A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 14, 2010, at 6:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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, Senior Deputy Clerk, Meagan Hoy, and Director of Community Development, Mark Graham.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chair, Ms. Mallek.

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

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

Mr. Thomas said that yesterday he visited the Rockydale Quarry where blasting was taking place. They had microphones and seismographs set up onsite for monitoring. He said that he stood on the back porch of a couple who live off of Earlysville Road, and upon ignition there was a slight vibration and a sound similar to distant thunder. It was very, very quiet. Mr. Thomas said that they blasted about 50 tons of rock, and when it fell into the pit you heard a little rumble just as that happened. He (Mr. Thomas) and Mr. Willis, from Rockydale Quarry, then visited a family on Rio Mills Road, who lives almost adjacent to the Quarry entrance, who were not even aware that the blasting had already happened. Mr. Thomas said that Rockydale indicated that they may also do blasting of up to 200 tons, and there may be more of an impact.

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Ms. Mallek said she had provided Board members with a copy of a resolution declaring an agricultural disaster in the County due to drought conditions. There were no questions from Board members, so she then **moved** to adopt the proposed resolution and that it be forwarded to the Governor. Mr. Thomas **seconded** the motion.

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

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

**Resolution Requesting that Albemarle County
Be Declared an Agricultural Disaster Area
Due to Drought Conditions**

WHEREAS, the drought conditions in the County of Albemarle have severely affected farmers; and

WHEREAS, during the growing season of this year the County of Albemarle has received considerably less rain than normal while experiencing unseasonably high temperatures; and

WHEREAS, the Albemarle/Charlottesville Extension Agent of the Virginia Cooperative Extension has reported that corn, hay and pasture crops have suffered between 35 percent and 50 percent losses and that water is in short supply for livestock.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby requests that the County of Albemarle, Virginia be declared a drought disaster area as recommended by the Virginia Cooperative Extension in accordance with the Virginia Farmer Major Drought, Flood and Hurricane Disaster Act due to drought conditions.

BE IT FURTHER RESOLVED, that the County Executive forward this Resolution to the Governor of Virginia with a request that he takes all necessary steps to effect the disaster declaration.

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Ms. Mallek commented that Mr. Bill Shelton, whose family owns the vintage apple operation south of town and a member of the Department of Housing and Community Development Board, sent a congratulatory note to the County for receiving a $712,000 Community Development Block Grant for the Oak Hill Phase I sewer project. She congratulated all County staff who worked to get the grant.

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

Mr. Robert Brugh, a resident of 235 Terrell Road West, located off Georgetown Road, said that he recently attended a Planning Commission meeting where Georgetown Road improvements were to be discussed. Last week he saw surveyors working on Georgetown Road. He is not in favor of improvements to Georgetown Road because it is “nothing more, nothing less” than a Route 29 Bypass. When you come out on Terrell Road you cannot make a left turn; you have to turn right and then turn around in the Hessian Hills residential neighborhood in order to make a left turn. He thinks the whole

purpose of improvements to Georgetown Road is to get more traffic off Route 29 to justify Route 29. Traffic should be encouraged to go back to Route 29. He asked if the project has already been approved.

Mr. Rooker said the Georgetown Road project has been in the County's plans for 15 years, but the only improvement being done out there is bringing the sidewalk all the way from Barracks Road to Hydraulic Road and widening it a bit. There is a lot of pedestrian traffic and children walking to school. The only other improvement to Georgetown Road is repaving. He said that the County has also been working on widening Route 29 from Hydraulic Road to the Route 250 Bypass, and adding a ramp at Best Buy to ensure that the traffic moves better and stays on Route 29. Mr. Rooker noted that when Albemarle Place is built there will be a continuous right turn lane that starts by the Waffle House and comes down to Hydraulic Road; there will be a dual left-hand turn lane put in there. There are a lot of resources being devoted to make certain that Route 29 functions better than it is today.

Mr. Brugh asked the Board to keep in mind that any improvements to Georgetown Road are resulting in more traffic coming into a residential area.

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Agenda Item No. 6. Consent Agenda. Mr. Boyd **moved** approval of Item 6.1 on the Consent Agenda. Mr. Rooker **seconded** the motion.

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

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

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Item No. 6.1. Resolution of intent to amend the Subdivision Ordinance to allow the waiver of standards for private streets serving 6 or more lots in planned developments under appropriate criteria.

By the above-recorded vote, the following resolution was adopted:

RESOLUTION OF INTENT

WHEREAS, the orderly subdivision and development of land includes requiring a subdivider to assure that streets are properly designed and constructed for anticipated traffic and to promote public safety; and

WHEREAS, County Code § 14-412 establishes the standards for private streets and the applicable standards for private streets serving six or more lots are the public street design standards established by the Virginia Department of Transportation (hereinafter, the "VDOT design standards"); and

WHEREAS, the VDOT design standards change from time to time and these changes may discourage a planned development from achieving certain purposes of planned developments identified in County Code § 18-8.1 including, but not limited to, promoting an appropriate and harmonious physical development and creative design, when the planned development is built out over a long period of time; and

WHEREAS, it is desired to amend County Code § 14-412 to allow the standard for private streets serving six or more lots in a planned development to be waived under appropriate criteria provided that public safety is assured.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good land development practices, the Board of Supervisors hereby adopts a resolution of intent to amend County Code § 14-412 and any other regulations of the Subdivision Ordinance deemed appropriate to achieve the purposes described herein.

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

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Agenda Item No. 7. **Appeal of Planning Commission and Architectural Review Board Decisions on Singleton (AT&T) Tier II Personal Wireless Facility: ARB-201-002 and SDP-2010-003.** Request for approval of a treetop personal wireless service facility with a steel/metal monopole that would be approximately 69 feet tall (10 feet above the height of the reference tree), within a 20 x 30 foot lease area. This application is being made in accordance with section 12.2.1. (16) of the Zoning Ordinance which allows for Tier II personal wireless service facilities by right in the (VR) Village Residential zoning district. The site is located on 2856 Morgantown Road [St Rt 738] approximately 600 feet from the intersection of Morgantown Road [State Route 738] and Ivy Road [State Route 250]. The property, described as Tax Map 58A1 Parcel 40F1, is 2.089 acres in size, and is located in the Samuel Miller Magisterial District. The Comprehensive Plan designates the property as Rural Area in Rural Area 3.

The following executive summary was forwarded to the Board:

On June 22, 2010 the Planning Commission denied a request to install a Tier II Personal Wireless Service Facility ("Tier II facility") with a steel monopole that would be approximately 69 feet tall (10 feet above the height of the reference tree), within a 20 x 30 foot lease area. The application was made in

accordance with section 12.2.1.(16) of the Zoning Ordinance, which allows Tier II facilities by right in the Village Residential Zoning District. The Planning Commission denied the application solely based on the technical finding that the Architectural Review Board ("ARB") had not issued a certificate of appropriateness for this facility. The Planning Commission staff report (Attachment I) provides the history and details of the proposal.

Prior to this action, the Board agreed to defer an appeal of the ARB's denial of the certificate of appropriateness. The purpose of that deferral was to allow the Planning Commission to act and have all of the information considered together by the Board.

Appeal of the ARB decision under Section 30.6.8

Zoning Ordinance § 30.6.8(c) provides that the Board of Supervisors "may affirm, reverse, or modify in whole or in part the issuing, the issuing with conditions or modifications, or the denial of the certificate of appropriateness." In considering the appeal, section 30.6.8(c) directs the Board to give due consideration to the recommendations of the ARB together with any other information it deems necessary for a proper review of the appeal. A certificate of appropriateness is a certification that a proposed structure and/or site improvements within the Entrance Corridor Overlay District are consistent with the applicable design guidelines.

The ARB denied the certificate of appropriateness for the proposed Tier II facility because of its visibility from Route 250 West for a relatively short period of time when driving westbound and because the facility's visibility was not sufficiently mitigated since the top of the facility was skylighted. However, upon further staff analysis, neither the zoning regulations applicable to the ARB nor the ARB's design guidelines provide specific direction as to how the ARB is to evaluate the visibility of a Tier II facility when considering a certificate of appropriateness. Moreover, the Planning Commission has been delegated the responsibility for making the relevant determinations regarding the visibility and the location of Tier II facilities under section 5.1.40(d).

The standards applicable to Tier II facilities under section 5.1.40 establish a number of design standards to reduce the visibility and visual impacts of a personal wireless service facility. These regulations govern a wide variety of design issues such as the color of the ground equipment, the screening of the ground equipment and the monopole, the manner in which antennae are attached to the monopole, the height of the monopole (limited to up to 7 to 10 feet above the tallest tree within 25 feet), and the location of the Tier II facility on the site. This latter requirement is found in section 5.1.40(d)(2), which states in relevant part: "The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance of the facility." Some of these standards are further discussed in the context of this proposal in the subsection below pertaining to the appeal under section 5.1.40. The standards neither compel invisibility nor prohibit skylighting. Given the requirements of wireless technology, most Tier II facilities will be visible to some extent. However, the standards developed for Tier II facilities are a compromise between tall towers, evaluated on a case-by-case basis under a special use permit procedure and the federal mandate that calls for the rapid deployment of wireless technology. As noted above, the consideration of these standards has been delegated to the Planning Commission, rather than the ARB. In its review of the proposed facility under section 5.1.40, staff recommended to the Planning Commission that the proposed Tier II facility satisfied all of the applicable standards for approval. At its June 22, 2010 meeting, the Planning Commission agreed with the staff recommendation, denying the application solely on the basis that the conditions of the ARB had not been satisfied.

Because the proposed Tier II facility satisfies the governing requirements of section 5.1.40, staff recommends that the certificate of appropriateness be issued.

Appeal of the Planning Commission decision under Section 5.1.40

The Planning Commission denied the application based on the technical finding that the Architectural Review Board had not issued a certificate of appropriateness. Per section 5.1.40(d) of the Zoning Ordinance, the Planning Commission can approve an application for a Tier II facility when:

a) Requirements of subsection 5.1.40(a) are satisfied
b) The applicant demonstrates that the facility will be installed and operated in compliance with all applicable provisions of this chapter, criteria (1) through (8)
c) All conditions of the architectural review board are satisfied

Staff found that the Tier II facility application met the requirements of subsection 5.1.40(a) and would be installed and operated in compliance with the standards in section 5.1.40.d(1) through (8). Because the ARB had denied the applicant's request for a certificate of appropriateness on May 3, 2010 by a vote of 3:1, staff could not recommend approval of the Tier II facility.

The Tier II facility will not be located in an Avoidance Area, and the lease area is not delineated as a significant resource on the Open Space Concept Map. The proposed monopole is expected to be visible for a relatively short period of time at a particular point when traveling west on Ivy Road [State Route 250 west]. Telephone poles, electric and telephone wires, signs, and buildings also appear in one's view when descending the hill at Ivy towards the proposed monopole location. Tier II facilities must be sited to minimize visibility from adjacent parcels and streets. The applicant will fence and plant trees to limit views from the nearest adjacent property.

The Wireless Policy and Zoning Ordinance aim to mitigate or minimize visual impacts as opposed to making Tier II facilities disappear from view. The "Java Brown" color of the proposed monopole and flush mounted antennas will further limit views of the facility. The Wireless Policy states that personal

wireless facilities that are well sited will almost always be less visible, but siting does not guarantee invisibility. Based on the results of the balloon tests, staff recommends approval of the proposed Tier II facility at 7 feet above the reference tree. The applicant must demonstrate to the satisfaction of Board of Supervisors that there is not a material difference in the visibility of the monopole at the proposed height of 10 feet above the tallest tree, rather than at a height seven (7) feet taller than the reference tree. If the Board of Supervisors chooses to deny the application, it shall identify which requirements were not satisfied, and inform the applicant what needs to be done to satisfy each requirement.

This item has no budget impact

Staff recommends that the Board take the following actions in the following order:

1. Staff recommends the Board reverse the decision of the Architectural Review Board (ARB), grant the certificate of appropriateness without conditions, and clarify that it is the role of the Planning Commission rather than the ARB to evaluate the visibility of personal wireless service facilities for future Tier II applications.

