to be available to bring over to 2010-11. Dr. Benson said that is correct.

Mr. Dorrier asked if they had to use the money this year or they would lose the money. Dr. Benson said they hope they do not lose the money. That is part of their conversation with the Board of Supervisors.

Mr. Wheeler said one positive thing about their fund balance is that it exists in a rainy day like today to cover both State and Local shortfalls. He heard someone describing government in a fashion that said government departments just always spend everything they have at the end of the fiscal year. One of things this communicates is that the Schools do not do that. They accumulate a fund balance, and do not say "spend it." Because of that they have a good relationship with the Board of Supervisors and that allows them to keep their Fund Balance going.

Mr. Boyd said he understands the 10 percent operational holdback and the policy used in the past. He assumes that holdback will not be released this year. Dr. Benson said that money has already been taken out of department accounts.

Mr. Boyd said he applauds the School Board for its efficiency, but just wants to understand its accounting.

Mr. Wheeler said that usually when this is talked about, the fund balance is talked about in a negative way. They have evidence to show that it is a positive thing.

Mr. Rooker said when the Board of Supervisors has had surpluses, the money was moved into capital which reduced the cost of capital to the Schools and Local Government. That made more money to split in subsequent years when items were paid out of cash as opposed to financing which would have driven up operational costs.

Mr. Slutzky said calling it a surplus conjures up an image in the public's mind that there is extra money. Calling it a fund balance is a little more subtle.

Mr. Boyd said he does not think surpluses are bad. The fact that you are efficient and ended up with a surplus is a good thing.

Dr. Moran said the School Board has discussed that where Local Government has a policy to have an eight percent reserve to use against both maintaining bond status but also as a "rainy day" focus that can be brought forward for all kinds of things, the School Board has been running about a four percent fund balance as part of its budget. They are looking at how to make that a policy so it becomes a focused direction for the Schools.

Ms. McKeel said Mr. Wheeler had already mentioned how well the Board of Supervisors and the School Board work together. For example, when education received about \$3.0 million extra funding from the State, the School Board split those funds with the Supervisors. She thinks that shows that the bodies have worked well together over the years.

Mr. Wheeler said some of the stimulus money allowed the School Board to give back some capital money to Local Government.

Mr. Rooker said with the change in the composite index, the School Board could potentially lose \$6.0 million a year, and there are other potential revenue issues on the state side which he assumes the School Board is already looking at.

Mr. Foley said staff will talk more specifically about FY 2011, and more specifically about the composite index. He said the General Fund supports all of the other funds. Based upon the Five-Year Financial Plan discussed over the last couple of months using a 77.2¢ equalized tax rate, revenues are expected to be flat on the Local Government side. The real property reassessment is the reason for the 3.75 percent decrease in that category. In the 2011 calendar year reassessment, a continued decline of about one-half of a percent is expected and then it starts to pick up in the out years. State revenues have decreased 2.2 percent up to this point, but staff expects to see more significant reductions.

Mr. Foley said in terms of expenditures, there are no increases in salaries or operating costs proposed. There are some new obligations – the Revenue-Sharing Agreement with the City will be increasing by another \$400,000. A change in the VRS contribution rate is expected, and that will impact the outlook for next year. The School Transfer is down based on projections of another \$1.1 million in the coming year. The Capital transfer is down another \$2.0 million. The outlook is not good in terms of being able to support the Schools and Capital program. Last year \$100.0 million was reduced from the Capital Program, and another \$103.0 million decrease will impact next year as well.

Mr. Rooker said some of that is duplicated because some things were moved to year six of the CIP. He said if you look at the total number of capital projects removed or taken out of the plan, cumulatively it is not \$203.0 million. He would like to know the total of the projects which were actually removed. Mr. Foley said the current Five-Year Plan was reduced by \$100.0 million and completely gone out of the plan. Now, another \$103.0 million has been reduced from the Five-Year Plan. It is a total of \$203.0 million.

Mr. Rooker said he thought that some of those projects were deferred so they went out of the Five-Year Plan, but they were in effect moved into year six or seven.

Mr. Boyd said that year six was double counted in the plan, because it was taken out of the five-year plan.

Mr. Letteri said that two years ago the program was approximately \$200.0 million and it is now \$60.0 million.

Mr. Slutzky said the Five-Year Capital Plan is a misnomer, it is a capital maintenance plan. There is little, if any, improvement in County infrastructure in the next five years. He added that it was not clear to him. Mr. Foley said it is difficult to answer because every two years they are doing a full update. The numbers and project balances change every year. It is a hard question to answer definitively.

