

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 3, 2010, at 9:00 a.m., in the Lane Auditorium of the County Office Building on McIntire Road, Charlottesville, Virginia. (**Note:** Meeting was rescheduled for 10:00 a.m. due to weather conditions.)

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, Senior Deputy Clerk, Meagan Hoy, and Director of Community Development, Mark Graham.

Agenda Item No. 1. The meeting was called to order at 10:03 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. From the Board: Matters Not Listed on the Agenda.

Mr. Thomas said he had attended his first meeting as a member of the Fire/Rescue Advisory Committee. He was impressed with some plans they have for the future. He is making plans to meet with each station's executive committee, and will be meeting with that committee at Scottsville next week.

Mr. Boyd said Delegate Rob Bell has sponsored a bill in the General Assembly at the behest of the School Board having to do with a fair and equitable settlement of the Composite Index for those counties and localities that have revenue-sharing agreements. Mr. Bell called Mr. Boyd and asked the Board's position on this bill – he said he could not speak for the Board, but would bring it up for discussion. He will propose that the Board support the School Board in this effort and send a letter from the Chair to the General Assembly members representing this district stating that support.

Ms. Mallek asked that the Board members voice their thoughts on this suggestion.

Mr. Dorrier said he shares Mr. Boyd's support for the measure. He thinks there is money that should be coming to the County but is not, and the County is being shortchanged. It makes sense to him that the citizens of Albemarle County get their fair share of the money and the money should go to the schools.

Mr. Rooker said at the time the Revenue-Sharing agreement with the City was put into place, the Composite Index was there, and that agreement said nothing about adjusting the Composite Index or that the locality would go to the Legislature to adjust the Composite Index to reflect the revenue change that results from the agreement. Because the City does not have to count that revenue as property tax revenue they will get \$2.6 million more for schools this year under that formula, and the County will get \$2.6 million less. He thinks the arguments on both sides are reasonable.

Mr. Rooker said he is not certain the best way to do this is to take funds from the City when they are also struggling. He talked with some legislative representatives who indicated the bill will not get out of the Senate; probably not even out of the Senate committee. The Board discussed this situation previously. If the Board does this it will create significant ill-will with the City when there are a number of areas where it is trying to cooperate with the City in providing the best services to the citizens. Given those circumstances, he has not supported this in the past because he does not think it is the best way to do it.

Mr. Rooker said there is a bill proposed by Delegate Toscano that would readjust the formula and it would not take the money directly from the City. He said that bill may suffer the same fate. There has been a suit filed by Fairfax County against the State regarding the Composite Index. He thinks Loudoun County is joining that suit. They claim they are being shortchanged under the current application of the Composite Index. He has also been told that in light of those suits it is not likely the Legislature as a whole will want to do anything with the Composite Index. In light of all those circumstances, he will not support this.

Mr. Rooker said all of the County's legislators said they would support a measure to try and have the Composite Index reflect a diminished tax base resulting from the Land Use Taxation Program. There are about 40 communities in the state that have a land use program, and Albemarle is more heavily penalized than any county other than Fauquier because it has high property values which are diminished down to the state dictated value for land use purposes. Property in land use constitutes about 60 percent of the land in Albemarle. That property has a land use value that is about one-tenth of the value otherwise, and yet for purposes of the Composite Index that property is valued at the appraised value. He said that is something he thinks the Board needs to get changed. He thinks this proposal would simply create a lot of City/County ill-will and he does not think the bill will "go anywhere."

Mr. Thomas said he supports what Mr. Boyd said. He thinks that is money the County deserves; it is simply a matter of formality that the County has not received it in the past. Speaking of "rocking the boat", it seems the Board "caves in" to what the County deserves, and he would like the Board to stand

up more. He said Mayor Norris has made comments that he wants Albemarle County to pay more money for the CTS. He, personally, would like to see Revenue-Sharing pay for part of that rather than have the County "fork out" more money. It is not "a one-way street" for the County to ask for money; the City is "coming after" the County's money also. Both need to work harder at mutual agreements.

Mr. Snow said he understands both sides of the argument, but he will go along with the idea of pursuing this. He said Delegate Toscano's idea is a great idea, but it requires raising taxes.

Mr. Rooker said "no."

Mr. Snow asked where the money would come from.

Mr. Rooker said a little would come from each locality. It would redistribute the existing money to reflect the fact that Albemarle gets \$18.0 million less in tax revenue than it is credited for in the formula. It would have the same affect in terms of providing money to the County, but it would not come only from the City, but would be spread pro-rata among all participants in that funding pie. He said if the City had \$2.6 million less for schools it would be catastrophic for them since they have a much smaller budget than the County does.

Mr. Boyd said Delegate Toscano's bill has no chance of being approved, because it impacts more people than just Albemarle and Charlottesville. There would not be support statewide for that bill. He said Loudoun and Fairfax counties are already upset about the Composite Index, so why would they vote for something else that would impact them? He said that last Friday the check for the Revenue-Sharing funds was delivered to the City and his constituents are upset about that. Things have changed since 1980; the County was not as urbanized then as it is now. For him, this is a fairness and equity issue. He understands the arguments against it and he is not trying to pick a fight with the City. In these times, he has trouble turning down the possibility of \$2.6 million in additional education funds.

Mr. Rooker said he acknowledges that there is a good argument on both sides of this question.

Ms. Mallek said she is concerned about the consequences. She said each of us over the last years has worked individually trying to build bridges with various members of City Council and people in the City to work on ways to consolidate and work together better. She said there is a long list of things citizens on both sides of the jurisdictional boundaries would like to see consolidated and done together. She does not see this as having a chance of succeeding. The Board is stirring a lot of angst for no gain, and the Board needs to understand that this will not be taken as a separate school issue. It will affect all the other contracts and "deals" with the City. She knows people criticize the City, but they have to look at their budget as a whole, so she will not be surprised at what happens, but she will not vote in favor because even though there are issues on both sides that need to be dealt with, there are better ways to do it than with this bill.

Mr. Boyd said what Mr. Bell told him is that his bill has absolutely no chance of survival without the support of this Board. He thinks the Board should support the School Board in this case. He then **moved** to approve the Chair sending a letter to its legislative representatives supporting the School Board's initiative for a change in the Composite Index calculations.

The motion was **seconded** by Mr. Dorrier.

Mr. Rooker said he was at the Legislature last week, and the City has hired a lobbyist to fight this bill. The Board had talked about that possibility before and it has happened.

Mr. Boyd said there is no money for that for the County.

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

AYES: Mr. Dorrier, Mr. Snow, Mr. Thomas and Mr. Boyd.

NAYS: Ms. Mallek and Mr. Rooker.

Mr. Snow said during his campaign he talked about the possibility of having a light rail system to help with the traffic problems on Route 250 West, and maybe having a system go out Route 29 toward the Airport. He thinks there is money in the Federal budget to explore this possibility. A light rail in conjunction with the rails already in place could be installed cheaper than either bridges or an extra lane of traffic. He suggested the Board pursue this idea and instruct staff to help.

Ms. Mallek said that since 2000 the CHART Committee has been working on the rail side of the regional and long-range transportation plan. Light rail cars are not allowed to share the track with freight. CHART has been working with the Buckingham Branch for several years to find the feasibility of having a commuter train to Crozet— it is called the Colorado car — that could be used on the same track as the freight rail. Just last week the rail group got the bad news that the insurance premium alone for the liability for that would be \$600,000 a year to provide \$5.0 million liability for operations as required by CSX. That takes it out of the realm of possibility even with the legislative repair many years ago that provided the Virginia Railway Express help for their liability insurance. She loves the idea, but it must be understood that a whole new tracking system would be needed to go with light rail in either direction. Also, CHART has talked about how extra lanes on Route 29 could be future locations for a bus/rapid transit high-speed system until the population density reached the point where light rail in a separate location would work.

Mr. Snow said he understands there are issues, but there seems to be a lot of interest in alternate forms of transportation. Personally, he would not ride a bus anywhere because it is traveling in vehicular traffic. He thinks an additional set of tracks could be built cheaper than building another lane of traffic just for busses. He wants the idea explored.

Mr. Rooker said a study was done of light rail seven or more years ago. They looked at light rail in communities around the country and the potential for light rail here. It was brought to the MPO. The City looked at it in depth because they are more densely populated than the County. It showed that a very significant population density is needed in order to make light rail economic. The expenditures being talked about for trains now are high-speed trains serving major population centers up and down the east coast. He said any Board member who has an interest in it should get that report and read the economics discussed before the Board asks staff to spend time on it. He does not think it is economically feasible for a population density such as that in the County. If existing tracks could be used to run a train to Crozet, and a commercial operator were interested in doing it that might come closer to working than building light rail.

Ms. Mallek said people would ride the train; a length from Zion Crossroads to Staunton was the long length they looked at for several years. Until the liability issue is solved, this idea is basically "dead in its tracks."

Mr. Thomas said Mr. Rooker is correct. When he was a member of the MPO Technical Committee, they became excited about light rail and how it could be used in the area, but there was not sufficient density. He thinks Mr. Snow is right that in the future the County should look for ways to accommodate light rail. Now is the time to start laying groundwork for it, the Board should work with the TJPDC.

Mr. Rooker reported that at the last MPO meeting, it passed a resolution asking to meet with Congressman Perriello's office to discuss obtaining a grant for the improvement of Route 29 from Hydraulic Road to the Route 250 Bypass – a lane would be added and an additional ramp at the Best Buy, as well as extending the taper lane to allow more room to get in traffic on the bypass. He thinks Mr. Perriello will support the request. There are several other bills coming along – one is a Jobs bill - some of that bill's money is being reserved for infrastructure projects like this one which already has the survey work done. The City is allocating some VDOT revenue-sharing money to it, so there is both local and State money in the project. There is about \$500,000 from the Albemarle Place proffers that would be used for the project so private money is also involved. He said Albemarle Place is building a right turn lane all the way from the Waffle House down to Hydraulic Road, so this would extend the extra lane to get onto the Route 250 Bypass which would be a significant improvement for traffic. There was a special bill passed so this project could be designated a primary road project for purposes of funding.

Mr. Boyd asked for a quick update on the Hillsdale Drive project.

Mr. Rooker replied that it's the City's No. 2 project after the Hydraulic Road project he just discussed. He said about 25 percent of the needed funds have been allocated for that project. They are still working with the property owners to work out the contribution of right-of-way. If that is accomplished, he thinks the project can move forward in five or six years based on the current schedule.

Mr. Boyd said that is unfortunate because there is a very favorable bidding climate at this time.

Mr. Dorrier said the County is currently negotiating a \$30,000 agreement with a consultant to decide what to do with the Old Albemarle County Jail facility. He thinks the County's staff could be used for this purpose rather than hiring an outside person. He has spoken with Mr. Stephen Meeks, President of the Albemarle County Historical Society, who has agreed to work with the County free of charge to work on what to do with the building. He said there are few things that can be done with that building – it could be turned into a museum and made a tourist attraction. He just wanted to mention it because he thinks the County is about to sign an agreement. He said Mr. Meeks was on the committee that was supervising this process and thought it would be a waste of money to sign this agreement. He asked if the other Board members have a similar feeling.

Mr. Boyd asked whose decision it is to spend that money. Mr. Tucker replied that this project has been in the Board's CIP for several years.

Mr. Boyd asked if that is one of the projects approved in a prior year so it does not show up when negotiating costs. Mr. Tucker said he does not know the last time it was approved, but if the Board prefers to hold off at this time, staff will hold it. Nothing has been signed. He wished this concern had been brought up during the meeting, and staff would not have moved forward with it.

Mr. Dorrier said he is on the CIP Oversight Committee so he takes full responsibility for missing it. He thinks it was an honest mistake and the Committee did not ask the questions it should have asked.

Mr. Boyd said he used to sit on that Committee, and the Committee asked that projects such as this be brought back to the Board for discussion. These are projects that sort of "fell off the cliff" because they have appropriated moneys that have not been spent that may not need to be spent now. He thinks that discussion is already an agenda item in March. He is concerned that money would be spent knowing there is a question as to whether to move forward with that project. There are certain things in the CIP

that have been committed to, and have been contracted, but there are others, like this one, which have not been contracted. He wants to look at those projects to see if they are more important than the many things that were dropped out of the CIP.

Mr. Dorrier said he thinks that when a consultant is hired the Board needs to know about it. He expressed concern about getting into an expensive open-ended agreement with a consultant that could end up costing hundreds of thousands of dollars. Mr. Tucker said that does not occur. He said consultants are hired for jobs the County doesn't have the staff to do, and the Board approves them. This project was discussed by the Board several months ago and asked that a committee be constituted to look at for a use for the Old Jail building. That is how Mr. Meeks became a member of the committee. He said a lot of things come before the Board and he understands that it is hard to remember everything, but this project has been well vetted. He said nothing has been signed, so the contract can be pulled. He said the Board will not get an in-depth overview of the various options that it might have gotten otherwise.

Mr. Rooker said he is glad Mr. Dorrier mentioned it. He suggested the Historical Society put together a team to look at this and make recommendations. He said the Board might also consider deeding the property to the Historical Society. He said that Old Jail has a strategic location if you're going to use it for something other than just to be a historic building for tourists. If it is going to be a historic building for tourist, perhaps the Historical Society should take it over and let them decide the appropriate use for the property.

Mr. Dorrier said Mr. Meeks is not here today, but he thinks this might be something he would agree on. Mr. Tucker said he wishes he had said that at the meetings of that group.

Mr. Boyd said that in a bigger picture, any appropriated but unencumbered CIP dollars should be looked at considering the County's dire financial circumstances. Mr. Tucker said staff will look at that list and present it at a future meeting.

Mr. Boyd said he does not want anything allocated until the Board has time to look at those things again.

At this time, Mr. Dorrier **moved** to disencumber the County of the \$30,000 it would spend on a consultant for the Old Albemarle County Jail building (freeze that and do not spend it), and pursue an agreement with the Albemarle County Historical Society for review of the Old Jail and set up a committee to oversee it.

Mr. Thomas said he agrees with Mr. Dorrier. He asked if an agreement should be put in place before completely deleting it. Mr. Davis said there are many issues related to this. He said Mr. Bill Letteri has information about it that the Board should hear before making decisions about moving forward. There are some legal issues about the historical ownership and use allowed of the property under various old agreements and charters. There is a plethora of information the Board should receive before making any decision.

Ms. Mallek suggested the Board give staff some time to organize that information, rather than "dribbling" it out over time. She is not prepared mentally to absorb all of this now. Mr. Tucker said the main thing is that staff will hold it and not sign any contract. That is all staff needed to know today.

Ms. Mallek said she mentioned several months ago that Albemarle County had made a joint grant application with Nelson County to begin an artisan trail project. She said it has been approved for phase one. The \$1,000 investment will return \$18,000 over the year while the brochures and everything is done.

Ms. Mallek said that western Albemarle residents and swimmers are more than halfway through their fundraising for improvements to the pool at Crozet Park. The first phase is to winterize, make a bubble over the pool for this coming season, if their fundraising continues at the same pace.

Ms. Mallek said there are two bills in the General Assembly that cause her concern. There is a bill which will easily pass the House to allow shooting across the road for hunting and for target practice activities, and one that will remove the ability for localities to have any restrictions on shooting right up against residential neighborhoods. She has learned from Mr. David Blount that this is probably a sure pass in the House, so if the Board is interested in not having this go forward, it needs to focus its efforts on the Senate. She asked for comments from the Board. She will write as an individual, but if the Board is interested together, something will be done.

Mr. Rooker said he opposes those bills. They add a significant safety concern for residents. Those prohibitions have been in place for a long time and have served the state well. There is no reason to make a change. There are too many shooting accidents as it is, and this will only add to the number of deaths and shooting accidents in the state with no significant gain to hunters. He hopes that all of the Board members agree.

Ms. Mallek said one detail of the bill is that a hunter would not be guilty of shooting toward an occupied structure if any natural barrier as small as a one-inch sapling is between him or her, and the structure. With the killing distance of a rifle being a mile, she thinks a small tree is not enough.

Mr. Boyd said he is not familiar with the reasons these bills were proposed. He would not be prepared to vote on anything.

Ms. Mallek said Delegate Janice proposed it and it is "galloping along" through the House Militia, Police and Public Safety Committee.

Mr. Rooker suggested that the Board members deal with it individually.

Ms. Mallek said the whole thing is explained in the VACo Newsletter. Mr. Davis said his office will provide the Board an update on all legislative requests closer to the crossover date.

Mr. Rooker suggested that Mr. Davis provide the Board with information about the "unpaved road bill." He said VDOT will support doubling the amount of money (from \$250,000 to \$500,000 per mile) as a penalty for moving money from unpaved roads to other projects. The \$500,000 more closely approximates the cost of paving a mile of unpaved road. That number has not been changed by the statute for some 20 years so just a normal inflation factor would have doubled it. He said that Senator Deeds is going to carry that bill, and hopefully Delegate Bell will support it. He had some reservations about what the Board had previously proposed, so he hopes the entire delegation can support that what is proposed now, along with VDOT.

Ms. Mallek asked if anyone had comments regarding writing to support the Commonwealth's Attorney's budget.

Mr. Thomas responded that he has agreed to do so.

Ms. Mallek asked if there is any interest in sending a letter from the Board. The Board members voiced support of that idea.

Mr. Rooker said he thinks that office would lose about \$100,000, including employee benefits.

Mr. Boyd said it is not just the Commonwealth's Office, but the offices of all constitutional officers.

Ms. Mallek said she hopes the Board will discuss the definition of "core services" early in the budgeting process so the staff has good guidance on those kinds of things.

Mr. Thomas asked if this is part of preliminary budget discussions.

Ms. Mallek said the Board as a group needs to come to an agreement as to what core services are. Mr. Tucker said the Board will have that discussion during early discussions of the budget. Staff is balancing the budget now; they have identified core services at staff level using established criteria. That might help the Board understand what staff has used as a basis, but he does not know that changing anything at this time would help.

Ms. Mallek said she does not want staff to rearrange anything. She asked if March 8 is the first work session. Mr. Tucker said "yes."

Ms. Mallek said the Board needs to think about master planning for the Biscuit Run Park. She has received many comments from different groups and individuals in the community who want local participation in that process. In the past, those plans have been done by a small group of people in Richmond in the Natural Resources Department. She thinks the County and Charlottesville also should step up in a joint effort and say that they want to be part of the process.

Mr. Dorrier said he wrote a letter to the Virginia Director of Parks. This gentleman is coming to look at Biscuit Run on February 21, 2010; he will walk the area and look at it closely. He has said local people will be included on the master planning committee that is dealing with this property.

Agenda Item No. 5. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. John Lowry said he came today to talk about the proposed changes to Zoning Ordinance fees. He thinks that about once a decade fees need to be reviewed in order to have them adequately reflect the actual cost of the work for permits. Full-cost recovery is not usually sought. Based on what other counties charge and based on the complexity of permit requests, Albemarle needs a reality check about once a decade. The Board directed staff in 2007 to start a review of these fees, but there were so many fees involved, the review was segmented into three parts: Building regulations and Water Protection ordinances were amended in August, 2008, and the fees imposed under the Subdivision Ordinance were amended in May, 2009. The amended Zoning Ordinance fees which are on the agenda later today were to have been dealt with last year. This last amendment was carried over from December so the new Board might consider it. He is confident the Board will deal with this matter with dispatch.

Mr. Lowry said he applauds making permitting as streamlined as possible. There should not be undue effort or waste of personnel time associated with getting through the process. He feels the Board should bring this chapter of review to a close today; in government there is no "free lunch." The

economics of fees is not a gift to anyone but is a cost that needs to be paid. In the past the total fee revenue has been about \$180,000 annually –if charged as staff proposes now that would be about \$520,000. This is not full recovery of County costs; the difference is substantial. Taxpayers are paying their fair share too. While he agrees with the Board's insight and wisdom being valuable to having the structure be fair, and the need for permits not being unduly complex, "let's get on with the needed revenue to pay for fair governance." The bottom line is "time is marching on" so he thanks the Board in advance for seeing what needs to be done.

Mr. Morgan Butler addressed the Board on behalf of the Southern Environmental Law Center. He said SELC wants to offer some thoughts on the report concerning Light Industrial zoning and staff's recommendations which is on the agenda later today. He said the report points to some concerns about the County's industrial land – including its affordability, the average size of vacant parcels, and how well the land is distributed among the County's growth areas. The report makes clear that any concerns about the overall supply of industrial land are far from dire and there is no need to look outside the growth areas for more industrial sites at this time. The report finds that there are between 100 and 150 acres of vacant suitable land already zoned LI and ready to go. Further, there are another 900 acres of vacant land designated in the Comprehensive Plan for industrial uses. Those 900 acres, if properly zoned, can satisfy between two and five times the demand staff has projected for the year 2018. The report offers solid recommendations for addressing some of the concerns it raises. The first step has to be restricting some of the office uses currently allowed by-right on LI land which drive up its price and cause it to be converted to other uses. The County needs to "plug that leak" before doing anything else.

Mr. Butler said secondly the report recommends that the County proactively rezone to LI some of the 900 acres set aside for industrial use in the Comprehensive Plan. Taken together, these two steps would increase both the affordability and the availability of industrial land. Third, to address a concern about the small, average size of vacant parcels, SELC thinks it may be helpful to reconsider the five-acre minimum that the Zoning Ordinance requires for new Light Industrial districts. As for a more even distribution among the growth areas, they think the master planning process is the best way to tackle this. For example, the Crozet community is currently working to increase LI opportunities within the Crozet growth area. If the Board were to ignore those efforts and designate new areas for industrial development on the outskirts of the growth area, it would reduce incentives to redevelop the very areas that Crozet has purposefully set aside for industrial uses within its growth area.

Mr. Butler said that finally the staff report finds that interstate interchanges can be an ideal location for some small-scale light industrial uses, but it's important to note that the County's Interchange Policy already points to three and one-half interchange areas where Light Industrial uses should go – all of which are located in the growth area. Those are the appropriate interchange areas to focus on. There's no need to weaken Albemarle's interchange policy by opening the County's rural interchange areas up to more intense development. He said SELC urges the Board to focus inside the growth areas and to move forward with staff's recommendations - first to cut back on the office uses allowed by-right, and rezoning to LI some of the 900 acres the Comprehensive Plan has set aside for that. Those two actions would increase industrial opportunities and lower prices and do so without weakening the County growth management policies.

Mr. Bill Schrader was present representing the Crozet Community Advisory Council. He thanked Mr. Butler for his comments on the Light Industrial report and stated that the Council supports those recommendations. They think the Board needs to keep in mind the project that necessitated the report in the first place. They need to look at the staff report generated for the request in Yancey Mills in 2008. That report listed eight unfavorable reasons why the request should not move forward. Nothing has changed in that request except that it has gotten worse; the request impacts the Crozet Master Plan. In Crozet, the lynchpin of the master plan is the Crozet Library and that project has been put on hold until perhaps 2015. That library was going to bring new businesses and visitors to the downtown area – it was going to provide a parking lot for visitors. That Plan calls for restrictions on opening up the Route 250/I-64 route to more businesses that would impact the volume of traffic, and that is still in the master plan. He said that as the Board considers the recommendations this afternoon they should not do it in a vacuum, but include what staff mentioned in 2008 – do not impact Route 250; there will be an impact on the downtown area with the lack of a library; and, that businesses are already zoned for LI in downtown Crozet. If the master plans that are developed around the County are not adhered to they will mean nothing in future planning. He asked that the master plan be used in the Board's decision-making and the information provided by staff as to why that request does not make sense.

Mr. Jeff Werner was present to represent the Piedmont Environmental Council. He agrees with comments by the Crozet Community Advisory Council and Mr. Morgan Butler. He said when the Board starts to talk about LI on Route 250 East there will be a "firestorm" from citizens; he has been receiving telephone calls about it. Since a former speaker mentioned the development fees he assumes it is okay to make comments now. He analyzed some materials earlier in the week to determine fees on a current unit basis and a current acre basis. He said the rezoning of Biscuit Run under these new fees would add 62 cents per house. He does not think these are crippling costs. He said that in the first 12 years of his professional life he was in construction, and he agrees that any development review process should be fair, consistent and predictable. He also believes this community wants and supports good planning and a thorough review of development proposals. He said people don't move here because this is Anywhere, U.S.A. They move here because it is not Fairfax, or Loudoun, or Stafford counties. The difference between Albemarle and them is that good planning and public involvement in the review process of development proposals has been achieved.

Mr. Werner said the matter before the Board is keeping development fees low. However, to many observers, the matter is not about reducing costs for builders and developers by sharing with taxpayers the cost of the current level of review, but is about keeping fees low by subsequently reducing the level and quality of staff review and correspondingly, PEC suspects, to reduce the level of public participation in that review process. He said PEC's concern is that in exchange for maintaining low fees, which are lower than many other counties which are supposedly pro-growth, the public will get reduced staff reviews, reduced quality of staff reviews, and the public will get reduced opportunities to participate in the planning and review process.

Mr. Neil Williamson of the Free Enterprise Forum said he applauds staff for its work on the Light Industrial survey. He disagrees with Mr. Butler's position. On Page 3 of the report it indicates that for non-UVA Park tenants, staff concludes "there is a shortage of high-quality vacant industrial land compared with existing users stated demands, workforce projections, and comparable supply in other jurisdictions within the region. Totally zoned vacant property available for business requiring LI Zoning amounts to only 199 acres countywide, and of those 199 acres 40 acres are located in the Rural Areas and predate the growth management policy protecting the Rural Areas." He said that paragraph concludes saying, "The actual vacant available County LI inventory is closer to 100 acres." Mr. Williamson said it's important to recognize all of the things in the report and not "cherry-pick" just the things wanted. He encouraged the Board to review the report carefully. The Free Enterprise Forum has no position with regard to any particular project, but they are aware that near the end of last year the growth area shrunk by about 3.5 percent.

Mr. Steve Williams, Executive Director of the Thomas Jefferson Planning District Commission and the Charlottesville-Albemarle MPO, addressed the Board. He said he was interested in the discussion earlier about rail and its place in the future of the region. If there is any way the TJPDC or the MPO could help the Supervisors in thinking about future needs in the County they would be happy to help. He also wanted to bring the Board's attention to Item 6.8 on the Consent Agenda which is a resolution in support of a broadband infrastructure funding application. He will note that if this is grant-funded, it will be paid for 100 percent by the Federal grant and by the private provider. There is no cost to any of the localities proposed to be engaged with this project, either for project development, or for ultimate operations and maintenance. He said Fluvanna, Greene, Louisa, and Nelson counties have all agreed to support the high-speed internet bill – as have Senators Warner and Webb, and Congressmen Perriello and Cantor.

Ms. Mallek said that a fee of \$35.00 per month to maintain those services will certainly be much cheaper than rural people have available now.

Mr. Rooker commented that the Board members have received many e-mails in the past about the lack of high-speed internet availability in areas such as Greenwood. In today's economy, people need that access.

Mr. Jay Willer of the Blue Ridge Homebuilders' Association said he understands the agenda item on the zoning fees is not the subject of a public hearing today. Since others have talked about it, he would like to clarify some things for the Association. They are not seeking perfection or further delays. They are not seeking any reduction in the opportunity for the public to comments on projects. To the extent that the County wants them to pay the fees, it is their goal to lower the costs to their customers as part of a competitive economic environment. The County works in a slightly different environment than the competitive nature with which they work. He hopes the County will do whatever it can to find a way to lower those fees, to streamline the process, and to shorten the process along with the discussion of who should pay what portion of those fees.

Agenda Item No. 6. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Mr. Thomas, to approve Item Nos. 6.1 (as read) through 6.8, and to accept the remaining items on the consent agenda for information. Roll was called, and the motion passed by the following recorded vote:

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

Item No. 6.1. Approval of Minutes: October 7, November 4, November 16, December 9 and December 10, 2009.

Mr. Boyd had read his portion of the minutes of October 7, 2009, pages 1 to 40, and found them to be in order.