2. Staff recommends the Board approve the proposed Tier II facility at 7 feet above the reference tree unless the applicant demonstrates to the satisfaction of the Board that there is not a material difference in the visibility of the monopole at the proposed height of 10 feet above the tallest tree, rather than at a height seven (7) feet taller than the reference tree.

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Mr. Bill Fritz, Chief of Current Development, reported that the ARB denied the application for a wireless facility. The Planning Commission also denied the Tier II application and stated that they could have approved it except for the ARB's denial – as the ordinance requires the Commission to make certain findings and find that it meets the conditions of the ARB. The adopted Wireless Policy sets forth standards for location, siting, and design of wireless facilities and that language was transferred into the Zoning Ordinance, which contemplated a variety of things including a three-tiered approach. Mr. Fritz said that a Tier II facility such as this one is currently referred to as a "treetop" facility – no more than 10 feet taller than a tree within 25 feet of the proposed site. One of the items contemplated in the Wireless Policy was the concept of "avoidance areas," places where wireless facilities should not go. He said that these are contemplated when considering impacts, and specific areas such as historic districts are listed as avoidance areas and automatically bump an application into a Tier Three category; Entrance Corridor districts were not added as an avoidance area in the Zoning Ordinance. Upon further review of the ordinance, Mr. Fritz said, staff established that the provisions of the Zoning Ordinance and ARB's design guidelines do not specify the scope of the ARB's review. The ordinance establishes clear criteria and the visibility standards contained within the ordinance are the exclusive purview of the Planning Commission. He added that Ms. Maliszewski would provide a summary of what the ARB did, and Mr. Gatobu would present on the proposal specifics and Planning Commission discussion.

Ms. Margaret Maliszewski, Principal Planner, said that on March 15, 2010 and May 3, 2010 the ARB reviewed the request to install a personal wireless service facility for AT&T at the Singleton property, located in the Route 250 West Entrance Corridor. The ARB denied the request both times. She explained that the ARB found that the monopole would not have an appropriate appearance from a particular vantage point on the Route 250 Entrance Corridor – as one is traveling west descending the hill into Ivy. She presented an illustration of the view taken from the applicant's ARB submittal – the length of the corridor between camera locations one and two. She also provided photographs of the balloon tests taken from the bottom and top of the hill. She indicated the vantage point from which the visibility of the monopole was not sufficiently mitigated. Ms. Maliszewski said that the factors contributing to the ARB's decision were: the lack of a wooded backdrop for the particular view, making the facility sky-lit; the reliance on offsite trees to mitigate the particular view; the duration of the view; and the prominence of the view. She added that the monopole in the proposed location allowed for a prolonged sky-lit view directly in front of westbound drivers on the corridor, and the duration of the view and prominence of the view were not appropriate – and those were the findings that resulted in the ARB's denial of the request.

Mr. Snow asked where the picture presented is being taken from, noting that it doesn't look like it's on the road.

Ms. Maliszewski responded that it was taken from the road, and is just zoomed in using the computer to show a closer look.

Mr. Thomas asked what color the tower would be, noting that the test balloon is red.

Ms. Maliszewski replied that it would be brown.

Mr. Rooker commented that over the years, he has never seen a tower that wasn't more visible than the picture. He said that the lattice tower at Keswick, off of I-64, was depicted quite differently in simulation than it looks in reality. He said that the visibility is not as great as when you are standing there looking at it.

Mr. Snow noted that a person would not be riding down the road and zooming in on the tower.

Mr. Thomas said he personally would have to stop in order to see the balloon.

Mr. Gerald Gatobu, Principal Planner, presented photographs where staff was trying to get an idea of visibility for a passenger who is driving towards the balloon, and try to capture every single angle that provides a view of the proposed tower. He showed a picture of the tower location, stating that there have been issues with visibility in terms of the adjacent property. He also indicated the "reference tree" which provides the tallest point nearby. He said that he must evaluate the possibility of the tower falling down, as it must fall within its own property boundaries; the neighboring property belonging to Mr. Gibson is about 127 feet – so the tower has about 58 feet to spare. Mr. Gatobu added that the applicant has submitted a tree conservation report that shows the quantity of trees and the proposed preservation efforts during construction.

Mr. Rooker said that part of the reason for ARB denial was that part of the screening was provided by trees that were not on the property, and asked Mr. Gatobu to show what trees are being referred to.

Mr. Gatobu provided an example, noting that it is about 300-400 feet away from the property. The tree conservation report submitted by the applicant covers an area of at least 100-feet radius. He said that with inclement weather trees can fall, and neighbors can change their trees and thus provide increased visibility.

Ms. Mallek asked if the ordinance provided a standard for the number of trees onsite that provide a minimum threshold.

Mr. Gatobu responded that there is no set number. During the building permit stage a tree conservation plan is used to ensure there is no tree damage; the arborist usually presents a list of trees, their height, etc.

Mr. Boyd asked if any of the trees shown have been removed.

Mr. Gatobu said that to his knowledge, all the trees are still on site; none of the trees on the list on are on the neighbor's property.

Mr. Snow asked how many of the trees are removed in order to clear a ground space for this tower.

Mr. Gatobu replied that probably seven trees would be removed to allow the applicant access to the site, and the base would be fenced from visibility. The fence would be eight feet high and the exterior is painted brown so it blends in better with its surroundings. He then reviewed the requirements by which the Board must evaluate the appeal: the applicant must meet Subsection 5.1.40, which is the application; must meet items 1-8 in the staff report; and all conditions of the Architectural Review Board. Mr. Gatobu presented on the screen a list of staff recommendations.

Mr. Davis pointed out that this is a Tier II application, noting that Tier One is administratively approved and Tier Three requires a special use permit. He stated that a Tier II requires the Board to make the findings as outlined by Mr. Gatobu. If the Board makes those findings, it is stepping into the shoes of the Planning Commission, which – if the findings are made – the Planning Commission could only approve it without conditions as there is no authority under a Tier II to impose additional conditions beyond what the ordinance specifies. If all the criteria are met, the Board should approve the Tier II proposal. If the criteria are not met, the Board cannot approve the request.

Mr. Rooker noted that the Planning Commission did vote to deny this, and the question is whether or not the Board overturns that decision.

Mr. Davis said that the Board needs to consider the appeal of the ARB decision – the denial as explained by Ms. Maliszewski; and the appeal of the Planning Commission denial, which was based solely upon the ARB denial of the permit. He added that one of the findings the Commission had to make was that the plan met all the requirements of the ARB, which could not be met as the ARB had denied the Certificate of Appropriateness. The Board needs to first act on the ARB appeal. If the Board denies the ARB appeal, it could deny the site plan appeal on the same basis as the Commission. If the Board approves the Certificate of Appropriateness, it needs to consider the Commission appeal and decide whether all the other criteria have been met. The key issue is whether the tower has been sited in a way to minimize satisfactorily its visibility.

Mr. Boyd commented that the subjective question here is whether the applicant has satisfied the requirements of the Architectural Review Board, and the Commission says it does not satisfy those.

Mr. Davis confirmed that, adding that some explanation is needed as the ARB denied the application because they didn't think that the visibility had been properly minimized. He said that the scheme of the ordinance that has been adopted places that decision in the hands of the Planning Commission and not the ARB. The ARB should have confined their review to the guidelines that it operates under to minimize the impact on the historical character of the Entrance Corridor. The problem is there aren't many specific guidelines that relate to a treetop cell tower. He added that the ARB looked at it from the perspective of the impact of visibility, but that should not have been a criteria that they based their decision upon and the visibility determintion should have instead been made by the Planning Commission.

Mr. Rooker commented that visibility is not limited to the road, and could reference the property next door or the neighborhood in general.

Mr. Davis responded that the ordinance provides that the visibility needs to be adequately minimized from adjacent parcels and streets – so that is a determination for the Board to make, it is a standard they need to evaluate in light of the evidence before them.

Mr. Boyd stated that it appears the Planning Commission seems to have denied this solely on the basis of the ARB's denial – which based the visibility only from Route 250, as that is their only purview. The Planning Commission must have thought that the visibility from all other angles was OK.

Mr. Rooker responded that they didn't really look into that, as they believed at the time that they had to have an ARB approval in order to approve the request.

Mr. Davis said that the issue was framed for the Commission in a way that they were evaluating all the criteria, but Mr. Fritz may have more information.

Mr. Fritz clarified that when the presentation was made to the Commission, it was made clear that regardless of the outcome they had to deny the request because they had the ARB's denial; however, it was known that the applicant had already appealed the ARB's decision so an appeal from the Commission was likely and they were advised to independently analyze the eight criteria and make their own conclusion as to whether this facility met those – and what their own independent outcome would be if the ARB had approved the application. He said that their finding was that it met the eight criteria in the ordinance for approval, but didn't have ARB approval.

Mr. Dorrier asked if the ARB denied it because of height.

Ms. Maliszewski responded that the ARB denied it because they didn't think the visibility was sufficiently mitigated and it is the height that makes it visible.

At this time, the Chair asked the applicant for comments.

Ms. Valerie Long, representing AT&T, said that the fence proposed to be located around the tower is wooden and would be eight feet tall. AT&T is also proposing the addition of shrubs along the outside of the fence to screen it from adjacent property owners – 17 holly trees on each side. Ms. Long said that AT&T asked the Gibson's next door with what they wanted, and they requested those as the plants would provide screening year-round and would be low-maintenance. She added that the top of the cabinets that are in the inside of the fences are not quite six feet tall. The fences are designed to be tall enough to screen the ground equipment from the adjacent parcels and then the landscaping is added to soften the look. She stated that the trees are usually 4-6 feet at the time they are planted. They are happy to work with the neighbors to install an appropriately sized landscaping tree. She added all the trees shown on tree conservation plans are all onsite – but there are trees from other properties that can be seen. They have sufficient screening onsite; they are not relying on any trees that are offsite for screening and the ordinance doesn't provide for that. Ms. Long added that the ARB denied this request based on visibility, but as Mr. Davis said that it should not have been criteria relied upon in making their denial. The ARB should not have denied it based on visibility thus making it an improper denial– that is the purview of the Planning Commission. She added that the Commission was very clear that their denial was based solely on the ARB's decision, as the Commission had considered visibility of the proposed facility from multiple angles. There was significant input from the public at the Commission hearing and a number of pictures shown by the applicant and several adjacent property owners.

Ms. Long said AT&T is proposing this facility because there is a significant gap of coverage in this area that has been there for a long time, and it is a challenging site to cover. She said that when the other sites nearby were installed 10 years ago, they were expected to suffice but with treetop towers it is difficult to predict how well they are going to work until they are actually built and turned. This location's low terrain was prohibitive to adequate coverage. She presented AT&T computer models that indicated that the facility at this location will fill the hole and provide good coverage on Route 250 and provide in-building coverage for nearby residences and businesses that rely on wireless coverage.

Ms. Long presented a picture of onsite trees, noting that it is one of the most heavily wooded parcels in the area and pointing out the parcel's location. She added that the proposed facility is 94 feet from the closest property line, and there are seven trees and two shrubs in the lease area that will need to be removed. There is a significant amount of tree preservation screening that will installed during and after construction. Ms. Long pointed out the location of neighboring properties and their homes; noting that the Vigilante house is approximately 750 feet to the west and the Gibson's property is approximately 120 feet to the corner of their garage. She added that an old garage on Ms. Singleton's property would be removed to accommodate the tower and clean up the area. She provided and described various photographs of the lease area, reference tree and property. She noted that Ms. Singleton's driveway would serve as the access for maintenance vehicles, so no additional driveway would be needed and maintenance is done about once per month.

Ms. Long said that there have been four or five balloon tests done since January. AT&T originally proposed ten feet above the tallest tree but was not able to obtain ARB staff support as they recommended four feet. She stated that AT&T paid a significant amount of money to a graphics company to create photo simulations. Ms. Long provided numerous photographs from various property locations taken during different seasons. She added that they were not able to recreate images every time there is a change in season or proposed tower height. Ms. Long added that the pole might stick out above the existing trees, but certainly no worse than any existing power line poles along the road. Ms. Long presented a view from the Gibson property, which is closest to the leased area, and said that the brown pole would be much less visible than the red balloon. She said that this is a busy area, but they believe

that because of the pole design and location – brown pole and flush mounted antennas - it will blend in well with everything else around. Ms. Long said they are not relying on trees from the adjacent property for screening, although they may add to the screening.