Mr. Slutzky asked if any of the projects in the \$103.0 million represent projects that were in the original \$100.0 million but got moved to year six and now are being removed again. Mr. Letteri replied, "yes".

Mr. Foley said in terms of the County's financial condition, staff is planning on some of the revaluation revenues experienced by one-time rollback taxes paid by those properties coming out of the Land Use Program. He said Dr. Benson will explain the outlook for School revenues; things that are important considering what recently happened with the composite index.

Dr. Benson said staff does not believe there will be any benchmarking with the Standard of Quality so the amount they would pay toward it will not likely yield any additional funds in this biennium. Staff believes there will be significant shortfalls at the state level that may result in cuts in the SOQ funding, but that will not be known until the Governor rolls out his budget on December 18.

Dr. Benson said that at this time, of most concern is the change to the composite index which is an indication of the locality's ability to pay for SOQ funded positions. There are three significant contributors to what that percentage is - the value of real estate, the adjusted gross income, and taxable retail sales.

Mr. Rooker asked if the AGI is the adjusted income of all the citizens in the community based upon tax returns. Dr. Benson said "yes."

Dr. Benson said looking at what happened between 2005 and 2007, the State increase went up 12 percent; Albemarle County went up almost 23 percent in real estate values. Income almost doubled by the State, with a small decrease in sales as compared to the State average. He said the two categories of real estate values and income have the biggest impact on changes in the composite index.

Mr. Rooker asked if the real estate values are based on the tax-appraised values. The assessed value is an objective number. As to income, he assumes the numbers being used by the state can be verified somehow, by which they determined that the adjusted gross income of citizens in Albemarle County increased by more than double the rate of the average citizen in Virginia. He said it would be a good idea to be sure that is based on accurate numbers.

Ms. McKeel said Mr. Jackson Zimmerman can answer that question.

Mr. Zimmerman said in regards to real estate values, he has asked the Finance Department to verify those numbers and to look at projections for the DOE. He said those numbers are taken from reports that local governments submit to the Treasury. Income is also derived from the Treasury numbers, but Albemarle has no input into those numbers.

Mr. Rooker said he finds it hard to believe that the income of citizens in Albemarle County over a two-year period increased by 30 percent.

Mr. Koleszar said there are some very wealthy people in the County and if their income goes up 50 percent that raises the income number in the whole County.

Mr. Slutzky mentioned the twenty percent of the County that lives at or below the poverty level.

Mr. Rooker said he still finds it hard to believe.

Mr. Boyd said it says that overall income increased by 30 percent not necessarily that individuals on the average increased their pay by 30 percent.

Mr. Rooker said the County's growth actually slowed down during that period of time. In terms of people moving into the area, Albemarle is not growing faster than the State is growing. He just finds that number hard to believe. If there is some way "we can look behind it we ought to."

Mr. Boyd suggested asking the Treasurer for an accounting of the number.

Dr. Benson said if you look at the school divisions in the top quartile of the County's competitive market, Albemarle is at the top with its percentage increase in the composite index of about 10 percent. The big winner in the quartile is Loudoun County which had a drop of almost 13 percent in the composite index. He said Albemarle got caught "at the crest of the wave" while other localities were seeing some decline in real estate values and possibly gross income as well. He said Albemarle's increase is the sixth largest in the Commonwealth.

Mr. Rooker asked if Northern Virginia's income over that two-year period increased more rapidly than every other area in the State. The figures being presented only go through 2007, and the decline in

real property values occurred after that. He finds this hard to believe. He is afraid the Board is seeing numbers that are subject to some political manipulation and it will end up costing Albemarle County a lot of money.

Mr. Wheeler said he agrees that Albemarle should check the state's math. Mr. Foley said staff will follow up on that; there has already been some review of those numbers.

Dr. Benson said in terms of fiscal considerations moving forward with a composite index of .687, staff is projecting a reduction in State revenues of about \$6.0 million for the next fiscal year. With additional health care costs (a potential eight percent increase), a local revenue shortfall and the tax rate staff was directed to develop project revenues at, there will be a total of about \$8.0 million less. If the tax rate remains at 74.2¢ there will be a shortfall of almost \$10.5 million.

Mr. Slutzky asked if 50 percent of this index is based on real value – it is actually fair market value. If 60 percent of the County's land is in land use tax, the County is not collecting the money the State is saying it is collecting.

Mr. Rooker said that is correct. The County collects about .07¢ on that land as opposed to the 74.2¢.