Mr. Rooker had read his portion of the minutes of October 7, 2009, pages 40 to the end, and found them to be in order, with some typographical errors.

Mr. Dorrier had read his portion of the minutes of November 4, 2009, pages 1 to 30 (ending with Item No.13), and found them to be in order.

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

By the above-recorded vote, the Board approved the minutes as read. The remaining minutes were moved to the next agenda.

Item No. 6.2. FY 2010 Appropriations.

The executive summary states 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. The total of the new requested FY 2010 appropriations, itemized below, is \$533,500. 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 as follows: Appropriation No. 2010-061 totaling \$32,500.00 for the R. K. Mellon Family Foundation Grant; Appropriation No. 2010-062 totaling \$95,000.00 to reappropriate the uncompleted FY'09 Fire Department Mobile Data Computer project; and Appropriation No. 2010-063 totaling \$406,000.00 for the Department of Energy's Energy Efficiency and Conservation Block Grant (EECBG) program. A description of this request is provided in Attachment "A" below. Staff recommends approval of the budget amendment in the amount of \$533,500 and the approval of Appropriation Nos. 2010-061, 2010-062 and 2010-063.

* * * *

ATTACHMENT "A"

Appropriation No. 2010-061, \$32,500.00. Revenue Source: Local Revenue \$32,500.00.
The R. K. Mellon Family Foundation awarded Albemarle County Parks and Recreation a \$32,500 grant to provide an accessible playground at Walnut Creek Park. This grant does not require a local match.

Appropriation No. 2010-062, \$95,000.00. Revenue Source: General Government CIP Fund Balance \$95,000.00. This request reappropriates the cost related to the Fire/Rescue Mobile Data Computers project which was uncompleted as of June 30, 2009. Reappropriation of funds supports the purchase of tough books and related software which will enable the EMS Cost Recovery system to be paperless.

Appropriation No. 2010-063, \$406,000.00. Revenue Source: Federal Revenue \$406,000.00.
The County, due to its population size, is a formula recipient of \$406,000 from the Department of Energy's (DOE) Energy Efficiency and Conservation Block Grant (EECBG) program. The purpose of the EECBG program is to support the investment of resources into energy efficiency, renewable energy and climate protection. The DOE has approved the County's Strategy that the Albemarle County grants committee finalized in fall 2009. The Strategy includes: 1) \$218,450 toward energy efficiency measures for the County's facilities (e.g. lighting retrofits, equipment replacement, renewable energy generation; 2) \$60,000 toward supporting the newly-formed Local Energy Alliance Program (LEAP); 3) \$15,000 toward the conversion of a fleet vehicle to electric; 4) \$100,000 toward a temporary, part-time, not-to-exceed 36 months staff position to help manage and administer the grant and associated projects and programs; and, 5) \$12,550 toward administrative costs. The EECBG Strategy is very much aligned with the County's Environmental Management Policy, Energy Management Policy and Comprehensive and Strategic Plans. It will also help the County to realize its goals of 1) reducing energy usage in County facilities by 30 percent by 2012, and 2) reducing greenhouse gas emissions countywide by 80 percent by 2050.

(Discussion: Mr. Boyd asked about the \$60,000 grant for the LEAP Program. He wants to be sure that no local tax dollars will be used for that program. He thought that it was to be funded by a private foundation. He asked if other funds will be flowing into it.

Ms. Mallek said she understands that it is all outside money. Ms. Sarah Temple, Environmental Compliance Manager, indicated that no Albemarle taxpayer dollars will be going into the program. The City of Charlottesville received a Federal grant almost equal to Albemarle's. It was almost \$300,000 and they are giving 100 percent of their block grant to LEAP; it was felt that 15 percent of Albemarle's grant would be a fair amount to support the program, but staff wanted to focus the program more on Albemarle's internal energy conservation program.

Mr. Boyd asked if the money could have been used for something else. He said that is another issue.

Mr. Rooker said it is all grant money.

Mr. Boyd said he understands that.)

By the above-recorded vote, the Board approved the budget amendment in the amount of \$533,500 and approved the following Appropriation Nos. 2010-061, 2010-062 and 2010-063.

COUNTY OF ALBEMARLE						APP NO.	2010-061		
APPROPRIATION						DATE	2/3/2010		
EXPLANATION:		R K MELLON FAMILY Grant awarded to Albemarle County Parks & Rec. for a playground at Walnut Creek Park.							
						SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT	
2	9010	18110	181131	Contributions - R K Mellon Family	J 2	32,500.00			
1	9010	71000	950252	Parks & Rec - Walnut Creek Plygrd	J 1	32,500.00			
	9010		0501	Est. Revenue			32,500.00		
			0701	Appropriation				32,500.00	
TOTAL						65,000.00	32,500.00	32,500.00	

COUNTY OF ALBEMARLE
 APPROPRIATION

APP NO. 2010-062
 DATE 2/3/2010

EXPLANATION: Special Reappropriation of the FY '09 Fire Dept Mobile Data Computer project balance (EMS Recovery will be paperless)

						SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT	
1	9010	32010	800317	Fire Dept-Mobile Data Computers	J 1	95,000.00			
2	9010	51000	510100	Appropriation - F/B	J 2	95,000.00			
	9010		0501	Est. Revenue			95,000.00		
			0701	Appropriation				95,000.00	
TOTAL						190,000.00	95,000.00	95,000.00	

COUNTY OF ALBEMARLE						APP NO.	2010-063		
APPROPRIATION						DATE	2/3/2010		
EXPLANATION:		Energy Efficiency and Conservation Block Grant (EECBG) awarded to the County of Albemarle's Department of General Services Environmental Office from the Department of Energy							
						SUB LEDGER		GENERAL LEDGER	
TYPE	FUND	DEPT	OBJECT	DESCRIPTION	CODE	AMOUNT	DEBIT	CREDIT	
2	1583	33000	330103	Federal Energy Grant	J 2	406,000.00			
1	1583	43007	190000	Enviro Mngmt: Staff	J 1	100,000.00			
1	1583	43007	300205	Enviro Mngmt: Admin Services	J 1	12,550.00			
1	1583	43007	510140	Enviro Mngmt: Energy Efficiency Prg	J 1	218,450.00			
1	1583	43007	560421	Enviro Mngmt: LEAP Contribution	J 1	60,000.00			
1	1583	43007	800503	Enviro Mngmt: Electric Car Conversion	J 1	15,000.00			
	1583		0501	Est. Revenue			406,000.00		
			0701	Appropriation				406,000.00	
TOTAL						812,000.00	406,000.00	406,000.00	

Item No. 6.3. Request for "Watch for Child Playing" Sign for Loring Run (Route 1705).

The executive summary states that the Dunlora Board of Directors has requested a "Watch for Child Playing" sign on Loring Run in the Dunlora neighborhood. Loring Run is a major road in the Dunlora neighborhood that connects Dunlora with the Belvedere community. Over 60 young children reside on Loring Run, Loring Circle and the four cul-de-sacs off of those roads. VDOT requires that the Board adopt a resolution approving the placement of a "Watch for Child Playing" sign before it will install a sign.

The County developed criteria for reviewing a "Watch for Child Playing" sign installation request. This request meets three of the four criteria. There are no formal/central child activity attractions on the road. However, the Dunlora neighborhood club/pool is located just south of the Loring Run and Dunlora Drive intersection. Given the number of children (over 60 on Loring Run, Loring Circle, and four cul-de-sacs off of those roads) and the lack of sidewalks, it is staff's opinion that this request for the installation of a "Watch for Child Playing" sign has merit in this location. The cost to install the sign is \$130. This cost

will be paid from the County's Six-Year Secondary Road Maintenance Fund. Staff recommends that the Board adopt the required resolution.

By the above-recorded vote, the Board adopted the following resolution approving the installation of a "Watch for Child Playing" sign on Loring Run (Route 1705).

**RESOLUTION TO AUTHORIZE
VIRGINIA DEPARTMENT OF TRANSPORTATION
TO INSTALL WATCH FOR CHILD PLAYING SIGN ON
LORING RUN (ROUTE 1705)**

WHEREAS, the residents of Loring Run are concerned about traffic in their neighborhood and the potential hazard it creates for the numerous children that live and play in the neighborhood; and

WHEREAS, many children live and play on Loring Run and the residents believe that a "Watch for Child Playing" sign would help alleviate some of the safety concerns; and

WHEREAS, the residents of Loring Run have requested that the County take the necessary steps to have a "Watch for Child Playing" sign installed;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the community's request for VDOT to install "Watch for Child Playing" sign(s) on Loring Run.

Item No. 6.4. Fiscal Year 2010 County of Albemarle and State Health Department Local Government Agreement.

The executive summary states that *Virginia Code § 32.1-31* allows local governing bodies to enter into contracts with the State Board of Health for the operation of local health departments. It also requires that these contracts specify the services to be provided in addition to those required by law and contain such other provisions as the State Board and the governing body may agree to. The County's contract specifies both the scope and costs for the services to be provided locally.

The Thomas Jefferson Health District (TJHD), in cooperation with the Virginia Department of Health, is the primary provider of public health services and programs for Albemarle County and surrounding localities. TJHD offers specific health programs targeted at preventing and controlling infectious diseases as well as initiatives aimed at improving the health of low-income women, children and infants. In addition, the Health District provides an inspection and monitoring program to ensure the safety of food and private well/septic systems funded solely by the County and other neighboring jurisdictions. Non-local funding for these TJHD programs is provided by the Commonwealth of Virginia, grants and income from fees charged to individual clients. The localities served by TJHD provide matching local funds for the allocations made by the state and, as noted above, allocate resources for Local-Only Programs such as food safety. The Virginia Department of Health requires that local governments enter into agreements stipulating the scope of health services to be provided by the TJHD to citizens in their respective jurisdictions. This agreement is provided in "Attachment A" (on file) and has been reviewed and approved as to form by the County Attorney's Office.

Since submittal of its FY 2010 funding request to the County in the fall of 2008, the Virginia Department of Health has reduced Albemarle County's funding allocation for FY 2010 by a total of \$15,298 to \$646,197. TJHD has responded to these state reductions by freezing/eliminating eight vacant positions. This reduction in state aid decreases the County's funding obligation by \$12,516; however, TJHD is requesting that the County reallocate this funding to its Local-Only Food Inspection Program to preclude further cuts in this important public safety initiative.

The County's original FY '10 appropriation for the Thomas Jefferson Health District totaled \$551,444 of which \$541,223 represented the County's required match for Cooperative State and Local Matched Programs. The balance of requested funds for the County (\$10,221) was allocated to the Local-Only (Unmatched) food inspection program. Because of the state funding reductions noted above, the County's required local match for Cooperative State and Local Matched programs decreased by \$12,516. The TJHD has requested that the County reallocate this amount to its food program to forgo additional reductions in service to County citizens in lieu of withholding these funds.

Based on the vital nature of the services provided by the TJHD, staff recommends that the Board approve the Fiscal Year 2010 County of Albemarle and State Health Department Local Government Agreement. It is further recommended that the Board authorize the County Executive to execute the FY 2010 Agreement and reallocate \$12,516 in local matching funds to TJHD's food safety program.

By the above-recorded vote, the Board approved the Fiscal Year 2010 County of Albemarle and State Health Department Local Government Agreement and authorized the County Executive to execute the FY 2010 Agreement and to reallocate \$12,516 in local matching funds to TJHD's food safety program.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH**

STATEMENT OF AGREEMENT WITH the Board of Supervisors of the County of Albemarle

Under this agreement, which is created in satisfaction of the requirements of 32.1-31 of the *Code of Virginia* (1950), as amended, the Virginia Department of Health, over the course of one fiscal year, will pay an amount not to exceed **\$646,197**, from the state general fund to support the cooperative budget in accordance with appropriations by the General Assembly, and in like time frame, the **Board of Supervisors of Albemarle County** will provide by appropriation and in equal quarterly payments a sum of **\$551,444**. These joint funds will be distributed in timely installments, as services are rendered in the operation of the **Charlottesville-Albemarle** Health Department, which shall perform public health services to the Commonwealth as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

The term of this agreement begins **July 1, 2009**. This agreement will be automatically extended on a state fiscal year to year renewal basis under the terms and conditions of the original agreement unless written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective. Any increase or decrease in funding allocation shall be made by an amendment to this agreement.

The parties agree that:

1. Under this agreement, as set forth in paragraphs A, B, C, and D below, the Commonwealth of Virginia and the Virginia Department of Health shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.
 - A. The responsibility of the Commonwealth and the Virginia Department of Health to provide liability insurance coverage shall be limited to and governed by the Self-Insured General Liability Plan for the Commonwealth of Virginia, established under 2.2-1837 of the Code of Virginia. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under 2.2-1839 of the Code or under a policy procured by the locality.
 - B. The Commonwealth and the Virginia Department of Health will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Self-Insured General Liability Plan for the Commonwealth of Virginia.
 - C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia, when performed by a state employee, are herewith expressly excepted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Self-Insured General Liability Plan of the Commonwealth of Virginia, the Attorney General has approved, pursuant to 2.2-507 of the Code of Virginia and the Self-Insured General Liability Plan of the Commonwealth of Virginia, the legal representation of said employee by the city or county attorney, and the **Board of Supervisors of Albemarle County** hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
 - D. In no event shall the Commonwealth or the Virginia Department of Health be responsible for providing legal defense or insurance coverage for local government employees.
2. Title to equipment purchased with funds appropriated by the local government and transferred to the state, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement

procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.

- Amendments to or modifications of this contract must be agreed to in writing and signed by both parties.

 State Health Commissioner
 Virginia Department of Health

 Local authorizing officer signature

 Authorizing officer printed name

 Authorizing officer title

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS
 INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

For Each Service Provided, Check Block for Highest Income Level Served			
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Childhood Immunizations As provided for in 32.1-46			X
Sexually transmitted disease screening, diagnosis, treatment, and surveillance 32.1-57			X
Surveillance and investigation of disease 32.1-35 and 32.1-39			X
HIV/AIDS surveillance, investigation, and sero prevalence survey 32.1-36, 32.1-36.1, 32.1-39			X
Tuberculosis control screening, diagnosis, treatment, and surveillance 32.1-49 and 32.1-54			X
CHILD HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Children Specialty Services; diagnosis, treatment, follow-up, and parent teaching 32.1-77, 32.1-89 and 32.1-90			
Screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements 32.1-65 and 32.1-69			X
Well child care up to age __ (enter year) Board of Health			
WIC Federal grant requirement		X	
EPSDT DMAS MOA			
Blood lead level testing CDC			
Outreach			
Community Education 32.1-11.3 and 32.1-23			X
Pre-school Physicals for school entry 22.1-270			
Disabled disability Waiver Screenings DMAS MOA			
Services for Children with Special health care needs Title V, Social Security Act			
Child restraints in motor vehicles 46.2-1095, 46.2-1097			E
Babycare DMAS MOA – Fluvanna, Greene, Louisa, Nelson only		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS
 INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

For Each Service Provided, Check Block for Highest Income Level Served			
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Prenatal and post partum care for low risk and intermediate risk women 32.1-77, Title V, Social Security Act – Louisa only			G
Babycare Services DMAS MOA – Charlottesville, Fluvanna, Greene, Louisa and Nelson only		X	
WIC Federal grant requirement		X	
FAMILY PLANING SERVICES	Income A only	Defined by Federal Regulations	All
Clinic services including drugs and Contraceptive supplies Family Planning Population Research Act of 1970, Title X		X	
Pregnancy testing and counseling Family Planning Population Research Act of 1970, Title X		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)
 VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES
 BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulation of the Board of Health and/or VDH agreements with other state or federal agencies.	
Ice cream/frozen desserts MOA Agriculture	
Investigation of communicable diseases 32.1-35 and 32.1-39	X
Marinas 32.1-246	X
Migrant labor camps 32.1-203	X
Milk 3.1-530.4	
Alternative discharging sewage systems 32.1-163	X
On-site sewage disposal 32.1-163	X
Rabies control 3.2-6500 et seq.	X
Restaurants/eating establishments 35.1.14	X
Sanitary surveys	X
Single home sewage discharge 32.1-164	X
Hotels/Motels 35.1.13	X
Water supply sanitation	X
Wells 32.1-176.2	X
Homes for adults DSS MOA	X
Juvenile Justice Institutions 35.1-23	X
Jail Inspections DOC MOA	X
Daycare centers DSS MOA	X
Radon 32.1-229	X
Summer camps/ Campgrounds 35.1.16-17	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)
 VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

OTHER PUBLIC HEALTH SERVICES
 BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulations of the Board of Health and/or the policies and procedures of the State Department of Health	
Medicaid Nursing Home Screening DMAS MOA	X
Comprehensive Services Act 2.1-746, 2.1-751, 2.1-752, 2.1-753, 2.1-754, 2.1-747	X
Vital Records (Death Certificates) 32.1-254-255, 272	X
Early Intervention Services	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All
Foreign Travel Immunizations			X
CHILD HEALTH SERVICES			
School health services			
Sick child care			
Other:			
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Funds for deliveries			
Funds for special tests and drugs			
Diagnosis, treatment, and referral for gynecological problems			
FAMILY PLANNING SERVICES	Income A only	Defined by Federal Regulations	All
Other:			

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
GENERAL MEDICAL SERVICES	Income A only	Defined by Federal Regulations	All
Activities of Daily Living			
Community Education			
General Clinic Services			
Home Health Services (skilled nursing and therapy)			
Outreach			
Occupational health services			
Personal care			
Pharmacy services			
Hypertension screening, referral, and counseling			
Respite care services			
Other:			
SPECIALTY CLINIC SERVICES (List)	Income A only	Defined by Federal Regulations	All
DENTAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Preventive Clinic Services – Children (Nelson only)			F
Preventive Clinic Services - Adults			
Restorative Clinic Services			
Community Education			
Other: Fluoride varnish for pre-school children – Fluvanna, Greene, Louisa, Nelson			E

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

PUBLIC HEALTH SERVICES PROVIDED
 UNDER LOCAL ORDINANCE

Neither the <i>Code of Virginia</i> nor Regulations of the Board of Health requires the following services to be provided by the local health department	
Accident Prevention	
Air Pollution	
Bird Control	
Employee Physicals	
General Environmental	
Housing - BOCA & local building Codes	
Insect control	
Noise	
Plumbing	
Radiological Health	
Rodent Control	
Solid Waste	
Swimming facilities	
Weeds	
Smoking Ordinances	
Other environmental services (identify)	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH
 COMMUNITY HEALTH SERVICES

PUBLIC HEALTH SERVICES PROVIDED UNDER
 LOCAL ORDINANCES OR CONTRACT WITH LOCAL GOVERNMENTS

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
	Income A only	Defined by Federal Regulations	All
Employee physicals			
Primary care for inmates in local jails or correctional institutions			
Other medical services (List)			
Other (please list)			
Preventive dental services for children – Greene County			F

Item No. 6.5. Request for Board Approval of a Dance Hall Permit for the Mexican & Italian Restaurant located at 1863 Seminole Trail in the Woodbrook Shopping Center.

It was noted in the executive summary that County Code Section 12-201 requires an applicant to obtain a dance hall permit from the County before commencing operation of a dance hall. Any application must be considered and approved by the Board if the application meets ordinance requirements. A dance hall is defined as “any place open to the general public where dancing is permitted.”

Applications for dance hall permits must contain certification from the Fire Marshal and Building Official that the dance hall is in conformity with applicable provisions of the Fire Prevention Code and the Virginia Statewide Building Code. Dance halls are also subject to all requirements of the County’s Zoning Ordinance. The Zoning Ordinance definition of “restaurant” states that “dancing by patrons shall be considered as entertainment accessory to an eating establishment, provided the space made available for such dancing shall not be more than one-eighth of that part of the floor area available for dining.” Any dance floor occupying more floor space is permitted only by special use permit. Upon proper application and confirmation that the requirements of County Code § 12-201 are satisfied, the Board has no discretion to deny the permit. The primary restriction on dance halls is that it is unlawful for any dance hall to allow any person under the age of 18 to enter or remain in a dance hall while there is dancing there unless that person is accompanied by a parent or legal guardian, or by a spouse, brother or sister over the age of 18.

The current application is for a permit to allow a 225 square foot dance floor at the Mexican and Italian Restaurant located in the Woodbrook Shopping Center on Route 29 North. The size of the proposed dance floor is comparable to other dance floors permitted by the Board over the past several years – Kokopelli’s Café (Crozet, 140 square feet), EL RAY del TACO (Greenbrier Drive, 256 square feet) and Wolfe’s/Boudreau’s/Rivals (Rio Road, 360 square feet). As noted above, County Code § 12-201 provides a ministerial review of the dance hall permit application by the Board and the applicant has satisfied all of the requirements for the granting of the permit. The dance hall permit regulations in

County Code § 12-200 et seq. do not authorize the Board to impose conditions on the granting of the permit.

In order to assure that the dance floor does not exceed the area allowed as an accessory use to a restaurant under the Zoning Ordinance, Zoning staff will require the applicant to mark the area composing the dance floor because it is a portion of a larger room.

Forwarded with this report are: 1) the applicant's letter and sketch showing the dance floor; 2) The Fire Marshal's certification that this dance hall is in conformity with applicable provisions of the Fire Prevention Code and that there are no outstanding fire code violations at this establishment; and, 3) The Building Official's certification of conformity with the Virginia Statewide Building Code.

Because this request meets the requirements of County Code § 12-200, staff recommends approval of this dance hall permit.

By the above-recorded vote, the Board approved a dance hall permit for the Mexican & Italian Restaurant located at 1863 Seminole Trail in the Woodbrook Shopping Center.

Item No. 6.6. Historic Crozet Streetscape Enhancement Project - ACSA Waterline Construction Agreements.

It was noted in the executive summary that the Crozet Streetscape Enhancement Project includes the construction of streetscape and drainage improvements on Crozet Avenue and the proposed Main Street. This Project also provides an opportunity to concurrently expand the Albemarle County Service Authority's (ACSA) public water system to meet the future needs of Downtown Crozet.

The proposed expansion of the ACSA's public water system has been included in the design plans for the Crozet Streetscape Enhancement Project Phase 2 (Crozet Avenue) and Phase 2A (Main Street). Staff proposes bidding and potentially building these water system improvements concurrently with the Streetscape and Main Street construction. In the agreements between the County and the ACSA, the ACSA agrees to reimburse the County for its costs to construct the public waterline extensions. These agreements have been reviewed and approved by the County Attorney's Office and ACSA staff. The ACSA Board of Directors approved the agreements at its January 21, 2010, meeting.

This project is being funded through the Capital Improvements Plan. In these agreements for Phase 2 and Phase 2A, the ACSA would reimburse the County for the cost of constructing these public waterline extensions. Staff recommends that the Board authorize the County Executive to sign the ACSA waterline agreements.

By the above-recorded vote, the Board authorized the County Executive to sign the Agreement between the Albemarle County Service Authority and the County of Albemarle, Virginia, for Construction and Adjustment of Water Facilities, and the Agreement between the Albemarle County Service Authority and the County of Albemarle, Virginia, for Construction of Water Facilities, all as set out in full below:

**AGREEMENT
Between
Albemarle County Service Authority
and
County of Albemarle, Virginia
for
Construction and Adjustment of Water Facilities**

THIS AGREEMENT, made and entered into as of the ____ day of January, 2010, by and between the ALBEMARLE COUNTY SERVICE AUTHORITY (herein after called UTILITY), and the COUNTY OF ALBEMARLE, VIRGINIA (herein after called COUNTY).

WITNESSETH

WHEREAS, the COUNTY is proposing to construct streetscape improvements within the County along Crozet Avenue (State Route 240) in Crozet, Virginia, designated as "Downtown Crozet Streetscape Project - Phase 2" and Project Number EN04-002-126, C501, which will provide the opportunity to construct and adjust the UTILITY'S water facilities: and

WHEREAS, it is in the best interest of the COUNTY and the UTILITY to have the construction and adjustment of the UTILITY's water facilities included in the COUNTY's Streetscape contract; and

WHEREAS, the COUNTY and UTILITY agree upon terms and conditions under which their respective improvements will be made as hereinafter set forth:

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

SECTION I

- (a) The COUNTY, through its contractor, will construct the UTILITY'S water facilities in accordance with attached plans and the VIRGINIA DEPARTMENT OF TRANSPORTATION'S Road and Bridge Specifications; said plans being identified as fifty-five (52) plan sheets numbered 1 thru 27 of the COUNTY'S Construction Plans for the "Downtown Crozet Streetscape Project - Phase 2" and Project Number EN04-002-126, C501.

SECTION II

- (a) The UTILITY shall be responsible for 100 percent of the cost of the construction, including construction inspection and service connections not listed below in (b), of the water facilities at Jarmans Gap Road Station 20+00 (water extension to Carter St.) shown on sheet 14D of the COUNTY'S construction plans referenced in SECTION I (a), and including the cost of replacing all service connections, water meters and bases, asphalt pavement demolition, aggregate base material, and asphalt pavement as detailed on said sheets. The UTILITY shall reimburse the COUNTY for all such costs incurred through the COUNTY's drainage contract, within 30 days of the COUNTY's presentment of the relevant invoices to the UTILITY. Reimbursement shall be based on the unit prices in the streetscape contract, awarded by the COUNTY.
- (b) The COUNTY shall be responsible for 100 percent of the cost of constructing and adjusting the water facilities, including new water mains, appurtenances, service lines and materials, in CONFLICT with proposed streetscape improvements shown on sheets 13, 14, 14D and 15 of the COUNTY'S construction plans referenced in SECTION I (a).
- (c) Notwithstanding the foregoing, if the UTILITY determines that bids for its utilities obligations hereunder, made in response to the COUNTY's contract procurement, are excessive, then the UTILITY may elect not to participate in the COUNTY's construction contract, upon providing written notice of said election to the COUNTY. In such event, the UTILITY shall be responsible for procuring its own contract to complete all improvements referenced in Section II(a) above.

SECTION III

- (a) The UTILITY shall perform certain incidental work, such as operating all valves and inspecting the utility relocation work with its own forces, and reporting through the COUNTY'S Project Manager. Upon satisfactory completion, the UTILITY shall certify to the COUNTY and the VIRGINIA DEPARTMENT OF TRANSPORTATION that the work was performed in a satisfactory manner. The UTILITY will be reimbursed for the cost of inspection (at \$25.00 per hour) where water facility adjustments are the COUNTY'S responsibility.
- (b) The existing facilities to be abandoned are to remain *in-situ* after being filled with appropriate flowable material.

IN WITNESS WHEREOF, each party has caused this agreement to be executed in duplicate in its name and on its behalf by its duly authorized officer as of the day and year first above written.

AGREEMENT
Between
Albemarle County Service Authority
and
County of Albemarle, Virginia
for
Construction of Water Facilities

THIS AGREEMENT, made and entered into as of the ___ day of January, 2010, by and between the ALBEMARLE COUNTY SERVICE AUTHORITY (herein after called UTILITY), and the COUNTY OF ALBEMARLE, VIRGINIA (herein after called COUNTY).

WITNESSETH

WHEREAS, the COUNTY is proposing to construct a segment of the new Main Street within the County from Crozet Avenue (State Route 240) in Crozet, Virginia, and designated as "Downtown Crozet Streetscape Project - Phase 2A", which will provide the opportunity to construct the UTILITY'S water facilities: and

WHEREAS, it is in the best interest of the COUNTY and the UTILITY to have the construction of the UTILITY's water facilities included in the COUNTY's Main Street contract; and

WHEREAS, the COUNTY and UTILITY agree upon terms and conditions under which their respective improvements will be made as hereinafter set forth:

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

SECTION I

- (a) The COUNTY, through its contractor, will construct the UTILITY'S water facilities in accordance with attached plans and the VIRGINIA DEPARTMENT OF TRANSPORTATION'S Road and Bridge Specifications; said plans being identified as thirty-seven (37) plan sheets numbered 101 thru 121 of the COUNTY'S Construction Plans for the "Downtown Crozet Streetscape Project - Phase 2A".