Mr. Snow said that the comment was made several times in the Planning Commission minutes that the balloon was being blown in the photos and the location would actually be different.

Ms. Long replied that the balloon tests are not an exact science, and were repeated several times for this project. She said that they do the tests early in the morning when the wind is lowest. The balloon cannot be launched from the exact location where the pole will be because of the tree cover above it; the balloons pop. Ms. Long explained that after the first denial from the ARB, she and a colleague did an exhaustive search on the site and came back to the proposed location – but launched the balloon from right next to the reference tree, about 25 feet from the actual pole location. She added that they are very careful to not take pictures unless the balloon is straight up because it is not an accurate depiction.

Mr. Snow asked if there was any noise associated with the proposed tower.

Ms. Long responded that there is absolutely no noise, just some typical construction noise while the site is being installed. She said that she would be showing a short video taken from her car during one of the balloon tests, using a hand-held video recorder; she indicated that traveling at the posted speed limit down the road, the view is visible for less than 10 seconds and is not visible at all driving east unless you stop and get out of your car.

Mr. Thomas asked what the distance is from the tower site to the Singleton residence.

Ms. Long replied that it is much closer to that residence than the Gibson residence.

Mr. Rooker asked if anyone is living in the Singleton house.

Ms. Long said Ms. Singleton has been living in the residence some of the time. Ms. Singleton is elderly and during the winter, she had a problem with her heating system, so she lived with some family. Also, she does not have air conditioning, so has stayed with family during the hot weather.

Mr. Snow commented that she was not at the residence when he went by there.

Ms. Long said they started visiting the site last summer and two of the three times they were there assessing the site, Ms. Singleton was there mowing her grass with her push lawn mower. She may not live there every day of the year, but it is her primary residence.

Mr. Thomas asked what the communicative results were when the pole was four feet above the tallest tree.

Ms. Long responded that it did not work at that height, noting that the bottoms of the antennas must be free of blockage from the trees just like the top.

Mr. Thomas asked the distance of the antennas from the pole.

Ms. Long said that the antennas are flush-mounted to the pole, and in the County's definition of flush mounting, no more than 12 inches between the outside face of the pole and inside face of the panel is allowed; it must be mounted with a bracket and must be tilted just slightly to tilt and angle towards the coverage objective.

Mr. Rooker mentioned the Planning Commission minutes and said that it is clear they made no finding at all on anything having to do with visibility. The sole basis for their decision was that the ARB had not approved this. He emphasized that Mr. Loach said in their meeting that his "main problem was not from Route 250 because of all the light poles, but what was shown from Mr. Gibson's house and its visual impact". Mr. Rooker also said that the minutes indicate Mr. Loach asked if the ARB's concern was only the view from the Route 250 perspective, and the ARB responded that it was because that is the limit of their purview. Mr. Rooker said that Mr. Zobrist makes it clear that the sole basis for his motion is that the ARB denied it and even stated at the meeting that the "political decision is being moved from the Planning Commission to the Board of Supervisors". At that point, Mr. Rooker reported, Mr. Lafferty said the "Commission was passing the buck" and Mr. Zobrist agreed. Mr. Rooker said that Ms. Carmichael asked for clarification of the motion and if it would have been approved had it not been a technical denial; Mr. Kamptner replied that the stated reason in Mr. Zobrist's motion for denial was because the ARB had not approved the Certificate of Appropriateness yet. Mr. Zobrist then said that was the sole basis for the motion. The motion for denial passed 6-0. Mr. Rooker said there was no finding at all by the Planning Commission, at least in these minutes, on the visibility issue looking at it from adjacent properties or from any other perspective; the only thing they considered was that the ARB had denied it. They couldn't approve it, and they said they were passing it on to the Board of Supervisors for the Board to basically deal with the political issue. He said that he wanted to clarify that because it was presented differently.

Ms. Long added that the Commission members also did not express any objection to visibility.

Mr. Rooker responded that they did not consider it. He added that there is no point in the minutes where the Commission makes any finding about whether they would have approved it based on visibility had they considered all those issues. Mr. Rooker emphasized that they couldn't make that decision because of the technical fact that the ARB had not made a decision, but the comments are clear that there

are concerns about visibility. They commented on that when it came down to making the motion; they do not say what they would have done had the ARB approved it.

Mr. Thomas asked if the Commission should have made a decision on the visibility before they made a decision on the ARB's decision.

Mr. Rooker replied that it is irrelevant because ultimately it would have to come back to the Board if someone had appealed the decision.

Ms. Long stated that the applicant specifically asked for some direction, and her colleague asked for clarification as to the reason for denial – and the Commission said that the sole reason was because the ARB had denied it.

Mr. Rooker said that the Commission made it clear that they were not dealing with the visibility issue and were passing it on to the Board.

Ms. Long commented that the Wireless Policy was developed when Mr. Rooker and Mr. Thomas were on the Commission, and she became involved in 1999 when representing AT&T's predecessor. The policy is a compromise. She added that wireless companies would prefer larger galvanized steel towers, but they were not working for Albemarle County and thus the policy and the treetop facilities were established. AT&T was following the Wireless Policy long before it was adopted and has worked hard over the years to comply with the Policy. Ms. Long emphasized that when these towers are only ten feet above the tops of the trees and you are trying to provide coverage along the road, they must be closer to the coverage objective at the site and won't work otherwise. That is why the Wireless Policy allows these treetop facilities in every single zoning district. This is an infill site and is challenging. They worked hard to find a location that would work. She then showed the aforementioned video of the tower site and the balloon visibility. Ms. Long asked to have an opportunity to respond to public comments as part of the applicant's response time.

At this time, the Chair asked for other public comments.

Ms. Mary Newton said that she lives at 2900 Morgantown Road and her house is an 1880s property in the vicinity. She said that due to critical slopes, the five acres she own is only suitable for one building spot where she hopes to build a house. The location is also on the site line of proposed cell tower. Ms. Newton stated that she will be impacted by the tower placement, but it seems that the focus here is on visibility from the Entrance Corridor.

Mr. Rooker responded that the visibility from adjacent properties is just as important as it the visibility from the Entrance Corridor.

Ms. Newton expressed concern that a tower placement could destroy her property, adding that due to critical slopes in the Village of Ivy the tower is going to be right in their face. She said that her neighbors are also concerned emphasizing that she has lived there for 15 years and Ms. Singleton has not lived there in many years.

Ms. Dianna Gibson said she lives on the adjacent property, 2852 Morgantown Road. She said some of the photographs shown earlier didn't really do justice to how big and right in their sight line the pole is going to be. She said that it concerns her that having this monstrosity right here as they view it every morning may impact their property values and way of life. Ms. Gibson stated that many surrounding neighbors are concerned with the visibility and what this might lead to in Ivy. People are very up in arms about what is going on here.

Mr. Trevor Gibson thanked Board members for their time. Mr. Gibson said that the tallest tree on the tree survey is 57 feet, and the proposed monopole is 69 feet. He stated that the applicant is proposing to remove seven trees, and they happen to be the tallest in the area. Mr. Gibson reiterated that the Planning Commission did not opine on the appropriateness of the tower, adding that the critical slopes are a significant issue. The balloon float was inaccurate given the sway of the wind; it is more like 13 seconds. He mentioned that Ms. Singleton does not live on property, and they have only seen her once or twice in the 15 years they have lived there. He is not even sure if the electricity is on, the mailbox has been removed, and the lawn has not been serviced. Mr. Gibson said that AT&T states they have "good coverage" in Ivy already, and "best service" at the proposed site. The residents believe this will have more negative impact than positive impact because of the small amount of area this would actually cover. He stated that there is no demand from Ivy residents, only opposition – and there are no visible towers from other carriers. They live there because Albemarle County does not put the interest of big business ahead of its own residents. He presented a coverage map taken from the AT&T website, noting locations of "best" and "good" coverage in that area, and highlighting the visibility of the proposed tower. He provided photographs showing that the tower would be clearly visible from his kitchen and patio. He stated that this tower is plopped right in the middle of the two houses – his house and the Singleton house. Mr. Gibson added that this is residential area – not a 300-acre farm. The proximity to the Gibson house is less than 100 feet and visible from all outside angles. Mr. Gibson stated that the tower would have significant implications to his quality of life and financial health of his family.

Mr. Jim Sofka said that he had attended the Planning Commission. The Commission did not render an opinion on visibility – but instead left it for the Board to decide and did not pass on any guidance on that matter" He explained that he lives in the corner lot facing Morgantown Road, forming a triangle with Route 250. Mr. Sofka stated that the tower would be situated right between his tree line, and pointed out the hemlock tree and one other tree that AT&T would be relying on for screening. They are his trees

and both are diseased and he has been treating them for four years, and should he have to remove them the tower would stick out like a sore thumb. Mr. Sofka said that one tree is 360 feet east of the tower, and Tier II requirements are clear; the applicant cannot rely on offsite trees for screening. He noted that AT&T is using his trees and some on the Gibson property to satisfy some of their requirements without consent or any kind of compensation. Both of these properties form the view shed for Ivy. Mr. Sofka emphasized that this is a compact neighborhood, and the houses are closer than they appear in the photograph. He added that there has not been a light bulb on in Ms. Singleton's house for the last three years. The trees on the Singleton property are small and not visible. In 2009 Dominion Power removed a lot of trees when they did routine clearing by the power poles. He thinks the ARB acted correctly. The ARB couldn't rule on the neighborhood visibility but could not approve based on the view from Route 250.

Mr. Roy Van Doorn, next on the list to speak, said he would forego speaking at this time.

Mr. Paul Wright, a member of the ARB, said he would be speaking for himself and not that Board. He said that the ARB unanimously rejected the request because they believed that the tower would be visible. He added that he does accept Mr. Davis' opinion that visibility is not under their purview. If they cannot see something, they cannot view it, but he believes if they can see it, they can view it. He suggested that the ARB be removed from the process of considering future cell towers, if visibility is not an ARB issue. Mr. Wright stated that they do not have a problem with the base or the poles, and the photos do not really show what the tower would be like. It was not a capricious thing that the ARB did – it is simply in their purview that they unanimously decided that this was inappropriate given the historical conditions of this area. He added that nine seconds is supposed to be the length of time that you can see the tower from Route 250. The reason the ARB did not have a problem with the other view is because it was mitigated. He looked at the other view and it in no way compromises the overall visual integrity of the County. He rejects the idea that the Commission should be the sole determinant of visibility in this case as it makes no logical sense. Mr. Wright said he has an AT&T phone, would love to have better coverage in many other places and he wants them to build more towers, but he wants them to do it within the rules. As a group, the ARB decided that they had not done that.

Ms. Long clarified that the reference tree is 57 feet and the proposed pole is 69 feet, noting that there is a slight difference in elevation between the reference tree and the pole location. She said that the 69-foot pole is ten feet above the top of the reference tree. Ms. Long stated that AT&T would not invest the significant amount of funds in this location if there were not a very strong customer demand for coverage in this area. She said that this facility meets all the requirements of the wireless ordinance, and the issue is whether the Board finds there is sufficient onsite screening. She said they are not relying on screening of any offsite trees; they cannot control how offsite trees help. The tower will not be invisible, but the wireless policy and the wireless ordinance do not require that it be invisible. If it's invisible it will not work. Ms. Long added stated that the policy requires that visibility be mitigated, but not eliminated, and it speaks to that by following the County's design requirements – including using a brown pole with flush-mounted antennas and limiting the height of the pole to no more than 10 feet above the tops of the trees. She purports that that is all consistent with what they are doing. Ms. Long emphasized that these facilities are permitted by-right in every zoning district in the County. If the County had contemplated that it did not want towers in rural residential areas, they would not have been allowed in the areas. She thanked the Board for the opportunity to comment and can respond to any other comments.

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

Mr. Thomas said that in his understanding of the wireless policy, he can support the application under Tier II criteria.