Mr. Slutzky said there is also the Revenue-Sharing burden as well, so the County actually loses tax revenue on 60 percent of the County's acreage. When they calculate what money the County should be using to fund schools, they don't take that into account.

Dr. Benson said it can be argued that the County's composite index is not an accurate reflection of Albemarle's ability to pay for its share of education.

Mr. Koleszar said that has been in the Schools legislative package for the last two years.

Mr. Slutzky said the State can come back and say that is a choice the Board made.

Ms. McKeel said that is what the State has told the School Board.

Mr. Koleszar said it took the Governor three years to get smoking banned in restaurants, so the School Board is not going to give up on this just because it was defeated for a couple of years.

Ms. Thomas said the Land Use Taxation Program is a state-created and state-enabled program and localities are encouraged to have such a program.

Mr. Slutzky asked if the value of a piece of land in easement is based on the reduced property value.

Mr. Rooker said it becomes tax assessed at the lower rate; that is the difference between that and the land use program. There is a big advantage if property can be swung from one category to another. This shows that the cost of the Land Use Program is closer to \$25.0 million.

Dr. Benson said in terms of other cost considerations, staff looked at moving teachers up one step on the teaching scale; that would cost about \$960,000 – they would be looking for some reduction to fill that gap between projected revenues and expenses. A one percent increase would cost about \$700,000. They looked at strategies to reduce the gap between projected revenues and expenses, such as: cutting ten percent of operational moneys amounts to \$910,000, raising class sizes by one student would generate about \$1.59 million, \$500,000 in bus replacements could be delayed as a capital expense next year, the \$1.0 million in Learning Resources there might be shifted to electronic resources so textbook purchases might be delayed.

Mr. Koleszar said the \$7.0 to \$10.0 million they showed is the amount of revenue less than was received in the current fiscal year. It is not the shortfall in a budget that included any growth.

Mr. Rooker said there has been discussion over the years of going to a formula budgeting process by which tax rates would be automatically adjusted based on growth, population, and some type of cost-of-living adjustment appropriate for the County's expenses. However, the Supervisors keep talking about level funding when there is no growth in revenue. He said when there is a budget which is basically 80 percent compensation, things such as delaying bus replacements for a year can be done one time - it is not a permanent budget reduction. At some point, the only way to deal with a shortfall is to cut the number of employees, but on the School side the choice becomes increasing the size of classrooms and the question is how far the School Board and Supervisors are willing to let that go, and how that affects the quality of education. There are issues such as facilities and having classes held in hallways, etc.

Ms. McKeel said there are also mandates which have to be accommodated.

Ms. Thomas said she knows that during times of recession enrollment in public schools goes up. She asked how much of that is happening now. Dr. Moran said enrollment increased about the size of a small elementary school this year.

Mr. Foley said there are two other items which the boards have asked about over the last several sessions. One has to do with the stimulus funding, and Dr. Benson will discuss that.

Dr. Benson said the American Recovery and Reinvestment Act had guiding principles as to how they expected the moneys to be spent. This is short-term money - if too much of it is put into people the Schools will be faced with significant funding choices when those dollars are no longer available. They have leaned toward the one-time purchases side rather than toward people, although there are some personnel costs included.

Dr. Benson said there are funds with attached title moneys (Title I and Title II), IDA, Special Education and Pre-School. A number of programs were positively impacted with the moneys tied to the title funds - they had to meet title and special education guidelines for expenditure of those funds. They could not supplant services but there were areas where they looked to make reductions. They are moving toward the Instructional Coaching model in which they reduced a number of support positions in the schools. They were able to restore some of those positions through moneys which were available - 11.4 FTEs and Intervention Specialists staffing through Special Education funding. He said there are additional slides which he will not present today – programs which were impacted by available title moneys.

Mr. Boyd said Dr. Benson just mentioned that some things had been cut in order to make the current budget balance and the Schools have moved to a Coaching Model. He thought that was being done for efficiency and not to reduce services. Dr. Benson said crisis creates opportunity and they were able to accomplish the Instructional Coaching Model they think will have an impact on improving instruction. At the same time, they reduced the number of FTEs associated with some of the specialist positions. They were able to provide some temporary relief with the Federal money.

Mr. Boyd said the Schools receive targeted moneys all the time. He asked if programs are added so they can spend that money or are they backfilling on some things that had to be eliminated because of shortfalls. Dr. Benson said some things were eliminated, but at the same time programs cannot be supplanted – they must meet the guidelines for spending the Federal dollars, just like the funds normally received through title funds. Things were looked at across the Division for elimination including some support positions but they were able to fund some of them for a short period of time through these resources.