SECTION II

- (a) The UTILITY shall be responsible for 100 percent of the cost of the construction, including construction inspection and service connections not listed below in (b), of the water facilities from Station 13+98 to Station 17+85 shown on sheet 113 of the COUNTY'S construction plans referenced in SECTION I (a), and including the cost of all waterline items and appurtenances detailed on said sheets. The UTILITY shall reimburse the COUNTY for all such costs incurred through the COUNTY'S Main Street contract, within 30 days of the COUNTY'S presentment of the relevant invoices to the UTILITY. Reimbursement shall be based on the unit prices in the Main Street contract, awarded by the COUNTY.
- (b) The COUNTY shall be responsible for 100 percent of the cost of adjusting the water facilities, including new service lines and materials, in CONFLICT with proposed alley improvements shown on sheet 115 of the COUNTY'S construction plans referenced in SECTION I (a).
- (c) Notwithstanding the foregoing, if the UTILITY determines that bids for its utilities obligations hereunder, made in response to the COUNTY'S contract procurement, are excessive, then the UTILITY may elect not to participate in the COUNTY'S construction contract, upon providing written notice of said election to the COUNTY. In such event, the UTILITY shall be responsible for procuring its own contract to complete all improvements referenced in Section II(a) above.

SECTION III

- (a) The UTILITY shall perform certain incidental work, such as operating all valves and inspecting the utility relocation work with its own forces, and reporting through the COUNTY'S Project Manager. Upon satisfactory completion, the UTILITY shall certify to the COUNTY and the VIRGINIA DEPARTMENT OF TRANSPORTATION that the work was performed in a satisfactory manner. The UTILITY will be reimbursed for the cost of inspection (at \$25.00 per hour) where water facility adjustments are the COUNTY'S responsibility.

IN WITNESS WHEREOF, each party has caused this agreement to be executed in duplicate in its name and on its behalf by its duly authorized officer as of the day and year first above written.

Item No. 6.7. Adopt a Resolution to appoint Assistant Fire Marshal.

It was noted in the executive summary that Virginia Code § 27-36 provides that the Board may appoint one or more assistant fire marshals that shall in the absence of the Fire Marshal carry out his duties and responsibilities. In addition, Virginia Code § 27-34.2:1 provides that in addition to such other duties as may be prescribed by law, the governing body may authorize an assistant fire marshal to have the same police powers as a sheriff, police officer or other law enforcement officer and the authority to investigate and prosecute certain designated offenses.

The appointment of Mr. Melvin R. Bishop as an Assistant Fire Marshal is necessary for him to fulfill the duties and responsibilities of the Fire Marshal's office. He has satisfactorily completed the training requirements for fire marshals exercising police powers as required by the Virginia State Department of Fire Programs. The Board has previously authorized assistant fire marshals to exercise police powers. This appointment will have no additional budget impact.

Staff recommends that the Board adopt a Resolution to appoint Mr. Melvin R. Bishop as an Assistant Fire Marshal with the full police powers of the Fire Marshal as authorized in Virginia Code § 27-36 and § 27-34.2:1.

By the above-recorded vote, the Board adopted the following Resolution appointing an assistant fire marshal:

RESOLUTION TO APPOINT ASSISTANT FIRE MARSHAL

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize an assistant fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officers; and

WHEREAS, the appointment of Melvin R. Bishop as an assistant fire marshal with police powers will promote the efficient and effective operation of the County of Albemarle Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Melvin R. Bishop as an Assistant Fire Marshal pursuant to Virginia Code § 27-36; and

BE IT FURTHER RESOLVED, that he be authorized to have the same powers as a sheriff, police officer or law-enforcement officer pursuant to Virginia Code § 27-34.2:1.

Item No. 6.8. Resolution of Support – Regional Application for Broadband Infrastructure Funding.

In a memorandum dated January, 2010, it was noted that earlier in 2009, the Thomas Jefferson Planning District Commission and the Mayor and Chairs Group identified broadband infrastructure as a critical component for the region's economic development. County CAO's agreed that the best strategy the region could pursue would be to identify the most capable provider through a Request for Proposals (RFP) process, and then work with that provider to prepare an application based on a public-private partnership agreement for application for the second round of funding. The TJPDC formed a technical committee made up of County Information Technology directors to review the RFP and proposals. Following completion of the RFP submittal process, the technical committee reviewed the proposals received. Based on this review the members of the technical committee unanimously recommended DigitalBridge Communications as the best responder. DigitalBridge is headquartered in Ashburn, Virginia, and is a provider of wireless broadband service in 15 underserved and rural communities across the country, including Appomattox County, Va.

The wireless technology that DigitalBridge proposes for the region is WiMAX wireless, a technology not previously deployed in the region. WiMAX is different from previous wireless technologies in that it is not limited to line of sight and is not hampered by foliage or weather. WiMAX serves a much broader area (up to 75 square miles per base unit) than Wi-Fi at speeds which are the same or faster than DSL. Coverage for the entire region would require between 25 and 50 base units which would be mounted on towers. As the towers are the most expensive component of the system, DigitalBridge is proposing to use either privately or publically owned existing towers. If funded, deployment is expected to begin within six months after towers have been identified and be complete in 12 months. Users would be able to access the internet wirelessly anywhere within the region in two different ways: 1) Homes or businesses would receive (at no cost) a small antenna that would connect to a standard modem or router; and 2) Laptop users would receive a USB card/antenna combination that would allow the user to roam anywhere within the region and receive service. Expected cost would be \$25 to \$35 per month per household or business.

TJPDC staff is working with DigitalBridge to develop the materials for an application for ARRA Broadband Infrastructure funding. TJPDC is coordinating local support for the proposal. DigitalBridge will contract with a survey research firm to survey households throughout the region to identify and map unserved and underserved areas. Following review and input from the technical committee, DigitalBridge will identify existing towers that can be used to provide service and enter into agreements for tower space. DigitalBridge will develop all the required engineering plans, costs and financial plans for the final application. There will be no costs to any of the county governments and no responsibilities for operations or maintenance of the system.

The Albemarle County Board of Supervisors is requested to adopt a resolution stating their support for the application for broadband infrastructure funding provided by the American Recovery and Reinvestment Act of 2009 (ARRA) by DigitalBridge Communications.

By the above-recorded vote, the Board adopted the following Resolution of Support for a Regional Application for Broadband Infrastructure Funding:

**RESOLUTION OF SUPPORT
Regional Application for Broadband Infrastructure Funding**

WHEREAS, there are large areas of Albemarle County, Virginia, that have very limited access to broadband internet service; and

WHEREAS, high speed access to the internet is required for all types of businesses in Albemarle County including agriculture, health services, tourism, and all types of knowledge based businesses; and

WHEREAS, high speed access to the internet at home is also required for students in all levels of primary and secondary education; and

WHEREAS, the availability broadband internet service has been identified as critical for maintaining a skilled workforce; and

WHEREAS, in recognition of these needs the Thomas Jefferson Planning District Commission brought together a coalition made up of representatives from Albemarle, Fluvanna, Greene, Louisa and Nelson Counties to identify strategies for providing broadband internet access throughout one hundred (100) percent of the five county region; and

WHEREAS, TJPDC with the assistance of representatives of the five counties, conducted a Request for Proposals process to identify the most qualified provider of broadband internet service for the region; and

WHEREAS, DigitalBridge Communications has submitted a proposal to provide WiMAX wireless internet service; and

WHEREAS, WiMAX wireless broadband internet service has been successfully deployed in eighteen (18) underserved and rural areas throughout the country including Appomattox County, Virginia; and

WHEREAS, WiMAX wireless broadband internet service is not limited by line of sight or hampered by foliage or weather; and

WHEREAS, the WiMAX wireless broadband internet service would allow users to access the internet wherever they were within the region; and

WHEREAS, this service will cost the users only \$25 to \$35 per month; and

WHEREAS, there are loan and grant funds available from the United States Government through the ARRA Broadband Infrastructure Program that will allow DigitalBridge Communications to implement the wireless broadband internet service throughout the five county region at no cost to the counties; and

WHEREAS, DigitalBridge Communications has agreed to pay any matching costs that might be required; and

WHEREAS, DigitalBridge Communications has committed to maintain and operate the wireless broadband internet service;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors expresses their support for the application for broadband infrastructure funding provided by the American Recovery and Reinvestment Act of 2009 (ARRA) by DigitalBridge Communications.

Item No. 6.9. Second Quarter FY '10 Financial Report.

It was noted in the executive summary that the Second Quarter Financial Report provides information on the County's General Fund operations and Fund Balance as of December 31, 2009. The financial report includes a bar chart that compares current fiscal year revenue and expenditure data with data from the previous fiscal year.

DISCUSSION:

(\$ in Millions)

A. Attachment A: General Fund Financial Report:

a. Revenues:

Revenues, excluding Transfers and Fund Balance Appropriations, are estimated to be \$6.606 million (3.0 percent) less than appropriations of \$217.125 million; a \$0.814 million decrease from the previous estimate presented with the First Quarter Financial Report. Revenues combined with the use of \$2.553 million in transfers from other funds and \$1.115 million in fund balance (Revenues, Transfers and Use of Fund Balance) will total \$214.186 million; \$6.668 million (3.0 percent) less than Budget.

Most national indicators suggest that economic output is expanding, although growth is likely to remain weak for some time as the slack labor market and tight credit constrain consumers. On the positive side, the Consumer Confidence Index rose 2.3 points in January to 55.9, its highest level in 17 months. The Virginia economy, although weak, continues to outperform the national economy. The unemployment rate in Virginia was unchanged at 6.4 percent in November compared to the national unemployment rate of 10 percent. The Virginia Leading Index rose 0.2 percent in November for its seventh consecutive gain. Positive conditions should accelerate once employment recovers. However, it will still take some time before we begin to experience significant improvements.

Following is a brief revenue analysis for the FY '10 fiscal year:

- Real Estate Tax revenues, without one-time revaluation collections, are projected to be \$1.195 million (1.0 percent) less than Budget, an improvement of \$0.234 million over the previous Financial Report. The improvement is due to higher than anticipated collections.
- Personal Property Tax revenues are estimated to be \$1.905 million (9.0 percent) less than Budget, a decrease of \$0.508 million from the previous

Financial Report. The decrease is due to a decline in values as well as a decrease in consumer spending. NADA has indicated that overall January, 2010 values should be less than 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 \$0.807 million (37.1 percent), an improvement of \$0.669 million from the previous Financial Report. Delinquent fees implemented in FY '08 and FY '09 have improved delinquent tax collections.
- Sales Tax revenues are estimated to be \$1.100 million (8.8 percent) less than Budget, a decrease of \$0.100 million from the previous Financial Report. Taxpayers continue to reduce 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, BPOL, revenues are estimated to be \$0.706 million (7.0 percent) less than Budget, a decrease of \$0.114 million from the previous Financial Report. BPOL revenues are dependent upon economic activity.
- Utility Tax revenues are estimated to be \$0.719 million (7.7 percent) less than Budget, an improvement of \$0.109 million over the previous Financial Report. The increase is due to anticipated additional revenues resulting from the recent severe winter conditions.
- Food and Beverage Tax revenues are estimated to be \$0.300 million (5.2 percent) less than Budget, an improvement of \$0.050 million over the previous Financial Report. 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 \$1.389 million (13.4 percent) less than Budget, a decrease of \$0.650 million from the previous Financial Report. Public service tax, vehicle license fees, transient occupancy fees, and recordation fees continue at a reduced pace due to current economic conditions.
- Other Local Revenues are estimated to exceed Budget by \$0.240 million (5.7 percent), a decrease of \$0.396 million from the previous Financial Report. The decrease is primarily due to reduced interest earnings, development fees, traffic fines, and Clerk fees.
- State Revenues are estimated to be \$0.278 million (1.2 percent) less than Budget, an improvement of \$0.112 million over the previous Financial Report. The Governor's reduction actions have been quantified and the undesignated shortfall holdback has been reduced. However, the General Assembly can still approve additional cuts.
- 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 \$213.860 million; a \$6.994 million (3.2 percent) savings from Budget. The savings include frozen positions, operational savings, and reduced transfers including schools and capital.

- i. Departmental expenditures are expected to total \$80.553 million; a 2.3 percent savings of \$1.877 million from Budget:
 - Administration expenditures are expected to total \$10.480 million; a savings of \$0.424 million.
 - Judicial expenditures are expected to total \$3.805 million; a savings of \$0.043 million.
 - Public Safety expenditures are expected to total \$28.975 million; a savings of \$0.414 million.
 - Public Works expenditures are expected to total \$4.900 million, a savings of \$0.134 million.
 - Human Services expenditures are expected to total \$18.756 million; a savings of \$0.327 million.
 - Parks and Culture expenditures are expected to total \$6.404 million; a savings of \$0.006 million.
 - Community Development expenditures are expected to total \$7.213 million; a savings of \$0.530 million.
- ii. Non-Department expenditures consisting of the revenue-sharing payment, reserves, and refunds are expected to total \$18.598 million; a 0.1 percent overrun of \$0.013 million.
- iii. Transfers are expected to total \$114.728 million; a 4.3 percent savings of \$5.130 million from Budget:
 - Transfers to the School Division are expected to total \$96.572 million, a 3.6 percent savings of \$3.579 million.

- Transfers to the Capital and Debt funds are expected to total \$18.157 million; a savings of \$1.551 million.

c. Revenues less Expenditures:

This report indicates that the fiscal year will end with \$0.326 million of revenues in excess of expenditures. Revenues and transfers are projected to experience a \$6.668 million shortfall which should be offset by \$6.994 million in expenditure savings.

B. Attachment B: General Fund Budget Comparison Report:

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

Revenues:

- Food and Beverage Taxes and Transfers from Other Funds show positive growth over FY '09.
- Real Estate Tax, Personal Property Tax, Sales Tax, Business Licenses, Utility Taxes, Other Local Taxes, Other Local Revenues, State Revenues, Federal Revenues, and Use of Fund Balance show decreases from 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 an Audited FY '09 Undesignated Fund Balance of \$19.845 million as of June 30, 2009,
- Appropriated \$1.115 million for Budgeted FY '10 Initiatives and Reappropriations,
- Has a remaining June 30, 2009, Fund Balance of \$18.730 million,
- Has not approved subsequent appropriations, and
- Has Projected Unobligated Funds of \$18.730 million as of February 03, 2010.

D. Budget Impact:

This Financial Report is based on audited FY '09 financial data and six months of financial data for FY '10. Staff will utilize these figures as the basis for the FY '11 Budget.

This report was received for information.

Item No. 6.10. Proffer Management – FY 2010 Second Quarter Cash and Non-Cash Proffer Report.

The executive Summary notes that this report includes proffer activity that encompasses both cash and non-cash proffers from October through December, 2009.

Cash Proffers October – December 2009 (2nd Quarter)

- A. Proffered:** No rezonings were approved this quarter.
- B. Total Obligated Cash Proffers:** Since no new rezonings were approved this quarter, the total anticipated cash proffer amount remains the same as the prior quarters at \$56,758,832. However, the Board can expect a significant decrease in anticipated future funds (\$17,642,858) in the third quarter report due to the sale of the Biscuit Run property to the State. Proffers from the Biscuit Run rezoning will be removed from future reports of outstanding cash proffers.
- C. Revenue:** The County received a total of \$23,712 in cash proffers during this quarter. The contributions are from Belvedere (\$3,000 for affordable housing), Hollymead Town Center C (\$14,286 for Capital Improvement Projects), Wickham Pond (\$3,226 for CIP), and Liberty Hall (\$3,200 for CIP).
- D. Total Interest Earnings:** The total interest earned through this quarter from collected cash proffers is \$316,178.
- E. Expenditures:** Most proffer revenue has been allocated to projects and the Board can expect to see formal appropriations on future agendas.
- F. Current Available Funds:** As of November, 2009, there is \$1,036,740 in cash proffer funds.

Non-Cash Proffers

In September, 2009, staff presented the Board with information on certain non-cash proffer contributions from 1990 to present, which include Affordable Housing, Parks, Fire Rescue, Schools, Roads and Other Transportation Improvements and other land dedications. Staff continues to update the status of proffers from prior years. During this quarter, an additional proffered turn lane on Route 29

related to the NGIC rezoning has been completed. Additionally, the County has secured escrowed funds in the amount of \$150,000 to ensure that the signal proffered on Route 250 and Glenmore Way is constructed as proffered with the Glenmore rezoning.

Cash proffers are a valuable source of revenue that help fund important County projects that would otherwise be funded by general tax revenue. Non-cash proffers provide improvements that might otherwise be funded by general tax revenue. One dedicated full-time staff person continues to monitor and collect proffered funds, improvements and land dedications with the assistance of other County staff and outside agencies.

This summary is provided for information on proffer activity and no action is required.

Item No. 6.11. Report on Housing Committee Strategic Planning/Work Plan.

It was noted in the executive summary that in August, 2009 the Albemarle County Housing Committee met to determine priorities and strategic initiatives to guide its work in 2010. During this facilitated meeting, members discussed past accomplishments and the Committee's charge, challenges, and opportunities. Through this strategic planning process, the Housing Committee identified and prioritized issues it believes are important to undertake in 2010 to further advance affordable housing opportunities in the County. The report attached to this summary was authored by Paul Beyer, Chair, Albemarle County Housing Committee, and it provides details on the top four priorities recommended by the Committee. It is being presented to the Board at this time for its review and information. The Housing Committee requests that the Board hold a work session when its schedule permits regarding these recommendations to provide further direction and counsel to the Committee in undertaking these initiatives.

County staff has not been asked to comment or provide any analysis on the Housing Committee's report. An analysis by staff should be completed prior to a Board work session on this report. There is no budget impact related to this report. Staff recommends that the Board receive and review the report (on file) and provide the Housing Committee an opportunity to present its recommendations at an appropriate time so the Board can provide direction to the Housing Committee.

This report was received as information at this time.

Agenda Item No. 7. **Public Hearing** on proposed renewal of the lease agreement between the County and the Field School of Charlottesville for part of the Old Crozet School. (Notice of this public hearing was advertised in the Daily Progress on January 25, 2010.)

Mr. Tucker said that currently there are two tenants leasing space in The Old Crozet Elementary School – the Field School of Charlottesville as well as the Old Crozet School Arts. The two tenants together currently occupy about 15,165 square feet of the facility. *Virginia Code* § 15.2-1800 requires that the Board advertise and hold a public hearing prior to leasing County-owned property. Since occupying the facility, the Field School of Charlottesville has been an excellent tenant and has expressed an interest in continuing to lease the facility. For the most part, the proposed renewal would continue the same conditions as the current lease. However, the tenant would like to extend the lease term to four years from its current one-year term, subject to annual renewals.

Mr. Tucker said renewal of the lease would yield about \$42,710 annual revenue initially. After the public hearing, staff recommends the Board approve the lease with the Field School of Charlottesville and authorize the County Executive to sign the lease on behalf of the County.

Mr. Boyd said he was confused about a note in the staff report concerning the discontinuance of the tenants' allowance for pre-approved alterations and additions. He read on Page 3 at the top of the page, "except as provided in Section 7.1c", but there is no such section. He asked what is being changed. Does the tenant not have to get preapproval for changes they might want to make in the facility? Mr. Davis said in the original lease there were some improvements to the building that the County felt it should share in the costs of, so credits were given to the tenants for the improvements they made. Those have been completed, so any additional improvements they make would be made at the tenants' cost, but they still need to get approval from the County before they can make those improvements.

Mr. Rooker said he thinks the County is fortunate to have a good tenant that is taking care of the building.

Mr. Thomas asked how many square feet in the building remain unleased. Mr. Tucker asked staff to answer. Mr. Michael Freitas, Chief of Public Works, responded that there are about 10,000 square feet currently available; the entire facility is about 25,250 square feet.

Mr. Thomas asked if the Crozet Library could possibly use some of that space until the new facility is built. Mr. Tucker replied that the Library Board would need to review that proposal.

Mr. Boyd said he knows the Board decided not to place the permanent library in that building, but that is an interesting idea. Mr. Davis said there was a study done previously about the suitability of that building for a library. There are some structural issues, some environmental issues, and other issues that might prevent it from working in that capacity.

Mr. Thomas said he had talked with a board member about the possibility of using that building for a library space. He would like to see it pursued just to be sure.

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

Motion was offered by Ms. Mallek, **seconded** by Mr. Snow, to approve the lease with the Field School of Charlottesville (set out in full below) and to authorize the County Executive to sign the lease on behalf of the County.

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

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

NAYS: None.

AGREEMENT OF LEASE

THIS LEASE AGREEMENT is made this 3rd day of April 2010 by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and the Field School of Charlottesville, Tenant.

ARTICLE I. PREMISES AND IMPROVEMENTS

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

ARTICLE II. TITLE: QUIET ENJOYMENT

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

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The initial term of this Lease shall commence on 1 June 2010 (the "Date of Commencement") and shall expire 30 June 2011. All references to the "term" of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the initial term described herein.

Section 3.2. Renewal. This Lease shall automatically renew for up to four additional 12-month terms unless notice is given by either Landlord or Tenant no later than 60 days prior to the expiration of any term.

ARTICLE IV. RENT

Section 4.1. Annual Rent. Commencing upon the Date of Commencement, during the first term of this Lease, Tenant agrees to pay to Landlord total rent of \$46,269.28, payable in equal monthly installments of \$3,559.18, in advance, on the first day of each month during the term hereof. Gross square feet shall be calculated within the perimeter of the area to be used solely by the Field School of Charlottesville.

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

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

ARTICLE V. UTILITIES AND SERVICES

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

ARTICLE VI. USE OF PROPERTY

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

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

ARTICLE VII. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS

Section 7.1. Installation by Tenant.

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

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

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

ARTICLE VIII MAINTENANCE OF LEASED PREMISES

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

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

Section 8.3. Surrender of Leased Premises. At the expiration of the tenancy hereby created, Tenant shall surrender the Leased Premises and all keys for the Leased Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, which Landlord has granted permission to have

left in the Leased Premises. At such time, the Leased Premises shall be broom clean and in good condition and repair, commensurate with its age. If Tenant leaves any of Tenant's personal property in the Leased Premises, Landlord, at its option, may remove and store any or all of such property at Tenant's expense or may deem the same abandoned and, in such event, the property deemed abandoned shall become the property of Landlord.

ARTICLE IX. INSURANCE

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

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

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by Tenant and Landlord pursuant to Sections 9.1 and 9.2 shall be delivered by Landlord or Tenant, as the case may be, to the other upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

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

ARTICLE X. WASTE, NUISANCE, COMPLIANCE WITH GOVERNMENTAL REGULATIONS

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

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

ARTICLE XI. FIRE OR OTHER CASUALTY

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

ARTICLE XII CONDEMNATION

If the whole or any part of the Leased Premises shall be taken under the power of eminent domain, then this Lease shall terminate as to the part so taken on the day when Tenant is required to yield possession thereof, the Landlord shall make such repairs and alterations as may be necessary in order to restore the part not taken to useful condition; and the rent payable under Article IV shall be reduced proportionately as to the portion of the Leased Premises so

taken. If the amount of the Leased Premises so taken is such as to impair substantially the usefulness of the Leased Premises for the purposes for which the same are hereby leased, then either party shall have the option to terminate this Lease as of the date when Tenant is required to yield possession.

ARTICLE XIII DEFAULT OF TENANT

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

(a) Tenant fails to pay when due any amount of rent, additional rent or other monies due under this Lease, including Articles IV and V, and such payment is not received by Landlord within ten (10) days after written notice of such failure is received by Tenant; or

(b) a default in any of the other provisions of this Lease, and such default continues uncured for a period of thirty (30) days after written notice thereof from Landlord.

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

ARTICLE XIV HOLDING OVER, SIGNS, SUCCESSORS

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

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

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

ARTICLE XV. BROKER'S FEES

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

ARTICLE XVI. NO ASSIGNMENT

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

ARTICLE XVII. SUBORDINATION OF LEASE

This Lease and all rights of Tenant hereunder are and shall be subject and subordinate in all respects to (1) any mortgages, deeds of trust and building loan agreements affecting the Leased Premises, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, Tenant shall promptly upon the request of Landlord execute and deliver an instrument in recordable form satisfactory to Landlord evidencing such subordination; and if Tenant fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any

such instruments on behalf of Tenant. Tenant further agrees that in the event any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, Tenant shall not withhold or delay its consent thereto.

ARTICLE XVIII. MISCELLANEOUS

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

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

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

- (a) if to Landlord, at
County of Albemarle
County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as Landlord may designate by written notice;
- (b) if to Tenant, at
Field School of Charlottesville
P. O. Box 4234
Charlottesville, VA 22905
or at such other address as Tenant shall designate by written notice.

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

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

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

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

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

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

Agenda Item No. 8. FY 2008-2009 Comprehensive Annual Financial Report (CAFR), Jack Farmer (RFC).

Mr. David Hughes of Robinson, Farmer, and Cox was present for the report. He thanked Finance Department staff (Ed Koone, Anne Murray and Tammy Critzer) for their assistance and cooperation

during the audit. His firm met with the Audit Committee last week and went over the report in detail. As auditors they issue three reports on the financial statements – one on the basic financial statements, one on internal controls and compliance with government auditing standards, and one on compliance with Federal programs. Their opinion on all three of these reports was unqualified, which is the cleanest opinion that can be provided to the County; there are no significant issues to be reported. He emphasized that the Board members read the transmittal letter and also the management discussion and analysis which is a narrative overview of the financial statements. He said there are three items in the Management Letter giving recommendations for improvements in internal controls. They are looking for new government standards next year. He then offered to answer questions.

Ms. Mallek asked if the rules are changed from year to year in the auditing process. Mr. Hughes replied that his firm follows the rules of GASB, and government auditing standards. Whatever “they throw at us” has to be addressed and incorporated into the plan in producing this report. Those standards constantly change.

Mr. Rooker said he and Mr. Dorrier are on the Audit Committee. They met with the auditors last week and went through the report in some detail. He said it is a good document to read – it contains a lot of information about the County as well as the financial operations of the County. It’s very useful to have when you are going out to speak to a group about the County.

Mr. Dorrier said he wanted to mention something that he brought up at the Audit Committee’s meeting. He would like to know how the Board might encourage a policy of whistle-blowing for waste, fraud and abuse. He is not saying there is any, but he thinks staff should be encouraged to report anything they see. He asked if there is currently a policy regarding that.

Mr. Tucker said several years ago there was a policy where employees could bring up ideas for saving money, etc. It was not a waste or whistle-blowing kind of thing, but if people had ideas for saving funds, there was a gain-sharing – they could share in the savings. There were ideas for a few years, but those types of things play out over time. There has been nothing like a whistle-blowing thing. He thinks employees bring those kinds of things up if they see problems or waste in their department or other departments.

Mr. Dorrier said Mr. Farmer’s firm handles budget for 20+ counties and he asked if there are any whistle-blowing policies in any of those counties. Mr. Hughes replied that he is not aware of any, but would keep his eyes open.

Mr. Snow said he thinks the County should foster a spirit of participation by employees. If there was a reward system of some kind, they would submit a good idea. He suggested that a certificate be given to an employee each month for a good idea. He has had several employees approach him with ideas about cost-savings.

Mr. Dorrier said there might be a suggestion box in the Building. Mr. Tucker said there have been suggestion boxes at all entrances to this building for several years, and at the elevators and in the various different departments.

Mr. Rooker said he agrees it is good to have a good, active, open way to encourage employees to make recommendations and to find ways to reward those who make good suggestions. The other side of this is that staff has tried the Gain-Sharing Program where employees who make recommendations were rewarded. That program should still be pursued. The whistle-blower thing is where somebody thinks something going on is wrong, and they don’t have an easy way to report it. He said it can be done, but it would not be without cost. He said publicly traded companies are required under the Sarbanes-Hoxley Act to have a system set up where whistle-blowers can complain to somebody who is not their immediate boss. Usually, somebody on the board of directors oversees it. A lot of those companies are satisfying that requirement with their website so anonymous tips can be sent via the web. It is something the County might look at.