Mr. Rooker said that he and Mr. Thomas served on the Commission at the same time the policy was established, but he would have a great deal of difficulty supporting the application. He stated that Section 5.1.40(d)2 specifically makes "visibility from adjacent parcels" a factor to be considered as to whether it is appropriate – whether the visibility from those parcels is mitigated, as well as other streets. Mr. Rooker said that the ARB unanimously ruled that it was visible from Route 250. He thinks it would be hard to find differently than the ARB on the Route 250 perspective and especially if the offsite trees were removed. If those trees are removed the view from Route 250 would be even clearer. Regardless of that issue, the Board is supposed to take visibility from neighboring parcels into consideration. He thinks the Board would set a precedent for allowing cell towers tight in to neighborhood situations, close to houses, which they have the ability not to allow because they are supposed to take into consideration visibility from adjacent parcels. He does not think people are going to appreciate it if the Board creates a situation in the County where they open up their door and they are going to be looking at a cell tower on their neighbor's property - 50 feet from their property line. He added that the cell tower is practically right outside the Gibson's door, and that is why this is in the ordinance; the Board is supposed to consider that. Mr. Rooker said he thinks the tower would be inappropriate from Route 250 and with respect to adjacent parcels. He said he thinks it would be a big mistake. This is a two-acre lot in a residential area where the neighbors object, it would be highly visible from their properties and the ordinance specifically contemplates that it should be a criteria.

Mr. Boyd agreed, stating that the visibility is inappropriate in this case and he cannot support it.

Ms. Mallek noted that localities are permitted to rule based on aesthetics, and she was struck by the photos from the neighbors' homes.

Mr. Dorrier said that the County spends a lot of money conducting these tests, as does the applicant, and the balloon is visible 10 feet above the highest tree. It's got to give impetus to denying the

application, because it is the sole criteria that the Board uses to determine whether it's right or not. If the Board throws those criteria out, they have nothing left.

Mr. Snow commented that he was considering the tower based on what someone could see on Route 250, and said it is unlikely anyone would see it. He stated that it is clear that the neighbors would be able to see it though, and that negates the approval. He could support the tower from the standpoint of mitigating the site from Route 250, but he understands the argument from what the Gibson's and Sofka's would see.

Mr. Rooker then **moved** that the Board uphold the ARB decision with respect to visibility. He asked if that was what the Board needed to do procedurally.

Mr. Davis said that there are two appeals: the ARB decision, which would be approved if the Board follows staff's recommendation. Mr. Davis said he appreciates Mr. Wright's comments; there was some confusion for the ARB in the staff's presentation to them. He stated that under the statutory scheme in place with this ordinance and this particular consideration, he does not believe that visibility alone is the purview of the ARB.

Mr. Davis suggested that the Board approve the Certificate of Appropriateness and then deny the Tier II approval based on the visibility from the adjacent property owners and the recommendation of the ARB that the visibility is an issue in the Entrance Corridor. He does not think there is a basis to deny the Certificate of Appropriateness.

Mr. Rooker then **moved** to approve the Certificate of Appropriateness based solely on the fact that the County Attorney's opinion is that visibility alone was not a basis for ARB denial. Mr. Dorrier **seconded** the motion.

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

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

Mr. Rooker **moved** to deny the Tier II application, based on the provision in the second criteria in the ordinance that the facility has not been adequately minimized for visibility purposes from adjacent property owners and based on the findings of the ARB it has not been minimized from an Entrance Corridor. Mr. Dorrier **seconded** the motion.

Ms. Long asked if action on this item could be deferred until she has an opportunity to consult with Mr. Davis.

Mr. Rooker responded that the motion has been made. He asked that the motion be voted on.

Mr. Dorrier said he seconded the motion.

Mr. Davis said that the rules of a zoning application or special use permit do not apply to this application, so it would be purely at the discretion of the Board to entertain a deferral.

Mr. Snow commented that when the item came before the Board tonight, he was under the impression that this should be considered for visibility from the Entrance Corridor – and perhaps Ms. Long was only prepared for a presentation in one area. The Board is now changing the rules in what it is looking at.

Mr. Rooker replied that if you read the Planning Commission minutes, that is not the case. He stated that Ms. Long addressed the visibility issues, as did neighbors. That is part of the ordinance. The Board is not changing the rules as it is one of the criteria in the ordinance. It's mentioned throughout this application.

Mr. Snow said that when the ARB denied this, it was because of the view from Route 250.

Mr. Rooker stated that the reason is because that is their only area of purview, but that is not the Board's only area of purview.

Mr. Snow commented that that was not covered in any of the minutes he read. The minutes did not state that the denial was based on visibility from the neighbors.

Mr. Rooker said the Commission denied the request because technically they did not feel they could approve it because the ARB had denied the request. He added that the applicant understands the ordinance and the Board's role.

Mr. Thomas said he would like Ms. Long's opinion on the Board's current discussion.

Ms. Long said she is respectfully asking that the request be deferred to continue to consult with her client and Mr. Davis on the issues. This request is being made out of respect for the fact that AT&T has been working with the County policy for over ten years. They want to work with the policy. They have a number of facilities coming through the system. Despite what went on tonight, procedurally this case has been like no other she has been involved with regard to the ARB, questions about jurisdiction and the role of the Commission. This has been an unusual process and out of respect for the time and investment

AT&T has put into this application, she asked for deferral so they can consult and decide on the best course of action. She wants to continuing working with the County's wireless policy. When everyone understands the rules and procedures, things can work well. They still think this is a good site. They want to understand what would happen if the request is denied and how they may be able to work with the County to get it approved. Although it may not be a viable option, they do want that opportunity.

Mr. Rooker said he thinks it is inappropriate for someone to speak in the middle of a motion. If they are going to allow the applicant to speak on the deferral issue, they also need to hear from the other side. These folks have also had to show up for numerous meetings and they are entitled to have a final decision.

Mr. Boyd said he is not opposed to hearing more arguments on the issue, but regardless of procedures, this neighborhood has dealt with this issue for a long time. He is not going to change his mind based on a deferral. If they have to deal with process and procedures, he will deal with the next case, but he is ready to proceed and vote.

Mr. Dorrier then called for the question.

An unidentified person said these rules are clear to him. On June 9th he was present when the applicant tried to get the Board to discuss this issue at which time Mr. Davis explained procedures. He has looked at Tier II. He attended the Commission meeting and they made it clear the Board was going to decide the matter. It was abundantly clear that they were all unanimously of the view that this would be decided. Now with the Board ready to make a motion, Ms. Long wants to pull the request so she can consult and start to strategize. He does not think that is right. It is the Board's decision and it is clear to him the circumstances.

Mr. Davis then **clarified** that this is a **motion** to deny the Tier II application because of its visibility from adjacent properties and because of its visibility on Route 250, with the finding that it has not been adequately minimized for purposes of this application.

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

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

Mr. Davis then explained, for the benefit of the audience, that the Board has approved the Certificate of Appropriateness but denied the Tier II application, so the application is denied.

Agenda Item No. 8. **PUBLIC HEARING: Jordan Development Corporation Lease Agreement for the Meadows Community Center**. To consider leasing to Jordan Development Corporation the Crozet/ Meadows Community Recreation Building, located at 5735 Meadows Drive, Crozet, Virginia (Parcel 05600-00-00-014B0), for use as a leasing and management office for the Meadowlands Apartments and as a community center. *(Advertised in the Daily Progress on July 5, 2010.)*

Mr. Tucker then summarized the executive summary that was forwarded to Board members. In 1977, the County of Albemarle entered into an agreement appointing Jordan Development Corporation (Jordan) as the County's agent for the construction and management of the Meadows housing project in Crozet. The original Meadows project included the construction of residential units and a community center on 27.9 acres of property. Under this agreement, the County maintained ownership of the community center and the land upon which the center was constructed while the remainder of the property was transferred to Jordan. Upon completion of the community center, the County was to lease the center to the Jefferson Area Board for the Aging or other appropriate agency under a separate agreement. Upon completion of the residential units, Jordan assumed sole responsibility for the management of those units. While no evidence of a formal agreement can be documented, the Jefferson Area Board for the Aging did originally operate the community center but ceased operations in 1981 due to funding reductions. Absent any other interested appropriate agency, the Parks and Recreation Department assumed responsibility for the operation of the community center on January 1, 1982. Jordan has historically maintained an office in the community center for leasing and management of the Meadows residential units at no cost to Jordan.

During the FY 10/11 budget process, each department carefully reviewed program expenditures and services and identified potential budget reductions based on those reviews. The Meadows Community Center is primarily used by the residents of the Meadows with some weekend and evening use by the community. With the rehabilitation and expansion of the Meadows housing complex which is currently underway, the activity in Jordan's leasing and management office and the overall use of the community center by Meadows residents will be increasing. Therefore as a budget reduction measure, the Parks and Recreation Director recommended transferring the responsibility for operating the center to Jordan or closing the center. After review by the Leadership Council, County Executive's staff and the Board of Supervisors, this recommendation was ultimately approved and no funds are budgeted in FY 10/11 for the annual operations of the Meadows Community Center.

Discussions between County Parks and Recreation and Housing staffs with representatives of Jordan, Management Services and the Piedmont Housing Authority have resulted in the proposed lease arrangement between the County and the Jordan Development Corporation.

Virginia Code § 15.2 – 1800 requires that the Board advertise and hold a public hearing prior to leasing County-owned property.

Meadows housing project. Jordan will assume responsibility for the supervision and operation of the community center during the Monday through Friday daytime hours the leasing office is open. In addition, Jordan will pay annual rent in the amount of $6,000 to the County in equal monthly installments. The rent amount was determined to offset the estimated annual electric, water and routine maintenance and repair costs for the community center building which will remain the County's responsibility. Jordan will be responsible for paying for telephone service for the building. After-hours use of the community center, typically weekends and evenings, will still be managed and supervised by the Parks and Recreation Department. After-hours use of the community center by Meadows residents or for the benefit or Meadows residents will be managed and supervised by Jordan. All reservations for after-hours use of the community center will be requested through the Parks and Recreation Department, who will maintain a master calendar of building use. Jordan and the County will share trash collection and janitorial expenses based on use.

Funding for the operation of the Meadows Community Center was eliminated from the Parks and Recreation Department budget for FY 10-11. This lease arrangement allows the community center to remain open to support the Meadows housing project and provides for the continued use of the center by the community while providing sufficient revenue to offset the County's routine operating expenses.

Mr. Tucker said after the public hearing, staff recommends the Board approve the lease with the Jordan Development Corporation and authorize the County Executive to sign the lease on behalf of the County. He added that all parties involved in the lease are in support.

The Chair opened the public hearing. No one came forward to speak, the public hearing was closed and the matter placed before the Board.

Ms. Mallek **moved** that the Board approve the lease with the Jordan Development Corporation and authorize the County Executive to sign the lease on behalf of the County. Mr. Dorrier **seconded** the motion.

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

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

AGREEMENT OF LEASE

THIS LEASE AGREEMENT is made this 1st day of August, 2010, by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and JORDAN DEVELOPMENT CORPORATION, Tenant.

ARTICLE I. PREMISES AND IMPROVEMENTS

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

ARTICLE II. TITLE: QUIET ENJOYMENT

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

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease shall commence on August 1, 2010 (the "Date of Commencement") and shall expire July 31, 2015. All references to the "term" of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

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

Section 3.3. Early Termination. At any time during any term of this Lease, upon six months' written notice to the Tenant, provided pursuant to Section 18.3 herein, the Landlord may terminate this Lease at its discretion, without further obligation after said termination.

ARTICLE IV. RENT

Section 4.1. Annual Rent. Commencing upon the Date of Commencement, during the first three years of this Lease, Tenant agrees to pay to Landlord annual rent of Six Thousand Dollars ($6,000.00), payable in equal monthly installments, in advance, on the first day of each month during the term hereof. After the third year of this Lease, the rent for subsequent years of the Lease shall be indexed for inflation and shall be calculated by first establishing a fraction, the numerator of which shall be the level of the CPI Index (as defined herein) as of the first day of that month which is two months before the month in which the Date of Commencement occurs in the subsequent years, and the denominator of which shall be the level of the CPI

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

Section 4.2. Address for Rent Payment. All payments of rent due Landlord pursuant to Section 4.1 shall be made to Landlord at the address specified for "Notices" herein, 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

The Landlord shall provide water, sewer, electricity, heating and cooling. The parties shall share the trash collection and janitorial expense as outlined below. The Tenant shall provide telephone and all other services.