Mr. Boyd said he understands this money is for two years, or maybe just one year. He said there was a management analyst position shown as a .5 FTE – he asked if it was cut last year for efficiency, or because there were no funds for that position. Dr. Benson said he will talk about that with the next set of slides. He had about 20 slides which described the program impacts for the funding of these positions, and they felt that was too much to try and cover today.

Dr. Moran said the School Board saw those slides in June when it approved how this stimulus money could be spent.

Mr. Boyd asked for an example. He wants a good understanding of whether jobs are being created that were eliminated previously because the job was not needed, or are jobs being created so the money can be spent. Dr. Benson said an example is the IDEA funds – and there are two different situations. He said there were 11.4 FTEs in special education - funding was used to fund the Intervention Specialists that were previously funded with local funds. They were able to take a reduction in local dollars as a part of budget work but not cut those services by using the Federal moneys to preserve that level of support in the schools.

Mr. Boyd said some of the stimulus money is then being used to backfill a reduction in local funds. Dr. Benson said it is being used to save jobs, which was one of the guiding principles.

Mr. Rooker said that originally the County was told stimulus funds would be available to local governments to cushion the reduction in employees that would otherwise have occurred. How do the FTEs for the prior fiscal year compare with the FTEs for the current fiscal year, and how much of that is attributable to the stimulus funds? For the FTEs added, how will the schools deal with that when the funds run out? Dr. Benson said those employees have been given two-year contracts and the employees in those technical positions know that when the State Stabilization money is gone, the position is gone.

Dr. Moran said a number of divisions in the State were looking at major cuts a year ago. The focus in Albemarle was on maintaining staffing in the schools as part of its core business work. Last year cuts were made in Central Office positions. They were able to backfill in some places that would have been eliminated if that money had not become available. They tried to hold the schools harmless in the way of cuts to staffing a year ago.

Mr. Boyd said everybody had seen the Five-Year Financial Plan – he would like to know what the Schools will do two years from now. The Supervisors have basically flat-lined their projections. Dr. Moran said they wanted to use the money as best as possible and go after one-time purchases already planned for. To a small degree, they wanted to save jobs and affect things that would help implement something like the Technology Plan, but realizing that in two years when this money runs out not to be left “holding the bag” for significant numbers of staff.

Ms. Thomas said VACo sent out a survey to all counties, and the biggest issue had to do with what will happen when the stimulus money runs out.

Mr. Boyd said in long-range planning, the boards better start recognizing that is what will happen. He does not think this economy will turn around in two years.

Mr. Slutzky said there is talk in Washington now about a Jobs Bill that will focus on employment in state and local governments.

Dr. Benson said the other stimulus money made available to school divisions was State Stabilization money which was a flow-through to the state. Albemarle got a little over \$2.4 million in the first year. It is not known whether an equal amount will be available in year two. That will depend on what the Governor-elect decides to do in January. If available, the money would be used for technology purchases and some support personnel to help with the installation of that equipment. They offset a \$550,000 line item in the CIP for the current year, and intend to do the same for next year using the state stabilization moneys as opposed to local dollars to make those purchases – classroom technology, laptops, notebook computers that were all in the technology plan.

Dr. Benson said in the way of infrastructure upgrades, they had cut \$300,000 out of Learning Resources and they were able to restore those cuts. He said the influx of equipment put a strain on their Technology Department in configuring and deploying that equipment, so there are 5.5 FTEs on two-year contracts to configure and install that equipment. He said their technicians have a significant burden in terms of the number of machines they support - one-technician supports 470+/- computers in the division. They have broadened their definition of “computer” which included handheld devices and such. There are all kinds of things being deployed in the classrooms such as I-Pod Touches, Interactive White Boards, Student Response Systems, and they all require technical support.

Mr. Rooker asked if that additional technology can be supported without these people two years from now. Dr. Benson said they are looking at simpler technology like Notebook computers that have few maintenance issues. They are also less expensive, but even over the time the dollars are available for technology purchases, it may not reduce the computer ratio. They are looking at different types of devices.

Mr. Price said this is absolutely an area they have to invest in and keep investing in for both students and faculty. They are moving to an age where they want to produce knowledge-based workers, hands-on workers in an industrial age, and even the information age. Just the technology piece is gone, so if they do not consider putting dollars in front of budgets and in front of the things they want to do, the students and society will lose because the workers will not be prepared for Twenty-First Century jobs. Those are the jobs that will require critical thinkers, innovators, creators, so that must be invested in. They have to tell the citizens in the County that if they retreat now on that front, they will go back to preparing students for jobs that were within the industrial age.