Mr. Snow said perhaps having a suggestion of the month would provide some incentive. Also, listening to employees might help save the County money. Mr. Tucker suggested that two Board members be designated to receive those suggestions, review them and then make a decision.

Ms. Mallek said one thing she hears at her “town hall” meetings is from people who have ideas for the County to try.

Mr. Boyd said he had a question about the audit report. On Page 70, Note No. 19 concerns the Schools Operating Fund Balance. He asked how he can track how much was put into that fund balance this year – it shows a balance of \$6.438 million. Mr. Hughes directed him to Page 105, Exhibit 31, of the report. He said it contains a summary statement of revenues and expenditures, and changes in the fund balances. Overall, the fund balance in the School Operating Fund declined by \$448,399. It shows all sources of funds that go into the School Fund; there are probably 50+ independent funds within this one, and they are combined for financial statements. The detail in the various programs is designated in reserve on Page 70.

Mr. Davis said that typically the Board has a motion to accept the Financial Report.

Mr. Rooker offered **motion** to accept the Albemarle County Financial Report for the Fiscal Year ending June 30, 2009. Mr. Dorrier **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

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

Agenda Item No. 9. **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. (This agenda item was deferred from December 2, 2009.)

Ms. Mallek said several people have contacted her over the past several weeks to ask if they could speak today. She will allow some brief comments at the end of staff's presentation.

Mr. Mark Graham, Director of Community Development, said action on this ordinance amendment was deferred from the December 2, 2009, public hearing. He said the Board did not ask staff to do any further work on the amendment, but he will review how this question got to this point. In 2007 there was a fee study done by a consultant. The Board held a work session and three fee objectives were identified: fees should be comparable to those of other localities; fees should recover a significant part of the cost of services; and, since it had been almost two decades since a comprehensive review had been done of fees, a procedure should be adopted for regularly updating those fees.

Mr. Graham indicated that in August, 2009 the Board had a work session on the staff-recommended zoning fees based on those objectives, and staff was then directed to take them to the Planning Commission, who recommended in November, 2009 modified zoning fees with three changes: change Class B-Home Occupation to the lower Special Use Permit fee category; eliminate the fee for temporary fundraising events; and, delay the effective date of the amendment to July 1, 2010. The Board then held a public hearing on the fees in December and deferred taking any action at that time.

Mr. Graham reviewed the intent of the proposal: to reduce fee categories for special use permits and zoning map amendments as there was disparity in those categories; recapture the costs of applications that have numerous resubmissions and associated expenses with notifications and legal advertisements – those are a State requirement and in some cases have exceeded the current permit fee; acknowledge that appeals have a different perspective on the recovery of fees and the fee should be related more to the simple administrative cost of that application. Staff tried to use the fee study recommendations when they were comparable to other localities. They also felt that when there are future ordinance changes, there should always be consideration of how the cost of services is altered as a result of the change in the ordinance. Staff agreed there should be a biennial review of the fees, using the County's merit increase as a basis for adjusted fees.

Mr. Graham said in reading the Board's minutes there seemed to be some confusion – people referred to a 50 percent cost recovery. That is how the County ended up with the subdivision fees, but that is not the approach used for zoning fees. He said there is a wide variety in the costs of service. Some are simple administrative matters, so the fee can be lower than other localities and still recover 100 percent of the costs. Others are very complex, and it was found that only about 10 percent of the costs in some cases was recovered. Generally, they found that the percentage drops as the complexity of the process increases.

Mr. Graham noted that a Home Occupation-Class A permit requires a simple administrative procedure with the permit is issued "on the spot." This proposal is for \$25.00 which provides 100 percent cost recovery (cost presently if \$13.00). However, a Home Occupation-Class B is a use by Special Use Permit which requires a complex process, and in that case only 25 percent of the costs are being recovered. In 2008 there were 258 applications for Home Occupation-Class A and in 2009 there were 250 applications. The Class B permit is more complicated and in 2008 there were only three applications and there have been none in 2009.

Mr. Graham said the issue of fundraising events became an issue with things like Boy Scouts selling Christmas trees. He said the Planning Commission asked that those fees be exempted and that was done in Section 32.1.G.5. The Commission recommended delaying the effective date of the ordinance amendment to July 1, 2010. He said staff needs 45 days from adoption to be sure the forms are modified and ready and to get the public notified. The earliest recommended adoption date now is April 1, 2010. He said the FY '10 revenue projections were based on adoption of this amendment, but with the deferral, staff took out the anticipated increase for this fiscal year. FY '11 still shows about \$170,000 in revenue projections from the amended fees, so if that changes, that revenue will need to be changed as well.

Mr. Graham concluded by stating that the staff recommendation is to adopt ZTA-2009-017 as recommended by the Planning Commission with an effective date of July 1, 2010. He added that they also recommend a biennial review of the fees using the County's merit increase as a basis for the adjustment. He then offered to answer questions.

Mr. Thomas said he had received the following questions in an e-mail: do the procedures take longer than necessary because they are too complex; are staff reviews more time consuming than necessary because their guidelines are confusing or contradictory; are authorities clouded by too many layers of review or lack of clear direction; and, is there a culture of leadership that encourages staff to diligently resolve conflicts and find solutions. He said that some additional questions were: what are the

County's obligations to provide the most efficient services possible; have they been adequately met; what portion of the County's review process is for the benefit of the community at large and not just for the internal issues of the project itself; what benefits and value accrue to the County and its residents from the rezoned conditions; does the increased density relieve growth and infrastructure pressure elsewhere; is this a more valuable use of the land than the original zoning had in mind; are the County requirements and costs fair to the project itself as not every application is a North Pointe or a Biscuit Run; is the County as aggressive about cost recovery from recipients of other County services as it is on the building community.

Mr. Rooker said the Board could spend the rest of the day answering those questions, although there are some good questions. He emphasized that a number of those things have been looked at – including staff's own internal review of its operations under the Baldrige standards that are in place in the County. They are required to periodically look at how they are doing from an efficiency standpoint. A couple of years ago changes were made primarily in the Community Development Department that resulted in about \$500,000 a year in recurring savings, everything from putting applications on the Internet and things that allow people in the field to follow their applications using a Blackberry.

Mr. Rooker said this subject has been discussed for the last two or more years. The Board started in 2007 and set three criteria; the fees should attempt to recover a significant part of the cost of review, the fees should be comparable to those in other localities, and, the fees should regularly be updated in the future. To assure the first two of those steps, an outside consultant was hired to review all fee areas. The result of that review is contained in the materials before the Board in the way of past staff reports. Recommendations were given for 100 percent cost recovery, or 50 percent cost recovery. The fees of other localities were studied. He noted "Attachment D" in the materials – there are comparisons of Albemarle's fees and those of other localities. It shows that what is in place now is below that of other localities and the proposed new fees would still be at the low end in most cases. He said if the Biscuit Run zoning map application had been in Greene County the applicant's cost would have been \$84,000.

Mr. Thomas asked how much money it cost in Albemarle.

Mr. Rooker replied that it cost \$1,570.

Mr. Thomas asked how much the County spent to review the Biscuit Run application.

Mr. Rooker responded that it was about \$200,000. Under the proposed fees, that cost would only be \$3,500. In Fluvanna County, the fee would have been \$21,200, in Greene County it would have been \$84,800, in James City County it would have been \$15,000, and in Stafford County \$33,800.

Mr. Snow asked what proffers would have been required in Greene County.

Mr. Rooker said Greene County has cash proffer requirements.

Mr. Snow asked if that is for each house.

Mr. Rooker said Greene had a cash proffer system set up before Albemarle had one. They have a process in place for determining under the statutes a reasonable cash amount; other counties have substantially higher proffer amounts than Albemarle requires.

Mr. Rooker said the Board has gone through all these processes. When the Board talked about efficiency it had a Development Review Task Force which spent several years before making some recommendations. The Board has received a report on those recommendations and nine of eleven have been adopted and the other two are underway. He said that committee included two members of the Board - Mr. Boyd and Mr. David Wyant (now Ms. Mallek) - and then the Board had an efficiency study done by the Public Policy Institute at VCU. The Schools also had an efficiency study done by VCU. That study actually recommended, among other things, that these fees be increased because the County is not recovering nearly as much as it should.

Mr. Rooker said he received three e-mails just today from people saying a reasonable percentage of the cost of these things needs to be borne by the people making the applications. He said the Albemarle Truth in Taxation Association came to the Board at the beginning of this process and said the fees should be increased so as not to put the burden entirely on taxpayers. He said it is ironic that the Board talks about studying the issue more because most people who are interested in efficiency in government want to get something done at some point – this has been going on for over two years. Originally, the Board talked about a 75 percent cost recovery, but it has gone down substantially from that. There was an issue raised about the Home Occupation-Class B and that was cut from \$3,500 to \$1,000. Adjustments have been made along the way based upon public comments, and the Board needs to go ahead and get this done.

Mr. Snow said he thinks the County is in a partnership with the builders and the people who work in the community to give it nice developments. It is not the County dictating what has to be done, but "we should work together." He agrees there is a need to increase some fees but not to go up "1000 percent" at one time or to institute new fees that have not existed previously. In these economic times "we need to work together" and come up with something more reasonable. Then, over a couple of years, step it up again, or review it.

Mr. Rooker said a lot of computation was just done. For example, the average cost, counting all the ZMA fees and the ZTAs and site plan fees, etc., added to a new dwelling (over a 20-year period) would be \$87. He said Mr. Werner did the math on this; the median cost increase per unit is \$39.

Mr. Snow said adding that to the cost of proffers when talking about affordable housing - every time money is added to the proffers it adds to the overall cost of the house which makes it less affordable.

Mr. Rooker said part of the question is whether to put some reasonable share of the cost of development on the developer, or make the widow who lives across the street pay it in her taxes. There's no free lunch, just as Mr. Lowry said earlier. Somebody pays the cost. He said Albemarle is charging less than many other communities - Albemarle spent a fortune studying and doing all the background work this Board asked for. The original fee recommendation was supported by the builders. "Now that they feel they can get a second bite at the apple, they're in here again." When Mr. Snow says the County needs to be in partnership with the builders, he thinks it has to be in partnership with the community as a whole. These costs will not disappear, but be borne by the taxpayers at large. This is only a partial cost allocation

Mr. Dorrier said the Architectural Review Board is required to review a lot of projects. He asked who determines if a project is sent to them. Mr. Davis responded that it's an ordinance requirement of Albemarle County. Within the Zoning Ordinance an ARB was created and criteria set out for which projects are required to get a certificate of appropriateness. It is not a State law requirement, but it is enabled by State law.

Mr. Dorrier said he is just wondering if all of those projects should be required to go to the ARB.

Ms. Mallek said that only projects in the Entrance Corridors are subject to review, as they are the properties that effect what the County looks like. Mr. Tucker said it is a local ordinance, so the Board could change what is required.

Mr. Dorrier asked the last time the ARB was reviewed. Mr. Davis said there was a work session with the ARB last year, and a number of changes are being made in the ordinance at this time; those will be presented to the Board in the next couple of months.

Mr. Dorrier said he has been talking to some developers and they wonder why they have to go before the ARB. It costs more money and time to do it.

Mr. Snow said he had served on the ARB, and it provides a great service in keeping the community looking the way it does. They traveled to other areas, and there are HVAC units on the tops of buildings and there is no control over the way things are planted, or on setbacks. He said the overall affects and the looks of the property are a lot better in Albemarle. He likes the ARB and he thinks it provides a great function. His only disagreement with the ARB is that they will spend lots of time debating "the color of white" or something that is immaterial and causes the contractor a lot of extra expense for something that is purely subjective. He thinks it has a function, but he thinks that sometimes they go a little too far.

Mr. Dorrier asked if it's something that needs to be reviewed or is it something that will take care of itself.

Ms. Mallek said staff is in the process of reviewing it, and the Board will have another joint meeting with the ARB. There have been changes in the last two years in the operation of the ARB. She said it is well valued in many parts of the community for the high standards it brings to the process, but changes to those processes should be a separate issue from the fees charged.

Mr. Rooker said ARB review is only of commercial projects, not residential.

Mr. Boyd said he understands what Mr. Rooker is saying because the Board has been talking about this subject for a long time, but he is afraid a certain aspect has not been looked at. He went back to the consultant's report and picked five different applications to determine the time and money needed to review those applications. Since the information was not broken down as to the amount of time spent by staff, the Planning Commission, Board meetings, he wasn't able to reconcile it to the consultant's report. He said that in his business if they are not making enough money to cover expenses, they first look at their expenses, not raising prices. He asked if the County needs to do this in order to provide the quality of service wanted. His sheet shows that it takes about 67 hours of staff time to approve a Home Occupation-Class B permit, and that includes 30 hours of engineering time which is mainly devoted to traffic modeling. He said that for ZMAs of 50 or more acres it take 1,478 hours of legal time. He can understand that for a development the size of Biscuit Run. He is not saying this is wrong.

Mr. Rooker asked if there are 1,000 hours of legal time involved, the cost recovery on that time is miniscule.

Mr. Boyd said he is not disputing that there should be recovery, but he thinks some percentage of community good needs to be factored in. He said the Board went through all of that - the Development Review Task Force was looking at how to do things better, but it did not talk about doing things efficiently. He is not sure that part has been addressed in this process. To do a sign permit it takes 10 hours of a Designer Planner's time. He asked if staff has reviewed the consultant's report and decided how many hours should be assigned to that task.

Ms. Mallek said when all of the visiting managers were here for the Resource Utilization Study, were Community Development processes addressed. Mr. Graham replied that staff was interviewed extensively about their processes, how they reviewed things and the steps used. Those reviewers felt the processes were similar to those in other localities.

Mr. Boyd said the Board establishes the process. That isn't in question, but the question is whether it takes that long to get through the process. Should it take 15 hours of an engineer's time to do a traffic study for a home occupation, a two-person business?

Mr. Thomas said he did the math for a ZMA of 50 or more acres for the Principle Planner, and it takes 150 days. He also did it on the attorney, and came up with 185 days. He asked if it takes that long to process an application. Mr. Graham pointed out that the costs shown in the report are annual costs, not costs per application. Mr. Davis said when numbers were provided to the consultant, they were based on actual applications. He said that North Pointe had taken 4.5 years to process. That was a ZMA of greater than 50 acres where there was an extreme amount of staff costs included. Hollymead is another example of another application that took a number of years to process. He said some of these numbers may look extreme, but costs are spread out over the review process for some of these unusual projects.

Mr. Boyd said he does not dispute the amount of time it took. The figures he gave are per project. In the chart, it shows five reviews of a particular type of application and he divided that into total hours. He asked if as part of this process staff sat down and asked if "x" number of hours in legal fees should have been spent on a the Biscuit Run application, or could it have been done more efficiently; could it have been reviewed in a different way? He wonders whether staff went through that process.

Mr. Rooker said staff periodically goes through that procedure. The Board has had report after report from staff on recommendations for improving their own efficiency, some of which the Board adopted, and some which were not adopted. He does not blame that on staff. He said staff could recommend that there be administrative approval of a broad number of things without public hearings and without notices being sent to a broad number of people. By law, the County is only required to send notices to the people adjacent to the property. The Board has chosen to provide broader notification which generates much larger turnouts at public hearings. He cited an example in the Daily Progress where an article says "Conflict growing over Crozet gas station plans. Proposed gas station on U.S. 250 in Crozet is coming under increased scrutiny by the public and the Albemarle County Architectural Review Board." Then it quotes: "It is less worse than it was in the beginning, yet it is still not good Board member Paul Wright said. I think it is too big and its scale is significant, and I think the site plan makes it currently unacceptable with the ARB guidelines." Later the article says they initially submitted their application to the ARB in February, 2009. He said they have been with the ARB for about a year. Why is that? He said the ARB could just vote and turn them down because they don't meet the guidelines but in most cases the applicant keeps coming back and getting a little closer each time until the request is approved. One way to shorten the process is that when someone comes in and they don't have a good application, it is just turned down. That will shorten a lot of staff's time, but that is generally not the way staff has worked with applicants. They go through a process where the needs of the community are dealt with and the applicant gets the project approved ultimately if it is in the public good. It does not just immediately shut down because the applicant does not meet all of the technical requirements on their first application. He said the project mentioned in the newspaper has gone back and forth several times – whose fault is that?

Ms. Mallek said a lot of that time was when the applicant was actually working on it; it was not on the desk of the ARB for that length of time.

Mr. Thomas said the ARB also asked them to create the entire parcel because they mentioned that they might enlarge it with another building. Then on Monday when he was at the meeting, they didn't need that addition so they have to go back and do something else.

Mr. Tucker pointed out that these hours are not a planner or a staff person that is just sitting there and docking the hours while reviewing plans. There is a negotiating discussion between the staff and the applicant throughout the whole process. That is how these hours came about; it does take a lot of time. He said there is probably room for improvement, but staff would have to study it to see what can be done during that review. He said that often the applicant defers their request for a good amount of time before coming back to the staff and Planning Commission and that add up in terms of the hours and the amount of time spent.

Mr. Boyd said he has mentioned to Mr. Graham before that if the idea is to have cost recovery, and because there is such a variance in applications, he wonders if just a "time and materials" cost should be considered as opposed to specific fees. He knows the accounting system would need to be changed to do that, but the legal profession does that.

Mr. Rooker reminded Mr. Boyd that the Board had looked at that idea. Back in the beginning of this discussion that was one of the possibilities looked at, and this Board determined that was not the best way to do it for a number of policy reasons. He referred to the list which was handed to the Board earlier, and said it shows an average of ZMAs for 50 or more acres of \$111,000. It is interesting to ask if that could have been done for less, maybe \$60,000. He said the fee being talked about for that application is \$3,500.

Mr. Rooker said he thinks this is interesting – outside organizations have been brought in to look at efficiency. He had information put together three or more years ago on efficiency measures staff had

taken that had saved about \$500,00 a year on a cumulative basis over the past five or six years. The County should continue "to shoot for that." It needs to be as efficient as possible. This shows that Albemarle is far below cost recovery. After 20 years, the Board needs to move fees to what is recommended, which is again lower than what the Board originally looked at.

Mr. Thomas said he was at the ARB meeting Monday and then he meet with ARB staff on ZTAs. This person has a flowchart showing how fast and inexpensively an application can go through if an application is proposed properly. He said there are a lot of savings and efficiencies noted in that chart.

Ms. Mallek said all of those directions are written down – staff has made a lot of progress in the past two years by writing down the processes and information needed.

Mr. Thomas said in checking on the expenses of certain things he found that at times the applicants are the cause of the extra cost. He also discovered that a lot of their engineering is paid for by the County and he thinks that cost needs to go back to the applicant.

Mr. Rooker said that would raise fees even more. One thing looked at was the expedited process where someone had their plans certified by an engineer and if it met all requirements of a site plan, that was then accepted. The Board spent about six months on that change.

Ms. Mallek said that was one of the major recommendations of the Development Review Task Force.

Mr. Rooker said that was something the applicants wanted to do.

Mr. Boyd said he actually talked with an engineer and confronted him with that idea. He said the County greatly extended the number of steps an applicant had to do if they used that process. A lot of subjective things were involved and different engineers did not agree it was the best way to do something. It was overburdening to them and costing their clients more. The reason they did not go along with the idea was that they were not put into the same system as if they were on the slow track.

Mr. Rooker said the Board discussed that process beforehand, but now staff ends up doing a lot of the engineering work for applicants. He is sure it would cost the applicant more if he had to do all his own engineering work.

Mr. Boyd said he hears a lot of anecdotal stories and he hates to base things on them, but every time staff says the applicant created a problem, he hears that when they submitted things three or four times, there was something new added each time.

Mr. Snow said he is not able to support the rate of increase. He thinks increases are necessary to recapture some of the money being lost, but not to go up 1000 percent.

Ms. Mallek asked which fees are increasing 1000 percent – fees have not been changed since 1987.

Mr. Rooker asked if that is from \$1.00 to \$10.00. He said in a prior meeting the Board pulled out the fees that anyone felt were unfair. He said this 1000 percent has been mentioned before, but the total increase in these fees is projected to bring in only \$175,000; that it is a 35 to 40 percent increase after 20 years. He said initial feedback from the building community was that the allocations were too great and adjustments were made based on that.

Ms. Mallek reiterated that the consultants hired by the County to look at the fee structure recommended a far higher fee than what was originally proposed.

Mr. Boyd said he was trying to answer the question about the 1000 percent and needed to look at the attachments to the staff's report. Mr. Graham referred Mr. Boyd to the draft minutes that were sent out with the materials for this meeting. It contains a sheet with a side-by-side view of current and proposed fees.

At this time, Mr. Rooker **moved** approval of ZTA 2009-017 as recommended by the Planning Commission with an effective date of July 1, 2010, which includes the Home Occupation special use permit at a lower fee, and no fee for temporary fundraising activities.

Mr. Davis said before that motion is seconded there is one clerical error on Page 5 of the Ordinance. The word "be" was dropped out of a sentence in Section J where it should read "should not be deemed to be submitted." He asked that the clerical error be included in the motion.

Mr. Dorrier asked if this proposed fee schedule represents 50 percent of the total cost or 75 percent. Mr. Graham said it is closer to 30 percent on the average – it varies from application to application.

Mr. Rooker said the development community originally wanted it to be about 50 percent; the Planning Commission subsequently recommended a 75 percent recovery. The Board is now down to what would be about a 30 percent recovery. He said every outside group brought in to look at this has recommended higher fees. The County's fees are low compared to the City of Charlottesville, Fluvanna, Greene, James City and Stafford counties.

Ms. Mallek said that at the beginning of this meeting she indicated that she would allow those present in the audience today to make brief comments. She asked if the motion should be finished, or would Mr. Rooker withdraw the motion for a while to hear public comments.

Mr. Rooker **withdrew his motion** to allow for public comments.

Mr. Jack Marshall said he was representing Advocates for a Sustainable Albemarle Population (ASAP). He said in the past month or so he has spoken with some Board members individually. He was told that they wanted to keep property taxes as low as possible; those recently elected said the same thing in their campaigns. This is a good chance to put their vote where their promises were. Over the years the County has evolved high but realistic requirements for the kind of development wanted in the community. There is constant pressure by special interests to relax the criteria for development and rezoning activities. The County's high standards and their conscientious enforcement have served well in most cases; they are one of the reasons "we're the best place to live" in the United States. These standards are weakened at our peril.

Mr. Marshall said staff time for review of applications isn't free. Recent recalculations of the cost of the services indicated they are considerably higher than thought. Someone has to pay for these real costs of staff reviews. The percentage of the cost that should be picked up by the applicant and the percentage to be passed to the taxpayers is the question that needs to be answered now. He said ASAP hopes the application fees will be set at 100 percent of cost recovery to be paid entirely by the applicants, with several exceptions. Fifty percent or lower of cost recovery is appropriate to family subdivisions and for a subdivision which provides affordable housing. Temporary fundraising activities may also be lower. New residential housing does not help everyone in the community. The main beneficiaries are the ultimate homeowners, the developers, and others who make profits in building and furnishing new houses. The original staff recommendation came with the claim that "much of the cost is related to providing opportunities for public participation rather than technical review." He said ASAP disagrees with the premise. The incentive for public participation is not the same as when citizens are at a public hearing for something like building a public library or commenting on the County's tax rates. Those are endeavors in the public interest initiated by local government, and the cost should be borne by all taxpayers.

Mr. Marshall said a request for a subdivision is a special interest initiative proposed by an entity hoping for a private benefit. The need for community oversight is created by the developer's actions and the cost should be their responsibility, not the taxpayers. He said anything other than setting fees at 100 percent of cost recovery will pass the burden onto current residents and will be reflected in higher taxes; this is unfair, don't ask us to pay the developer's fee.

Mr. Neil Williamson said he is with the Free Enterprise Forum. He asked what you would call an entity that puts a great deal of capital at risk to implement the community's vision for the growth area. He calls that entity a developer and development is a risky activity and it is for profit. He then handed to the Board members sheets showing data points – the CPI has increased 57 percent since 1991 which was the last comprehensive review of these fees. He compared dollar increases between 1991 and FY 2011 and came up with a proposed increase and then subtracted the CPI to talk about the cost of complexity. The cost of complexity is what the Board has adopted and what it takes to get the job done according to these fees. He also showed market merit increases as labor is an integral part of these reviews. The market merit increases in Albemarle are 75 percent while the CPI increased 57 percent since 1991.

Mr. Williamson said Mr. Graham mentioned that some of these things were not 100 percent, but there is an item shown as "deferral of a scheduled public hearing at the applicant's request" and he hopes that is 100 percent; the applicant should be paying 100 percent of that cost. Under site plans there is administrative review and Planning Commission review. When a site plan is called up to the Commission it increases the cost to the applicant without benefit to the applicant, the benefit is to the community. He suggests there should be only one fee for that action. In addition, under matters considered by the ARB it shows a building permit that has a \$590 fee. He said if the ARB can't solve what the site plan requires, it is for the benefit of the ARB and the community and that fee should be dropped.

Mr. Jay Willar said he would like to address a point made by Mr. Rooker as to whether there is a way to lower the cost of these processes. In those cases where the fee for recovery is only 10 percent of the actual cost, if that cost can be reduced the applicant benefits from 10 percent of that actual reduction and the taxpayers who are bearing the other 90 percent see a huge benefit by lowering those costs. In those cases where the balance may "be out of whack" the taxpayers are benefiting by every effort made to lower the total costs of reviewing a project. He noted words on the screen which say: "Zoning Ordinance fees should have bi-annual review using the County's merit increase as a basis for adjustment." He said that to him that is saying the only thing that would be reviewed would be how much the County's costs had increased. There is nothing in that statement that says a bi-annual review would lower costs.

There being no further public comments, the matter was placed back before the Board.

Mr. Rooker said that after following a long winding road, and after many adjustments, including having outside expertise brought in to look at these fees, and having met the three criteria the Board established two years ago that the fees attempt to recover a significant part of the costs of review, and according to staff that these fees are down to about 30 percent recovery, the fees should be comparable to other localities and they are actually lower than most localities, the fees should be regularly updated in the future and there is a proposal to do that, so he will **move** to approve the second bullet point on the screen, i.e., approve ZTA 2009-017 as recommended by the Planning Commission with an effective date

of July 1, 2010, which includes the home occupation special use permit at a lower fee, and no fee for temporary fundraising activities.

Ms. Mallek **seconded** the motion. She said due diligence has been done. It does not mean it's over, but many of the issues have been addressed. She said there will be continual and ongoing analysis and improvements. Specifically, things need to be addressed rather than sweeping away statements. If there are particular areas that need to be addressed about the time invested and processes, that needs to be done on a separate basis from the fees. She thinks staff and the outside consultants made a good faith effort to take a good next step. The fact that it has been so many years since changes were made provides "sticker shock" to some. Overall, she thinks it will turn out well. It has been said that the value of projects always accrues to the County, and she is always grateful when good work is done, but there are also burdens when things go awry. If the County is not careful with its processes, then very expensive things go awry and that does burden the citizens. She said all but one of the comments she received have been to encourage the Board to take this step to address the fee situation.

Mr. Thomas said it is his goal to make the process more efficient – that is to cut down on the 107 steps involved. He is not going to support this ordinance amendment as presented. Whatever the Board does, he thinks all the costs should be consistent. It does not matter if it is a home occupancy permit or a subdivision, it should stay consistent all the way through. He does not want to see it vary. He has heard both sides – those wanting to keep the fees as they are now, and a lot the other way. It is about 50/50.

Ms. Mallek asked him to clarify what he means by keeping all the fees consistent.

Mr. Thomas said a speaker suggested that the cost for a subdivision be less, but he would rather have everything stay the same.

Mr. Rooker said this would allow for continual small increases in fees as opposed to waiting for 20 years and trying to do what the Board is doing today. He said a vote not to put this in place is a vote to leave fees where they were 20 years ago.