ARTICLE VI. USE OF PROPERTY

Section 6.1. Permitted Use. Tenant shall have use of the Leased Premises for a leasing and management office and community center, as detailed below.

(a) The Tenant shall maintain an office in the Leased Premises for leasing and management of the Crozet Meadows and Meadowlands Apartments (hereinafter, the "Apartments").
(b) A Community Center shall operate in the Leased Premises under the supervision of the Tenant during the hours that the leasing office is open.
(c) Residents of the Apartments may enjoy use of the Community Center during the Tenant's hours of operation, as allowed and supervised by the Tenant.
(d) Other uses of the Leased Premises may be allowed by the Tenant at its discretion to provide services for the residents of the Apartments and surrounding community during the normal hours of Tenant's leasing office.
(e) The Tenant may make appropriate charges for the use of the Community Center during the normal hours of Tenant's leasing office as determined by the Tenant.
(f) After-hours use is understood to be any hours that the JDC leasing office is not scheduled to be open.
(g) The Landlord's Parks and Recreation Department shall arrange and manage any after-hours use of the Community Center by the community.
(h) The Tenant shall arrange and manage any after-hours use of the Community Center by the residents of the Apartments.
(i) The Tenant may make appropriate charges for the after-hours use of the Community Center by residents of the Apartments as determined by the Tenant.
(j) All reservations for the after-hours use of the Community Center shall be requested through the Landlord's Parks and Recreation Department, who will maintain a master calendar of building use.
(k) Reservations requests for use by Apartment residents or for the sole benefit of Apartment residents shall be requested through the Tenant. The Tenant's representative shall contact the Landlord's Parks and Recreation Department to schedule such requests.
(l) The Landlord shall waive the reservation fee for any reservation scheduled by the Tenant.
(m) The Tenant shall be responsible for the routine cleaning and necessary janitorial supplies incurred (i) during the Tenant's hours of operation and (ii) by after-hours use scheduled by the Tenant.
(n) The Landlord, through its Parks and Recreation Department, shall be responsible for the routine cleaning and necessary janitorial supplies for after-hours community use.

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.

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.

(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. 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. Landlord shall be responsible for all repairs and maintenance for the Leased Premises, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, including, but not limited to, plumbing, heating, electrical, air conditioning, plate glass and windows. Notwithstanding the foregoing, Tenant shall be responsible for all maintenance and repairs necessitated by the negligence of Tenant, its employees and invitees. Landlord's representative shall perform a monthly inspection of the Leased Premises with the Tenant's representative to discuss any immediate or long range maintenance concerns. The Tenant shall notify the Landlord's Parks and Recreation Department promptly if it becomes aware of repairs that require immediate attention and appropriate Landlord staff shall respond.

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 and Landlord. 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 the Landlord as an 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 insureds.

Landlord 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 Landlord and any other sub-tenants of Landlord 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 the Tenant as an 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 insureds.

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 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 untenantable 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 untenantable as a result of such damage. Notwithstanding the foregoing, if any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, Tenant may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to Landlord.

ARTICLE XII CONDEMNATION

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

ARTICLE XIII DEFAULT OF TENANT

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

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

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

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

ARTICLE XIV HOLDING OVER, ASSIGNS, 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. If Tenant remains in possession *without* Landlord's consent after expiration of the term of this Lease Agreement or its termination, the Tenant shall pay to Landlord its damages, reasonable attorney's fees and court costs in any action for possession. Tenant shall pay to Landlord as liquidated damages a sum equal to 110% of the Base Rent then applicable for each month or portion thereof Tenant shall retain possession of the Premises or any part thereof after the termination of this Lease.

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 is 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
Jordan Development Corporation
Forrest D Kerns, President
111 Monticello Avenue Ste 104
Charlottesville, VA 22902
or at such other address as Tenant shall designate by written notice.

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

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

Section 18.6. Recording. Upon request of either party, a memorandum of lease will be executed and recorded. Such memorandum shall contain any provisions of this Lease which either party requests except

for the provisions of Article IV, which shall not be included. The cost of recording such memorandum of lease or a short form hereof shall be borne by the party requesting such recordation.

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

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

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

TENANT

JORDAN DEVELOPMENT CORPORATION
By: _____ _____
Forrest D Kerns, President Date

LANDLORD

This Lease is executed on behalf of the County of Albemarle by Robert W. Tucker, Jr., County Executive, following a duly-held public hearing, and authorization by the Albemarle County Board of Supervisors.

COUNTY OF ALBEMARLE, VIRGINIA
By: _____ _____
Robert W. Tucker, Jr., County Executive Date

Approved as to form:
_____
Albemarle County Attorney

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

All that certain building located at 5735 Meadows Drive, Crozet, Albemarle County, Virginia, consisting of 2,400 square feet, more or less, commonly known as the Crozet/Meadows Community Recreation Building, and more particularly shown on the attached Attachment A.

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Agenda Item No. 9. **PUBLIC HARING: Oak Hill Sewer Phase 1 Project.** To receive comments on the installation of sanitary sewer in the Oak Hill neighborhood through a Community Improvement Grant. *(Advertised in the Daily Progress on June 28, 2010.)*

Mr. Tucker summarized the executive summary which was forwarded to the Board. In March 2010, Albemarle County submitted a Community Development Block Grant (CDBG) application to the Virginia Department of Housing and Community Development (VDHCD) requesting funding for the installation of a sanitary sewer system in the Oak Hill neighborhood. On June 23, 2010, Governor McDonnell issued a press release regarding CDBG awards announcing that the County had been awarded $712,500 for this project. County staff and Albemarle County Service Authority staff will work with DHCD over the next few months to complete all requirements necessary for the execution of a contract between the County and DHCD.

Completion of an Environmental Review Record is required prior to the execution of a contract with DHCD for this project. Most of the environmental review has been completed with no impacts noted with the exception of the possibility that approximately 300 square feet of wetlands could be temporarily impacted during construction of the sewer system. Any adverse impact to wetland areas will be mitigated and returned to their natural state upon completion of the project.

Draper Aden, the project engineer, made inquiries to the Virginia Marine Resources Commission (VMRC), the Department of Environmental Quality (DEQ), and the Army Corp of Engineers regarding potential wetland disturbances. Responses indicated that the project does not fall within the jurisdiction of the VMRC and that a Virginia Water Protection permit is not required by DEQ. However, the use of CDBG funds makes this project a federal-action requiring additional public input on impacts to wetlands, including a 15-day comment period and a public hearing. The public notice was published on June 28, 2010 with the public comment period ending on July 14, 2010. After receipt of any comments prior to or during this public hearing, the County is required to publish a Notice of Explanation on how the project will go forward mitigating or minimizing impacts to the wetlands.

There is no impact on the general fund budget. Publishing costs will be covered by administrative funds provided with the CDBG project funding.

Mr. Tucker said staff recommends that the Board of Supervisors conduct a public hearing to obtain public input regarding wetland impacts for the Oak Hill Sewer project.

Mr. Tucker added that to date, no comments have been received.

Ms. Mallek asked if design has been done as to how the wetlands would be reconstructed.

Mr. Tucker responded that it would be established during negotiations with DEQ and DHCD.

Mr. Rooker commented that the County is very fortunate to have obtained this grant, as it is solving a significant problem for this neighborhood.

Ms. Mallek added that it will also improve the water quality of the water body at Biscuit Run.

At this time, the Chair opened the public hearing. No one came forward to speak and the public hearing was closed.

Mr. Ron White, Director of Housing, said he was present to answer any questions.

Mr. Davis said no action is required by the Board at this meeting.

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(NonAgenda. At 7:52 p.m., the Board recessed, and then reconvened at 8:05 p.m.)

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Agenda Item No. 10. **PUBLIC HEARING: Economic Development Action Plan.** *(Advertised in the Daily Progress on June 28 and July 5, 2010.)*

Ms. Lee Catlin, Community Relations Director, said that staff will review public input received since the last meeting, briefly explain how it has shaped the revisions to the Plan presented, and then answer any questions prior to the Board opening up its public hearing. Mr. Mark Graham and Ms. Susan Stimart are also present to answer any questions.

Ms. Catlin said that at the May 5th meeting the Board heard an overview of the draft plan and scheduled a work session for June 2nd. At that work session the Board received public input and made some revisions to the Plan as well as directing staff to conduct two roundtable sessions to allow members of the public to comment on the Plan, and scheduled this public hearing. Ms. Catlin said that since July 5th, the County provided several opportunities for public input which generated a very, very strong and enthusiastic response. She stated that all comments received from the roundtables, the emails, and the written comments from individuals and organizations from June 5th until now are provided in Attachments B and C of the Executive Summary. Ms. Catlin noted that the roundtables were well attended and involved very energetic and very insightful dialogue, and occurred in a really respectful and civil atmosphere. She said that because there is such a significant amount of material, staff did provide some level of analysis to try to identify major themes and areas of consensus that appeared to fit the intent and scope of the proposed Plan. Ms. Catlin stated that those have been incorporated into the revised plan, along with some wording and formatting changes mentioned at the roundtables and in other public comments that make the document clear, more usable and provided a better final product. She reiterated that all comments have been provided to the Board.

Ms. Catlin reported that a number of significant issues were identified in productive suggestions made by the public that are not incorporated in this document but will be very important for implementation of the Plan. She suggested that all public input be held onto, and as the Plan is further developed that input will be very important. Ms. Catlin said that while the School Division didn't provide specific comments during the roundtable sessions, they did pass along some material to the Board and staff believes they are an integral component of a successful economic development action plan. She stated that staff recommends they be included in all appropriate stages of the Plan's implementation as a very important partner.

Ms. Catlin said that one of the most overriding concerns heard was that the Plan did not provide adequate references to resource protection and possible impacts and concerns about quality of life. She stated that they added a new section in the preamble about consistency with the Comp Plan and revised language in Objective 2 to address that. Ms. Catlin noted that there was a lot of comment about the existing preamble, as it seemed to overstate the County's success in achieving managed growth; so this was addressed by revising the preamble to reflect the roundtable language. She said that there were concerns that the Plan didn't talk enough about jobs, the primary goal didn't mention it, and it didn't adequately stress jobs for current County residents; so that was addressed in a revised primary goal and in revisions to Objective III. Ms. Catlin said that there was a lot of discussion about the rural economy and the fact that there really wasn't a measure of that in determining the Plan's success, so staff recommended that rural economy measures be added to the Primary Goal area. She said that there was also a lot of discussion that the Plan's focus should be on nurturing existing enterprises and "home-grown" businesses, as opposed to a primary focus on attracting new businesses into the community, and that was also addressed by revisions to language in both Primary Goal and Objective III areas. Ms. Catlin noted that there was a lot of discussion about the concept of "target industries" and what the criteria for that might be; staff addressed that by revising the language in Objective III – including adding an ecological dimension to the idea of criteria that should be considered. She added that there were concerns about whether the Plan encourages expansion of the development areas, and this was addressed by revising Objective IV. Ms. Catlin said that there was a lot of discussion about the rural economy and whether agriculture was adequately represented apart from agribusiness and tourism, and that was addressed by revising the language in Objective V. She noted that the information was too detailed for inclusion in the Plan, but would be very helpful in plan implementation.

Ms. Catlin summarized that the public input process resulted in some very productive and thoughtful revisions to the action plan, and staff feels that public input in the Plan should continue as a very integral part of every objective. There is a lot of language in the Plan about broad based task forces, roundtables, partnerships, collaborations to show that that valuable information received to date across diverse perspectives need to be an important element as the Plan moves forward. She concluded by stating that staff recommends approval of the proposed revised action plan.

Mr. Dorrier noted that home-based businesses are not mentioned in this document, adding that there seems to be a growing trend of these.

Ms. Catlin responded that there was a lot of discussion regarding entrepreneurial businesses, and there was some language regarding home-based businesses in that section.

Mr. Rooker pointed out that under Strategy 2, the second bullet states "strongly cultivate home-grown businesses."

Ms. Mallek asked if it referred to locally owned or home occupation businesses.