Ms. McKeel said those jobs no longer exist.

Mr. Boyd asked how many FTEs are currently under two-year contracts. Dr. Benson said he does not know the total number, but in the Technology Department there are 5.5 FTEs.

Mr. Foley said all of the items staff has covered are related to next year’s outlook including how the stimulus money will be used. The only thing left that might affect next year’s budget are the Fund Balances. There are two basic things – one is an Undesignated General Fund Balance which is not planned to be used for expenditures. It benefits both the Local Government and the School Division. It is not intended for operations at any point in time but is maintained for cash liquidity and to meet payroll on a month-to-month basis, and to carry the County forward as tax revenues go up and down. This undesignated fund balance is a measure of the County’s financial strength and is looked at in terms of the County’s AAA bond rating. By policy, it is to be maintained at eight percent. Since 2002 the County has fallen behind that eight percent to about seven percent. That is why the revalidation revenues will be used to build that balance back up.

Mr. Slutzky asked if the County is at any risk of losing its AAA bond rating if that balance stays below the eight percent. Mr. Foley said the financial advisors said the trend is important, and that trend does not look good. If the County has no plan for rebuilding that balance, he thinks the County would be at risk.

Mr. Boyd said that fund balance is significant, because it is the cash flow reserve. He met with Accounting Department employees and he understands it dips low at times before the next tax collection period. He asked if the School Board’s Fund Balance is used for cash purposes too.

Mr. Foley said it is something set aside for cash flow and not for spending. In the past several years the Shortfall Revenue Contingency ((rainy day fund) is a reserve for contingencies specifically designated to offset current operating budget shortfalls or some unanticipated expenditure (emergency). It was first established in FY '09 and there is no target amount. It is typically funded in the General Operating Fund and is similar to the way the Schools are using their fund balance. In the current fiscal year, money generated from the capital side was set aside - that was about \$1.3 million and it was specifically for Schools and Local Government on the 60/40 basis. To meet projections for Local Government in the current year, its 40 percent was used to fill the gap.

Mr. Foley said a question was raised at the meeting a month ago about the roughly \$800,000 that is left from the change in the CIP. There is no contingency set aside now for Local Government because its 40 percent has been used. There is a question about the Schools using the remaining 60 percent of

this versus using its Fund Balance. Local Government's reserve for contingencies is similar to the School's use of Fund Balance. The key is that they are using it for certain planned expenditures and \$4.5 million is for revenue shortfalls. Then there is \$1.8 million left that will be used for either planned expenditures or for a reserve if there is a downturn. The School Board just has not designated use of that amount yet.

Mr. Foley said one reason staff brought this up today is to talk about whether the \$800,000 now set aside from VDOT Revenue-Sharing funds is money that will be moved into the School's Fund Balance for their use, or will it stay in the General Fund and the Schools will rely on the funds they have now. That decision does not have to be made today.

Mr. Boyd said he would like the definition of "reserve" and "fund balance" so everybody understands the terminology. He understands that the fund balance is used for cash flow, and if there are reserves for contingencies, that is what they should be called. He asked if the Schools have to cover their own cash flow or is that covered by the General Fund Balance. Mr. Foley said it is covered by the Local Government's Fund balance.

Mr. Koleszar said the Schools Fund Balance is part of that.

Ms. Thomas said "no."

Mr. Koleszar said the money the Schools have in its Fund Balance is not sitting in a School Board checking account. That money is sitting in a County checking account that helps manage the cash flow.

Mr. Boyd said Mr. Foley just explained that that is not what is happening. Mr. Tucker noted a blue line on the chart on the screen and explained that it is the County's Fund Balance for both the Schools and Local Government – that pays salaries every month and expenses every month. The red numbers shown are the School's reserve that they will start using soon.

Mr. Koleszar said the School's fund balance functions as part of the County's cash flow fund balance because that money is sitting in the County's operating fund available to pay ongoing bills. It only gets appropriated when it is needed for something.

Mr. Wheeler said they are saying that is not the case.

Mr. Rooker said it is not an appropriated amount and it is not intermingled with the County's Fund Balance. Mr. Foley said even the audit does not show it as part of the Undesignated General Fund Balance.

Mr. Koleszar said it is shown as an Undesignated School Balance. Dr. Moran said that money does not sit some place that is called a School account, *per se*, the Schools have to come to the Supervisors when they want to pull that money in and use it for a school purpose. Mr. Foley said that is correct.