Mr. Snow said there's no in between, and that's the part he disagrees with. He does not think the County needs to take the whole chunk at one time if there is a chance to go back and reevaluate some of the points made. He thinks the Board should be able to do it at a half rate until somebody can go back and verify some points made. To proceed with 100 percent without evaluating some things forces him to vote against it.

Mr. Rooker said it is not being done at 100 percent. This is 30 percent.

Mr. Snow asked "this is 30 percent of what?"

Mr. Rooker said that probably \$50,000 has been spent at the Board's request studying how to best do these fees. It is an art, it is not a science. There have been two sets of outside people come in to look at the existing fee schedule and make recommendations; their recommendations were for substantially higher fees than what is being put forward today. The Board has adjusted the fees way down from where the recommendations were. He said a vote against this is to say that in Albemarle County the fees should be less than what they are in comparable communities around the state. The Board has done what Mr. Snow just said, and that's how it got where it is. The Planning Commission recommended a 75 percent cross-the-board cost recovery system; the Board did not do that.

Mr. Snow said he thinks there are steps and inefficiencies built into the system that could be addressed.

Mr. Rooker said that is a never-ending process. A company was brought in to do an efficiency study and that included the Community Development Department. They made recommendations and those recommendations are in the process of being adopted. The Board created a committee to do just what Mr. Snow said and that committee made recommendations and that report is included in the Board's materials today. That does not mean that fees should never be adjusted. Even ATTA came in and spoke a year and a half ago saying the County should go to a higher cost recovery than being considered today because the cost is falling on taxpayers.

Ms. Mallek said many people have said to her that the County should be more on a fee for service basis. That is what the Board is trying to achieve here.

Mr. Davis said there is one issue that hasn't been talked about today that relates to what Mr. Thomas brought up earlier, and to Mr. Snow's comments, that drives efficiency in these fees - in this system there is the base fee. Then there is a fee for re-submittals and deferrals. From his experience it is those two items that add inefficiency to the process, extends the time of the reviews, and makes them more costly. This fee system, by design, is trying to get people to be responsive to the ordinance, and for staff to be responsive to the ordinance as well early in the process so that there are not multiple re-submittals and deferrals. This fee system recognizes the need for efficiencies and requires people to pay for inefficiencies, which he thinks will make people more attentive to the system and to the requirements. Whether it will work he does not know, but that was a piece of this that may have gotten lost in the discussion.

Mr. Snow said he agrees. He thinks it would provide an incentive for a developer or a builder. However, what is the incentive for staff?

Mr. Boyd said many people have told him the re-submittals are caused by the inefficiencies of County staff not identifying all the things required the first time it was submitted.

Ms. Mallek said the second layer of questions relate to the changes applicants make.

Mr. Dorrier asked if there are time limits set on the reviews. It costs developers more when it goes on and on. They have interest payments to make and that is a cost of development.

Ms. Mallek asked that Mr. Graham explain the calendar – she asked if 90 days is statutory. Mr. Graham said there are statutory calendars. One of the department's key performance indicators (which the Board saw in the budget process last year), concerns the percentage of applications which meet the internal deadline for getting comments. For example, for a rezoning special use permit, from date of application the department gets comments back in 45 days. In the last year and a half that has been at 100 percent. He said that most requests for a Home Occupation-Class A are same-day reviews. For most signs, other than ARB signs, it is a simple, quick review. All of this has been looked at, but staff is willing to look at it again. It was found that staff did a pretty good job on most of these things. He said for legislative matters (rezonings and special permits), it is a question of how many times the request will be looked at by the Planning Commission and/or the Board. It is not the cost of the staff review in the initial application. When it gets into the discretionary decision by the bodies that is where the time and the cost are involved.

Ms. Mallek said every time the evaluation goes back to the applicant, the clock stops while they have time to do their homework. Even though the original application may have been made weeks, months or years ago, if economic reasons cause it to stop, people will still say "I applied in February of 2005 and I am still not approved." That is probably because it has been out of the process. She said statutory limits would not have allowed that to happen. She said there is much more to the issue of timeframes than is quickly related.

Mr. Dorrier said if this Board causes a developer to keep coming back, he is paying interest on the money he has tied up in his development.

Ms. Mallek said projects are not denied when they do not meet application requirements. If they were denied they would have to pay another \$1,250 when they came back with a whole new plan. She said for the past ten years staff has tried to be accommodating, and the Board allows a lot of revisits to do a favor for the applicant. Perhaps the more harsh way would be to require that they meet the rules or just say "no" and start all over again. That would really bring the attention of the applicant to the importance of meeting the requirements. She thinks people now think they can come in and negotiate and they will not have to do the high performance job required by County regulations. That is the answer on the calendar.

At this time, Mr. Boyd called the question.

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

AYES: Ms. Mallek and Mr. Rooker.

NAYS: Mr. Dorrier, Mr. Snow, Mr. Thomas, and Mr. Boyd.

Mr. Davis asked if it is the intent of the Board that this matter is now ended. This is a denial of the Zoning Text Amendment and in order for it to be brought back to the Board, if the Board wants additional work, it would require a new resolution of intent, a new public hearing by the Planning Commission, and a new public hearing by the Board of Supervisors.

Mr. Rooker said he is opposed to that simply because the Board has spent a fortune getting to where it is today. The Board has decided today that these costs should be borne by the taxpayers rather than the applicants. That is fine, but he will not support spending another \$25,000. When the Board talks about inefficient processes, this has been an inefficient process because the Board has picked at it, and picked at it, and picked at it, and changed the process in mid-term, etc. "Now we are where we are today and staff meets the criterion that was set out by the Board, and we voted it down." He said to just leave it alone, and not go back and spend another \$25,000 of staff time to get to something that the Board is not going to approve.

Mr. Snow said he understands this is required of developers all the time by telling them their plans won't work, so go back and get it right. He does agree with that. He does not agree with Mr. Rooker saying the Board is screwing up by not adopting this ordinance. He, personally, does not think the ordinance amendment is right, so should not be adopted.

Mr. Rooker asked why Mr. Snow did not make some specific recommendations for changes he thought should be made in this ordinance before today.

Mr. Snow said he was not a member of the Board then – he wasn't here.

Mr. Rooker said this has been in front of the Board for two months, and Mr. Snow was present at the Board's public hearing in December when the Board decided to defer action on the ordinance. He has had two months to look at it.

Mr. Boyd asked Mr. Davis if there is a way for this issue to be revisited without having to go through the entire process again. He thinks there is a settlement that can be reached by the Board, but it just cannot be done today.

Ms. Mallek said she has asked for years that when people have complaints they have specific things to address. The only way progress can be made is with specific items to address.

Mr. Thomas said specifically he has problems with efficiencies and he has talked directly to staff about them. He does know that the previous Board went through the efficiency report thoroughly. He would like to look at the efficiencies in the 107-step application process.

Ms. Mallek said that is not 107 steps, it is a list of questions an applicant needs to get the information for - it is a checklist.

Mr. Rooker said most of those things are done by staff. If you read through those 107 questions, they are not applicant questions, but staff questions. He said Mr. Thomas keeps bringing that up, but they are staff questions.

Mr. Dorrier said he would like to see Mr. Neil Williamson's comments addressed regarding the final site plan and the Planning Commission review.

Mr. Boyd said he would like to take exception to Mr. Rooker's point. His vote was not that the taxpayers should bear the burden of the cost, but he is not happy with the numbers that have been put before the Board and that is all it is about.

Mr. Rooker said Mr. Boyd has had all of this information for over two years. What specific recommendations has he made that didn't get incorporated?

Mr. Boyd said his question is taking a hard look at the cost of doing business. It has been recommended that the County raise its development fees and he is not convinced the cost of doing business has been looked at efficiently. That is why he asked Mr. Davis if there is a way to do this without having to go back to the beginning.

Mr. Rooker asked what specific efficiencies Mr. Boyd recommends to study further. He said the Development Review Task Force was created for that purpose, and Mr. Boyd was a member. An outside efficiency expert company was brought in to look at this. A company which knows about fees of this sort was brought in to make recommendations. What further step does he recommend? "Efficiency" is a generalization unless it gets down to specifics. What additional specific does Mr. Boyd recommend?

Mr. Boyd said that in all of the studies Mr. Rooker mentioned cost was looked at and then whether or not the cost was being recovered. The efficiency of the work involved was not studied. He was on the Task Force and they did not look at that question. He said Mr. Graham said earlier that the consultants said the Department's work was comparable to what other jurisdictions do so they did not question the steps and processes staff uses. He cannot say that any other government agency or government authority does a better or worse job than Albemarle. He is more concerned about what Albemarle does and why.

Mr. Rooker again asked Mr. Boyd what he would recommend to accomplish what he wants.

Mr. Boyd said he would like to have a report indicating why it takes 67 hours to do a Home Occupation-Class B, and why it is necessary. He wants an analysis of the costs. He would like to see that same thing done for each fee. That information has not been in any report presented to the Board so far. He has only seen information showing the amount of time used, and the cost of that, and that 50 percent of the cost should be recovered. He has not seen a report saying it costs "x" because of "x". If the answer is that the Board of Supervisors' regulations require it, or regulatory requirements and policies require it, that is okay, but he has not seen that in written form. If he had seen such a report, he could go along with this. So, he is back to his original question to Mr. Davis.

Mr. Tom Foley, Assistant County Executive, said that later today the Board will be talking about the Community Development Department's Work Program. He said if the Board gets to the point that it decides it wants to evaluate processes and ordinances and make changes in how staff does reviews, it certainly will have an impact on the analysis that Mr. Boyd requested. It might be useful to review some ordinances which would then change expectations on hours required for review, and so forth. Depending on where the Board wants to proceed with development review processes, there are things such as putting a notice out to notify all of the neighborhood as opposed to just the adjoining property owners and that drives the cost and time spent on an application. Those things could have a big impact on the analysis Mr. Boyd is asking for.

Mr. Boyd said he did not mean that staff should go through every item on the list and justify the cost involved. Staff might pick three or more different categories and explain the work process (including things such as regulatory requirements, Board policies, or required transportation studies, etc.), and the work results of that thought process. Mr. Foley said the vast majority of the process is responding to adopted ordinances. Those may be subject to change, so that would affect the whole analysis.

Ms. Mallek suggested postponing this whole discussion until later today when the Board discusses that work program. Mr. Tucker said Mr. Foley is just suggesting that may be the time to address it. The Board may need to move some agenda items to allow time for that discussion.

Mr. Boyd asked Mr. Davis again if there is a way around this. Mr. Davis said that normally when a motion to approve a zoning text amendment fails, that is the end of consideration of that amendment without some further action by the Board. If it is the intent of the Board to have further consideration of the ZTA, he would suggest that a motion be made to defer consideration of it to a future time for additional information and further consideration so it is clear that this matter is not ended.

Ms. Mallek asked if the Board needs to rescind its previous vote.

Mr. Rooker said the Board does not need to rescind its vote, because a vote not to adopt the ordinance is not a vote to deny it. Mr. Davis said that is correct.

Mr. Rooker said action can be deferred on this ordinance. If it is brought back he doesn't want to spend another year on it. He is upset because the Board has been involved with this for over two years. They have taken every recommendation received along the way and tried to incorporate it into the information being brought forth. He does not object to doing that because he thinks the County should be as efficient as possible. He does not want to throw good money after bad because a lot of time, effort and money were spent on this ordinance amendment. He wants to know there is a plan to get whatever additional information those voting against it need.

Mr. Boyd, Mr. Snow, and Mr. Thomas all agreed with Mr. Rooker's statement.

At this point, Mr. Boyd then **moved** to defer action on this ordinance change until staff brings back additional information. Mr. Thomas **seconded** the motion.

Mr. Rooker said he hopes the Board can get reasonably concrete with staff about what the Board expects of them.

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

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

NAYS: None.

Agenda Item No. 10. Quarterly Update:

Item No. 10a. Albemarle County Service Authority, Gary Fern.

Mr. Gary Fern, Executive Director of the ACSA, was present. He welcomed Mr. Thomas and Mr. Snow as new Board members. He said there had been a water main break on the Rivanna Water & Sewer Authority's (RWSA) main transmission main from its North Rivanna Water Treatment Plant to the Piney Mountain area; that pressure zone serves the area from Hollymead north to the Piney Mountain tank. As a result of that break, approximately 500,000 gallons of water were lost on Monday night a week ago. Everyone acted quickly to stabilize the area. Monday night was spent both opening and closing valves in order to move the urban pressure zone further north to serve customers up to the North Fork of the Rivanna River. At the same time, they worked with a supplier and had a pump which met their requirements shipped down from New Jersey.

Mr. Fern said that by Tuesday night water was being pumped from the urban pressure zone into the Piney Mountain zone and they were able to start refilling the storage tank at Piney Mountain. He said the City also offered the assistance of any of their staff that might be necessary. All three entities worked together to minimize the outcome of this incident. By Thursday morning the pipe had been rerouted and the main repaired. They took the last set of samples Friday morning had them analyzed and got a report from the Department of Health saying they could rescind the "boil water" notice. He said that within a four-day period there was a lot of "scurrying around" which alleviated what could have been a very serious problem. He acknowledged the CVS Store for allowing the pump to be parked in their lot.

Mr. Fern said the consultant for the North Fork Regional Pump Station has taken their 60 percent review comments, and is working to get the 90 percent submittal which is scheduled for March 5. ACSA is hoping to advertise the project around May 1 with construction starting soon thereafter and with completion by December, 2011. Originally the ACSA thought they would have the developers pay for the project, but due to the economy developers could not come up with the funds so ACSA is looking at instituting a special rate district for that area. A public hearing is scheduled before the ACSA Board at its meeting on the third Thursday of this month. The rates that have been established based on the 60 percent design documents will be \$854.00 for equivalent resident connection for those developments north of the North Fork Rivanna River, and \$2,088.00 for residential connections south of the North Fork of the Rivanna River. That will help ACSA repay the bonds it will take out in order to pay for the project.

Ms. Mallek asked if non-residential users use that formula in another way, i.e., how does the ACSA get recovery from manufacturing and commercial facilities. Mr. Fern said that is the cost for any new connection that will occur in the special rate district, residential or non-residential – it is the same for commercial, manufacturing, industrial, institutional, or residential.

Mr. Fern said the ACSA has started its budget process. They will be presenting their Board of Directors a draft budget at the end of February. They are not looking at any major increases for purchases; they are trying to keep it as lean as possible for this fiscal year.

Mr. Fern noted that this is his last quarterly update. He will be leaving the ACSA at the end of the month and Mr. Gary O'Connell will be the new executive director. He said he appreciates the support he has gotten from this Board and the ACSA Board over the years.

Mr. Rooker said the Board will miss him also. He wished him luck in his future endeavors.

Ms. Mallek asked about infiltration through the manholes in Crozet. Mr. Fern explained that the ACSA performed a sewer system evaluation survey in 2009; the final report is due at the end of this month. ACSA staff will bring a design contract to the ACSA Board at its February meeting to implement recommendations from the consultant and move it right into construction. That work will be completed by the end of the year.

Ms. Mallek said VDOT has gotten the idea there is a freeze on connections along Jarmans Gap Road and it is affecting the amount they are willing to pay to people for right-of-way. She hopes someone on ACSA's staff will try to correct that impression. Mr. Fern said he will contact VDOT quickly.

Mr. Rooker said in terms of Albemarle Place is there anything that needs to be done with the ACSA in order to have that development hook onto the system that's not in place now. Mr. Fern explained that the ACSA has been working with that developer. They had worked through a proposal to get sewage flow from Albemarle Place to the new Meadowcreek Interceptor; that route goes on both County and City lands so the ACSA has been working that with the City's Department of Public Works.

Mr. Rooker asked if it has worked out. Mr. Fern said he has not seen a formal submittal, but he heard that the easements were signed by the property owners.

Item No. 10b. Rivanna Water and Sewer Authority, Tom Frederick.

Mr. Tom Frederick, Executive Director of the Rivanna Water & Sewer Authority (RWASA) was present. He commented that he has appreciated Mr. Fern's service over the past three years, and he will be missed. He also welcomed Mr. Thomas and Mr. Snow, and offered to meet with them one-on-one at any time.

Mr. Frederick reported that easements for the Meadowcreek Interceptor were granted by City Council in December; a construction contract has been awarded and it is being executed now. He expects there will be a Notice to Proceed with construction, with completion in the summer of 2011.

Mr. Rooker asked how the costs of that project compare with the engineering estimate. Mr. Frederick said the bids received were extremely favorable given the downturn in the construction market. The original estimate for the project was around \$30.0 million, and now they think it will be under \$20.0 million. Because of the present condition of the market, they had bidders from Minnesota, Texas, names they had never heard of. Interestingly, the out-of-state bidders did a better job of sharpening their pencils than bidders in state.

Mr. Frederick said since 2006 his staff has been working on the Wastewater Comprehensive Plan (staff calls it Comprehensive Sewer Plan). Soon after he came to the RWSA, he found that in terms of internal evaluation, the area of the system that had been neglected the longest and in the greatest need of repair was the sewer interceptor system. He said when there are problems with a sewer system, in order to fix it right there has to be planning and study first – that takes data collection, engineering, planning, and all of that takes time. A great deal of their time in 2006 was spent collecting data, measuring flows and waiting for it to rain. He added that during the past few years, they have had to wait for flow data until there was sufficient rain. They finally got the wet weather data, a computer model was calibrated, and their engineer prepared some recommendations, and they had discussions with the ACSA and the City.

Mr. Frederick said they have been focusing on a core question for the last few months. The question is to what extent is it cost-effective to close the gaps in the system to keep rainwater from getting into the system when it rains versus building bigger pipes on the rear end of the system to handle the rainwater that gets into the sewer system. That's the toughest question to answer. It has to be answered with limited data because it would take years to go out and do detailed surveys of every pipe in the system to come up with a purely technical answer.

Mr. Frederick said RWSA made a proposal to the ACSA and the City approximately a year ago. Basically they said the plan to remove the rainwater from the system was aggressive, and had higher standards than what could be reasonably achieved. They have been negotiating those standards. He thinks they are moving toward an emphasis on bigger pipes for the RWSA system, while still closing as many gaps as the two cooperative agencies feel they can do. They are pushing the consultants to use the computer model to get solutions that fit where RWSA is in the current negotiations. He hopes this issue will be rectified soon. However this process works out, RWSA will be as effective and efficient as it can be, but this is a costly endeavor. When sewer lines have been neglected for decades, there's no simple band-aid fix to solve the problem. RWSA is dedicated to finding a real solution because they see this not just as a service issue, but as an environmental issue.

Mr. Frederick said there was a period of drier than average weather from about 2005 until about October, 2009; over the past three months, there has been a dramatic shift in the weather back to a wetter than normal cycle. Stream flows are the highest they've been over a consistent period of time in five years. That is also being felt in the sewer system. Unfortunately, there are places in the sewer

system where despite vigorous efforts by staff there just isn't the capacity to hold all the rainwater coming into the pipes when it rains. The problem has to be fixed.

Mr. Rooker said Mr. Frederick mentioned the problem of handling infiltration in the ACSA and the City's systems, or at the backend of the RWSA system. He just wants to make certain that when those cost studies are done, the cost that should be borne at the jurisdictional level does not fall on the RWSA.

Mr. Boyd said that struck a note with him also. Is there any way to proportion out the cost of the existing sewer pipes? Are most in the County or in the City, or is there no way to know that?

Mr. Rooker said most of those pipes are in the City. It is a much older system. There needs to be a way to handle the problem the least expensive way, and the decision not be made because it is convenient to just push the cost off onto the RWSA where the costs are split rather than being borne by the jurisdiction that has the problem.

Ms. Mallek said if the cost is pushed to the sewage treatment plant that is the most expensive option if a higher flow has to be handled there. The new EPA regulations will make it harder for RWSA to meet the standards. She does not want to put any additional volume into the sewage treatment plant than necessary. It seems that manhole covers are cheaper than doing that.

Mr. Frederick said it is a balancing act. In the upper reaches of the sewer system serious problems that can be fixed cheaper will be found. Some of the infiltration comes by small drips – That is where there is a small drip one joint after the other. If it ended up rebuilding the entire system, too much would be spent to rebuild the system and the system still would not carry the flow. That is what they are negotiating about now and he thinks they are closing the gap on the different proposals made. They are optimistic that there will be an agreement soon. No matter which of the three entities actually builds the facilities, RWSA depends on the ACSA and the City for its revenue, so it comes back to all citizens.

Mr. Frederick said he would like to mention the studies related to the water supply. There were meetings of the four boards (City Council, Board of Supervisors, ACSA, RWSA) in November, 2008 and March, 2009. At the March meeting it was decided to conduct additional studies and get more information before making decisions on how to move forward with the water supply plan. One decision was to get an expert panel together with respect to the design of the dam itself, to get the best recommendations from the world's experts, complete the geotechnical investigations, identify what the foundation conditions need to be, and get a preliminary design cost estimate (which is a higher level of work on an estimate of what it's going to cost to build the dam). That work is in progress now. A lot of the geotechnical work has already been gathered in the field. Included in that is work above the dam to see if there is aggregate or materials in the ground in those areas that can be used as the raw materials for the dam. That can help reduce the cost of having to export materials from elsewhere and bring them down a one-lane road. At this time limited work has been done on the preliminary design which is where the cost estimate will be. From now until May, there will be heavier work on the design of the project and he expects the cost estimate will be ready in May.

Mr. Frederick said there was also a request to do a review of the conceptual design of the proposed South Fork to Ragged Mountain pipeline, which Rivanna said did not have to be built immediately, it can be phased in later. There will be a report to the public later this month on that review. It is limited to a cost of \$25,000 and is within the scope of the framework of the plan which has received a permit, and is what the four boards asked for. In addition, HDR has gathered data on the South Fork Reservoir in recent weeks, and reports will be published this month on the bathymetric survey of the South Fork Reservoir – that included sample collection and analysis, an estimate of the volume of sediment that can be dredged from the Reservoir and the fringe wetland issues created by dredging. That is the first part of a two-phased dredging feasibility study; the second half of the review will include heavy engineering applications with regard to how to dredge, where to take the spoils, how to process them, whether they can be used for beneficial products or disposed of. Within the next four to six weeks they are expecting to hold a public meeting with citizens to get feedback. The results of the first phase will be reviewed at that meeting.

Mr. Frederick said City Council is going to hire its own consultant to look at raising the Ragged Mountain dam by 13 feet. RWSA has a proposal from its consultant to do that work which focused on two phases – first would be a feasibility study to determine if it is feasible to raise the dam. If the answer is "yes" to that question, they would then prepare a preliminary design cost estimate. He is not sure how the City intends to approach the scope. He said City staff has suggested, because of the procurement process and the time it takes to do it, that this particular evaluation may not be available until fall of this year. RWSA was teeing up the additional studies the four boards authorized in March, 2009 to focus on making some decisions this summer about implementing a new water supply plan. The City's additional study could potentially delay that process into late fall.

Ms. Mallek asked if there is a structural soundness component to the current Schnabel study, i.e. their view of adding something onto the current Ragged Mountain Dam. Mr. Frederick said the contract with Schnabel covers the preliminary design of a new dam but they are not addressing a new dam. They offered a proposal to separately evaluate the existing dam, but City Council decided to put out an RFP and go through a different consulting selection process.

Mr. Boyd said he understands there is some significance attached to delaying the decision past this summer - a whole construction season could be lost. He asked if that is true. Mr. Frederick said many of the preliminary activities connected with dam construction can be all-whether activities (setting

up the site and getting it staged), but the actual construction of the dam itself depends on how it is constructed. It can be season specific.

Mr. Boyd asked what happens if this is delayed beyond the original schedule - will a whole season be lost. Also, a favorable bidding environment might be lost so watching timelines will be important.

Mr. Rooker said that in October Mr. Frederick discussed the work DEQ was doing to determine whether or not downstream flow requirements could be satisfied if the existing dam was raised by 13 feet. There are two threshold issues. One is whether this 102-year-old dam is capable of being added to in place. He understands there is some evidence of water seeping through the dam today. Its structural integrity was questioned back in 1920 and there was a report done then that indicated the dam was not structurally sound. Earth was then pushed up in front of it to try and shore it up. Another dam of the same construction type failed. He said the second question is, if the height were increased would a water supply permit be issued for that kind of project. If the answer to either of those questions is "no", then a lot of time, effort and money is being wasted. He thinks the answer to the DEQ part should be available because they were modeling four or five months ago. Mr. Frederick said he does not know the status of that work, or the intentions of DEQ.

Mr. Dorrier said he thought RWSA recommended that height be added to the existing dam and the pipe to the North Fork Rivanna constructed. Mr. Frederick said RWSA staff has not recommended adding onto the existing dam, but they are sensitive to the debate in the overall community. If they are asked to put information together to help that discussion, they will do that.

Mr. Rooker said he understands that Mr. Dave Norris and Mr. David Slutzky went to meet with DEQ in Richmond. DEQ said they would run a model and it would determine whether adding 13 feet to the dam would be an approvable plan because there are downstream flow requirements regarding the Moormans River. He thinks it would be helpful for the community if someone would follow up with DEQ; if they did the work, get an answer. City Council may be spending \$150,000 on a study of that dam and adding to it may not even be feasible. He thinks the community needs an answer to that question – it is not just a City issue. If the opportunity to go forward in the current bidding climate is missed, it may cost this community 30 percent of the cost of the project based on other things that have been seen. The Meadow Creek Parkway bids just came in 35 percent under the engineering estimate. Virtually every project in the last six months have come in 30 or more percent below the engineering estimate.

Mr. Boyd said because water capacity will be needed in the County where the growth is, it is important to remember that the biggest burden of the costs of this new dam will fall on the County. We can't let the persons who are driving a small portion of this cost control what is done and lose the tremendous opportunities available now. The biggest costs will be on the County's citizens, not the City's citizens.

Mr. Rooker asked if Mr. Frederick can follow up with DEQ. Mr. Frederick agreed to follow up with DEQ. He thinks they took on the challenge but are having a more difficult time producing the results than anticipated.

Mr. Thomas asked who owns the reservoirs. Mr. Frederick replied that the South Fork Rivanna and the Ragged Mountain reservoirs are both owned by the City of Charlottesville, but RWSA was granted water rights to operate facilities there, but ownership was never conveyed. He added that the same is true of Sugar Hollow, but Beaver Creek is owned by Albemarle County.

Mr. Frederick said the next item he will mention concerns dam safety. This is related to the existing Ragged Mountain dams, upper and lower. He said the new dam proposed would take both of the older dams out of service – the first one was built in the 1880s; the second one was built 102 years ago. He said the Dam Safety Office in Virginia has been concerned about the safety of those two dams for a while. He said what is being dealt with is what risk managers would call a low probability, but high consequence event. Low probability in the sense that the dam as it sits today is not in threat of failing, but if a large flood event came (that is not likely to occur) and it started to overtop the dam and erode away the earthen embankment, the dam could be in threat of failure.

Mr. Frederick said one study indicated that if there were an earthquake in this area, there is a possibility of "liquefaction" of the earth and embankment and that could threaten failure. It is not something that will happen today, but while there is small likelihood, it has huge consequences including possible loss of life. Throughout the country when dams are built, regulators insist on very conservative levels of safety to protect the public even from events that are not likely to occur in our lifetime. They require that measures be taken here to rectify the problem. It can be done by building a larger spillway, although there are a lot of issues attached to that. In 2006, this community decided to accomplish multiple things at one time with the same money; it was decided to go ahead and supply the community's 50-year future needs rather than simply make repairs. Both options still exist from Dam Safety's point-of-view. He said directives from the RWSA Board to him continue to be to pursue the 50-year plan until there's some decision to go in a different direction.