Mr. Dorrier replied that he was referring more to home occupation.

Ms. Catlin explained that there was discussion, particularly under Objective V, on the need to consider home-based businesses.

Mr. Boyd noted that this isn't any kind of ordinance, it is just an action plan, so if things are missing in the language it doesn't mean they won't be considered during implementation. This will take a lot more work over the next three years to get the Plan completed.

Ms. Mallek suggested that there be a detailed presentation in the future on what happens next, as that will help the public better understand the process.

Mr. Boyd responded that some of the items in this plan will require more work, and any changes to the Comp Plan or specific ordinances would require an independent process.

Ms. Mallek said that there doesn't seem to be a mention as to the number of jobs anticipated.

Ms. Catlin pointed out that under the Measures section, the third bullet states that "following additional indicators – sales tax, transient occupancy tax, meals tax, and job growth by sector."

Mr. Snow asked how the Board will continue to incorporate thoughts and ideas that come forth if the Board approves this tonight.

Mr. Rooker suggested having the public hearing and then bringing it back at the next meeting for a vote, as it would be somewhat chaotic to try to incorporate changes tonight.

Mr. Boyd said that he isn't opposed to that, but the comments must be cut off at some point.

Mr. Rooker responded that the Board could agree on a final date for specific recommendations, adding that the letter he received from the Center for Nonprofit Excellence just arrived yesterday.

Mr. Boyd agreed, but emphasized that this is an action plan and not an ordinance, and needs to take "front and center" and move forward.

Ms. Catlin stated that the mood of the roundtables was that ideas were not being excluded by omission, as there is still the possibility to flesh some things out. She emphasized that this was not viewed by participants as a "cast in stone" document.

Mr. Boyd replied that it will be a living document that can be enhanced as it moves forward.

The Chair then opened the public hearing.

Mr. Joseph Thomas addressed the Board, stating that he is here as a City resident to applaud their efforts in creating a more economically vibrant area. He said that residents in his area – Frye Springs, Johnson Village, and Tonsler Park – would greatly benefit from the actions here, especially more opportunity and access to blue-collar jobs. Mr. Thomas stated that the Board and Council have repeatedly discussed affordable housing, which is impacted by better earning potential. He said that he hopes the process will be more amenable for business to be created and nurtured, and the document reflects an intent to give citizens access to opportunities. Mr. Thomas stated that Mayor Norris agreed with him that no more retail space is really needed at this point, but there are blue-collar industries that are not factory jobs that would greatly enhance opportunities here.

Mr. Gregory Quinn said that if the area doesn't become more friendly to businesses then schools will suffer with inadequate funding. Mr. Quinn stated that children need to be educated through a system that employs common sense and prudent budget controls, but added that his biggest fear is that the schools will be funded primarily from residential taxes. He said that the federal government is almost bankrupt and more pressure will fall on the states for unfunded mandates in education, healthcare, and Medicaid. Mr. Quinn commented that this snowball effect might cause State funding for schools to climb,

even though there was a State surplus this year, somehow. He said that the County has turned its back on many industries due to insane regulations, overdone environmental controls, high taxes, complicated zoning permitting, and businesses give up and go elsewhere. Mr. Quinn added that many in the County don't want a "dirty old business," but some people need a factory job, mechanic job, or steel fabrication job – but to get building and zoning permits for these is almost impossible. He also said that common sense plans would still protect farms and forests through land use deferrals and conservation easements. Mr. Quinn said that property owners should be able to do whatever they want with their property, including putting up a sawmill or subdividing. He just think they need to look at the common man and help him out so he'll have a place to live, and get well educated in high school and have a good job.

Mr. Richard Collins, a City resident, said that he was sorry he missed the roundtables because he was in China for six weeks. Mr. Collins quoted the Premiere of China – "It doesn't matter whether it's a white cat or a black cat as long as it catches mice." He said that what was meant was it doesn't matter if you are capitalist, communist, or socialist, the issue is about growth. Mr. Collins stated that it shouldn't be called an Economic Development Plan because while the economy is important it is not apart from the social and cultural realities we face. He added that this is nothing but a growth plan. Mr. Collins also quoted Governor McDonnell's comment in response to why he had put so many businessmen on the Council for Higher Education – "Universities are now nothing but big corporations." Mr. Collins said that everyone knows that U.Va. is responsible for who we are and what we have accomplished, but it's time that they come out front as a multi-conglomerate institution and their goals should be incorporated more into planning – such as the universities in California do. There are ways that the U.Va. planning should be part of the region's planning.

Mr. Thomas encouraged him to attend PACC-TECH meetings and discuss that. He would be happy to call him and provide the information.

Mr. Keith Drake, Chairman of the Albemarle Truth in Taxation Alliance, congratulated the Board, and Mr. Boyd in particular, on making business vitality a top priority. Mr. Drake said that the Primary Goals section identifies several measures to be "utilized in monitoring and regularly reporting on success," such as the percentage mix of commercial versus residential taxes and various other taxes. He stated that the Plan lacks a stated frequency in producing and reporting these measures, a requirement for benchmarking the initial state of these measures, and quantified goals or timelines for achieving the goals. Mr. Drake said that if the commercial real estate tax percentage is now 13%, quantified goals for that percentage in the future need to be set. He also asked how facilities such as NGIC should be measured as it won't be directly benefited by this plan. Being able to objectively measure success is a critical element that needs to be included in the Action Plan. He also said that the Plan should include a comprehensive review of County assets that are not generating revenue, as there is quite a bit of property not being utilized right now. Mr. Drake suggested that the Plan implement actions to transition these assets to the private sector so that they become revenue producing. He added that a lot of work went into this Plan and there was a lot of input, but it begs the question as to whether the County government is trying to do too much. He asked if the County is staying out of the way of business growth, which sometimes is the best thing to do. Mr. Drake recommended an approach similar to the General Assembly's requirement to perform a fiscal impact review, and the action plan should include an economic impact review for all ordinances, resolutions and plans. It is fantastic to see this change in attitude, and as a local business person he is very excited to see the progress of the County government and the community in moving forward.

Mr. Dennis Mockler addressed the Board, stating that despite the efforts of some to portray the action plan as more than what it is, it is an important step for the County and it does not replace the policies that were adopted by the Board in March 2009 nor will it solve all of the area's problems – financial and otherwise. Mr. Mockler said that the Plan is an important part of a process to make the County stronger for all area residents to help balance the tax base. It will help relieve the heavy burden on homeowners and help fund the educational system – and may actually enhance the quality of life here. He commented that the Plan is consisted with the Comp Plan and is not some dramatic change of course. It's an outline of how the County is going to do what it said it was going to do when it adopted its Comprehensive Plan. He stated that as a person now unemployed for a number of months, it is somewhat discouraging and disappointing to meet with well-respected personnel and staffing professionals and have them explain that you will probably have to go out of town to get a job. They do not have the employers or the positions in this community, even under the best economic times – that is not just the case for him. Mr. Mockler commented that businesses are made up of people, and people want to live in good communities and make them better communities. He thanked the Board for moving forward with this Plan and hopes that it will be put into action soon.

Ms. Dawn Story, a County resident, said that she is present to advocate for the elevation of the status of agriculture in the Action Plan. She said that if the goal is adding jobs, strengthening the economy and promote the health and well-being of citizens, then they need to look no further than their fields. Ms. Story stated that the fact that there has been an increase in spending for local goods shows that there is security in investing in a strong agricultural component. She said that agriculture is already a big business in the County, as there is a thriving network of small farmers, farmers markets, and consumers that love them. In addition to having unlimited potential as an economic driver, by creating a viable, resilient and sustainable agricultural system they also benefit by addressing so many of the other confluent crises that the world is facing. She added that the County should slow down and find out what strengths and weaknesses in the agricultural sector are, and form a task force of representatives from the agricultural and food sector to study this area.

Mr. Lonnie Murray said that during this process he really appreciates how closely staff worked with citizens to reach something close to consensus – especially something that addressed the

relationship between natural resources and economic stability. Too often people see those two concepts as in contradiction or in conflict. Mr. Murray said that it was a great achievement to recognize that those goals are complimentary, not competing. He stated that the Natural Heritage Committee conditionally supports this Plan, with some reservations and recommendations for language revisions. Mr. Murray commented that economic vitality through the rural economy should be elevated in the plan and is the key to sustainability, because without it land cannot be protected. He presented an example of a "ramp," a spicy/sweet root similar to onion or garlic that sells for $10 to $20 a pound; chanterelles sell for $75 a pound; morels sell for $100 per pound. Mr. Murray said that the wariness over the Plan has to do with waivers because of a perceived lack of ability to follow through with the existing promises in terms of the rural area and natural resources. He also presented a sample of a Turk's Cap Lily, which he cut from his garden; County policies currently provide no means to protect the lily when it grows in the wild. Mr. Murray suggested that he would support a plan that incentivizes better practices in terms of stormwater mitigation, critical slopes, and stream buffers. He added that the State has authorized a program to trade credits in terms of stormwater mitigation, and taking advantage of that might yield a plan that could also provide flexibility, conservation, and economic vitality.

Mr. Carlton Ray said that a well thought out, long-term economic development plan is desirable for the County, and it is refreshing to read that the revised plan now includes language stating that "the County strives to manage growth in a manner that protects and preserves the area's abundant natural resources without sacrificing the quality of life." Nevertheless, in his opinion, three assumptions persist. The first is that the County maintains abundant natural resources. Mr. Ray said that as an ecologist, this is really more of a restoration and repair rather than more development. He stated that how the plan will adhere to other chapters of the Comp Plan remains in doubt, as there is currently no land use plan that identifies the many areas where development is inappropriate – such as water supply sponge areas, areas of high biodiversity, large blocks of un-fragmented forest, scenic areas worth preserving, etc. Mr. Ray added that a third erroneous assumption is that economic development automatically results in social and environmental well-being, but recent history shows that it's true up to a point – but beyond that point, costs surpass benefits and environmental health is diminished. He said that it appears the County is at a tipping point, as this plan moves the County's policies and priorities more towards businesses interests and less towards environmental health and social well-being. Mr. Ray said an economic development plan is good to pursue, but as Hurricane Katrina and Deepwater Horizon dramatically illustrate, economic development and environmental quality are inextricably connected. Until and unless these two sides of the coin are explicitly integrated, they will continue to face an uncertain future. Mr. Ray suggested that the Board develop a parallel, comprehensive environmental management plan. In other words, the plan is not yet ready to draw a vote.

Ms. Jerry McCormick-Ray said that the proposed plan doesn't meet its intended goal of translating the purpose and goals of the economic policy into concrete and measurable action – and it doesn't show how the Comp Plan will be incorporated. She said that the Comp Plan is supposed to be integrated and development should be a part so that they do not lose intended objectives. As it, this Plan promotes swift action now that will generate cost. The Plan assumes it will increase economic vitality from future revenues generated from an expanded commercial base. Ms. Ray stated that there is no evidence that quality jobs will be created, or how they will be created. This is not only a development issue, but it is also a land use issue. If they want to sustain their quality of life, they need to take into count environmental factors that are continuous – the water that runs through the area, the water that accumulates in the ground. This development plan falls short. She added that there is also no clarification as to what the timeframe and intended expansion of the commercial tax base from a starting point would need to be generated to create and sustain a sufficient economy for the County. Ms. Ray asked how quality jobs will be assured, and what the cost is to implement the action plan and who will cover interim costs before future revenues are generated. What County authority or department will carry out each of the stated objectives, and at what cost for staff time, expenditure, and resources? She asked if the Comp Plan would be compromised as this plan seeks to reduce or eliminate unnecessary requirements without benefit of knowledge needed to make a good decision. Ms. Ray stated that rezoning land for industry requires good land use information in order to protect the surface water and groundwater quality, and to avoid stormwater impacts, groundwater pollution, natural resource degradation, and protection of the Chesapeake Bay. She asked who would pay if the commercial tax generated isn't sufficient to meet the cost of the development – the County taxpayers.

Mr. Tom Strassburg, an Earlysville resident, complimented the Board and staff on the tremendous process and tremendous amount of work in gathering opinions to be incorporated into this plan. He supported Mr. Rooker and Mr. Boyd's agreement on taking tonight's comments and incorporating them into the Plan, and suggested that after that is done the Plan move forward.