Mr. Rooker said the money does have to be appropriated, but it is recognized as School contingency money. It is not part of the General Fund Balance out of which operational checks are written to pay expenses.

Ms. Thomas said it cannot be used as part of the Local Government Fund Balance without some action by the School Board.

Mr. Koleszar said when that money goes over, it is the County's money which is reappropriated to the Schools as part of the budgeting process. He understands that the money does not belong to the Schools, if it is not spent it goes back to the County. Mr. Foley said that officially at the end of every fiscal year whatever is left in appropriated moneys goes back into the General Fund, the only difference here is that the School amount is not rolled into the General Fund Balance, it is designated separately and shown in the audit as a separate fund.

Ms. Thomas said she thought Mr. Koleszar was trying to say the Schools Undesignated Fund Balance helps with the County's bond rating, but it doesn't work that way. If the auditors don't see it that way then the bond raters would not see it that way either.

Mr. Wheeler said in reference to the VDOT Revenue-Sharing money mentioned earlier, Mr. Foley said the boards need to decide how to allocate that.

Mr. Boyd said it was mentioned earlier that the County has an eight percent Fund Balance and the School System has a four percent fund balance and that is not true. Actually the County has an eight percent fund balance and the Schools have a four percent reserve. He is trying to get to how to divide up that fund reserve.

Mr. Wheeler said Mr. Foley had said the VDOT Revenue-Sharing money was set aside and is being brought back and when that is done the 60/40 split of revenues comes into play. Is there not a penny in the "lock box?"

Mr. Slutzky said that was two years ago; there was nothing in this year's budget. Mr. Foley said that in that fiscal year there was a penny set aside (\$1.6 million). The Schools were actually paid

\$500,000 of it, so there was \$1.1 left, but the County has not been able to fund that as additional appropriations to the Schools. The policy actually says that 60 percent of the growth in revenues goes to the Schools.

Mr. Wheeler said this is a different situation. Given how much this fluctuates, and in advance of the Governor putting anything on the table, he would suggest that the School Board not make a decision on this question at this time. In the grand scheme of present problems, \$800,000 is not a lot of money compared to the \$8.0 to \$10.0 million shortfall they are looking at on the school side for next year's budget, and Mr. Foley is talking about money that might be used for shortfalls this year.

Mr. Foley said the Schools have planned for an additional shortfall of \$1.5 million. The County has already passed onto them the \$3.0 million shortfall. On the Local Government side, \$540,000 has already been used, and the other \$800,000 is just sitting there. The Schools have funds to protect them from further downfalls, but Local Government does not have any more funds. The only option available now is to make further cuts - that is why this issue was raised in the first place.

Mr. Boyd said based on the numbers shown, the Schools are expecting to have a reserve of \$1.1 million at the end of this fiscal year. Local Government will have a zero reserve. That is why he is ready to make a decision now - he thinks it has to be kept in the County government.

Mr. Wheeler asked how much money has been set aside over the years for the Jarmans Gap Road project. Mr. Foley said there is some Transportation CIP money which has been set aside.

Ms. McKeel asked for an explanation of the 60/40 split. What comes off of the top before the Schools get the split which is what she thinks Mr. Wheeler is talking about. Mr. Foley said there are several items - capital, tax relief for the elderly, the City-County Revenue-Sharing moneys, etc.

Mr. Rooker said he basically agrees with what Mr. Wheeler suggested. At this time, he sees no reason to make any decision regarding that money. No one knows whether there will be further cuts from the State. He suggested that this be discussed again when the need for that money arises. He thinks everybody agrees "we are in this together."

Mr. Foley said staff is expecting to receive news in the next three weeks that the boards will have to react to at some point. This information was all about operational funds. In the Capital Fund, the Board asked to look at all of the balances for projects. The only one where no specific project has been designated is in transportation where the Board has been setting aside funds over the past five years. Some of that money has already been used to fulfill a commitment to the YMCA facility, but there is about \$3.7 million set aside for transportation. All of the other balances in the CIP are specifically for projects that have been approved and planned for specifically in the CIP.

Mr. Wheeler said if projects are specifically approved and there is money accruing in some account, it may be equally true that the project may never be built. Mr. Foley said staff will go over those during the budget process. It is different than the transportation money.

Mr. Wheeler said in this climate, it seems that everything needs to be on the table.

Mr. Rooker said it does, but the Supervisors have to be mindful of the fact that capital money should not be eaten up for current operations unless dire circumstances should arise in the middle of the fiscal year. As a matter of budgeting, he does not want to budget for next year based on taking capital money and using it for operations.