Mr. Frederick said in November RWSA was called to meet before the Virginia Soil & Water Conservation Board which makes decisions regarding dam safety. That is a bit unusual –they do consent agenda approvals of dam operating certificates and it is rare when they ask somebody to appear. That is an indication that they have concerns and want them addressed. Their concern was about RWSA's schedule, which is slipping. RWSA's commitment in 2005 was to have safety issues rectified by June, 2011, but it will now be February, 2013. He said if additional studies like the one the City is now pursuing

create more delays in the process RWSA may have to give different dates for complying with the safety rules. He does not know at what point they might decide to take some decisive action. They did grant a six-month operating certificate extension in November after that meeting, but RWSA will likely have to appear before them again in May to provide a progress report. The big milestone is in August, 2010 - if RWSA is going to meet the 2013 schedule using the new dam construction scheduling processes a final decision will be needed by August, 2010 to authorize final design. He anticipates that when the studies come together this summer that another meeting of the four boards will be needed to discuss what kind of decisions they want to make.

Mr. Frederick said he will mention a couple of projects RWSA is working on that have a greater impact on the County. On a site they already own on Woodburn Road, the RWSA is building a new pump station to replace a very old pump station that is feeding water to Stillhouse Mountain. That area of service is around Albemarle High School. Without the upgrade, they are vulnerable to failures of the old pump station, and failures can put people out of water. That project is currently in design.

Mr. Frederick said RWSA is designing a temporary pump connection near the Hollymead Towncenter. That is an area where they put in some hardened pipe with caps in two locations – one is on the RWSA's feeder line and the receiving end is on the ACSA's pipe – and they will be procuring a dedicated pump for emergency water pumping, similar to the pump ACSA rented. He said that will allow faster response to emergencies and will be a temporary way of providing backup if the primary source to the North Fork system is lost. It was already in design when the incident happened last week. He said they consider this as a temporary stop-gap way of providing backup when the primary source is lost for any reason.

Mr. Frederick said as the County is accommodating additional growth in the North Pointe area and areas north of the Airport, there is need for a reliable second way of providing water to that system. He said RWSA has had difficulty siting a pipeline because there is only one highway connecting the South Fork to the North Fork and that is Route 29. He said VDOT will not allow them to put a new pipeline in its right-of-way. They have talked to the Supervisors before about the idea of using the proposed Berkmar Drive. That would be the ideal location for a second pipeline if that road is ever built. If the Supervisors are going to pursue the new roadway, RWSA would like to be a partner in that project. If the decision is not to pursue it, RWSA needs to find a second route – it would be a longer route and more costly, but if that is the decision, then the RWSA needs to pursue that option. In the long term as this area grows, they cannot accommodate the kind of failure that happened last week. They need a second reliable system.

Mr. Dorrier asked if "partnering" meant the RWSA might be willing to add funding to it. Mr. Frederick said that is a question the RWSA Board of Directors would need to address. He thinks the way to partner is to put all the issues on the table and talk about what each can do. RWSA is not in the road-building business.

Mr. Frederick said the Rivanna Solid Waste Authority (RSWA) has an RFP out now for solid waste companies to submit proposals to address how they might assume operation of the Ivy Transfer Station and perhaps other services RSWA is currently providing. The RSWA has received some interest if the community wants to continue to offer those services – the most popular being the McIntire Recycling Center. They have had pre-proposal conferences and five firms responded; the proposals are due March 2, and staff will present those proposals to the RSWA Board at their April meeting. Some of the items in the proposal are "enterprise services." This means that a private company would take over the operation, set their own rates, set their own business/marketing plan, etc., and not rely on government for funding. There are some services included that are not traditional market services because they are free public service programs and there's no revenue for anybody to look at them as an enterprise. He said the Supervisors and City Council will have to make decisions about continuing some things, such as the McIntire Recycling Center.

Mr. Rooker said some people who might consider bidding on this have discussed scattering recycling centers around the community. He asked if there has been any indication that is the case. Mr. Frederick said one of the firms the RSWA met with mentioned that, and the RFP does emphasize that "innovative ideas" are welcome, as well as ideas that go beyond or just change and make efficient what is done today.

Mr. Rooker asked what the RFP says with respect to use of the Ivy property. Would it be a lease arrangement? Mr. Frederick said "yes."

Mr. Rooker asked if it would be an environmental hold harmless lease arrangement for the property. Mr. Frederick said "yes." There is a draft of contract provisions, such as indemnification and insurance, but remediation of the Ivy landfill is not part of the RFP and is excluded from the leasing or the work a private company would come in and assume. He anticipates this could involve restructuring of the RSWA organization because there is now joint administration of the two authorities (RWSA & RSWA). There could be some restructuring or rework of how administrative services are provided.

Mr. Tucker said the privatizing approach was something that was brought to this Board, and it agreed it should be done.

Ms. Mallek said the big bin at Whole Foods (which the public is invited to use), is turned around three times a week. She said there is no "mess" issue involved with it, so she is glad to hear there may be some ideas coming forth about putting bins in different commercial areas. She thinks compliance

participation would zoom way up beyond the minimal amount the County is getting now. She thanked Mr. Frederick for the report.

Agenda Item No. 11. Department of Social Services Annual Report, Wanda Kucera (Chair).

Ms. Wanda Kucera, Chair of the Advisory Board for the Albemarle County Department of Social Services, was present to present the Department's FY '09 Annual Report which is a specific duty of the Board defined in the Code of Virginia. She introduced Ms. Mary Lou Fowler who is a member of the Advisory Board and Ms. Kathy Ralston, Director of the Department. She also recognized Mr. Bryan Elliott, Assistant County Executive, who she said is a wonderful addition to the DSS Advisory Board.

Ms. Kucera said the Annual Report was sent to the Board previously. On Page 3 of the report is a letter from the Advisory Board explaining their focus, their mission and their methodology to obtain their goals. During the year, they created several new processes, one of which identifies the staff's needs and wishes. These were unfunded things – things they were able to get donations for to enable staff to do their jobs more effectively.

Ms. Kucera said the original Bright Stars class graduated from high school this year, and they successfully sought scholarship funds so that all of the graduates got some money for furthering their education. She said that on Page 4 there are performance indicators which are actually the "report card" for the Department. They monitor 35 outcomes, but the leadership team chose nine to focus on this year. She said results for five of the ten far exceeded the set goals, and three were close to target. A problem existed with job retention of VIEW participants. This is a tight economy and some of these people are the last to be hired and the first to be let go from employment.

Ms. Kucera said Pages 6, 8, and 9 of the report show the increase in caseloads relative to food stamps, energy assistance, and temporary assistance to needy families – they can also be attributable to the local job situation. Pages 12 and 13 address services to the aging population. It is critical that companion services be provided to senior citizens which allow them to stay in their homes as long as possible. She said the numbers in the report remain steady but are somewhat driven by funding constraints.

Ms. Kucera said Page 19 shows the usage of the career center that is located in the DSS office. As expected, the number of job seekers has increased during the year. Their customers come to the center to the computers - they get help on preparing for an interview, and do job searches with staff assistance. Finally, on Page 23 is the budget for the department. She said the Supervisors have been supportive of the department, but the department also works diligently to leverage its money to bring in additional revenue to deliver services. She said the Federal and State dollars totaled over \$77.0 million this past year, being brought into the community through investment. She said the \$77.0 million are high velocity dollars and are used for shelter, food, and retail goods. They go back into the community so the community at large benefits from these moneys.

Ms. Kucera said the DSS Advisory Board appreciates the privilege of working with Ms. Ralston and her staff. She suggested that the Board members visit the department because the employees go above and beyond the norm in serving the residents. It is a tough economy with increasing workloads and they get some thank-you notes, but not many. From her observation, they deal with their customers in a competent and compassionate manner. She is happy to see that the people who go there are able to maintain their dignity as they are helped during this difficult time in their lives. She then offered to answer questions.

Ms. Mallek asked if people from the One-Stop Center come to do shifts at the DSS Career Center, or is that something DSS has to man by itself. Ms. Kucera said she knows there is a cooperative relationship. Ms. Ralston said there is a cooperative relationship – they are a satellite of the One-Stop Center. During this time of low staffing, two people from the One-Stop Center come to help staff the DSS Center.

Ms. Mallek asked if they cover all the various agency bases or does DSS come one day and VEC another day. Ms. Ralston said there are two VEC employees who come over, but she does not know how long that will last because they are funded by stimulus money.

Mr. Dorrier asked the success of the career center. Do people find jobs? Ms. Ralston said they don't have a way to measure whether people find jobs. It is similar to the Resource Center at the One-Stop Center in that there are no caseloads for the Career Center – they know how many people come in and how many repeat users there are. Unless someone calls to say they got a job, they don't know how many people are successful in getting jobs.

Ms. Kucera said she left out one thing – on Page 19 there was an error. There were six adoptions during the past year, even though the written report shows a zero.

Ms. Mallek referred to Page 4 and the numbers shown for vulnerable adults and child protective services. She asked how to get those numbers up to where they should be. All the other numbers were significantly above guidelines. Ms. Ralston said those are the KPIs. The target number has been adjusted down from 100 percent as that was overly optimistic. It is really a staffing issue. She said the Albemarle DSS recently created a new risk-assessment tool to be used with that adult population; it will be the first one in the state. They are going to loan it to the state if it is successful. She thinks that number will change for next year.

Ms. Mallek said emergency intervention and that sort of thing is right at the top number. Ms. Ralston said the DSS has good data on getting a quick response to see adults, but they cannot get to some of the follow-up as quickly because of staffing numbers.

Ms. Mallek thanked Ms. Kucera and Ms. Ralston for the report.

Agenda Item No. 12. Natural Heritage Committee Annual Report, Lonnie Murray (Chair).

Mr. Lonnie Murray was present on behalf of the committee. He said he would explain the vision of the committee for the new Board members. Most people who live in Albemarle for any amount of time are attracted to its natural beauty. He said the natural resources are the foundation for much of the economy. When students choose a school, or people buy a home, or tourists come here to visit, they see there is something special about this place. It's impossible to separate the beauty of the area and its natural resources from the people themselves. The farmers of the valleys and the people who have lived in the mountains for many generations are people rich in culture and history. To illustrate this point, he brought the Supervisors some paw-paw custard pie.

Mr. Murray said paw-paws are fruits that grow along rivers in the County and since Colonial times people along the Rivanna and James Rivers would serve paw-paw custard at inns and lock houses. The tree is a tropical looking tree with teardrop shaped leaves and is the only host for the Zebra swallowtail butterfly. Since paw-paws are not in grocery stores, many people have forgotten about them. If you ask people who live in the country, you will find that picking up paw-paws in the fall is still a cherished local tradition. As more people live in the suburbs they have increasingly lost touch with the natural heritage. Even in policy it can become too easy to see a stream buffer as lines on a map without seeing the paw-paws.

Mr. Murray said a primary goal of the committee is to help identify the natural resources in the County that help make it unique, and work with landowners and policymakers to find ways to preserve those resources for following generations. In doing so, they help preserve a deep history and a way of life going back to Thomas Jefferson and before.

Mr. Murray reported that in the past year the committee has applied practical knowledge about the County's natural resources to some new policies. At the request of the County, they provided input on the new weed ordinance to find the least restrictive approach that would not penalize people in rural areas and would allow people in growth areas to plant native plants and wildflowers to benefit wildlife. In a similar way they were asked to evaluate the potential use of wind power, and it was clear from their research that it would have a negligible impact on wildlife. They voiced their support for a reasonable policy that would permit this on a small scale. They also communicated with the ACE Committee to help invest conservation dollars as wisely as possible by using scoring criteria that takes into account the special places and resources the committee has identified through its ongoing work.

Mr. Murray said the committee has begun providing input on the Comprehensive Plan that they feel will help simplify and improve the effectiveness of the County's approach to rural areas and natural resource conservation. They also engaged landowners, farmers and citizens by participating in Charlottesville Earth Week where they distributed native wildflower seeds and a questionnaire for participants to report important natural resources on their own property. At the Albemarle County Fair, they collaborated with the Baldwin Preservation Center to develop a presentation to help educate landowners about various incentive programs and tools that would help protect streams and wildlife while possibly saving the family farm.

Mr. Murray said the Natural Heritage Committee continues to update its website and hopes to bring online some new resources in the future including an online forum to report natural resources. They have been actively involved in developing a close partnership with Parks & Recreation to provide important data that will help inform their planning process for new parks. Given the many possibilities for a new park, like Preddy Creek, the committee provided guidance to P&R to help make sure that new trails and other park features minimize damage to streams, wildflowers and wildlife habitat.

Mr. Murray said for the Patricia Ann Byrom Forest Preserve Park, the committee was engaged in the process much earlier and has already spent time helping P&R help identify natural resources which could provide valuable information for management and planning in the park. It is also their hope that as the master planning for the Biscuit Run State Park proceeds, they may be of use to the County in that process as well especially given their experience working with DCR and identifying natural resources.

Mr. Murray said in addition, the committee continues its ongoing work in developing a landscape-scale conservation plan for the County including a partnership with the Nature Conservancy, StreamWatch, and other groups to create a land-cover mapping for Albemarle. In the coming year, the Committee feels the skills they have developed will be useful as they continue to provide input on relevant sections of the Comprehensive Plan, and their input may be needed on policies that affect the rural area, urban habitat, and natural systems.

Mr. Murray said they will continue to collaborate with other conservation organizations such as the American Chestnut Foundation which hopes to establish a test farm for the reintroduction of the American Chestnut in the County. Currently the only support the committee receives is the limited time of Scott Clark, Senior Planner, who serves as liaison at monthly meetings and has been a tremendous asset by helping the committee focus its effort on the priorities most important to the Board and staff. Although there are additional kinds of support that would improve the role of the committee to meet its objectives

they realize that everyone is under financial constraints now. In that spirit, the committee feels it can help the County maximize the money and volunteer resources available now toward protection of the places and resources that matter most. In short, the committee works best when it is used to its fullest extent. For example, when green spaces are included in a rezoning or Comprehensive Plan change, there are ways to do more to direct the protection of open space to the areas that have the most conservation and recreational value for the public.

Mr. Murray said that lastly, when restoration takes place in the urban areas and parks there may be the potential to use information gathered by unique plants and animals and landscapes to inform the way we make developments look and feel in Albemarle County. Like the paw-paw, the County is unique and the more that is known about what makes it so the better these qualities can be preserved for future generations to enjoy. Since staff time is at a premium, they encourage the Board to use the committee for support and input when developing policies that affect rural areas, green spaces and the natural systems.

Ms. Mallek said she had planted about 50 paw-paw seeds along her stream and she hopes the squirrels did not eat them all. She asked if Board members had questions.

Mr. Thomas asked how the committee supports the ACE Program. Mr. Murray said they help identify areas in the County that have natural resources – that means rare species, rare plants, rare animals or unique geologic attributes – so that when ACE grants conservation easements they can score those properties higher. This also rewards the landowner who has those assets on his property. It helps direct conservation to the properties that are most in need of protection.

Ms. Mallek asked if the “bio-blitz” is going to be held the first of May, which will assess all the different things available at the Byrom Park out in White Hall. Mr. Murray responded that there are already a lot of volunteers lined up for that event. He said that is a very important project they are currently engaged in.

Ms. Mallek thanked Mr. Murray for the good work of the committee.

Agenda Item No. 13. Closed Meeting.

At 1:42 p.m., **motion** was offered by Mr. Thomas that the Board adjourn into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees and commissions; and, under Subsection (7) to consult with legal counsel regarding a specific legal matter requiring legal advice relating to retirement benefits.

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

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

Agenda Item No. 14. Certify Closed Meeting.

At 2:42 p.m., the Board reconvened into open session.

Motion was immediately offered by Mr. Thomas that the Board certify by a recorded vote that to the best of each Board member’s knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed 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: Mr. Dorrier, Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas and Mr. Boyd.
NAYS: None.

Agenda Item No. 15a. Boards and Commissions: Vacancies/Appointments.

Motion was offered by Mr. Snow to:

Appoint Ms. Jacqueline Bryant as the joint City/County private provider on the Commission on Children and Families, with said term to expire June 30, 2012.

Appoint Mr. Bill Hamrick to the Housing Committee, with said term to expire December 31, 2012;

Appoint Mr. Devin Floyd to the Natural Heritage Committee, with said term to expire September 30, 2013;

Appoint Mr. John Foster to the Natural Heritage Committee, to fill the unexpired term of Ms. Jan Ferrigan, which expires on September 30, 2011;

Appoint Ms. Janet Morrow as the Samuel Miller District representative to the Board of Social Services, with said term to expire December 31, 2013;

Reappoint Ms. Teri Kent to the Rivanna Solid Waste Authority Citizens Advisory Committee, with said term to expire December 31, 2011.

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

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

NAYS: None.

Agenda Item No. 16a. VDOT Monthly Report, Allan Sumpter.

Mr. Allan Sumpter, Residency Administrator, said VDOT has been busy dealing with snow removal and flooding issues. A few weeks ago, just before the snow event, there was flooding and it caused lots of problems particularly on gravel roads. Prior to last week's snowstorm, VDOT was trying to add some stone on those roads and do some blading to shape those roads and get them in passable condition. The freeze/thaw cycle is wreaking havoc on a lot of these roads. It will require a period of time, and they will need the help of Mother Nature to dry out the roads so they will be able to take in a motor grader and make larger cuts and add stone and reshape them. In Mr. Boyd's district there were a couple of roads where they were going to make deeper cuts but that caused problems. He thinks Mr. Boyd got a lot of telephone calls; he did as well. The simple fact is that at this time of year on the gravel roads if they try to blade them heavily as they do in the summer, it turns them into a muddy condition and vehicles just end up sinking. He said the key is to keep the roads in passable condition so even if cars hit an occasional pothole they can get through.

Mr. Sumpter said the area was hit again this past week with a pretty good snow event. They were pleased that things went better. One thing that is key to VDOT's ability to execute its snow removal plan is when the storm hits and how much traffic is on the road at the time. It only takes a couple of accidents to tie up VDOT trucks in traffic so they cannot get the chemical down. They try to get the trucks out, pre-staged. The office has received calls from people who object to seeing the trucks out before the snow actually starts to fall, but they do the best they can based on the weather forecasts. If the forecast calls for snow at 2:00 a.m., they try to get the trucks staged well before that hour in order to get in front of the traffic. He said that if the Supervisors get calls, they can be directed to VDOT's office for a reply.

Mr. Sumpter said I-64 is VDOT's first priority to keep traffic moving, then they will keep trucks on the primary routes of 29, 20 and 53 until they are in a condition that traffic can move along well before moving the trucks into the major secondary roads. They are using contractors to help supplement VDOT staff. In the storm event over the last weekend, they had all local resources they could get and all the resources that could be brought in under the emergency declaration - about 75 pieces of equipment were working in the residency, Albemarle and Greene. When possible they put the contractors wherever possible, such as in Forest Lakes. They told that contractor to work that area continuously - a lot of that work is done with smaller equipment that cannot be used on primary roads.

Mr. Sumpter said that finally he will mention that when there is a significant event and they have to bring people in from outside of the area (they brought some in from Culpeper and Lynchburg), these people are given a map and the roads they are to work are marked. Sometimes things happen and they might miss a road - Inglewood Court is an example. They try to get the main road through a subdivision cleared, and sometimes the equipment of a contractor is too big to go into a cul-de-sac or there are cars in the way. They do their best to try and get all of the snow cleared within 48 to 72 hours depending on the severity of the event. He said a lot of things have been said about the upcoming weekend. He just checked with his office and the latest forecast from VDOT's meteorologist is somewhere from 12 to 24 inches. It may be another significant event, and they said icing may become a part of it depending on where the weather line mixes. They are gearing up for that storm.

Mr. Rooker said he thought VDOT did an excellent job during the last storm. Mr. Sumpter said for that storm they already had everything pre-positioned and it was a different type of snow.

Item No. 16b. Transportation Matters not listed on the Agenda.

Mr. Rooker said Dominion Drive has gotten very torn up - it has a lot of potholes. Mr. Sumpter agreed to look at it.

Mr. Sumpter said engineering bids have been received on the McIntire Road Extended project. They were about \$3.4 million versus the initial project estimate of \$5.7 million; the bid is under analysis now so awards can be made.

Mr. Sumpter reported that pouring of the deck is imminent for the Advance Mills Bridge, but the weather is affecting the timeline for completion of that work.

Mr. Sumpter said VDOT has forwarded the request for the speed study the Board requested last month on the Buck Mountain Road (Route 663) to the Traffic Engineering section. The speed study cannot be done until the road will allow a realistic speed.

Ms. Mallek asked if police cars are normally sent to sit there and watch for the speed study. She noticed that people slow down so it's not really a valid judgment.

Mr. Sumpter said that was done by the County gathering information for the possible \$200.00 speeding fine. VDOT runs its speed studies using white VDOT vans and there is technology now that allows small discs to be placed on the road that will collect the speed information for them.

Ms. Mallek asked if VDOT has any legislative backing or does the County have any ability to have standards about the way people plow snow, as a lot of people are moving snow off of their property into a ditch on the opposite side of the road and effectively building up an icy berm. It was so bad on Advance Mills Road that they had to get a grader in December to break up the ice that had built up. Mr. Sumpter said there are laws about interfering with traffic, etc. But he is not aware of any specific law concerning snow.

Ms. Mallek said she was hoping that the same regulations regarding tracking mud from a construction site onto a road and creating a danger would somehow apply to this.

Mr. Snow said he attended a forum concerning Route 29 South and the citizens were concerned about the accidents and speed on that road. He asked what is being done to address the area around the Crossroads Store. Mr. Sumpter said that in late November or early December, the County Police Department created a task force to look at the Route 29 Corridor from I-64 to the Nelson County line. That task force is comprised of State Police, County Police, the AAA, insurance companies, etc. In support of that VDOT has been doing a study of that same section of the corridor looking at crash analyses and other data; their report is in draft form and it will be presented to the task force soon. He thinks there will be some recommendations for both long-term and short-term improvements that VDOT can try to do. He said that one thing talked about was tree trimming; that area of the County has been sensitive to any kind of vegetation work. VDOT is doing the study to support the efforts of the County Police Department.

Ms. Mallek asked if accident data for a particular intersection is available on the VDOT website. Mr. Sumpter said he does not think it is available.

Mr. Dorrier said he has received a call about Route 671 (Briery Creek Road) in Woodridge concerning its maintenance. Mr. Sumpter replied that VDOT has also been receiving those calls. He has talked with that gentleman.

Mr. Dorrier said Route 612 in Keene near Plain Dealing and Pine Knot is four-tenths of a mile of unpaved road that is essentially washboard. Mr. Sumpter indicated that VDOT is looking at a lot of roads in that condition. He will try to get that one on the schedule.

Mr. Thomas said he received numerous telephone calls from people who live in the Earlysville area who resent the lowering of the speed limit and they really resent the possible \$200.00 speeding fine.

Agenda Item No. 17. Village of Rivanna Master Plan, David Benish.

Mr. David Benish, Chief of Planning, said staff began work on the Rivanna Village Master Plan in June, 2007 with the Planning Academy, and undertook a number of workshops with the community over the course of the year. There were four workshops and six work sessions with the Planning Commission beginning in 2008 going into 2009. The Commission reviewed the draft plan and in November, 2009 recommended unanimous approval of that draft plan. The key points that came out of the discussions with the community were to retain the existing neighborhood character of the Rivanna Village, that new development approvals would only take place after certain transportation improvements were completed and sewer capacity existed in the sewer treatment plant, the form of development within the master plan focuses the higher densities and mix of uses in the Village Center Area (which was adopted some years ago) radiating that density from higher to lower out from the village center to the edges of the Village. The very east side of Carroll Creek would receive the lowest density to recognize its current character as a transition into the rural areas – it is designated for approximately two units per acre.

Mr. Benish said transportation needs that have been identified in the general Route 250 East area are the six-laning of Route 250 East from Free Bridge (City line) to I-64. That improvement is already identified in the Pantops Master Plan; the four-laning of Route 250 East from its intersection with I-64 to Milton Road (Route 729); bridge improvements to the Route 250 bridge near Shadwell; the four-laning of Route 250 East from Black Cat Road (Route 616) to the County line; and, eastbound and westbound turn lanes on Route 250 at Black Cat Road.

Mr. Benish said the Planning Commission recommended approval of the plan in November, 2009. This is a work session so the Board members can ask questions about the plan, and then

hopefully set a public hearing for public comment and action in the near future. He said the plan was developed with the assistance of the Thomas Jefferson Planning District Commission, with Ms. Elaine Echols as the lead planner managing that work. Before opening this matter for discussion, Ms. Lee Catlin will go over with the Board its expectations for the Advisory Committee's work related to master plans.

Ms. Catlin said the master plan section of the Comprehensive Plan talks about how important it is to keep active community engagement during the creation of a master plan, continuing into implementation of the plan so the County does not lose the connection of citizens to their master plan. For the Pantops and Crozet master plans the Board appointed a community advisory council that was charged with serving as the liaison between the County, the community, the businesses and all the people needed to make the master plan come alive through the implementation process. She said those councils created a significant workload for staff which maintained master plan websites, sent out e-mails, arranged meetings, etc; in 2008 there were about 50 meetings related in some manner to the master plans and the advisory committees.

Ms. Catlin said that in May 2007, the Board established a position – Community Engagement Specialist – which was tasked with managing that effort and to make sure there was someone to handle that workload. There was an excellent person in that position but she moved out of state last year. Staff had to reevaluate that workload and establish a way to support those committees. Staff support for the Pantops Advisory Council has already been reduced. She thinks that when the revision process for the Crozet Master Plan is complete, staff support to that committee will also have to be reassessed.

Ms. Catlin said that given the workload issues and the fact that the Village of Rivanna is a small area and there is not a lot of activity in their implementation plan at this point, staff suggests that rather than appointing an advisory council, some other method of doing that task be considered. Staff feels that because of the size of Rivanna, and because there is not a lot involved with implementation, through a semi-annual meeting open to all residents they could get feedback and bring them up-to-date on any implementation issues. Between meetings, through use of e-mail, websites, etc., adequate engagement could probably be secured.

Mr. Dorrier said that at one time there was some friction between the members of the Running Deer community and the Glenmore community. He asked if that had been worked out. Ms. Catlin said she understands that as the plan worked its way through the Planning Commission, the residents staff has been working with are very satisfied with the plan. She does not think there are any major issues that any of the residents are upset about, but she thinks the residents should tell the Board that.

Mr. Boyd said he has been concerned about the amount of time and effort being put into revisiting the Crozet Master Plan. Is all of that work necessary for a revisit? The plan is only five years old, yet almost two years has been spent updating it. To him that sounds extreme. Ms. Catlin said staff put the public participation plan before the Board. Staff tried to expedite it and compress it and make it as speedy as possible, but when engaging the community actively the timeline spreads out, but the process is on track. The plan is to have something for the Board to review on the timeline that was proposed and which the Board approved. Once that is done, staff will be looking at its engagement with that council to see what can realistically be done from a staffing standpoint.

Mr. Boyd said he would hate to think the Board would spend two years updating the Pantops plan.

Ms. Mallek said organizational work was done, but it has been five months of meetings for the Crozet plan. A lot of that time was spent in meetings. Even though people have been thinking about it for a long time, it has been a compressed timeframe as far as the meetings and discussions are concerned.

Mr. Rooker said Crozet was the first master plan. Issues which are unique to that area arose after the plan was created and they had to be dealt with in the revision of the plan. He does not think that same thing will be seen in other areas. The whole idea of setting up an advisory committee was a new idea at the time. A cookie-cutter mold was created that could be followed in other areas and that will make their revisions go quicker and easier. He thinks staff's idea for the Rivanna Village plan is appropriate, because there is not a huge amount of un-built area that will develop out. The area that is developing out is subject to a rezoning that is fairly specific as to what can be done.

Mr. Rooker asked if the park proposed in the master plan matches up with what is in the rezoning. (The reply was "yes.") He said then the existing rezoning has been pretty much incorporated intact into this master plan. That is where most of the development in that area is taking place.

Mr. Boyd said there is controversy over that park as to whether it is a community park or a regional park. He noticed in the plan that it is a community park, but is still designated for broader use than just the community. He said a lot of people were confused not knowing what constitutes a community park. Mr. Benish clarified that it is a public park that serves a region, but the scale of it is such that it's more oriented to that local area. It does not include large-scale, regional activities, but is open to anybody in the County to use.