Mr. Tom Olivier, speaking on behalf of the Piedmont Group of the Sierra Club, acknowledged improvements in the Plan such as recognition of commitment environmental protection as well as other sections of the Comp Plan. He said that the primary goal of the Plan also now includes economic well-being of residents, adding that the Sierra Club commends all who have worked to make the Plan better as it has gone through drafts. Mr. Olivier expressed concern that the plan calls for elimination of unnecessary requirements and development approval, adding "without compromising environmental safeguards." Given the recent reductions in Planning and rural areas staff, he asked how the County will determine whether changing or removing a regulation maintains environmental safeguards. Mr. Olivier stated that the Sierra Club believes that frozen rural areas planning positions should be filled before new burdens are placed on staff. He added that agriculture is primarily about producing food – not facilitating an agrarian lifestyle that attracts tourists – and County agricultural policy should focus on promotion of a local food system that connects producers, marketers, and consumers. Mr. Olivier noted that the food policy councils described by Dan Stay in the roundtables deserve a further look.

He also said that the Sierra Club believes the Plan should emphasize development of economic opportunities for current low-income, working poor residents, as described recently by Mr. Mike Harvey of TJPED. Mr. Olivier added that they would like to see expansion of training opportunities in skill occupations for current residents without college degrees. He stated that recent research by ASAP shows that the community is already larger than what can be supported biologically by the landscape, and the Sierra Club believes the Plan should stipulate that the County will not target enterprises that promote population growth – such as companies that must bring most or all of their personnel from the outside. Mr. Olivier commented that the cost of educating students in newly resident families may well offset increases in tax revenues from the relocated companies, and ASAP has proposed that the County's fiscal impact model be applied more broadly to identify more fully the fiscal impacts of development proposals. He noted that the engagement of the County in local economic development as proposed in the draft plan is an expansion of government and an intrusion on the workings of local markets. Mr. Olivier emphasized that those who support this Plan cannot credibly argue in the future that proposals for environmental protection are unacceptable because they enlarge government or interfere with free markets.

Ms. Wren Olivier, a resident of Southern Albemarle County, said that the community is no more prosperous now than it was when she grew up here – but now there is development all the way to Ruckersville and Greene County. The idea that if we can just attract enough big businesses we will solve our financial woes is a false one. She said that most of these companies bring their highly skilled employees with them and do not employ many local residents, and the services needed to support this influx are not paid for in taxes from these new residents. Ms. Olivier stated that the focus should be developing local businesses and providing training for people who already live here to give them more economic opportunities. She added that the marketing and sale of local agricultural projects also needs to be supported, along with support for cottage industries. Ms. Olivier said that with streamlining the development review process, the County must be cautious not to eliminate needed environmental protections. She mentioned that when considering new businesses and developments, a thorough fiscal impact study should be done.

Ms. Margie Sheppard, a County resident and teacher, said that there is something fishy going on with this action plan – given the somewhat clandestine, business-friendly way it was initiated. She also said that she applauds the statements seeking quality businesses requiring highly educated and trained workforces, but the commitment in the plan to great education and environmental sustainability is only lauded in the preamble. The document is riddled with terms used to bypass any comprehensive vision of the County's commitment to these goals – waivers, modifications, remove obstacles, and rezone RA and RI properties to L1 only where property owners agree. The Board's cuts in education and other areas in this budget cycle says something different from commitment. She totally supports promoting good jobs in the County but not at the expense of the County. Ms. Sheppard added that counties that have sold out to businesses and taken the fast and dirty road to make a buck are not attractive places.

Mr. Tim Rose said that the University Research Park was rezoned 14 years ago and now has about 17 companies and 1,200 employees in the Research Park. Next month a local businessman will be opening a new restaurant in the Park. Mr. Rose thanked the County for supporting the rezoning that enabled the project to go forward. He reported that over the past year, about 120 jobs in two of the companies have been lost – and he is usually contacted once or twice a week by people looking for a job. Mr. Rose said that to the extent the County Administration can partner with its citizens in helping to facilitate a healthy business climate, it is commendable. He thanked the Board for the Plan that County staff worked on. He emphasized that the community needs a vibrant business environment, and a vote for this document will send a positive signal to many.

Mr. Gary Grant said that he has lived in Earlysville for 24 years and is speaking on his own behalf tonight. Mr. Grant reported that a 2004 study in Florida conducted by the University of Pittsburgh, the University of North Carolina, and Florida State discovered a return on investment of $6.54 cents for every dollar spent on an item that is not currently in the Plan. A 2005 study by the University of South Carolina discovered a return on investment of $4.48 for every dollar spent by state and local governments again on an item not included in this Plan. A 2007 study conducted by Indiana University's Kelley School of Business discovered that that state's communities benefitted by $2.38 from every dollar spent on this item that is not included yet in your plan. In 2007 he said, there was a national study of 54 metropolitan areas in the country by the Urban Institute in D.C. – and they discovered a missing item as well that "strengthens community capacity to address urgent issues related to economic development". Mr. Grant reported that a Western Illinois University study in 2008 found that this same item had a benefit to the communities that kept it in and kept it strong. This item is a natural partner in local economic development efforts, usually centrally located in communities, provides a variety of resources designed to foster for human growth and development, promotes early literacy and school readiness, and develops workforce capacity. Mr. Grant stated that the missing item is public libraries, as there is no mention of them at all in this economic development action plan. He asked that the Board reference the strength of public libraries in helping develop economic development in this area.

Mr. John Dean, a County resident, thanked County staff for statements made at the roundtable discussions and for revisions to the Plan. He stated that he is not sure how important every work in the Plan is. He said that what's important is what happens next with the Plan and what happens on account of this Plan. He encouraged the Board and public to have a healthy distrust of the process. Mr. Dean said that he objects to the secret and private method by which the Plan was initiated, although having such a plan is important. He believes the County needs to promote economic development. He stated that he would like to see the public engaged in a conversation about what economic development is, adding that most of the economic development he's seen in his 40 years here is sprawl development with retail jobs. Mr. Dean commented that it is the duty of this Board to serve the public interest, not to serve the interest

of some undefined entity known as the business community. He encouraged the Board to vote "no" until a more democratic process has been engaged for development of this initiative.

Mr. Robert Hodous, a resident of 1309 Lester Drive in the City, commended the Board for their work on the Plan. He emphasized that this is not a plan for paving over the County or sprawl, but it needs to be realized that businesses come and go – and there is a lot of focus on businesses that are here now, which could possibly hamstring efforts to build a vital economy. Mr. Hodous added that a lot of times development involves replacement, such as that at Albemarle Square, and those new businesses may not necessarily add to sprawl; the new businesses may provide better jobs.

Mr. Timothy Hulbert said that the Charlottesville Regional Chamber of Commerce now has 1,000 members – with 85% of those employing ten or less people, and all combined employing 45,000 people total. Mr. Hulbert said that he is meeting with someone tomorrow who is looking for a job, and he talks with people frequently who are seeking employment. The natural course of commerce is that the area will lose businesses from time to time and will gain businesses from time to time. The best way is to home grow a business. He stated that the Plan is an action plan, and Ms. Catlin deserves tremendous credit for synthesizing the comments and helping to draft the new version. Mr. Boyd deserves credit for bringing this to the floor on January 6, 2010. Mr. Hulbert added that there are people in the community who have been struggling for the last few years. He said that his hope is to get a report every year from the County Executive and from the Business Development Facilitator with progress on the goals.

Mr. Kurt Burkhart, Executive Director of the Charlottesville/Albemarle Convention and Visitors Bureau, addressed the Board, noting that the CACVB has primary and niche market segments that it messages to through public relations, advertising, and online marketing with the primary objective of increasing visitation to the area. He said that visitation equates to direct economic impact where goods and services are exchanged, jobs are not just supported but created, and generated revenues add to the local economic base. Mr. Burkhart added that while the Bureau is not an expert in all things agricultural, it does have an acknowledged level of marketing expertise including promotion of key elements of the local agriculture industry. He said that nationally and statewide there is increasing interest on the part of travelers and prospective visitors to enjoy wineries, beekeepers, farmers markets, orchards, farm tours, and to better understand and appreciate the farm-to-table experience. These folks want the full complement of farm-to-table where they can enjoy a complete culinary experience that takes product from the farm directly to local restaurants and eateries. Mr. Burkhart noted that there are tours throughout the country that provide visitors with that experience, and the popularity of the tours is increasing. They envision these kinds of experiences to be included in a variety of future vacation package offerings that they can eventually have available online with their new website, visitcharlottesville.org.

Mr. Burkhart said that the CACVB is also interested in gaining valid market research to learn where similar product offerings have occurred, success stories from those destinations, best practices and sustainability. They also have provided grant funding to support the first annual Grace Church historic farm tour, which was very successful. Mr. Burkhart said that his office has also been involved in the planning of the State Agribusiness Conference to be held in Charlottesville in March 2011. He reported that the CACVB has joined with the Secretary of Agriculture and the Virginia Tourism Corporation as the third underwriting sponsor of "Vintage: The Winemaker's Year," to be aired on PBS nationally this fall. It made sense for everyone to come on board as an underwriter to promote a key agricultural industry for the County especially when ten of the twelve vineyards shown in the film are in Albemarle County. Mr. Burkhart added that the Bureau can work to identify the successes enjoyed by other destinations that have an agricultural market and to help identify what an appropriate role would be for the CACVB in working with local businesses to further promote the agriculture experience for County visitors.

Mr. Roy Van Doorn said that he is here to talk about the impact of process. Mr. Van Doorn explained that he bought about five acres up around Hollymead near the pond that separates Target and CVS. He said that about five years ago, he sold a parcel to Bob Evans – which is a national company with 500 locations in the U.S. that also owns the upscale chain Mimi's. Mr. Van Doorn stated that after two years of working with the County, in a planned development with preapproved plans, they gave up because they said the process was so impactful and costly that they "couldn't serve enough pancakes to ever make a dime." He said that he has talked to a lot of independent restaurants here, and most of them say they cannot build a restaurant like Bob Evans because of the cost of the development. Mr. Van Doorn stated that he grew up in Palm Springs and Monterey, California – where there are very strict standards, but they are clearly stated. They spent months with the ARB talking about the color of red on the Bob Evans' signs. He emphasized that process doesn't always give you the outcome you want, and if the goal is growing independent businesses the cost must be reduced for applicants – with aggressive development only in focused areas.

Mr. Jim Kennan said that he is excited about this. He was born here and returned here after a career in the Army. Mr. Kennan said that his perspective is based upon a 45 year career in public health, both in the military and civilian with30 years at the U.Va. Health Sciences. He stated that some group has skillfully pointed out the different systems that are in place and how they interact with one another, such as education, health, business, etc. In working as a community volunteer for 30 years, Mr. Kennan said, that anything done through philanthropy is just a band-aid, and the ultimate solution is economic development. He emphasized that until people are employed or no longer underemployed, there will be burdens from the issues of poverty. Mr. Kennan stated that in public housing, there are now third generations living there. He can remember when agriculture was the major industry of this area which is not the case today. He said that the new Commissioner of Agriculture stated that most farmers had to go out and get another job in order to retain their farming practices. He asked that the Board remember this as it makes public policy in connection with agriculture. The Plan is also outstanding in the area of retention in terms of retaining current businesses. This Plan to achieve a vision is outstanding. Mr. Kennan commented that

no plan is ever implemented as written, and he urged the Board to implement it immediately. It is a work in the right direction.

Mr. John Chavan said that there is a lot of economic down turn in the country which has also trickled down to the County. He said that he works as a nurse in the local hospital – and there have been a lot of layoffs there. He said that he does not want stores and restaurants right next door, and families need to prioritize their needs. Mr. Chavan pointed out that someone tonight said he is having to leave after 40 years to seek employment, adding that the Plan isn't perfect but needs to move forward. This plan will only enhance their lives. He also said that a friend of his here wanted to open a restaurant, but there were too many restrictions. People worked hard to put this plan together and he commends Mr. Boyd for bringing this forward.