Mr. Foley said staff will bring this item back as needed, and when there is more information available.

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Item No. 24b. Compensation.

Ms. Kimberley Suyes, Director of Human Resources, said this information was already presented to the boards at another meeting. She will remind the boards that the County was .35 percent below market when this conversation started and it is still .35 below because the market did not move. Last year WorldAtWork said there would be a 3.3 percent "bump" and staff disagreed with that after looking at the economic environment.

Ms. Suyes showed a slide of the salary scale for teachers. She said the target is to be in the top quartile and Albemarle does a fairly good job except for steps 20 and 25 where it is right underneath, but for the most part it is in the top quartile. This is not new information; she is presenting this as background since the joint board adopted strategy is to be in the top quartile. A decision is needed on that today.

Ms. Suyes said there was a zero increase last year. The WorldAtWork projection this year is 2.25 percent. If staff did what it typically does, it would look at the market (which is 3.35 percent below) and look at WorldAtWork (they are saying it will move 2.25 percent), staff would recommend and say it should be 2.60 percent. That is the salary piece.

Ms. Suyes said there is also the scale piece for classified employees. Staff would normally look at the adopted market (which was zero last year) but WorldAtWork is saying it is 1.15 percent now so based on the adopted strategy staff would recommend one percent instead of 1.5 percent because of

compression and scale adjustment. Normally staff would come to the boards with: A one-percent increase in the classified salary scale, 2.6 percent merit increase for classified staff and 2.25 percent distributed along the teacher scale to reach and/or maintain top quartile. That is what the strategy would ask for a recommendation against. However, given the continuing state of the economy and the ongoing challenges faced by Local Government and the School Division, it is likely that few localities and school divisions in the adopted market will fund increases. Based on this, it is not anticipated that the County will lose ground regarding its market positioning if no salary increases are implemented this year, just as was the case last year.

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Item No. 24c. Health Care Premiums.

Ms. Suyes said that each year staff gives the boards a benefit projection, but at this time of the year it is based on one or two months worth of claims data so it is a guess for the first couple of months. On the average, there is a projected 12 percent increase for organizations nationwide. Staff believes there will be an eight to ten-percent increase for Albemarle. They have recommended that the board contribution go up by eight percent and the other costs be offset by plan design changes and through the Health Care Reserve. She said all of this information was presented to the boards in October, at which time they said to come back today for the decision.

Ms. Suyes said if the boards are going to stay with their strategy, staff recommends 2.6 percent or 2.25 percent based on the information used every year to make a decision. There was a lot of information available this year on which to base a decision – she does not think other localities and school divisions will be moving this year. She said staff is requesting that the boards: 1) Approve no scale adjustment, merit increase or teacher increase due to the current economic and market conditions and the projected revenue shortfalls; and 2) Approve applying a portion of the Health Care Reserve Fund to offset some of the increase in medical plan costs (the projected cost increase in medical is anticipated at eight percent).

Mr. Rooker asked if a portion of the Health Care Reserve Fund would be applied to meet the eight-percent increase. Ms. Suyes said the eight percent is a given, but the Fund would have to be used to offset anything in addition to that.

Mr. Boyd said it is possible that none of it would be used because the cost would not be more than eight percent. Ms. Suyes said she does not think that is possible. She thinks health care costs are going up considerably. The average for other organizations is at 12 percent. Because Albemarle has done a good job of managing claims, it is seeing a decrease in claims, so staff felt comfortable using eight to ten percent. Eight percent is a low figure and she feels sure it will have to be offset with plan design changes and money in the Health Care Reserve.

Mr. Rooker said the boards need to recognize that if you start paying current costs out of the reserve that is a short-term solution to a long-term problem. That might have to be made up in the next year. He is more amenable to plan design changes if necessary to make that up. Ms. Suyes said the plan design changes affect the strategy.

Mr. Price said there is also the possibility of affecting employees by passing the costs to them in the way of higher deductibles and premiums at a time when wages are not being increased.

Ms. Suyes said there was no plan to build a reserve – the plan was to set aside 20 percent because the County is self-insured. The boards contribute as the company and the employees contribute to a “pot” out of which claims are paid. The County has been fortunate to have had low claims years. About five years ago, in mid-year, health care costs had to be raised, so they did not want to get in that position again. Staff has done a forecast on that over the three years – it will deplete down to that 20 percent in year three.