Mr. Boyd asked if it will have ball fields. Will it be similar to Darden Towe Park? Ms. Elaine Echols, Principal Planner, said there would be fairly informal ball fields. The final plan for that park which was part of the rezoning application included specific items. Retaining the quarry was an important piece of that which affected its overall design. She does not think it will include soccer fields or ball fields for public use.

Mr. Boyd said he is confused because the Board approved the rezoning for Rivanna Village at Glenmore before there was a master plan. He thought a lot of the ideas from the Glenmore application were incorporated into the master plan. He noted Page 3 of the master plan under "mixed use" centers which limits the amount of non-residential uses to 125,000 square feet. He said there was discussion about how large an area it should be and the uses that should be there. He wonders if limiting the plans should be so specific. Ms. Echols said the community asked that the plan be that specific. When the Comprehensive Plan amendment occurred before the rezoning, it allowed for significantly more, maybe 250,000 square feet – but the community wanted it to be no more than what was approved in the Rivanna Village at Glenmore project.

Mr. Rooker said this actually matches up with the rezoning; this is just incorporating the existing zoning into that component of the master plan.

Mr. Boyd said his final question has to do with transportation improvements. A lot of the traffic in the Route 250 East corridor is being contributed to by development outside of the County. That will keep going on because the County has nothing to do with that, but it seems this plan will restrict any kind of development in Albemarle until those improvements are made.

Mr. Rooker said the property is already zoned and they can execute the zoning with or without the existence of offsite improvements; the water and sewer is a different matter. He also had a question about that language. Before any additional rezoning is entertained, this can be looked at. He does not think the County can legally say they can't go forward with their plan until a bridge two miles away is built.

Mr. Boyd said that was really his question.

Mr. Benish said this applies basically to the three un-zoned areas shown on the map. The direction this plan sets is that before anything is rezoned to a higher density those areas still have their by-right development potential. The expectation would be for those improvements to the road system to take place prior to any rezoning of those properties to a higher density.

Mr. Boyd said the Board can't legally do that if the property has already been rezoned. Mr. Benish said for an area such as the village center, which is already rezoned, those comments don't relate since they already have their approvals. They can move forward, this is for unapproved, undeveloped areas.

Mr. Boyd said he gets calls from people in the area because part of Glenmore is in his district. The biggest complaint is about traffic from other counties, especially truck and construction traffic. Mr. Benish acknowledged that external traffic is a significant player in the traffic generation and growth in this Route 250 East corridor and also on Routes 22 and 53.

Mr. Rooker said he feels this plan addresses everything that was discussed by the Planning Commission. Other than the things the Board just covered, he had no other questions.

Mr. Boyd said he had no other questions either. He said there were some contentious meetings in the community when this whole master plan process began. Has the community come together and are they behind this master plan? Mr. Benish replied that based on the comments at the Planning Commission meeting, there seemed to be support from those who participated in the process. The Board will have an opportunity at its public hearing to hear that from the community.

Mr. Dorrier stated that Ms. Linda Porterfield, the Planning Commission member from the Scottsville District, has worked closely with residents in Glenmore and Running Deer.

Ms. Porterfield was present and responded that the plan does have the community's support – whether it's an individual living in Glenmore, living in Running Deer, or living in some of the currently rural zoned areas. Although everybody did not agree with everything in the plan, they did agree that they could live with this particular plan and they would like it to move forward.

Mr. Rooker said in looking at the Planning Commission's minutes he only saw one dissenting opinion from a Mr. Orr who wanted his property taken into the growth area.

Ms. Porterfield said there was discussion about that.

Mr. Thomas said he has asked for that several times.

Ms. Porterfield said that has been discussed because that land is trapped between the Village of Rivanna and I-64, it could be something the Board might look at in the future. At this point it was the majority opinion that it should not be brought in.

Mr. Thomas asked if Ms. Porterfield feels this master plan will solve a lot of the problems in the area. When he was on the Planning Commission they kept saying they wanted a master plan for the area.

Ms. Porterfield said it at least puts parameters on future development. The people who live there think that is important because there are some significant issues in the area – transportation issues are huge, and if development gets to a certain level, the sewer treatment plant would need an overhaul and that is costly. The amount of additional development that can be allowed has to be balanced with available infrastructure.

Mr. Dorrier asked about the issue of two entrances into Glenmore. Ms. Porterfield said the second entrance issue has not come up again, and the Glen Oaks land, which is in the rural area but which will attach to Glenmore, is under consideration at this time for sale. The individual who is buying that property is not pushing for a second entrance off of Running Deer at this point. She assumes that if that individual feels that is important, they will come back to the Board because obviously there is a state road that runs into that land. To her knowledge, neither the developer of Glenmore nor the residents in Glenmore are asking for a second gate.

Mr. Rooker asked if staff needed further guidance, or will this just be set for public hearing at some point. Mr. Benish said it will go to public hearing.

Ms. Mallek thanked Mr. Bill Warner and said she is glad to see Albemarle County taking advantage of the services the Planning District Commission offers.

Agenda Item No. 18. Economic Development Policy – Industrial Land Inventory Report, Susan Steimart.

Ms. Susan Steimart, Business Development Facilitator, made a PowerPoint presentation. She said to meet the policy goal of providing a sustainable economy and diversified economic opportunity (with the corresponding growth management goal of encouraging non-rural related activities to locate in the designated growth areas), the Board directed staff to inventory industrially zoned lands in the County to assess the extent of the shortage that was discovered in the updated economic development policy from March, 2009. She will present the staff's findings and provide information on how to assure the policy's goals can be met.

Ms. Steimart said the research methods covered analysis of the County's GIS records, its real estate records, a qualitative analysis of the same GIS records looking at the spatial relationships with road infrastructure, critical slopes, stream buffers, floodplain, and rail access to determine what were high quality industrial parcels. Staff also considered the users' perspective which included interviews with commercial brokers as well as industrial land users themselves, and they also worked with some Bureau of Labor Statistics data to project what the employment forecast might look like for those industries that would typically use industrial land.

Ms. Steimart said the results of that research showed that the County has more than adequate land in the Planned Development-Industrial Park zoning district. There are 335 acres in the UVA Research Park. For those lands that are designated for future industrial uses in the Land Use Plan, there are 900 acres - more than what is anticipated to be needed in the future. Looking at what is shovel-ready or turnkey, there is a shortage of both Light Industrial (LI) and Heavy Industrial (HI) acreages – with 44 acres for HI uses located primarily in the Route 29 corridor, and two, eight-acre parcels in the Crozet area; one of those parcels has significant proffer restrictions. For LI land, there are about 185 acres depending on the quality. The average size of LI property is small, about 3.5 acres. The qualitative analysis showed that there is a poor dispersment of both zoned product and designated product, with the majority of vacant LI being in the Route 29 North area.

Mr. Rooker said the report starts by saying there is more than adequate industrial acreage, but as it continues it acts like the UVA Research Park doesn't exist. He attended the hearings when the UVA Research Park was approved, and the idea was to create an industrial park that would hold the kind of employers the County hoped to attract to the community – light industrial, pharmaceutical, biotech, etc. There was a lot of give and take in the approval of that park, it was not cut and dry. Ultimately it was approved, and there is a beautiful light industrial-commercial park here. But, the report seems to indicate that it doesn't exist, and it's dismaying to him to start out including that in the numbers and then just forget it is there.

Mr. Boyd said what he has observed is that the University is very selective about who they will let be a tenant in the park. They have also taken the posture recently that they only do land leases – they are not allowing anyone to purchase in the park. He has seen that as an obstacle to some organizations. As long as there are those kinds of restrictions in place, it makes it somewhat limited as to who can go in there.

Mr. Rooker said there has always been a rumor that there must be some nexus to the University to go in there. He brought that up at a PACC meeting, and Mr. Leonard Sandridge said that is not the case. He said that he and Mr. Boyd met with representatives of Harmon, who ended up going to Kentucky where they got \$30.0 million in tax benefits to locate there. Subsequently, the company was bought out and that never went through. He said they had no nexus to UVA, they made stereos. He said Booz Hamilton, defense contractors, had no nexus to UVA, etc. He said the kind of industries the population is generally interested in attracting with higher end jobs, can locate there and it is shovel-ready. It has all the utilities and all the roads.

Mr. Boyd said UVA is selective in who they let locate there. That is known from Novalink – they had no interest at all in that company going in there even though the company wanted to locate there.

Mr. Rooker said any landowner has a right to determine who they want to sell or lease to. If the County rezones property, it will be owned by a private person and they can decide who they want to let in.

Mr. Thomas asked if the County is allowed to market/promote the Real Estate Foundation's property to put businesses in there. Ms. Steimart responded that the County is permitted to do so, and there was success with that.

Mr. Benish said a clarification is needed on that. At the Planning Commission's meeting the ex-officio member of the Commission representing the University confirmed that there was a relationship required for tenants within the park. He said in staff's work on Places29 that was brought up a number of times by the Executive Director of the University Foundation. He said there were some expectations; maybe it is the semantics of the language used that constrains some of the choices UVA has. He said something official from the highest possible level at UVA is needed to confirm what that is.

Mr. Rooker said that would be helpful because he asked that question at a PACC meeting. Where they do reserve the right to allow a company to come in or not, there are businesses located there that have no nexus to the University in terms of research or employment. They acknowledged at the last PACC meeting that they are expecting to lease to a lot defense contractors, in addition to Booz-Hamilton, that will want to be next to NGIC and the DIA projects.

Ms. Steimart said there are relationships there between those defense companies and the University. They are all trying to work with DIA.

Mr. Rooker said that can be said for any bio-tech company. He has talked with people from Booz-Hamilton and they have no connection to UVA. Their business is with NGIC. Mr. Tucker said there is a PACC meeting in a couple of weeks, so this question can be asked again.

Mr. Benish said another reason the planned industrial park was qualified is that regardless of how specific the nexus has to be, the clientele was not what was targeted as the greatest need. The expectations of the University Foundation at that industrial park relate more to Class "A" office space than it does to small-time startups. Staff was trying to recognize that it provides an opportunity, but it has constraints to some of the targets they want to make sure some of the inventory addresses.

Mr. Rooker said part of his concern is that there are anecdotal stories, but in terms of actual demand for that kind of space and whether there is an available supply, Avon Park (80+ acres) was designated LI in the Comprehensive Plan and zoned LI. It was rezoned for a shopping center, and they held it for years because they couldn't find a LI user for the property. Ultimately, it was rezoned again. Part of where Albemarle Place will be located had LI zoning. Property has been taken out of light industrial because there wasn't enough demand for it in the community. There were other demands so the property was rezoned to meet those demands. He is curious as to whether there is any significant demand that is unmet as opposed to just some anecdotal descriptions of people saying they want to expand and want a cheaper place to do it.

Mr. Thomas said his experience with LI has been fairly limited. There was one instance in Ivy, but it was in the wrong place. He thinks LI needs to be located in a useable place. He said that is why he would push for some more LI and make it available so when the person wants to apply for the land, the County does not have to rezone it.

Mr. Rooker said he does not disagree with having the zoning available and being proactive, the County has 900 acres designated in the Comprehensive Plan now. Some of that has not been rezoned, and the County should look at what it can do to assist that process. Also, properties are zoned LI, and after they sit vacant for a while the owner wants to put something else on the property, and it is converted, If it is so important to have more LI in the community than there is now, that needs to be stopped. It does no good to zone something LI and then allow it to be built in office buildings.

Ms. Mallek asked Ms. Steimart to continue with her presentation. She asked if there was any information showing that parcels of five to ten acres are too small. Are there uses where a couple of acres are appropriate if the property is located on a decent road?

Ms. Steimart said she would show a map showing the location of industrial lands, noting that in the southern urban area there are a few parcels vacant – Hunter's Way is in the rural area, a few parcels are located in the Woolen Mills, and then there is Avon Court.

Mr. Thomas asked what restrictions are on Hunter's Way. Ms. Steimart said that if you go to that site at lunchtime, you will see the Humagen parking lot completely full. That business has been there a long time, and when she visited the site there was nowhere to park. That begs the question. If they needed to expand, where would they go. She said there is the UVA Research Park as an option, but that is only an option for businesses that have a business model that allows for leasing. She said there are not a lot of options in the County for those businesses that may start small and then need to expand. When she gets referrals, the best candidates now are Seminole Place in the former Comdial Building for lease options, the UVA Research Park (if there is a UVA relationship), Afton Scientific, and some space in the Aztec Business Park for lease. They have a biomedical relationship to Lighthouse Pharmaceutical in Afton. Another type of LI user is contractor storage yards. An example is UPS that has been looking for space, they are challenged to find another location.

Mr. Thomas said accessibility has a lot to do with where the property is located, especially UPS. They need accessibility to the highways and to the airport. Transportation has a lot to do with it and a need to be away from residential sections. Mr. Benish said one major concern is the lack of good access to the Interstate and some of the primary roads, so the recommendation was to look in the southern urban area with the update to create some of that balance in the development area. In reply to Ms.

Mallek's question, over the years in looking at special permit requests in the rural area, there have been a number of applications who used the home occupation as a way to provide for contractors. There was a porta-potty proposal in the rural area as a home occupation. There have been relatively small contractors who made the same applications, and once there was a construction operator with less than 10 pieces of equipment including dump trucks who applied for a home occupation. Their needs tend to fall into that five-acre range, and it has something to do with being able to create buffers or breaks. He said most of the rural area sites are two acres. Many of the people staff tried to help from a land use standpoint tend to be smaller scale. He can think of three lawn care businesses that needed a small site.

Mr. Thomas asked if an industrial park would be more convenient to those users and they would have bigger spaces. Mr. Benish said a property owner could pursue through a rezoning a park that would allow those opportunities, pad sites or minimal building sites.

Mr. Boyd suggested that at a PACC meeting staff ask Mr. Sandridge if the UVA Research Park would allow contractor yards, landscaping, etc., in there. That is what the area is seeing a need for, but he does not think they will allow that type of activity.

Mr. Rooker said there are 900 acres of industrial property in the Comprehensive Plan – much of which has not been rezoned – and there's nothing that prevents the County from proactively causing some of it to be rezoned.

Mr. Boyd said he thought the report indicated those acres are flawed in some way – not in the right place, not in the right proximity, too small, etc. There's a lot of reasons why those cumulative 900 acres don't meet the needs of what people are looking for. He has talked with Ms. Steimart before and she has had people come in who want to expand existing businesses or put a small business in somewhere and they are having a hard time finding a property.

Mr. Rooker said when describing ag-business type of uses he thinks some of the businesses mentioned could be dealt with by allowing special use permit uses in the rural area, if they're located adjacent to the interstate, etc. There's a way the kinds of things being talking about could be accommodated without making a bigger change. The Zoning Ordinance could be tweaked to accomplish some of those things.

Mr. Boyd said that could be one approach. He thinks it could be done by rezoning that property. Mr. Benish suggested that staff finish its report because some of the things being proposed relate to what staff found, and their conclusions about the inventory.

Ms. Steimart said the first recommendation is to "Maintain, protect, and allow easier use of existing industrial zoned property." During interviews staff found that the Zoning Ordinance is actually an impediment – not just the land itself. Staff is looking into improvements to the ordinance that would allow businesses that are challenged so have to look at Highway Commercial zoning when their business might be better suited for LI. There may be some ag-related uses that would be better placed in LI zoning, such as a farmer's market. In relation to allowing expansion of the home occupation activity in the rural area, especially for small contractors, staff will be investigating such a change. Staff is also looking at more flexibility in the zoning ordinance pertaining to heavy industrial uses. The only land available for HI is north of Charlottesville and on two specific parcels in Crozet. There is nothing south of Charlottesville. The HI use means that concrete trucks have to use the Route 29 North Corridor.

Ms. Steimart showed on the screen an example of HI in a neighboring community where all noise, dust, water, etc. are managed onsite –in that case the use backs up to a residential property. She showed another slide presenting a mix of uses on River Road. She said the County does not currently have the ability to allow for that broader use; she also showed an example of a business in the C-1 zoning district that is likely a better fit for LI.

Ms. Steimart said the final recommendation is to look at areas where there is access to the Interstate, but protect the growth area boundaries and protect water and natural resources. That would allow what staff considered to be LI – Light. There would be no water or sewer connections and it would cover only specific uses that serve the rural areas but which have good proximity to highway interchanges, thus keeping the heavy truck traffic out of the development area.

Mr. Rooker said contractor's storage falls into that category – you can operate a contractor's storage yard without public water and sewer. This would be a tweak to the Zoning Ordinance depending what the County is trying to do; creating an industrial park would be one approach. Another approach is to target the things people have talked about within the existing ordinance and the existing growth areas to accommodate these types of businesses.

Ms. Steimart said the other recommendation was to have the existing industrial zoning match the Comprehensive Plan designation.

Mr. Benish said there are some areas currently zoned, but the Comprehensive Plan currently designates them for other uses. That implies converting them as opposed to retaining the existing zoned inventory. Staff is trying to insure that unless there is a very good reason lands already zoned industrial would have an industrial-employment type designation.

Mr. Boyd asked for an example. Ms. Steimart said that in Crozet, the parcel south of the ACME property is zoned Light Industrial but the Comprehensive Plan designates the southern half of it for a mixed use of residential and commercial.

Mr. Boyd asked if part of that property is restricted because of environmental issues. Ms. Steimart confirmed that it is.

Ms. Mallek said there is only five to eight more years on that; it is only a small part of the property at ACME as well. Remediation will not go on forever. Mr. Benish said that in the long-term it is a good site for industrial use; but in the short-term there are a lot of marketing constraints for its immediate availability.

Ms. Mallek said the community has addressed in the Crozet Master Plan the need to bring into consistency the zoning and Comprehensive Plan differences. There is land shown in the Comprehensive Plan now for light industrial, but the land does not have that zoning. That is something the County can address to bring that land into conformance and protect the LI that is already in Crozet.

Mr. Boyd said Ms. Steimart has been participating in the program that the Thomas Jefferson Partnership for Economic Development has been doing having to do with contacting existing businesses and talking to them. He asked that she explain some of the things they have found. He is hearing from businesses that they have no place to expand or grow. The Board needs tangible examples of what is actually happening instead of these theoreticals. He asked if that kind of data is available through the study. Ms. Steimart said it is if she could get permission from the owners to share the information. Staff has tried to keep their identities confidential.

Mr. Boyd said she does not have to share names, only situations.

Mr. Rooker said some of that information is in the appendices of the report.

Ms. Steimart said there are companies who left Albemarle to locate in Nelson and Zion Crossroads and it is her suspicion they chose to make their expansions outside of Albemarle. She could interview them as to their exact reasons for relocating to another locality but it is her suspicion that they had a hard time finding space.

Ms. Mallek added, "Or it was very expensive." She also asked if these small businesses have a business plan that would allow them to prosper in an industrial park when paying rent. In her district, when she went door-to-door she saw a lot of big dump trucks in yards, trucks that cannot be seen from the public road.

Mr. Boyd said that years ago he saw the same situation with the Watkins Nursery. They were way off of Route 20; there was no way to see their trucks, yet the County held them in violation of land use.

Ms. Mallek said that is the poster child for this whole thought process. The County needs to look at ways to fix the text in the rural area to allow something like that.

Mr. Boyd said Mr. Rooker's idea would have worked for him.

Mr. Rooker said other communities have bought land and brought in water and sewer, etc., and created industrial parks with mixed results. He has visited quite a few of them around the country. In southwest Virginia, Wytheville has an industrial park, Pulaski has one, but in most cases they are not fully occupied, so they aren't getting a good return on their investment. The question in Albemarle is how to meet the real demand in a way that's beneficial to the quality of the community. He noted the report, and said in looking at the interviews the reasons people listed for coming to the area were: quality of life, kids, beautiful area, no traffic, small-town living, the quality of life defined by workforce education levels and skills, UVA connection, natural beauty, educated workforce, good reputation for educated population, etc. He said the community has a 4.6 percent unemployment rate, compared to almost 10 percent unemployment nationally.

Mr. Boyd said he thinks UVA is the reason.

Mr. Rooker said he would not say that anymore. There are also NGIC and the defense contractors who have come in recently. There are people like Scott Watkins who find it hard to do what they want to do and the community tries to accommodate them. He thinks the County should find a way to do that.

Ms. Mallek said the Crozet community is proud of the fact that they did welcome them.

Ms. Steimart said there is evidence of local businesses needing to expand that are facing challenges. Bosch Medical Instruments was just lost – it was a business created out of Micro-Aire Industries. They created the company in Albemarle and wanted to build their own building for 15 employees because of their relationship with UVA, but they couldn't find a space to do that and moved to Zion Crossroads.

Mr. Rooker asked how much land they needed. Ms. Steimart responded that they only need two or three acres.

Ms. Mallek said there is a lot of land on Route 29 North of that size of acreage, so she is just confused by the whole thing.

Mr. Boyd asked how much of that land is reasonably priced. He thinks that an increased supply will make it more reasonably priced.

Ms. Mallek said "not necessarily." She has asked several times, but has not gotten an answer yet – how much of the land shown in the report is actually in common ownership. A lot of it seems to have the same map and parcel numbers. She said there are a lot of market forces at work here. She wants the Board to focus on the very specific ordinance-oriented things that it can change in a step-by-step process to make sure the right question is being solved.

Mr. Boyd said he does not think it is working when you hear the stories about people leaving. It's not working or they wouldn't be leaving.

Mr. Rooker said Micro-Aire was in the UVA Research Park.

Mr. Boyd referred to Page 14 of the report and read: "State Economic Development Office, now called VEDP, inquiries have always identified Charlottesville as a top three pick, but staff never sends them here because of the business environment here."

Ms. Mallek said everybody she has talked with said that was three to five years ago. There was a very different atmosphere then and there were a couple of "players" who extended that view of Albemarle to Richmond, unfortunately, but they are not in the picture anymore. She talked to Mike Harvey about this at the Crozet meeting several weeks ago.

Mr. Snow asked how much of this is driven by the cost of the property. Could businesses not find an area in which to relocate because there was no land available or because of the cost of land? Ms. Steimart said she would speculate that it was both availability of land and cost of land, plus the cost of development review time. She said when there is a shortage of available land, the cost goes up.

Mr. Benish said if the land can be held for a little bit longer for a higher-valued land use then it creates a market for the industrial land that's priced at commercial. That's the downside if there's not an immediate market. Also if the amount of land available in the Land Use Plan is constrained it also makes that value go up. There's also the speculative interest that would not sell it for LI when there is the possibility of getting C-1 or HC zoning in the future.

Mr. Snow said if the County rezoned a large amount of land for LI, the land would be expensive to start with. However, before it were developed, would someone want to park 20 dump trucks on the property when it is known there will never be a return on investment.

Mr. Rooker said there are other communities who want to bring jobs into their community so they buy land and lease or sell it below market, run utilities there and make a big investment in an industrial park. That is the only way the price of real estate can be controlled. He said there is all of this land scattered around, and someone might talk with an owner and say they are holding it because they are assembling land and want to make it commercial at some point. They might say "I never intend to use it as LI even though it is designated that way." Why should they build something on it and lease it at \$5.00 a foot when they have a long-term plan to put something on it that they can rent for \$18.00 a foot?

Mr. Benish said staff hopes land uses are balanced so they retain the use designated in the Comprehensive Plan. That is the way to provide predictability to the community and to the market that the land will be for that use. That's why Comprehensive Plan amendments and rezonings can mess things up on an individual basis. He said staff's goal today was to get some direction from the Board so they will know they are on track with this. This was just a physical assessment of the land inventory with some evaluation of the issues that users are having. There are no ordinance amendments or Comprehensive Plan amendments ready yet. This report was made to find out from the Board what additional information and next steps it feels are appropriate. The concept of these recommendations is really a supply-side type of approach. That's traditionally how industrial development has been dealt with in this county. Typically the County has not provided much in tax subsidies, if any. It has not developed public lands for industrial uses. The idea is to try and provide a land use plan that has enough balance that the market can function in a way to provide for the needs that people have.

Mr. Benish said there is an inventory of zoned land that needs to be protected and made better to use. The first priority is to work on the Zoning Ordinance to make that easier to use, add some uses that are more industrial in nature that are forcing people to buy commercial property, and to look at the uses that allow LI zoning to be used for other purposes, primarily office uses and to get better control of uses other than industrial. That is essentially what the first recommendation addresses along with making sure the Comprehensive Plan recognizes the existing industrial zoning. If the Board thinks those are appropriate steps, staff will move forward with those. This dovetails with the Work Program for Community Development as to what items staff needs to work on.

Mr. Thomas said he would like to have the information Mr. Benish just mentioned, but if there is a property owner who is willing to make that investment in industrial, can the Board support that particular applicant.

Ms. Mallek noted that Mr. Snow pointed out that the definitional problems need to be fixed before any more land can be taken in. Otherwise, nothing is being solved. That is what the Board talked about several months ago.

Mr. Tucker asked Mr. Thomas if he was talking about land that somebody would bring forward that is already designated in the Comprehensive Plan but is not zoned properly.

Mr. Thomas said it is not in the Comprehensive Plan. Mr. Benish said staff's recommendations are to focus in on existing development areas.

Mr. Rooker said he supports staff's recommendation. The County needs to provide some flexibility so no barriers are created to uses that are reasonably compatible with their surroundings.

Mr. Thomas said it's a very good starting point.

Ms. Steimart said the second recommendation was to match underlying zoning to the designation. With property owner support, they would look at areas that could be converted from industrial service to LI or HI zoning. While going through the master planning update process, LI products would be better distributed near existing road networks; this refers mainly to the urban area.

Mr. Benish said as an example - in the southern end of Hollymead there is an area designated for industrial but it is not zoned yet. Staff would work with that property owner to move forward with a proactive zoning to put the zoning in place on that land that's already designated in the current Comprehensive Plan. That increases the zoned inventory and starts to address some of the issues of land availability and how that affects the market.

Mr. Boyd asked what incentive there would be for the landowner to do that. Mr. Benish said some property owners might not be willing to do that. The first step is to work with property owners to see if there is an interest and willingness and a benefit to them for that.

Ms. Mallek said it would be an upzoning for them, because right now it is RA.

Mr. Rooker said it would be an upzoning which could be obtained without significant expense to a landowner. Mr. Benish said they would be requested to make a submittal with the understanding that the County supports it. It touches on what Mr. Thomas said if it is within the existing development areas for land already designated.

Mr. Boyd asked how long that process would take. Ms. Steimart said that is in the two-year master plan update. Staff would just need the Board's direction as to whether that would be a priority. Mr. Benish said the first step is to talk to the property owners and then the County Attorney's Office about the appropriate steps. He said that before staff spent a lot of time on this effort, it would be important to ascertain the interest of property owners.

Mr. Snow said that once rezoned the property owner would have to pay additional taxes. Mr. Benish said those are the next steps to be looked at. Perhaps waiving those fees would be a way for the County to provide assistance. Before staff puts work into it, staff needs to know if there's even an interest to consider that sort of option. Mr. Davis said there is no way to waive those fees directly. He said if an appropriate zoning district is in place where proffers aren't needed, the County could initiate a rezoning of an individual's property - and as long as they did not object, there would be no fees. But the taxes would change, and the value of the property would be somewhat dependent upon what the zoning is and what the market is for that type of property.

Ms. Mallek said an example of that was the downtown rezoning in Crozet which was very well supported by the landowners. There was only one exception and that owner's property was on the fringe. He asked not to be included in the downtown overlay district because this was an older person who just wanted to live out his life in his house and not have the opportunity to change it to some higher use. Unfortunately the rezoning coincided exactly with the collapse of the economy, so we haven't had the chance to see it bloom, but everyone is very eager to make it work.

Mr. Boyd said he doesn't have a problem with that, but he does not want to wait two years to find out that this approach did not work. Can staff target market four or five things to see how many of those people would agree to it and use that to statistically say whether it is a plan that would work. Mr. Benish said it's likely not all property owners are going to be interested, and that is a good point. Staff might look strategically at certain places. He said how the next steps are taken will depend on what they hear in the Work Program items and how they "divvy" up staff and prioritize the work involved.