Ms. Lillian Mezey asked the Board to vote "no" on the action plan at this time, as the issues of land use and conservation need to be better addressed first. She said that this plan is based on a widely held but false assumption that economic development and population growth with lower residential property taxes, but in fact the opposite has been true. Ms. Mezey cited Loudoun County as an example of a locality with explosive growth that cannot be managed because of the consequences fiscally in terms of infrastructure costs – school costs, crowed roads, police, fire and rescue services, etc. She said that her in-laws live in Central New Jersey, which has very high property taxes, very low quality of life, and not a low unemployment rate. Even with all the strip malls and bumper to bumper traffic, property taxes are significantly higher than they are here in the County. If this community is not careful, it could quickly recreate that toxic environment. She stated that trying to mitigate the County's budget problems by promoting further growth does not make fiscal sense, as attracting new businesses brings new residents – who cost more in services than they pay in taxes. Ms. Mezey said that the County should be focused on solving traffic problems, especially Route 29. Despite rapid growth in the last five to ten years, fiscal strength has not increased. She emphasized that her son's class at Western Albemarle is the biggest class that's ever been there and they are still cutting teachers. She asked the Board to slow down, and vote "no" until some of these consequences can be better addressed.

Mr. Jay Willer, representing the Blue Ridge Homebuilders Association, thanked Mr. Boyd for his efforts in bringing this Plan to the community. He also thanked Ms. Mallek for attending the roundtables so she could hear the public input firsthand, and Mr. Lee Catlin for keeping the sessions organized and incorporating all the comments into the draft plan. This is the starting point; not the final document. This Plan opens the door to answering questions to developing plans and finding ways to make this a better community. He commended everyone for their willingness to consider the Plan. He said that quality of life is important, and this plan is an important piece of it – creating good jobs that pay well, have a future and career ladder to them so that people can afford a house and enjoy the benefits and attributes of the County.

Mr. Rod Gentry, a life-long resident, banker, Chairman of the Chamber of Commerce and Co-Chair of the Workforce Investment Board, seconded Mr. Willer and Mr. Hulbert's comments. He reminded those who feel things are moving too fast to recall when they arrived here. Mr. Gentry stated that 26,000 people have come into the Workforce Investment Center looking for jobs this year – 46,000 in Workforce Area 6. This is a time of great crisis and he is thankful for the great educators in this community - Dr. Pam Moran and Dr. Rosa Atkins - who are working closely with the Chamber, with business and with the community to make sure that they address the needs of the children coming along so that they can start finding jobs and creating opportunities for them in the future. He suggested that the plan refer to "economic vitality," as the term "development" conjures up a terrible image for some people. He would all like to see our children and our children's children have the same opportunity to live and work in this great place that they live, just as they have had. Mr. Gentry stated that he objects to seeing the business community vilified, as they are providing jobs for the people who are vilifying them. He thanked the Board and Ms. Catlin for their work. They view the County as a partner in this effort.

Mr. Morgan Butler, on behalf of the Southern Environmental Law Center, said that the SELC supports maintaining an economically vibrant community with good jobs and rising incomes for a wide array of citizens. Mr. Butler said that hasty actions aimed at increasing tax revenue could backfire if they end up undermining the natural and rural resources, the scenic view sheds, the top notch school system, and the many other qualities that define Albemarle and make it such a desirable place for people to live and do business. He stated that if new businesses create more strain on infrastructure than revenues can pay for, the most pressing problems become even worse. Mr. Butler said that the SELC encouraged the Board to broaden the scope of input from different factions of the community, and appreciates the two public forums and revisions to plan language. Many of the changes made in response to this input have improved the plan and clarified some of the language that seems to conflict with the County's growth management policies. In their view, one key improvement is the addition of language clarifying that the options for increasing the industrial inventory pertaining to the County's existing and already designated growth areas. They also support related changes made to other sections of the Plan confirming that any actions taken will adhere to the County's growth strategies and its land use and rural area plans. He offered additional recommendations that the task force formed to identify target enterprises must include a wide and diverse array of community interests and public viewpoints. Mr. Butler stated that related to that, the criteria the task force will consider should include an industry's potential impact on communities and particularly on the County's transportation network. He also said that the SELC strongly supports the plan's final objective in promoting local agriculture, and urged the Board to tap into this base more thoroughly moving forward.

Mr. Jack Marshall, President of Advocates for a Sustainable Albemarle Population (ASAP), said that they are grateful that the roundtables gave the community a chance to suggest changes in the action plan; the current version of the plan is clearly better than the original. ASAP applauds the greater attention

that the proposed Plan now devotes to support existing small enterprises and to agricultural-related businesses. Mr. Marshall said that ASAP is concerned with the implications that the community somehow needs to be marketed to the outside in order to attract businesses, and feels the Plan overestimates the benefits of economic development – while underestimating the cost. He asked what the actual benefits are, as there has been no data presented that shows this type of development will significantly improve the local job market. As the G.E. Fanuc experience indicates, he said, outside companies bring in their own employees. Mr. Marshall stated that there is no evidence either that economic development will reduce residential property taxes, adding that each business will accelerate population growth and fuel further demands on infrastructure. He said that there will also be serious long-term environmental impacts of future commercial and residential expansion, and the accompanying expanded infrastructure, as several recent studies supported in part by Albemarle County have revealed.

Mr. Marshall said that primarily because the action plan includes efforts to attract outside targeted businesses to come here, ASAP urges the Board not to support it because the economic, social, and environmental implications, the overall balance of the costs and the benefits, are not compatible with the County's expressed long-term goal of creating a sustainable community. Mr. Marshall added that if the Board does decide to adopt the action plan, the County should undertake a comprehensive cost-benefit analysis of each possible targeted business – using the wide range of existing expertise in the community and examine not just fiscal benefits and costs, but social and environmental costs and benefits as well.

Mr. Bryant Harrison, a small business owner in Charlottesville, said that he and his family – with six children – depend on other small businesses and their vitality. Mr. Harrison said that he read the revised Plan and really liked the emphasis on strengthening the quality of the economy here in the County. He has been looking at population densities versus per capita costs. He stated that there are many studies out that show that population densities hurt in the long run by costing more per capita and providing less services overall. Mr. Harrison added that for his small business, there is a simple action plan – make more people happy + make their businesses work like a dream= make more money. He expressed concern that bringing in more people may actually end up costing everyone more. He is concerned about that aspect of the Plan.

Mr. Neil Williamson, President of the Free Enterprise Forum, a privately-funded public policy organization, said that the Forum wasn't involved in the drafting of this plan but was involved in the public roundtable process. Mr. Williamson said that there was significant concern at the roundtable that government should not be picking winners and losers, and the Forum believes that all businesses should be on a level playing field when being considered to come into the community. He added that the impact of businesses here, regardless of whether they come from the outside or not, is positive in most cases. Mr. Williamson stated that all actions in this plan must work within the Comp Plan, and the preamble calls out five sections of the Comp Plan. The Forum suggests that the section regarding consistency with the Comp Plan read: "This action plan is intended to work within the guidelines and stated goals and objectives of all relevant chapters of the Comprehensive Plan." Mr. Williamson said that Section IV, Strategy II states "considers options for increasing industrial inventory within already designated development areas." He stated that the Forum believes development should be targeted in the development area, but if the Board of Supervisors chooses to change the designated development area then the area changed should also be considered. Mr. Williamson said that he word "already" should be stricken from the document. He stated that today one in four school children in the County receive free or reduced lunch, and 30% of the region's job generate $22,000 – with those families rely on social services. Mr. Williamson provided his own definition of economic development and vitality: the logos you see on the backs of shirts with business names when you're at the SOCA fields on Polo Grounds Road.

Mr. L. F. Wood, Chairman of the North Charlottesville Business Council, said the Council Board is 100% behind these efforts and encourages the Board of Supervisors to adopt the action plan. This Plan will help every citizen in the community. This is a huge step in the right direction. He thanked the Board and staff for their work.

With no further comments from the public, the public hearing was closed.

Mr. Boyd commented that his understanding is there would not be another public hearing, and the Board would vote on it at their next meeting after final changes are made.

Mr. Rooker said that is also his understanding.

Ms. Catlin asked for clarification from the Board as to the remaining timeframe for public input.

Mr. Rooker responded that if the public wants to weigh in anymore, they should get their comments to Board members within the next few days. He said that the Board should get a final draft in the first August meeting so that changes are minimal and they can go ahead and vote.

Ms. Catlin indicated that the official public comment period would need to end by this week, and the Board would have a week to get comments to staff. She said that if there are comments that come from the majority of the Board, they can be worked into the document.

Mr. Rooker suggested that he would like to underline changes he would like to see, and other Board members could do the same and share them with one another.

Mr. Thomas asked if this would have to go through Mr. Tucker's office.

Mr. Tucker said that Ms. Catlin needs to have changes in hand by next Wednesday, July 21st, in order to put it all together by July 26th for the Board's August 4th meeting.

Mr. Boyd agreed with that timeframe.

Mr. Tucker suggested sending all changes out to everyone on the Board and Ms. Catlin.

Ms. Catlin asked how she would handle "conflicting" comments.

Mr. Boyd suggested that she handle it in the same way as the roundtables – incorporating commonality of response into the document and putting differences of opinion in a trailing document.

Mr. Dorrier commented that if this is an action plan, it's supposed to produce results.

Mr. Boyd emphasized that this is not some final document, as a lot of speakers pointed out, and it doesn't change the fact the County is bound by the Comprehensive Plan. He said that it is possible that changes to the Plan may come forward, but they would have to go through the normal process. This is to get to a goal, to provide economic vitality to the community. This is not an idea to increase population, but an opportunity to provide jobs for County residents.

Ms. Catlin commented that the actions are all about bringing stakeholders together, such as the agriculture portion of the Plan. When the Board held its' Strategic Planning Retreat, they talked about Board roles and staff roles and what gets flushed out; it does not all have to get done in the higher level framework of the action plan.

Mr. Boyd stated that he does not know of anyone in this community who is surviving strictly off of farming, and most property here being preserved as family farms is being done so because those families have other jobs. He does not think it ought to be a main focus of the Board because he does not think they can make a sustainable living off of farming; that is the reality of America today.

Mr. Rooker agreed with Mr. Rod Gentry's suggestion to change the name to "Economic Vitality Action Plan."

Mr. Boyd and other Board members supported that suggestion.

Mr. Rooker noted that whatever is done, words are meaningless if the resources are not behind them. He said that people don't come here and live here because of an action plan, and the Board needs to make certain that they are doing the things it needs to do. Mr. Rooker emphasized that there is no Capital Improvement Plan, and transportation funding statewide and locally is ridiculous. He added that the Board is supposed to provide the infrastructure, education, safety, protection of natural resources, and create a regulatory framework in which individuals and businesses can thrive. That's what government is supposed to do. Mr. Rooker said that the changes have made the Plan much more acceptable to the community, but the Board needs to make sure it's following its role as government. He stated that Virginia fell from #1 to #2 in CNBC's best state in which to do business, adding that the rationale for the drop, in part, was the loss of critical points in the education category, dropping six places to #13 as class sizes rose and school spending fell. Mr. Rooker emphasized that education is right at the top, and if the County doesn't keep doing a good job with that, infrastructure, and safety – the words on the page will mean absolutely nothing.

Mr. Boyd responded that he agrees, but does not think this Plan is going to solve all of those woes. The Plan is about dealing with very specific issues.

Mr. Thomas commented that the opportunity to do more has passed the County by, as there is very little money now like there was 20 years ago.

Mr. Rooker replied said that it hasn't gone by the County, but the only projects possible are those that were already funded. He added that that is not the future. One of the problems with people who spoke against the plan is the potential growth they see, and there is no money to take care of that.

Ms. Catlin then reviewed the timeframe for comments and the final draft.

Mr. Dorrier noted that the wine industry had not been mentioned much in this document.

Ms. Catlin replied that given the definition in the Comp Plan that wineries are considered part of agriculture, it is covered under that industry.

Mr. Rooker agreed. He added that Ms. Catlin has done a great job in pulling this all together.

Agenda Item No. 11. From the Board: Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 12. Adjourn.

At 10:04 p.m., with no further business to come before the Board, the meeting was adjourned.

_____
Chairman

Approved by Board
Date: 11/3/2010
Initials: EWJ