Mr. Slutzky asked if Southern Health has any information about what the County’s peer systems have experienced in the way of health care. Are they similarly below the national average or are they more inclined to make adjustments in their benefit package downward to offset the increased cost burden. Ms. Suyes said other organizations are not necessarily anticipating eight percent – most are anticipating more.

Mr. Slutzky said the County’s peers have not implemented a prevention program like Albemarle’s. Ms. Suyes said that their Wellness Programs, if they were implemented, did not do a good job. They did not do health risk assessments or implement strategies against the high-risk group as Albemarle has – Albemarle has now been identified by the American Heart Association as a healthy organization, and there are few that receive that acknowledgement. Albemarle has been implementing strategies to reduce risks and they have helped tremendously.

Mr. Stokes said that last year WorldAtWork predicted an increase and the boards did not go with that, and that was the right decision. This year they are predicting an increase, and the boards are not going with that. At what point, is confidence with WorldAtWork lost? Ms. Suyes said with the past trend data WorldAtWork has been right on target, even with 9-11 they were right on target. She said the County’s competitive market is not huge, and they all talk to each other. The County is a big driver in the market, so when others hear that Albemarle is not doing anything, it tends to filter. Even though WorldAtWork said 3.3 percent average for organizations, the County’s competitive market did not move.

Mr. Stokes asked if WorldAtWork is being used as a point of information and Ms. Suyes is not convinced that the County should stop using them. Ms. Suyes said she thinks the County should continue to use them – they are right on target.

Mr. Slutzky said unless someone disagrees, he thinks the outcome of this is straight-forward.

Mr. Boyd asked the current contribution for health care per employee. Ms. Suyes said it is a little over \$7,000.

Mr. Boyd said he had an idea that he mentioned to Ms. Genome – should the County change the entire system from self-insured and look at the possibility of medical savings accounts because there is a stop-loss of \$175,000 now. He understands this is being done now by some organizations. Rather than moving it into a big pool of money, move it down to the employee and to their individual savings accounts. Ms. Suyes said because it looks like a windfall of money, some employees don't do preventative maintenance on their selves. There is not enough information available about this type of program now. She said Ms. Genome talked to her about it and she asked that it be held until there is more data. She thinks there would be less disease management, a lot less preventative care, and a lot more high cost claims.

Mr. Boyd said he is not proposing anything right now, but wonders if there is any interest among the people at the table to look at it as a long-term strategy. Ms. Suyes said she is looking at the possibility.

Mr. Rooker said he sent Ms. Suyes some information about this several years ago. Ms. Suyes said information shows that lower income people look at it as a savings and do not use the money for their health care, and it is having catastrophe consequences as a result. She said hypertension and diabetes are the biggest drivers of health care costs now. If a person chose not to see a physician on a regular basis because the money is there and it can be saved for something else, it concerns her, but she also thinks there is some merit to the idea.

**Motion** was then offered by Mr. Rooker, **seconded** by Mr. Slutzky, to approve staff's recommendation for no scale adjustment, merit increase or teacher increase in FY 2010-11 and to approve applying a portion of the Health Care Reserve Fund to offset some of the increase in medical plan costs. 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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**Motion** was then offered by Ms. McKeel, **seconded** by Mr. Price, to approve staff's recommendation for no scale adjustment, merit increase or teacher increase in FY 2010-11, and to approve applying a portion of the Health Care Reserve Fund to offset some of the increase in medical plan costs.

Mr. Price said the School Board is not voting today to not follow its previously adopted strategy to get to market values. It does not necessarily mean that market salaries are not being paid. When he hears that there are 1,000 applications for 100 teacher openings, to him that is another point of information indicating Albemarle is paying market. While the School Board is not following the adopted strategy, it does not mean it is not paying teachers market salaries.

Mr. Rooker said he thinks that over the next two years, there will be the largest layoff of public employees in our lifetime.

Mr. Koleszar said he will vote against this motion because he thinks the boards should do the .35 for classified. He thinks that for the teachers the School Board is at its strategy, but for classified, it has have been below market for a number of years.

Mr. Wheeler said he appreciates the work of the Human Resources staff in this climate. He is sure they get a lot of questions from employees who need assistance and help.

Mr. Wheeler asked for a vote, and the motion passed by a voice vote of five to one, with Mr. Koleszar voting nay.

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Agenda Item No. 25. From the Boards: Matters Not Listed on the Agenda.

There were none.

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Agenda Item No. 26. Adjourn. There being no further business to come before the Board, the meeting was adjourned at 6:21 p.m.

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Chairman

Approved by the Board of County Supervisors
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Date: 04/07/2010
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Initials: EWJ
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