Mr. Davis said a key first step would be developing a new zoning district that addresses the market that the Board wants to solve. If property is just rezoned to LI then the County is just creating a higher-priced zoning district for office uses since that seems to be the highest and best use that people want to utilize. A new zoning district would need to be created that focuses on the uses where the Board thinks there is a market deficiency.

Ms. Mallek asked why the existing definition of light industrial cannot just be changed. Mr. Davis said there are a couple of problems doing that. In existing LI property that is already developed, it would create a lot of nonconforming uses, and it would also lower the value of people's property which would not be popular.

Mr. Rooker said the flip side is that the County is not going to rezone anybody's property if the landowner does not want it done. Part of the equation for the landowner is that his taxes will go up because he would have a more valuable piece of property. Mr. Davis said if someone has a property now

that allows office uses and it has a value based on that and office uses are taken away, that would affect the value of the property negatively

Ms. Mallek asked if they are truly being assessed based on commercial. Mr. Davis said they are assessed based on the market.

Ms. Mallek said they have the best of two worlds now – they have the opportunity to go commercial but are being taxed as light industrial rural land. Mr. Benish indicated that staff's priority would be to do the text amendment first. They would focus on it primarily, and what was just talked about would be the next recommendation.

Mr. Rooker said quite a ruckus was created over a veterinarian's office going in off of Airport Road. The Board needs to recognize that it is one thing to talk about these things on a grand scale, but when they are on the ground they do have impacts on neighborhoods and the people around them, and the traffic that might go in and out of an area. If it can be worked into a master plan as it is being done, that is the best time to do it. One master plan was just finished today, and there was no mention of LI in the Village of Rivanna plan, and there was no mention of LI in the Pantops plan.

Mr. Boyd said it was purposely excluded. There was discussion about putting more LI at the Shadwell/250/I-64 interchange, but neither the Commission nor the Board approved of it.

Mr. Rooker made note of the fact that the area in question is outside of the growth area. Within the growth areas, master plans were finished without discussion of LI in either of those locations. He said when you "put it on the table", it gets near people and there will be concerns raised. The Board needs to recognize that.

Mr. Boyd said that is the reason he does not think a whole plan should be put together on something that will take a couple of years to finish and then find out it will not work. Some way must be found to test market this approach.

Ms. Mallek said there was a lot of discussion about this at the last Thursday meeting on the Crozet Master Plan. She said it was the desire of the community to connect a few disjointed LI parcels on the north side of Three Notch'd Road. There was support for keeping those uses in the downtown area, not the NIMBY type of thing. They want to have small business and LI types of things along the business corridor and the railroad tracks, so this is a case where it can be seen in the near future.

Mr. Boyd asked if they wanted cement trucks going through their neighborhood.

Ms. Mallek said that historically there has been heavy industrial business in the downtown area. They love it and support it and don't want anything to threaten it. She stood in the downtown area and there were 18-wheelers going through that tight area 18 times a day. The citizens are looking forward to the streetscape improvements because it will help with navigation whether it is big trucks going to the Post Office or to Barnes Lumber. They are not trying to close the door on their businesses.

Mr. Benish said he would finish the presentation. The third step was to update the Comprehensive Plan to better distribute the lands that are designated - there is little opportunity in the southern urban areas and Pantops. He said as updating the master plans or developing new master plans, focus would be given to the Southern Urban Area or Pantops for those types of opportunities. There are three Interstate interchanges in the southern urban area so there are opportunities in those locations. Staff will not be recommending a full-blown master plan for the southern urban areas but it will be embarking on an update of the Comprehensive Plan and the Land Use Plan over the next two years. If there is general agreement with this idea, he will move to the last recommendation.

Ms. Steimart said the final recommendation is for LI-Light at the Interstate interchanges which are outside of the growth area – Shadwell and Yanceys Mill.

Mr. Benish said this concept does not call for rezoning of land in these interchanges, or designating them as part of a development area; the concept would be more about the types of uses – the contractor's storage yard and agricultural businesses – probably looking at the zoning district itself to allow for those uses, and then through supplementary regulations or guidance in the Comprehensive Plan through the Interstate Interchange Policy focusing those type of uses in certain strategic locations – such as the Shadwell or Yanceys Mill interchanges. It is not actually designating industrial land. It would be allowing those uses that may be compatible with those rural locations in those interstate interchange areas.

Ms. Mallek asked if the zoning would stay rural and these types of things would be allowed by special use permit in those locations only. Mr. Benish said the intent is not to expand the development areas or put urban zoning where no public water or public sewer would be provided. That would be inconsistent with the Utilities Policy. Those areas could provide for some opportunities for compatible, not inconsistent, uses that might fit in those interchange areas.

Mr. Boyd said he has a problem with that concept. That would basically be killing the whole Yancey-Mills proposal by saying the Board will not even consider it. He said the public water and public sewer goes right past those locations. The same is true at Shadwell, so it is not like there is no availability. He thinks that will kill the proposal at Yancey Mills.

Ms. Mallek said what the Board has heard from (him) over and over again is what they want to offer - contractor yards, and people who park their stuff there. There would not be a big assemblage of people coming to pick up machinery and going offsite to do work.

Mr. Boyd said he did not understand that was the proposal.

Ms. Mallek that is what has been presented to the community, that has been his emphasis.

Mr. Thomas said he would not want to tie anyone's hands to just waterless projects.

Ms. Mallek said it's inconsistent to think about that as something that would be allowed by special permit in the rural area. That puts it into a whole different order of magnitude if sewer and water are allowed.

Mr. Thomas said he would like to have the Board look at it that way.

Ms. Mallek said that would also require changes in the interchange policy. She asked if there had been any feedback from Mr. Sumpter or Mr. DeNunzio, as they expressed concern previously over a build-up of traffic generators at interchanges because it disables the interchange from being able to function. Mr. Benish said there has been no definitive statement from VDOT about that or any accident report. They expressed concern about the Shadwell area because of the level of service at those interchange ramps - which are failing at certain peak periods.

Mr. Rooker said with respect to the Shadwell interchange, the Board saw a report saying sewer service would need to be upgraded in order to handle more development further down the road. This is a good approach for the Shadwell interchange. Personally he thinks it's a good approach for the other interchange. There are two schools of thought here, so let's break these things apart and talk about them.

Mr. Boyd said at the Shadwell interchange there was one request for a U-store-it type facility. He asked if that would fit this category. Mr. Benish said it would probably meet some of the parameters depending on visibility issues. A lot depends on the topography of the land. He said staff had not identified all of the types of uses that could be allowed, but warehousing would be a potential type of use.

Mr. Rooker said these interchanges are highly visible areas when entering the community and that needs to be taken into account. He thinks there should be ways to accomplish these uses and have them fit into the community and still look good.

Mr. Boyd said he wants to be sure of what the Board is directing staff to do.

Mr. Rooker said he supports the recommendation of staff.

Ms. Mallek said she is concerned about a higher level of activity that would presume a water and sewer extension. If the Board were focusing on the Yancey Mills thing that could be done close to the lumber yard, but a lot of the property slopes downhill, a lot of it is in floodplain, and it all drains right into Stockton Creek which goes straight to the South Fork Rivanna Reservoir. She said this is the first time since the Murray Electric Plant in Earlysville - which was done before zoning - that the County is considering higher density, or manufacturing or any industrial uses in that watershed. For many years there was remediation at the Murray plant which required monthly testing through the EPA looking for PCBs and the other things that were dumped there, the same kind of degreasers that were used in ACME. It's a real risk that the Board needs to remember. Protecting the watershed is really important. Bad stuff travels a long distance, and the Board needs to think about that when it talks about this kind of location for many uses. The watershed is something a lot of generations have protected, and the Board needs to remember that.

Mr. Davis asked Mr. Benish if staff is recommending that these be by-right uses with supplementary conditions, or special uses. Mr. Benish said staff has only just begun to talk about how it would be implemented. He does not know how these parameters could be set without some type of legislative review. The assumption is that it would be some kind of special permit using Comprehensive Plan guidelines that set parameters for the geography of where they could be and what issues they would have to address.

Mr. Snow said there has been mention of Yancey Mills, but that person is not here presenting anything. Mr. Benish said this is not an evaluation of Yancey Mills.

Mr. Snow said he does not think it should preclude a business like that coming in and making that approach. The Board can tackle that independently of what it is doing today.

Ms. Mallek said all of this work has to be done first. Mr. Benish said for some of the uses mentioned, that text amendment or however it would be implemented through existing zoning would be in place, but given that, Mr. Snow is correct.

Ms. Mallek said she thinks the way staff has lined up the priorities is excellent.

Mr. Boyd said he has a problem. A proposal was made a couple of years ago, but the person was told to wait for the Crozet Master Plan review to be finished first. That was done and now "we are saying to wait until we do these ordinance changes, or Comprehensive Plan changes." He said these

people want to move forward with their project and he thinks they deserve a chance to make their presentation to this Board.

Mr. Snow said there is nothing that stops him from coming in. Mr. Benish said the Crozet community just heard the presentation at their last forum. The master planning process is moving forward and the recommendation about the master plan will relate to the Yancey Mills proposal which is what was requested at the time by the seated Board. He said staff did not recommend favorably on that request, nor did the Planning Commission, but it was moved into the planning process for Crozet. With the work on the Crozet Master Plan to date there has not been any change that would indicate that the Yancey CPA would fit any better into the goals, objectives, and strategies of the Crozet Master Plan. He does not see anything in the Crozet Master Plan directives and guidelines suggesting there has been a change in circumstance that would change the staff's recommendation on the proposal.

Mr. Boyd said in reality the proposal lies outside of the Crozet Master Plan area. Mr. Benish said they are outside, but are part of the fringe area. Recommendations were made as part of the master plan process that speak to the Route 250 West corridor. The CPA request is to add that area to the development areas so it would have to be added to the master plan area.

Mr. Boyd said he does not want the County to put another obstacle in front of that process moving forward. He does not know that (he) still wants to move forward. Maybe (he) wants to wait until this review is completed. Mr. Benish said the Planning Commission made a recommendation not to further study the CPA request. The Board directed staff to make it part of the Crozet Master Plan process. Those recommendations will be coming to the Board in July. A plan will be drafted and vetted in the April/May timeframe, which will be going out to the public for comment. He does not see that the planning process is going to incorporate the proposal at Yancey Mills. At that time, the Board can give staff direction as to whether it agrees with the recommendations of that plan.

Mr. Rooker said it's important not to confuse failure of approval with delay. The fact is that the Planning Commission recommended not going forward with the Yancey proposal. It came to this Board and there were not the votes for it to go forward at that point. It was thought to be a good idea for the people in Crozet to deal with in the Crozet Master Plan process. He said the Crozet Advisory Committee weighed in against it strongly, they passed a resolution setting out all of the reasons why they didn't think it fit into their community. That does not prevent the Board from taking it up again after this process is concluded. If it is going to be brought back, it has to be with the idea that the community has already weighed in.

Mr. Boyd said the Board has already received that input. If the applicant asks to have it scheduled for a public hearing, will the Board deny (him) the opportunity to do that?

Mr. Rooker said the Board can vote to allow a CPA to move forward. There is no obligation for the Board to make a change in the Comprehensive Plan, nor is there any obstacle for the applicant to come before the Board.

Mr. Boyd said he just wants to make sure there is no obstacle in the way if (he) wants to bring it to the Board.

Mr. Rooker said when the Board sent it into the Crozet master planning process it indicated they would be allowed to complete that process, and Mr. Benish just said it would not be completed until July. He thinks the Board is obligated to allow that process to be completed. Mr. Davis said an applicant can initiate a Comprehensive Plan amendment, but the Planning Commission and the Board do not have to accept that request. There is no legal requirement to process a Comprehensive Plan amendment initiated by a citizen. If a citizen makes a rezoning application, the Commission and the Board legally have to take it up. The risk of a landowner making an application that is clearly inconsistent with the Comprehensive Plan is that it is likely to have a staff recommendation against, a Commission recommendation against, and historically this Board has not approved rezonings that are inconsistent with the Comprehensive Plan.

Mr. Boyd said he does not recall the Board ever being asked if a CPA can come forward. He does not remember ever voting on anything like that.

Ms. Mallek said that's because they come through the Planning Commission first. Mr. Davis said there have been applications brought to the Commission and it decided not to go forward with the request. Mr. Benish said the amendment in question did come to the Board, but it was directed to the Crozet Master Plan process. If the Board does not want to wait until that process is completed and to the Board in July, staff would have to be directed to bring it back as an individual request sooner.

Mr. Cilimberg said staff would need to separately process the amendment with the Planning Commission and then the Board would separate it from the Crozet Master Plan work, which would be another work program item which Mr. Graham will be talking to the Board about in a few minutes. Right now staff is doing what it was asked to do by the Board seated at that time.

Mr. Boyd asked the date of that Board meeting because he does not remember it coming to the Board as a CPA request. Mr. Cilimberg said the Planning Commission took action to not pursue the Comprehensive Plan Amendment; it was brought up at a Board meeting at Mr. Boyd's request and staff was directed to include it in the Crozet Master Plan process. Mr. Davis said part of the reasoning was that the timeframe would be about the same – whether it was independent or together with the Crozet

Master Plan – and it made more sense from staff's perspective that they be together because of the inter-relationship between the impacts.

Mr. Boyd said he remembers the discussion, but he does not remember that as a CPA request.

Ms. Mallek said the Board saw the book and the application, etc. that went to the Planning Commission. Mr. Cilimberg said it was brought to the Board at the applicant's request after the Commission took action to say that the CPA should not be processed and the Board made a different decision. Staff has done its work in accord with that decision.

Mr. Thomas said he had heard the applicant was told he could not come back until July.

Mr. Rooker explained that the applicant had a CPA request which went to the Planning Commission and they voted against it; the item came to the Board and the Board said to include it in the Crozet Master planning process. If a vote had been taken at that time it would not have been approved. Mr. Cilimberg said as Mr. Davis stated, (he) could choose to make an application for a rezoning. There wouldn't be any basis now to recommend approval because there's nothing to support the proposal in the Comprehensive Plan which is why a CPA was submitted.

Mr. Thomas said he thinks the County should finish the Crozet Master Plan, and let the applicant decide whether (he) wants to go for a rezoning or not.

Ms. Mallek said she will support that suggestion. She noted that the Board discussed community concerns in the Village of Rivanna Master Plan this morning, and how important the community's wishes are and how they want to grow. The same thing happened with the Pantops Master Plan just a month or so ago talking about the level of population increase that they were to expect in the next five years at 125 percent. The Crozet folks heard that and said "Gee, and we were told we were going to grow 400 percent." She said the community put their heart into this effort, and they believe in the contract the County has made with them. In all the various supervisory districts, people need to have confidence in the master plan process, especially in the areas where there is growth area that has already received lots of approvals for lots of dwelling units – 4500 in Crozet. They already have the people, so they need the infrastructure. The most important thing about the Crozet Master Plan, in the original plan and so far in this revision, is the focus on the downtown area. She said the County has made a huge investment in downtown already, cold hard cash. It wants to see a return on that with an increase in property values and increase in business in downtown so they will start generating that return to the County's coffers. She said the Board talked about how the Village of Rivanna was to grow from the center out. It is exactly the same thing that the folks in Crozet want to do. She thinks the staff's priorities are excellent – solving the definition first so everybody knows what they are talking about when they get to the second and third recommendation.

Mr. Benish said to wrap up, is there consensus of the whole Board to continue to pursue this concept and see where it goes.

Mr. Boyd asked staff's timeline. Mr. Benish said this would be the third of the three recommendations, so staff will focus on the zoning text amendments first. Ms. Steimart said depending on how the text amendments are broken up, they would take as short as four months for just a portion of them, or staff could get them to a work session within six months. The Comprehensive Plan changes would be a two-year process depending on how pieces of it were prioritized. Lastly, this piece is estimated to take about a year with public input and the definition.

Ms. Mallek asked if that is the work needed to create a new interstate interchange area. Ms. Steimart said that would be for a CPA and a ZTA. Mr. Benish said that during that period of time staff would need to come back to the Board with this more thought-out, and then see if the Board wants to move further with that work. He said with those timing caveats, the Board's discussion of the Work Program items are very important.

Mr. Dorrier said he supports what the staff is doing. He thinks the Crozet Master Plan should stay on track.

Mr. Boyd commented that the timeline bothers him. He can't say the Board should take another year to jumpstart the economy in this area. He thinks that is a key element and that bothers him.

(Note: Mr. Tucker said while staff is coming forward for the next agenda item he would distribute a draft letter based on action the Board took this morning to Delegate Rob Bell regarding the budget amendment and the City/County Revenue-Sharing Agreement. He said the Board can talk about it at the end of the day.)

Agenda Item No. 19. Community Development Work Program, Mark Graham.

Mr. Mark Graham, Director of Community Development, said this is the annual review of the Department's Work Program. For this work session he has four steps for review of the current work program including Development Review Task Force recommendations, review of the staff's availability for next year's work program, to set staff priorities, and, to establish the work program by balancing resources against priorities.

Mr. Graham showed on the screen a chart reflecting items in process and on schedule, items completed, and which items are behind schedule. He said work on the RA uses for Home Occupations is behind schedule; it was deferred while reviewing the Ag-Forestal Districts last fall, and also the farm stand issue came up and it was put ahead of that work. Almost all of the ordinance amendments were designed as process improvements. There were a couple that either allowed for additional uses or tried to streamline the process. For erosion and sediment controls there was an interest in "tightening down" the time that it took to do some things. This was partially in response to the stormwater presentation given to the Board about a year ago, and the same could be said with the wind turbines.

Mr. Graham said that in the Development Review Task Force recommendation, the process documentation is on schedule. It will be an ongoing effort. The one that staff is behind on is to expand notifications because that requires more time for reviews. For the new Board members he will point out that about three-fourths of staff's workload is directly responding to applications per an ordinance - building permits are the biggest, then there are zoning and ministerial reviews of site plans and subdivisions, followed by legislation and the ARB. After staff takes applications and works on them, any time left is spent on items in the work program. There was a drop in the overall workload, but it did pick up last year in terms of the number of building permits. He said people are focused on single-family residential and the trend is very slowly moving upward, but compared to the 2004/2007 average the County is far behind on residential development. One thing interesting to note in the last year has been that the percentage of development area to rural area development has actually improved. There has been a much higher percentage of applications in the development area. The main reason is that townhouses and lower priced housing products are moving the quickest, which are traditionally offered in the urban ring.

Mr. Graham said with respect to zoning, a significant drop in the number of sign permits was seen in the last year primarily due to the "use clearances." That is where someone is trying to get a new business and need a clearance to assure that the new business complies with the allowed zoning on that property. Other applications, compared to two years ago, have not changed much. Subdivision site plans have dropped significantly - almost half. In talking with people in the development community, they are having trouble finding financing for their projects. On the subdivision side, when driving around, you can see a number of projects that have many ready-to-build lots in the development area that simply "aren't moving."

Mr. Graham said there has been a drop-off in the number of family subdivisions in the rural area over the last couple of years. There has been a significant drop in the number of rezoning requests and to a lesser degree special use permits, but requests from churches have increased. There has been a 20 percent drop in the number of ARB applications. He emphasized that along with the drop in workload, the staffing level is down about 18 positions, or 20 percent, and they have tried to balance the reduction in workload with the reduced staffing level.

Mr. Graham presented staff priorities for 2010. The first priority concerns legal mandates. The second priority is with the County's Strategic Plan objectives established by the Board. Third are the process improvements and the Board's action plan. Staff is still trying to find out what the new objectives from that action plan mean and what the expectations are. The last priority is all of the other ordinance amendments, primarily to get those underway or previously planned started.

Mr. Graham said he has listed two legal mandates on the work program - the top priority is the update of the overall Comprehensive Plan as noted in the executive summary; it has been pushed back and is to the point of being a legitimate concern. This process needs to be moved forward over the next two years. This would be a significant effort in that it would include a number of areas of the Land Use Plan, the Rural Areas Plan, the Natural Resources sections, etc. That would be done in close cooperation with the Planning Commission. He said that earlier this year the Board discussed the matter of urban development areas, and there may be a grant opportunity from the state to help with that work, at least to partially fund that study.

Mr. Boyd asked if other than County staff would be used to do that study. Mr. Graham said the grant would be for a consultant to do the work, but the coordination and management of that consultant would still have to be done by staff. He said one hard lesson learned in the master planning process is that having a consultant doesn't absolve staff of a lot of the work that has to take place, especially when it gets to the Planning Commission.

Mr. Graham said the Crozet Master Plan update should be to the Board by July. Then there is implementation of the priorities of the Economic Development Policy just highlighted by Ms. Steimart. There are process improvements in the Board's action plan, and one that has been identified is the ARB administrative process. That is already in progress; it has been to the Planning Commission for discussion, and it should be to the Board in April. There has been a lot of discussion over the years about updating the ARB guidelines and also there has been discussion, especially in Crozet, about corridor-specific guidelines. The top process improvement staff has identified is how to identify and streamline the process with subdivisions and site plans. The big emphasis is on whether some of these things can be done administratively rather than going to the Commission, including associated waivers. Finally, staff is trying to put a placeholder in for the action plan adopted by the Board. A number of things in that action plan have the possibility of requiring significant staff effort.

Mr. Graham said as to the ordinance amendments, the farm stand item is already in progress and should be to the Board this spring, as well as one for wineries. That is partially due to legal mandates and how wineries can be better served. He has already mentioned RA uses, the churches and the home occupations. That is a special use permit they hope can be replaced with supplemental regulations or at

least a less complex process. He said the engineering review process improvements actually resulted from a Board Resolution of Intent last summer, and staff plans to get moving on and finish that work this year. The matter of critical slopes is a process improvement with emphasis in the development areas, and also trying to make it an administrative process so the review will not be as extensive as at present, especially outside of stream corridors which tend to get approval almost automatically. Finally, they are including a placeholder for other amendments based on Board requests.

Mr. Rooker said in looking at these ordinance amendments, he thinks the process for cell towers is a good example of making a clearer, easier to read and understandable approach for applicants. Community values were built into the process, along with a standard set of conditions and a tiered system based upon the location. If those things can be built into the application process, that will provide efficiencies. He said there are a lot of special use permit requests for churches, and if that could be made "more of a cookie-cutter process" then it would be more efficient.

Mr. Thomas said the Wireless Policy Manual was a good example. It took a lot of work. The Planning Commission did not know what to do, but now that it is tiered, it is easier for the applicant to understand.

Ms. Mallek noted that it is a model for the state.

Mr. Thomas said he presented it to Henrico County, and he thinks they adopted portions of Albemarle's plan.

Mr. Dorrier said it was excellent work.

Ms. Mallek asked what action Mr. Graham needed from the Board. She thinks it is great to see so many of these initiatives moving forward. Mr. Graham said he just wants to be sure the Board agrees that staff "is on the right track." He said a record was set last year with the number of ordinance amendments processed – there were 22.

Agenda Item No. 20. From the Board: Matters Not Listed on the Agenda.

Mr. Rooker said he thinks the letter Mr. Tucker presented earlier in the meeting seems to capture the Board's discussion on the composite index.

Ms. Mallek thanked Mr. Tucker for framing it so it is not "a poke in the eye."

Mr. Rooker said he would like to read a proclamation that he was supposed to read on the downtown mall at the First Amendment Center wall, but he couldn't because of the heavy snowfall:

PROCLAMATION

WHEREAS, The Big Read is designed to restore reading to the center of American culture and provides our citizens with the opportunity to read and discuss a single book within our community; and

WHEREAS, the Jefferson-Madison Regional Library invites all book lovers to participate in The Big Read that will be held throughout the month of February and March 2010, the library's goal is to encourage all residents of Central Virginia to read and discuss *A Lesson Before Dying* by Ernest Gaines; and

WHEREAS, *A Lesson Before Dying* explores an ability and a barbarism of which human beings are equally capable; and

WHEREAS, the library is partnering with the Virginia Foundation Center for the Book in the Big Read, which is an initiative of the National Endowment for the Arts in partnership with the Institute of Museum and Library Services and the Arts of Midwest, and is supported by the Art and Jane Hess Fund for the Library Endowment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County proclaims The Big Read during February and March 2010 and encourages all residents to read *A Lesson Before Dying* during this time.

Mr. Boyd said when the Pantops Advisory Committee gave its report, they suggested that the Supervisors come out and walk some of those areas, and that offer still stands.

Mr. Rooker asked if anyone knows the schedule for the State Farm Boulevard sidewalks.

Ms. Jo Higgins was present and addressed the Board. She said she knows the discussion on development fees has been deferred but it ties back to the work plan Mr. Graham presented. There was one attachment to his presentation from the Development Review Task Force (Attachment C). There is an issue about streamlining the process. She said she has been away from the Planning Commission for about three years, and during that time she has been through the approval process about three times.

Talking about streamlining doesn't necessarily mean that requirements should be taken away. It's about compliance with the requirements that already exist. The three projects she's been involved with were all Entrance Corridor projects. One project went semi-well, for another project she went through the process three times and for the third time she ended up with the plan presented the first time.

Ms. Higgins said the third project has been through three times and there has been no further conclusion and there was a different direction at "each point of the game." In that Task Force recommendation it talks about going back to the original role of the ARB. The ARB has two full-time staff people, one part-time staff person, and a secretary. If the applicant did not have to go through the process numerous times, the County would spend less time, the developer would spend less time, but the County staff that is required to protect the aesthetic value of the entrance corridor seems to be "out of whack." She said it is not necessarily about process. Having been a member of the Planning Commission, the ARB is not the Commission and some of the issues they undertake have to do with grading and internal circulation and things they can't see. She thinks that particular thing on the work program for the engineering department can't be addressed unless the Board looks into it. She said the reason her projects have been back had nothing to do with the ARB and aesthetics, they had to do with the ARB's perception of how they apply their guidelines. She said it would be a way to reduce cost which then would reduce the potential fees the Board wants to adjust.

Mr. Thomas asked why she had to go back to ARB so many times. Ms. Higgins responded that the first time through was something that she understands. The plan was presented, and the ARB took exception to the fact that the project was on half of the land and not on all of the land, they wanted to know what the other half was for. They were told it was to be for a potential future use. That was not acceptable to them. She took all of their input and came back with a hand drawn plan. It was hand-drawn to avoid the additional expense of revising a site plan that had already been through staff review, and had satisfied all staff reviewers.

Mr. Rooker asked if the plan is for a gas station. Ms. Higgins said it was a convenience store.

Mr. Rooker said it was written up in the newspaper. Ms. Higgins said they came back to the ARB with a hand drawn concept, and they said "this is more like it." They then redid the site plan, totally reengineered it, and sent it back through the preliminary site plan process to make sure there were no issues, and all staff members signed off on it. At this point, the ARB had issues with the grading at the rear, the canopy at the rear, and they needed to see parking for this new addition. That part of the property was not before them at the time. It is not about them focusing on how it looks from the Entrance Corridor, but when you say scale of development, it is four acres, so why are they considering an issue about scale. That is not an ARB issue. She said going through it as many times as she did, there was staff time involved each time. Their role seems to be general and there if cost on both sides.

Ms. Mallek said it is also about definitions and clarifying what they should be doing.

Mr. Rooker said that in 2003 the Board revised the sign ordinance with the intent of making it clear and straightforward as to what can be approved or not. There was a book done for applicants showing what can or cannot be approved, and options. The more that kind of guidance can be provided to applicants, the quicker the process is for everybody. He said there are other areas where very specific guidelines can be provided. He knows that every story has two sides. There was an article in the newspaper this morning concerning the ARB's side, and he had a different view as to why this particular application has gone in the direction it has taken.

Agenda Item No. 21. Adjourn. At 5:14 p.m., with no further business to come before the Board, the meeting was adjourned.

Chairman

Approved by the
Board of County
Supervisors

Date: 04/14/2010

Initials: EWJ